

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

Case No. 1:19-CV-11586-FDS

**JURY TRIAL DEMANDED**

**DEFENDANT FITBIT, INC.'S ANSWER AND COUNTERCLAIMS TO PLAINTIFF  
PHILIPS NORTH AMERICA LLC'S SECOND AMENDED COMPLAINT**

Defendant Fitbit, Inc. (“Fitbit”),<sup>1</sup> through its undersigned counsel, submits this Answer and Counterclaims to Plaintiff Philips North America LLC’s (“Philips”) Second Amended Complaint for Patent Infringement (“Complaint”), alleging infringement of U.S. Patent Nos. 6,013,007 (“the ’007 Patent”), 7,088,233 (“the ’233 Patent”), and 8,277,377 (“the ’377 Patent”), collectively, “the Patents-in-Suit”, as follows:

**ANSWER**

Fitbit responds to the allegations contained in the numbered paragraphs of Philips’s Complaint below. Fitbit denies all allegations and characterizations in the Complaint unless expressly admitted in the following paragraphs.

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<sup>1</sup> Effective July 31, 2021, Fitbit converted from Fitbit, Inc. to Fitbit LLC. The parties are meeting and conferring regarding a notice and stipulation of conversion regarding Fitbit’s current corporate name.

### **NATURE OF THE ACTION**<sup>2</sup>

1. Fitbit admits that this is an action alleging patent infringement. Fitbit denies that it has infringed or infringes the Patents-in-Suit and denies that Philips is entitled to compensation.
2. Fitbit currently has insufficient knowledge or information to admit or deny that Philips North America LLC is a subsidiary of Koninklijke Philips N.V. or that Koninklijke Philips N.V. was originally founded in 1891 and on that basis denies the allegations. The remaining allegations in Paragraph 2 of the Complaint contain nonfactual characterizations that require no response. To the extent any factual allegations remain in Paragraph 2 of the Complaint, Fitbit currently has insufficient knowledge or information to admit or deny them and on that basis denies them.
3. Paragraph 3 of the Complaint contains nonfactual characterizations that require no response. To the extent any factual allegations remain in Paragraph 3 of the Complaint, Fitbit currently has insufficient knowledge or information to admit or deny the remaining allegations and on that basis denies them.
4. Paragraph 4 of the Complaint contains nonfactual characterizations that require no response. To the extent any factual allegations remain in Paragraph 4 of the Complaint, Fitbit currently has insufficient knowledge or information to admit or deny the remaining allegations and on that basis denies them.
5. Fitbit currently has insufficient knowledge or information to admit or deny the allegations in Paragraph 5 of the Complaint and on that basis denies them.
6. Paragraph 6 of the Complaint contains nonfactual characterizations that require no response. To the extent any factual allegations remain in Paragraph 6 of the Complaint, Fitbit

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<sup>2</sup> For clarity and ease of reference, Fitbit repeats herein the section headers recited in Philips's Complaint. To the extent any section header is construed as a factual allegation, Fitbit denies any and all such allegations.

currently has insufficient knowledge or information to admit or deny the remaining allegations and on that basis denies them.

7. Fitbit currently has insufficient knowledge or information to admit or deny the allegations in Paragraph 7 of the Complaint and on that basis denies them.

8. Fitbit currently has insufficient knowledge or information to admit or deny the allegations in Paragraph 8 of the Complaint and on that basis denies them.

9. Fitbit admits that Philips purports to assert the Patents-in-Suit in this action, but notes that the Court recently found that all asserted claims of the '007 Patent are invalid. The remainder of Paragraph 9 of the Complaint contains nonfactual characterizations that require no response. To the extent any factual allegations remain in Paragraph 9 of the Complaint, Fitbit currently has insufficient knowledge or information to admit or deny the remaining allegations and on that basis denies them.

10. Fitbit admits that it was founded in 2007 and that Paragraph 10 of the Complaint accurately transcribes text found at <https://www.fitbit.com/about>. Fitbit denies that “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 admits that, since its founding, it has generated billions of dollars in revenue. To the extent any factual allegations remain in Paragraph 10 of the Complaint, Fitbit denies them.

