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5 Attorneys for Plaintiff,
 6 CELLSPIN SOFT INC.

7 IN THE UNITED STATES DISTRICT COURT
 8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 9 OAKLAND DIVISION

10 CELLSPIN SOFT, INC., 11 Plaintiff, 12 v. 13 FITBIT, INC., 14 Defendant.	Case No. 4:17-cv-05928-YGR JOINT STIPULATION AND STATEMENT REGARDING DISCOVERY AND ORDER
15 v. 16 MOOV INC., 17 Defendant.	Case No. 4:17-cv-05929-YGR (RELATED CASE)
18 v. 19 ADIDAS AMERICA, INC., 20 Defendant.	Case No. 4:17-cv-05930-YGR (RELATED CASE)
21 v. 22 NIKE, INC., 23 Defendant.	Case No. 4:17-cv-05931-YGR (RELATED CASE)
24 v. 25 UNDER ARMOUR, INC., 26 Defendant.	Case No. 4:17-cv-05932-YGR (RELATED CASE)
27 v. 28 FOSSIL GROUP, INC. ET AL.,	Case No. 4:17-cv-05933-YGR (RELATED CASE)

1	Defendants.	
2	v.	
3	GARMIN INTERNATIONAL, INC. ET	Case No. 4:17-cv-05934-YGR
4	AL.,	(RELATED CASE)
5	Defendants.	
6	v.	
7	NIKON AMERICAS, INC. ET AL.,	Case No. 4:17-cv-05936-YGR
8	Defendants.	(RELATED CASE)
9	v.	
10	CANON U.S.A., INC.,	Case No. 4:17-cv-05938-YGR
11	Defendant.	(RELATED CASE)
12	v.	
13	GOPRO, INC.,	Case No. 4:17-cv-05939-YGR
14	Defendant.	(RELATED CASE)
15	v.	
16	PANASONIC CORPORATION OF	Case No. 4:17-cv-05941-YGR
17	NORTH AMERICA,	(RELATED CASE)
18	Defendant.	
19	v.	
20	JK IMAGING LTD.,	Case No. 4:17-cv-06881-YGR
21	Defendant.	(RELATED CASE)

22
23 Plaintiff, Cellspin Soft, Inc. (“Cellspin” or “Plaintiff”), and the above-named
24 Defendants, Fitbit, Moov, adidas, Nike, Under Armour, Fossil, Misfit, Garmin, Canon, GoPro,
25 Panasonic, JK Imaging, and Nikon (collectively “Defendants”), in the above-styled related
26 cases, by and through their respective counsel of record, hereby respectfully file this
27 Stipulation and Statement Regarding Discovery pursuant to the Court’s instructions at its
28 February 29, 2018 scheduling conference and pursuant to the Court’s Case Management

1 Orders filed in each respective case on February 2, 1018, hereby stipulate and state as follows:

2 WHEREAS, during the Court’s February 29, 2018 Initial Case Management Conference
3 on February 29, 2018;

4 WHEREAS during the scheduling conference and in this Court’s Order, the Court
5 instructed the parties to submit “either: (a) written stipulation with regards to discovery or (b)
6 a one-page Joint Statement setting forth an explanation for their failure to comply.”; (*See, e.g.,*
7 Doc. 44 in *Fitbit* case, 17-cv-05928-YGR; the “Order”)

8 WHEREAS the parties agree and stipulate that Pleadings in each related case be allowed
9 to be amended, without the need for leave of Court, up to, and including, June 5, 2018;

10 WHEREAS the parties agree and stipulate that the limits on discovery in each related
11 case shall proceed separately in each case pursuant to the presumptive limits in the Federal
12 Rules of Civil Procedure, except that the number of Requests for Admission in each related
13 case shall be limited to fifty (50) per party, not including requests for the purpose of
14 establishing the genuineness of documents or that documents are kept in the ordinary course
15 of business, which would not be limited;¹

16 WHEREAS Cellspin contends there is a dispute between the parties on the issue of
17 written discovery.

18 Pursuant to this Court’s Order, the Parties submit the following one-page joint statement
19 regarding the failure to stipulate as follows:

