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8 Attorneys for Plaintiff
9 IMMERSION CORPORATION

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 IMMERSION CORPORATION,) Case No. 3:17-cv-3886
13 Plaintiff,)
14 v.) COMPLAINT FOR PATENT
15 FITBIT, INC.,) INFRINGEMENT
16 Defendant.) **DEMAND FOR JURY TRIAL**

17
18 **COMPLAINT**

19 1. Plaintiff Immersion Corporation (“Immersion” or “Plaintiff”), files this original
20 Complaint against Defendant Fitbit, Inc. (“Fitbit” or “Defendant”), and alleges as follows:

21 **NATURE OF THE ACTION**

22 2. Immersion pioneered haptic technology in electronic devices. Haptic effects, such as
23 tactile vibrations and forces, can provide feedback through the sense of touch to the user of an
24 electronic device, such as a smart watch. Founded by Stanford PhDs and located in the heart of
25 Silicon Valley, Immersion is an award winning, global leader in haptic technology. Immersion
26 brings this case to stop Fitbit from using Immersion’s breakthrough innovations in haptic technology
27 without Immersion’s permission. Fitbit manufactures and sells numerous wristband fitness trackers.

1 Fitbit’s wearable devices prominently include haptic technology created and patented by Immersion
2 as part of their user interfaces that enable features loved by its users. Fitbit has refused to respect
3 Immersion’s hard-earned patent rights, of which it is fully aware, launching multiple products that
4 infringe Immersion’s valuable intellectual property. Innovation matters. The competitive
5 marketplace benefits when innovators like Immersion take risks to invent new products and
6 technologies that are more engaging and make lives better, easier, and more fun. Continued
7 innovation is enabled and incentivized by fair play and respect for patents by everyone in the
8 marketplace.

9 3. The word “haptics” originates from the Greek word *haptikos*, meaning to be able to
10 grasp and perceive by touch. Haptic effects (such as tactile or touch feedback) can be produced by
11 actuators, or motors, which create a vibration, jolt, pulse, spatial texture, or other physical sensation.
12 Haptic hardware devices are often combined with software simulating the way in which objects
13 interact through the sense of touch. Touch and pressure sensors also can be used with haptic devices
14 to measure forces exerted by the user on the graphical user interface or touch interface of a device,
15 such as the touchscreen of a device.

16 4. Immersion is a small, publicly-traded company located in San Jose, California. It
17 has received awards and recognitions for its many innovations, including the CLARUS Innovation
18 award for the most innovative, market changing technology and intellectual property, CES
19 Innovations award, and grants from the Department of Defense and the National Science
20 Foundation.

21 5. Immersion’s haptic technology allows people to interact with devices through the
22 sense of touch, thereby providing an engaging, richer, and more realistic user experience.
23 Immersion’s haptic technology enables vibrations that can be managed and controlled to create a
24 specific haptic sensation, like a tactile “click” that simulates the feel of a mouse button when
25 selecting an item from a menu on a touchscreen, or the feel what is being displayed, such as a heart
26 beating or a car engine revving in a game.

1 6. Immersion is leading the development of advanced haptic technology for emerging
2 applications in which haptics are a critical component of the user interface, including mobile
3 computing, smartphones, and wearable devices like smart watches. Immersion’s haptic development
4 platform simplifies the design and implementation of haptic effects for developers, while ensuring
5 that the haptics are optimized to play on platform devices — for example, Android devices. Using
6 Immersion’s high-fidelity haptic systems, user systems are transformed with unique and
7 customizable touch feedback effects. For example, computerized devices can be given a
8 “mechanical” feel by providing intuitive and unmistakable haptic confirmation of user actions. With
9 Immersion’s haptic technology, users feel the vibrating force or resistance as they push a virtual
10 button, scroll through a list, or press on a screen, to name only a few of many examples.

11 7. Immersion’s innovative haptic technology is being used today across a variety of
12 consumer applications, including wearable devices, mobile ads, mobile video, mobile games, mobile
13 devices, medical applications, automotive interfaces, gaming controllers, gaming, and virtual reality.
14 Examples of Immersion’s haptic technology applied to wearable devices (“tactile wearables”) may
15 be seen in a video entitled “Immersion Tactile Wearables — Make Wearables More Personal”
16 available on YouTube at https://www.youtube.com/watch?v=tpuX_sa2q7Q. Immersion’s
17 technology, software, and inventions are widely found in the world’s leading mobile devices. With
18 over 2,400 active U.S. and international patents and applications, Immersion technology has enabled
19 over 3 billion devices worldwide.

20 8. Immersion depends on patents to protect its business and cutting edge applications
21 and technologies for haptics. Immersion licenses its TouchSense® Platform, software and
22 associated intellectual property to industry-leading hardware and software companies, including the
23 manufacturers of wearable devices and other mobile devices. Immersion’s products operate on
24 various platforms, including wearable devices, to create richer and more realistic user experiences
25 along with putting haptic technology in games, mobile ads, virtual reality, media, and other apps to
26 create rich tactile effects and amazing digital experiences.

1 9. Immersion provides software, know-how, and intellectual property to consumer
2 electronics companies. Fitbit has reviewed Immersion’s offerings during discussions about how the
3 companies might work together. Instead of working with Immersion, however, Fitbit has chosen to
4 market its products and launch new products that incorporate haptic technology in disregard of
5 Immersion’s intellectual property.

6 10. Fitbit’s products initially lacked meaningful haptic technology in the user interface of
7 its wearable devices, which sharply limited their capabilities. In 2012, Fitbit introduced the Fitbit
8 One, which features what Fitbit touts as its “Sleep Tracker,” which provides the vibrations — haptic
9 technology — to wake up a user while sleeping. Then, in 2013, Fitbit publicly announced a new
10 Wristband Activity Tracker called the Fitbit Flex. The Fitbit Flex employs haptic technology
11 throughout its user interface. The Fitbit Flex’s features include haptic confirmation of commands,
12 providing haptic notifications, and the capability of users to track their quality of sleep with a silent
13 alarm that vibrates to wake them up gently. Subsequently, Fitbit announced the Fitbit Charge,
14 Charge HR, and Surge fitness wristbands. These new devices introduced popular haptic features
15 such as expanded silent alarms and new Caller ID vibrations. In October 2014, Fitbit publicly
16 released a major update to Fitbit’s web developer application programming interface (“API”) to be
17 used with Fitbit’s Charge, Charge HR, and Surge. The API enables further uses of haptics, and, on
18 information and belief, Fitbit continues to allow third party developers to implement haptics by
19 using Fitbit’s API.

