

**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

UNOPPOSED MOTION TO IMPOUND/SEAL DESIGNATED MATERIAL

Pursuant to Local Rule 7.2 and the Order Adopting Discovery Stipulation and Modified Protective Order in this case (“Protective Order”), ECF No. 59, Defendant Fitbit LLC (“Fitbit”), respectfully requests the Court to impound (seal) an un-redacted copy of Defendant 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) (“Memorandum”) along with Exhibits 1 and 3 filed in support of the Memorandum. Plaintiff Philips North America LLC (“Philips”) does not oppose this Motion to Impound/Seal.

The Protective Order allows parties to designate discovery material that contains or constitutes confidential business information as “CONFIDENTIAL.” As grounds for this Motion, Fitbit states that Exhibits 1 and 3 contain third party confidential business information. In response to a subpoena, Icon Health & Fitness (“Icon”), a third party to this matter, produced documents related to the design and operation of several of their fitness products and services and marked these documents as confidential under the Protective Order. Icon likewise designated the transcript of the deposition of one of their employees, Ms. Colleen Logan, as confidential under the

Protective Order. Exhibit 1 is an excerpted version of the transcript of this deposition. Exhibit 3 is a copy of Exhibit 16 from Ms. Logan's deposition, which was produced by Icon in response to Exhibit 2, Fitbit's subpoena and concerns the design and operation of their proprietary iFit.com system.

Additionally, Fitbit has filed a redacted version of its Memorandum with redactions because the Memorandum contains discussions about Icon Health and Fitness's confidential business information such as, for example, discussions about the contents of Exhibits 1 and 3.

For the foregoing reasons, Fitbit respectfully requests that the Court permit Fitbit to file a public redacted version of the Memorandum. Further, Fitbit respectfully requests that the Court permit Fitbit to file an un-redacted copy of the foregoing Memorandum along with Exhibits 1 and 3 filed in support of its Memorandum under seal. Fitbit further requests that the documents remain impounded until further Order by the Court, and that upon expiration of the impoundment, the documents be returned to Fitbit's counsel.

Dated: February 23, 2022

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Attorneys for Defendant Fitbit LLC

CERTIFICATE PURSUANT TO LOCAL RULE 7.1(A)(2)

The undersigned hereby certifies that counsel for Fitbit conferred with counsel for Philips and attempted in good faith to resolve or narrow the issues in dispute on February 8, 2022, but was unable to do so.

/s/ David J. Shaw
David J. Shaw

CERTIFICATE PURSUANT TO LOCAL RULE 37.1

The undersigned hereby certifies that counsel for Fitbit has complied with the provisions of Local Rule 37.1.

/s/ David J. Shaw
David J. Shaw

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