**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

**DEFENDANT FITBIT LLC'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT OF NONINFRINGEMENT OF U.S. PATENT NO. 8,277,377**

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I.   INTRODUCTION

Fitbit moves for summary judgment of noninfringement of U.S. Patent No. 8,277,377 (the "'377 patent") on two grounds: (1) the accused methods do not practice elements 1.g and 1.h of the asserted method claims; and (2) the accused method of providing Resting Heart Rate (RHR) Cardio Fitness Score (and associated Cardio Fitness Level) does not practice claim element 1.h because RHR Cardio Fitness Score is not calculated "based on the exercise-related information."

For the first ground, the parties' technical experts agree that claim elements 1.g and 1.h must be performed by the same server or the same server array. However, there is no dispute that Fitbit's systems purportedly perform elements 1.g and 1.h using ██████████████████

█████████. Thus, no reasonable juror could find that the accused methods infringe claim 1.

For the second ground, claim element 1.h requires "a calculation performed by the server based on the exercise-related information." A user's RHR Cardio Fitness Score is calculated from an equation whose inputs are ████████████████████████████████████

██████████████████████████████. It is undisputed that the ████████ and

█████████████ do not comprise "exercise-related information." Fitbit's technical expert, Dr. Joseph Paradiso, explained that resting heart rate is not "exercise-related information" under element 1.h, while Philips' expert, Dr. Thomas Martin, did not contradict this opinion despite being repeatedly asked about the point at his deposition. Therefore, no reasonable juror could find that a user's RHR Cardio Fitness Score (and associated Cardio Fitness Level) is calculated "based on the exercise-related information," and thus, the accused method does not infringe claim 1.

Because these methods do not infringe claim 1, they also do not infringe the other asserted claims 4, 5, 6, 9, and 12, all of which depend from claim 1.

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