

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 A COMMISSION DETERMINATION TO
REVIEW TWO INITIAL DETERMINATIONS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review: (1) an initial determination (“ID”) (Order No. 34) granting Complainants’ motion for partial summary determination as to whether the economic prong of the domestic industry requirement is satisfied with respect to U.S. Patent No. 7,845,228 (“the ’228 patent”); and (2) an ID (Order No. 35) granting in part Respondents’ motion for summary determination of non-infringement with respect to U.S. Patent Nos. 9,820,698 (“the ’698 patent”) and 9,717,464 (“the ’464 patent”).

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 the ’228, ’698, and ’464 patents and U.S. Patent No. 9,961,186 (“the ’186 patent”). The Commission’s notice of investigation named the following Respondents: Fitbit, Inc. of San Francisco, California; Garmin International, Inc. and Garmin

USA, Inc., both of Olathe, Kansas; 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 October 1, 2020, the presiding administrative law judge issued the subject IDs (Order Nos. 34 and 35). Specifically, Order No. 34 grants Complainants’ motion for partial summary determination that complainants have satisfied the economic prong of the domestic industry requirement with respect to the ’228 patent. Order No. 35 grants Respondents’ motion for summary determination that Respondents’ accused products do not infringe (i) claims 1 and 6 of the ’698 patent, and (ii) claims 1 and 6 of the ’464 patent with respect to the accused heart rate monitoring functionalities.

On October 8, 2020, Complainants filed a petition for review of Order No. 35. On October 16, 2020, OUII and Respondents each filed a response in opposition to Complainants’ petition for review. No party petitioned for review of Order No. 34.

The Commission has determined to review the subject IDs. The Commission is not requesting additional briefing.

The Commission vote for this determination took place on November 16, 2020

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: November 16, 2020