

Joint Claim Construction Chart Of Agreed And Disputed Terms

In Language	Disputed Term	Paragon’s Proposed Construction	Timex’s Proposed Construction
<p>exercise monitoring system, comprising:</p>			
<p>[1] <i>data acquisition unit</i> comprising an [2] <i>electronic positioning device</i> and a [3] <i>physiological monitor</i>, said acquisition unit configured worn by a <i>subject</i> performing a physical activity;</p>	<p>[1] <b><u>data acquisition unit</u></b></p> <p>[2] <b><u>electronic positioning device</u></b></p> <p>[3] <b><u>physiological monitor</u></b></p> <p>[4] <b><u>subject</u></b></p>	<p>[1] The terminology “data acquisition unit” means an assemblage of inter-related components that unify the function of acquiring data from an electronic positioning device and a physiological monitor. (col. 3, lines 16-18 and lines 20-22; col. 7, lines 55-61; col. 8, lines 6-8 and lines 37-40; col. 17, lines 18-19; Figs. 4, 6, 8, and 15.)</p> <p>[2] The parties <b>agree</b> that “electronic positioning device” means a device for using electromagnetic signals to provide data indicative of one or more of a subject’s location, altitude, velocity, pace and/or distance traveled.</p> <p>[3] The parties <b>agree</b> that “physiological monitor” means a device for detecting a physiological condition, function or parameter.</p> <p>[4] The parties <b>agree</b> that “subject” means</p>	<p>[1] “data acquisition unit” means one structure that includes the electronic positioning device and the physiological monitor.</p> <p>(Specification, Col. 8, Line 66 to Col. 9, Line 6; Figure 5; and the Prosecution History, including the: (1) Feb. 12, 2003 Office Action, and (2) July 14, 2003 Response).</p> <p>[2] The parties <b>agree</b> that “electronic positioning device” means a device for using electromagnetic signals to provide data indicative of one or more of a subject’s location, altitude, velocity, pace and/or distance traveled.</p> <p>[3] The parties <b>agree</b> that “physiological monitor” means a device for detecting a physiological condition, function or parameter</p> <p>[4] The parties <b>agree</b> that “subject” means a</p>

{W1543645}

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		person or animal.	person or animal.
<p>[5] <i>a display unit</i> configured [6] <i>for</i> [7] <i>displaying real-time data</i> provided by said electronic positioning device and said physiological monitor, said display unit <i>separate from said acquisition unit</i>;</p>	<p>[5] <b><u>a display unit</u></b></p> <p>[6] <b><u>for</u></b></p> <p>[7] <b><u>displaying real-time data</u></b></p>	<p>[5] The terminology “a display unit” means an assemblage of inter-related components that unify the function of displaying data from the electronic positioning device and the physiological monitor. (col. 7, lines 61-62; col. 8, lines 4-5.)</p> <p>[6] The terminology “for” denotes a function for which the display unit is configured. (col. 6, line 55; col. 7, line 66 to col. 8, line 5; col. 22, lines 26-67; col. 10, lines 55-61.)</p> <p>[7] The terminology “displaying real-time data” means displaying data substantially immediately without contextually meaningful delay so that the information is displayed in substantially in a time frame experienced by people. (col. 6, lines 40-42; Microsoft,</p>	<p>[5] “display unit” means a unit for displaying real-time data provided by the data acquisition unit.</p> <p>(Specification, Col. 21, Lines 13-18; and Claims, Col. 27, Line 64 to Col. 28, Line 17; Col. 30, Lines 11-28)</p> <p>[6] “for” means the sole function for which the display unit is configured.</p> <p>(Abstract, Specification, Col. 6, Lines 40-42; Col. 6, Lines 49-55; Col. 7, Lines 35-39; Col. 7, Lines 46-48; Col. 10, Lines 14-20; Col. 11, Lines 31-38; Col. 13, Lines 4-9 and 16-19; Col. 14; Lines 46-48; Col. 21, Line 11 to Col. 23, Line 27).</p> <p>[7] “displaying real-time data” means displaying the measured parameter at the given moment in time that the measurement of the parameter occurs.</p> <p>(Specification, Col. 1, Lines 16-30; Col. 6, Lines</p>

