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IN THE UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

PHILIPS NORTH AMERICA LLC, Plaintiff, v. GARMIN INTERNATIONAL, INC. AND GARMIN LTD., Defendants.	Case No. 2:19-cv-06301-AB-KS **DEFENDANTS' RESPONSIVE CLAIM CONSTRUCTION BRIEF**

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I. U.S. Patent No. 6,013,007 (the '007 Patent)

a. Means for Computing Athletic Performance Feedback Data from the Series of Time-Stamped Waypoint, Claims 1, 21, limitation (b)

There is no dispute that the "means for computing" limitation is a means-plus-function limitation that must be construed under 35 U.S.C. 112(6) (now 35 U.S.C. 112(f)). The Parties further agree that the function of limitation (b) is "computing athletic performance feedback data from the series of time-stamped waypoints." *See* Dkt. 77 at 5. When a patentee claims a computer-implemented invention and invokes means-plus-function limitations, the Federal Circuit has "consistently required that the structure disclosed in the specification be more than simply a general purpose computer or microprocessor." *Aristocrat Techs. Austrl. Pty Ltd. v. Int'l Game Tech*, 521 F.3d 1328, 1333 (Fed. Cir. 2008). This requirement seeks to avoid "pure functional claiming" and mandates that the patent must disclose sufficient algorithmic structure. *Id.* Where no structure appears in the specification, the question is "whether an algorithm was disclosed at all." *Id.* at 1337. Here, there is none. The testimony of Philips' expert, Dr. Martin, confirms that an off-the-shelf processor (Philips' proposed structure[1]) would not even be able to calculate waypoints, and certainly could not perform the claimed "computing athletic performance feedback data" based on the waypoints, but would require special programming. Declaration of Rachael Lamkin ("Lamkin Dec.") Ex. C (Martin Tr.) 48:6-50:14 ("Q: But the key is that someone would need to program those off-the-shelf processors; correct? A. That is correct."). And as Philips readily conceded in

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[1] Philips' proposed structure, while a moving target, is insufficient. Neither a "processor and equivalents" (Lamkin Dec. Ex. B at 1; Dkt. 73-2) nor "a processor (CPU) that also utilizes memory and is connected to a GPS receiver module that provides geographical position information signals to the memory for storage" (Dkt. 77 at 7) discloses the algorithmic structure required. *See Ergo Licensing, LLC v. CareFusion 303, Inc*., 673 F.3d 1361, 1365 (Fed. Cir. 2012).

briefing filed yesterday in co-pending litigation, the specification discloses no such special programming:

> Here, the formulas for calculating distance, speed, and pace from a series of points—all of which involves high school level math—are not expressly disclosed in the specification, but are aspects of the algorithm that a POSITA would nevertheless be well aware of. *See Alfred E.*

Lamkin Dec. Ex. F at p. 6. The claims are indefinite.

Philips' arguments cannot save the claims. By way of background, the claimed function references "time-stamped waypoints." Waypoints are exact points of latitude and longitude. Dkt. 45-1 ('007 Patent), FIG 12, 2:33-35; Lamkin Dec. Ex. A (GPS Land Navigation) at 28. Time-stamped waypoints are said latitude and longitude points that have date and time information associated with those points by the "built-in processing unit." Dkt. 45-1, 7:35-44. According to the claimed function, "athletic performance feedback data" is computed "from the series of time-stamped waypoints obtained by said GPS receiver."

Philips cherry picks the types of data the '007 patent declares to be "performance data." But, the '007 is clearly sets forth the types of data that is calculated from time-stamped way points:

> During the exercise session, the GPS receiver module 604 continuously determines the athlete's geographical position and stores it in the memory 608 along with other information such as the date and time that each position was acquired. From these positions and times, performance data such as elapsed distance, current and average speeds and paces, calories burned, miles remaining, and time remaining are calculated.

Dkt. 45-1 at 7:40-48.[2]

"[T]he specification 'is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a

[2] All underlined text is "emphasis added" unless otherwise noted.

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