20 11. Then, in January 2016, Fitbit introduced the Fitbit Blaze, a “Smart Fitness Watch”
21 that, in Fitbit’s words, “empowers consumers to get fit in style.” Fitbit promoted its user interface
22 and multiple new features, including specific haptic signals for call, text and calendar notifications,
23 vibrating alerts, exercise tracking associated with haptic feedback, and automatic sleep tracking with
24 using particularly designed “gentle” vibrations. These features employ the heart of Immersion’s
25 innovations in haptics-enabled user interfaces. Fitbit continues to introduce new wearable device
26 products to the marketplace that incorporate haptic technology to enable their user interface,
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1 including, in April of this year, the Fitbit Alta HR, a combination heart rate and fitness-tracking
2 wristband.

3 12. Immersion is a small innovator competing in a world of global consumer electronics
4 giants. Its ability to create new haptic technologies and applications for the marketplace depends on
5 its patents. Immersion's software and related intellectual property business provide a platform for
6 Immersion engineers to develop products and solutions with its technology partners. The highly-
7 publicized launches and upgrades of Fitbit's current and future wearable devices that disregard
8 Immersion's patents cause Immersion to lose valuable royalties and threaten its ongoing and future
9 customer relationships.

10 **THE PARTIES**

11 **Immersion Corporation**

12 13. Immersion was founded in 1993 by Dr. Louis Rosenberg, a pioneer in sensing
13 interfaces and feedback technology, to develop and commercialize his innovations in haptic
14 technology. Today, Immersion is a publicly-traded company and the global leader in developing
15 haptic technology and licensing software solutions and intellectual property for enabling haptic
16 interfaces in a broad array of consumer devices. Immersion's innovation stems from its talented
17 technologists, who make up half of its workforce and are involved in all aspects of its haptic
18 technology development including fundamental research. These hard-working engineers continue to
19 lead the development of the next generation of haptic hardware and applications, developing
20 software solutions to enable haptic interfaces, and providing customer support.

21 **Immersion Patented Technologies**

22 14. Immersion's software product offerings include its TouchSense® solutions for both
23 large and small touchscreens, mobile devices, smartphones, tablets, portable gaming handheld
24 devices, and wearable devices. In June 2015, Immersion reached the milestone of having more than
25 3 billion devices enabled with its technologies, including tablets, smartphones, wearables, gaming
26 controllers, and automotive interfaces.

1 15. Immersion also creates new designs for the hardware of the actuators that enable
2 haptic interfaces. Immersion has established partnerships with manufacturers of actuator hardware
3 and systems integrators that build devices that include actuator hardware. Through these
4 partnerships, Immersion provides design rules and guidelines for the actuators that are required to
5 implement advanced haptic features.

6 16. For over 20 years, Immersion has been a leading provider of haptic technology.
7 Immersion has been delivering haptic technology that brings the sense of touch to digital content,
8 creating experiences that are engaging, impactful and ultimately, more real. Immersion's tools, deep
9 expertise, and intellectual property make high quality haptics possible. The Institute of Electrical
10 and Electronics Engineers ("IEEE") has recognized Immersion in its annual IEEE Spectrum Patent
11 Power scorecards, which evaluate the technology world's most valuable patent portfolios by
12 quantitative benchmarks. Immersion's established and growing leadership in haptic technology is
13 reflected by its consistent ranking in the top 20 in its industry segment.

14 17. Immersion also provides offerings to content creators. This includes its developer
15 program, which provides app developers with a platform that optimizes haptic effects across all
16 Android devices for all kinds of mobile content. Immersion offers app developers a Software
17 Development Kit (SDK) along with design resources, including sample code, predesigned effect
18 libraries, training guides, and a technology forum. Immersion's Touchsense® SDK allows a
19 developer or content creator to use a curated library of haptic effects or customized haptic effects for
20 games, videos, social apps or other kinds of mobile content. As a result of this program, over 230
21 million Android mobile games employing Immersion's haptic software solutions have been
22 downloaded.

23 The Haptic Experience

24 18. In 1993, Immersion envisioned taking personal computing further. Immersion's deep
25 research into the then-experimental field of sensory technology led to its first innovation reaching
26 the marketplace: touch feedback — haptics — in video game controllers. Immersion's innovative
27 technology delighted console gamers. Immersion has not stopped since, and it has continued to
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1 develop innovative technologies in console, PC, and mobile gaming; creating a richer user
2 experience for mobile advertising and entertainment; and enhancing automotive environment for
3 usability and infotainment. Immersion has further developed innovative haptic technologies in
4 wearable devices — with their minimal visual “real estate” — as a natural, non-visual feedback
5 mechanism that can inform users and change their behavior.

6 19. Immersion has, for example, developed a TouchSense® Haptic Enabling Kit for
7 Wearables OEMs, which provides the ability to add tactile effects to enhance device design, as well
8 as increase user value through instinctive alerts that convert notifications into meaningful messages.

9 20. The TouchSense® Haptic Enabling Kit (HEK) offers a solution for optimal quality
10 and effective use of haptics in wearable devices. With proprietary actuator control techniques, and a
11 framework for turning silent notifications into intuitive and meaningful tactile messages, the
12 TouchSense® HEK is an end-to-end offering that enables creation, delivery and the high-quality
13 playback of tactile effects in wearable devices.



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19 *Instinctive tactile notifications and high-fidelity haptics in apps and UI can
differentiate user experience and enhance brand perception.*

20 21. In addition, Immersion provides integration services, hardware selections guidelines,
21 custom effect design support, and reference guides to help wearable device makers implement best-
22 in-class tactile experiences.

23 22. Immersion works closely with its customers to generate new software solutions and
24 technology concepts. Immersion’s research and development activities allow it to continue to
25 innovate. Immersion has a growing patent portfolio that includes over 2,400 issued patents or
26 pending patent applications in the U.S. and other countries, including over 630 issued U.S. patents.
27 Immersion’s patent portfolio protects its innovations across the full spectrum of haptic technology
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1 from actuator hardware, to user interface applications, to enabling touch-based messaging between
2 mobile devices.

3 23. Immersion continues to develop new ways to use haptics in digital devices for today
4 and tomorrow. Immersion's patent portfolio is the result of hard work and investment in research
5 and development of haptics across various disciplines. With over 1,100 active (granted) patents
6 worldwide, Immersion continues to innovate and grow its portfolio of haptic technologies.

7 24. Plaintiff Immersion is a corporation organized and existing under the laws of the
8 State of Delaware with its principal place of business at 50 Rio Robles, San Jose, California, 95134.

9 25. Defendant Fitbit is a corporation organized and existing under the laws of the State of
10 Delaware and is registered to do business in the State of California, State of Florida, and State of
11 Massachusetts. Fitbit has its principal place of business in the State of California at 405 Howard St.,
12 Suite 550, San Francisco, CA, 94105.

