

EXHIBIT 7

PAUL HASTINGS

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November 12, 2020

HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY

Ruben J. Rodrigues
Foley & Lardner LLP
111 Huntington Ave, Suite 2600
Boston, MA 02199

Ruben:

We write to follow up on our meet and confer yesterday, November 11, to confirm what we discussed. If anything in this letter does not reflect your understanding of our meet and confer, please inform us promptly.

I. 30(B)(6) DEPOSITIONS

On behalf of Philips, you represented that Philips will be designating Mr. Pastink as the primary 30(b)(6) witness and a witness Philips intends to call at trial, and that you would provide Mr. Pastink’s availability for deposition within the next few weeks. We understand that Philips will be designating Mr. Tol as a 30(b)(6) witness on certain topics relating to the Symcare and LifeScan licenses. You agreed to make an effort to provide Mr. Tol for deposition on December 9, 10, or 11. Given the likely deposition start time based on time differences due to Mr. Tol’s location, the parties agreed that Mr. Tol’s deposition would be for less than a full day and that the parties would endeavor to avoid having Mr. Tol sit for two days of deposition.

On behalf of Philips, you also informed us that Philips will be designating a witness other than Mr. Pastink on design and development topics relating to Philips’ Health Watch and HealthSuite application. You agreed to promptly inform Fitbit of the identity of that witness and to make him or her available for deposition.

Relatedly, the parties agreed that while they would each make good faith efforts to complete fact discovery by the December 11 cutoff, should scheduling difficulties require a deposition of either a Philips or Fitbit witness to be taken out of time, the parties would in good faith attempt to do so.

II. ESI REQUESTS

As stated during the meet and confer, Fitbit’s position is that the stipulated discovery order, as stated in section viii.b, limits ESI requests to “a total of ten search terms,” not ten search terms per custodian. Philips’ position is that the stipulated discovery order permits ten search terms per custodian.

Fitbit received a proposed compromise from Philips yesterday of a total of 15 search terms and appreciates Philips’ good faith efforts to resolve the parties’ disputes. Fitbit will respond to Philips’ proposed ESI requests in a separate correspondence.

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III. INTERROGATORY NOS. 2, 10, 14, 17:

For Interrogatory No. 2, Philips agreed to supplement its response on Friday with further information concerning licensing negotiations. As stated during the meet and confer, Fitbit has complied with Rule 33(d) of the Federal Rules of Civil Procedure and intends to continue complying with its discovery obligations under the Federal Rules. Philips agreed to inform Fitbit whether it would comply with its obligations under Rule 33(d) to identify specific documents it relies on for its interrogatory responses. Should Philips assert that it does not intend to comply with its discovery obligations under Rule 33(d), the parties agreed to promptly schedule a meet and confer on the issue.

For Interrogatory No. 14, Philips believes it has identified all responsive payments. While internal Philips emails may reflect a payment from Symcare, Philips was unable to locate evidence of that payment in its system. Philips will be producing documents to support this assertion.

For Interrogatory Nos. 10 and 17, Philips' contends that it has satisfied the required disclosure of a computation of damages under Rule 26(a)(1)(A)(iii) of the Federal Rules of Civil Procedure by stating it seeks a reasonable royalty and indicating that it will provide a computation of that reasonable royalty in expert reports. Fitbit disagrees that Philips' mere disclosure of a legal theory—that it seeks a reasonable royalty—satisfies its discovery obligations under at least Rule 26(a)(1)(A)(iii), as Fitbit has set forth in detail in its October 30, 2020 correspondence. We informed you that Fitbit intends to raise this issue with the Court, and you agreed that Fitbit had satisfied the meet and confer requirement in Local Rule 7.1(a)(2) on this issue.

IV. INTERROGATORY NOS. 4, 11, 20:

For Interrogatory No. 4, Philips' contends that Fitbit agreed to limit Interrogatory No. 4 to the products identified in Fitbit's original *Arctic Cat* notice. Philips invited Fitbit to serve an additional interrogatory that identified additional products. Fitbit disagrees that Interrogatory No. 4 is limited to the products identified in its original *Arctic Cat* notice, or that it agreed to limit the interrogatory in this manner.

Yesterday, Fitbit served an additional interrogatory specific to the Philips and licensee products identified in Fitbit's amended *Arctic Cat* notice, as well as the Philips Health Band product. Fitbit expects Philips to provide a fulsome response to this interrogatory that identifies which products practice the Patents-in-Suit, and for those products that Philips contends do not, a claim-by-claim and limitation-by-limitation analysis as to why the product does not practice any claim of the Patents-in-Suit, and details Philips' marking efforts and efforts to ensure compliance with 35 U.S.C. § 287 by its licensees.

For Interrogatory No. 11, Philips agreed to supplement its response by Friday to state that Philips has not marked its products with the patent numbers of the Patents-in-Suit. Fitbit also requested Philips to supplement its response to provide specifics as to steps it has taken—if any—to ensure compliance with 35 U.S.C. § 287 by its licensees. Please inform us by the end of the week whether Philips intends to supplement its response to list the specific acts—if any—that Philips has undertaken to ensure compliance by its licensees with the marking statute.

For Interrogatory No. 20, you confirmed that Philips will supplement its response on Friday.

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V. INTERROGATORY NOS. 1, 6, 7, 9, 13, 16, 18, 19:

For Interrogatory Nos. 1 and 13, Philips agreed to supplement its response by Friday.

For Interrogatory No. 16, Philips agreed to promptly identify the additional Philips witnesses to be designated on 30(b)(6) topics regarding Philips products. Fitbit indicated it would object to any effort by Philips to rely on any witnesses whose expected trial testimony or scope of knowledge was not disclosed in Philips' Rule 26 disclosures, in interrogatories served in this matter, or within the direct testimony of that witness during deposition.

For Interrogatory No. 18, Philips agreed to provide its privilege log before the deposition of Mr. Pastink. The parties also agreed to produce non-privileged response e-mails to ESI requests a reasonable amount of time before depositions of the respective party witnesses.

For Interrogatory No. 19, Philips does not intend to supplement its response.

For Interrogatory Nos. 6, 7, and 9, Philips would not commit to supplementing its response as requested by Fitbit in its correspondence to provide the specific factual detail supporting its indirect and joint infringement allegations that should already be in Philips' possession, including factual detail relating to actions performed by the underlying direct infringers, the required *mens rea* to show induced and contributory infringement, and the conditioned benefit received by Fitbit's users for purposes of joint infringement. Philips stated that outstanding discovery may affect Philips' responses. Fitbit reiterated its position set forth in its November 5, 2020 correspondence that Philips' current responses to these interrogatories do not comply with its discovery obligations under the Federal Rules of Civil Procedure. Fitbit stated that if Philips does not supplement its responses, Fitbit reserves its right to move to strike or exclude any factual evidence Philips relies on to support its contentions that was not disclosed in response to these interrogatories. Fitbit also stated that it may seek a meet and confer after evaluating any supplemental responses by Philips in order to bring this dispute to the Court.

VI. CERIAN TECHNOLOGY VENTURES SUBPOENA

You confirmed that Cerian Technology Ventures will be producing documents early next week.

Sincerely,

/s/ David Okano

David Okano
for PAUL HASTINGS LLP