

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ACTIVITY TRACKING
DEVICES, SYSTEMS, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-963

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING COMPLAINANTS' UNOPPOSED MOTION TO
PARTIALLY TERMINATE THE INVESTIGATION AS TO CERTAIN CLAIMS
BASED UPON WITHDRAWAL OF ALLEGATIONS PERTAINING TO THOSE
CLAIMS FROM THE COMPLAINT**

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. 32) of the presiding administrative law judge (“ALJ”) granting an unopposed motion to partially terminate the investigation as to claim 2, the only asserted claim, of U.S. Patent No. 8,793,522 (“the ’522 patent”); claims 8-10, 13, 14, and 18 of U.S. Patent No. 8,446,275 (“the ’275 patent”); claim 6 of U.S. Patent No. 8,529,811 (“the ’811 patent”); and claims 5 and 8 of U.S. Patent No. 8,961,413 (“the ’413 patent”) based upon withdrawal of allegations pertaining to those claims from the complaint.

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 are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <http://edis.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 Inv. No. 337-TA-963 on August 21, 2015, based on a complaint filed by AliphCom d/b/a Jawbone of San Francisco, California and BodyMedia, Inc. of Pittsburgh, Pennsylvania (collectively, “Jawbone”). 80 *Fed. Reg.* 50870-71 (Aug. 21, 2015). The complaint alleges 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, and the sale within the United States after importation of certain activity tracking devices, systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,073,707; U.S. Patent No. 8,398,546; the '275 patent; the '811 patent; the '522 patent; and the '413 patent. The complaint further alleges misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States. The notice of investigation named the following respondents: Fitbit, Inc. of San Francisco, California; Flextronics International Ltd. of San Jose, California; and Flextronics Sales & Marketing (A-P) Ltd. of Port Louis, Mauritius (collectively, "Respondents"). The Office of Unfair Import Investigations (OUII) is a party to the investigation.

On February 18, 2016, Jawbone moved to terminate the investigation as to claim 2, the only asserted claim, of the '522 patent; claims 8-10, 13, 14, and 18 of the '275 patent; claim 6 of the '811 patent; and claims 5 and 8 of the '413 patent. Jawbone indicated that Respondents and OUII do not oppose the motion.

On February 22, 2016, the ALJ issued the subject ID, granting the unopposed motion. The ALJ found that the motion complied with the requirements of Commission Rule 210.21(a)(1) (19 C.F.R. § 210.21(a)(1)) and further found that no extraordinary circumstances prohibited granting the motion. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID.

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 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: March 21, 2016