

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FITISTICS, LLC,

Plaintiff,

v.

HUAWEI DEVICE CO., LTD., and
HUAWEI DEVICE USA, INC.,

Defendants.

Civil Action No. 2:23-cv-00008

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Fitistics, LLC (“Fitistics” or “Plaintiff”) files this Complaint against Defendants Huawei Device Co., Ltd. (“Huawei Device”) and Huawei Device USA, Inc. (“Huawei USA”), (collectively “Huawei” or “Defendants”) alleging, based on its own knowledge as to itself and its own actions, and based on information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is a patent infringement action regarding Defendants’ infringement of the following United States Patents (the “Asserted Patents”) issued by the United States Patent and Trademark Office (“USPTO”), copies of are attached hereto as **Exhibit A, Exhibit B, Exhibit C,** and **Exhibit D:**

	U.S. Patent No.	Title
A.	8,915,823 (the “’823 patent”)	System And Method For Processing Information
B.	11,185,738 (the “’738 patent”)	System And Method For Processing Information
C.	11,252,235 (the “’235 patent”)	System And Method For Processing Information
D.	11,252,236 (the “’236 patent”)	System And Method For Processing Information

2. Fitistics seeks injunctive relief and monetary damages.

PARTIES

3. Plaintiff Fitistics, LLC is a limited liability company filed under the laws of the State of Connecticut, with its principal place of business in Connecticut.

4. Defendant Huawei Device is a corporation organized and existing under the laws of China. It has its principal place of business at 8 Shitou Road, North Area, Shenzhen, 518129, China. Huawei Device designs, manufactures, makes, uses, and/or imports into the United States watches with biometric monitoring capabilities. Huawei Device's watches are marketed, used, offered for sale, and/or sold throughout the United States, including within this district.

5. Defendant Huawei USA is a corporation organized under the laws of the State of Texas. Huawei USA is a wholly owned subsidiary of Huawei Device and oversees domestic sales and distribution of Huawei's consumer electronics products, including sales and offers to sell the products accused of infringement in this District.

JURISDICTION AND VENUE

6. Plaintiff repeats and re-alleges the allegations in Paragraphs 1-5 as though fully set forth in their entirety.

7. This is an action for infringement of United States patents arising under 35 U.S.C. §§ 271, 281, and 284–85, among others. This Court has subject matter jurisdiction of the action under 28 U.S.C. §§ 1331 and 1338(a).

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1400(b) and 1391(c).

9. Huawei is subject to this Court's specific and general personal jurisdiction due at least to Huawei's substantial business in this forum, including (i) at least a portion of the infringements alleged herein; or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to

individuals in Texas and in this district.

10. Specifically, Huawei intends to and does business in Texas, directly or through intermediaries and offers its products or services, including those accused herein of infringement, to customers and potential customers located in Texas, including in the Eastern District of Texas.

11. Venue is proper against Huawei Device pursuant to 28 U.S.C. § 1391(c)(3) because venue is proper in any judicial district against a foreign corporation. *See In re: HTC Corp.*, 889 F.3d 1349, 1354 (Fed. Cir. 2018).

12. Venue is proper against Huawei USA in this District pursuant to 28 U.S.C. § 1400(b) because it resides in Texas, has maintained established and regular places of business in this District and has committed acts of patent infringement in the District. *See In re Cray Inc.*, 871 F.3d 1355, 1362-63 (Fed. Cir. 2017); *TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 581 U.S. 258, 262 (2017).

13. Huawei maintained its North American headquarters in Plano, Texas at 5700 Tennyson Pkwy, Suite 600, Plano, Texas 75024 and committed and induced acts of infringement of at least the '823 patent and the '738 patent from that location after the issuance of the '823 patent and the '738 patent.

14. Huawei's infringement of each of the '235 patent and the '236 patent involves a common nucleus of operative facts with Huawei's infringement of the '823 patent and the '738 patent.

15. Huawei USA may be served with process through its registered agent for service in Texas: CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

16. Both Huawei USA and Huawei Device currently employ and contract with individuals who reside and work within the District and commit acts of infringement in the District.

THE TECHNOLOGY

17. Fitistics repeats and re-alleges the allegations in Paragraphs 1-16 as though fully set forth in their entirety.

18. The patents-in-suit, U.S. Patent Nos. 8,915,823 (the “823 patent”), 11,185,738 (the “738 patent”), 11,252,235 (the “235 patent”), and 11,252,236 (the “236 patent”) (collectively the “Asserted Patents”), are generally directed to innovations in using smart devices to assist in processing and displaying recorded biometric data, including, but not limited to, data generated during exercise.

