

EXHIBIT E

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

**Before the Honorable ALJ Sandra (Dee) Lord
Administrative Law Judge**

In the Matter of

**CERTAIN WEARABLE MONITORING
DEVICES, SYSTEMS, AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1190

**FITBIT'S RESPONSE TO THE COMPLAINT
AND NOTICE OF INVESTIGATION**

Pursuant to 19 C.F.R. § 210.13, Respondent Fitbit, Inc. ("Fitbit") files this Response to the Complaint filed by Complainants Philips North America LLC and Koninklijke Philips N.V. (collectively, "Philips") and to the Notice of Investigation, 80 Fed. Reg. 50870. Any allegations not specifically admitted are hereby denied.

RESPONSE TO THE NOTICE OF INVESTIGATION

Fitbit acknowledges that the Commission has instituted an investigation as set forth in the Commission's Notice of Investigation, issued on January 10, 2020 and published in the Federal Register on January 15, 2020. Fitbit denies that there has been any violation of 19 U.S.C. § 1337. In particular, Fitbit denies that it has violated § 1337 by the importation into the United States, the sale for importation, the sale after importation, and/or the use after importation of certain wearable monitoring devices, systems and components thereof, by reason of infringement of any valid claim of U.S. Patent Nos. 7,845,228 ("the '228 patent"), 9,820,698 ("the '698 patent"), 9,717,464 ("the '464 patent"), and 9,961,186 ("the '186 patent") (collectively, the

Fitbit's Response to the Complaint and Notice of Investigation

“Asserted Patents”). Fitbit lacks sufficient knowledge or information to form a belief as to whether there exists a domestic industry as required under 19 U.S.C. § 1337(a)(2), and therefore denies those allegations. Fitbit further denies that Philips is entitled to any relief as a result of this Investigation.

RESPONSE TO THE COMPLAINT

Fitbit responds to the Complaint dated December 9, 2019 and titled **COMPLAINT OF PHILIPS NORTH AMERICA, LLC AND KONINKLIJKE PHILIPS N.V. UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**, in like-numbered paragraphs as follows. Certain phrases from headings are reproduced below from the Complaint for the sake of convenience only and are not an admission of the content or allegations within.

Because discovery has just begun, Fitbit has not had sufficient time and opportunity to collect and review all information that may be relevant to the issues raised in the Complaint. Fitbit therefore reserves the right to amend or supplement this Response, including raising additional defenses, based on additional facts or developments that become available or that arise after the filing of this Response. Except as expressly admitted below, Fitbit denies each and every allegation averred in the Complaint.

I. INTRODUCTION

1. Fitbit admits that Philips filed the Complaint dated December 9, 2019 with the United States International Trade Commission. Fitbit denies that it has violated Section 337 by importing, selling for importation, selling after importation, and/or using after importation certain wearable monitoring devices, systems and components thereof that allegedly infringe one or more claims of the Asserted Patents. Fitbit further denies that its products infringe Philips’s patent rights under any of the Asserted Patents.

2. Fitbit admits that Paragraph 2 of the Complaint identifies the proposed respondents. Fitbit admits that Fitbit is involved in the design, development, sale, and importation into the United States of certain products that Philips now accuses of infringing the Asserted Patents. Fitbit admits that Maintek and Inventec are involved in the manufacture of certain Fitbit products that Philips now accuses of infringing the Asserted Patents. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the remaining allegations in Paragraph 2.
3. Fitbit admits that Philips filed the Complaint dated December 9, 2019 with the United States International Trade Commission. Fitbit admits that the lists set forth in Paragraph 3 of the Complaint purport to identify the Asserted Patents and Asserted Claims. Fitbit denies that the “Fitbit Accused Products” infringe the Fitbit Asserted Claims (as defined in Paragraph 3). Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the remaining allegations in Paragraph 3.
4. Fitbit denies that Philips is entitled to any relief from Fitbit in this Investigation, whether requested in Paragraph 4 or otherwise.
5. Fitbit-denies that Philips is entitled to any relief from Fitbit in this Investigation, whether requested in Paragraph 5 or otherwise.

II. BACKGROUND

6. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 6.
7. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 7.

8. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 8.
9. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 9.
10. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 10.
11. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 11.
12. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 12.
13. Fitbit denies that Philips has become a world leader in health monitoring technology and innovation and a major contributor to the United States economy and jobs. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the remaining allegations in Paragraph 13.
14. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 14.
15. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 15.
16. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 16.
17. Fitbit lacks information sufficient to either admit or deny, and on that basis denies, the allegations in Paragraph 17.

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