

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IMMERSION CORPORATION,
Plaintiff,
v.
FITBIT, INC.,
Defendant.

Case No. 17-CV-03886-LHK

**ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS**

Re: Dkt. No. 23

Plaintiff Immersion Corporation (“Immersion”) filed a patent infringement suit against Defendant Fitbit, Inc. (“Fitbit”). Immersion alleges that Fitbit infringes claims of U.S. Patent No. 8,059,105 (“the ’105 Patent”), U.S. Patent No. 8,351,299 (“the ’299 Patent”), and U.S. Patent No. 8,638,301 (“the ’301 Patent”) (collectively, the “patents-in-suit”). Before the Court is Fitbit’s motion to dismiss, which contends that the asserted claims of the patents-in-suit fail to recite patent-eligible subject matter under 35 U.S.C. § 101. ECF No. 23 (“Mot.”). Having considered the submissions of the parties, the relevant law, and the record in this case, the Court GRANTS Fitbit’s motion to dismiss as to the ’301 Patent claims and DENIES Fitbit’s motion to dismiss as to the ’105 and ’299 Patent claims.

1 **I. BACKGROUND**

2 **A. Factual Background**

3 **1. The Parties and Technology at Issue**

4 Plaintiff Immersion is a Delaware corporation with its principal place of business in San
 5 Jose, California. ECF No. 1 (“Compl.”) at ¶ 24. Immersion pioneered the use of haptic effects,¹
 6 such as tactile vibrations and forces, in electronic devices. *Id.* ¶ 2. “Haptic effects . . . can be
 7 produced by actuators, or motors, which create a vibration, jolt, pulse, spatial texture, or other
 8 physical sensation. Haptic hardware devices are often combined with software simulating the way
 9 in which objects interact through the sense of touch.” *Id.* ¶ 3. Immersion first introduced haptic
 10 feedback in video game controllers in the 1990s, and since then has developed haptic feedback
 11 technology for use in “console, PC, and mobile gaming” as well as in other devices, including
 12 wearable devices. *Id.* ¶ 18.

13 Defendant Fitbit, which sells wearable fitness trackers, is a Delaware corporation with its
 14 principal place of business in San Francisco, California. *Id.* ¶ 25. Some of Fitbit’s products
 15 include haptic feedback features, such as a silent alarm that vibrates to wake the user from sleep.
 16 *Id.* ¶ 10. Other haptic feedback features include haptic confirmation of commands and haptic
 17 notification of incoming phone calls. *Id.* Immersion alleges that these products infringe
 18 Immersion’s ’105, ’299, and ’301 Patents. The Court next summarizes these patents.

19 **2. The ’105 Patent**

20 The ’105 Patent is titled “Haptic Feedback for Touchpads and Other Touch Controls.”
 21 Compl. Exh. A (’105 patent). It was filed on January 14, 2008 and was issued on November 15,
 22 2011. *Id.*

23 Most of the claims in the ’105 Patent generally relate to a device, such as a laptop
 24 computer touchpad mouse, that facilitates a user’s interaction with a computer and that can
 25 provide haptic feedback to the user. ’105 patent at col. 1:28-32, col. 2:7-10. Specifically, the ’105

26 _____
 27 ¹ “The word ‘haptics’ originates from the Greek word *haptikos*, meaning to be able to grasp and
 28 perceive by touch.” Compl. ¶ 3.

1 Patent is directed to a haptic feedback device such as a touchpad provided on a portable computer,
2 or a touch screen found on a variety of devices. *Id.* at col. 2:7-10. The touch control “inputs a
3 position signal to a processor of the computer based on a location of user contact on the touch
4 surface. The computer can position a cursor in a displayed graphical environment based at least in
5 part on the position signal, or perform a different function.” ’105 patent abstract. “At least one
6 actuator is also coupled to the touch input device and outputs a force to provide a haptic sensation
7 to the user contacting the touch surface.” *Id.* The haptic feedback is “preferably a linear force
8 output approximately perpendicularly to a plane of the touch surface of the touch input device, and
9 the actuator can include a piezo-electric actuator, a voice coil actuator, a pager motor, a solenoid,
10 or other type of actuator.” *Id.* at col. 2:34-38.

11 “The haptic sensations, such as a pulse, vibration, or spatial texture, are preferably output
12 in accordance with an interaction of a controlled cursor with a graphical object in the graphical
13 environment.” *Id.* at col. 2:48-51. “For example, a pulse can be output when the cursor is moved
14 between menu elements in a menu, moved over said icon, or moved over a hyperlink.” *Id.* col.
15 2:51-53. Such haptic feedback “can assist and inform the user of interactions and events within a
16 graphical user interface or other environment and ease cursor targeting tasks.” *Id.* at col. 2:63-66.
17 “User-independent events can also be relayed to the user using haptic sensations on the touchpad.”
18 *Id.* at col. 12:50-51. For example, “an appointment reminder, receipt of email, explosion in a
19 game, etc., can be signified using a vibration, pulse, or other time-based force.” *Id.* at col. 12:51-
20 54.

