

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

Before the Honorable Cameron R. Elliot
Administrative Law Judge

In the Matter of

CERTAIN WEARABLE ELECTRONIC
DEVICES WITH ECG
FUNCTIONALITY AND
COMPONENTS THEREOF

Inv. No. 337-TA-1266

RESPONDENT APPLE INC.'S RESPONSE TO THE AMENDED COMPLAINT OF
ALIVECOR, INC. UNDER SECTION 337 OF THE TARIFF ACT OF 1930,
AS AMENDED, AND NOTICE OF INVESTIGATION

RESPONDENT

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PREAMBLE

Pursuant to 19 C.F.R. § 210.13, Respondent Apple Inc. (“Apple” or “Respondent”) by and through its attorneys, hereby responds to the Amended Complaint Under Section 337 of the Tariff Act of 1930, (the “Complaint”) filed by AliveCor, Inc. (“AliveCor” or “Complainant”) on April 26, 2021 and to the Notice of Institution of Investigation issued by the United States International Trade Commission (the “Commission”) on May 20, 2021 (the “Notice”), as published in the Federal Register on May 26, 2021 (86 Fed. Reg. 28382).

Apple denies that it has engaged in acts of unfair competition in violation of Section 337 by importing, selling for importation, and/or selling after importation into the United States any product that infringes, literally and/or under the doctrine of equivalents, directly, indirectly, by contribution and/or by inducement, any claim 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”). Apple denies that the claims of the Asserted Patents are valid and enforceable. Except as specifically admitted herein, Apple denies all of the allegations of the Complaint. To the extent that any allegations of the Complaint refer to or rely upon information not previously supplied to Apple, Apple is without information sufficient to admit or deny such allegations, and therefore denies the same. In responding to the Complaint and Notice of Investigation, Apple has understood “Accused Products” to mean the products accused of infringement in the Complaint. Moreover, Apple explicitly reserves the right to take further positions and raise additional defenses as may become apparent as a result of additional information discovered subsequent to filing this Response, or to the extent AliveCor modifies its Complaint or contentions.

RESPONSE TO COMPLAINT

In answer to the allegations set forth in the Complaint, Apple responds as follows:

I. INTRODUCTION¹

1. Apple denies the statements and allegations of Paragraph 1 insofar as they contain opinions and legal arguments rather than factual assertions and therefore require no response. To the extent a response is required, Apple admits that AliveCor filed this Complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”). Apple denies that it has engaged in unlawful importation, sale for importation into the United States, offer for sale for importation into the United States, and/or sale within the United States after importation of the Accused Products. Apple lacks knowledge or information sufficient to form a belief regarding the truth of any remaining allegations in Paragraph 1 and, on that basis, denies them.

2. Apple denies the statement and allegations of Paragraph 2 insofar as they contain opinions and legal arguments rather than factual assertions and therefore require no response. To the extent a response is required, Apple denies that its products infringe in any way any claims of the Asserted Patents. Apple lacks knowledge or information sufficient to form a belief regarding the truth of any remaining allegations in Paragraph 2 and, on that basis, denies them.

3. Apple denies the statement and allegations of Paragraph 3 insofar as they contain opinions and legal arguments rather than factual assertions and therefore require no response. To the extent a response is required, Apple denies that its products infringe in any way any claims of the Asserted Patents.

¹ Apple has adopted headings in the Complaint for ease of reference. However, to the extent that such headings themselves contain factual and legal characterizations, Apple denies such characterizations.

4. Apple denies the statement and allegations of Paragraph 4 insofar as they contain opinions and legal arguments rather than factual assertions and therefore require no response. To the extent a response is required, Apple denies that its products infringe in any way any claims of the Asserted Patents.

5. Apple denies the statements and allegations contained in Paragraph 5 insofar as they constitute opinions and legal arguments and therefore require no response. Apple denies that a domestic industry in the United States exists and/or is in the process of being established with respect to each of the Asserted Patents, and therefore denies that AliveCor has a domestic industry as required by 19 U.S.C. § 1337(a)(2)-(3). Apple is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations of Paragraph 5 and, on that basis, denies them.

6. Apple denies the statements and allegations of Paragraph 6 insofar as they contain opinions and legal arguments rather than factual assertions and therefore require no response. To the extent a response is required, Apple denies that its products are in violation of Section 337(a)(1)(B)(i).

7. Apple admits that the Apple Watch Series 4, 5, and 6 are manufactured and/or sold for importation into the United States, imported into the United States, and/or sold after importation into the United States by or on behalf of Apple.

8. Apple denies the statements and allegations of Paragraph 8 insofar as they contain opinions and legal arguments rather than factual assertions and therefore require no response. To the extent a response is required, Apple denies that AliveCor is entitled to any relief by way of its Complaint. Apple denies any remaining allegations of Paragraph 8.

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