

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

Civil Action No. 1:19-cv-11586-FDS

**DEFENDANT FITBIT, INC.'S MOTION TO COMPEL THE PRODUCTION OF
CERTAIN OF MR. ARIE TOL'S EMAIL COMMUNICATIONS**

Pursuant to Federal Rules of Civil Procedure 37 and 45 and District of Massachusetts Local Rule 37.1, Defendant Fitbit, Inc. ("Fitbit") respectfully requests that the Court enter an order compelling Plaintiff Philips North America ("Philips") to produce the following email communications as enumerated on Philips's April 16 Confidential Privilege Log for the emails of Arie Tol: Entry Nos. 3-4; 19-21; 24; 26; 28; 30-31; 35-37; 42-43; 46-48; 58-66; 70-73; 79; 82; 144; 155-156; 162-163; 208-209; 244-248; 260-270; 299-301; 349-350; 364; 382-383; 392; 394-395; 408; 412-431; 433; 437-438; 440-441; 443; 450-451; 458-460; and 463-464. (*See* Ex. A to the Declaration of David J. Shaw.)

In support of this Motion, Fitbit relies on the Memorandum of Law and the Declaration of David J. Shaw, including attached exhibits, submitted herewith.

Dated: June 18, 2021

By: /s/ David J. Shaw

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Attorneys for Defendant Fitbit, Inc.

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(A)(2)

The undersigned hereby certifies that counsel for Fitbit conferred with counsel for Philips and attempted in good faith to resolve or narrow the issues in dispute, but was unable to do so.

/s/ David J. Shaw

David J. Shaw

Counsel for Defendant Fitbit, Inc.

CERTIFICATE PURSUANT TO LOCAL RULE 37.1

The undersigned hereby certifies that counsel for Fitbit has complied with the provisions of Local Rule 37.1.

/s/ David J. Shaw

David J. Shaw

Counsel for Defendant Fitbit, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on June 18, 2021, I electronically filed the foregoing with the Clerk's Office using the Court's CM/ECF system, which will send notification of this filing (NEF) to all registered participants, and paper copies will be sent to those indicated as non-registered participants.

Dated: June 18, 2021

/s/ Gregory F. Corbett

Gregory F. Corbett