

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Under Armour, Inc.
Petitioner,

v.

adidas AG,
Patent Owner

PETITION FOR INTER PARTES REVIEW

OF

U.S. PATENT NO. 7,292,867

CHALLENGING CLAIMS 1, 3, 9, 10, 12, 14-18, 23, 24

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450

Table of Contents

I. MANDATORY NOTICES..... 1

 A. **Real Parties-in-Interest** 1

 B. **Related Matters**..... 1

 C. **Lead and Back-up Counsel and Service Information** 1

II. GROUNDS FOR STANDING..... 1

III. IDENTIFICATION OF CHALLENGE AND RELIEF REQUESTED..... 2

 A. **Overview** 2

 B. **The 867 Patent and Its Claims**..... 4

 C. **The 289 Application**..... 6

IV. STATUTORY GROUNDS FOR THE CHALLENGES..... 7

V. LEVEL OF ORDINARY SKILL IN THE ART 9

VI. CLAIM CONSTRUCTION..... 9

 A. **“waypoint” (claim 1) and “time-stamped waypoint” (claim 16)** 10

 B. **“athletic performance information” (claims 1, 16)**..... 10

 C. **“differential athletic performance information” (claim 12)** 10

VII. IDENTIFICATION OF HOW THE CLAIMS ARE UNPATENTABLE 11

 A. **Ground 1: Gardner (U.S. 7,454,002)** 11

 1. **Claim 1** 11

 2. **Claim 9** 17

 3. **Claim 10** 18

 4. **Claim 12** 19

 5. **Claim 14** 20

 6. **Claim 15** 22

 7. **Claim 16** 23

 8. **Claim 23** 25

 9. **Claim 24** 25

 B. **Ground 2: Gardner in view of Satava**..... 25

 1. **Reasons to Combine Gardner and Satava**..... 25

 2. **Claims 1 and 16** 27

 3. **Claims 9 and 24** 29

 4. **Claim 14** 30

C.	Ground 3: Gardner in view of Seiple	33
1.	Reasons to Combine Gardner and Seiple	33
2.	Claim 17	33
A.	Ground 4: Benefon 2001	35
1.	Claim 1	35
2.	Claim 3	41
3.	Claim 9	42
4.	Claim 10	43
5.	Claim 12	44
6.	Claim 15	44
7.	Claim 16	45
8.	Claim 18	47
9.	Claim 23	47
10.	Claim 24	48
B.	Ground 5: Benefon 2001 in view of eTrex	48
1.	Reasons to Combine Benefon 2001 and eTrex	48
2.	Claim 17	49
VIII.	CONCLUSION	50

PETITIONER'S EXHIBIT LIST

February 5, 2015

UA-1001	U.S. Patent No. 7,292,867 to Werner et al.
UA-1002	File History of U.S. Patent No. 7,292,867 (excerpt)
UA-1003	Docket Report for Civil Action No. 1:14-cv-00130-GMS
UA-1004	Declaration of Dr. Shawn Burke
UA-1005	U.S. Patent No. 7,454,001 to Gardner
UA-1006	<i>Benefon ESC!, Owner's Manual</i> (2001)
UA-1007	R. Satava, et. al., <i>The Physiologic Cipher at Altitude: Telemedicine and Real-Time Monitoring of Climbers on Mount Everest</i> , <i>Telemedicine Journal and e-Health</i> , Vol. 6, No. 3 (2000)
UA-1008	Declaration of Jukka Nieminen
UA-1009	U.S. Patent No. 6,032,108 to Seiple
UA-1010	<i>eTrex Summit Personal Navigator, Owner's Manual and Reference Guide</i> (February 2001)
UA-1011	J. Hjelm, <i>Creating Location Services for the Web</i> (2002) (excerpt)
UA-1012	J. Hjelm, <i>Creating Locating Services for the Web</i> (date stamped copyright page from Library of Congress)
UA-1013	Internet Archive Wayback Machine (www.garmin.com/products/etrexsummit/manual.html)

I. MANDATORY NOTICES

A. Real Parties-in-Interest

The Petitioner Under Armour, Inc (“Petitioner” or “Under Armour”) and MapMyFitness, Inc., (“MapMyFitness”) which is a wholly-owned subsidiary of Under Armour, are the real parties-in-interest.

B. Related Matters

As of the filing of this Petition, U.S. Patent No. 7,292,867 (the “867 Patent”) is involved in one pending litigation naming Petitioner and MapMyFitness as defendants: *adidas AG, et. al. v. Under Armour, Inc. and MapMyFitness, Inc.*, Case No. 14-130-GMS (D. Del.). UA-1003.

C. Lead and Back-up Counsel and Service Information

Petitioner designates Brian Ferguson (Reg. No. 36,801), available at 1300 I Street NW, Suite 900, Washington, DC 20005 (T: 202-682-7516), as Lead Counsel and Adrian Percer (Reg. No. 46,986), available at 201 Redwood Shores Parkway, Redwood Shores, CA 94065 (T: 650-802-3124), as Backup Counsel. Please address all correspondence to lead and backup counsel. Petitioner consents to service by electronic email (brian.ferguson@weil.com; adrian.percer@weil.com).

II. GROUNDS FOR STANDING

Petitioner certifies that the 867 Patent is available for *inter partes* review and that Petitioner is not barred or estopped from requesting *inter partes* review challenging the patent claims on the grounds identified in this Petition. The

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.