13 **JURISDICTION AND VENUE**

14 26. This is a civil action for patent infringement arising under the patent laws of the
15 United States, Title 35, United States Code, including 35 U.S.C. §§ 271 et seq. and 281-285.
16 Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

17 27. Defendant Fitbit has a regular and established place of business in this District. Fitbit
18 was founded in 2007 as Fitbit, Inc. in San Francisco, California. The headquarters of Fitbit, Inc. are
19 located at 405 Howard St., Suite 550, San Francisco, California. Upon information and belief, Fitbit
20 also imports, offers for sale, and sells wearable health and fitness devices in this State and District,
21 and Fitbit is therefore subject to personal jurisdiction in this District.

22 28. Fitbit, Inc., directly or through intermediaries, has committed acts of infringement in
23 this District, including, upon information and belief, developing, testing, distributing, advertising,
24 operating, selling, offering for sale, using and/or supporting products or services that fall within one
25 or more claims of Immersion's Patents-In-Suit. Accordingly, venue to adjudicate whether the
26 Patents-In-Suit are infringed is appropriate in the Northern District of California pursuant to 28
27 U.S.C. §§ 1391 and 1400(b).

INTRADISTRICT ASSIGNMENT

29. Pursuant to Civil Local Rule 3-2(c), this is an Intellectual Property Action to be assigned on a district-wide basis.

THE IMMERSION PATENTS

30. On November 15, 2011, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,059,105 (“the ’105 Patent”), entitled “Haptic feedback for touchpads and other touch controls,” to Louis B. Rosenberg and James R. Riegel as the named inventors after full and fair examination. A true and correct copy of the ’105 patent is attached hereto as Exhibit A and incorporated herein by reference.

31. The ’105 patent is directed to a haptic feedback planar touch control used to provide input to a computer system. More specifically, the ’105 patent is directed to providing haptic sensations output on the touch control, which enhance interactions and manipulations with user-independent events. The objective is to enable the user to experience haptic sensations that assist and inform the user of targeting and other control tasks within the graphical environment. The ’105 patent advantageously provides haptic feedback that can assist and inform the user of interactions and events, by way of example, an appointment reminder, receipt of email, or physical effect in a game, within a graphical user interface or other environment.

32. On January 8, 2013, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,351,299 (“the ’299 Patent”), entitled “Apparatus and method for providing condition-based vibrotactile feedback,” to Robert F. Cohen, Walter E. Ratzat, and Tianning Xu as the named inventors after full and fair examination. A true and correct copy of the ’299 Patent is attached hereto as Exhibit B and incorporated herein by reference.

33. The ’299 patent is directed to systems and methods for the monitoring of motion parameters of a device, such as a wristband, being physically manipulated by a user and the use of haptic feedback. In particular, the ’299 patent advantageously provides haptic feedback to alert users based on conditions relating to the motion of the device, such as surpassing a preset number of movements over a period of time or insufficient movement during a period of time.

FITBIT'S INFRINGING PRODUCTS

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2 41. Fitbit's accused devices have infringed and continue to infringe, directly and
3 indirectly through induced and/or contributory infringement, one or more claims of the Immersion
4 Patents-in-Suit by making, having made, using, importing into, offering to sell, or selling in the
5 United States, and/or providing instructions for one or more of the products identified in this
6 Complaint, including Fitbit products with haptic feedback capabilities, including but not limited to a
7 vibration motor, GPS, 3-axis accelerometers, Digital compass, Optical heart rate monitor, Altimeter,
8 Ambient light sensor, and/or Touch screen hardware and software/firmware/APIs that enable the
9 Haptic Feedback, which allows the tracker to vibrate with alarms (e.g., Silent Alarm feature), goals
10 (e.g., Motivation Goal feature), and notifications (e.g., Sleep Tracker, Sleep Insights, Exercise
11 Calendar, PurePulse, and Aria Wi-Fi Smart Scale features) including without limitation, the Fitbit
12 Flex, Fitbit Flex 2, Fitbit Alta, Fitbit Alta HR, Fitbit Charge, Fitbit Charge 2, Fitbit Charge HR,
13 Fitbit Blaze, and Fitbit Surge (collectively the "Fitbit Accused Products"). Further discovery may
14 reveal additional infringing products and/or models, such as the yet to-be-released smart fitness
15 watch, codenamed "Higgs," which has been the subject of recent press reports.

16 42. In accordance with 35 U.S.C. § 287, Fitbit has had knowledge of the Immersion
17 Patents-in-Suit prior to the filing of this Complaint and/or the date this Original Complaint was
18 served upon Fitbit. Despite such notice, Fitbit continues to make, use, import into, market, offer for
19 sale, and/or sell in the United States products that infringe the Immersion Patents-in-Suit.

COUNT I**INFRINGEMENT OF THE '105 PATENT**

22 43. Paragraphs 1 through 42 are incorporated by reference as if fully set forth herein.

23 44. On information and belief, Fitbit has directly infringed and will continue to infringe,
24 directly and indirectly, through induced and/or contributory infringement, one or more claims of the
25 '105 patent, including at least claims 19, 20, and 21, by making, using, selling, offering for sale, or
26 importing in this District and elsewhere into the United States, or by intending that others make, use,
27 import into, offer for sale, or sell in the United States, products, devices, systems and/or methods
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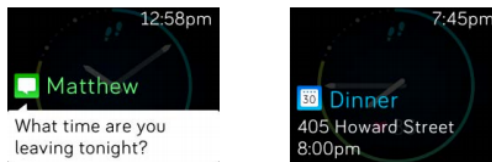
1 covered by one or more claims of the '105 patent including, but not limited to, the Fitbit Alta, Fitbit
2 Alta HR, Fitbit Charge, Fitbit Charge 2, Fitbit Charge HR, Fitbit Blaze, and Fitbit Surge. The
3 accused devices that infringe one or more claims of the '105 patent include, but are not limited to, at
4 least the Fitbit Accused Products. Further discovery may reveal additional infringing products
5 and/or models.

