

JEAN-PAUL CIARDULLO, CA Bar No. 284170  
jciardullo@foley.com  
FOLEY & LARDNER LLP  
555 South Flower Street, Suite 3300  
Los Angeles, CA 90071  
Telephone: 213-972-4500  
Facsimile: 213-486-0065

ELEY O. THOMPSON (*pro hac vice*)  
ethompson@foley.com  
FOLEY & LARDNER LLP  
321 N. Clark Street, Suite 2800  
Chicago, IL 60654-5313  
Telephone: 312-832-4359  
Facsimile: 312-83204700

RUBEN J. RODRIGUES (*pro hac vice*)  
rrodrigues@foley.com  
LUCAS I. SILVA (*pro hac vice*)  
lsilva@foley.com  
JOHN W. CUSTER (*pro hac vice*)  
jcuster@foley.com  
FOLEY & LARDNER LLP  
111 Huntington Avenue, Suite 2500  
Boston, MA 02199-7610  
Telephone: (617) 342-4000  
Facsimile: (617) 342-4001

*Attorneys for Plaintiff*  
*Philips North America LLC*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

Philips North America LLC,

*Plaintiff,*

vs.

Garmin International, Inc. and  
Garmin Ltd.,

*Defendants.*

Case No. 2:19-cv-06301-AB-KS

**PHILIPS NORTH AMERICA LLC's  
OPENING CLAIM CONSTRUCTION  
BRIEF**

**TABLE OF CONTENTS**

I. INTRODUCTION ..... 1

I. LEGAL STANDARDS ..... 1

II. THE ASSERTED PATENTS..... 2

    A. U.S. PATENT NO. 6,013,007 (THE '007 PATENT) ..... 2

    B. U.S. PATENT NO. 7,088,233 (THE '233 PATENT) ..... 2

    C. U.S. PATENT NO. 6,976,958 (THE '958 PATENT) ..... 3

    D. U.S. PATENT NO. 8,277,377 (THE '377 PATENT) ..... 4

    E. U.S. PATENT NO. 9,314,192 (THE '192 PATENT) ..... 4

    F. U.S. PATENT NO. 9,801,542 (THE '542 PATENT) ..... 4

III. LEVEL OF ORDINARY SKILL IN THE ART ..... 5

IV. DISPUTED CONSTRUCTIONS..... 5

    A. '007 PATENT: “MEANS FOR COMPUTING ATHLETIC PERFORMANCE FEEDBACK DATA FROM THE SERIES OF TIME-STAMPED WAYPOINTS OBTAINED BY SAID GPS RECEIVER” ..... 5

        i. Construction of function (claims 1, 21)..... 5

        ii. The term is not indefinite (claims 1, 21)..... 6

    B. '007 PATENT: “MEANS FOR PRESENTING THE ATHLETIC PERFORMANCE FEEDBACK DATA TO AN ATHLETE” (CLAIMS 1, 21) ..... 9

    C. '007 PATENT: “MEANS FOR SUSPENDING AND RESUMING OPERATION OF SAID MEANS FOR COMPUTING WHEN A SPEED OF THE ATHLETE FALLS BELOW A PREDETERMINED THRESHOLD” (CLAIM 7)..... 10

    D. '007 PATENT: “MEANS FOR EXCHANGING GPS ROUTE WAYPOINTS VIA SAID INTERNET WEB SITE” (CLAIM 25) ..... 11

    E. '233 PATENT: “GOVERNING INFORMATION TRANSMITTED BETWEEN THE FIRST PERSONAL DEVICE AND THE SECOND DEVICE” (CLAIM 1)..... 11

