UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GARMIN INTERNATIONAL, INC. and GARMIN USA, INC.,
Petitioner,

v.

LOGANTREE, LP,
Patent Owner.

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Case IPR2018-00565
Patent 6,059,576 C1

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Before PATRICK R. SCANLON, MITCHELL G. WEATHERLY, and
JAMES A. WORTH, *Administrative Patent Judges.*

WORTH, *Administrative Patent Judge.*

DECISION
Institution of *Inter Partes* Review
35 U.S.C. § 314(a)

I. INTRODUCTION

On February 21, 2018, Garmin International, Inc. and Garmin USA, Inc. ("Garmin" or "Petitioner") filed a Petition (Paper 1, "Pet.") requesting an *inter partes* review of claims 1, 2, 4, 5, 7–14, 56–58, 140, 144, and 146 (the "challenged claims") of U.S. Patent No. 6,059,576 C1 (Ex. 1001, "the

'576 patent"). LoganTree LP ("LoganTree" or "Patent Owner") did not file a Preliminary Response.

Institution of an *inter partes* review is authorized by statute when "the information presented in the petition filed under [35 U.S.C. §] 311 and any response filed under [35 U.S.C. §] 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). For the reasons set forth below, we determine that Petitioner has demonstrated that there is a reasonable likelihood that at least one of the challenged claims is unpatentable, and we institute an *inter partes* review of claims 1, 2, 4, 5, 7– 14, 56–58, 140, 144, and 146 based on the grounds set forth in the Petition.

A. Related Matters

Petitioner states that it has filed another petition for *inter partes* review of the '576 patent, in IPR2018-00564. Pet. 75. Petitioner states that two other *inter partes* review proceedings with respect to the '576 patent terminated after the filing of a petition but before any decision on institution, i.e., IPR2017-00256, -258. Pet. 75–76.

The parties state that the '576 patent is the subject of a patent infringement litigation, *LoganTree LP v. Garmin International, Inc.*, Case No. 6:17-cv-01217 (D. Kansas), and that another proceeding with the same parties in a different jurisdiction has been dismissed without prejudice to refiling in another district, *LoganTree LP v. Garmin International, Inc.*, Case No. 5-17-cv-00098 (TXWD). Pet. 75; Paper 4, 2.

B.   The '576 Patent (Ex. 1001)[1]

The '576 patent is titled "Training and Safety Device, System and Method to Aid in Proper Movement During Physical Activity" and relates to "the field of electronic training and safety devices used to monitor human physical activity." Ex. 1001, [54], 1:6–7. More specifically, the '576 patent discloses a method that detects, measures, records, and/or analyzes the time, date, and other data associated with movement of the device and produces meaningful feedback regarding the measured movement. *See id.* at 1:8–11.

The '576 patent discloses that certain prior art devices recorded the number of times that a predetermined angle was exceeded but were not convenient to operate and served to report rather than analyze the information. *See id.* at 1:45–54. The '576 patent discloses that it is also important to measure the angular velocity to monitor and analyze improper movement. *Id.* at 1:55–67.

The '576 patent discloses an electronic device which tracks and monitors an individual's motion through the use of a movement sensor capable of measuring data associated with the wearer's movement. *Id.* at 2:10–13. The device of the '576 patent also employs a user-programmable microprocessor which receives, interprets, stores and responds to the movement data based on customizable operation parameters, a clock connected to the microprocessor, memory for storing the movement and analysis data, a power source, a port for downloading the data from the

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[1] An ex parte reexamination certificate issued on Mar. 17, 2015, with all claims either amended from their original form or newly added during reexamination. Ex. 1001, [45] C1, cols. 1–12 C1.

device to other computation or storage devices contained within the system, and various input and output components. *Id.* at 2:13–21.

