

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT LLC,

Defendant.

Civil Action No. 1:19-cv-11586-FDS

**DECLARATION OF DAVID J. SHAW IN SUPPORT OF FITBIT LLC'S SUR-REPLY
TO PHILIPS'S MOTION TO STRIKE FITBIT'S INEQUITABLE CONDUCT DEFENSE**

I, David J. Shaw, hereby declare:

1. I am an attorney at Desmarais LLP, counsel of record for Fitbit LLC ("Fitbit"). I am admitted *pro hac vice* to this Court. I have personal knowledge of the facts set forth herein and could competently testify to them if called as a witness.

2. I make this declaration in support of Fitbit's sur-reply to Philips's motion to strike Fitbit's inequitable conduct defense (D.I. 236).

3. Attached hereto as Exhibit 1 is a true and correct copy of email correspondence between David J. Shaw and Ruben Rodrigues, dated October 4, 2021.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.

Executed October 14, 2021 in Washington, DC.

/s/ David J. Shaw

David J. Shaw (*pro hac vice*)

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been filed through the CM/ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on October 14, 2021.

/s/ Gregory F. Corbett

Gregory F. Corbett