20 **Plaintiff’s Statement:**

21 At the hearing, various dispute were discussed, including over Defendants’ responses
22 to discovery. This Court ordered either: (a) written stipulation or (b) Joint Statement for failure
23 to comply. While agreement on some issues was reached, as noted above, a dispute remains
24 regarding discovery. Plaintiff understands the Order to require actual responses to pending
25 requests, subject to any legitimate objections, including under PR 2-5 which Defendants’ cited
26 at the hearing. Defendants contend the Order only requires objections, not substantive

27 _____
28 ¹ The Parties had disagreed upon deposition limits for each respective case, but at the Court’s
February 29, 2018 Initial Case Management Conference it ruled that each side in each
respective case may take up to twenty (20) depositions each, in each respective case.

1 responses, must be served. *See, e.g.*, Exhibit 1. Despite multiple meet and confers over this,
2 Defendants, the first time at 3:49 p.m. today, contended this matter should have been addressed
3 under a Standing Order instead. However, this dispute is within the discovery matters covered
4 by the Order, Defendants have stated their intention to not comply, and their non-responses
5 will be served prior to the March 2nd hearing. After losing their motion to stay discovery, they
6 now intend to defy the Order requiring their responses, via intentional misreading, and further
7 attempt to delay the Court addressing this ripe issue – effectively achieving the denied relief.
8 The Court should issue a supplemental Order correcting their willful misreading of its Order.

9 **Defendants’ Statement:**

10 Defendants do not believe that any dispute over Cellspin’s written discovery should be
11 raised as part of this stipulation. First, the issues raised by Cellspin are not ripe for resolution
12 because Defendants’ objections are not due until February 26, 2018. Second, Cellspin has not
13 complied with the procedures set forth in Section 8 the Court’s Standing Order in Civil Cases
14 regarding discovery disputes. Cellspin’s attempt to raise a discovery dispute before receiving
15 Defendants’ responses and objections and before undergoing the meet and confer process is
16 improper.

17 NOW, THEREFORE, Cellspin and Defendants hereby respectfully stipulate and
18 propose, through their respective counsel, that

- 19 • Pleadings in each related case be allowed to be amended, without the need for leave of
20 Court, up to, and including, June 5, 2018; and
21 • the limits on discovery in each related case shall proceed pursuant to the presumptive
22 limits in the Federal Rules of Civil Procedure, except that the number of Requests for
23 Admission in each related case shall be limited to fifty (50) per party, not including
24 requests for the purpose of establishing the genuineness of documents or that documents
25 are kept in the ordinary course of business, which would not be limited; and
26 • the number of depositions per side in each related case shall be limited to twenty (20)
27 depositions.
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2	Dated: February 23, 2018	<i>/s/ John J. Edmonds</i>
3		Counsel for Plaintiff, Cellspin Soft, Inc.
4	Dated: February 23, 2018	<i>/s/ Shane Brun</i>
5		Counsel for Defendant, Fitbit, Inc.
6	Dated: February 23, 2018	<i>/s/ Shane Brun</i>
7		Counsel for Defendant, Moov Inc.
8	Dated: February 23, 2018	<i>/s/ Matias Ferrario</i>
9		Counsel for Defendant, adidas America, Inc.
10	Dated: February 23, 2018	<i>/s/ Amy Walters</i>
11		Counsel for Defendant, Nike, Inc.
12	Dated: February 23, 2018	<i>/s/ George D. Moustakas</i>
13		Counsel for Defendant, Under Armour, Inc.
14	Dated: February 23, 2018	<i>/s/ Dalia B. Kothari</i>
15		Counsel for Defendants, Fossil Group, Inc. and Misfit, Inc.
16	Dated: February 23, 2018	<i>/s/ Rachael Lamkin</i>
17		Counsel for Defendants, Garmin International, Inc. and Garmin USA, Inc.
18	Dated: February 23, 2018	<i>/s/ Jacob A. Schroeder</i>
19		Counsel for Defendants, Nikon Americas, Inc. and Nikon, Inc.
20	Dated: February 23, 2018	<i>/s/ Jeffrey Ung</i>
21		Counsel for Defendant, Canon U.S.A., Inc.
22	Dated: February 23, 2018	<i>/s/ Daniel T. McCloskey</i>
23		Counsel for Defendant, GoPro Inc.
24	Dated: February 23, 2018	<i>/s/ Jason Yu</i>
25		Counsel for Defendant, Panasonic Corporation of North America
26	Dated: February 23, 2018	<i>/s/ Daniel Kiang</i>
27		Counsel for Defendant, JK Imaging
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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9 OAKLAND DIVISION

