

**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

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 (“Protective Order”), ECF No. 59, Defendant Fitbit LLC (“Fitbit”), respectfully requests the Court to impound (seal) Defendant Fitbit LLC’s Summary Judgment Hearing Presentation Concerning U.S. Patent No. 8,277,377 (“Defendant’s Presentation”). Plaintiff Philips North America LLC (“Philips”) does not oppose this Motion to Impound/Seal.

The Protective Order allows parties to designate discovery material that contains or constitutes confidential business information as “CONFIDENTIAL.” As grounds for this Motion, Fitbit states that Defendant’s Presentation contains information regarding the operation of the accused Fitbit wearable devices, applications, and servers, and that has been designated Confidential under the Protective Order. Specifically, slides 12-15, 23, 36, 45, and 48-49 contain this Fitbit confidential information.

Additionally, the redacted portions include block quotes of excerpts from the confidential Expert Report of Joseph A. Paradiso, Ph.D. Concerning Non-Infringement of U.S. Patent No.

8,277,377. Specifically, slides 37 and 47 contain descriptions and analyses of Fitbit products, applications, and servers that have been designated as Confidential under the Protective Order.

Additionally, Defendant's Presentation includes block quotes of excerpts from the confidential Amended Expert Report of Tom Martin Concerning Infringement. Specifically, slide 46 contains discussions regarding the same Fitbit confidential information and accordingly, has been designated Confidential.

Additionally, Fitbit has filed a redacted version of Defendant's Presentation with redactions of twelve slides (out of eighty-one total) that discuss Fitbit confidential business information.

For the foregoing reasons, Fitbit respectfully requests that the Court permit Fitbit to file under seal an unredacted version of Defendant's Presentation. Fitbit further requests that the documents remain impounded until further Order by the Court, and that upon expiration of the impoundment, the documents be returned to Fitbit's counsel.

Dated: July 12, 2022

By: /s/ Alexandra K. Kim

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CERTIFICATE PURSUANT TO LOCAL RULE 7.2

The undersigned hereby certifies that counsel for Fitbit conferred with counsel for Philips in a good-faith attempt to resolve or narrow the issue raised by this motion. Philips's counsel indicated that Philips does not oppose the relief requested by this Motion

/s/ Henry Ard

Henry Ard

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.

/s/ Alexandra K. Kim

Alexandra K. Kim