

EXHIBIT C

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PHILIPS NORTH AMERICA LLC,)	
)	
Plaintiff,)	
)	C.A. No. 1:19-cv-11586-IT
v.)	
)	
FITBIT, INC.)	
)	
Defendant.)	
)	

**PLAINTIFF PHILIPS NORTH AMERICA LLC’S SUPPLEMENTAL L.R. 16.6(d)(1)
DISCLOSURES**

While Philips North America LLC (“Philips,” “Plaintiff” or “Patentee”) maintains the sufficiency of its original L.R. 16.6(d)(1) disclosures, having met and conferred with counsel for Fitbit, Philips nonetheless provides the following supplemental disclosures.

Philips nonetheless reiterates that discovery in this action is only just beginning, and as of last week Defendants had not yet produced any documents concerning the accused products.¹ Accordingly, these supplemental disclosures remain based solely upon publicly available information and Plaintiff’s present understanding of said publicly available information. Plaintiff’s investigation of the matters disclosed herein is ongoing. Accordingly, Plaintiff may seek to amend, modify, or supplement these disclosures based upon further discovery and investigation.

Throughout these disclosures the term “Accused Products” may, depending on context and the specific patent at issue, mean any of the identified activity tracker products offered by

¹ On March 13th, 2020 Fitbit provided its first document production in conjunction with its disclosures under L.R. 16.6(d)(4). Philips has not yet confirmed whether this production contained information concerning the detailed functionality of the accused products.

Fitbit, as well as any software products related to, associated with, or used in conjunction with said activity tracker products (regardless of whether such software runs on the activity tracker itself, a mobile device, desktop/laptop computer, server, or other computing device). For example, “Accused Product” may refer to an activity tracker alone or to a system utilizing the activity tracker in combination with a device running the Fitbit App. An Accused Product may also refer to a system that further includes server-based software and related hardware and software.

Unless otherwise noted the supplemental information provided below applies to each assertion of each asserted patent against each asserted product.

A. U.S. Pat. No. 6,013,007

1. Identification of means-plus-function terms under 35 U.S.C. § 112

Philips identifies the following elements of the ’007 as means-plus-function terms under 35 U.S.C § 112. The identity of the structures and in the accused products that perform the claimed function are identified (to the extent possible given that Philips’s contentions are presently based solely on publicly available information) in the claim charts originally served with Philips’s 16.6(d)(1) disclosures. However, and in view of questions posed by counsel for Fitbit during a meet and confer, Philips provides some clarifications below. However, failure to specifically recite a specific function or item of support in the below clarifications should not be interpreted as a waiving any claim of infringement over any and all functions and structures identified in Philips’s original charts.

Means-Plus-Function Element	Additional Comments
Claim 1: “means for computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver”	As identified in the previously served claim charts, the “athletic performance feedback data” of the accused products includes at least waypoint-based distance, waypoint-based pace, and Cardio Fitness Score (which, upon information and belief, incorporates calculations of waypoint-based distance and/or waypoint-based pace in relation to other data). The computing is performed by the underlying processor(s) from time-stamped waypoints obtained by a GPS receiver. The details of that computation in the accused products have not yet been provided by Fitbit to Philips.
Claim 1: “means for presenting the athletic performance feedback data to an athlete.”	As identified in the previously served claim charts, the claimed “means for presenting” include the screen of a mobile device running the Fitbit App, as well as “voice cues” which provide audio feedback of athletic performance feedback data, including waypoint-based distance and waypoint-based pace.
Claim 7: “means for suspending and resuming operation of said means for computing when a speed of the athlete falls below a predetermined threshold”	As identified in the previously served claim charts, the means for suspending and resuming operation include the “Auto-Pause” feature of the accused products.
Claim 21: “means for computing athletic performance feedback data from the series of time-stamped waypoints obtained by said GPS receiver”	As identified in the previously served claim charts, the “athletic performance feedback data” of the accused products includes at least waypoint-based distance, waypoint-based pace, and Cardio Fitness Score (which, upon information and belief, incorporates calculations of waypoint-based distance and/or waypoint-based pace). The computing is performed by the underlying processor(s) from time-stamped waypoints obtained by a GPS receiver. The details of that computation in the accused products have not yet been provided by Fitbit to Philips.
Claim 21: “means for presenting the athletic performance feedback data to an athlete”	As identified in the previously served claim charts, the claimed “means for presenting” include the screen of a mobile device running

	the Fitbit App, as well as “voice cues” which provide audio feedback of athletic performance feedback data, including waypoint-based distance and waypoint-based pace.
Claim 22: “means for verifying actual exercise activity.”	As identified in the previously served claim charts, the claimed “means for verifying actual exercise activity” include at least the “SmartTrack” and “Auto-Pause” features of the accused products.
Claim 25: “means for exchanging GPS route waypoints via said Internet web site”	As identified in the previously served claim charts, the claims “means for exchanging GPS route waypoints via said Internet website” includes the “Share with Friends” feature of the Fitbit App that allows sharing of maps.

2. Additional details concerning infringement and acts of multiple parties.

i. Direct Infringement (35 U.S.C. § 271(a))

Fitbit has directly infringed the claims of the '007 by at least making and using a system that included every element of the accused products (as charted), at least for the purposes of testing its products and services, demonstrating its products and services to others, etc.

ii. Direct Infringement via Joint Infringement (35 U.S.C. § 271(a))

Fitbit has directly infringed the claims of the '007 by jointly infringing with its customers. While Fitbit provides the accused activity tracker devices, the Fitbit App, and (to the extent relevant to any given claim) the Fitbit servers that are accessible to the Fitbit App, the customer provides the mobile device and any audio headset that may be required by any particular claim. Fitbit and its customers jointly make and use the

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