

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

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Civil Action No. 1:19-cv-11586-IT

**FITBIT'S OPENING CLAIM CONSTRUCTION BRIEF**

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## I. INTRODUCTION

The purpose of claim construction is to “resol[ve] disputed meanings and the technical scope, to clarify and when necessary to explain what the patentee covered by the claims.” *O2 Micro Int’l Ltd. v. Beyond Innovation Tech. Co., Ltd.*, 521 F.3d 1351, 1362 (Fed. Cir. 2008). A patent’s claims, specification, and prosecution history (including references cited therein) comprise “intrinsic evidence” that must be consulted before any other evidence when construing patent claims. *Vedderi, LLC v. Google, Inc.*, 744 F.3d 1376, 1382 (Fed. Cir. 2014). “[T]he prosecution history provides evidence of how the PTO and the inventor understood the patent” and may show that “the inventor limited the invention in the course of prosecution . . .” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1317 (Fed. Cir. 2005) (citations omitted). Fitbit’s proposed constructions follow these and other canons of claim construction. Philips’ constructions ignore the canons, seek to recast the scope of its patents in an attempt to cover Fitbit’s innovative technology, and repeatedly contradict its prior arguments in this case and at the Patent Office.

## II. U.S. PATENT NO. 6,013,007

The ’007 patent claims a system for computing outdoor athletic performance, presenting the performance data audibly over a wired headset, and transmitting the performance data to a remote computer for comparison with other athletes. *See* ’007 patent, cover, 2:1-3:13, 6:63-9:20. Importantly, the specification explains prior art GPS systems “do not include real-time athletic performance algorithms.” *Id.*, 1:47-48. Yet, no such algorithms are disclosed in the patent. The lack of such algorithms invalidates the asserted claims under 35 U.S.C. § 112, ¶ 6.

The two disputed terms for the ’007 patent are written in the means-plus-function (“MPF”) format, pursuant to 35 U.S.C. § 112, ¶ 6, which states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in

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