

# EXHIBIT E



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[REDACTED]

# Transcript of Arie Tol, Corporate Designee & Individually

**Date:** January 13, 2021

**Case:** Philips North America -v- Fitbit, Inc.

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Transcript of Arie Tol, Corporate Designee & Individually  
 Conducted on January 13, 2021

<p style="text-align: center;">1</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT</p> <p style="text-align: center;">OR THE</p> <p style="text-align: center;">DISTRICT OF MASSACHUSETTS</p> <p style="text-align: center;">x</p> <p>PHILIPS NORTH :          AMERICA, LLC, :          Plaintiff, : Civil Action No.          v. : : 9 cv 586 IT          ITBIT, INC., :          Defendant. :</p> <p style="text-align: center;">x</p> <p style="text-align: center;">***CONFIDENTIAL ATTORNEYS EYES ONLY***</p> <p style="text-align: center;">VIDEOTAPED DEPOSITION OF</p> <p style="text-align: center;">ARIE TOL</p> <p>individually and as corporate representative of</p> <p style="text-align: center;">PHILIPS NORTH AMERICA, LLC</p> <p style="text-align: center;">Conducted Remotely</p> <p style="text-align: center;">Wednesday, January 13, 2021</p> <p>Job No. 345424</p> <p>Pages: 22</p> <p>Reported stenographically by:          LEAH M. WILLERSDORF,          (RPR, CRR, ACR MBIVR, QRR2, CLR)</p> <p style="text-align: center;">2</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S          (all via Zoom)</p> <p>On behalf of Plaintiff:</p> <p style="text-align: center;">FOLEY &amp; LARDNER, LLP</p> <p style="text-align: center;">32 N. Clark Street          Suite 3000          Chicago, IL 60654          (312) 832-4500</p> <p>BY: ELEY O. THOMPSON, ESQ.          ethompson@foley.com</p> <p>On behalf of Defendant:</p> <p style="text-align: center;">PAUL HASTINGS, LLP</p> <p style="text-align: center;">7 S. California Avenue          Palo Alto, CA 94304          (650) 320-8000</p> <p>BY: YAR R. CHAIKOVSKY, ESQ.          DAVID OKANO, ESQ.          RADHESH DEVENDRAN, ESQ.          yarchaikovskyp@paulhastings.com          davidokano@paulhastings.com          radheshdevendran@paulhastings.com</p> <p>ALSO PRESENT:</p> <p style="text-align: center;">Wendy Viner                      Videographer          Linda leet                      PD Technician</p> <p style="text-align: center;">4</p>						
<p style="text-align: center;">2</p> <p style="text-align: center;">Wednesday, January 13, 2021</p> <p style="text-align: center;">: p.m.          (Central European Time)</p> <p>Videotaped deposition of ARIE TOL,          individually and as corporate representative of          PHILIPS NORTH AMERICA, LLC, held via Zoom          videoconference, before Leah Willersdorf, Registered          Professional Reporter, Certified Realtime Reporter,          with the US National Court Reporters Association,          and Accredited Court Reporter member and Qualified          Realtime Reporter (Level 2), with the British          Institute of Verbatim Reporters, and Certified          LiveNote Reporter.</p> <p style="text-align: center;">2</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">WITNESS INDEX</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Witness:</th> <th style="text-align: right;">Page</th> </tr> </thead> <tbody> <tr> <td>ARIE TOL</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Examination by Mr. Chaikovsky</td> <td style="text-align: right;">0</td> </tr> </tbody> </table> <p style="text-align: center;">2</p>	Witness:	Page	ARIE TOL	0	Examination by Mr. Chaikovsky	0
Witness:	Page						
ARIE TOL	0						
Examination by Mr. Chaikovsky	0						

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 Conducted on January 13, 2021

