

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

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

Leave to file excess pages granted  
on November 13, 2019

**DEFENDANT FITBIT INC.'S MEMORANDUM IN SUPPORT OF ITS MOTION TO  
DISMISS UNDER RULE 12(b)(6)**

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Fitbit, Inc. (“Fitbit”) files this motion to dismiss Philips N. Am., LLC’s (“Philips”) complaint with prejudice. Opening a new front in its thus-far unsuccessful worldwide patent assertion campaign, Philips has asserted infringement of U.S. Patent Nos. 6,013,007 (“the ’007 patent”), 6,976,958 (“the ’958 patent”), 7,088,233 (“the ’233 patent”), and 8,277,377 (“the ’377 patent”) (“the Asserted Patents”). Two patents (the ’007 and ’233 patents) have already expired, and the other two will expire before any trial in this action. All four Asserted Patents issued years before *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 573 U.S. 208 (2014), and their claims reflect an attempt to capture abstract concepts relating to the collection of health data using generic mobile phone technology, the type of result-oriented, “do-it-on-a-computer” claims the Supreme Court in *Alice* instructed are outside the boundaries of patentability under 35 U.S.C. § 101.

At their core, the claims of Philips’ Asserted Patents share common characteristics: they take known concepts relating to the collection, analysis, transfer, and presentation of health and exercise information, and apply them in a generic mobile phone technological environment. None of the Asserted Patents purport to provide improvements to mobile phone or wireless technology. Rather, all claims recite conventional, routine, and well-understood applications in the art and thus cannot supply an “inventive concept.” Nor do the claims recite any particular solutions. Instead, the claims attempt to capture all ways of achieving the desired results of data collection and analysis in a known and generic technological environment. These expired or soon-to-expire claims<sup>1</sup> fall well within the boundaries of the abstract idea exception and are invalid under § 101 based on admissions in the respective specifications alone. Dismissal of Philips’ complaint with prejudice is warranted.

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<sup>1</sup> The ’007 and ’233 patents expired on March 26, 2018, and August 27, 2019, respectively. 35 U.S.C. § 154(a)(2). The ’377 patent claims priority to a conversion of a provisional application, and will expire on January 18, 2020. 37 C.F.R. § 1.53(c)(3). The ’958 patent will expire no later than February 28, 2021, and as early as February 28, 2020. *Id.*

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