

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT LLC,
Petitioner,

v.

PHILIPS NORTH AMERICA LLC,
Patent Owner.

IPR2020-00783¹
Patent No. 7,088,233 B2

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

BEAMER, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining Some Claims Unpatentable
35 U.S.C. § 318(a)

¹ Garmin International, Inc., Garmin USA, Inc., and Garmin Ltd., filed a petition in IPR2020-00910 and have been joined as petitioner in this proceeding.

I. INTRODUCTION

In response to a Petition filed by Fitbit, Inc. (“Petitioner”), now Fitbit LLC, we instituted *inter partes* review of claims 1, 7–10, 13–16, 22, and 24–26 of U.S. Patent No. 7,088,233 B2 (“the ’233 patent”). Paper 1 (“Pet.”); Paper 12 (“Dec.”); Paper 33. Philips North America LLC (“Patent Owner”) filed a Response to the Petition, Petitioner filed a Reply, and Patent Owner filed a Sur-Reply. Paper 17 (“PO Resp.”); Paper 22 (“Reply”); Paper 24 (“Sur-Reply”).

An oral hearing took place on July 29, 2021. The Hearing Transcript (“Tr.”) is included in the record as Paper 32. After considering the parties’ arguments and supporting evidence, we determine that Petitioner has demonstrated by a preponderance of the evidence that claims 1, 7–10, 13, 15, 16, 22, and 24–26 are unpatentable. Claim 14 has not been proven to be unpatentable.

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).² The patent also states that it is related to “[p]rovisional application No. 60/135,862, filed on May

² 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 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).

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* Ex. 1002 ¶¶ 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 contest these assertions for purposes of this proceeding. PO Resp. 6–7. This Decision adopts Petitioner’s unopposed positions on priority dates.

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.

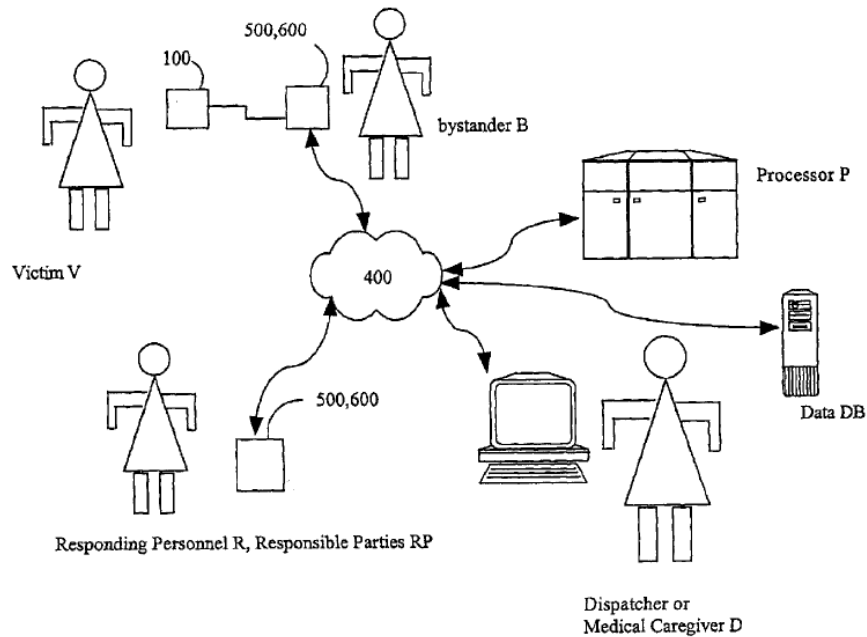


FIG. 5

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 initiate 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 networks” “to 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.

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