5			7				
EXHIBITS INDEX			LITIGATION SUPPORT INDEX				
Tol Exhibit No.	Description	Page	Line	Page			
2	Exhibit 7	Letter from Yar Chaikovsky of Paul Hastings to Eley Thompson of oley & Lardner, dated ebruary 25, 2020 (8 pages, no Bates)	84	2	Request for information	4	9
3	Exhibit 8	Letter from Ernest Hsin of Gibson Dunn to David Hickerson at oley & Lardner, dated January 7, 2020 (4 pages, no Bates)		4	Question instructed not to answer	6	48
4	Exhibit 9	Letter from Yar Chaikovsky of Paul Hastings to Eley Thompson of oley & Lardner, dated December 8, 2020 ( pages, no Bates)	2	5	Question instructed not to answer	6	50
5	Exhibit 0	Transcript of Volume 2 in the deposition of Mr. Erik Pastink, dated October 2 , 2020, in the Philips v. Garmin litigation ( 98 pages)	3	6	Question instructed not to answer	3	59
6	Exhibit	License Agreement between LifeScan, Inc., and Koninklijke Philips Electronics, N.V., effective as of January , 20 3 (PNA RB0003484 3497) [Confidential]	9	7	Question instructed not to answer	22	63
7	Exhibit 2	Patent License Agreement between LifeScan Global Corporation and Koninklijke Philips, N.V., dated December 20, 20 9 (PNA B000347 348 ) [Confidential]	25	8	Question instructed not to answer	7	67
8				9	Question instructed not to answer	4	78
9				0	Question instructed not to answer	2	86
20				Question instructed not to answer	6	87	
22				2	Question instructed not to answer	2	9
23				3	Question instructed not to answer	2	93
24				4	Question instructed not to answer	0	00
				5	Question instructed not to answer	8	06
				6	Question instructed not to answer	20	07
				7	Question instructed not to answer	7	
				8	Question instructed not to answer		53
				9	Question instructed not to answer	2	54
				20	Question instructed not to answer	6	55
				2	Question instructed not to answer	20	55
				22	Question instructed not to answer	6	56
				23	Request for the time to be marked in the transcript	7	4
				24			
6			8				
EXHIBITS INDEX							
Tol Exhibit No.	Description	Page					
2	Exhibit 3	Plaintiff Philips North America LLC s Notice of Intent to Withdraw Count IV of the Amended Complaint for Patent Infringement (3 pages)	5	1 (On the record at 1:11 p.m.)			
3	Exhibit 5	Document entitled "Business Plan: License of Quy Patents to LifeScan" (PNA B0006832 0 833) [Highly Confidential AEO]	64	2 THE VIDEOGRAPHER: Thank you. Here begins			
4	Exhibit 6	Accounting document headed "Retrieve RR Accounts" for SymCare (PNA B0007 74) [Confidential]	78	3 the videotaped deposition of Arie Tol, in the matter			
5	Exhibit	Defendant itbit, Inc. s Notice of Rule 30(b)(6) deposition to Plaintiff Philips North America LLC ( 3 pages)	94	4 of Philips North America, LLC, versus Fitbit, Inc.,			
6	Exhibit 20	Letter from Mr. Tol to LifeScan, dated April 26, 20 9 (PNA B0004322 323)	202	5 in the United States District Court for the District			
7				6 of Massachusetts, Case Number 1:19-cv-11586-IT.			
8				7 Today's date is January 13, 2021, and the			
9				8 time is 1:11 p.m.			
20				9 The videographer today is Wendy Viner on			
22				10 behalf of Planet Depos.			
23				11 This video deposition is taking place			
24				12 remotely.			
				13 Could I ask counsel, please, to identify			
				14 themselves and state whom they represent.			
				15 MR. CHAIKOVSKY: Yar Chaikovsky from			
				16 Paul Hastings, representing Fitbit. Along with me			
				17 today are Radhesh Devendran and David Okano, also of			
				18 Paul Hastings, representing Fitbit.			
				19 MR. THOMPSON: I'm representing the			
				20 witness and Philips. My name is Eley Thompson of			
				21 Foley & Lardner.			
				22 THE VIDEOGRAPHER: Thank you.			
				23 The court reporter today is Leah			
				24 Willersdorf on behalf of Planet Depos. Could I ask			

[REDACTED]

