Exhibit D

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PHILIPS NORTH AMERICA LLC, Plaintiff, v. FITBIT, INC. Defendant.	)	C.A. No. 19-11586-IT **JURY TRIAL DEMANDED**

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT[1]

Philips North America LLC ("Philips North America" or "Plaintiff"), by its undersigned counsel, hereby alleges, with knowledge with respect to its own acts and on information and belief as to other matters, the following in support of its First Amended Complaint against Fitbit, Inc. ("Defendant" or "Fitbit").

NATURE OF THE ACTION

1. Philips North America brings this action to compel Fitbit to stop infringing Philips North America's patents and to compensate Philips North America for Fitbit's past infringement.

2. Philips North America is a subsidiary of Koninklijke Philips N.V., originally founded in 1891, and a world leader in technology and innovation across many technological fields (generally referred to as "Philips"). For more than 100 years, Philips has dedicated significant resources to research and development for the advancement of technology used around the world.

[1] Plaintiff's First Amended Complaint differs from the Original Complaint only with respect to newly added paragraphs 59-64, 83-88, 107-113, and 130-134.

38. Fitbit has been and is still directly infringing, jointly infringing, contributing to infringement, and/or inducing others to infringe the Patents-in-Suit by making, using, offering for sale, selling, or importing devices that practice the Patents-in-Suit. Fitbit's acts of infringement have occurred within this Judicial District and elsewhere throughout the United States.

U.S. Patent No. 6,013,007

39. The United States Patent and Trademark Office duly and legally issued the '007 patent to inventor Gary Miller Root on January 11, 2000. The '007 patent is titled Athlete's GPS-Based Performance Monitor. A true and accurate copy of the '007 patent is attached as Exhibit A.

40. Philips North America is the owner and assignee of all legal title in the '007 patent and holds the right to sue and recover damages for infringement thereof, including ongoing and past infringement.

U.S. Patent No. 7,088,233

41. The United States Patent and Trademark Office duly and legally issued the '233 patent to inventor Raymond J. Menard on August 8, 2006. The '233 patent is titled Personal Medical Device Communication System and Method. A true and accurate copy of the '233 patent is attached as Exhibit B.

42. Philips North America is the owner and assignee of all legal title in the '233 patent and holds the right to sue and recover damages for infringement thereof, including ongoing and past infringement.

U.S. Patent No. 8,277,377

43. The United States Patent and Trademark Office duly and legally issued the '377 patent to inventor Roger J. Quy on October 2, 2012. The '377 patent is titled Method and Apparatus for

possible for the individual or others to securely access health information from the devices for remote monitoring, diagnosis or intervention. *Id.* col. 2, *ll*. 12-22.

82. As such, as of the priority date of the '233 patent, bi-directional wireless communication systems were not available for interconnecting a personal device, having a detector input, and communicating with another device, where a security mechanism governed information transmitted between the devices to securely transmit body or physiologic parameters for monitoring and/or analysis. *Id.* col. 1, *ll.* 59-62.

83. The '233 patent describing an improved personal medical device communication system was issued on August 8, 2006 by the U.S. Patent and Trademark Office based on an earlier priority application filed on October 23, 1998. The U.S. Patent Office carefully examined the claims that ultimately issued as the '233 patent. Consistent with 35 U.S.C. §282 and the limitations of the claims of the '233 patent, a person having ordinary skill in the art would understand that each claim of the '233 patent (independent or dependent) relates to a separate invention distinct from other claims as for example with dependent claim 9, which is distinct from dependent claim 8, which is distinct from dependent claim 7, which is distinct from independent claim 1.

84. The U.S. Patent Office considered the claims of the '233 patent against the background of prior technology to determine if the claims of the '233 patent identified a patentable advance over prior art systems before issuing the patent. Among other things, the U.S. Patent Office searched multiple sets of prior art in classifications 340/539.1, 539.11, 539.12, 539.13, 506, 511, 517, 524, 533, 537, 3.1, 825.36, 825.49. As an example, classification 340/539.11 included all patents related to communications monitoring in addition to control (e.g., supervisory). The face of the '233 patent identifies over 90 different patents and publications from the classifications

and other prior art considered in allowing the various claims of the '233 patent, including for example U.S. Patent 5,812,536 entitled "Secure Accounting System Employing RF Communications For Enhanced Security And Functionality" and Ericsson Microelectronics "Technology Solutions for Bluetooth."

85. There were multiple problems faced by the inventor of the '233 patent in establishing an improved personal physiological system that is friendly to a mobile user, that is easy to install, that is inexpensive, and that provides substantial interoperability between wireless technologies, communication network providers and other widely used medical and public systems. For example, devices prior to the inventions claimed in the '233 patent did not provide sufficient protection and governing of personal information transmission for physiological data of individuals over communication systems while permitting access to such information to authorized individuals, such as on other devices and over the internet to remote locations. The inventions of the '233 patent solved the problems of the prior art by establishing a distributed personal health communication system including a security mechanism governing information transmitted between a personal device with at least one detector input receiving personal physiological information and a second device having a bi-directional wireless communications module. In some distinct inventions, the personal device includes a short range bi-directional wireless communications module and at least one detector input which may receive personal health information such as heart function. A second device, which also includes a short range bi-directional wireless communications module, may receive the personal health information depending, not on the underlying communication link, but on a security mechanism governing information transmitted between the personal device and the second device. Until the patented inventions, such personal medical communication systems were unavailable.

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