

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

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANTS' MOTION FOR PARTIAL
TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review an initial determination (“ID”) (Order No. 21) of the presiding administrative law judge (“ALJ”) granting complainants’ motion for partial termination of the investigation with respect to claims 6-8, 10, and 13-15 of U.S. Patent No. 9,407,564 (“the’564 patent”), claims 3 and 6-12 of U.S. Patent No. 10,757,156 (“the’156 patent”), claims 18-19, 21-25, and 30 of U.S. Patent No. 10,469,554 (“the’554 patent”), claims 12-13, 16-17, and 26-27 of U.S. Patent No. 10,469,555 (“the’555 patent”), and all asserted claims of U.S. Patent No. 10,951,680 (“the’680 patent”).

FOR FURTHER INFORMATION CONTACT: Michael Liberman, 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 this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on May 19, 2021, based on a complaint filed by 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 a violation 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 the '156 patent, the '554 patent, the '555 patent, the '564 patent; and the '680 patent. The notice of investigation named as respondents ICON Health & Fitness, Inc., FreeMotion Fitness, Inc., and NordicTrack Inc., all three of Logan, Utah (collectively, "iFIT"); lululemon athletica inc., of Vancouver, Canada and Curiouser Products Inc. d/b/a MIRROR of New York, New York (collectively, "MIRROR"); and Peloton Interactive, Inc. of New York, New York. The Commission's Office of Unfair Import Investigations ("OUII") also was named as a party. Respondent ICON Health & Fitness, Inc. was later renamed to "iFit Inc." Order No. 14 (Nov. 4, 2021); *unreviewed by* Notice (Dec. 6, 2021). Subsequently, the investigation was terminated in part as to claims 6, 11, and 12 of the '156 patent, claim 22 of the '554 patent, and claim 17 of the '555 patent; and claims 9 and 12 of the '156 patent, claim 19 of the '554 patent, claims 12 and 13 of the '555 patent, and claim 6 of the '564 patent are no longer asserted as to respondents ICON Health & Fitness, Inc. (now "iFit Inc."); Free Motion Fitness, Inc.; NordicTrack, Inc.; and Peloton Interactive, Inc. Order No. 15 (Nov. 19, 2021), *unreviewed by* Notice (Dec. 21, 2021).

On February 18, 2022, pursuant to Commission Rule 210.21(a)(1), 19 CFR 210.21(a), DISH filed a motion for partial termination of the investigation with respect to allegations of infringement of claims 6-8, 10, and 13-15 of the '564 patent, claims 3 and 6-12 of the '156 patent, claims 18-19, 21-25, and 30 of the '554 patent, claims 12-13, 16-17, and 26-27 of the '555 patent, and all asserted claims of the '680 patent. The motion indicates that it is unopposed. Mot. at 1. On March 2, 2022, OUII filed a response supporting the motion. No other response was filed.

On March 3, 2022, the ALJ issued the subject ID granting the motion. The ID noted that, pursuant to Commission Rule 210.21(a)(1), DISH states that "there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation." ID at 3 (citing Mot. at 2-3; 19 CFR 210.21(a)(1)). The ID found that DISH's motion complies with the Commission Rules. *Id.* (citing OUII Resp. at 4). The ID further found that there are no extraordinary circumstances that warrant denying the motion. *Id.*

The ID noted that DISH continues to assert the following claims against respondents MIRROR and iFIT: claims 1, 3, and 5 of the '564 patent; claims 16-17 and 20 of the '554 patent; claims 10-11 and 14-15 of the '555 patent; and claims 1 and 4-5 of the '156 patent. *Id.* at 3 n. 5. The ID also noted that DISH continues to assert the following claims against respondent Peloton Interactive, Inc.: claims 1 and 3-5 of the '564 patent; claims 16-17 and 20 of the '554 patent; claims 10-11 and 14-15 of the '555 patent; and claims 1-2 and 4-5 of the '156 patent. *Id.* (citing notice of institution, 86 FR 27106 (May 19, 2021); Mot. at 2).

No party petitioned for review of the ID. The Commission has determined not to review the subject ID. The investigation is terminated as to claims 6-8, 10, and 13-15 of the '564 patent, claims 3 and 6-12 of the '156 patent, claims 18-19, 21-25, and 30 of the '554 patent, claims 12-13, 16-17, and 26-27 of the '555 patent, and all asserted claims of the '680 patent.

The Commission vote for this determination took place on March 22, 2022.

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: March 23, 2022