

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

PHILIPS NORTH AMERICA LLC,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 1:19-cv-11586-IT
v.	)	
	)	
FITBIT, INC.	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	
	)	

**SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT<sup>1</sup>**

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 Second Amended Complaint against Fitbit, Inc. (“Defendant” or “Fitbit”).

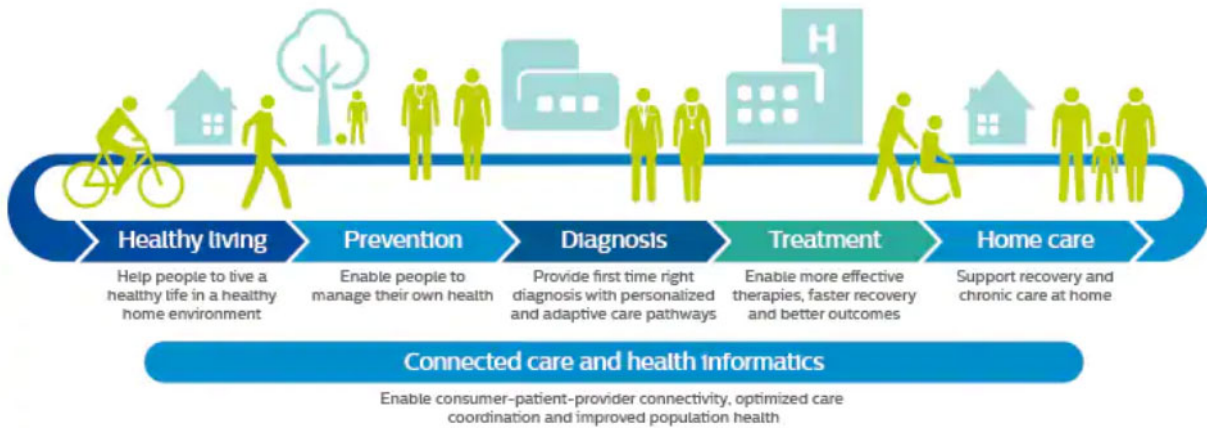
**NATURE OF THE ACTION**

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.

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<sup>1</sup> Plaintiff’s Second Amended Complaint differs from the First Amended Complaint (“FAC”) only with respect to withdrawing allegation of infringement of U.S. Patent No. U.S. Patent No. 6,976,958, resulting in revising FAC paragraph 36 and deleting FAC paragraphs 45-46 and 122-141.

3. Philips strives to make the world healthier and more sustainable through innovation with the goal of improving lives of billions of people. Philips approaches healthcare as a continuum where its technologies can be applied across activities of healthy living, prevention, diagnosis, treatment and home care as depicted below:



4. Connected health technologies developed by Philips are employed across the health continuum. Both inside and outside hospitals, Philips has developed technologies that empower consumers to better manage their health by improving access to and analysis of personal health and fitness information obtained in various manners.

5. Philips provides the Actiwatch family of devices, which are designed to help better understand the daily activity and sleep and wake patterns of individuals. Examples of Philips Actiwatch devices are shown here:



6. In another example, MIO Global incorporated Philips' heart rate monitor technology into its MIO Alpha fitness tracker watch, making it among the first and most accurate integrated wrist-worn heartrate monitors available. Philips continues to lead the development of technologies that underpin connected health products including trackers. Others have recognized the value of Philips' investment in innovation in this area and have sought and taken technology licenses from Philips, including licenses to the patents asserted in this case.

7. Philips also invests in technologies developed by other companies and has acquired companies and their patented innovative technologies as part of its emphasis on supporting and advancing innovation. Philips has made numerous direct investments in connected health technologies in recent years, including its acquisition of Lifeline Systems, Inc. in 2006, its acquisition of Wellcentive in 2016, its acquisitions of Health and Parenting LTD and VitalHealth in 2017, and its acquisition of Blue Willow Systems in 2018. Each of these acquisitions expanded Philips' capabilities in personal health management and supported Philips' longstanding commitment to deliver integrated solutions across the health continuum.

8. Philips shares its innovation with others through, for example, its pioneering role in open innovation as well as in offering access to its technology through licensing. In this way, Philips has been able to share its innovations with many other companies. Licensing revenues fund further research at Philips. Philips' patent portfolio currently includes more than 60,000 patents, and in 2017 Philips filed more patent applications in the field of medical technology at the European Patent Office than any other company in the world.

9. While some of Philips' patents are asserted in this action, Philips has many others covering connected health. The patented technologies asserted in this action enable and enhance customer demand for products such as, for example: GPS/audio athletic training, security mechanisms for transmission of personal data, connected wearable/online products, and handling of interrupted connections.

10. Fitbit, founded in 2007, was created when its founders "realized that sensors and wireless technology had advanced to a point where they could bring amazing experiences to fitness and health." Source: <https://www.fitbit.com/about>. Fitbit did not develop its own technology and released its first product without filing a single patent application. Instead, Fitbit and its founders leveraged the patented technology of Philips from the company's beginnings. Fitbit grew rapidly and amassed billions of dollars in revenue and tremendous personal wealth for its founders.

11. For years, Philips has repeatedly offered to license rights in the Patents-in-Suit<sup>2</sup> to Fitbit, but Fitbit has repeatedly refused to accept Philips' offers to license. Fitbit's past and continuing sales of its devices i) willfully infringes Philips' Patents-in-Suit and ii) impermissibly takes the significant benefits of Philips' patented technologies without compensation to Philips. Fitbit's refusal to take a royalty bearing license under the Patents-in-Suit has forced Philips to seek

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<sup>2</sup> The "Patents-in-Suit" refer to the patents identified below as forming the basis of Counts I-IV.

remediation to stop Fitbit's continuing willful infringement of the Patents-in-Suit and to be compensated for Fitbit's past willful infringement of the Patents-in-Suit.

### **PARTIES**

12. Plaintiff Philips North America LLC (formerly known as Philips Electronics North America Corporation) is a limited liability company duly organized and existing under the laws of Delaware. Its principal place of business is 3000 Minuteman Road, Andover, Massachusetts, 01810. Philips has been a technology leader for over a century including in the field of connected health products and across the healthcare continuum. Philips patented innovations in this action pertain to GPS/audio athletic training, security mechanisms for transmission of personal data, connected wearable/online products, and handling of interrupted connections.

13. Defendant Fitbit, Inc. is a corporation organized under the laws of Delaware having a regular and established place of business located at One Marina Park Drive, Suite 701, Boston, MA 02210, within this Judicial District. Fitbit develops, manufactures, markets, sells and uses connected health products including ones that employ GPS/audio athletic training, security mechanisms for transmission of personal data, connected wearable/online products, and handling of interrupted connections that incorporate Philips' patented technology. Fitbit has not obtained a license or otherwise acquired rights from Philips for use of the Patents-in-Suit. Instead, Fitbit chose a path of willful infringement.

### **JURISDICTION AND VENUE**

14. This action arises under the patent laws of the United States, Title 35 U.S.C. §§ 1, *et seq.* This Court has both general and specific personal jurisdiction over Fitbit because Fitbit has purposefully availed itself of the privilege of conducting business activities and has conducted and done business within Massachusetts and this Judicial District. Fitbit has availed itself of the

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