

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

In the Matter of

**CERTAIN FITNESS DEVICES,
STREAMING COMPONENTS
THEREOF, AND SYSTEMS
CONTAINING SAME**

Inv. No. 337-TA-1265

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 13, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Dish DBS Corporation of Englewood, Colorado; Dish Technologies L.L.C. of Englewood, Colorado; and Sling TV L.L.C. of Englewood, Colorado. Supplements to the complaint were filed on April 29, 2021, and May 3, 2021. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain fitness devices, streaming components thereof, and systems containing same by reason of infringement of certain claims of U.S. Patent No. 9,407,564 (“the ’564 patent”); U.S. Patent No. 10,469,554 (“the ’554 patent”); U.S. Patent No. 10,469,555 (“the ’555 patent”); U.S. Patent No. 10,757,156 (“the ’156 patent”); and U.S. Patent No. 10,951,680 (“the ’680 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10 (2020).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on May 13, 2021, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 3-8, 10, and 13-15 of the '564 patent; claims 16-25 and 30 of the '554 patent; claims 10-17 and 26-27 of the '555 patent; claims 1-12 of the '156 patent; and claims 14-16, 18-21, and 28-29 of the '680 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "fitness devices containing Internet-streaming enabled video displays that are capable of using adaptive bit-rate streaming to stream content, Internet-streaming enabled video displays that are capable of using adaptive bit-rate streaming to stream content and that are designed to be incorporated with fitness devices, and components thereof";

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

DISH DBS Corporation
9601 South Meridian Boulevard
Englewood, Colorado 80112

DISH Technologies L.L.C.
9601 South Meridian Boulevard
Englewood, Colorado 80112

Sling TV L.L.C.
9601 South Meridian Boulevard
Englewood, Colorado 80112

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

ICON Health & Fitness, Inc.
1500 S 1000 W
Logan, UT 84321

FreeMotion Fitness, Inc.
1500 S 1000 W
Logan, UT 84321

NordicTrack, Inc.
1500 S 1000 W
Logan, UT 84321

lululemon athletica inc.
1818 Cornwall Ave., Vancouver, British
Columbia, Canada V6J IC7

Curiouser Products Inc. d/b/a MIRROR
1261 Broadway, #208
New York, NY 10001

Peloton Interactive, Inc.
125 West 25th Street, 11th Floor
New York, New York 10001

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination

containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, stylized oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: May 13, 2021