19. Fitistics was founded by Robert Nutini and Sean McKirdy, the co-inventors of the Asserted Patents.

20. Mr. Nutini received a B.S. in Engineering from University of Connecticut in 1999 and a M.B.A from the University of Phoenix in 2007.

21. Mr. McKirdy attended Central Connecticut State University in the Industrial Technology program with a specialization in Electrical Systems.

22. Mr. Nutini and Mr. McKirdy first met in 1998 during their respective internships Pratt & Whitney, one of the world’s leading commercial and military aircraft engine manufacturers.

23. Mr. Nutini and Mr. McKirdy conceived the idea of capturing data from devices such as exercise equipment and biological monitoring devices and began researching the fitness and healthcare industries to see what solutions existed and formed Fitistics to pursue research and development and commercialization of their ideas.

24. Fitistics eventually began developing system specification documents that would be used as a basis for system development of an interface device hardware and supporting website and data upload software that would be used to track data by future customers.

THE ACCUSED PRODUCTS

25. Fitistics repeats and re-alleges the allegations in Paragraphs 1-24 as though fully set forth in their entirety.

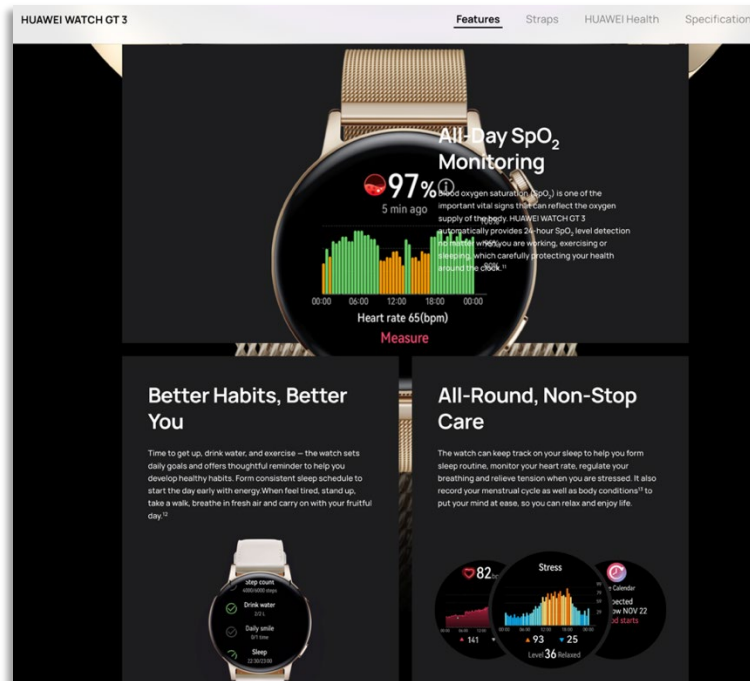
26. Huawei infringed the Asserted Patents by making, using, selling, offering to sell, and importing smart watch devices, smartphones, tablets, and associated hardware, software, and functionalities that practice each and every limitation of the Asserted Patents. Exemplary smart watch devices include, but are not limited to, the HUAWEI WATCH GT 2, the HUAWEI WATCH GT 2 Pro, the HUAWEI WATCH GT 3, the HUAWEI WATCH GT 3 Pro, the HUAWEI WATCH D, the HUAWEI WATCH FIT 2, the HUAWEI WATCH 3, the HUAWEI WATCH GT Runner, the HUAWEI WATCH 3 Pro. Exemplary smartphones and tablets include, but are not limited to, the HUAWEI Mate X series, HUAWEI Mate Xs, HUAWEI Mate X2, HUAWEI Mate Xs 2, HUAWEI Mate SE, HUAWEI Mate 20, HUAWEI Mate 20 Pro, HUAWEI Mate 20 X, HUAWEI Mate 30, HUAWEI Mate 30 Pro, HUAWEI Mate 40, HUAWEI Mate 40 Pro, HUAWEI Mate 40 Pro+, HUAWEI Mate 40E, HUAWEI Mate 50 Pro, HUAWEI P20, HUAWEI P20 Pro, HUAWEI P30, HUAWEI P30 Pro, HUAWEI P40, HUAWEI P40 Pro, HUAWEI P50, HUAWEI P50 Pro; and the HUAWEI MatePad series (including the T8 and T10 Editions), HUAWEI MatePad Pro series, and HUAWEI MatePad SE. These products are further used in association with hardware, software, and functionalities provided by Huawei for use with Huawei and other third-party smartphones and tablets via the use of Huawei applications including, but not limited to, the HUAWEI Health application and other applications that facilitate transfer of information between Huawei smart watch devices and Huawei and third-party smartphones, tablets, computers, and servers including, but not limited to, cloud servers and systems that store, process, and gather

information from Huawei and third-party smartphones, tablets, computers.¹ The Huawei devices and functionalities described in this paragraph will be referred to herein as the Accused Products.

