

FITBIT INC

FORM S-1MEF

(Registration of Additional Securities (up to 20%))

Filed 06/17/15

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Telephone	415-513-1000
CIK	0001447599
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

**FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

Fitbit, Inc.

(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

3600
(Primary Standard Industrial
Classification Code Number)

20-8920744
(I.R.S. Employer
Identification No.)

Fitbit, Inc.
405 Howard Street
San Francisco, California 94105
(415) 513-1000

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

James Park
President, Chief Executive Officer, and Chairman
Fitbit, Inc.
405 Howard Street
San Francisco, California 94105
(415) 513-1000

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Please send copies of all communications to:

Cynthia C. Hess, Esq.
Jeffrey R. Vetter, Esq.
James D. Evans, Esq.
Fenwick & West LLP
801 California Street
Mountain View, California 94041
(650) 988-8500

Andy Missan, Esq.
Vice President and General Counsel
Fitbit, Inc.
405 Howard Street
San Francisco, California 94105
(415) 513-1000

Rezwan D. Pavri, Esq.
Richard A. Kline, Esq.
Goodwin Procter LLP
135 Commonwealth Drive
Menlo Park, California 94025
(650) 752-3100

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. 333-203941

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Securities Exchange Act. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered ⁽¹⁾	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee ⁽²⁾
Class A common stock, \$0.0001 par value per share	2,386,250	\$20.00	\$47,725,000	\$5,546

(1) Represents only the additional number of shares being registered, including 311,250 additional shares that the underwriters have the option to purchase to cover over-allotments, if any. Does not include the securities that the Registrant previously registered on the Registration Statement on Form S-1, as amended (File No. 333-203941).

(2) The registration fee is calculated in accordance with Rule 457(a) under the Securities Act of 1933, as amended, or the Securities Act, based on the proposed maximum aggregate offering price. The Registrant previously registered securities with an aggregate offering price not to exceed \$753,825,000 on a Registration Statement on Form S-1, as amended (File No. 333-203941), which was declared effective by the Securities and Exchange Commission on June 17, 2015. In accordance with Rule 462(b) under the Securities Act, an additional amount of securities having a proposed maximum aggregate offering price of \$47,725,000 is hereby registered, which includes the additional shares that the underwriters have the option to purchase to cover over-allotments, if any.

This Registration Statement shall become effective upon filing in accordance with Rule 462(b) under the Securities Act.

EXPLANATORY NOTE AND INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

Pursuant to Rule 462(b) under the Securities Act of 1933, as amended (“*Securities Act*”), Fitbit, Inc. (“*Registrant*”) is filing this Registration Statement on Form S-1 (this “*Registration Statement*”) with the Securities and Exchange Commission (“*Commission*”). This Registration Statement relates to the public offering of securities contemplated by the Registration Statement on Form S-1, as amended (File No. 333-203941) (the “*Prior Registration Statement*”), which the Registrant originally filed with the Commission on May 7, 2015, and which the Commission declared effective on June 17, 2015.

The Registrant is filing this Registration Statement for the sole purpose of increasing the aggregate number of shares of Class A common stock offered by certain selling stockholders by 2,386,250 shares, 311,250 of which are subject to purchase upon the exercise of the underwriters’ option to purchase additional shares of the Registrant’s Class A common stock to cover over-allotments, if any. The additional shares that are being registered for sale are in an amount and at a price that together represent no more than 20% of the maximum aggregate offering price set forth in the Calculation of Registration Fee table contained in the Prior Registration Statement. The information set forth in the Prior Registration Statement and all exhibits to the Prior Registration Statement are incorporated by reference into this Registration Statement.

The required opinions and consents are listed on the Exhibit Index attached hereto and filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of San Francisco, State of California, on this 17th day of June 2015.

FITBIT, INC.

