



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1276 (Modification/Enforcement)]

Certain Light-Based Physiological Measurement Devices and Components Thereof; Notice of a Commission Determination to Institute a Combined Modification and Enforcement 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 combined modification and enforcement proceeding to determine whether importation of certain products violates remedial orders issued in this investigation.

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: The Commission instituted the underlying investigation on August 18, 2021, based on a complaint filed on behalf of Masimo Corporation (“Masimo”) and Cercacor Laboratories, Inc., both of Irvine, California. 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 U.S. Patent No. 10,912,501 (“the ’501 patent”); U.S. Patent No. 10,912,502 (“the ’502 patent”); U.S. Patent No. 10,945,648 (“the ’648 patent”); U.S. Patent No. 10,687,745 (“the ’745 patent”); and U.S. Patent No. 7,761,127 (“the ’127 patent”). *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, California (“Apple”) as the sole respondent. *Id.* at 46276. The Office of Unfair Import Investigations did not participate in this investigation. *Id.*

Before the presiding administrative law judge (“ALJ”) issued the final initial determination (“Final ID”), Complainants withdrew from the investigation certain asserted patent claims. *See* Order No. 25 (Mar. 23, 2022), *unreviewed* by Comm’n Notice (Apr. 12, 2022); Order No. 33 (May 20, 2022), *unreviewed* by Comm’n Notice (June 10, 2022). At the time of the Final ID, only claim 12 of the ’501 patent, claims 22 and 28 of the ’502 patent, claims 12, 24, and 30 of the ’648 patent, claims 9, 18, and 27 of the ’745 patent, and claim 9 of the ’127 patent remained in the investigation. Claim 18 of the ’745 patent remained at issue for purposes of the domestic industry only.

On January 10, 2023, the ALJ issued the Final ID, which found that Apple violated section 337 as to claims 24 and 30 of the ’648 patent, but not as to claim 12 of the ’501 patent, claims 22 and 28 of the ’502 patent, claim 12 of the ’648 patent, claims 9 and 27 of the ’745 patent, and claim 9 of the ’127 patent. *See* Final ID at 335–36.

On May 15, 2023, the Commission determined to review the Final ID in part. *See* 88 FR 32243, 32243–46 (May 19, 2023). The Commission requested briefing on certain issues under review and on remedy, the public interest, and bonding. *See id.*

On October 26, 2023, the Commission issued its final determination in this investigation, finding Apple in violation of section 337 as to claims 22 and 28 of the ’502 patent and claims 12, 24, and 30 of the ’648 patent. 88 FR 75032, 75032–33 (Nov. 1, 2023). The Commission

issued: (1) a limited exclusion order (“LEO”) prohibiting the importation of light-based physiological measurement devices and components thereof that infringe one or more of claims 22 and 28 of the ’502 patent and claims 12, 24, and 30 of the ’648 patent; and (2) a cease and desist order (“CDO”) directed to Apple. *Id.* The Commission determined that the public interest factors did not preclude issuance of the limited exclusion order or the cease and desist order. *Id.* The Commission further determined that no bond was to be required during the period of Presidential review. *See id.*; 19 U.S.C. 1337(j)(3).

On September 8, 2025, Masimo filed a petition with the Commission, pursuant to Commission Rule 210.76, requesting clarification of, or in the alternative, a modification proceeding to modify, the remedial orders issued against Apple. *See* Complainant Masimo’s Request for Clarification, or in the Alternative, Petition for Modification and Request for Expedited Treatment. Masimo also requested expedited treatment of its petition. *Id.* On September 15, 2025, Apple filed a response to Masimo’s petition, including objecting to the use of a modification proceeding under section 337(k) in this situation. *See* Respondent Apple Inc.’s Response to Masimo’s Request for Clarification, or in the Alternative, Petition for Modification and Request for Expedited Treatment. The Commission shortened the time for Apple to file its response. *See* Letter from Commission Secretary Barton to Counsel for Apple and Masimo, September 9, 2025. On September 22, 2025, Masimo and Apple provided a list of undisputed facts, disputed facts, and claim constructions at issue. Joint Proposed List of Undisputed Facts, Disputed Facts, and Disputed Claim Terms For September 22, 2025 Submission (“Joint Submission”).

