

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) Philips’s Reply Brief in Support of Philips’s Motion for Partial Summary Judgment (Dkt. 378) as well as Exhibit A (Dkt. 379-1) 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 Reply Brief and Exhibit A contain discussion of Fitbit’s confidential business information. Specifically, Exhibits A is the technical expert report of Dr. Martin which was marked as Confidential under the Protective Order as it discusses 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. Likewise, Philips’s Reply Brief discusses this same confidential business information.

For the foregoing reasons, Philips respectfully requests that the Court permit Philips to file under seal Philips’s Reply Brief in Support of Philips’s Motion for Partial Summary Judgment

(Dkt. 378) as well as Exhibit A (Dkt. 379-1) 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: April 13, 2022

Respectfully Submitted,

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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: April 13, 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: April 13, 2022

/s/ John W. Custer

John W. Custer