

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-FDS

PLAINTIFF'S MOTION TO STRIKE AFFIRMATIVE DEFENSES

Plaintiff Philips North America LLC (“Philips”) respectfully moves to strike certain affirmative defenses filed by Defendant Fitbit, Inc. (“Fitbit”) in its Answer and Counterclaims to Philips’s Second Amended Complaint (Dkt. 224). More specifically, Philips seeks to strike Fitbit’s Sixth Affirmative Defense in its entirety and those portions of Fitbit’s Third Affirmative Defense that similarly assert that Philips’s claims are barred in whole or in part under the doctrine of inequitable conduct.

Based on the reasons set out in the accompanying memorandum in support of this motion, Philips respectfully requests that the Court GRANT this motion.

Dated: September 14, 2021

Respectfully Submitted,

/s/ Eley O. Thompson

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LOCAL RULE 7.2 CERTIFICATION

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

Dated: September 14, 2021

/s/ Ruben J. Rodrigues

Ruben J. Rodrigues

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed with the Court through the ECF system and that a copy will be electronically served on registered participants as identified on the Notice of Electronic Filing.

By: /s/ Eley O. Thompson