

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ADIDAS AG and)
ADIDAS AMERICA, INC.,)
)
Plaintiffs,)
) C.A. No. 14-130 (GMS)
v.)
)
UNDER ARMOUR, INC. and)
MAPMYFITNESS, INC.,)
)
Defendants.)

**DEFENDANT MAPMYFITNESS, INC.’S SUPPLEMENTAL OBJECTIONS AND
RESPONSES TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES (NOS. 3, 6-12)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, and Local Rule 26.1, Defendant MapMyFitness, Inc. (“MapMyFitness”) objects and responds to the interrogatories served by Plaintiffs adidas AG and adidas America, Inc. (“adidas”) as follows.

GENERAL OBJECTIONS

MapMyFitness hereby incorporates by reference its General Objections to Plaintiffs’ First Set of Interrogatories (Nos. 1-12) and the Definitions and Instructions therein.

SPECIFIC OBJECTIONS AND RESPONSES TO INTERROGATORIES

Subject to and without waiving the foregoing General Objections, MapMyFitness objects and responds to adidas’s Interrogatories as follows:

INTERROGATORY NO. 3

For each Accused Product the identification of which is sought in Interrogatory No. 1, identify the three Persons most knowledgeable for each of the following: the technical aspects of the product including how the product functions or operates; how the product was designed and developed; marketing, advertising, promotion materials, or other public statements regarding the product; instructions and training provided to customers, distributors, or employees about how to use the product and its features; and the revenue, sales, licensing, supply, and profits associated with the products.

Appendix	Title
	("Petras")
J-8	U.S. Patent No. 7,957,752 Invalidity Chart: www.trails.com ("Trails.com") (placeholder chart)
J-9	U.S. Patent No. 7,957,752 Invalidity Chart: www.endlesspursuit.com ("EndlessPursuit")
K-1	U.S. Patent No. 8,068,858 Invalidity Chart: U.S. Patent No. 6,456,854 ("Chern")
K-2	U.S. Patent No. 8,068,858 Invalidity Chart: U.S. Patent No. 5,422,816 ("Sprague")
K-3	U.S. Patent No. 8,068,858 Invalidity Chart: U.S. Patent No. 6,198,431 ("Gibson")
K-4	U.S. Patent No. 8,068,858 Invalidity Chart: U.S. Patent App. Pub. No.2002/0198612 A1 ("Smith")
K-5	U.S. Patent No. 8,068,858 Invalidity Chart: Int'l Patent App. Pub. No. WO 01/00281 A2 ("Wadell")
K-6	U.S. Patent No. 8,068,858 Invalidity Chart: Redin, Maria S., Marathon Man (Jun. 15, 1998) (B.S. and M.S. thesis, Massachusetts Institute of Technology) (on file with MIT Libraries) ("Redin")
K-7	U.S. Patent No. 8,068,858 Invalidity Chart: Richard Satava et al., The Physiologic Cipher at Altitude: Telemedicine and Real-Time Monitoring of Climbers on Mount Everest, 6 Telemedicine J. and e-Health 303 (2000) ("Satava")
K-8	U.S. Patent No. 8,068,858 Invalidity Chart: Benefon Esc! ("Benefon")
K-9	U.S. Patent No. 8,068,858 Invalidity Chart: Quokka Sports Monitoring Technology and Websites ("Quokka")
K-10	U.S. Patent No. 8,068,858 Invalidity Chart: Trakus Monitoring Technology and Websites ("Trakus")
L-1	U.S. Patent No. 8,244,226 Invalidity Chart: www.LocalHikes.com ("LocalHikes.com")
L-2	U.S. Patent No. 8,244,226 Invalidity Chart: www.austinexplorer.com ("Austin Explorer")
L-3	U.S. Patent No. 8,244,226 Invalidity Chart: www.SingleTracks.com ("SingleTracks")
L-4	U.S. Patent No. 8,244,226 Invalidity Chart: U.S. Patent App. Pub. No. 2004/0046692 A1 ("Robson")
L-5	U.S. Patent No. 8,244,226 Invalidity Chart: U.S. Patent No. 7,905,815 Invalidity Chart: U.S. Patent No. 6,321,158 ("DeLorme")
L-6	U.S. Patent No. 8,244,226 Invalidity Chart: U.S. Patent No. 7,905,815 ("Ellis")
L-7	U.S. Patent No. 8,244,226 Invalidity Chart: U.S. Patent App. Pub. No. 2001/0047290 ("Petras")
L-8	U.S. Patent No. 8,244,226 Invalidity Chart: www.trails.com ("Trails.com")
L-9	U.S. Patent No. 8,244,226 Invalidity Chart: www.endlesspursuit.com ("EndlessPursuit")

INTERROGATORY NO. 8

Describe in detail the complete legal and factual basis for your defense that the Patents-in-Suit are not infringed. To be complete, your response should identify the claims of each Patent-in-Suit you believe are not infringed; a chart identifying each element of the claim you

contend is not met by the Accused Products; the basis for any contention that the claims have not been infringed either literally or under the doctrine of equivalents; the basis for any contention that the claims have not been infringed directly or indirectly, including any contention that you lacked the intent or knowledge of the patents or infringement; the facts and documentation supporting your contentions; and the persons most knowledgeable of the facts and documentation supporting your non-infringement contentions.

