

EXHIBIT 5

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PHILIPS NORTH AMERICA LLC,)	
)	
Plaintiff,)	
)	C.A. No. 1:19-cv-11586-IT
v.)	
)	
FITBIT, INC.)	
)	
Defendant.)	
)	

**PLAINTIFF PHILIPS NORTH AMERICA LLC’S FIRST SUPPLEMENTAL L.R.
16.6(d)(1) DISCLOSURES**

Pursuant to Local Rule 16.6(d)(1) and in accordance with the deadlines agreed to and adopted by the Court in this action, Philips North America LLC (“Philips,” “Plaintiff” or “Patentee”), by and through its counsel, makes the below Preliminary Patent-Related Disclosures.

Discovery in this action is only just beginning, and Defendant has not yet produced any documents or other discovery in this litigation. Accordingly, these disclosures are based solely upon publicly available information and Plaintiff’s present understanding of said publicly available information. Plaintiff’s investigation of the matters disclosed in Preliminary Patent-Related Disclosures is ongoing. Accordingly, Plaintiff may seek to amend, modify, or supplement these disclosures based upon further discovery and investigation.

Throughout these disclosures the term “Accused Products” may, depending on context and the specific patent at issue, mean any of the identified activity tracker products offered by Fitbit, as well as any software products related to, associated with, or used in conjunction with said activity tracker products (regardless of whether such software runs on the activity tracker

itself, a mobile device, desktop/laptop computer, server, or other computing device). For example, “Accused Product” may refer to an activity tracker alone or to a system utilizing the activity tracker in combination with a device running the Fitbit App. An Accused Product may also refer to a system that further includes server-based software and related hardware and software.

A. Infringement Claim Charts

Attached as Exhibits 1-65 are claim charts detailing Defendant’s infringement of the following U.S. Patents: U.S. Patent Nos. 6,013,007; 7,088,233; 8,277,377; and 6,976,958. Plaintiff asserts that Fitbit both directly and indirectly infringes each asserted claim under 35 U.S.C. § 271(a), (b), (c) and (f) by making, using, offering for sale, selling, importing, or exporting the Accused Products or components thereof; directing or controlling the use of the Accused Products by others (whether in whole or in part); actively and knowingly inducing others to use the Accused Products in an infringing manner; and/or contributing to the infringement of others.

Plaintiff asserts that each Asserted Claims is literally present in the Accused Products. To the extent that any elements of the Asserted Claims are not literally present, Plaintiff asserts that each element of the Asserted Claims is present under the doctrine of equivalents because any differences between the features of the Accused Product and the corresponding claim elements are insubstantial and/or that these features perform substantially the same functions in substantially the same ways to achieve substantially the same result as the corresponding claim elements.

Fitbit’s First Amended Complaint (Dkt. 25) also details Fitbit’s infringement and is incorporated herein by reference.

A summary of the asserted patents, infringing products, and asserted claims is provided below:

U.S. Patent No. 6,013,007		
Ex.	Infringing Product	Asserted Claims
1	Fitbit Ionic	7, 21, 23, 24, 25, 26, 28, 29
2	Fitbit Surge	7, 21, 23, 24, 25, 26, 28, 29

U.S. Patent No. 7,088,233		
Ex.	Infringing Device	Asserted Claims
3	Fitbit Ionic	1, 7, 8, 9, 10, 13, 14, 15, 16, 22, 24, 25, 26
4	Fitbit Surge	1, 7, 8, 9, 10, 13, 14, 24, 25, 26
5	Fitbit Versa	1, 7, 8, 9, 10, 13, 14, 15, 16, 22, 26
7	Fitbit Versa Lite Edition	1, 7, 8, 9, 10, 13, 14, 26
8	Fitbit Charge	1, 7, 8, 9, 10, 13, 14, 26
9	Fitbit Charge HR	1, 7, 8, 9, 10, 13, 14, 26
10	Fitbit Charge 2	1, 7, 8, 9, 10, 13, 14, 26
11	Fitbit Charge 3	1, 7, 8, 9, 10, 13, 14, 26
12	Fitbit Inspire	1, 7, 8, 9, 10, 13, 14, 26
13	Fitbit Inspire HR	1, 7, 8, 9, 10, 13, 14, 26
14	Fitbit Alta	1, 7, 8, 9, 10, 13, 14, 26
15	Fitbit Alta HR	1, 7, 8, 9, 10, 13, 14, 26
16	Fitbit Flex	1, 7, 8, 9, 10, 13, 14, 26

17	Fitbit Flex 2	1, 7, 8, 9, 10, 13, 14, 26
18	Fitbit Ace	1, 7, 8, 9, 10, 13, 14, 26
19	Fitbit Ace 2	1, 7, 8, 9, 10, 13, 14, 26
20	Fitbit Zip	1, 7, 8, 9, 10, 13, 14, 26
21	Fitbit Blaze	1, 7, 8, 9, 10, 13, 14, 26
22	Fitbit Force	1, 7, 8, 9, 10, 13, 14, 26
23	Fitbit One	1, 7, 8, 9, 10, 13, 14, 26

U.S. Patent No. 8,277,377		
Ex.	Infringing Device	Asserted Claims
24	Fitbit Ionic	1, 4, 5, 6, 9, 12
25	Fitbit Surge	1, 4, 5, 6, 9, 12
26	Fitbit Versa	1, 4, 5, 6, 9, 12
27	Fitbit Versa 2	1, 4, 5, 6, 9, 12
28	Fitbit Versa Lite Edition	1, 4, 5, 6, 9, 12
30	Fitbit Charge HR	1, 4, 5, 6, 9, 12
31	Fitbit Charge 2	1, 4, 5, 6, 9, 12
32	Fitbit Charge 3	1, 4, 5, 6, 9, 12
34	Fitbit Inspire HR	1, 4, 5, 6, 9, 12
36	Fitbit Alta HR	1, 4, 5, 6, 9, 12
42	Fitbit Blaze	1, 4, 5, 6, 9, 12

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