

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
AND THE TIME FOR DETERMINING WHETHER TO REVIEW AN ENFORCEMENT
INITIAL DETERMINATION**

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 and the time for determining whether to review an enforcement initial determination until March 19, 2018.

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 (“OUII”) 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 5, 2017, and June 6, 2017, Navico and Garmin respectively filed a petition for review of certain aspects of the EID. On June 12, 2017, Navico, Garmin, and OUII each filed responses.

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), finding invalid as obvious all claims covered by the remedial orders and reversing the Commission’s final determination of a section 337 violation.

On June 21, 2017, Garmin filed a motion to stay the enforcement proceeding in light of the reversal of the underlying violation finding. On July 3, 2017, Navico and OUII filed responses to Garmin’s stay motion.

On October 31, 2017, the Federal Circuit issued a mandate in accordance with its June 13, 2017 judgment.

On November 1, 2017, Garmin filed a motion to terminate the enforcement proceeding in light of the reversal of the final determination of violation in the original investigation. On November 2, 2017, Garmin filed a motion to rescind the remedial orders. On November 13, 2017, Navico and OUII filed responses to Garmin’s motion to terminate and motion to rescind the remedial orders. On November 17, 2017, Garmin filed a motion to file a reply. On November 28, 2017, Navico filed an opposition to Garmin’s motion to file a reply.

On February 14, 2018, Navico and Garmin filed a joint motion to terminate the enforcement proceeding based on a settlement agreement.

The Commission has determined to extend the target date for completion of the enforcement proceeding and the time for determining whether to review the EID until March 19, 2018.

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". The signature is fluid and cursive, with the first name "Lisa" being the most prominent.

Lisa R. Barton
Secretary to the Commission

Issued: March 1, 2018