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3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 the court reporter to please swear in the witness and</p> <p>2 we can proceed.</p> <p>3 THE STENOGRAPHER: Good afternoon. My</p> <p>4 name is Leah Willersdorf. I am a Registered</p> <p>5 Professional Reporter and a Certified Realtime</p> <p>6 Reporter.</p> <p>7 Will counsel please stipulate that in lieu</p> <p>8 of formally swearing in the witness, the reporter will</p> <p>9 instead ask the witness to acknowledge that their</p> <p>10 testimony will be true under the penalties of perjury,</p> <p>11 that counsel will not object to the admissibility</p> <p>12 of the transcript based on proceeding in this way, and</p> <p>13 that the witness has verified that he is in fact</p> <p>14 Arie Tol?</p> <p>15 MR. THOMPSON: So stipulated for Philips</p> <p>16 and the witness.</p> <p>17 MR. CHAIKOVSKY: So stipulated for Fitbit.</p> <p>18 THE STENOGRAPHER: Thank you.</p> <p>19 Mr. Tol, do you hereby acknowledge that</p> <p>20 your testimony will be true under the penalties of</p> <p>21 perjury?</p> <p>22 THE WITNESS: Sorry. Did I hear you say</p> <p>23 that?</p> <p>24 THE STENOGRAPHER: Yes.</p>	<p>1 A. <b>A-r-i-e T-o-l.</b></p> <p>2 Q. And what's your home address?</p> <p>3 A. <b>Moslaan, M-o-s-l-a-a-n, number 2, 5646 AN,</b></p> <p>4 <b>in -- yes, AN, in Eindhoven, so that's A -- no, sorry,</b></p> <p>5 <b>E-i-n-d-h-o-v-e-n.</b></p> <p>6 Q. Okay. And the country is?</p> <p>7 A. <b>Netherlands.</b></p> <p>8 Q. And Mr. Tol, you're under oath, as you</p> <p>9 just heard. Do you know what that means?</p> <p>10 A. <b>I think so, yes.</b></p> <p>11 Q. That your testimony is provided under</p> <p>12 penalty of perjury as if you were testifying in a</p> <p>13 court of law in the United States.</p> <p>14 Do you understand that?</p> <p>15 A. <b>Yes.</b></p> <p>16 Q. During this process I'm going to ask you</p> <p>17 questions. If you don't understand one of my</p> <p>18 questions, could you please let me know? Will that be</p> <p>19 okay?</p> <p>20 A. <b>I will.</b></p> <p>21 Q. And then during this process, although</p> <p>22 difficult in a Zoom world, let's try to not speak over</p> <p>23 each other so that the record is clear.</p> <p>24 If you feel you need to clarify or ask</p>
<p style="text-align: right;">0</p> <p>1 THE WITNESS: Yeah, I did hear you say</p> <p>2 that.</p> <p>3 THE STENOGRAPHER: Do you want me -- shall</p> <p>4 I repeat it?</p> <p>5 THE WITNESS: Oh, do you want -- what?</p> <p>6 Okay.</p> <p>7 THE STENOGRAPHER: Okay. Mr. Tol --</p> <p>8 THE WITNESS: Yes.</p> <p>9 THE STENOGRAPHER: -- do you hereby</p> <p>10 acknowledge that your testimony will be true under the</p> <p>11 penalties of perjury?</p> <p>12 THE WITNESS: I do.</p> <p>13 THE STENOGRAPHER: Thank you. Thank you,</p> <p>14 Counsel.</p> <p>15 ARIE TOL,</p> <p>16 having first agreed to tell the truth</p> <p>17 under penalty of perjury,</p> <p>18 was examined and testified as follows:</p> <p>19 EXAMINATION ON BEHALF OF DEFENDANT:</p> <p>20 BY MR. CHAIKOVSKY:</p> <p>21 Q. Mr. Tol, please state your name for the</p> <p>22 record.</p> <p>23 A. <b>My name's Arie Tol.</b></p> <p>24 Q. And how do you spell that?</p>	<p style="text-align: right;">2</p> <p>1 something during the course of this process, your</p> <p>2 counsel will have the opportunity to ask questions</p> <p>3 after my questioning. So, you know, be aware that</p> <p>4 Mr. Thompson can ask questions after I'm done. But</p> <p>5 you have to answer my questions even if your counsel</p> <p>6 objects, unless your counsel instructs you not to</p> <p>7 answer the questions based on privilege.</p> <p>8 Do you understand that?</p> <p>9 A. <b>Yes.</b></p> <p>10 Q. What is your current position at Philips?</p> <p>11 A. <b>I'm an IP counsel.</b></p> <p>12 Q. Is that your title?</p> <p>13 A. <b>I think so, yes.</b></p> <p>14 Q. Okay. What department do you work in?</p> <p>15 A. <b>IP&amp;S.</b></p> <p>16 Q. And what does IP&amp;S stand for?</p> <p>17 A. <b>Intellectual Property and Standards.</b></p> <p>18 Q. And in your role as IP counsel in IP&amp;S,</p> <p>19 what are your responsibilities or what are your</p> <p>20 duties?</p> <p>21 A. <b>My duties? Currently, my duties is to</b></p> <p>22 <b>do -- yeah, to advise and to do work in the</b></p> <p>23 <b>intellectual property field for Philips.</b></p> <p>24 Q. What type of work?</p>

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