RESPONSE TO INTERROGATORY NO. 8

In addition to its General Objections, MapMyFitness objects to this interrogatory as vague and ambiguous, overly broad, and unduly burdensome. In particular, MapMyFitness objects to the term “Accused Product” as defined by Plaintiffs as it is vague, ambiguous and insufficiently definite to place MapMyFitness on notice of the accused products and functionality. MapMyFitness further objects to this interrogatory to the extent it seeks information that is (a) protected by the attorney-client privilege or work product doctrine; (b) confidential, proprietary, or trade secret; (c) subject to MapMyFitness’s legal or contractual obligation of nondisclosure or confidentiality to a third party; or (d) not within MapMyFitness’s possession, custody, or control. MapMyFitness further objects to this interrogatory to the extent it seeks public information or information readily available to Plaintiffs. MapMyFitness also objects to this interrogatory to the extent it calls for a legal conclusion. Additionally, MapMyFitness objects to this contention interrogatory as premature to the extent Plaintiffs have not identified the asserted claims and because Plaintiffs have not yet provided their infringement contentions for the asserted patents. MapMyFitness expressly reserves the right to amend, supplement, and/or correct its responses to this interrogatory as additional information becomes available to MapMyFitness during the course of discovery and investigation, in response to any claim construction by the Court, or in response to Plaintiffs’ infringement contentions (or any supplement thereto) or Plaintiffs’ responses to Defendants’ interrogatories (or any supplement thereto).

Subject to its General and Specific Objections, MapMyFitness responds as follows: MapMyFitness will provide its non-infringement contentions after receiving adidas' list of asserted claims and corresponding infringement contentions, and MapMyFitness will supplement those contentions as appropriate. MapMyFitness will provide its expert reports regarding invalidity pursuant to any deadlines the Court may set for the service of such reports and will supplement those reports as appropriate and necessary and as permitted by the Court.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8

MapMyFitness incorporates herein its foregoing responses and objections to Interrogatory No. 8. Subject to its objections, MapMyFitness further responds as follows:

MapMyFitness hereby incorporates by reference Under Armour's Response to Interrogatory No. 9. MapMyFitness's response to this interrogatory is preliminary because discovery is still ongoing, the claims of the asserted patents have not been construed, and adidas' infringement contentions are vague, ambiguous, and incomplete. Adidas has failed to provide any contentions or facts supporting a theory of indirect infringement. Accordingly, adidas cannot meet its burden of proving indirect infringement for any asserted claim of the asserted patents, and should be precluded from asserting indirect infringement. Adidas has also failed to identify the person or entity that adidas contends practices each step of each asserted method claim. Adidas, therefore, cannot meet its burden of proving direct infringement of any asserted method claim.

MapMyFitness provides a specific response for each asserted patent below. As it is not MapMyFitness's burden to establish that MapMyFitness does not infringe the patents-in-suit, the content of MapMyFitness's response below should not and cannot be deemed an admission that adidas has met its burden of proving infringement of any claim or claim element.

- The accused mobile phones on which the MMF app runs are not a “modular mobile position logging system” as that term has been construed. Adidas has not presented any evidence that the mobile phone includes multiple devices that may be easily modified by adding or removing components.
- Adidas asserts that pedometers, cadence monitors, and the Armour39 device are position monitors. These devices are not position monitors as that term is used and claimed in the 562 Patent.
- Adidas asserts that the position monitor is the GPS component integrated in the mobile phone and the input device is the mobile phone touchscreen or voice recognition functionality integrated in the mobile phone. This combination of components does not meet the elements of claims 1 and 10, which require a separate input device.
- Adidas asserts that a Bluetooth headset that receives voice input is the claimed input device. Claims 1 and 10, however, require that an annotation created by the input device is associated with an item of position or speed data. Adidas has failed to present any facts or contention that voice input from a Bluetooth headset can be associated with an item of position or speed data.
- Adidas asserts that a pin dropped by a user can be associated with a position of item or speed data. Claims 1 and 10, however, require that the position or speed data come from position monitoring device, while the annotation comes from a separate input device. Adidas has failed to present any facts or contention that the pin and the position/speed data come from separate devices.
- The MMF app does not utilize a communications device that can upload collected speed or position data, input data, and the association between them to a personal computer as required by claims 1 and 10.
- Adidas asserts that recorded workouts are automatically tagged with information about any designated course. Claim 8, however, requires that a user tag collected data with an entry from a database.
- Adidas asserts that the user may label a workout as pertaining to a specific activity. Claim 8, however, requires that a user tag collected data with an entry from a database.

U.S. Patent No. 8,092,345 (“The 345 Patent”)

Adidas has accused the MMF app of directly infringing claims 3, 5, 6, 7, 8, and 10 of the 345 Patent. MapMyFitness cannot infringe the asserted claims because each asserted claim is invalid under 35 U.S.C. §§ 101, 102 and 103. In addition, the MMF app does not infringe the

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