{W1543645}2

Joint Claim Construction Chart Of Agreed And Disputed Terms

	<p>[8] <b><u>separate from said data acquisition unit</u></b></p>	<p><i>Microsoft Computer Dictionary</i> 375 (4th ed. 1999).)</p> <p>[8] The terminology “separate from the data acquisition unit” means the display unit is physically distinct from the data acquisition unit. (col. 28, lines 5-6.)</p>	<p>40-42; Col. 13, Lines 4-9 and 11-33; Col. 23, Lines 40-53; and Prosecution History, including the: (1) Feb. 12, 2003 Office Action, and (2) July 14, 2003 Response).</p> <p>[8] Timex believes that only “separate” needs to be construed. “Separate” means contained in a physically distinct structure.</p> <p>(Specification, Col. 8, Lines 49-58; Fig. 3; and Prosecution History, including the: (1) Feb. 12, 2003 Office Action (2) July 14, 2003 Response).</p>
<p>in said display unit is configured to be worn by the subject, worn by someone other than the subject, [9] <i>or attached to an apparatus associated with the physical activity being performed by the subject so as to be visible to the subject while performing the physical activity</i>, and</p>	<p>[9] <b><u>or</u></b></p> <p>[10] <b><u>attached to an apparatus associated with the physical activity being</u></b></p>	<p>The terminology “or” indicates possible alternative configurations for the display unit. (col. 28, lines 8-9.)</p> <p>[10] The terminology “attached to an apparatus associated with the physical activity being performed by the subject so as to be visible to the subject while performing the physical activity” means attached to equipment used with the physical activity at a location where the person performing the activity can see the</p>	<p>“or” means possible alternative configurations. Timex believes that the phrase “for the display unit is not necessary as it is a repeat of the plain language of the claims.</p> <p>(The American Heritage Dictionary)</p> <p>[10] Timex believes that this phrase does not require construction as its meaning is clear and unambiguous on its face.</p>

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	<b><u>performed by the subject so as to be visible to the subject while performing the physical activity</u></b>	display unit.	
er wherein said system is gured such that said ay unit displays real-time comprising <i>at least one of</i> ject's location, altitude, <i>ity</i> , pace, <i>and</i> distance led.	[11] <b><u>at least one of</u></b> and <b><u>and</u></b>  [12] <b><u>velocity</u></b>	[11] The parties <b>agree</b> that “at least one of” and “and” means one or more of the listed terms.  [12] The parties <b>agree</b> “velocity” means rate of change of position, which is generally equivalent to speed.	[11] The parties <b>agree</b> that “at least one of” and “and” means one or more of the listed items.  [12] The parties <b>agree</b> “velocity” means rate of change of position, which is generally equivalent to speed.
n Language	Disputed Term	Paragon’s Proposed Construction	Timex’s Proposed Construction
e exercise monitoring m of claim 1, wherein electronic positioning e is configured to receive omagnetic signals from or more sources so that monitoring system can <i>mine at least one of</i> a ct's location, altitude, ity, pace, <b><u>and</u></b> distance led.	[13] <b><u>determine at least one of</u></b> and <b><u>and</u></b>  [14] <b><u>velocity</u></b>	[13] The terminology “determine at least one of” and “and” means to determine any one or more of the listed items. (col. 28, lines 20-22.)  [14] The parties <b>agree</b> “velocity” means rate of change of position, which is generally equivalent to speed.	[13] Timex believes that “determine” does not need to be included in the construction. Timex’s proposed construction of “at least one of” and “and” is the same as above: one or more of the listed items.  [14] The parties <b>agree</b> “velocity” means rate of change of position, which is generally equivalent to speed..

{W1543645}4

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Claim Language	Disputed Term	Paragon's Proposed Construction	Timex's Proposed Construction
<p>The system of claim 1, wherein said electronic monitoring device comprises a device, and further wherein said data acquisition further comprises a [15] <b>support member</b>, and said GPS device and said physiological monitor are provided on said support member.</p>	<p>[15] <b><u>support member</u></b></p>	<p>[15] The terminology "support member" means any structure that supports against the influence of gravity or other external force. (col. 17, lines 35-56; col. 20, lines 23-28 and lines 39-44; Fig. 15.)</p>	<p>[15] "support member" means an elongate member which attaches to a subject's body independent of the data acquisition unit.</p> <p>(Specification, Col. 17, Lines 29-46; Col. 20, Lines 23-28; Figures 4, 6 and 15 and Claims, Col. 28, Lines 30-37; Col. 30, Lines 31-34).</p>
<p>The system of claim 6, wherein said GPS device and physiological monitor are <b>removably secured</b> to said support member.</p>	<p>[16] <b><u>removably secured</u></b></p>	<p>[16] The terminology "removably secured" means the GPS device and the physiological monitor are modular components that can be secured to the support member in a manner that facilitates removal and reattachment. (col. 18, lines 9-14; col. 28, lines 35-37; col. 30, lines 33-34.)</p>	<p>[16] "removably secured" means attached in a way that provides for removal and reattachment.</p> <p>(Specification, Col. 18, Lines 11-13)</p>
<p>The system of claim 1, wherein said physiological monitor includes a [17] probe configured for acquiring physiological data from a user.</p>	<p>[17] <b><u>probe</u></b></p>	<p>[17] The terminology "probe" means a device used to obtain physiological information. (col. 3, lines 38-39; col. 8, lines 21-22; col. 12, lines 46-48.)</p>	<p>[17] "probe" means a sensor configured for acquiring physiological data from a user.</p> <p>(Specification, Col. 3, Lines 37-39; Col. 8, Lines 21-24)</p>

{W1543645}5

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