

# EXHIBIT E

**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 SET OF  
INTERROGATORIES TO FITBIT, INC. (NOS. 1-8).**

Pursuant to Rules 33 of the Federal Rules of Civil Procedure, Plaintiff Philips North America LLC (“Philips”) serves the following interrogatories to be answered separately and in writing under oath by Defendant Fitbit, Inc. (“Fitbit”) within thirty (30) days of service, supplemented thereafter as required by Rule 26(e), in accordance with the Federal Rules of Civil Procedure, the Local Rules, and the definitions and instructions below.

**INSTRUCTIONS**

1. Defendant must provide written responses to these Interrogatories within 30 days.
2. Defendant is required to respond to these interrogatories by drawing upon all materials in its possession, ownership, custody, or control, actual or constructive, including materials that Defendant has a right or ability to secure from any other source. These sources include, but are not limited to, Defendant’s employees, agents, managing agents, attorneys, accountants, investment bankers, consultants, advisers, officers, directors, or representatives of any type whatsoever. These sources further include, but are not limited to, Defendant’s predecessors, successors, parents, subsidiaries, affiliates, divisions, and their respective employees, agents,

managing agents, attorneys, accountants, investment bankers, consultants, advisers, officers, directors, or representatives of any type whatsoever.

3. If, in responding to these interrogatories, Defendant claims that any request, or a definition or instruction applicable thereto, is ambiguous, Defendant shall not use such claim as a basis for refusing to respond, but rather shall set forth as part of the response the language it claims is ambiguous and the interpretation it used to respond to the individual request.

4. In the event that Defendant files a proper and timely objection to any portion of any individual interrogatory presented herein, Defendant is required to respond to all other portions of that interrogatory that do not fall within the ambit of its objection.

5. Whenever an interrogatory requests you to identify an individual or person, state, to the extent known, the person's full name, present or last known address, and, when referring to a natural person, the present or last known place of employment, and the present or last known title or occupation. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

6. Whenever an interrogatory requests you to identify a document, state, to the extent known, the type of document, the general subject matter, the date of the document, the Bates number (if applicable), and the author(s), addressee(s), and recipient(s).

7. If any document or tangible thing responsive to an interrogatory herein is withheld in whole or in part, for any reason whatsoever, including, but not limited to, any claim of privilege or work product, then Defendant must promptly provide a privilege log which states with respect to each such document, tangible thing, or withheld portion thereof: (a) the privilege or other legal basis under which it is being withheld; (b) the type of document or tangible thing (*e.g.*, memo,

letter, e-mail); (c) a description of the subject matter thereof, including the existence and identity of any attachments to the document; (d) the identity of its author or creator; (e) the identity of all persons to whom it is addressed and all persons to whom copies thereof ever have been furnished; (f) the date thereof; (g) the present custodian and location thereof; and (h) the interrogatory herein to which the document responds.

8. If there do not exist documents or tangible things responsive to a specific interrogatory herein, then Defendant must indicate that fact in its written response hereto.

9. Whenever an interrogatory calls upon you to “identify all factual and legal bases” of or for a particular claim, assertion, allegation, or contention, you shall:

a. identify each and every document (and, where pertinent, the section, article or subparagraph thereof), which forms any part of the source of your information regarding the alleged facts or legal conclusions referred to by the interrogatory;

b. identify each and every communication which forms any part of the source of your information regarding the alleged facts or legal conclusions referred to by the interrogatory;

c. state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the person involved) which form any part of your information regarding the alleged facts or legal conclusions referred to by the interrogatory;

d. state separately any other fact or allegation which forms the basis of your information regarding the alleged facts or legal conclusions referred to by the interrogatory.

10. All information to be produced should be produced in the same file or other organizational environment in which it is maintained. For example, a Document that is part of a file, docket, or other grouping, should be produced together with all other Documents from said file, docket, or grouping in the same order or manner as arranged in the original. File folders with tabs or labels identifying Documents should be produced intact with such Documents.

11. Any Electronically Stored Information (“ESI”) must be produced in a form that maintains all meta-data or dynamic data associated with ESI. When producing ESI, do not recreate or move files so as to eliminate the record of file creation date and any modification history associated with the file by the operating system. Said metadata should also reflect the organization structure of documents, including directory structures. All metadata and dynamic data must be maintained and available for review.

12. ESI should be produced with two separate load files: 1.) an OPT file for identifying images and document breaks, and 2.) a DAT file containing native file links as well as extracted text/OCR and metadata fields. All ESI should be produced with an accompanying OCR text information and all available metadata.

13. All documents or tangible things produced pursuant hereto are to be delivered to the offices of Foley & Lardner LLP, located at 111 Huntington Avenue, Suite 2500, Boston, MA 02199-7610, or at such other locations and times as counsel for the parties may agree.

14. The interrogatories herein shall be deemed continuing, and it is requested that supplemental responses and production be provided as additional information or documents become available, in accordance with Federal Rule of Civil Procedure 26(e).

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