EXAMPLES OF HUAWEI’S MARKETING OF THE ACCUSED PRODUCTS AND FEATURES

27. Fitistics repeats and re-alleges the allegations in Paragraphs 1-26 as though fully set forth in their entirety.

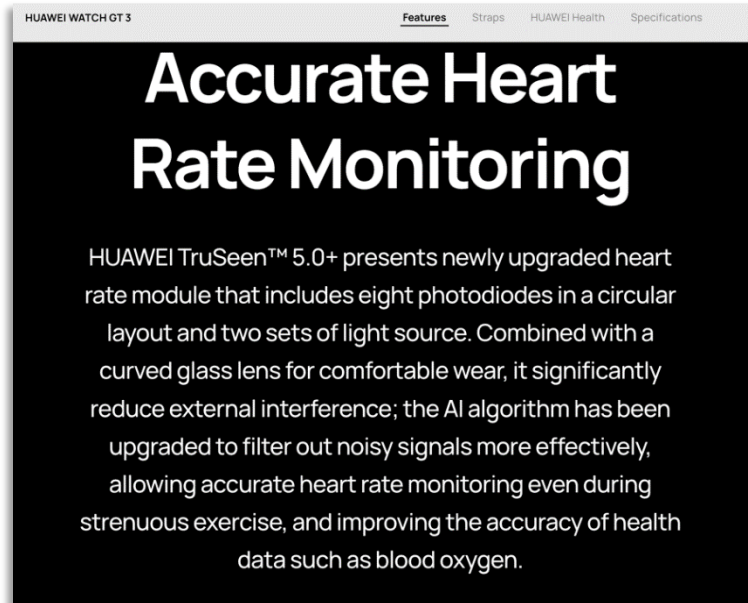
28. The Accused Products have features, including, but not limited to, at least the following: The Huawei Health App, Workout Tracking, Blood Pressure Measurement, Heart Rate Monitoring, ECG Analysis, SpO2 Monitoring, Sleep Monitoring, and Stress Monitoring (the “Features”). The Accused Products also have certain specifications that support these features, including, but not limited to, processor chips, connectivity systems, and biometric tracking sensors.



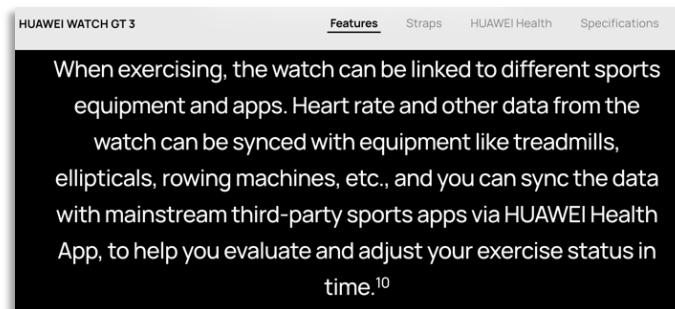
29. The Features drive the popularity and sales of the Accused Products.

¹ Huawei makes the Accused Products available at <https://consumer.huawei.com/en/wearables/>, <https://consumer.huawei.com/en/mobileservices/health/>; and https://www.amazon.com/stores/Huawei/page/34F6034C-1D34-4913-9648-3DBD220C1648?ref_=ast_bln, among other sales and marketing channels.