11. Fitbit admits that it has not licensed the Patents-in-Suit. Fitbit denies that it has willfully infringed or is willfully infringing the Patents-in-Suit. The remaining allegations in Paragraph 11 of the Complaint contain legal conclusions or nonfactual characterizations that require no response. To the extent any factual allegations remain in Paragraph 11 of the Complaint, Fitbit denies them.

### **PARTIES**

12. Fitbit currently has insufficient knowledge or information to admit or deny the allegations in Paragraph 12 of the Complaint regarding Philips's corporate organization or principal place of business and on that basis denies them. The remaining allegations in Paragraph 12 of the Complaint contain nonfactual characterizations that require no response. To the extent any factual allegations remain in Paragraph 12 of the Complaint Fitbit, denies them.

13. Fitbit admits that at the time Philips filed the operative Complaint, it was a corporation organized under the laws of Delaware. Effective July 31, 2021, Fitbit converted from a corporation to a limited liability company, Fitbit LLC, organized under the laws of Delaware. Fitbit denies that it maintains an office at One Marina Park Drive, Suite 701, Boston, MA 02210. Fitbit admits that it develops, manufactures, markets, sells, and uses Fitbit devices. Fitbit admits that it has not licensed the Patents-in-Suit. Fitbit denies that its products "incorporate Philips's patented technology" and denies that it "chose a path of willful infringement." The remaining allegations in Paragraph 13 of the Complaint contain legal conclusions that require no response. To the extent any factual allegations remain in Paragraph 13 of the Complaint, Fitbit denies them.

### **JURISDICTION AND VENUE**

14. Fitbit admits that Philips's claims purport to arise under Title 35 of the United States Code. For purposes of this case only, Fitbit does not dispute this Court's general and specific personal jurisdiction over Fitbit. Fitbit denies that it sells or has sold "infringing products and services." The remaining allegations in Paragraph 14 of the Complaint contain nonfactual characterizations and legal conclusions that require no response. To the extent any factual allegations remain in Paragraph 14 of the Complaint, Fitbit denies them.

15. For purposes of this case only, Fitbit does not dispute this Court's personal jurisdiction

over Fitbit. Fitbit denies that it “has committed acts of direct and joint infringement in this Judicial District.” The remaining allegations in Paragraph 15 of the Complaint contain nonfactual characterizations and legal conclusions that require no response. To the extent any factual allegations remain in Paragraph 15 of the Complaint, Fitbit denies them.

16. For purposes of this case only, Fitbit does not dispute this Court’s personal jurisdiction over Fitbit. The remaining allegations in Paragraph 16 of the Complaint contain nonfactual characterizations and legal conclusions that require no response. To the extent any factual allegations remain in Paragraph 16 of the Complaint, Fitbit denies them.

17. Fitbit denies that it “has knowingly induced and continues to induce and/or contribute to infringement within this Judicial District.” Fitbit denies that it “provides instructions, user manuals, advertising, and/or marketing materials which facilitate, direct, or encourage such infringing use with knowledge thereof.” Fitbit denies that it “jointly infringes with its customers and subscribers in this Judicial District.” Fitbit denies that any of its products are “covered by the Patents-in-Suit.” The remaining allegations in Paragraph 17 of the Complaint contain nonfactual characterizations and legal conclusions that require no response. To the extent any factual allegations remain in Paragraph 17 of the Complaint, Fitbit denies them.

18. For purposes of this case only, Fitbit does not dispute this Court’s personal jurisdiction over Fitbit.

19. For purposes of this case only, Fitbit does not dispute the propriety of venue in this District. Fitbit denies that it has “engaged and continues to engage in infringing acts in this Judicial District.” The remaining allegations in Paragraph 19 of the Complaint contain nonfactual characterizations and legal conclusions that require no response. To the extent any factual allegations remain in Paragraph 19 of the Complaint, Fitbit denies them.

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