

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

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

**DECLARATION OF JOHN W. CUSTER IN SUPPORT OF  
PLANTIFF'S MOTION TO PRECLUDE THE TESTIMONY OF DR. JOSEPH A.  
PARADISO REGARDING THE IFIT PRIOR ART SYSTEM**

I, John W. Custer, declare as follows:

1. I am an attorney at Foley & Lardner LLP, counsel to Plaintiff Philips North America, LLC ("Philips").
2. I make this declaration in support of Philips's Motion to Preclude the Testimony of Dr. Joseph A. Paradiso Regarding the iFIT Prior Art System.
3. I have personal knowledge of the facts set forth herein and, if called to testify in this matter, could and would testify to the following facts.
4. Attached as **Exhibit 1** is a true and correct copy of the Expert Report of Joseph A. Paradiso, Ph.D. Regarding Invalidity of U.S. Patent No. 8,277,377, dated November 16, 2021.
5. Attached as **Exhibit 2** is a true and correct copy of excerpts from the deposition of Joseph Paradiso, dated February 2, 2022.
6. Attached as **Exhibit 3** is a true and correct copy of HealthRider SoftStrider S300i User's Manual (Paradiso Depo. Ex. 3), dated 2000.

7. Attached as **Exhibit 4** is a true and correct copy of HealthRider SoftStrider S700i User's Manual (Paradiso Depo. Ex. 4), dated 2000.

8. Attached as **Exhibit 5** is a true and correct copy of excerpts from the deposition of Colleen Logan, dated September 2, 2020.

I declare under penalty of perjury that the foregoing is true and correct.

Date: February 9, 2022

/s/ John W. Custer

John W. Custer

**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/ John W. Custer