

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

**DEFENDANT FITBIT, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT OF
INVALIDITY UNDER 35 U.S.C. § 112**

Defendant Fitbit, Inc. ("Fitbit") files this motion for partial summary judgment of invalidity under 35 U.S.C. § 112. Philips opposes this motion.

Claims 7 and 21-29 ("asserted claims") of U.S. Patent No. 6,013,007 are invalid as indefinite as a matter of law under 35 U.S.C. § 112, ¶ 2. Fitbit thus moves the Court pursuant to Rule 56 of the Federal Rules of Civil Procedure for an order of partial summary judgement that the asserted claims of the '007 patent are invalid as indefinite. In support, Fitbit relies on the memorandum submitted with this motion, the accompanying declaration and exhibits, and any further briefing and argument permitted by the Court.

Fitbit respectfully requests the Court to GRANT this motion.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Fitbit requests the Court entertain oral argument on this motion, as Fitbit believes oral argument will assist the Court.

Dated: March 19, 2020

Respectfully submitted,

FITBIT, INC.

By Its Attorneys,

/s/ Yar R. Chaikovsky

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LOCAL RULE 7.1 CERTIFICATION

I, David M. Beckwith, counsel for Defendant Fitbit, Inc., hereby certify that we have conferred with counsel for Philips North America, LLC to resolve the issues presented in this motion, but after a good faith attempt to reach agreement, the parties did not do so.

Dated: March 19, 2020

By: /s/ David M. Beckwith
David M. Beckwith (*Pro Hac Vice*)

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, which will send notification of this filing (NEF) to all registered participants, and paper copies will be sent to those indicated as nonregistered participants.

Dated: March 19, 2020

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