



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1265 (Rescission II)]

Certain Fitness Devices, Streaming Components Thereof, and Systems Containing Same Institution of Rescission Proceeding; Issuance of Order Rescinding Remedial Orders as to Certain Respondents; Termination of Rescission Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to institute a rescission proceeding, issue an order rescinding the remedial orders directed to iFIT Inc., f/k/a ICON Health & Fitness, Inc. of Logan, Utah; FreeMotion Fitness, Inc. of Logan, Utah; and NordicTrack Inc. of Logan, Utah (together with iFIT Inc. and FreeMotion Fitness, Inc., “iFit”), and then terminate the rescission proceeding.

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; 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 (“LEO”) and cease and desist orders (“CDOs”) 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). Thus, the remaining orders in this investigation are only directed to iFit.

On March 8, 2024, DISH filed a petition requesting that the Commission rescind the remedial orders issued against iFit based on a settlement agreement between DISH and iFit. DISH also filed confidential and public supplements to the petition that included confidential and public versions of the settlement agreement. The petition asserts that rescission is warranted based on changed conditions of fact and law stemming from DISH and iFit reaching a settlement agreement that fully resolves the dispute between DISH and iFit concerning the subject matter of the underlying investigation.

On March 19, 2024, OUII filed a response supporting DISH's petition. No other responses were received in response to the petition.

In consideration of the petition and the response thereto, the Commission has determined to institute a rescission proceeding in this investigation. Consistent with an order issued concurrently herewith, the Commission has determined to rescind the remaining modified remedial orders issued in this investigation. The settlement agreement fully resolves the dispute between DISH and iFit concerning the subject matter of this investigation, the settlement agreement constitutes changed circumstances warranting rescission, and the petition complies with the procedural requirements of Commission Rule 210.76 (19 CFR 210.76). The Commission has further determined to terminate this rescission proceeding.

The Commission vote for these determinations took place on April 9, 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.

Issued: April 9, 2024.

Lisa Barton,

Secretary to the Commission.

