

**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 DEFENDANT FITBIT LLC'S  
OPPOSITION TO PHILIPS' MOTION FOR PARTIAL SUMMARY JUDGMENT  
OF DIRECT INFRINGEMENT AND NO INVALIDITY (DKT. 335)**

I, David J. Shaw, hereby declare:

1. I am an attorney at Desmarais LLP, counsel of record for Defendant 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 Defendant Fitbit LLC's Opposition To Philips' Motion For Partial Summary Judgment Of Direct Infringement And No Invalidity (Dkt. 335).

3. Attached hereto as Exhibit 1<sup>1</sup> is a true and correct copy of the CONFIDENTIAL Declaration of Gilles Boccon-Gibod in Support Of Defendant Fitbit LLC's Opposition To Philips' Motion For Partial Summary Judgment Of Direct Infringement And No Invalidity (Dkt. 335), executed March 29, 2022.

4. Attached hereto as Exhibit 2 is a true and correct copy of the CONFIDENTIAL deposition transcript of Joseph Paradiso, Ph.D., dated February 2, 2022.

---

<sup>1</sup> Exhibits 1-3 and 6 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 the CONFIDENTIAL deposition transcript of Colleen Logan, dated September 2, 2020.

6. Attached hereto as Exhibit 4 is a true and correct copy of relevant excerpts from the certified file history of U.S. Patent No. 8,277,377, dated January 6, 2020 and produced bearing Bates No. PNA-FB0001473.

7. Attached hereto as Exhibit 5 is a true and correct copy of the cover pleading and an exemplary claim chart from Philips' First Supplemental Local Rule 16.6(d) Infringement Contentions, served May 15, 2020.

8. Attached hereto as Exhibit 6 is a true and correct copy of relevant excerpts from Defendant Fitbit, Inc.'s Supplemental Responses And Objections To Plaintiff Philips North America LLC's Interrogatories (Nos. 1-11), served March 23, 2021.

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

Executed March 30, 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.

Dated: March 30, 2022

/s/ Alexandra K. Kim  
Alexandra K. Kim