10 CELLSPIN SOFT, INC.,

11 Plaintiff,

12 v.

13 FITBIT, INC.,

14 Defendant.

Case No. 4:17-cv-05928-YGR

~~[PROPOSED]~~ ORDER RE:

**JOINT STIPULATION AND
STATEMENT REGARDING
DISCOVERY**

15 v.

16 MOOV INC.,

17 Defendant.

Case No. 4:17-cv-05929-YGR
(RELATED CASE)

18 v.

19 ADIDAS AMERICA, INC.,

20 Defendant.

Case No. 4:17-cv-05930-YGR
(RELATED CASE)

21 v.

22 NIKE, INC.,

23 Defendant.

Case No. 4:17-cv-05931-YGR
(RELATED CASE)

24 v.

25 UNDER ARMOUR, INC.,

26 Defendant.

Case No. 4:17-cv-05932-YGR
(RELATED CASE)

27 v.

28 FOSSIL GROUP, INC. ET AL.,

Case No. 4:17-cv-05933-YGR
(RELATED CASE)

1	Defendants.	
2	v.	
3	GARMIN INTERNATIONAL, INC. ET	Case No. 4:17-cv-05934-YGR
4	AL.,	(RELATED CASE)
5	Defendants.	
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7	NIKON AMERICAS, INC. ET AL.,	Case No. 4:17-cv-05936-YGR
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11	Defendant.	(RELATED CASE)
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13	GOPRO, INC.,	Case No. 4:17-cv-05939-YGR
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16	PANASONIC CORPORATION OF	Case No. 4:17-cv-05941-YGR
17	NORTH AMERICA,	(RELATED CASE)
18	Defendant.	
19	v.	
20	JK IMAGING LTD.,	Case No. 4:17-cv-06881-YGR
21	Defendant.	(RELATED CASE)

22 Having reviewed and considered the Stipulation and Proposal of Plaintiff, Cellspin Soft,
23 Inc. (“Cellspin”), and Defendants, Fitbit, Moov, adidas, Nike, Under Armour, Fossil, Misfit,
24 Garmin, Canon, GoPro, Panasonic, JK Imaging, and Nikon, and upon good cause shown,
25 **PURSUANT TO STIPULATION, IT IS HEREBY ORDERED** that:

- 26 • Pleadings in each related case be allowed to be amended, without the need for leave of
27 Court, up to, and including, June 5, 2018;
- 28 • the limits on discovery in each related case shall proceed pursuant to the presumptive

1 limits in the Federal Rules of Civil Procedure, except that

- 2 a. the number of Requests for Admission in each related case shall be limited to fifty
3 (50) per party, not including requests for the purpose of establishing the
4 genuineness of documents or that documents are kept in the ordinary course of
5 business, which would not be limited; and
6 b. the number of depositions per side in each related case shall be limited to twenty
7 (20) depositions.

8 Further, with respect to the Defendants' responses to Plaintiff's outstanding discovery
9 requests, the Court hereby clarifies its February 2, 2018, Case Management and Pretrial Order,
10 as follows: As discussed during the CC the rules provide for objections when responses
11 are premature. The parties need only comply with the rules.

12 **IT IS SO ORDERED.**

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14 THE HONORABLE YVONNE GONZALEZ ROGERS
15 UNITED STATES DISTRICT COURT JUDGE

16 DATED this 5th day of March, 2018.
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