

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

**CERTAIN ACTIVITY TRACKING  
DEVICES, SYSTEMS, AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-963**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING COMPLAINANTS' UNOPPOSED MOTION TO  
PARTIALLY TERMINATE THE INVESTIGATION AS TO CERTAIN CLAIMS  
BASED UPON WITHDRAWAL OF ALLEGATIONS PERTAINING TO THOSE  
CLAIMS FROM THE COMPLAINT**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 53) of the presiding administrative law judge ("ALJ") granting an unopposed motion to partially terminate the investigation as to claim 7 of U.S. Patent No. 8,961,413 ("the '413 patent") and claim 19 of U.S. Patent No. 8,073,707 ("the '707 patent"), based upon withdrawal of allegations pertaining to those claims from the complaint.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://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 Inv. No. 337-TA-963 on August 21, 2015, based on a complaint filed by AliphCom d/b/a Jawbone of San Francisco, California and BodyMedia, Inc. of Pittsburgh, Pennsylvania (collectively, "Jawbone"). 80 *Fed. Reg.* 50870-71 (Aug. 21, 2015). The complaint alleges 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 activity tracking devices, systems, and components thereof by reason of infringement of certain claims of

U.S. Patent No. 8,529,811 (subsequently terminated from the investigation); U.S. Patent No. 8,398,546 (subsequently terminated from the investigation); U.S. Patent No. 8,793,522; U.S. Patent No. 8,446,275 (subsequently terminated from the investigation); the '413 patent; and the '707 patent. The complaint further alleges misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. The notice of investigation named the following respondents: Fitbit, Inc. of San Francisco, California; Flextronics International Ltd. of San Jose, California; and Flextronics Sales & Marketing (A-P) Ltd. of Port Louis, Mauritius (collectively, "Respondents"). The Office of Unfair Import Investigations (OUII) is a party to the investigation.

On April 25, 2016, Jawbone moved to terminate the investigation as to claim 7 of the '413 patent and claim 19 of the '707 patent. Jawbone indicated that Respondents and OUII do not oppose the motion.

On April 26, 2016, the ALJ issued the subject ID, granting the unopposed motion. The ALJ found that the motion complied with the requirements of Commission Rule 210.21(a)(1) (19 C.F.R. § 210.21(a)(1)) and further found that no extraordinary circumstances prohibited granting the motion. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID.

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.



Lisa R. Barton  
Secretary to the Commission

Issued: May 17, 2016