

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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4
5 FITBUG LIMITED,

6 Plaintiff,

NO. C 13-01418 SC

7 v.

JURY TRIAL PREPARATION
ORDER

8 FITBIT INC,

9 Defendant.

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11 JURY TRIAL PREPARATION FOR JUDGE CONTI

12 **A. Required Submissions**

13 No later than fourteen (14) calendar days before trial, each party shall e-file with this
14 court, serve upon all other parties, and provide to the court two courtesy copies directly to
15 chambers of the following materials. Unless otherwise noted, these materials shall be printed
16 in thirteen point time new roman font.

17 (1) A JOINT agreed upon, brief statement of the case to be read to the jury prior to
18 trial.

19 (2) Proposed Voir Dire questions.

20 (3) A trial brief.

21 (4) A list of exhibits conforming substantially to the form attached as Appendix A.

22 Upon request of a party, any party shall make the original of any exhibit available for
23 inspection and/or copying.

24 (5) A list of witnesses, including expert witnesses, in the expected order of their
25 presentation. The witness list shall also include:

26 (a) a brief statement as to the content of the witness' testimony;

27 (b) an estimate of the time of the witness' testimony, on both direct and
28 cross examination;

- 1 (c) any expert testimony shall strictly comply with FRCP Rule 26(a).
2 (d) any Daubert objections to the testimony of any expert or witness should
3 be raised with the Court by motion ten (10) days before trial, or
4 objection is WAIVED.

5 No witnesses other than those on said list shall be allowed to testify, except upon express
6 order of this court.

7 (6) A statement designating all excerpts from depositions (specifying the witness'
8 name, with page and line references), answers to interrogatories, and responses to requests
9 for admission to be offered at trial for any purpose other than impeachment or rebuttal.

10 (7) JOINT jury instructions (see section C. infra).

11 (8) A proposed form of verdict.

12 (9) Motions in Limine will be heard at the pretrial conference. Motions in limine are
13 to be filed and served no later than ten (10) days prior to the pretrial conference, oppositions
14 are to be filed and served no later than five (5) days prior to the pretrial conference.

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16 **B. Exhibit Binders**

17 Exhibits that can be reduced to 8.5" by 11" form (i.e. written documents, photographs,
18 etc.) should be placed in three-ring binders with each exhibit tabbed on the side. A copy of
19 the exhibit list should be placed in the front of the binder. Binders should be clearly labeled
20 on the outside as to which party's exhibits and what exhibit numbers they contain. The
21 parties should prepare three (3) sets of binders: one for the Judge, one for the witness to refer
22 to, and one for the clerk to act as the original. The original copy should have an exhibit
23 marker affixed to the first page of each exhibit in the lower right hand corner. These binders
24 are to be delivered directly to Judge Conti's Chambers no later than three (3) days before the
25 date of trial. They are not to be filed in the clerk's office.

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1 **C. Proposed Jury Instructions**

2 No later than fourteen (14) calendar days before the trial date, the parties shall e-file
3 and provide the Court with two courtesy copies of the JOINT proposed jury instructions.
4 The parties are ordered to meet, confer, and prepare said complete set of jury instructions.
5 This complete set of all proposed instructions upon which the parties agree must include all
6 standard instructions regarding the role of jurors, organization of the jury, communication
7 with the court, etc. Failure to submit an agreed upon instruction on a matter of law as to
8 which there is no substantial ground for difference of opinion may be considered a sufficient
9 ground for the imposition of sanctions on counsel.

10 In addition, the parties shall e-mail a complete set of instructions in Word format to
11 Judge Conti's proposed order mail box, scPO@cand.uscourts.gov.

12 Each individual proposed instruction shall be concise and free from argument, and
13 typewritten on separate pages. Each proposed instruction should include the heading
14 centered at the top of the first page of the instruction.

15 JURY INSTRUCTION NO. ____

16 The set shall include two (2) separate copies of the proposed instructions. Each
17 instruction in the first copy should include a title briefly stating the general subject matter of
18 the instruction and should be free from citation to supporting authority or other extraneous
19 references. Each instruction in the second copy should include citations to supporting
20 authority whenever available, but should be identical to instruction in the first copy in all
21 other respects. With each set of instructions, the parties shall include an index to the
22 proposed instructions.

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24 **IT IS SO ORDERED.**

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26 Dated: January 2, 2015

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28 UNITED STATES DISTRICT JUDGE

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INSTRUCTIONS FOR EXHIBIT MARKERS, EXHIBIT LIST, AND TRANSCRIPTS

EXHIBIT MARKERS

Counsel should fill in the appropriate markers leaving the "Date Entered" and "Deputy Clerk" lines blank.

Plaintiff's exhibits should be denoted as: 1, 2, 3, etc. Defendant's exhibits should be denoted as: A, B, C, etc.

EXHIBIT LIST

Counsel are to supply all the requested information with the exception of the two "Date Boxes."

COLOR OF EXHIBIT BINDERS

Plaintiff's exhibit binders must be black and Defendant's exhibit binders must be white.

TRANSCRIPTS

Should a daily transcript and/or realtime reporting be desired, arrangements must be made with the Courtroom Deputy at least fourteen (14) days before the scheduled trial date.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 CASE NO. _____ DATE _____
5 _____ v. _____

6 EXHIBIT LIST

7 () Plaintiff

() Defendant

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United States District Court

For the Northern District of California

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Case No. _____ Case No. _____
PLTF Exhibit No. 1 **DEFT** Exhibit No. A
Date Entered _____ Date Entered _____
Signature _____ Signature _____

Case No. _____ Case No. _____
PLTF Exhibit No. 2 **DEFT** Exhibit No. B
Date Entered _____ Date Entered _____
Signature _____ Signature _____

Case No. _____ Case No. _____
PLTF Exhibit No. 3 **DEFT** Exhibit No. C
Date Entered _____ Date Entered _____
Signature _____ Signature _____

Case No. _____ Case No. _____
PLTF Exhibit No. 4 **DEFT** Exhibit No. D
Date Entered _____ Date Entered _____
Signature _____ Signature _____

Case No. _____ Case No. _____
PLTF Exhibit No. 5 **DEFT** Exhibit No. E
Date Entered _____ Date Entered _____
Signature _____ Signature _____

Case No. _____ Case No. _____
PLTF Exhibit No. 6 **DEFT** Exhibit No. F
Date Entered _____ Date Entered _____
Signature _____ Signature _____
