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Subject: RE: Garmin International, Inc. v. Cardiacsense Ltd., IPR2025-00195 - Request for Conference Call Regarding Permission to File Preliminary Reply
Date: Friday, March 21, 2025 1:22:13 PM

Counsel,

Petitioner's request for additional pre-institution briefing is authorized. Petitioner may file a Preliminary Reply that addresses the priority issue identified in the email below, which paper will be no more than 3 pages long and will be due no later than March 28, 2025. Patent Owner may file a responsive Preliminary Sur-Reply with the same limitation on length, which will be due no later than April 4, 2025.

Neither party is permitted to file new evidence with the papers authorized above.

Regards,

Andrew Kellogg,
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Patent Trial and Appeal Board
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From: Sten Larson <sten.larson@eriseip.com>
Sent: Thursday, March 20, 2025 3:06 PM
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Subject: Garmin International, Inc. v. Cardiacsense Ltd., IPR2025-00195 - Request for Conference Call Regarding Permission to File Preliminary Reply

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To the Board,

Petitioner Garmin International, Inc. in the above-referenced proceeding, requests a conference call with the Board to seek permission to file a short preliminary reply to address unforeseeable priority arguments presented in the Patent Owner's Preliminary Response ("POPR"). POPR, 11-13.

For context, the challenged patent discloses a device with various sensors used to measure training

activity. The Petition alleges that the '998 Patent is not entitled to this priority date because the '422 Provisional Application does not provide support for a compass, which is required by all claims. The POPR implicitly concedes that the '422 Provisional Application does not discuss a compass, but argues that a POSITA would nonetheless understand Fig. 6 suggests compass functionality. In support, the POPR advances only attorney argument and provides no testimony from a POSITA.

Petitioner intends to clarify two points. First, Petitioner intends to explain that the POPR's interpretation of Fig. 6 in the '422 Provisional Application conflicts with the written description of that application and with the role of a compass ascribed by the '998 Patent. Second, Petitioner intends to explain why the Board should not credit the unsupported attorney argument advanced in the POPR.

Petitioner believes a short and targeted supplemental briefing will bring clarity to these issues and will assist the Board in assessing institution. This priority issue applies to all five proposed grounds and is therefore key to properly assessing institution. The only other substantive issue raised in the POPR relates to a librarian declaration relevant to only two grounds. Accordingly, it should not influence the Board's decision of whether to institute.

Petitioner requests a preliminary reply brief of no more than three (3) pages that is limited to the priority issues described above. Petitioner proposes that Patent Owner be permitted to submit a preliminary sur-reply of the same length and limited to the same issue.

The parties have conferred and Patent Owner opposes this request.

To the extent that the Board would like to discuss this request, both parties are available for a conference at the Board's convenience. The parties are available Friday, 3/21, from 11 a.m. ET to 2 p.m. ET, and Monday and Tuesday, 3/24 and 3/25, from 11 a.m. ET to 1 p.m. ET.

Regards,

Sten Larson

associate

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