

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PHILIPS NORTH AMERICA LLC,

Plaintiff,

v.

FITBIT, INC.,

Defendant.

Civil Action No. 1:19-cv-11586-FDS

**UNOPPOSED MOTION TO IMPOUND/SEAL DESIGNATED
MATERIAL**

Pursuant to Local Rule 7.2 and the Order Adopting Discovery Stipulation and Modified Protective Order in this case (ECF No. 59, the “Protective Order”), Plaintiff Philips North America LLC (“Philips”) respectfully requests the Court to impound (seal) Material related to Philips’s Oppositions To Fitbit, LLC’s Motion For Summary Judgment of Noninfringement of U.S. Patent No. 8,277,377 Based on Plaintiff’s Failure of Proof (Dkt. 363) and Philips’s Oppositions To Fitbit, LLC’s Motion For Summary Judgment of Noninfringement of U.S. Patent No. 8,277,377 (Dkt. 362). Specifically, Philips requests the Court to seal Exhibits C, F, G and H filed in support thereof.

The Protective Order allows parties to designate discovery material that contains or constitutes confidential business information as “CONFIDENTIAL.” As grounds for this Motion, Philips states that Philips’s identified Motions and Exhibits contain discussion of Fitbit’s confidential business information. Specifically, Exhibits C and H, are internal Fitbit documents marked by Fitbit as Confidential under the Protective Order as they describe confidential business information relating to certain features of Fitbit’s accused smart watch and fitness trackers and describe confidential business information relating to Fitbit’s marketing strategies. Exhibit F is

Fitbit's Responses and Objections to Interrogatories served on it by Philips and these Responses (marked by Fitbit as Confidential under the Protective Order) also describe confidential business information relating to certain features of Fitbit's accused smart watch and fitness trackers. Exhibit G is the transcript of the depositions of Fitbit employee Mr. Gilles Boccon-Gibod. The transcript was designated as Confidential under the Protective Order as it describes confidential business information relating to certain features of Fitbit's accused smart watch and fitness trackers and describes confidential business information relating to Fitbit's marketing strategies. Philips's two identified Motions include discussion of these identified Exhibits as well as additional discussion of confidential business information relating to certain features of Fitbit's accused smart watch and fitness trackers and describes confidential business information relating to Fitbit's marketing strategies.

For the foregoing reasons, Philips respectfully requests that the Court permit Philips to file under seal Philips's Oppositions To Fitbit, LLC's Motion For Summary Judgment of Noninfringement of U.S. Patent No. 8,277,377 Based on Plaintiff's Failure of Proof (Dkt. 363) and Philips's Oppositions To Fitbit, LLC's Motion For Summary Judgment of Noninfringement of U.S. Patent No. 8,277,377 (Dkt. 362) as well as Exhibits C, F, G and H filed in support thereof. Philips further requests that these documents remain impounded until further Order by the Court, and that upon expiration of the impoundment, these document be returned to Philips's counsel.

Dated: March 30, 2022

Respectfully Submitted,

/s/ John W. Custer

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Counsel for Plaintiff
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LOCAL RULE 7.2 CERTIFICATION

I, John W. Custer, counsel for Philips North America LLC, hereby certify that counsel for Philips has conferred with counsel for Fitbit, Inc. to resolve the issues presented in this motion and that counsel for Fitbit indicated that Fitbit does not oppose the relief requested by this motion.

Dated: March 30, 2022

/s/ John W. Custer

John W. Custer

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed with the Court through the ECF system and that a copy will be electronically served on registered participants as identified on the Notice of Electronic Filing.

Dated: March 30, 2022

/s/ John W. Custer

John W. Custer