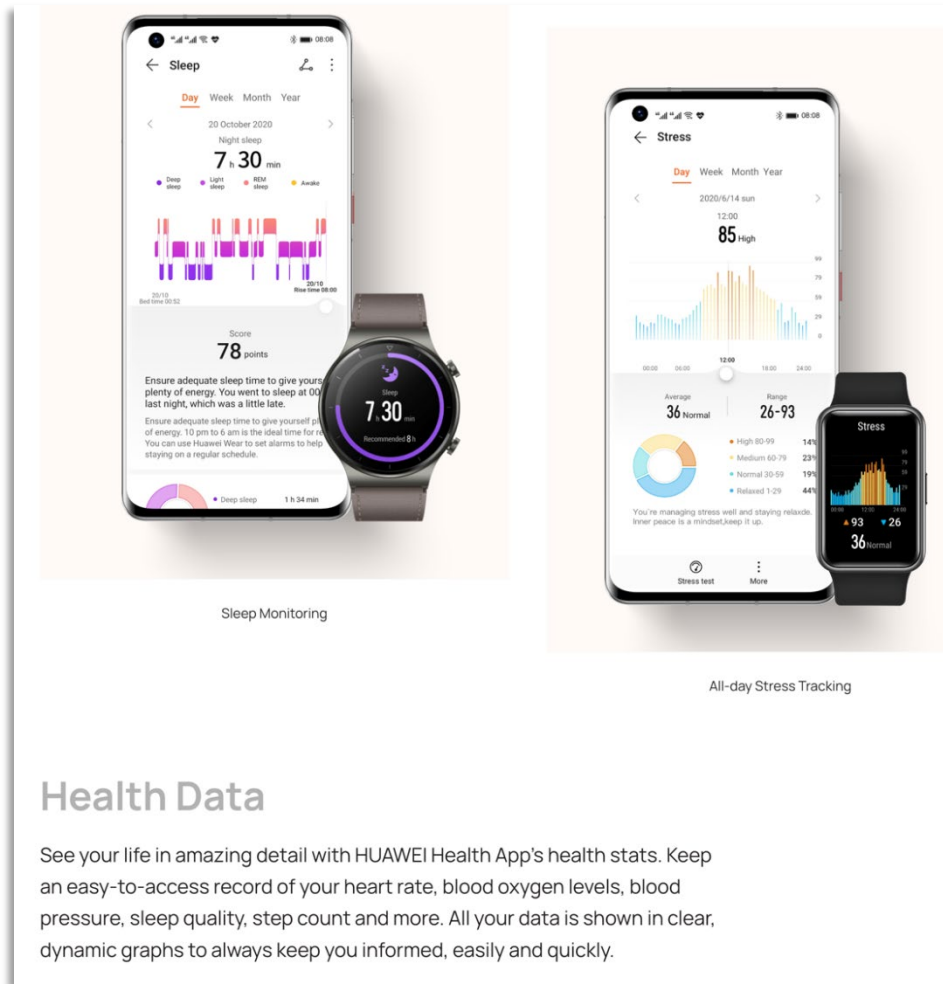
30. For example, Huawei has marketed that the Huawei Watch GT 3 includes a “newly upgraded heart rate module” that “significantly reduce[s] external interference” to provide users accurate heart rate monitoring.²



31. Huawei has marketed its Accused Products using the Huawei Health App’s device management features as a way to conveniently record and manage personal exercise data as described in the following screenshot from Huawei’s website:



² Huawei Device Co., Ltd., *HUAWEI showcases next generation of cutting-edge products for Smart and Healthy Living*, available at <https://consumer.huawei.com/en/press/news/> (last accessed October 27, 2022), <https://consumer.huawei.com/en/press/news/2022/huawei-showcases-next-generation-of-cutting-edge-products-for-smart-and-healthy-living/>.



32. Huawei has marketed its Accused Products using biometric security features (such as facial recognition) on mobile devices, e.g., mobile phones and tablets, that run the Huawei Health software application as a superior security feature for protecting users' content and data. The Accused Instrumentalities cause biometric and health-related data to be transferred between Huawei's watches to Huawei and/or third-party mobile phones and tablets with the Huawei Health App.

33. Huawei's smart watch devices and applications also communicate with and can be used in conjunction with third-party smartphones and tablets.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 8,915,823

34. Fitistics repeats and re-alleges the allegations in Paragraphs 1-33 as though fully set forth in their entirety.

35. Fitistics owns all substantial rights, interest, and title in and to the '823 patent, including the sole and exclusive right to prosecute this action and enforce the '823 patent against infringers, and to collect damages for all relevant times. The United States Patent and Trademark Office duly issued the '823 patent on December 23, 2014. A copy of the '823 patent is attached as **Ex. A**.

36. The '823 patent is titled "System And Method For Processing Information." The '823 patent describes a system and method for using a biometric monitoring device such that the user may process and display recorded exercise workout session data.

37. The claims of the '823 patent are not directed to an abstract idea.

38. Huawei has directly infringed and continues to directly infringe on one or more claims of the '823 patent by making, using, selling, offering for sale, and importing the Accused Products.