6 45. For example, Fitbit has directly infringed one or more claims of the '105 patent by
7 making, using, offering to sell, and/or selling the Fitbit Blaze product, in a manner that infringes the
8 claims of the '105 patent. For instance, Fitbit's Blaze product infringes one or more claims of the
9 '105 patent, including but not limited to claim 19, by practicing a haptic feedback device. Fitbit's
10 Blaze includes a processor that receives an input signal associated with a user-independent event
11 (e.g., a calendar reminder) triggered from a paired smartphone and generates a force signal that
12 actuates a vibration motor (e.g., a coin-type, eccentric rotating mass (ERM) motor), as illustrated in
13 the images below taken from the Fitbit Blaze Product Manual. (*See, e.g.,* Fitbit, Inc., *Fitbit Blaze,*
14 *Product Manual*, p. 22, which Fitbit provides online through <https://help.fitbit.com> and directly
15 at https://staticcs.fitbit.com/content/assets/help/manuals/manual_blaze_en_US.pdf). Further, by way
16 of example, Fitbit's Blaze is a smart fitness watch with a touch screen, which contains a vibration
17 motor (e.g., actuator) that is configured to receive the signal (e.g., force signal) and causes the
18 tracker to vibrate (e.g., haptic effect) based on that signal. Immersion is identifying the Fitbit Blaze
19 as a representative product for other Accused Products including the Fitbit Alta, Alta HR, Charge,
20 Charge 2, Charge HR, and Surge. Immersion is identifying claim 19 as a representative claim.
21 Immersion may assert other claims in conjunction with the local rules, and Immersion incorporates
22 by reference its Disclosure of Asserted Claims and Infringement Contentions pursuant to N.D. Cal.
23 Local Patent Rule 3-1.

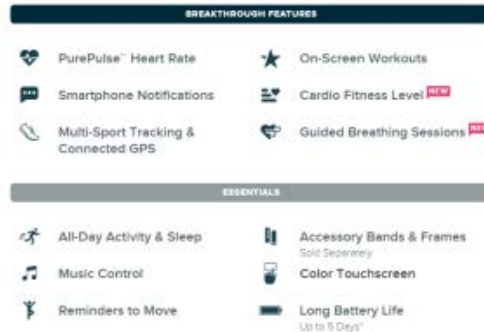
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Seeing incoming notifications

If your tracker and mobile device are within 20 feet of each other, a phone call, text message, or calendar event causes the tracker to vibrate. If you don't glance at the notification when it arrives, you can find it later by swiping up on the clock screen or by holding the Select button (lower right).



A fitness watch that's as stylish as it is smart.



46. Fitbit indirectly infringes the '105 patent, under 35 U.S.C. § 271(b), by inducing infringement by others, such as manufacturers, resellers, developers, and customers, and end-users, in this District and elsewhere in the United States. For example, manufacturers, resellers, developers, customers, and end-users of the Fitbit Accused Products directly infringe by making, using, selling, offering to sell, and/or importing the inventions claimed in the '105 patent. Fitbit also received notice of the '105 patent prior to the date this lawsuit was filed and/or the date this Original Complaint was served upon Fitbit.

47. Fitbit's affirmative acts of manufacturing, selling, distributing and/or otherwise making available the Fitbit Accused Products; causing others to manufacture, sell, distribute, and/or make available the Fitbit Accused Products; and/or providing instructions, documentation, and/or other information directed to customers, end-users, resellers, and distributors regarding using the Fitbit Accused Products in the way Fitbit intends, including in-store technical support, online technical support, product manuals, online documents, and other information about the Fitbit Accused Products induce Fitbit's manufacturers, resellers, developers, customers and/or end-users to

1 make, use, sell, and/or offer to sell the Fitbit Accused Products in the way that Fitbit intends, in order
 2 to directly infringe the '105 patent. On information and belief, Fitbit has performed and continues to
 3 perform these affirmative acts, with knowledge of the '105 patent and with knowledge or willful
 4 blindness that the induced acts directly infringe the '105 patent.

5 48. For example, Fitbit provides a setup website to help and support the user to “Get the
 6 Fitbit App to Set Up Your Device” at <https://www.fitbit.com/setup>. At that site, Fitbit specifically
 7 instructs the user to download the Fitbit App from one of several websites (e.g., Google Play, Apple
 8 App Store, or Windows Store). Further, if the user does not have a mobile device, Fitbit instructs
 9 that the user can download an application for an Apple or Windows personal computer. Fitbit
 10 provides further instructions and help to set up a user’s device, as well.

11 Get the Fitbit App to Set Up Your Device



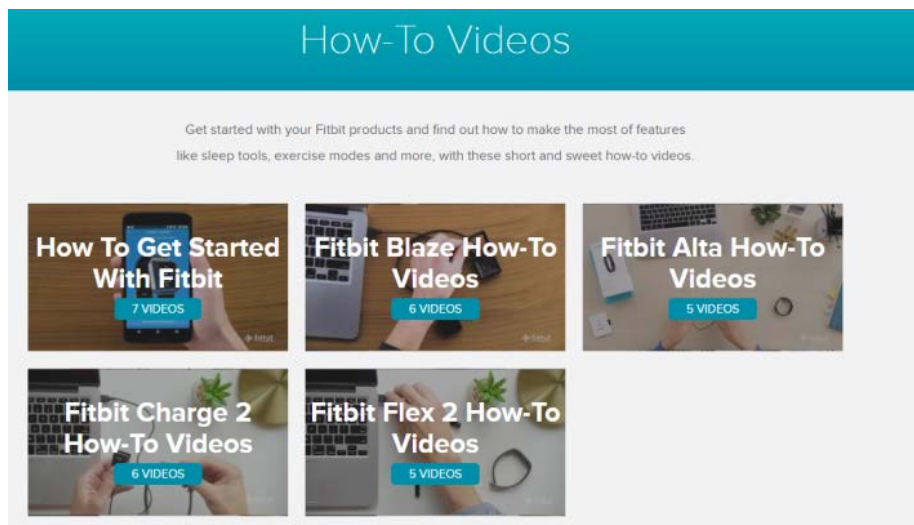
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20 Don't have a mobile device available?

21 [DOWNLOAD FOR WINDOWS](#)

22 2.0.1.6802 / November 17, 2016 Mac Mac 10.5 Windows 10 PC Windows XP

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24 49. Fitbit also provides answers on its website to popular topics and questions that other
 25 users have had setting up their devices. Further, Fitbit provides a support community to educate
 26 users about certain features. (See Fitbit, Inc., “Get the skinny on your Fitbit
 27 device,” <http://help.fitbit.com/>.) Fitbit provides web pages with answers to popular topics and
 28

1 questions that other users have had setting up their devices. Further, Fitbit provides a support
 2 community to educate users about certain features. In addition, users can request certain features or
 3 options to be implemented in the Fitbit's software and/or API such as on Fitbit's "Ideas Board"
 4 online forum, which Fitbit provides at [https://community.fitbit.com/t5/Feature-Requests/idb-
 5 p/features](https://community.fitbit.com/t5/Feature-Requests/idb-p/features). Fitbit also provides How-To Videos to help users, as illustrated in the screenshot shown
 6 below. (See, e.g., Fitbit Inc., "How-To Videos," <https://www.fitbit.com/how-to> ("Get started with
 7 your Fitbit products and find out how to make the most of features like sleep tools, exercise modes
 8 and more, with these short and sweet how-to videos."))



