

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LOGANTREE LP,

Plaintiff,

v.

MISFIT, INC.,

Defendant.

C.A. No. _____

DEMAND FOR JURY TRIAL

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff LoganTree LP (“Plaintiff” or “LoganTree”), for its Original Complaint against Defendant Misfit, Inc. (“Defendant” or “Misfit”) for infringement of U.S. Patent No. 6,059,576 (“the ‘576 Patent”), as reexamined, under 35 U.S.C. § 271, *et seq.*, alleges as follows:

PARTIES

1. Plaintiff LoganTree LP is a partnership organized under the laws of the state of Nevada. LoganTree’s sole general partner is Gulfstream Ventures, LLC (“Gulfstream”), a limited liability company organized under the laws of the state of Nevada. Theodore and Anne Brann are the owners and sole managing members of Gulfstream, and their address is P.O. Box 2345, Boerne, Texas 78006.

2. Defendant Misfit, Inc., is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California and located at 839 Mitten Road, Suite 100, Burlingame, 94010. Misfit may be served through its registered agent, the Corporation Trust Company, located at 1209 Orange Street, Wilmington, Delaware 19801.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has general personal jurisdiction over Misfit because Misfit is organized and existing under the laws of the State of Delaware.

5. Venue is proper in the District of Delaware under 28 U.S.C. § 1400(b) because Misfit is incorporated in the State of Delaware and the District of Delaware is the sole judicial district within the State of Delaware. *See TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 137 S. Ct. 11514 (2017) (holding that, “[a]s applied to domestic corporations, ‘reside[nce]’ in § 1400(b) refers only to the State of incorporation”).

THE PATENT-IN-SUIT

6. On May 9, 2000, the United States Patent and Trademark Office (“PTO”) duly and lawfully issued the ‘576 Patent, entitled “Training and Safety Device, System and Method to Aid in Proper Movement During Physical Activity,” after a full and fair examination. A true and correct copy of the ‘576 Patent is attached hereto as Exhibit A.

7. On March 17, 2015, following a reexamination requested by LoganTree, the PTO issued a reexamination certificate for the ‘576 Patent, bearing U.S. Patent No. 6,059,576 C1 (“the ‘576 Reexamination Certificate”). A true and correct copy of the ‘576 Reexamination Certificate is attached hereto as Exhibit B. The ‘576 Patent as reexamined is referred to as the “Reexamined ‘576 Patent.”

8. The named inventor of the ‘576 Patent is Theodore L. Brann.

9. Mr. Brann assigned all right, title, and interest in the ‘576 Patent to LoganTree. LoganTree possess all rights of recovery under the ‘576 Patent and the Reexamined ‘576 Patent, including the exclusive right to sue for infringement and recover past damages.

THE REEXAMINATION

10. The ‘576 Patent sets forth three independent claims – one each for the device, system, and method of the invention described above – along with twenty-six dependent claims. (*Id.* at 17-18). On March 17, 2015, following a reexamination requested by LoganTree, the PTO issued a reexamination certificate for the ‘576 Patent (“the ‘576 Reexamination Certificate”) reaffirming the patentability of all of the ‘576 Patent claims, as amended, and further determining that an additional 156 dependent claims are patentable, for a total of 185 patented claims. (Ex. B). Claims 1, 13, and 20 of the Reexamined ‘576 Patent are independent claims, and the remaining 182 claims are dependent on Claims 1, 13, or 20.

11. As stated in Claim No. 1 of ‘576 Reexamination Certificate, the patented “device” provides for:

a portable, self-contained device for monitoring movement of body parts during physical activity, said device comprising:

a movement sensor capable of measuring data associated with unrestrained movement in any direction and generating signals indicative of said movement;

a power source;

a microprocessor connected to said movement sensor and to said power source, said microprocessor capable of receiving, interpreting, storing and responding to said movement data based on user-defined operational parameters, *detecting a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data, and storing first event information related to the selected first user-defined event along with the first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred;*

at least one user input connected to said microprocessor for controlling the operation of said device;

a real-time clock connected to said microprocessor;

memory for storing said movement data; and

an output indicator connected to said microprocessor for signaling the occurrence of user-defined events;

wherein said movement sensor measures the angle and velocity of said movement.

(Id. at 3).¹

12. Claim 13 (the “System Claim”) defines the patented “system” to comprise the Claim 1 device when connected via a “download device” to “a computer running a program capable of interpreting” the data gathered by the Claim 1 device.

13. Claim 13 of the Reexamined ‘576 Patent is for: “A system to aid in training and safety during physical activity, said system comprising:

a portable, self-contained movement measuring device, said movement measuring device further comprising:

a movement sensor capable of measuring data associated with unrestrained movement in any direction and generating signals indicative of said movement;

a power source;

a microprocessor connected to said movement sensor and to said power source, said microprocessor capable of receiving, interpreting, storing and responding to said movement data based on user-defined operational parameters, detecting a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data, and storing first event information related to the selected first user-defined event along with the first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred;

at least one user input connected to said microprocessor for controlling the operation of said device;

a real-time clock connected to said microprocessor; memory for storing said movement data; and

¹ The text in italics “indicates additions made to the patent” as a result of the reexamination. (*Id.* at 3).

at least one input/output port connected to said microprocessor for downloading said data and uploading said operational parameters;

an output indicator connected to said microprocessor;

a computer running program capable of interpreting and reporting said movement data based on said operational parameters; and

a download device electronically connected to said movement measuring device and said computer for transmitting said movement data and operational parameters between said movement measuring device and said computer for analysis, reporting and operating purposes;

wherein said movement sensor measures the angle and velocity of said movement.

14. Claim 20 (the “Method Claim”) provides a parallel definition for the patented “method.”

15. Claim 20 is for: “A method to monitor physical movement of a body part comprising the steps of:

attaching a portable, self-contained movement measuring device to said body part for measuring unrestrained movement in any direction;

measuring data associated with said physical movement; interpreting, using a microprocessor included in the portable, self-contained measuring device, said physical movement data based on user-defined operational parameters and a real-time clock; [and]

storing said data in memory;

detecting, using the microprocessor, a first user-defined event based on the movement data and at least one of the user-defined operational parameters regarding the movement data; and

storing, in said memory, first event information related to the detected first user-defined event along with first time stamp information reflecting a time at which the movement data causing the first user-defined event occurred.

COUNT I
(Infringement of the Reexamined ‘576 Patent)

16. Plaintiff realleges paragraphs 1 through 15 herein.

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