By: /s/ James Park

James Park

President, Chief Executive Officer, and Chairman

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
<u>/s/ James Park</u> James Park	President, Chief Executive Officer, and Chairman <i>(Principal Executive Officer)</i>	June 17, 2015
<u>/s/ William Zerella</u> William Zerella	Chief Financial Officer <i>(Principal Financial and Accounting Officer)</i>	June 17, 2015
* <u>Eric N. Friedman</u>	Chief Technology Officer and Director	June 17, 2015
* <u>Jonathan D. Callaghan</u>	Director	June 17, 2015
* <u>Steven Murray</u>	Director	June 17, 2015
* <u>Christopher Paisley</u>	Director	June 17, 2015

* Pursuant to Power of Attorney

*By: /s/ James Park
James Park

EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Description</u>
5.1	Opinion of Fenwick & West LLP.
23.1	Consent of Fenwick & West LLP (included in Exhibit 5.1).
23.2	Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm.
24.1	Power of Attorney (incorporated by reference to Exhibit 24.1 to the Registration Statement on Form S-1 (Registration No. 333-203941)).



SILICON VALLEY 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041
TEL: 650.988.8500 FAX: 650.938.5200 WWW.FENWICK.COM

June 17, 2015

Fitbit, Inc.
405 Howard Street
San Francisco, CA 94105

Ladies and Gentlemen:

At your request, we have examined the Registration Statement on Form S-1 (the "**Registration Statement**") filed by Fitbit, a Delaware corporation (the "**Company**"), with the Securities and Exchange Commission (the "**Commission**") on June 17, 2015 pursuant to Rule 462(b) of the Securities Act of 1933, as amended (the "**Securities Act**"), in connection with the registration of 2,386,250 shares (the "**Stock**") of the Company's Class A common stock (the "**Class A common stock**") to be sold by certain selling stockholders (the "**Selling Stockholders**") of which (i) 1,245,486 shares of such Stock are presently issued and outstanding (the "**Selling Stockholder Shares**") and (ii) up to 1,140,764 shares of such Stock are issuable upon exercise of warrants to be exercised by certain of the Selling Stockholders (the "**Selling Stockholder Warrant Shares**").

In rendering this opinion, we have examined such matters of fact as we have deemed necessary in order to render the opinion set forth herein, which included examination of the following:

- (1) The Company's Restated Certificate of Incorporation, filed with and certified by the Delaware Secretary of State on May 27, 2015 (the "**Restated Certificate**"), and the Restated Certificate of Incorporation that the Company intends to file and that will be effective immediately prior to the consummation of the sale of the Stock (the "**Post-Effective Restated Certificate**").
- (2) The Company's Second Amended and Restated Bylaws, as amended and certified to us as of the date hereof by an officer of the Company as being complete and in full force and effect as of the date hereof (the "**Bylaws**") and the Restated Bylaws that the Company has adopted in connection with, and that will be effective immediately prior, to the consummation of the sale of the Stock (the "**Post-Effective Bylaws**").
- (3) The Registration Statement, together with the Exhibits filed as a part thereof or incorporated therein by reference.
- (4) The prospectus prepared in connection with the Registration Statement (the "**Prospectus**").
- (5) Minutes of meetings and actions by written consent of the Company's Board of Directors (the "**Board**") and stockholders (the "**Stockholders**") at which, or pursuant to which, the Restated Certificate, the Post-Effective Restated Certificate, the Bylaws and the Post-Effective Bylaws were approved.

- (6) The minutes of meetings and actions by written consent of the Board and Stockholders pursuant to which the issuance of the Selling Stockholder Shares (and the approval of the warrants under which the Selling Stockholder Warrant Shares are issuable) were approved, and the sale and issuance of the Stock and related matters were adopted and approved.
- (7) The stock records of the Company that the Company has provided to us (consisting of a list of stockholders and a list of option, restricted stock unit, and warrant holders respecting the Company's capital and of any rights to purchase capital stock that was prepared by the Company verifying the number of such issued and outstanding securities).
- (8) A Certificate of Good Standing issued by the Secretary of State of the State of Delaware dated June 17, 2015, stating that the Company is duly incorporated and was in good standing under the laws of the State of Delaware as of such date (the "***Certificate of Good Standing***").
- (9) The agreements under which the Selling Stockholders acquired or will acquire the shares of Class A common stock to be sold by them as described in the Registration Statement.
- (10) The custody agreements, payment instructions, powers of attorney and contingent exercise notices signed by the Selling Stockholders in connection with the sale of Stock described in the Registration Statement.
- (11) An opinion certificate addressed to us and dated of even date herewith executed by the Company containing certain factual representations (the "***Opinion Certificate***").

