

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-1190

**NOTICE OF COMMISSION DETERMINATION TO EXTEND THE DATE FOR
DETERMINING WHETHER TO REVIEW A FINAL INITIAL DETERMINATION
FINDING NO VIOLATION OF SECTION 337**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend to April 12, 2021, the date for determining whether to review a final initial determination (“ID”) of the presiding administrative law judge (“ALJ”) finding no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 15, 2020, based on a complaint filed on behalf of Philips North America, LLC of Andover, Massachusetts and Koninklijke Philips N.V. of Eindhoven, Netherlands (collectively, “Complainants”). 85 FR 2440-41 (Jan. 15, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, 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 Nos. 7,845,228 (“the ’228 patent”); 9,820,698 (“the ’698 patent”); 9,717,464 (“the ’464 patent”); and 9,961,186 (“the ’186 patent”). The Commission’s notice of investigation named the following Respondents: Fitbit, Inc.

(“Fitbit”) of San Francisco, California; Garmin International, Inc. and Garmin USA, Inc., both of Olathe, Kansas (“the domestic Garmin Respondents”); Garmin Ltd. d/b/a Garmin Switzerland GmbH of Schaffhausen, Switzerland; Ingram Micro Inc. of Irvine, California; Maintek Computer (Suzhou) Co., Ltd. of Jiangsu Province, China; and Inventec Appliances (Pudong) of Shanghai, China (collectively, “Respondents”). The Office of Unfair Import Investigations (“OUII”) is participating in the investigation. The ’186 patent was previously terminated from the investigation. Order No. 25 (July 17, 2020), *unreviewed by* Comm’n Notice (Aug. 4, 2020).

On November 16, 2020, the Commission determined to review two IDs issued by the ALJ on October 1, 2020: (1) Order No. 34 granting Philips’ motion for partial summary determination that complainants have satisfied the economic prong of the domestic industry requirement with respect to the ’228 patent; and (2) Order No. 35 granting Respondents’ motion for summary determination that Respondents’ accused products do not infringe (i) asserted claims 1 and 6 of the ’698 patent and (ii) asserted claims 1 and 6 of the ’464 patent with respect to the accused heart rate monitoring functionalities. Comm’n Notice (Nov. 16, 2020).

On February 4, 2021, the ALJ issued the final ID finding no violation of section 337 as to the ’228 and ’464 patents. On February 16, 2021, Philips petitioned, OUII petitioned and contingently petitioned, and Respondents’ contingently petitioned for review of certain aspects of the final ID. On February 24, 2021, Philips, OUII, and Respondents each filed a response in opposition to the other parties’ petitions for review.

The Commission has determined to extend the date for determining whether to review the final ID to April 12, 2021.

The Commission vote for this determination took place on April 5, 2021.

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 CFR part 210.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: April 5, 2021