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19 50. As another example, Fitbit provides Fitbit Blaze and Fitbit Flex 2 manuals to help the
 20 user set up and use the features of the device, along with user manuals for all Fitbit devices, which
 21 may be accessed through links which Fitbit provides at <http://help.fitbit.com>. See,
 22 e.g., <http://help.fitbit.com> (providing links to access user manuals for the Fitbit Blaze, Flex 2, and
 23 other Fitbit products). For instance, the Fitbit Blaze manual teaches and explains to the user how to
 24 set up notifications and haptic effects for notifications. Fitbit also provides an online Help page to
 25 answer a user's question, "How do I get notifications from my mobile devices?"
 26 at http://help.fitbit.com/articles/en_US/Help_article/1979. As shown in the exemplary screenshot
 27 below, this page provides further teaching and explanation about notifications and how they sync
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1 between the mobile phone and the Fitbit Blaze, as well as other devices. This page teaches the user
 2 about the benefits of the notifications and provides options for controlling the delivery of
 3 notifications. It further teaches the user that the user “may need to modify settings specific to the
 4 user’s mobile device and tracker.” The help page further teaches how the notifications work. These
 5 instructions are provided for other Fitbit devices as well.

6 HOW DO I SET THEM UP?

7 Besides the Notifications options in the Fitbit app, you may need to modify settings specific to your mobile
 device and tracker. To review all the requirements choose the type of mobile device you’re using below.

8 If you're not sure whether your device runs on iOS or Android, note that iOS is exclusive to Apple products
 like the iPhone.

9 IOS MOBILE DEVICE

10 ANDROID MOBILE DEVICE

11 Setting up notifications may take several minutes. Since you'll need to make a choice about
 12 encryption, before you get started we recommend reading our brief explanation at [Are notifications
 sent from my Android device encrypted?](#)

13 STEP 1: VERIFY YOUR MOBILE DEVICE SETTINGS

14 On your mobile device go to your system settings and verify these conditions:

- 15 • The Android version is 4.3 or higher. This can usually be found under About Phone or About
 Device.
- 16 • Bluetooth is turned on. Bluetooth is what allows your mobile device to communicate with
 Fitbit, so it must be on for a notification to transmit.
- 17 • Do Not Disturb is turned off. When your device isn't disturbing you with alerts and
 notifications, it also can't send them to your tracker. This setting can usually be found under
 18 Sound and Notification.
- 19 • A default SMS app is selected. If your Android version is 5.0+ make sure a default is shown.
 This setting can usually be found under More.
- 20 • Default calendar app is selected. If your Android version is 5.0+ make sure a default is
 shown. This can usually be found under More.

21 If you have a Blaze and want to get notifications from third-party apps, make sure your mobile device
 is allowed to send them. You can usually find the notifications permissions under Settings > Apps.

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 23 51. Fitbit also indirectly infringes the '105 patent, under 35 U.S.C. § 271(c), by
 24 contributing to direct infringement by others, such as manufactures, resellers, developers, customers,
 25 and/or end-users, in this District and elsewhere in the United States. Fitbit also received notice of
 26 the '105 Patent prior to the date this lawsuit was filed and/or the date this Original Complaint was
 27 served upon Fitbit.

1 52. Fitbit's affirmative acts of selling and offering to sell, in this District and elsewhere in
2 the United States, the Fitbit Accused Products and causing the Fitbit Accused Products to be
3 manufactured, used, sold, and offered for sale, contribute to Fitbit's manufacturers, resellers,
4 developers, customers, and/or end-users making or using, selling, and/or offering to sell the Fitbit
5 Accused Products, such that the '105 patent is directly infringed. The haptic capabilities of the Fitbit
6 Accused Products, including a vibration motor, GPS, 3-axis accelerometers, Digital compass,
7 Optical heart rate monitor, Altimeter, Ambient light sensor, and/or Touch screen hardware and
8 software/firmware/APIs that enable the Haptic Feedback, which allows the tracker to vibrate with
9 alarms (e.g., Silent Alarm), goals (e.g., Motivation Goal), and notifications (e.g., Call, Text,
10 Calendar, Email, Third-Party App, Sleep Tracker, Sleep Insights, Exercise Calendar, PurePulse, Aria
11 Wi-Fi Smart Scale) are material, have no substantial non-infringing uses, and are known by Fitbit to
12 be especially made or especially adapted for use in an infringement of the '105 patent.

13 53. Fitbit's infringement of the '105 patent has been and continues to be willful. Upon
14 information and belief, Fitbit knew or should have known that it directly infringed and was causing
15 others to directly infringe the '105 patent. Fitbit received notice of the '105 patent and the
16 infringement of the patent's claims by Fitbit products prior to the date this lawsuit was filed and/or
17 the date this Original Complaint was served upon Fitbit. Fitbit has continued to infringe in wanton
18 disregard of Immersion's patent rights.

19 54. Fitbit's continued infringement of the '105 patent has damaged and will continue to
20 damage Immersion.

21 **COUNT II**

22 **INFRINGEMENT OF THE '299 PATENT**

23 55. Paragraphs 1 through 54 are incorporated by reference as if fully set forth herein.

24 56. On information and belief, Fitbit has directly infringed and will continue to infringe,
25 directly and indirectly, through induced and/or contributory infringement, one or more claims of the
26 '299 Patent, including at least claims 14, 15, 16, 18, 20 and 22, by making, using, selling, offering
27 for sale, or importing in this District and elsewhere into the United States, or by intending that others
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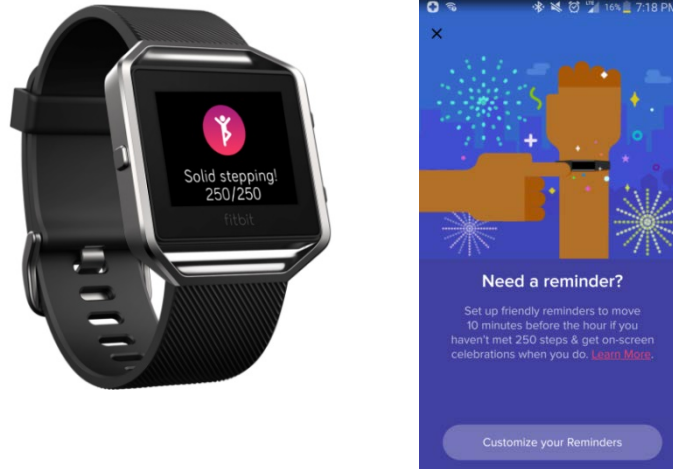
1 make, use, import into, offer for sale, or sell in the United States, products, devices, systems and/or
2 methods covered by one or more claims of the '299 Patent including, but not limited to, the Fitbit
3 Flex, Fitbit Flex 2, Fitbit Alta, Fitbit Alta HR, Fitbit Charge, Fitbit Charge 2, Fitbit Charge HR,
4 Fitbit Blaze, and Fitbit Surge. The accused devices that infringe one or more claims of the '299
5 Patent include, but are not limited to, at least the Fitbit Accused Products. Further discovery may
6 reveal additional infringing products and/or models.

