

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

**CERTAIN MARINE SONAR IMAGING
DEVICES, INCLUDING DOWNSCAN
AND SIDESCAN DEVICES, PRODUCTS
CONTAINING THE SAME, AND
COMPONENTS THEREOF**

**Investigation No. 337-TA-921
(Enforcement Proceeding)**

NOTICE OF COMMISSION DETERMINATION TO EXTEND THE TARGET DATE

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend the target date for completion of the above-captioned enforcement proceeding until December 14, 2017.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202-205-3438. Copies of non-confidential documents filed in connection with this investigation are or will be 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 SW, Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server <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>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on July 14, 2014, based on a complaint filed by Navico, Inc. of Tulsa, Oklahoma, and Navico Holding AS, of Egersund, Norway (collectively, "Navico"). 79 *Fed. Reg.* 40778 (July 14, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,305,840 ("the '840 patent"), 8,300,499, and 8,605,550 ("the '550 patent"). *Id.* The named respondents included Garmin International, Inc. and Garmin USA, Inc., each of Olathe, Kansas, (collectively, "Garmin") and Garmin (Asia) Corporation of New Taipei City, Taiwan. *Id.* The Office of Unfair Import Investigations was also named as a party. *Id.*

On December 1, 2015, the Commission found a violation of section 337 based on infringement of certain claims of the '840 and '550 patents. 80 *Fed. Reg.* 76040, 76040-41 (Dec. 7, 2015). The Commission issued a limited exclusion order prohibiting Garmin and Garmin (Asia) Corporation from importing certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof that infringe certain claims of the '840 and '550 patent. *Id.* The Commission also issued cease and desist orders against Garmin and Garmin (Asia) Corporation, prohibiting the sale and distribution within the United States of articles that infringe certain claims of the '840 and '550 patents. *Id.* at 76041.

On October 17, 2016, the Commission instituted this enforcement proceeding based on a complaint filed by Navico, alleging that Garmin violated the cease and desist orders issued in the original investigation. 81 *Fed. Reg.* 71531, 71531-32 (Oct. 17, 2016). On May 25, 2017, the presiding administrative law judge (“ALJ”) issued an enforcement initial determination (“EID”) finding that Garmin violated the cease and desist orders. The ALJ also recommended imposition of a civil penalty of approximately \$37 million if a violation of the cease and desist orders is found.

On June 13, 2017, the U.S. Court of Appeals for the Federal Circuit issued a decision in *Garmin International, Inc. v. International Trade Commission* (No. 16-1572) (“*Garmin I*”), finding invalid all claims covered by the orders issued in the original investigation and reversing the Commission’s final determination of violation. The Commission previously determined to extend the time for determining whether to review the EID until three weeks after issuance of the Federal Circuit’s mandate in *Garmin I*. On July 28, 2017, Navico filed a combined petition for rehearing and rehearing en banc. On August 30, 2017, the Federal Circuit invited the Commission and Garmin to file a response to Navico’s petition, and the Commission and Garmin both moved for an extension to file their responses until October 6, 2017. As a result, the Federal Circuit has not issued a mandate in *Garmin I*.

The Commission has determined to extend the target date for completion of the enforcement proceeding until December 14, 2017.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 C.F.R. part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Lisa R. Barton", written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: September 18, 2017