

EXHIBIT P

Eric Speckhard

From: Rodrigues, Ruben J. <RRodrigues@foley.com>
Sent: Thursday, June 17, 2021 10:22 PM
To: Eric Speckhard
Cc: BOST - F - Philips - Fitbit; Fitbit Philips DC Service
Subject: [Ext] RE: Philips v. Fitbit - June 11, 2021 Supplemental Privilege Log

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Hi Eric,

The specific narratives were developed upon conferring with participants in the messages, as well as with some of the attorneys identified there in (including Mr. Schilowitz), and they reflect our understanding based both on those conferences as well as the contents of the communications themselves (some of which may refer the specific attorneys identified). Regardless, for any challenged entry, we intend to provide a declaration from one or more of the participants in any communication and/or any one of the attorneys referenced to further support the claim, and reserve the right to seek fees from Fitbit for that expense as it seems Fitbit intends to proceed with a number of frivolous challenges that will do nothing more than to generate unnecessary work.

We have confirmed that the logged material, to the extent relevant to this matter, reflects privileged legal advice and not what you characterize as “business advice”. Indeed since the service of our original privilege log we have carefully considered this issue, and have in fact produced many documents that, upon closer inspection, could be characterized more as “business advice” rather than legal advice. Fitbit’s counsel has those documents. To the extent the logged communications contain non-privileged information, it is material not relevant to this case (e.g. concerns unrelated patents or unrelated transactions), for which we see no basis for producing redacted copies and undergoing to effort and expense that that would entail.

With respect to your request that Philips identify the date of any document hold letters concerning disputes with Fitbit, we don’t see a basis for Fitbit’s request. Discovery has closed and the request is not responsive to any Fitbit interrogatory, is not relevant to any issue, and it is further not information that Fitbit is entitled to in discovery. See *PersonalWeb Techs., LLC v. Google Inc.*, No. 13-C-01317-EJD, 2014 WL 4088201, *3-4 (N.D. Cal. Aug. 19, 2014) (wherein Fitbit’s parent, Google, successfully prevented discovery on litigation hold notices, including “the dates the notices were circulated,” on the basis of privilege). Regardless, to the extent Fitbit intends to argue that the hold notice is somehow relevant to Philips’s claim of work product protection—it is not—as reflected in Philips’s extensive document production of Mr. Tol’s e-mails dating back to 2015, documents and materials relevant to the subject matter of this dispute (as well as the disputes in Europe) have been retained and Fitbit has never suggested otherwise.

While we don’t believe we’ve really received a currently accurate or detailed understanding of the basis on which specific entries will be challenged in the forthcoming motion, we don’t plan to raise the lack of a meaningful meet and confer as part of any opposition to the motion.

Regards,

-Ruben