

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FITBIT, INC.,

Petitioner,

v.

PHILIPS NORTH AMERICA LLC,

Patent Owner.

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Case IPR-00783<sup>1</sup>  
Patent 7,088,233 B2

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**PATENT OWNER RESPONSE**  
**UNDER 35 U.S.C. § 313 AND 37 C.F.R. § 42.107**

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<sup>1</sup> Garmin International, Inc., Garmin USA, Inc., and Garmin Ltd., who filed a petition in IPR2020-00910, has been joined as petitioner in this proceeding.

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## I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.120, Patent Owner Philips North America LLC (“Patent Owner”) submits this Patent Owner Response to the Petitions of Fitbit, Inc. (“Fitbit”) (IPR2020-00783) and Garmin International, Inc., Garmin USA, Inc., and Garmin Ltd. (collectively, “Garmin”) (IPR2020-00910) challenging claims 1, 7-10, 13-16, 22, and 24-26 of U.S. Patent No. 7,088,233 (“the ’233 patent”).<sup>2</sup> Submitted with this response is the Declaration of Dr. Thomas Martin (Ex. 2026).

For the reasons set forth below, all challenged claims are patentable over the prior art cited in the Petition.

## II. BACKGROUND

### A. The ’233 Patent

#### 1. Specification

The ’233 patent issued on August 8, 2006, and claims priority to applications dating to October 23, 1998. Ex. 1001. The patent relates to “a personal and/or institutional health and wellness communications system, which may be used for a variety of emergency and non-emergency situations *using two-way communication devices and a bi-directional communication network.*” *Id.*,

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<sup>2</sup> The two Petitions are “substantively identical,” and Garmin has been joined as a petitioner in the -783 petition. Accordingly, references herein to the Petition (“Pet.”) refers to the Petition filed by Fitbit in the -783 proceeding unless otherwise specified.

Abstract (emphasis added). In contrast to prior art systems, including those relied upon in the Petition, “The system provides *multiple levels of prioritization, authentication of person (task, step, process or order), and confirmation via interrogation of person, device, or related monitor.*” *Id.* (emphasis added); *see* Ex. 2026, ¶23.

The patent describes embodiments in which multiple levels of prioritization and authentication are provided in reference to a “Personal Medical Device (PMD). *E.g.*, Ex. 1001, 1:63-64. In such embodiments, a device “couple[s] with PMDs to provide wireless communication and locating functions.” *Id.*, 2:11-12. According to the patent: “The purpose for communications include but are not limited to the following: to provide health care professionals with **access to information** for remote diagnostic capabilities; to provide notification of acute conditions possibly requiring immediate assistance, transportation to a medical center, or remote treatment action; to provide a location information of mobile persons for caregivers; to notify responsible parties of the occurrence of a medical condition; and to provide remote intervention assistance by caregivers through verbal or visual interaction.” *Id.*, 2:12-22 (emphasis added); *see also* 12:16-21 (referencing “electrocardiogram data” from the personal device); 11:32-33 (referencing “activation (shock, release medication, brain stimulation)”). The disclosed system also can provide access and authorization to lower sensitivity

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