7 57. For example, Fitbit has directly infringed one or more claims of the '299 patent by
8 making, using, offering to sell, and/or selling the Fitbit Blaze product, in a manner that infringes the
9 claims of the '299 patent. For instance, Fitbit's Blaze product infringes one or more claims of the
10 '299 patent, including but not limited to claim 14, by practicing an apparatus as described herein.
11 Fitbit's Blaze contains sensors (e.g., A MEMS 3-axis accelerometer, which tracks your motion
12 patterns; an altimeter, which tracks altitude changes; an optical heart rate tracker; an ambient light
13 sensor; and a 3-axis magnetometer) that sense the motion of the Blaze and provide outputs based on
14 the sensed motion. For example, Fitbit's Blaze also maintains a timer providing periodic timer
15 output, and that timer, for example, is associated with the Blaze's "silent alarms" feature.
16 Additionally, the periodic timer output is associated with Blaze's "Reminder to Move" feature.
17 Further, on information and belief, the Fitbit Blaze includes a vibration motor that is configured to
18 remind the user to move by walking, or accumulating counts, at least 250 steps (i.e., a threshold)
19 each hour, as illustrated, by way of example, in the images of Fitbit's documentation provided on its
20 website shown below. If the user has not walked at least 250 steps, at 10 minutes before the hour the
21 user will feel a vibration and see a reminder on the tracker. When a user reaches the 250 step goal
22 (or threshold), there is an on-screen celebration accompanied by a vibration pattern (i.e., haptic
23 output) for reaching the milestone. Immersion is identifying the Fitbit Blaze as a representative
24 product for other infringing Accused Products including, on information and belief, at least the Alta,
25 Alta HR, Charge 2, Charge HR, and Flex 2. Immersion is identifying claim 14 as a representative
26 claim. Immersion may assert other claims in conjunction with the local rules. Immersion
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1 incorporates by reference its Disclosure of Asserted Claims and Infringement Contentions pursuant
2 to N.D. Cal. Local Patent Rule 3-1.

3 What is a reminder to move?

4
5 The reminders to move feature on Fitbit Alta, Fitbit Blaze, Fitbit Charge 2, and Fitbit Flex 2 nudges you to
6 walk at least 250 steps each hour. If you haven't walked 250 steps, at 10 minutes before the hour you'll feel
7 a vibration and see a reminder on your tracker.



14 58. Fitbit indirectly infringes the '299 Patent, under 35 U.S.C. § 271(b), by inducing
15 infringement by others, such as manufacturers, resellers, developers, and customers, and end-users,
16 in this District and elsewhere in the United States. For example, manufacturers, resellers,
17 developers, customers, and end-users of the Fitbit Accused Products directly infringe by making,
18 using, selling, offering to sell, and/or importing the inventions claimed in the '299 patent. Fitbit
19 received notice of the '299 patent prior to the date this lawsuit was filed and/or the date this Original
20 Complaint was served upon Fitbit.

21 59. Fitbit's affirmative acts of manufacturing, selling, distributing and/or otherwise
22 making available the Fitbit Accused Products; causing others to manufacture, sell, distribute, and/or
23 make available the Fitbit Accused Products; and/or providing instructions, documentation, and/or
24 other information directed to customers, end-users, resellers, and distributors regarding using the
25 Fitbit Accused Products in the way Fitbit intends, including in-store technical support, online
26 technical support, product manuals, online documents, and other information about the Fitbit
27 Accused Products induce Fitbit's manufacturers, resellers, developers, customers and/or end-users to
28

1 make, use, sell, and/or offer to sell the Fitbit Accused Products in the way that Fitbit intends, in order
2 to directly infringe the '299 patent. On information and belief, Fitbit has performed and continues to
3 perform these affirmative acts, with knowledge of the '299 patent and with knowledge or willful
4 blindness that the induced acts directly infringe the '299 patent.

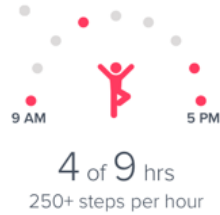
5 60. For example, Fitbit provides a setup website to help and support the user to “Get the
6 Fitbit App to Set Up Your Device” at <https://www.fitbit.com/setup>. At that site, Fitbit specifically
7 instructs the user to download the Fitbit App from one of several websites (e.g., Google Play, Apple
8 App Store, or Windows Store). Further, that site instructs that if a user does not have a mobile
9 device, that user can download an application for Mac or PC. Fitbit also provides answers to
10 popular topics and questions that other users have had setting up their devices. Further, Fitbit
11 provides a support community to educate users about certain features. By way of example, users can
12 request certain features or options to be implemented in the Fitbit’s software and/or API at Fitbit’s
13 “Ideas Board,” which Fitbit provides at <https://community.fitbit.com/t5/Feature-Requests/idb->
14 [p/features](https://community.fitbit.com/t5/Feature-Requests/idb-p/features). Fitbit also provides How-To Videos to help users on its website
15 at <https://www.fitbit.com/how-to>. As another example, Fitbit publishes user manuals for the Fitbit
16 Blaze, Fitbit Flex 2, and other Fitbit devices, available through links at <https://help.fitbit.com>, which
17 provide instructions that help the user set up, use, and configure the device and its features.

18 61. Fitbit provides further instructions regarding infringing features of Fitbit products in
19 its online help pages. By way of example, Fitbit provides a web page to answer a user’s question
20 “What are hourly activity goals?” at https://help.fitbit.com/articles/en_US/Help_article/1878. This
21 page contains instructions that instruct the user on how to view their “Hourly Activity” progress as
22 illustrated in the excerpted image and text shown below. As another example, Fitbit provides a web
23 page to provide the answer to a user’s question, “What is a reminder to move?”
24 at http://help.fitbit.com/articles/en_US/Help_article/1986. This page instructs the user on how to set
25 up and configure the “Reminder to Move” feature on Fitbit devices, including instructions on how to
26 set up and configure the Reminder to Move feature through the Fitbit App and Fitbit Dashboard.

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HOW DO I TRACK MY PROGRESS?

The Hourly Activity tile on your dashboard shows the number of hours you met your 250-step goal so far today.

