

**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 MOTION FOR SUMMARY JUDGMENT OF  
NONINFRINGEMENT OF U.S. PATENT NO. 8,277,377 BASED ON  
PLAINTIFF'S FAILURE OF PROOF**

Defendant Fitbit LLC ("Fitbit"), pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1, respectfully moves the Court to grant summary judgment of noninfringement of U.S. Patent No. 8,277,377 based on Plaintiff's failure of proof. Specifically, Fitbit requests that the Court grant summary judgment of noninfringement of U.S. Patent No. 8,277,377 as to the following eight accused Fitbit products: the Alta HR, Blaze, Charge 3, Inspire HR, Ionic, Versa, Versa 2, and Versa Lite.

In support, Fitbit relies on the Memorandum submitted with this motion, the accompanying declaration and exhibits, and any further briefing and argument permitted by the Court.

Fitbit respectfully requests the Court to GRANT this motion.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), Fitbit requests the Court entertain oral argument on this motion, as Fitbit believes oral argument will assist the Court.

Dated: March 2, 2022

By: /s/ David J. Shaw  
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**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 28, 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