

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

**JOINT MOTION FOR LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY
RELATING TO FITBIT'S RENEWED RULE 12(b)(6) MOTION TO DISMISS
PLAINTIFF PHILIPS NORTH AMERICA LLC'S FIRST AMENDED COMPLAINT
UNDER 35 U.S.C. § 101 AND PHILIPS'S OPPOSITION THERETO**

Pursuant to Local Rule 7.1(b)(3), Defendant Fitbit, Inc. ("Fitbit") and Philips North America LLC ("Philips") jointly move for leave to file a Notice of Supplemental Authority Relating to Fitbit's Renewed Rule 12(b)(6) Motion to Dismiss Plaintiff Philips North America LLC's ("Philips") First Amended Complaint under 35 U.S.C. § 101 and Philips's Opposition Thereto. Dkt. 34 filed December 10, 2019 and Dkt. 36 filed December 31, 2019.

The Notice of Supplemental Authority, attached hereto, contains the following Federal Circuit decisions identified by Fitbit: *Cardionet, LLC, et al. v. Infobionic, Inc.* No. 2020-1018, Dkt. 45 (Fed. Cir. July 1, 2020) and *Dropbox, et al. v. Synchronoss Technologies*, Nos. 2019-1765, 2019-1767, 2019-1823, Dkt. 48 (Fed. Cir. June 19, 2020).

The Notice of Supplemental Authority also contains the following Federal Circuit cases identified by Philips: *Uniloc USA, Inc. v. LG Electronics USA, Inc.*, 957 F.3d 1303 (Fed. Cir. 2020) and *CardioNet, LLC v. InfoBionic Inc.*, 955 F.3d 1358 (Fed. Cir. 2020).

Dated: July 2, 2020

PHILIPS NORTH AMERICA LLC,

FITBIT, INC.

By Its Attorneys,

By Its Attorneys,

/s/ Ruben J. Rodrigues

Ruben Rodrigues (BBO 676,573)
Lucas I. Silva (BBO 673,935)
John Custer (BBO 705,258)
FOLEY & LARDNER LLP
111 Huntington Avenue
Suite 2500
Boston, MA 02199-7610
Phone: (617) 342-4000
Fax: (617) 342-4001
rrodrigues@foley.com
lsilva@foley.com
jcuster@foley.com

Eley O. Thompson (*pro hac vice*)
FOLEY & LARDNER LLP
321 N. Clark Street
Suite 2800
Chicago, IL 60654-5313
Phone: (312) 832-4359
Fax: (312) 832-4700
ethompson@foley.com

/s/ Yar R. Chaikovsky

Yar R. Chaikovsky
yarchaikovsky@paulhastings.com
Chad J. Peterman
chadpeterman@paulhastings.com
Dave Beckwith
davidbeckwith@paulhastings.com
David Okano
davidokano@paulhastings.com
Radhesh Devendran
radheshdevendran@paulhastings.com
Berkeley Fife
berkeleyfife@paulhastings.com

PAUL HASTINGS LLP
1117 S. California Avenue
Palo Alto, California 94304-1106
Telephone: 1(650) 320-1800
Facsimile: 1(650) 320-1900

Jennifer B. Furey (BBO # 634174)
Andrew T. O'Connor (BBO # 664811)
GOULSTON & STORRS PC
400 Atlantic Avenue
Boston, MA 02110
Telephone: (617) 482-1776
Facsimile: (617) 574-4112
E-mail: jfurey@goulstonstorrs.com
aoconnor@goulstonstorrs.com

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: July 2, 2020

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