39. Huawei has directly infringed (literally or under the doctrine of equivalents) at least Claim 1 of the '823 patent.

40. For example, Huawei performs, including, but not limited to, by using and testing Accused Products, a method for managing communications between a cardio exercise device including a treadmill, a stationary bicycle, a stepper machine, an elliptical machine, a spin bike or a rowing machine, and a portable storage device, the method comprising: establishing a communication link between the exercise device and the portable storage device; transferring data between the portable storage device and the exercise device via the communication link; generating workout data via a processor which is configured to receive sensor data from at least

one of a body sensor configured to sense a body parameter of a user and a cardio exercise device sensor configured to sense an operation of the cardio exercise device; and communicating the workout data to the portable storage device for storage in at least one of the portable storage device and a remote storage medium.

41. Plaintiff has been damaged and continues to be damaged as a result of the infringing conduct by Huawei alleged above. Thus, Huawei is liable to Plaintiff in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

42. Plaintiff has satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '823 patent.

43. Plaintiff has not offered for sale nor sold any product implicated by 35 U.S.C. § 287 with respect to the '823 patent.

44. Huawei has had knowledge of the '823 patent at least as early as 2019, when they were notified of Fitistics' patent portfolio.

45. Huawei has also indirectly infringed and continues to indirectly infringe one or more claims of the '823 patent by inducing others to directly infringe the '823 patent. Huawei has induced end-users and other third- parties to directly infringe (literally or under the doctrine of equivalents) the '823 patent by using the Accused Products. Huawei has taken active steps, directly or through contractual relationships with others, with the specific intent to cause them to use the Accused Products in a manner that infringes one or more claims of the '823 patent, including, for example, Claim 1 of the '823 patent. Such steps by Huawei have included, among other things, advising or directing end-users and other third parties to use the Accused Features in the Accused Products in an infringing manner; advertising and promoting the use of the Accused

Products in an infringing manner; or distributing instructions that guide end-users and other third parties to use the Accused Products in an infringing manner. Huawei has performed and continues to perform these steps, which constitute induced infringement with the knowledge of the '823 patent and with the knowledge that the induced acts constitute infringement. Huawei was aware that the normal and customary use of the Accused Products by others would infringe the '823 patent. Huawei's direct infringement of the '823 patent has been and continues to be willful, intentional, deliberate, or in conscious disregard of Plaintiff's rights under the patent.

46. Furthermore, on information and belief, Huawei has a policy or practice of not reviewing the patents of others, including instructing its employees to not review the patents of others, and thus has been willfully blind of Plaintiff's patent right.

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 11,185,738

47. Fitistics repeats and re-alleges the allegations in Paragraphs 1-46 as though fully set forth in their entirety.

48. Fitistics owns all substantial rights, interest, and title in and to the '738 patent, including the sole and exclusive right to prosecute this action and enforce the '738 patent against infringers, and to collect damages for all relevant times. The United States Patent and Trademark Office duly issued the '738 patent on November 30, 2021. A copy of the '738 patent is attached as **Ex. B**.

49. The '738 patent is titled "System And Method For Processing Information." The '738 patent describes a system and method for using a biometric monitoring device such that the user may process and display recorded exercise workout session data.

50. The claims of the '738 patent are not directed to an abstract idea.

51. Huawei has directly infringed and continues to directly infringe on one or more claims of the '738 patent by making, using, selling, offering for sale, and importing the Accused

Products.

52. Huawei has directly infringed (literally or under the doctrine of equivalents) at least Claim 1 of the '738 patent.

53. For example, the Accused Products include a system for processing and displaying recorded exercise workout session data. The system for processing and displaying recorded exercise workout session data of the Accused Products comprises: (a) a handheld biometrically secured personal content device configured to communicate with a remote website database and at least one of a cardio exercise machine and a body monitoring device worn by a user of handheld biometrically secured personal content device; (b) the remote website database configured to communicate with the handheld biometrically secured personal content device; (c) at least one of the cardio exercise machine and the body monitoring device having software and circuitry to form a first communications link with the handheld biometrically secured personal content device wherein at least one of the cardio exercise machine and the body monitoring device is further configured to generate exercise session data and wherein the handheld biometrically secured personal content device is configured to; obtain the exercise session data that is generated by at least one of the cardio exercise machine and the body monitoring device, wherein the handheld biometrically secured personal content device contains software and circuitry that is further configured to; Store the received exercise session data, wherein the stored exercise session data may be processed by the handheld biometrically secured personal content device software to generate processed exercise session data; Establish a second communications link with the remote website database; Upload at least one of the received exercise session data and the processed exercise session data to the remote website database via the second communications link; Display at least one of the exercise session data and the processed exercise session data on a display screen

associated with the handheld biometrically secured personal content device, wherein the handheld biometrically secured personal content device has a biometric sensor that is used to associate the user of the handheld biometrically secured personal content device with the exercise session data.

