

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
REGARDING PHILIPS' MOTION TO STRIKE PORTIONS OF THE
NOVEMBER 16, 2021 EXPERT REPORT OF JOSEPH A. PARADISO (DKT. 259)**

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 Surreply Regarding Philips' Motion to Strike Portions of the November 16, 2021 Expert Report of Joseph A. Paradiso (Dkt. 259).

3. Attached hereto as Exhibit 1 is a true and correct excerpted copy of the Rebuttal Expert Report of Tomas Martin, served December 22, 2021.

4. Attached hereto as Exhibit 2 is a true and correct copy of Maxell, Ltd.'s Motion *in Limine* No. 10 to Exclude Evidence or Arguments Regarding Prior Art Not Elected in Defendants' Final Election of Prior Art filed on December 21, 2020 and ruled on by Judge Robert W. Schroeder III of the Eastern District of Texas in *Maxell Ltd. v. Apple Inc.*, No. 5:19-cv-00036-RWS, 2021 U.S. Dist. LEXIS 136283, at *16 (E.D. Tex. Feb. 26, 2021).

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

Executed February 4, 2022 in Washington, D.C.

/s/ David J. Shaw
David J. Shaw (*pro hac vice*)