

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN LIGHT-BASED
PHYSIOLOGICAL MEASUREMENT
DEVICES AND COMPONENTS
THEREOF**

Inv. No. 337-TA-1276

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING COMPLAINANTS' SECOND
UNOPPOSED MOTION FOR PARTIAL WITHDRAWAL OF CERTAIN CLAIMS**

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 the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 33), granting complainants' second unopposed motion for partial termination of the investigation based on withdrawal of claims 1, 3, 6, 8, 9, 13-15, 17, 18, and 21 of U.S. Patent No. 10,912,501 ("the '501 patent"), claims 19, 21, 24, 29, and 30 of U.S. Patent No. 10,912,502 ("the '502 patent"), claims 1, 2, 5, 8, 11, 20, 21, 23, and 29 of U.S. Patent No. 10,945,648 ("the '648 patent"), and claim 2 of U.S. Patent No. 10,687,745 ("the '745 patent").

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, 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 on August 18, 2021, based on a complaint filed on behalf of Masimo Corporation and Cercacor Laboratories, Inc., both of Irvine, CA (collectively, "Complainants"). 86 FR 46275 (Aug. 18, 2021). The complaint, as amended, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-based physiological measurement devices and components thereof by reason of infringement of certain claims of the '501 patent; the '502 patent; the '648 patent; the '745 patent; and U.S. Patent No. 7,761,127. *Id.* The amended complaint further alleged that an industry in the United States

exists and/or is in the process of being established as required by section 337. *Id.* The notice of investigation named Apple Inc. of Cupertino, CA (“Apple”) as a respondent. *Id.* at 46276. The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

Complainants previously withdrew certain asserted claims pursuant to Order No. 25 (Mar. 23, 2022), *unreviewed by* Comm’n Notice, EDIS Doc. ID 768023 (Apr. 12, 2022).

On May 17, 2022, Complainants filed a motion to withdraw their allegations of infringement with respect to claims 1, 3, 6, 8, 9, 13-15, 17, 18, and 21 of the ’501 patent; claims 19, 21, 24, 29, and 30 of the ’502 patent; claims 1, 2, 5, 8, 11, 20, 21, 23, and 29 of the ’648 patent; and claim 2 of the ’745 patent. Respondent Apple did not oppose the motion.

On May 20, 2022, the ALJ issued the subject ID (Order No. 33), granting Complainants’ second unopposed motion for partial termination of the investigation. The ID found that “the motion complies with Commission Rule 210.21(a)(1), [19 CFR 210.21(a)(1),] and there are no extraordinary circumstances preventing the withdrawal of the identified allegations.” ID at 2. No petition for review of the ID was filed.

The Commission has determined not to review the subject ID. Claims 1, 3, 6, 8, 9, 13-15, 17, 18, and 21 of the ’501 patent; claims 19, 21, 24, 29, and 30 of the ’502 patent; claims 1, 2, 5, 8, 11, 20, 21, 23, and 29 of the ’648 patent; and claim 2 of the ’745 patent have been terminated from the investigation.

The Commission vote for this determination took place on June 9, 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: June 10, 2022