

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

ORAL ARGUMENT REQUESTED

**DECLARATION OF JOHN W. CUSTER IN SUPPORT OF
PHILIPS NORTH AMERICA LLC'S MOTION FOR RECONSIDERATION
OF THE MEMORANDUM AND ORDER ON CROSS-MOTIONS
FOR SUMMARY JUDGMENT (Dkt. 401)**

I, John W. Custer, declare as follows:

1. I am an attorney at Foley & Lardner LLP, counsel to Plaintiff Philips North America, LLC ("Philips").
2. I make this declaration in support of Philips's Motion For Reconsideration of the Memorandum and Order on Cross-Motions For Summary Judgment.
3. I have personal knowledge of the facts set forth herein and, if called to testify in this matter, could and would testify to the following facts.
4. Attached as **Exhibit A** is a true and correct copy of U.S. Patent No. 7,447,713, dated November 4, 2008.
5. Attached as **Exhibit B** is a true and correct copy of U.S. Patent No. 9,432,452, dated August 30, 2016.

I declare under penalty of perjury that the foregoing is true and correct.

Date: October 21, 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.

Date: October 21, 2022

By: /s/ John W. Custer