Figure 4 of the '576 patent is a block diagram of the movement measuring device (*id.* at 3:11–12):
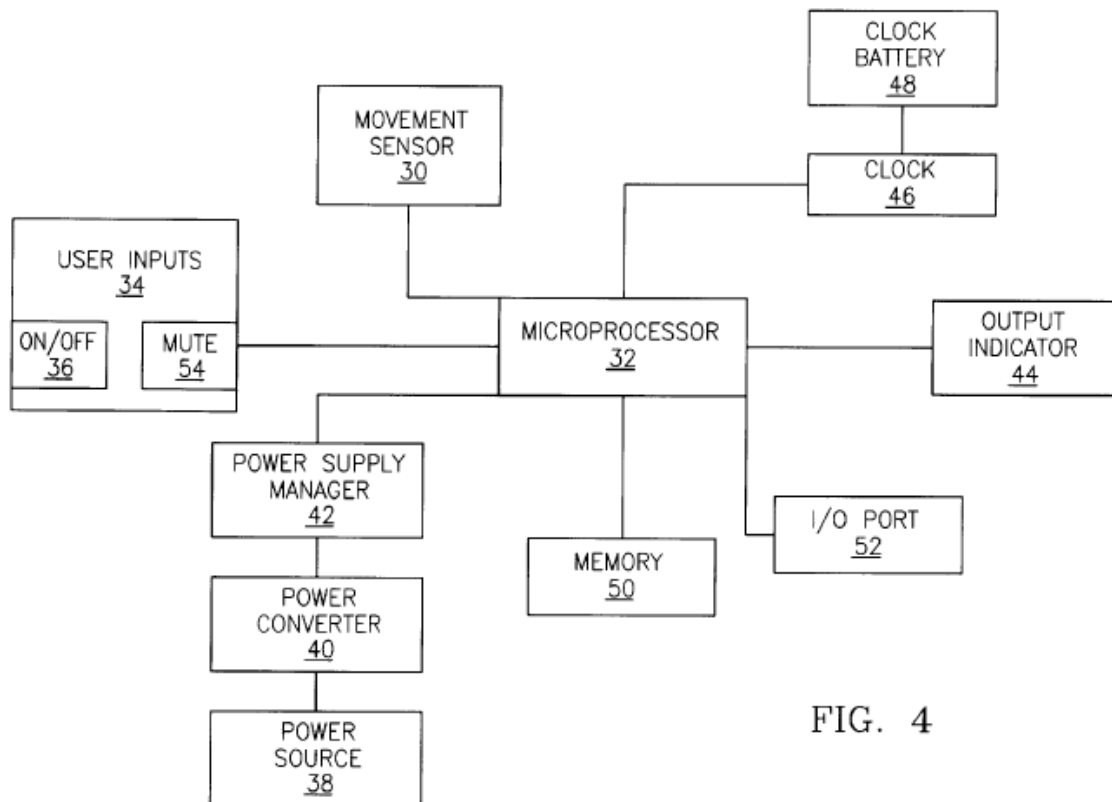

FIG. 4

Figure 4 depicts a block diagram of the components of the device.

The downloadable, self-contained device can be worn at various positions along the torso or appendages being monitored depending on the specific physical task being performed. *Id.* at 2:21–24. The device also monitors the speed of the movements made while the device is being worn. *Id.* at 2:24–25. When a pre-programmed recordable event is recognized, the device records the time and date of the occurrence while providing feedback to the wearer via visual, audible and/or tactile warnings. *Id.* at 2:25–29.

Periodically, data from the device may be downloaded into an associated computer program which analyzes the data. *Id.* at 2:29–31. The program can then format various reports to aid in recognizing and correcting trends in incorrect physical movement. *Id.* at 2:31–33.

C. Illustrative Claim

Claims 1 and 13 are the independent claims that are challenged in this proceeding. Claim 1, as amended in the reexamination proceeding, is illustrative and reads as follows:

> 1. A portable, self-contained device for monitoring movement of body parts during physical activity, said device comprising:
>
> a movement sensor capable of measuring data associated with unrestrained movement in any direction and generating signals indicative of said movement;
>
> a power source;
>
> a microprocessor connected to said movement sensor and to said power source, said microprocessor capable of receiving, interpreting, storing and responding to said movement data based on user-defined operational parameters, detecting a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data, and storing first event information related to the detected first user-defined event along with first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred:
>
> at least one user input connected to said microprocessor for controlling the operation of said device;
>
> a real-time clock connected to said microprocessor; memory for storing said movement data; and
>
> an output indicator connected to said microprocessor for signaling the occurrence of user-defined events;
>
> wherein said movement sensor measures the angle and velocity of said movement.

Ex. 1001, 1:25–50 C1.

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