    F. '233 PATENT: “WIRELESS COMMUNICATION” (CLAIMS 1, 13, 15, 16)..... 13

    G. '233 PATENT: “FIRST PERSONAL DEVICE” (1, 10, 14, 24) ..... 14

    H. '233 PATENT: “BODY OR PHYSIOLOGICAL PARAMETERS” (CLAIMS 8, 9) ..... 15

I.	'233 PATENT: "LOCATION DETERMINATION MODULE" (CLAIM 24) .....	15
J.	'233 PATENT: "THE BI-DIRECTIONAL COMMUNICATIONS MODULE HAS A POWERED-DOWN STATE." (CLAIM 26).....	15
K.	'233 PATENT: "MEANS FOR SIGNALING THE BI-DIRECTIONAL COMMUNICATIONS MODULE TO TRANSITION FROM THE POWERED-DOWN STATE TO THE POWERED-UP STATE" (CLAIM 26) .....	16
L.	'958 PATENT: "INTERNET-ENABLED WIRELESS WEB DEVICE" (CLAIMS 15-17) .....	17
M.	'958 PATENT: "HEALTH PARAMETER [OR VISUAL DATA] [INDICATIVE / CORRESPONDING TO] OF A DISEASE STATE OR CONDITION OF A PATIENT" (CLAIMS 15, 16).....	18
N.	'958 PATENT: "DISEASE STATE OR CONDITION" (CLAIMS 15, 16).....	19
O.	'958 PATENT: "HEALTH MONITORING DEVICE" (CLAIMS 15, 16).....	19
P.	'377 PATENT: "A METHOD FOR INTERACTIVE EXERCISE MONITORING" (CLAIM 1).....	20
Q.	'377 PATENT: "WEB-ENABLED WIRELESS PHONE" (CLAIM 1)...	20
R.	'377 PATENT: "WHEREIN AT LEAST ONE OF THE DATA INDICATING A PHYSIOLOGIC STATUS OF A SUBJECT OR THE DATA INDICATING AN AMOUNT OF EXERCISE PERFORMED BY THE SUBJECT IS RECEIVED FROM THE DEVICE WHICH PROVIDES EXERCISE RELATED INFORMATION, AND WHEREIN THE DATA INDICATING A PHYSIOLOGIC STATUS OF A SUBJECT IS RECEIVED AT LEAST PARTIALLY WHILE THE SUBJECT IS EXERCISING" (CLAIM 1) .....	21
S.	'377 PATENT: "SENDING THE EXERCISE-RELATED INFORMATION TO AN INTERNET SERVER." (CLAIM 1) .....	21
T.	'377 PATENT: "CALCULATED RESPONSE FROM THE SERVER, THE RESPONSE ASSOCIATED WITH A CALCULATION PERFORMED BY THE SERVER BASED ON THE EXERCISE-RELATED INFORMATION." (CLAIM 1).....	22
U.	'192 PATENT: "ANY ONE OF A PLURALITY OF POSITIONS ON A BODY OF A SUBJECT." (CLAIMS 1, 20) .....	22
V.	'192 PATENT: "ANALYZING THE MEASURED VALUE FOR FEATURES THAT ARE POSITION DEPENDENT" (CLAIMS 1, 20).....	23
W.	'192 PATENT: "DERIVE A SUBJECT-RELATED VALUE FROM THE MEASURED VALUE, WHERE THE DERIVATION OF THE SUBJECT RELATED VALUE ALSO DEPENDS ON THE ONE OF	

THE PLURALITY OF POSITIONS OF THE SENSOR ON THE SUBJECT” (CLAIMS 1, 20 (SIMILAR)) .....23

X. ’542 PATENT: “USING ONE OR MORE SENSORS PHYSICALLY COUPLED TO THE USER AND CONNECTED TO A NETWORK, TO MONITOR ONE OR MORE VITAL PARAMETERS, PROVIDING DATA REPRESENTATIVE OF THE USER’S PHYSICAL CONDITION” (CLAIM 13).....24

Y. ’542 PATENT: “ANALYZING THE ONE OR MORE VITAL PARAMETERS USING A STATISTICAL ANALYZER” (CLAIM 13).....24

Z. ’542 PATENT: “TRAINED WITH TRAINING DATA REPRESENTING PHYSIOLOGICAL CONDITIONS DETERMINED TO BE UNDESIRABLE FOR THE USER” (CLAIM 13).....24

AA. ’542 PATENT: “WARNING INDICATION WHEN THE USER’S PHYSICAL CONDITION IS UNDESIRABLE” (CLAIM 13) .....24

V. CONCLUSION.....25

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>Cases</b>	
<i>Alfred E. Mann Found. for Sci. Research v. Cochlear Corp.</i> , 841 F.3d 1334 (Fed. Cir. 2016) .....	7, 9
<i>AllVoice Computing PLC v. Nuance Comms., Inc.</i> , 504 F.3d 1236 (Fed. Cir. 2007) .....	7
<i>Applied Med. Resources Corp. v. U.S. Surgical Corp.</i> , 448 F.3d 1324 (Fed. Cir. 2006) .....	1
<i>Asyst Tech., Inc. v. Empak, Inc.</i> , 268 F.3d 1364 (Fed. Cir. 2001) .....	10
<i>Biomedino, LLC v. Waters Techs. Corp.</i> , 490 F.3d 946 (Fed. Cir. 2007) .....	8
<i>Cardia Pacemakers, Inc. v. St. Jude Med., Inc.</i> , 296 F.3d 1106 (Fed. Cir. 2002) .....	1
<i>Catalina Mktg. Int’l, Inc. v. Coolsavings.com</i> , 289 F.3d 801 (Fed. Cir. 2002) .....	19
<i>Finisar Corp. v. DirecTV Grp., Inc.</i> , 523 F.3d 1323 (Fed. Cir. 2008) .....	7
<i>Kara Tech. Inc. v. Stamps.com Inc.</i> , 582 F.3d 1341 (Fed. Cir. 2009) .....	16
<i>Koninklijke Philips, N.V. v. Zoll Med. Corp.</i> , 2014 U.S. Dist. LEXIS 113735 (D. Mass. Aug 15, 2014) (J. Gorton) .....	1, 8
<i>MasterMine Software, Inc. v. Microsoft Corp.</i> , 874 F.3d 1307 (Fed. Cir. 2017) .....	16
<i>McGinley v. Franklin Sports, Inc.</i> , 262 F.3d 1339 (Fed. Cir. 2001) .....	1
<i>Medtronic Minimed Inv. v. Animas Corp.</i> , 21 F.Supp.3d 1060 (C.D. Cal. 2014) .....	8

# 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.