

**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

**DEFENDANT FITBIT LLC'S OPPOSITION TO PHILIPS' MOTION FOR
RECONSIDERATION (DKT. 403)**

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I. INTRODUCTION

Philips' Motion for Reconsideration (Dkt. 403; "Motion") and Memorandum in Support (Dkt. 404; "Memo") mischaracterize and misconstrue the Court's well-reasoned summary judgment Order (Dkt. 401) in an effort to improperly manufacture a basis for reconsideration where none exists. Philips' Motion glosses over the fact that reconsideration is an extraordinary remedy requiring special circumstances, such as an intervening change in the law or the Court misapprehending a party's argument, in order to justify such relief. Rather than recounting such special circumstances, Philips does no more than rehash old arguments that it previously made or could have made in opposition to Fitbit's motion for summary judgment, and claims that this Court made errors of reasoning in rejecting those arguments and granting summary judgment. But Philips' unfounded disagreement with the Court's reasoning does not rise to the extraordinary level justifying reconsideration. Philips' Motion should be denied.

II. RELEVANT LEGAL STANDARDS FOR RECONSIDERATION

"[G]ranteeing of a motion for reconsideration is an 'extraordinary remedy' that should be used 'sparingly'" *Shea v. Porter*, 56 F. Supp. 3d 65, 79 (D. Mass. 2014) (citing *Palmer v. Champion Mortgage*, 465 F.3d 24, 30 (1st Cir. 2006)).

Although motions for reconsideration are not explicitly set forth in the Federal Rules of Civil Procedure, the First Circuit recognizes that such motions may be considered under Rules 59(e) and 60(b). *Ruiz Rivera v. Pfizer Pharms., LLC*, 521 F.3d 76, 81 (1st Cir. 2008). However, like other motions brought under Rules 59(e) and 60(b), reconsideration is only appropriate in narrow circumstances such as "a manifest error of law, [] newly discovered evidence, ...if the court has patently misunderstood a party, ...or [the court] has made an error not of reasoning but apprehension." *Id.* at 82 (internal citations omitted); *cf.* FED. R. CIV. P. 59 (New Trial; Altering or Amending a Judgment) and 60 (Relief from a Judgment or Order). As used here, "apprehension"

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