

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

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

**PHILIPS NORTH AMERICA LLC'S NOTICE OF  
DEPOSITION TO DEFENDANT FITBIT, INC.**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that pursuant to Rule 30 of the Federal Rules of Civil Procedure, Plaintiff Philips North America LLC ("Philips") through its attorneys of record, will take the deposition of Fitbit, Inc. ("Defendant"), concerning the Topics set forth in Appendix A.

The deposition will commence at a mutually agreeable date and time at the offices of Philips's counsel, Foley & Lardner LLP, or at such other place as has been mutually agreed by the parties. For purposes of this Notice, Philips proposes September 14, 2020.

Pursuant to Federal Rule of Civil Procedure 30, the deposition will be taken before an authorized court reporter and will be videotaped.

Defendant shall designate one or more officers, directors, managing agents, or other persons who consent to testify on their behalf with respect to what is known or is reasonably available to Defendant concerning each of the topics of examination set forth in Appendix A attached hereto. For each person designated, Defendant shall advise Philips of the identity of that person and the topic(s) on which that person shall testify at least five (5) business days in advance of the deposition.

PHILIPS NORTH AMERICA LLC,

Dated, August 24, 2020

By Its Attorneys,

/s/ Ruben J. Rodrigues

Ruben Rodrigues (BBO 676,573)

Lucas I. Silva (BBO 673,935)

John Custer (BBO 705,258)

FOLEY & LARDNER LLP

111 Huntington Avenue

Suite 2500

Boston, MA 02199-7610

Phone: (617) 342-4000

Fax: (617) 342-4001

rrodrigues@foley.com

lsilva@foley.com

jcuster@foley.com

Eley O. Thompson (*pro hac vice*)

FOLEY & LARDNER LLP

321 N. Clark Street

Suite 2800

Chicago, IL 60654-5313

Phone: (312) 832-4359

Fax: (312) 832-4700

ethompson@foley.com

**APPENDIX A**  
**INSTRUCTIONS**

1. You are to prepare fully and completely to testify regarding the following Topics for Examination after conducting a diligent and thorough investigation into all information within Your possession, custody, or control. If You cannot fully and completely testify regarding any Topic, You are to prepare to testify regarding the Topic to the extent possible, specify the portion of the Topic You are unable to prepare for, and provide any information You have regarding that portion.

2. If any Topic seeks testimony referencing or regarding a document or thing that has been lost, discarded, destroyed, or is otherwise unavailable for any reason, You should prepare to testify as to: the pertinent information contained in the document, the date of disposal, the manner of disposal, the reason for disposal, any person, firm or corporation who has possession, custody, or control of a full, partial, or incomplete copy of such document, and the identity of all persons who participated in the destruction or discarding or who have knowledge of the data and circumstances surrounding the destruction or discarding of the document or thing.

3. If any Topic is objected to in part, You should prepare to testify regarding all portions of the Topic not objected to.

4. If You claim that a Topic is overbroad and/or unduly burdensome, identify the respect in which the Topic is allegedly overbroad and/or unduly burdensome, and prepare to testify regarding any unobjectionable portion of the Topic.

5. If You claim that a Topic is vague or ambiguous, identify the particular words, terms or phrases that You contend make the Topic vague and/or ambiguous, and specify the meaning You attribute to those words, terms, or phrases for purposes of Your testimony pertaining thereto.

6. These Topics shall include information acquired or identified up to the deposition and shall be deemed to be continuing. Therefore, You shall promptly supplement Your deposition testimony with any additional information that You identify, acquire, or become aware of up to and including the time of hearing.

### **DEFINITIONS**

The following definitions apply to the Topics set forth below and to the other definitions and instructions provided.

1. “Fitbit,” “You,” and “Your” mean Fitbit, Inc. and any present or former parent, subsidiary, department, division, subdivision, branch, affiliate, predecessor, successor-in-interest, or other related company, and includes any present or former officer, director, agent, employee, consultant, counsel, or representative of Fitbit, and any other person acting on or purporting to act on their behalf, including outside counsel or patent agents.

2. The “’007 Patent” means U.S. Patent No. 6,013,007.

3. The “’233 Patent” means U.S. Patent No. 7,088,233.

4. The “’377 Patent” means U.S. Patent No. 8,277,377.

5. “Asserted Patent(s)” mean the ’007 Patent, the ’233 Patent, and the ’377 Patent.

6. “Accused Products” means any of the activity tracker products offered by Fitbit that were identified in Philips’s L.R. 16.6 Disclosures, as well as any software products related to, associated with, or used in conjunction with said activity tracker products (regardless of whether such software runs on the activity tracker itself, a mobile device, desktop/laptop computer, server, or other computing device), including but not limited to the Fitbit App and the Fitbit.com Dashboard.

7. “Communication” means any transmission of information from one person to another, regardless of the medium, and includes, without limitation, oral, electronic and written transmissions of information.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.