54. Plaintiff has been damaged and continues to be damaged as a result of the infringing conduct by Huawei alleged above. Thus, Huawei is liable to Plaintiff in an amount that compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

55. Plaintiff has satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '738 patent.

56. Plaintiff has not offered for sale nor sold any product implicated by 35 U.S.C. § 287 with respect to the '738 patent.

57. Huawei has had knowledge of the '738 patent at least as of the date when they were notified of the filing of this action.

58. Huawei has also indirectly infringed and continues to indirectly infringe one or more claims of the '738 patent by inducing others to directly infringe the '738 patent. Huawei has induced end-users and other third- parties to directly infringe (literally or under the doctrine of equivalents) the '738 patent by using the Accused Products. Huawei has taken active steps, directly or through contractual relationships with others, with the specific intent to cause them to use the Accused Products in a manner that infringes one or more claims of the '738 patent, including, for example, Claim 1 of the '738 patent. Such steps by Huawei have included, among other things, advising or directing end-users and other third parties to use the Accused Features in the Accused Products in an infringing manner; advertising and promoting the use of the Accused Products in an infringing manner; or distributing instructions that guide end-users and other third

parties to use the Accused Products in an infringing manner. Huawei has performed and continues to perform these steps, which constitute induced infringement with the knowledge of the '738 patent and with the knowledge that the induced acts constitute infringement. Huawei was aware that the normal and customary use of the Accused Products by others would infringe the '738 patent. Huawei's direct infringement of the '738 patent has been and continues to be willful, intentional, deliberate, or in conscious disregard of Plaintiff's rights under the patent.

59. Furthermore, on information and belief, Huawei has a policy or practice of not reviewing the patents of others, including instructing its employees to not review the patents of others, and thus has been willfully blind of Plaintiff's patent right.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 11,252,235

60. Fitistics repeats and re-alleges the allegations in Paragraphs 1-59 as though fully set forth in their entirety.

61. Fitistics owns all substantial rights, interest, and title in and to the '235 patent, including the sole and exclusive right to prosecute this action and enforce the '235 patent against infringers, and to collect damages for all relevant times. The United States Patent and Trademark Office duly issued the '235 patent on February 15, 2022. A copy of the '235 patent is attached as **Ex. C**.

62. The '235 patent is titled "System And Method For Processing Information." The '235 patent describes a system and method for using a biometric monitoring device such that the user may detect, record, and process personal biometric data.

63. The claims of the '235 patent are not directed to an abstract idea.

64. Huawei has directly infringed and continues to directly infringe on one or more claims of the '235 patent by making, using, selling, offering for sale, and importing the Accused

Products.

65. Huawei has directly infringed (literally or under the doctrine of equivalents) at least Claim 1 of the '235 patent.

66. For example, the Accused Products include a biological monitoring device. The biological monitoring device of the Accused Products comprises: (a) at least one sensor, included within the biological monitoring device, configured to obtain heart rate data associated with a person wearing the biological monitoring device; (b) at least one processor in signal communication with the at least one sensor; (c) communication circuitry configured for bi-directional wireless communication with a external bio-metrically secure remote processing mobile device; d) memory, included within the biological monitoring device, associated with one or more of the at least one processor and configured to store software instructions, which, when executed by the one or more of the at least one processor, cause the one or more of the at least one processor to perform operations comprising; (i) establish, via the biological monitoring device processor, a bidirectional wireless communication link with the external biometrically secure remote processing mobile device; (ii) obtain, via the biological monitoring device processor from the external bio-metrically secure remote processing mobile device, biological monitoring device configuration information; (iii) obtain data, via the biological monitoring device processor, from the at least one sensor included within the biological monitoring device on at least one of an active or passive basis; (iv) generate, via the at least one biological monitoring device processor, heart rate data responsive to the obtained sensor data; (v) process, via the biological monitoring device processor, the heart rate data, wherein the processing of the heart rate data includes analyzing the heart rate data to detect at least one of an irregular heart rate, an abnormal heart rate, and an irregular heart rhythm; (vi) generate, via the at least one biological monitoring device processor,

resultant data based on the processing of at least one of the heartrate data, the irregular heart rate, the abnormal heart rate, and the irregular heart rhythm wherein the generated resultant data is at least one of a notification associated with a health condition of the person wearing the biological monitoring device and heart rate profile data of the person wearing the biological monitoring device; (vii) display, via the biological monitoring device display, at least one of the generated resultant data and the processed heart rate data; (viii) store, via the biological monitoring device memory, at least one of the heart rate data, the processed heart rate data, and the generated resultant; (ix) communicate, via the biological monitoring device wireless communication circuitry, at least one of the heart rate data, the processed heart rate data, and the generated resultant data to the external biometrically secure remote processing mobile device, wherein the biological monitoring device configuration information received from the external biometrically secure remote processing mobile device is used to control at least one of the functionality and display of the biological monitoring device.