In our examination of documents for purposes of this opinion, we have assumed, and express no opinion as to, the authenticity and completeness of all documents submitted to us as originals, the conformity to originals and completeness of all documents submitted to us as copies, the legal capacity of all persons or entities executing the same, the lack of any undisclosed termination, modification, waiver or amendment to any document reviewed by us and the due authorization, execution and delivery of all such documents by the Selling Stockholders where due authorization, execution and delivery are prerequisites to the effectiveness thereof.

The Company's capital stock is uncertificated. We assume that the issued Stock will not be reissued by the Company in uncertificated form until any previously issued stock certificate representing such issued Stock have been surrendered to the Company in accordance with Section 158 of the Delaware General Corporation Law and that the Company will properly register the transfer of the Stock to the purchasers of such Stock on the Company's record of uncertificated securities.

We render this opinion only with respect to, and express no opinion herein concerning the application or effect of the laws of any jurisdiction other than, the existing laws of the United States of America and the State of California and of the existing Delaware General Corporation Law and reported judicial decisions relating thereto.

With respect to our opinion expressed in paragraph (1) below as to the valid existence and good standing of the Company under the laws of the State of Delaware, we have relied solely upon the Certificate of Good Standing and representations made to us by the Company in the Opinion Certificate.

In connection with our opinion expressed in paragraphs (2) and (3) below, we have assumed that, at or prior to the time of the delivery of any shares of Stock, the Registration Statement will have been declared effective under the Securities Act, that the registration will apply to such shares of Stock and will not have been modified or rescinded and that there will not have occurred any change in law affecting the validity of the issuance of such shares of Stock.

This opinion is based upon the customary practice of lawyers who regularly give, and lawyers who regularly advise opinion recipients regarding, opinions of the kind set forth in this opinion letter, including customary practice as described in bar association reports.

Based upon the foregoing, we are of the following opinion:

- (1) the Company is a corporation validly existing, in good standing, under the laws of the State of Delaware;
- (2) the up to 1,245,486 outstanding Selling Stockholder Shares to be sold by the Selling Stockholders are validly issued, fully paid and nonassessable; and
- (3) the up to 1,140,764 Selling Stockholder Warrant Shares to be sold by the Selling Stockholders, when issued in accordance with the terms of the warrants under which such Selling Stockholder Warrant Shares are issuable and the resolutions of the Board granting such warrants, and sold and delivered in the manner and for the consideration stated in the Registration Statement and the Prospectus, will be, validly issued, fully paid and nonassessable.

We consent to the use of this opinion as an exhibit to the Registration Statement and further consent to all references to us, if any, in the Registration Statement, the Prospectus constituting a part thereof and any amendments thereto.

This opinion is intended solely for use in connection with issuance and sale of shares of Stock subject to the Registration Statement and is not to be relied upon for any other purpose. This opinion is rendered as of the date first written above and is based solely on our understanding of facts in existence as of such date after the aforementioned examination. In rendering the opinions above, we are opining only as to the specific legal issues expressly set forth therein, and no opinion shall be inferred as to any other matter or matters. We assume no obligation to advise you of any fact, circumstance, event or change in the law or the facts that may hereafter be brought to our attention whether or not such occurrence would affect or modify any of the opinions expressed herein.

Very truly yours,

/ s/ Fenwick & West LLP

FENWICK & WEST LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Registration Statement on Form S-1 of our report dated March 2, 2015, except for the effects of the 2015 stock split described in “Stock Splits” of Note 2, as to which the date is May 27, 2015, relating to the financial statements of Fitbit, Inc., which appears in Amendment No. 4 to the Registration Statement on Form S-1 (No. 333-203941) filed on June 16, 2015. We also consent to the reference to us under the heading “Experts” in Amendment No. 4 to the Registration Statement on Form S-1 incorporated by reference in this Registration Statement.

/s/ PricewaterhouseCoopers LLP

San Francisco, California
June 17, 2015