The Commission, having reviewed the record in this investigation, including Masimo’s petition, Apple’s response thereto, and their Joint Submission, has determined to institute a combined modification and enforcement proceeding. Section 337(k)(1) provides for modification proceedings when “the conditions which led to such exclusion from entry or order no longer exist.” 19 U.S.C. 1337(k)(1). Commission Rule 210.76 implements the

Commission's modification proceedings and provides, in pertinent part: "Whenever any person believes that changed conditions of fact or law, or the public interest, require that [a remedial order] be modified or set aside, in whole or in part, such person may request . . . that the Commission make a determination that the conditions which led to the issuance of [the remedial order] no longer exist." 19 CFR 210.76(a)(1). Rule 210.76 further states that the request "shall include materials and argument in support thereof." *Id.* Section 337(b) provides the Commission with the authority to enforce its remedial orders, and Commission Rule 210.75 implements the Commission's enforcement proceedings. *See VastFame Camera, Ltd. v. Int'l Trade Comm'n*, 386 F.3d 1108, 1115 (Fed. Cir. 2004).

The Commission has determined that Masimo's petition complies with section 337(b), section 337(k)(1), and Commission Rules 210.75 and 210.76. The Commission finds that the circumstances which lead to the LEO no longer exist and there is a changed condition of fact, inasmuch as Apple has presented a newly redesigned watch, the Apple Redesign 2 Watch, which was not presented during the investigation below.¹ The Commission further finds that Masimo's modification petition is tantamount to a request for enforcement of the LEO because it alleges a violation of the LEO. *See* 19 CFR 210.75(a). Accordingly, the Commission has determined that a combined modification and enforcement proceeding is proper to determine the narrow issue of whether the Apple Redesign 2 Watch should be excluded under the current terms of the LEO. The Commission notes that Masimo has not requested civil penalties. Accordingly, the Commission will not consider whether to issue civil penalties for any violation of the CDO in this proceeding, but may do so, upon request, in a subsequent proceeding.

¹ This proceeding includes the Apple Redesign 2 Watch presented to CBP, Joint Submission ¶ 32 (undisputed fact), and Apple Watches subject to a recent over-the-air software update in the United States, *id.* ¶¶ 46-48, 117-118, which collectively are the "Apple Redesign Watch 2." To the extent that there are any differences between the watches presented to CBP and the watches that have been subject to a recent over-the-air update, the ALJ can address those differences in the first instance. Moreover, to the extent that the allegedly infringing functionality requires a software update to an iPhone, it is assumed for this investigation that such an update has been applied. *Id.* ¶¶ 46, 116-117.

To further define the issues, the Commission finds, as an initial matter, that the Apple Redesign 2 Watch on its own is a “wearable electronic device” with at least some “light-based pulse oximetry functionality” pursuant to paragraph 2 of the LEO, and as such, it is potentially subject to the terms of the LEO. *See* Joint Submission, ¶ 47; *Certain Light-Based Physiological Measurement Devices & Components Thereof*, Ruling Letter, Inv. No. 337-TA-1276, HQ H338254 at 13 (Jan. 7, 2025). The Commission further finds that Apple manufactured and imported into the United States the Apple Redesign 2 Watch. LEO, paragraph 1; Joint Submission, paragraphs 46, 47. Accordingly, the sole issue to be resolved in this proceeding is whether the Apple Redesign 2 Watch “infringe[s] claims 22 ... of U.S. Patent No. 10,912,502 and claims 12, 24, and 30 of U.S. Patent No. 10,945,648.” LEO, paragraph 1. The Commission has held that the term “infringe” as used in the Commission’s LEOs is not limited to direct infringement but may also refer to, inter alia, induced infringement under 35 U.S.C. 271(b). *See e.g., Certain Voltage Regulators, Components Thereof and Products Containing Same*, Inv. No. 337-TA-564, Enforcement Comm’n Op., 2010 WL 4780068 at *4 (Aug. 3, 2010). Finally, the Commission notes that Masimo does not seek a determination of whether the Apple iPhone or the “Apple Redesign 1 Watch,” *see* Joint Submission ¶¶ 26-31 (undisputed facts), should be excluded pursuant to the LEO, nor does Masimo seek a determination of whether any article infringes claim 28 of the ’502 patent.

The Commission has determined to refer the proceedings to the Chief ALJ to designate a presiding ALJ to administer appropriate proceedings consistent with the Commission order issued herewith.

The Commission vote for this determination took place on November 13, 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: November 14, 2025.

Lisa Barton,

Secretary to the Commission.

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