67. Plaintiff has been damaged and continues to be damaged as a result of the infringing conduct by Huawei alleged above. Thus, Huawei is liable to Plaintiff in an amount that adequately compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

68. Plaintiff has satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '235 patent.

69. Plaintiff has not offered for sale nor sold any product implicated by 35 U.S.C. § 287 with respect to the '235 patent.

70. Huawei has had knowledge of the '235 patent at least as of the date when they were notified of the filing of this action.

71. Huawei has also indirectly infringed and continues to indirectly infringe one or more claims of the '235 patent by inducing others to directly infringe the '235 patent. Huawei has induced end-users and other third parties to directly infringe (literally or under the doctrine of equivalents) the '235 patent by using the Accused Products. Huawei has taken active steps, directly or through contractual relationships with others, with the specific intent to cause them to use the Accused Products in a manner that infringes one or more claims of the '235 patent, including, for example, Claim 1 of the '235 patent. Such steps by Huawei have included, among other things, advising or directing end-users and other third parties to use the Accused Products in an infringing manner; advertising and promoting the use of the Accused Products in an infringing manner; or distributing instructions that guide end-users and other third parties to use the Accused Products in an infringing manner. Huawei has performed and continues to perform these steps, which constitute induced infringement with the knowledge of the '235 patent and with the knowledge that the induced acts constitute infringement. Huawei was aware that the normal and customary use of the Accused Products by others would infringe the '235 patent. Huawei's direct and indirect infringement of the '235 patent has been and continues to be willful, intentional, deliberate, or in conscious disregard of Plaintiff's rights under the patent.

72. Furthermore, on information and belief, Huawei has a policy or practice of not reviewing the patents of others, including instructing its employees to not review the patents of others, and thus has been willfully blind of Plaintiff's patent right.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 11,252,236

73. Fitistics repeats and re-alleges the allegations in Paragraphs 1-72 as though fully set forth in their entirety.

74. Fitistics owns all substantial rights, interest, and title in and to the '236 patent, including the sole and exclusive right to prosecute this action and enforce the '236 patent against

infringers, and to collect damages for all relevant times. The United States Patent and Trademark Office duly issued the '236 patent on February 15, 2022. A copy of the '236 patent is attached as

Ex. D.

75. The '236 patent is titled "System And Method For Processing Information." The '236 patent describes a system and method that allows a user to process and manage or control personal biometric data.

76. The claims of the '236 patent are not directed to an abstract idea.

77. Huawei has directly infringed and continues to directly infringe on one or more claims of the '236 patent by making, using, selling, offering for sale, and importing the Accused Products.

78. Huawei has directly infringed (literally or under the doctrine of equivalents) at least Claim 1 of the '236 patent.

79. For example, the Accused Products include a biometrically secure handheld mobile device configured to communicate with an external biological monitoring device and a remote processing device. The biometrically secure handheld mobile device configured to communicate with an external biological monitoring device and a remote processing device of the Accused Products comprises: (i) one or more processors included within the bio-metrically secure handheld mobile device; (ii) a bio-metric security sensor included within the bio-metrically secure handheld mobile device configured to detect a physical characteristic of a person using the bio-metrically secure handheld mobile device; (iii) communication circuitry configured for bi-directional wireless communications with the remote processing device and the external biological monitoring device; (iv) a display included within the bio-metrically secure handheld mobile device and in signal communication with at least one of the one or more processor included within the bio-

