

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

FITBIT, INC.,  
Petitioner,

v.

PHILIPS NORTH AMERICA LLC,  
Patent Owner.

---

IPR2020-00783  
Patent No. 7,088,233

---

Before STACEY G. WHITE, MICHELLE N. WORMMEESTER, and  
NORMAN H. BEAMER, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

DECISION  
Granting Institution of *Inter Partes* Review  
35 U.S.C. § 314

## I. INTRODUCTION

On April 8, 2020, Fitbit, Inc. (“Petitioner”) filed a Petition (“Pet.”) pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1, 7–10, 13–16, 22, and 24–26 of U.S. Patent No. 7,088,233 (“the ’233 patent”). Paper 1. On July 28, 2020, Philips North America LLC (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.”). Paper 6. Pursuant to our authorization, Petitioner and Patent Owner subsequently filed reply and sur-reply briefs, respectively. Papers 7, 9 (“Reply”; “Sur-Reply”).

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and any preliminary response 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.”

For the reasons explained below, we institute an *inter partes* review as to all challenged claims and on all grounds raised in the Petition.

## II. BACKGROUND

### A. The ’233 Patent

The ’233 patent, titled “Personal Medical Device Communication System and Method,” was filed on June 7, 2002, issued on August 8, 2006, and recites various continuation-in-part and continuation applications as related. Ex. 1001, codes (54), (22), (45), (63), (60).<sup>1</sup> The patent also states

---

<sup>1</sup> The ’233 patent states that it is a “[c]ontinuation-in-part of application No. 09/956,474, filed on Sep. 19, 2001, which is a continuation of application

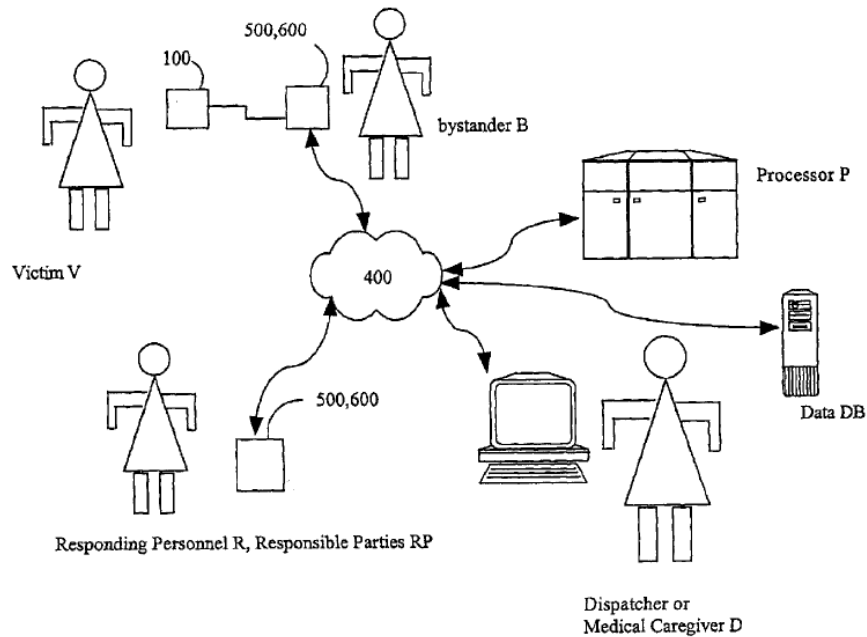
that it is related to “[p]rovisional application No. 60/135,862, filed on May 25, 1999, provisional application No. 60/105,493, filed on Oct. 23, 1998, and provisional application No. 60/279,401, filed on Mar. 28, 2001.” *Id.* at code (60); *see* Exs. 1013–1015.

Petitioner assumes for purposes of its challenge that the earliest effective filing date for all but claims 13, 24, and 25 of the ’233 patent is the October 23, 1998 filing date of application No. 60/105,493. Pet. 3. For claims 24 and 25, Petitioner argues that the earliest effective filing date is the May 25, 1999 filing date of application No. 60/135,862. *Id.* at 3, 19–20 (*citing* Paradiso Decl. ¶¶ 45–46). For claim 13, Petitioner argues that the earliest effective filing date is the March 28, 2001 filing date of application No. 60/279,401. *Id.* at 3–4, 20 (*citing* Paradiso Decl. ¶¶ 45, 47). Patent Owner does not address this issue, and for the purposes of this Decision, we need not resolve this issue at this time.

The ’233 patent describes 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.* at code (57). Figure 5 of the ’233 patent is reproduced below.

---

No. 09/384, 165, filed on Aug. 27, 1999, now Pat. No. 6,356,192, application No. 10/165,624, which is a continuation-in-part of application No. 10/112,669, filed on Mar. 28, 2002, and a continuation-in-part of application No. PCT/US01/18734, filed on Jun. 8, 2001.” *Id.* at code (63).



**FIG. 5**

Figure 5 is a network diagram showing communications with various system components. *Id.* at 2:47–48. Figure 5 shows Personal Medical Device 100, which may be implanted, or carried on the person, of Victim V. *Id.* at 11:49–50. For example, Personal Medical Device 100 could be a pacemaker. As another example, Personal Medical Device 100 could have one or more sensor inputs connected to external or embedded “detectors 140” (not shown on Figure 5) that:

may be any sensor of bodily or physiological parameters such as, but not limited to: temperature, motion, respiration, blood oxygen content, electrocardiogram (ECG), electroencephalogram (EEG), and other measurements.

*Id.* at 3:27–33.

Figure 5 shows that Personal Medical Device 100 may communicate with Medical Device Interface 600 (elsewhere numbered “200”), which in

turn can communicate via network 400 with other agents or devices that would be involved in addressing the medical problem or emergency involving Victim V. *Id.* at Fig. 5, 3:12–15. One such device is a central communications base station which in turn can communicate with personal medical devices or a central monitoring station that can imitate emergency dispatch services, for example. *Id.* at Fig. 1, 8:40–63, 10:14–17.

The '233 patent discloses that Personal Medical Device 100 includes a power module, such as a battery, a memory, and a processor, and may include connections to the above-mentioned sensors, a user interface module with a display and other user input/output devices, and a short range wireless communications module. *Id.* at Figs. 2, 3, 3:18–33, 3:50–4:10. Personal Medical Device 100 can also include a GPS (Global Positioning System) receiver to enable determining the location of the victim. *Id.* at 12:63–13:8. In addition, Personal Medical Device 100 can include power management circuitry to save battery life by powering off the communications module when not needed. *Id.* at 14:15–60.

The short range wireless communications module of Personal Medical Device 10 can communicate with Medical Device Interface 600 and the central communications base station, which also may include short range wireless communications modules. *Id.* at Fig. 4A, 4:14–21, 7:55–57, 8:41–46. One mode of short range wireless communication uses the Bluetooth standard. *Id.* at 4:49–60. The '233 patent “impos[es] a “meaning” on the phrase, “short range wireless communication”: “[T]o include premises and facility based wireless networks and not to describe long-range networks such as cellular telephone networks used to communicate over long-distances.” *Id.* at 5:61–65.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.