

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-IT

**DECLARATION OF DAVID OKANO IN SUPPORT OF DEFENDANT  
FITBIT, INC.'S RENEWED RULE 12(b)(6) MOTION TO DISMISS  
PLAINTIFF PHILIPS NORTH AMERICA LLC'S FIRST AMENDED  
COMPLAINT UNDER 35 U.S.C. § 101**

I, David Okano, declare:

1. I am an attorney with Paul Hastings LLP, counsel of record in this action for Defendant Fitbit, Inc. (“Fitbit”), and admitted to this Court *Pro Hac Vice*. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could and would testify to those facts under oath.

2. Attached as Exhibit A is a true and correct copy of an excerpt of the prosecution file history of U.S. Patent No. 8,277,377, dated September 20, 2010, and titled “Amendment and Response to Final Office Action.” The prosecution file history of U.S. Patent No. 8,277,377, including the attached excerpt (Exhibit A), is available and can be retrieved from the “Public Patent Application Information Retrieval” tool on the website of the United States Patent and Trademark Office (<https://portal.uspto.gov/pair/PublicPair>).



**CERTIFICATE OF SERVICE**

I certify that a true copy of the above document was served on the attorney of record for each party via the Court's CM/ECF system.

Dated: December 10, 2019

By: /s/ Yar R. Chaikovsky  
Yar R. Chaikovsky (*Pro Hac Vice*)