metrically secure handheld mobile device; (v) memory, included within the bio-metrically secure handheld mobile device, associated with the one or more processors and configured to store software instructions, which, when executed by the one or more processors, cause the one or more processors to perform operations comprising: (a) obtain, via the biometrically secure handheld mobile device processor from the biometric security sensor, a biometric input associated with the person using the bio-metrically secure handheld mobile device and store the bio-metric input in memory associated with the processor located within the biometrically secure handheld mobile device wherein the bio-metrically secure handheld mobile device software is configured to use the bio-metric input to protect user biological data that is received by the biometrically secure handheld mobile device from the external biological monitoring device; (b) establish, via a first bi-directional wireless communications link when coming into proximity with the external biological monitoring device; (c) communicate, via the bio-metrically secure handheld mobile device processor using the first bi-directional wireless communications link, external biological monitoring device configuration information used to control the operation of the external biological monitoring device; (d) obtain, via the bio-metrically secure handheld mobile device processor, at least one of the user biological data and biological monitoring device information from a memory location associated with the external biological monitoring device; (e) process, via the bio-metrically secure handheld mobile device processor, the user biological data wherein the processing of the user biological data includes generating resultant data, wherein the generated resultant data includes at least one of encrypted user biological data, graphical data responsive to the generated resultant data, and nongraphical data responsive to the generated resultant data; (f) store, via the bio-metrically secure handheld mobile device memory, at least one of configuration information related to controlling the operation of the external biological monitoring device the

processed user biological data, and the generated resultant data in memory associated with at least one of the processors located within the bio-metrically secure handheld mobile device; (g) establish, via the biometrically secure handheld mobile device processor, a second bi-directional wireless communications link, with the remote processing device, wherein the second bi-directional wireless communication link is used by the biometrically secure handheld mobile device software to upload at least one of the user biological data, the processed user biological data, and the generated resultant data to the remote processing device; (h) display, via the biometrically secure handheld device display, at least one of the user biological data, the processed user biological data, and the generated resultant data.

80. Plaintiff has been damaged and continues to be damaged as a result of the infringing conduct by Huawei alleged above. Thus, Huawei is liable to Plaintiff in an amount that adequately compensates it for such infringements, which by law cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

81. Plaintiff has satisfied all statutory obligations required to collect pre-filing damages for the full period allowed by law for infringement of the '236 patent.

82. Plaintiff has not offered for sale nor sold any product implicated by 35 U.S.C. § 287 with respect to the '236 patent.

83. Huawei has had knowledge of the '236 patent at least as of the date when they were notified of the filing of this action.

84. Huawei has also indirectly infringed and continues to indirectly infringe one or more claims of the '236 patent by inducing others to directly infringe the '236 patent. Huawei has induced end-users and other third- parties to directly infringe (literally or under the doctrine of equivalents) the '236 patent by using the Accused Products. Huawei took active steps, directly or

through contractual relationships with others, with the specific intent to cause them to use the Accused Products in a manner that infringes one or more claims of the '236 patent, including, for example, Claim 1 of the '236 patent. Such steps by Huawei have included, among other things, advising or directing end-users and other third- parties to use the Accused Products in an infringing manner; advertising and promoting the use of the Accused Products in an infringing manner; or distributing instructions that guide end-users and other third parties to use the Accused Products in an infringing manner. Huawei has performed and continues to perform these steps, which constitute induced infringement with the knowledge of the '236 patent and with the knowledge that the induced acts constitute infringement. Huawei was aware that the normal and customary use of the Accused Products by others would infringe the '236 patent. Huawei's direct and indirect infringement of the '236 patent was willful, intentional, deliberate, or in conscious disregard of Plaintiff's rights under the patent.

85. Furthermore, on information and belief, Huawei has a policy or practice of not reviewing the patents of others, including instructing its employees to not review the patents of others, and thus has been willfully blind of Plaintiff's patent right.

JURY DEMAND

Fitistics hereby requests a trial by jury on all issues so triable by right.

PRAYER FOR RELIEF

Fitistics requests that the Court find in its favor and against Huawei, and that the Court grant Fitistics the following relief:

86. Judgment that one or more claims of the Asserted Patents have been infringed, either literally or under the doctrine of equivalents, by Huawei or all others acting in concert therewith;

87. Judgment that Huawei accounts for and pays to Fitistics all damages to and costs

incurred by Fitistics because of Huawei's infringing activities and other conduct complained of herein;

88. Judgment that Huawei's infringements be found willful, and that the Court award treble damages for the period of such willful infringement pursuant to 35 U.S.C. § 284;

89. Pre-judgment and post-judgment interest on the damages caused by Huawei's infringing activities and other conduct complained of herein;

90. That this Court declare this an exceptional case and award Fitistics its reasonable attorneys' fees and costs in accordance with 35 U.S.C. § 285; and

91. All other and further relief as the Court may deem just and proper under the circumstances.

Dated: January 9, 2023

Respectfully submitted,

By: /s/ C. Matthew Rozier

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List Of Exhibits

- A. U.S. Patent No. 8,915,823
- B. U.S. Patent No. 11,185,738
- C. U.S. Patent No. 11,252,235
- D. U.S. Patent No. 11,252,236