

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN WEARABLE MONITORING
DEVICES, SYSTEMS, AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1190

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 10, 2019, under section 337 of the Tariff Act of 1930, as amended, on behalf of Philips North America, LLC of Andover, Massachusetts and Koninklijke Philips N.V. of Eindhoven, Netherlands. Supplements to the complaint were filed on December 13 and 30, 2019. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wearable monitoring devices, systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 7,845,228 (“the ’228 patent”); U.S. Patent No. 9,820,698 (“the ’698 patent”); U.S. Patent No. 9,717,464 (“the ’464 patent”); and U.S. Patent No. 9,961,186 (“the ’186 patent”). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone (202) 205-2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2019).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on January 9, 2020, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-3 of the '228 patent; claims 1 and 6 of the '698 patent; claims 1 and 6 of the '464 patent; and claims 1, 3-4, and 8 of the '186 patent; and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “wearable monitoring devices, such as activity trackers and fitness trackers, including health and activity monitoring devices, that may be worn on the wrist like a watch or bracelet or attached to clothing”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Philips North America, LLC
3000 Minuteman Road
Andover, Massachusetts 01810

Koninklijke Philips N.V.
High Tech Campus 34
5656 AE Eindhoven, Netherlands

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Fitbit, Inc.
199 Fremont Street

14th Floor
San Francisco, CA 94105

Garmin International, Inc.
1200 E. 151st Street
Olathe, KS 66062

Garmin USA, Inc.
1200 E. 151st Street
Olathe, KS 66062

Garmin Ltd. d/b/a Garmin Switzerland GmbH
Muhlenalstrasse 2
Schaffhausen, 8200 Switzerland

Ingram Micro Inc.
3351 Michelson Drive
Suite 100
Irvine, CA 92612

Maintek Computer (Suzhou) Co., Ltd.
No. 233 Jinfeng Road
Suzhou New District
Jiangsu Province, 215011 China

Inventec Appliances (Pudong)
No. 789 Pu Xing Road
Jiangsu Province
Shanghai 201114 China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: January 10, 2020