INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-973

Certain Wearable Activity Tracking Devices, Systems, and Components Thereof

Commission Determination Not to Review an Initial Determination Granting

Complainant’s Unopposed Motion to Terminate the Investigation in its Entirety Based

Upon Withdrawal of the Complaint; Termination of the Investigation


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. 27) of the presiding administrative law judge (“ALJ”) granting an unopposed motion to terminate the investigation in its entirety based upon withdrawal of 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 https://www.usitc.gov. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at https://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.

On July 19, 2016, the ALJ issued Order No. 24 granting a motion for summary determination that the ’332 patent, the ’377 patent, and the ’760 patent are invalid under 35 U.S.C. § 101 for being directed to ineligible subject matter, and terminated the investigation in its entirety. On August 1, 2016, Fitbit petitioned for review of the ID. On August 8, 2016, Jawbone and OUII filed oppositions to Fitbit’s petition. On September 7, 2016, the Commission determined to review the ID, and on review, vacated and remanded for the ALJ to continue the investigation as to the ’332 patent and the ’377 patent.

On December 23, 2016, Fitbit moved unopposed to terminate the investigation in its entirety based upon withdrawal of the complaint. Fitbit indicated that Jawbone and OUII do not oppose the motion.
On January 3, 2017, the ALJ issued the subject ID (Order No. 27), 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. This terminates the investigation.


By order of the Commission.

Issued: February 1, 2017

Lisa R. Barton
Secretary to the Commission

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