21 The specification of the ’105 Patent describes several embodiments. First and most
22 prominently, the specification describes a touchpad mouse for a laptop computer. *Id.* at col. 3:32-
23 col. 6:43 & fig. 1. Another disclosed embodiment is a touchpad on a remote control device, such
24 as a television remote control. *Id.* at col. 6:44-col. 7:8 & fig. 2. The specification also describes a
25 touch screen device, such as a touch screen PDA. *Id.* at col. 15:15-col. 16:17 & fig. 8A.

26 Immersion asserts “at least claims 19, 20, and 21” of the ’105 Patent. Compl. ¶ 44; Opp’n
27 at 7 n.1. In the Complaint, Immersion identified claim 19 as a representative claim. Compl. ¶ 45.

1 Claim 19 differs from many of the other claims of the '105 Patent because it does not appear to be
2 limited to a touch screen or a touch input device.

3 Independent claim 19 and dependent claims 20 and 21 recite:

4 19. A haptic feedback device, comprising:

5 one or more processors configured to receive an input signal and generate a
6 force signal based on the input signal,

7 wherein the input signal is associated with a user-independent event,

8 the user-independent event comprising one or more of a reminder event, an
9 initiation of a task, a processing of the task, a conclusion of the task, a receipt
10 of an email, or an event occurring in a game; and

11 one or more actuators configured to receive the force signal and impart a
12 haptic effect based on the force signal.

13 20. The haptic feedback device of claim 19, wherein the haptic feedback device
14 comprises a portable computing device, a PDA, a pager, or a cellular phone.

15 21. The haptic feedback device of claim 19, wherein the [haptic feedback]² device
16 comprises a touch screen, a touch pad, or a keypad.

17 '105 patent at col. 18:42-58.

18 **3. The '299 Patent**

19 The '299 Patent is titled "Apparatus and Method for Providing Condition-Based
20 Vibrotactile Feedback." Compl. Exh. B ('299 patent). It was filed on May 4, 2009 and was issued
21 on January 8, 2013. *Id.*

22 The '299 Patent generally relates to systems and methods for monitoring motion
23 parameters of an object manipulated by a user and providing notification once a certain target is
24 reached. '299 patent abstract; '299 patent at col. 2:9-11. In some embodiments and in the claims
25 asserted here, notification is provided in the form of haptic feedback. '299 patent at col. 2:23-24,
26 col. 12:27-67, col. 13:4-5. For example, one embodiment discussed at length in the specification
27 is a toothbrush that monitors the number of brush strokes that a user has completed. *Id.* at col.
28 1:23-col. 5:15 & fig. 1. The monitoring system "includes a motion sensing device 20, a

² Claim 21 initially used the phrase "touch input device" here, but the patent was officially corrected to replace "touch input" with "haptic feedback." See ECF No. 1-1 at 23.

1 processing device 22, and an alerting device 24. Motion sensing device 20 detects motion of
2 toothbrush 10 caused by the user manipulating toothbrush 10, and more particularly may detect
3 motion only in a regular brushing pattern.” *Id.* at col. 4:20-25. The specification discloses several
4 embodiments of a motion sensing device, including an accelerometer, a combination of at least
5 one magnetic element and at least one electrical element, a “ball in a cage” configuration, and a
6 force sensor including a piezoelectric element. *Id.* at col. 5:40-col. 6:32.

7 The processing device “is associated with or includes a counter that is configured to count
8 the number of strokes or stroke cycles to determine when a predetermined threshold is reached.”
9 *Id.* at col. 4:30-33. “When the accumulative total reaches a predetermined threshold, processing
10 device 22 determines that the user has brushed for an adequate amount.” *Id.* at col. 4:46-50.
11 “When it is determined that the threshold is reached, processing device 22 instructs alerting device
12 24 to send an alert to the user indicating that the threshold has been reached.” *Id.* at col. 4:55-58.

13 In addition to the toothbrush, the specification describes other embodiments including a
14 manual ventilator and an exercise strap with vibrotactile feedback. *Id.* at col. 8:59-col. 10:20 &
15 fig. 6, col. 10:21-col. 11:10 & fig. 7.

16 Immersion asserts “at least claims 14, 15, 16, 18, 20 and 22” of the ’299 Patent. Compl.
17 ¶ 56. In the Complaint, Immersion identified claim 14 as a representative claim. *Id.* ¶ 57. The
18 asserted claims recite:

19 14. An apparatus comprising:

20 a sensor that senses motion of at least a portion of the apparatus and provides
21 a sensor output based on the sensed motion;

22 a timer that provides a periodic timer output;

23 a vibrotactile device responsive to the timer that provides a corresponding
24 periodic haptic output; and

25 a processing device that receives the sensor output and accumulates counts
26 associated with the sensor output, the processing device providing an output to
27 the vibrotactile device providing an output to the vibrotactile device once a
28 threshold associated with the accumulated counts is reached.

15. The apparatus of claim 14, wherein the periodic timer output is adjustable.

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