

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)**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION TERMINATING THE ENFORCEMENT PROCEEDING
BASED ON SETTLEMENT; TERMINATION OF THE PROCEEDING**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 11) of the presiding Chief Administrative Law Judge (“CALJ”) terminating the enforcement proceeding based on settlement. The enforcement proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Ronald A. Traud, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3427. 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: On May 19, 2021, the Commission instituted the underlying investigation based on a complaint filed on behalf of complainants 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, 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, 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 the same by reason of infringement of certain claims of U.S. Patent Nos. 9,407,564 (“the ’564 patent”); 10,469,554 (“the ’554 patent”); 10,469,555 (“the ’555 patent”); 10,757,156 (“the ’156 patent”); and 10,951,680 (“the ’680 patent”). *Id.* The complaint further alleged that a domestic industry exists. *Id.* The

Commission’s notice of investigation named as respondents iFIT Inc., f/k/a ICON Health & Fitness, Inc. of Logan, Utah; FreeMotion Fitness, Inc. of Logan, Utah; NordicTrack, Inc. of Logan, Utah (together with iFIT Inc. and FreeMotion Fitness, Inc., “iFit”); Peloton Interactive, Inc. of New York, New York (“Peloton”); lululemon athletica inc. of Vancouver, Canada; and Curiouser Products Inc. d/b/a MIRROR of New York, New York (together with lululemon athletica inc., “MIRROR,” and together with the other respondents, “Respondents”). *Id.*; Order No. 14 (Nov. 4, 2021), *unreviewed by* Comm’n Notice (Dec. 6, 2021), 86 FR 70532 (Dec. 10, 2021). The Office of Unfair Import Investigations (“OUII”) participated in the investigation. 86 FR at 27106–07.

On March 8, 2023, the Commission issued its final determination, finding respondents Peloton and iFit in violation of section 337 as to the asserted claims of the ’156, ’554, and ’555 patents, but not as to the asserted claims of the ’564 patent. *See* 88 FR 15736 (Mar. 14, 2023). The investigation had terminated as to the asserted claims of the ’680 patent prior to the issuance of the final initial determination, Order No. 21 (Mar. 3, 2022), *unreviewed by* Comm’n Notice (Mar. 23, 2022), and the final determination granted an unopposed motion to terminate as to MIRROR. *See* 88 FR at 15736. As a remedy, the Commission issued a limited exclusion order and cease and desist orders directed to Peloton and iFit. *Id.*

On May 5, 2023, the Commission modified the remedial orders in certain respects. *See* 88 FR 30158 (May 10, 2023). On June 1, 2023, the Commission rescinded the remedial orders directed to Peloton. *See* 88 FR 37274 (June 7, 2023).

On October 17, 2023, the Commission instituted an enforcement proceeding under Commission Rule 210.75 (19 CFR 210.75) to investigate alleged violations of the remedial orders by iFit. 88 FR 71603 (Oct. 17, 2023). In addition to DISH and iFit, OUII was also named as a party to the enforcement proceeding. *See id.*

On March 8, 2024, DISH and iFIT filed a joint motion requesting termination of the enforcement proceeding based on a settlement agreement. On March 18, 2024, OUII filed a response supporting the motion. No other responses were received in response to the motion. Separately, DISH filed a petition with the Commission requesting that the Commission rescind the remedial orders issued in the underlying investigation based on the settlement.

On March 19, 2024, the CALJ issued the subject ID (Order No. 11) granting the motion. The ID found that the joint motion complies with Commission Rule 210.21(b)(1), 19 CFR 210.21(b)(1). Furthermore, in accordance with Commission Rule 210.50(b)(2), 19 CFR 210.50(b)(2), the ID found “no evidence that terminating this enforcement proceeding on the basis of settlement would adversely affect” the public interest. *See* Order No. 11 at 3.

No petitions for review of the subject ID were filed.

The Commission has determined not to review the subject ID. The enforcement proceeding in this investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on April 18, 2024.

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', enclosed within a large, stylized oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: April 18, 2024