

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  
PLAINTIFF'S SUR-REPLY REGARDING FITBIT'S MOTION TO  
STRIKE, IN PART, THE INFRINGEMENT EXPERT REPORT AND  
OPINIONS OF DR. TOM MARTIN PURSUANT TO FED. R. CIV. P.  
37(c)(1) AND LOCAL RULE 16.6(d)**

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 Sur-Reply Regarding Fitbit's Motion to Strike, in Part, The Infringement Expert Report and Opinions of Dr. Tom Martin Pursuant to Fed. R. Civ. P. 37(c)(1) and Local Rule 16.6(d).
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 excerpts from the deposition of Joseph Paradiso, dated February 2, 2022.

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

Date: February 22, 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