

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
MEMORANDUM IN OPPOSITION TO PHILIPS' MOTION TO PRECLUDE THE
TESTIMONY OF DR. JOSEPH A. PARADISO REGARDING THE IFIT PRIOR ART
SYSTEM (DKT. 305)**

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 LLC's Memorandum In Opposition To Philips' Motion To Preclude The Testimony Of Dr. Joseph A. Paradiso Regarding The iFit Prior Art System (Dkt. 305).

3. Attached hereto as Exhibit 1¹ is a true and correct excerpted copy of the deposition transcript of Colleen Logan, dated September 2, 2020.

4. Attached hereto as Exhibit 2 is a true and correct copy of Exhibit 1 from the deposition of Colleen Logan, Fitbit's subpoena to Icon Health and Fitness, dated August 7, 2020.

¹ Exhibits 1 and 3 are Confidential under the protective order and are being filed under seal, subject to the Court's ruling on Fitbit's forthcoming Motion to Seal/Impound.

5. Attached hereto as Exhibit 3 is a true and correct copy of Exhibit 16 from the deposition of Colleen Logan, which was produced by Icon Health and Fitness bearing Bates Nos. ICON000316-317.

6. Attached hereto as Exhibit 4 is a true and correct copy of U.S. Patent No. 8,277,377.

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

Executed February 23, 2022 in Washington, DC.

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

CERTIFICATE OF SERVICE

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of the electronic filing.

/s/ Elizabeth A. DiMarco

Elizabeth A. DiMarco