

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

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

**Investigation No. 337-TA-973**

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL  
DETERMINATION GRANTING COMPLAINANT’S UNOPPOSED MOTION TO  
PARTIALLY TERMINATE THE INVESTIGATION AS TO CERTAIN CLAIMS AND  
PRODUCTS BASED UPON WITHDRAWAL OF ALLEGATIONS PERTAINING TO  
THOSE CLAIMS AND PRODUCTS 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. 11) of the presiding administrative law judge (“ALJ”) granting an unopposed motion to partially terminate the investigation as to claims 7, 10, 11, 16, and 27 of U.S. Patent No. 8,868,377 (“the ’377 patent”); and infringement allegations of the ’377 patent by the accused UP2 and UP Move products based upon withdrawal of allegations pertaining to those claims and products 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-973 on December 7, 2015, based on a complaint filed by Fitbit, Inc. of San Francisco, California (“Fitbit”). 80 *Fed. Reg.* 76040 (Dec. 7, 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 wearable activity tracking devices, systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,920,332; U.S. Patent No. 9,089,760; and the ’377 patent.

The notice of investigation named the following respondents: AliphCom d/b/a Jawbone of San Francisco, California and BodyMedia, Inc. of Pittsburgh, Pennsylvania (collectively, "Jawbone"). The Office of Unfair Import Investigations (OUII) is a party to the investigation.

On April 1, 2016, Fitbit moved unopposed to terminate the investigation as to claims 7, 10, 11, 16, and 27 of the '377 patent; and infringement allegations of the '377 patent by the accused UP2 and UP Move products. Fitbit indicated that Jawbone and OUII do not oppose the motion.

On April 5, 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.

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: May 2, 2016