



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1266 (Rescission)]

Certain Wearable Electronic Devices With ECG Functionality and Components Thereof; Notice of Commission Decision to Dismiss the Complaint as Moot, Institute a Rescission Proceeding, and Rescind the Remedial Orders; Termination of the Rescission Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“the Commission”) has determined to dismiss the complaint in the above-captioned investigation as moot. The Commission has also determined to institute a rescission proceeding and to rescind the limited exclusion order and cease and desist order issued in the investigation. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 26, 2021, based on a complaint filed by AliveCor, Inc. of Mountain View, California (“AliveCor”). 86 FR 28382 (May 26, 2021). The complaint alleges a violation of section 337 of the Tariff Act, as amended, 19 U.S.C. 1337 (“section 337”), by way of the importation, sale for importation, or sale in the United States after importation of certain wearable electronic devices with ECG functionality and components thereof by reason of infringement of one or more claims of U.S. Patent Nos. 10,595,731 (“the ’731 patent”); 10,638,941 (“the ’941 patent”); and

9,572,499 (“the ’499 patent”) (collectively, “the Asserted Patents”). *Id.* The notice of investigation named Apple, Inc. (“Apple”) of Cupertino, California as a respondent. *Id.* The Office of Unfair Import Investigation was also participating in the investigation. *Id.*

On December 22, 2022, the Commission issued a final determination finding a violation of section 337 based on the infringement of certain claims of the ’941 patent and the ’731 patent, but no violation based on the ’499 patent. Accordingly, the Commission issued a limited exclusion order prohibiting further importation of infringing products and a cease and desist order against Apple (collectively, “the remedial orders”). The Commission, however, suspended enforcement of the orders pending final resolution of the Patent Trial and Appeal Board’s (“PTAB”) Final Written Decisions finding the asserted patent claims unpatentable. *See* 35 U.S.C. 318(b); *Apple, Inc. v. AliveCor, Inc.*, IPR2021-00971, Patent 10,595,731, Final Written Decision Determining All Challenged Claims Unpatentable (Dec. 6, 2022); *Apple, Inc. v. AliveCor, Inc.*, IPR2021-00972, Patent 10,638,941, Final Written Decision Determining All Challenged Claims Unpatentable (Dec. 6, 2022).

AliveCor filed an appeal from the Commission’s final determination with the U.S. Court of Appeals for the Federal Circuit (“the Federal Circuit”), and Apple cross-appealed. The appeal and cross-appeal were docketed on February 15, 2023, and March 3, 2023, respectively, and consolidated under *AliveCor, Inc. v. ITC*, No. 23-1509 (Fed. Cir.) as the lead appeal.

On March 7, 2025, the Federal Circuit affirmed decisions in companion appeals from the PTAB finding all claims of the Asserted Patents unpatentable. *See AliveCor, Inc. v. Apple Inc.*, 130 F.4th 1006 (Fed. Cir. 2025). In view of that ruling, the Federal Circuit found that “the Commission’s investigation [was] moot.” *AliveCor, Inc. v. ITC*, No. 23-1509, 2025 WL 733105 (Fed. Cir. Mar. 7, 2025). Accordingly, the Federal Circuit vacated the Commission’s final determination and remanded with instructions to dismiss the case as moot. *See id.* The Federal Circuit’s mandate issued on April 28, 2025.

As instructed by the Federal Circuit, the Commission has determined to dismiss the complaint as moot. Accordingly, as stated in the Commission Order issued concurrently herewith, the Commission finds that the conditions which led to the issuance of the remedial orders no longer exist, and therefore, a rescission of the remedial orders is warranted under section 337(k) (19 U.S.C. 1337(k)) and Commission Rule 210.76(a) (19 CFR 210.76(a)). The Commission has thus determined to institute a rescission proceeding and to rescind the remedial orders issued in the underlying investigation. The rescission proceeding is terminated.

The Commission's notice and order were delivered to the Secretary of the Treasury on the day of their issuance.

The Commission's vote for this determination took place on May 6, 2025.

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: May 6, 2025.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2025-08196 Filed: 5/8/2025 8:45 am; Publication Date: 5/9/2025]