

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

**Investigation No. 337-TA-1265
(Enforcement Proceeding)**

NOTICE OF INSTITUTION OF AN ENFORCEMENT PROCEEDING

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted an enforcement proceeding relating to the remedial orders issued on March 8, 2023, in the above-referenced investigation.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-2392. 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on May 19, 2021, based on a complaint filed 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 (collectively, "DISH"). 86 FR 27106-07 (May 19, 2021). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("section 337"), in the importation into the United States, the sale for importation, or 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 Nos. 9,407,564 ("the '564 patent"); 10,951,680 ("the '680 patent"); 10,469,554 ("the '554 patent"); 10,469,555 ("the '555 patent"); and 10,757,156 ("the '156 patent"). *Id.* at 27106. The notice of investigation named, among others, ICON Health & Fitness, Inc.; FreeMotion Fitness, Inc.; and NordicTrack, Inc., all of Logan, Utah (collectively, "iFIT Respondents") as respondents. *Id.* The Commission's Office of Unfair Import Investigations ("OUII") also was named as a party in this investigation. *Id.*

Prior to the issuance of the final initial determination (“ID”) in the original investigation, the notice of investigation was amended to change the name of ICON Health & Fitness, Inc. to iFIT Inc. Order No. 14 (Nov. 4, 2021), *unreviewed by* Comm’n Notice (Dec. 6, 2021), 86 FR 70532 (Dec. 10, 2021). The investigation was also terminated in part as to all asserted claims of the ’680 patent and certain claims of the other asserted patents. Order No. 15 (Nov. 19, 2021), *unreviewed by* Comm’n Notice (Dec. 20, 2021); Order No. 21 (Mar. 3, 2022), *unreviewed by* Comm’n Notice (Mar. 23, 2022).

On September 9, 2022, the Chief Administrative Law Judge (“CALJ”) issued the final ID in the original investigation, which finds that the iFIT Respondents, among others, violated section 337. On November 18, 2022, the Commission determined to review the final ID in part. *See* Comm’n Notice (Nov. 18, 2022), 87 FR 72510, 72510-12 (Nov. 25, 2022).

On March 8, 2023, the Commission affirmed with certain modifications the final ID’s findings that there was a violation of section 337 by the iFIT Respondents as to claims 16, 17, and 20 of the ’554 patent; claims 10, 11, 14, and 15 of the ’555 patent; and claims 1 and 4 of the ’156 patent, and reversed the final ID’s finding of a violation as to the ’564 patent. *See* Comm’n Notice (Mar. 8, 2023); Comm’n Op. (Mar. 23, 2023) (Public Version). The Commission determined that the appropriate form of relief was a limited exclusion order (“LEO”) and cease and desist orders (“CDOs”) against the iFIT Respondents, among others. Comm’n Notice (Mar. 8, 2023), 88 FR 15736-38 (Mar. 14, 2023). On May 5, 2023, the Commission modified the remedial orders. Comm’n Notice (May 5, 2023), 88 FR 30158-160 (May 10, 2023).

On September 11, 2023, DISH filed a complaint requesting that the Commission institute an enforcement proceeding under Commission Rule 210.75, 19 CFR 210.75, to investigate alleged violations of the LEO and CDOs by the iFIT Respondents as to claims 16, 17, and 20 of the ’554 patent and claims 10, 11, 14, and 15 of the ’555 patent.

Having examined the enforcement complaint and the supporting documents, the Commission has determined to institute an enforcement proceeding, pursuant to Commission Rule 210.75(a), 19 CFR 210.75(a), to determine whether a violation of the LEO and CDOs issued on March 8, 2023, in the original investigation has occurred and to determine what, if any, enforcement measures are appropriate. The named respondents are the iFIT Respondents. OUII is also named as a party.

The Commission vote for this determination took place on October 11, 2023.

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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: October 11, 2023