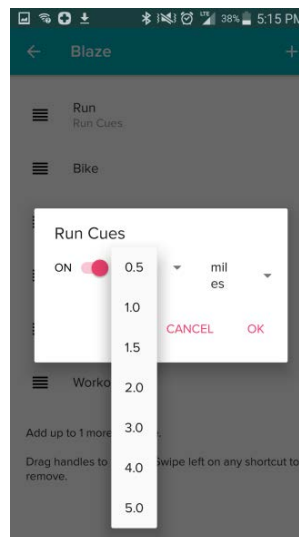
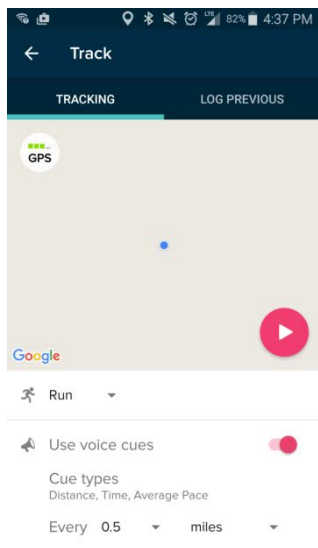


Open the tile to see a graph showing whether each hour tracked was active or stationary for the last week. Swipe to see a second graph showing your longest stationary period. Note that time asleep is not included in this graph, and you must be inactive for at least 10 consecutive minutes before that time is considered stationary.

62. Fitbit also indirectly infringes the '299 patent, under 35 U.S.C. § 271(c), by contributing to direct infringement by others, such as manufactures, resellers, developers, customers, and/or end-users, in this District and elsewhere in the United States. Fitbit also received notice of the '299 Patent prior to the date this lawsuit was filed and/or the date this Original Complaint was served upon Fitbit.

63. Fitbit's affirmative acts of selling and offering to sell, in this District and elsewhere in the United States, the Fitbit Accused Products and causing the Fitbit Accused Products to be manufactured, used, sold, and offered for sale, contribute to Fitbit's manufacturers, resellers, developers, customers, and/or end-users making or using, selling, and/or offering to sell the Fitbit Accused Products, such that the '299 patent is directly infringed. The haptic capabilities of the Fitbit Accused Products, including a vibration motor, GPS, 3-axis accelerometers, Digital compass, Optical heart rate monitor, Altimeter, Ambient light sensor, and/or Touch screen hardware and software/firmware/APIs that enable the Haptic Feedback, which allows the tracker to vibrate with alarms (e.g., Silent Alarm feature), goals (e.g., Motivation Goal feature), and notifications (e.g., Sleep Tracker, Sleep Insights, Exercise Calendar, PurePulse, and Aria Wi-Fi Smart Scale features) are material, have no substantial non-infringing uses, and are known by Fitbit to be especially made or especially adapted for use in an infringement of the '299 patent.

1 patterns; an altimeter, which tracks altitude changes; an optical heart rate tracker; an ambient light
 2 sensor; and a 3-axis magnetometer). Further, the Fitbit Blaze's processor is configured to receive
 3 touch screen interactions as the user navigates to different menus. On information and belief, a user
 4 can use mobile device as a second device to transmit signals via Bluetooth. An example of this is
 5 the transmission of Run Cue goals from another mobile device, e.g., a mobile phone running Fitbit's
 6 mobile app, to the Blaze. The Fitbit Blaze is configured such that using the Run menu on the Fitbit
 7 Blaze, user can execute the Run exercise tracker, a cue will be displayed on the Blaze screen
 8 accompanied by a vibration effect produced by the vibration motor of the Fitbit Blaze under the
 9 control of the processor (i.e., haptic output) once the user reaches Run Cue goals. This is illustrated
 10 by images below of the Fitbit mobile app showing the Run Cue feature and drop-down options, and
 11 the images of Fitbit's Blaze displaying the Rue Cue achievement. Immersion is identifying the
 12 Blaze Smart Fitness Watch as a representative product for other infringing Accused Products
 13 including, on information and belief, at least the Fitbit Alta, Alta HR, Charge, Charge 2, Charge HR,
 14 and Surge. Immersion is identifying claim 27 as a representative claim. Immersion may assert other
 15 claims in conjunction with the local rules. Immersion incorporates by reference its Disclosure of
 16 Asserted Claims and Infringement Contentions pursuant to N.D. Cal. Local Patent Rule 3-1.



1 69. Fitbit indirectly infringes the '301 patent, under 35 U.S.C. § 271(b), by inducing
2 infringement by others, such as manufacturers, resellers, developers, and customers, and end-users,
3 in this District and elsewhere in the United States. For example, manufacturers, resellers,
4 developers, customers, and end-users of the Fitbit Accused Products directly infringe by making,
5 using, selling, offering to sell, and/or importing the inventions claimed in the '301 patent. Fitbit also
6 received notice of the '301 patent prior to the date this lawsuit was filed and/or the date this Original
7 Complaint was served upon Fitbit.

8 70. Fitbit's affirmative acts of manufacturing, selling, distributing and/or otherwise
9 making available the Fitbit Accused Products; causing others to manufacture, sell, distribute, and/or
10 make available the Fitbit Accused Products; and/or providing instructions, documentation, and/or
11 other information directed to customers, end-users, resellers, and distributors regarding using the
12 Fitbit Accused Products in the way Fitbit intends, including in-store technical support, online
13 technical support, product manuals, online documents, and other information about the Fitbit
14 Accused Products induce Fitbit's manufacturers, resellers, developers, customers and/or end-users to
15 make, use, sell, and/or offer to sell the Fitbit Accused Products in the way that Fitbit intends, in order
16 to directly infringe the '301 patent. On information and belief, Fitbit has performed and continues to
17 perform these affirmative acts, with knowledge of the '301 patent and with knowledge or willful
18 blindness that the induced acts directly infringe the '301 patent.

19 71. Fitbit also indirectly infringes the '301 patent, under 35 U.S.C. § 271(c), by
20 contributing to direct infringement by others, such as manufactures, resellers, developers, customers,
21 and/or end-users, in this District and elsewhere in the United States. Fitbit received notice of the
22 '301 Patent prior to the date this lawsuit was filed and/or the date this Original Complaint was
23 served upon Fitbit.

