

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN WEARABLE ELECTRONIC
DEVICES WITH ECG FUNCTIONALITY
AND COMPONENTS THEREOF**

Inv. No. 337-TA-1266

**ORDER NO. 4: INITIAL DETERMINATION SETTING THE TARGET DATE AT
SEVENTEEN MONTHS**

(June 10, 2021)

By publication of a notice in the *Federal Register* on May 26, 2021, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, the Commission instituted this investigation to determine:

[W]hether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-30 of the '731 patent; claims 1-23 of the '941 patent; claims 1-4, 6-14, 16-20 of the '499 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

86 Fed. Reg. 28382 (May 26, 2021).

Pursuant to Commission Rule 210.10(b)(1), 19 C.F.R. § 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is "Apple Watches with ECG functionality, and hardware and software components thereof." *Id.*

Pursuant to Commission Rule 210.51(a), a target date for completion of the investigation must be set. Complainant proposed sixteen (16) months, Respondent proposed eighteen (18) months, and the Commission Office of Unfair Import Investigations ("Staff") proposed sixteen (16) months. EDIS Doc. No. 744419.

I have hearings for other investigations scheduled in late January and late February, thus making a 16 month target date for this case impracticable. Therefore, the target date for this investigation shall be October 26, 2022, which is seventeen (17) months from the date that the Notice of Investigation was published in the Federal Register. *See* 19 C.F.R. § 210.51(a); 19 C.F.R. § 201.14(a). Consequently, any final initial determination will be due by June 27, 2022. *See* 19 C.F.R. § 210.42(a)(1)(i). These dates are subject to change because of restrictions and uncertainty due to the COVID-19 pandemic.

Pursuant to 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission thirty (30) days after the date of service of the initial determination, unless a party files a petition for review of the initial determination within five (5) business days after service of the initial determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the initial determination or certain issues herein. Any issue or argument not raised in a petition for review, or response thereto, will be deemed to have been abandoned and may be disregarded by the Commission in reviewing the Initial Determination pursuant to 19 C.F.R. §§ 210.43(b) and (c).

SO ORDERED.



Cameron Elliot
Administrative Law Judge

**CERTAIN WEARABLE ELECTRONIC DEVICES
WITH ECG CAPABILITY AND COMPONENTS
THEREOF**

Inv. No. 337-TA-1266

Certificate of Service – Page 1

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **INITIAL DETERMINATION** has been served via EDIS upon the Commission Investigative Attorney, **Whitney Winston, Esq.**, and the following parties as indicated, on **June 10, 2021**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainant AliveCor, Inc. :

S. Alex Lasher, Esq.
QUINN EMANUEL URQUHART & SULLIVAN, LLP
1300 I Street NW, Suite 900
Washington, DC 20005
Email: alexlasher@quinnemanuel.com

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification
of Availability for Download

On Behalf of Respondent Apple Inc.:

Benjamin C. Elacqua, Esq.
FISH & RICHARDSON P.C.
1221 McKinney Street, Suite 2800
Houston, TX 77010
Email: elacqua@fr.com

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be
Completed by Complainant