

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN WEARABLE ELECTRONIC
DEVICES WITH ECG FUNCTIONALITY
AND COMPONENTS THEREOF**

Investigation No. 337-TA-1266

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING AN UNOPPOSED MOTION TO TERMINATE THE
INVESTIGATION AS TO CERTAIN ASSERTED PATENT CLAIMS**

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. 16) of the presiding administrative law judge (“ALJ”) granting an unopposed motion to terminate the investigation as to certain asserted patent claims.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On May 26, 2021, the Commission instituted this investigation based on a complaint filed by AliveCor, Inc. of Mountain View, California (“AliveCor”). 86 FR 28382-88 (May 26, 2021). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain wearable electronic devices with ECG functionality and components thereof by reason of infringement of one or more of claims 1-30 of U.S. Patent No. 10,595,731 (“the ’731 patent”); claims 1-23 of U.S. Patent No. 10,638,941 (“the ’941 patent”); and claims 1-4, 6-14, 16-20 of U.S. Patent No. 9,572,499 (“the ’499 patent”). *Id.* The Commission’s notice of investigation named Apple Inc. of Cupertino, California (“Apple”) as the sole respondent. The Office of Unfair Import Investigations (“OUII”) is named as a party in this investigation. *Id.*

On February 18, 2022, AliveCor moved to terminate the investigation as to (1) claims 1-4, 6-14, and 18-20 of the '499 patent; (2) claims 2, 4, 6, 7, 11, 13, 14, and 17-30 of the '731 patent; and (3) claims 1-11, 14, 15, 17, and 18 of the '941 patent. AliveCor stated that Apple does not oppose the motion. On February 22, 2022, OUII filed a response in support of the motion.

On February 23, 2022, the ALJ issued the subject ID (Order No. 16) granting AliveCor's unopposed motion. The subject ID found that the motion complies with Commission Rule 210.21(a)(1), which provides *inter alia* that "[a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 to terminate an investigation in whole or in part . . . on the basis of withdrawal of the complaint or certain allegations contained therein . . ." 19 CFR 210.21(a)(1). ID at 1-2. The subject ID further found that no extraordinary circumstances prevent granting the motion. We note that pursuant to 19 CFR 210.21(a)(1), AliveCor confirms that there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation. AliveCor Motion at 4. No one petitioned for review of the ID.

The Commission has determined not to review the subject ID. The investigation is hereby terminated as to (1) claims 1-4, 6-14, and 18-20 of the '499 patent; (2) claims 2, 4, 6, 7, 11, 13, 14, and 17-30 of the '731 patent; and (3) claims 1-11, 14, 15, 17, and 18 of the '941 patent.

The Commission vote for this determination took place on March 18, 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 18, 2022