EXHIBIT AX



PRODUCTS

TECHNOLOGY

MOTIVATION

Fitbit Privacy Policy



New! We recently revised this policy to include disclosures mandated by California's new privacy law. Please review the summary of changes and updated policy below. You can find the earlier policy in our archive.

Effective: December 18, 2019

We believe that transparency is the key to any healthy relationship. At Fitbit, we're all about healthy. We appreciate that you are trusting us with information that is important to you, and we want to be transparent about how we use it.

Here we describe the privacy practices for our devices, applications, software, websites, APIs, products, and services (the "Services"). You will learn about the data we collect, how we use it, the controls we give you over your information, and the measures we take to keep it safe.

Specifically, we'll cover:

- Information We Collect
- How We Use Information
- · How Information Is Shared
- Your Rights To Access and Control Your Personal Data
- Data Retention
- . Analytics and Advertising Services Provided by Others
- Our Policies for Children
- Information Security
- · Our International Operations and Data Transfers
- European Privacy Disclosures
- California Privacy Disclosures
- Changes to This Policy
- Who We Are and How To Contact Us

INFORMATION WE COLLECT

When you use our Services, we collect the following types of information.

INFORMATION YOU PROVIDE US



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the only information you have to provide to create an account with us. You may also choose to provide other types of information, such as a profile photo, biography, country information, and community username.

ADDITIONAL INFORMATION

To help improve your experience or enable certain features of the Services, you may choose to provide us with additional information, like your logs for food, weight, sleep, water, or female health tracking; an alarm; and messages on discussion boards or to your friends on the Services.

You may also connect with friends on the Services or invite friends who have not yet joined by providing their email addresses, accessing social networking accounts, or using the contact list on your mobile device. We do not store your contact list and delete it after it is used for adding contacts as friends.

If you contact us or participate in a survey, contest, or promotion, we collect the information you submit such as your name, contact information, and message.

PAYMENT AND CARD INFORMATION

Some Fitbit devices support payments and transactions with third parties. If you activate this feature, you must provide certain information for identification and verification, such as your name, credit, debit or other card number, card expiration date, and CVV code. This information is encrypted and sent to your card network, which upon approval sends back to your device a token, which is a set of random digits for engaging in transactions without exposing your card number. For your convenience, we store the last four digits of your card number and your card issuer's name and contact information. You can remove the token from your account using your account settings. We do not store your transaction history.

If you purchase Fitbit merchandise on our website, you provide your payment information, including your name, credit or debit card number, card expiration date, CVV code, and billing address. We do not store this payment information. We store your shipping address to fulfill your order. Note that third-party payment processors may retain this information in accordance with their own privacy policies and terms.

LIVE COACHING SERVICES

Our live coaching services are a platform for you to communicate with a live health, fitness, or wellness coach ("Live Coaching Services"). Coaches may be provided by third parties, such as your employer or insurance company, or by our third-party coaching service providers. If you use our Live Coaching Services, we collect information about such use, including the plan, goals, and actions you record with your coach, your calendar events, communications with your coach, notes your coach records about you, and other information submitted by you or your coach.

INFORMATION WE RECEIVE FROM YOUR USE OF OUR SERVICES

DEVICE INFORMATION

Your device collects data to estimate a variety of metrics like the number of steps you take, your distance traveled, calories burned, weight, heart rate, sleep stages, active minutes, and location. The data collected varies depending on which device you use. Learn more about the features of <u>our various devices</u> and how you can use **MobileTrack**. When your device syncs with our applications or software, data recorded on your



Case 1:19-cv-11586-FDS Document 343-24 Filed 03/02/22 Page 4 of 12 The Services include features that use precise geolocation data, including GPS signals, device sensors, Wi-Fi

access points, and cell tower IDs. We collect this type of data if you grant us access to your location. You can always remove our access using your Fitbit device or mobile device settings. We may also derive your approximate location from your IP address.

USAGE INFORMATION

When you access or use our Services, we receive certain usage or network activity information. This includes information about your interaction with the Services, for example, when you view or search content, install applications or software, create or log into your account, pair your device to your account, or open or interact with an application on your Fitbit device.

We also collect data about the devices and computers you use to access the Services, including IP addresses, browser type, language, operating system, Fitbit or mobile device information (including device and application identifiers), the referring web page, pages visited, location (depending on the permissions you have granted us), and cookie information.

INFORMATION WE RECEIVE FROM THIRD PARTIES

If you choose to connect your account on our Services to your account on another service, we may receive information from the other service. For example, if you connect to Facebook or Google, we may receive information like your name, profile picture, age range, language, email address, and friend list. You may also choose to grant us access to your exercise or activity data from another service. You can stop sharing the information from the other service with us by removing our access to that other service.

We may partner with third parties, such as employers and insurance companies that offer Fitbit Services to their employees and customers. In such cases, those companies may provide us with your name, email address, or similar information (like a telephone number or subscriber ID) so that we can invite you to participate or determine your eligibility for particular benefits, such as discounts or free services.

HOW WE USE INFORMATION

We use the information we collect for the following purposes.

PROVIDE AND MAINTAIN THE SERVICES

Using the information we collect, we are able to deliver the Services to you and honor our <u>Terms of Service</u> contract with you. For example, we need to use your information to provide you with your Fitbit dashboard tracking your exercise, activity, and other trends; to enable the community features of the Services; and to give you customer support.

For the Services' community features, we may use your information to help you find and connect with other users and to allow other users to find and connect with you. For example, your account contact information allows other users to add you as a friend. When another user has your email or mobile phone number in their contact list or in their friend network on a connected service, we show that user that you are a user of the Services.



Case 1:19-cv-11586-FDS Document 343-24 Filed 03/02/22 Page 5 of 12 active life. For example, the goals that you provide allow you to develop a personal plan and set of actions in consultation with your coach.

IMPROVE, PERSONALIZE, AND DEVELOP THE SERVICES

We use the information we collect to improve and personalize the Services and to develop new ones. For example, we use the information to troubleshoot and protect against errors; perform data analysis and testing; conduct research and surveys; and develop new features and Services.

When you allow us to collect precise location information, we use that information to provide and improve features of the Services such as recording where a workout took place or mapping an activity.

We also use your information to make inferences and show you more relevant content. Here are some examples:

- Information like your height, weight, gender, and age allows us to improve the accuracy of your daily
 exercise and activity statistics like the number of calories you burned and the distance you traveled.
- Based on your sleep data, we may make inferences about your sleeping patterns and provide you with customized insights to help you improve your sleep.
- We may personalize exercise and activity goals for you based on the goals you previously set and your historical exercise or activity data.

COMMUNICATE WITH YOU

We use your information when needed to send you Service notifications and respond to you when you contact us. We also use your information to promote new features or products that we think you would be interested in. You can control marketing communications and most Service notifications by using your notification preferences in account settings or via the "Unsubscribe" link in an email.

PROMOTE SAFETY AND SECURITY

We use the information we collect to promote the safety and security of the Services, our users, and other parties. For example, we may use the information to authenticate users, facilitate secure payments, protect against fraud and abuse, respond to a legal request or claim, conduct audits, and enforce our terms and policies.

We use cookies and similar technologies for the purposes described above. For more information, please read our Cookie Use statement.

HOW INFORMATION IS SHARED

We never sell the personal information of our users. We do not share your personal information except in the limited circumstances described below.

WHEN YOU AGREE OR DIRECT US TO SHARE

You may direct us to disclose your information to others, such as when you use our community features like the forums, 7-day leaderboard, and other social tools. For certain information, we provide you with **privacy**



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