24 72. For example, Fitbit provides a setup website to help and support the user to "Get the
25 Fitbit App to Set Up Your Device" at <https://www.fitbit.com/setup>. At that site, Fitbit specifically
26 instructs the user to download the Fitbit App from one of several websites (e.g., Google Play, Apple
27 App Store, or Windows Store). Further, that site instructs that if the user does not have a mobile
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1 device, the user can download an application for Mac or PC. Fitbit also provides answers to popular
2 topics and questions that other users have had setting up their devices. Further, Fitbit provides a
3 support community to educate users about certain features. By way of example, users can request
4 certain features or options to be implemented in the Fitbit's software and/or API at Fitbit's "Ideas
5 Board," which Fitbit provides at <https://community.fitbit.com/t5/Feature-Requests/idb-p/features>.
6 Fitbit also provides How-To Videos to help users on its website, for example
7 at <https://www.fitbit.com/how-to>. Fitbit also publishes user manuals for the Fitbit Blaze, Fitbit Flex
8 2, and other Fitbit devices, which Fitbit makes available through links at <https://help.fitbit.com> and
9 also provide instructions that help the user set up, use, and configure the device and its features.

10 73. Fitbit also provides online help pages, which provide instructions on how to set up the
11 "Run Cues" in the mobile device app. By way of example, Fitbit provides a page that provides
12 instructions in answer to a user's question, "How do I use a multisport or exercise mode on my
13 tracker?" at http://help.fitbit.com/articles/en_US/Help_article/1935/. At this page, Fitbit provides
14 detailed step-by-step instructions to a user on how to sync a mobile device so as to utilize the
15 exercise tracking features, including "Run Cues" on Fitbit devices. Fitbit further provides a "How-to
16 Video" that demonstrates the steps which a user would perform to sync a mobile device with a Fitbit
17 Blaze product to utilize exercise tracking features.

18 74. Fitbit's affirmative acts of selling and offering to sell, in this District and elsewhere in
19 the United States, the Fitbit Accused Products and causing the Fitbit Accused Products to be
20 manufactured, used, sold, and offered for sale, contribute to Fitbit's manufacturers, resellers,
21 developers, customers, and/or end-users making or using, selling, and/or offering to sell the Fitbit
22 Accused Products, such that the '301 patent is directly infringed. The haptic capabilities of the Fitbit
23 Accused Products, including a vibration motor, GPS, 3-axis accelerometers, Digital compass,
24 Optical heart rate monitor, Altimeter, Ambient light sensor, and/or Touch screen hardware and
25 software/firmware/APIs that enable the Haptic Feedback, which allows the tracker to vibrate with
26 alarms (e.g., Silent Alarm feature), goals (e.g., Motivation Goal feature), and notifications (e.g.,
27 Sleep Tracker, Sleep Insights, Exercise Calendar, PurePulse, and Aria Wi-Fi Smart Scale features)
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1 are material, have no substantial non-infringing uses, and are known by Fitbit to be especially made
2 or especially adapted for use in an infringement of the '301 patent.

3 75. Fitbit's infringement of the '301 patent has been and continues to be willful. Upon
4 information and belief, Fitbit knew or should have known that it directly infringed and was causing
5 others to directly infringe the '301 patent. Fitbit also received notice of the '301 patent and the
6 infringement of the patent's claims by Fitbit products prior to the date this lawsuit was filed and/or
7 the date this Original Complaint was served upon Fitbit. Fitbit has continued to infringe in wanton
8 disregard of Immersion's patent rights.

9 76. Fitbit's continued infringement of the '301 patent has damaged and will continue to
10 damage Immersion.

11 **DAMAGES**

12 77. Paragraphs 1 through 76 are incorporated by reference as if fully set forth herein.

13 78. As a result of Fitbit's acts of infringement, Immersion has suffered actual and
14 consequential damages; however, Immersion does not yet know the full extent of the infringement
15 and its extent cannot be ascertained except through discovery and special accounting. To the fullest
16 extent permitted by law, Immersion seeks recovery of damages at least for reasonable royalties,
17 unjust enrichment, and benefits received by Fitbit as a result of infringing the patents-in-suit.
18 Immersion further seeks any other damages to which Immersion is entitled under law or in equity.

19 **IRREPARABLE HARM TO IMMERSION**

20 79. Paragraphs 1 through 76 are incorporated by reference as if fully set forth herein.

21 80. Immersion has been irreparably harmed by Fitbit's acts of infringement, and will
22 continue to be irreparably harmed unless and until Fitbit's acts of infringement are enjoined by this
23 Court. Immersion has no adequate remedy at law to redress Fitbit's continuing acts of infringement.
24 The hardships that would be imposed upon Fitbit by an injunction are less than those faced by
25 Immersion should an injunction not issue. Furthermore, the public interest would be served by
26 issuance of an injunction.

ATTORNEYS' FEES

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2 81. Immersion is entitled to recover reasonable and necessary attorneys' fees under
3 applicable law.

DEMAND FOR JURY TRIAL

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5 82. Immersion hereby demands a jury trial on its claims for patent infringement.

PRAYER FOR RELIEF

6
7 **WHEREFORE**, Immersion respectfully requests that this Court enter judgment in its favor
8 and grant the following relief:

- 9 A. A judgment that Fitbit directly and/or indirectly infringes the '105, '299, and '301
10 patents;
- 11 B. An Order enjoining, permanently, Fitbit and its respective officers, directors, agents,
12 partners, servants, employees, attorneys, licensees, successors, and assigns, and those in
13 active concert or participation with any of them, from engaging in infringing activities
14 with respect to the '105, '299, and '301 patents;
- 15 C. A judgment that Fitbit's infringement has been willful and that Fitbit's continued
16 infringement of the '105, '299, and '301 patents is willful;
- 17 D. A ruling that this case is exceptional and awarding Immersion its reasonable attorneys'
18 fees under 35 U.S.C. § 285;
- 19 E. A judgment and order requiring Fitbit to pay Immersion damages in an amount adequate
20 to compensate Immersion for Fitbit's infringement, but in no event less than a reasonable
21 royalty under 35 U.S.C. § 284, including supplemental damages for any continuing post-
22 verdict infringement up until entry of judgment, with an accounting, as needed, as well as
23 treble damages for willful infringement under 35 U.S.C. § 284;
- 24 F. Award enhanced damages pursuant to 35 U.S.C. § 284;
- 25 G. In the alternative, in the event injunctive relief is not granted as requested by Immersion,
26 award a mandatory future royalty payable on each future product sold by Fitbit that is
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found to infringe one or more of the '105, '299, and '301 patents, and on all future products which are not colorably different from products found to infringe;

H. A judgment and order requiring Fitbit to pay Immersion's costs of this action (including all disbursements);

I. An order for an accounting of damages;

J. A judgment and order requiring Fitbit to pay pre-judgment and post-judgment interest to the full extent allowed under the law; and,

K. Award such other and further relief as the Court may deem just and proper under the circumstances.

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DATED: July 10, 2017

Respectfully submitted,

MCKOOL SMITH, P.C.

By: /s/ Courtland L. Reichman

Courtland L. Reichman

(California Bar No. 268873)

Bahrad A. Sokhansanj

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