

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

**In the Matter of Certain Light-Based
Physiological Measurement Devices and
Components Thereof**

Investigation No. 337-TA-_____

**COMPLAINT UNDER SECTION 337 OF
THE TARIFF ACT OF 1930, AS AMENDED**

Complainants:

Masimo Corporation
52 Discovery
Irvine, CA 92618
Telephone: 949-297-7000

Cercacor Laboratories, Inc.
15750 Alton Pkwy
Irvine, CA 92618
Telephone: 800-610-8522

Counsel for Complainants:

Stephen C. Jensen
Joseph R. Re
Sheila N. Swaroop
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, CA 92614
Telephone: (949) 760-0404

Jonathan E. Bachand
KNOBBE MARTENS OLSON & BEAR, LLP
1717 Pennsylvania Ave NW, Suite 900
Washington DC, 20006
Telephone: (202) 640-6400

Respondent:

Apple Inc.
One Apple Park Way
Cupertino, CA 95014
Telephone: 408-996-1010

TABLE OF CONTENTS

	Page No.
I. INTRODUCTION	1
II. COMPLAINANTS.....	3
III. PROPOSED RESPONDENT	7
IV. PRODUCTS AND TECHNOLOGY AT ISSUE.....	8
A. <u>Complainants' Technology</u>	8
B. <u>Apple's Copying of Complainants' Technology</u>	11
C. <u>The Accused Products</u>	13
V. THE ASSERTED PATENTS	14
A. <u>U.S. Patent No. 10,912,501</u>	14
1. Identification of the Patent and Ownership by Masimo Corporation	14
2. Foreign Counterparts to the '501 Patent	17
3. Non-Technical Description of the '501 Patent	17
B. <u>U.S. Patent No. 10,912,502</u>	18
1. Identification of the Patent and Ownership by Masimo Corporation	18
2. Foreign Counterparts to the '502 Patent	20
3. Non-Technical Description of the '502 Patent	20
C. <u>U.S. Patent No. 10,945,648</u>	21
1. Identification of the Patent and Ownership by Masimo Corporation	21
2. Foreign Counterparts to the '648 Patent	24
3. Non-Technical Description of the '648 Patent	24
D. <u>U.S. Patent No. 10,687,745</u>	25
1. Identification of the Patent and Ownership by Masimo Corporation	25

2.	Foreign Counterparts to the '745 Patent	26
3.	Non-Technical Description of the '745 Patent	26
E.	<u>U.S. Patent No. 7,761,127</u>	27
1.	Identification of the Patent and Ownership by Cercacor	27
2.	Foreign Counterparts to the '127 Patent	28
3.	Non-Technical Description of the '127 Patent	28
F.	<u>Licensees</u>	29
VI. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENT.....		29
VII. THE DOMESTIC INDUSTRY Related to Asserted Patents.....		37
A.	<u>Technical Prong</u>	38
B.	<u>Economic Prong</u>	39
VIII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE		40
IX. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES		41
X. RELATED LITIGATION.....		41
XI. REQUESTED RELIEF		42

LIST OF EXHIBITS

Exhibit No.	Description
1	Certified Copy of U.S. Patent No. 10,912,501
2	Certified Copy of U.S. Patent No. 10,912,502
3	Certified Copy of U.S. Patent No. 10,945,648
4	Certified Copy of U.S. Patent No. 10,687,745
5	Certified Copy of U.S. Patent No. 7,761,127
6	Certified Assignment Documents for U.S. Patent No. 10,912,501
7	Certified Assignment Documents for U.S. Patent No. 10,912,502
8	Certified Assignment Documents for U.S. Patent No. 10,945,648
9	Certified Assignment Documents for U.S. Patent No. 10,687,745
10	Certified Assignment Documents for U.S. Patent No. 7,761,127
11	CONFIDENTIAL EXHIBIT: Amended and Restated Cross-Licensing Agreement between Masimo Laboratories and Masimo Corporation Effective January 1, 2007
12	Listing of All Foreign Patents and All Foreign Patent Applications Corresponding to Asserted Patents
13	Representative Photos of Representative Apple Watch Series 6 (Model No. 109.627 shown)
14	Product Literature Regarding the Apple Watch Series 6
15	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Claims of the '501 Patent to an Apple Watch Series 6
16	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Claims of the '502 Patent to an Apple Watch Series 6
17	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Claims of the '648 Patent to an Apple Watch Series 6
18	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Claims of the '745 Patent to an Apple Watch Series 6
19	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Claims of the '127 Patent to an Apple Watch Series 6
20	CONFIDENTIAL EXHIBIT Drawings, Photographs, or Other Visual Representations of Masimo's rainbow [®] Sensors
21	CONFIDENTIAL EXHIBIT: Drawings, Photographs, or Other Visual Representations of Masimo's Confidential Domestic Industry Product
22	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Exemplary Claims of the '501 Patent to Masimo's Domestic Industry Product
23	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Exemplary Claims of the '502 Patent to Masimo's Domestic Industry Product
24	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Exemplary Claims of the '648 Patent to Masimo's Domestic Industry Product

Exhibit No.	Description
25	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Exemplary Claims of the '745 Patent to Masimo's Domestic Industry Product
26	CONFIDENTIAL EXHIBIT: Claim Chart Comparing Exemplary Claims of the '127 Patent to Masimo's Domestic Industry Products
27	CONFIDENTIAL EXHIBIT: Confidential Declaration of Bilal Muhsin
28	CONFIDENTIAL EXHIBIT: Confidential Declaration of Micah Young
29	September 15, 2020 Press Release
30	CONFIDENTIAL EXHIBIT: Invoice dated April 19, 2021
31	Photographs of Product Packaging of the Apple Watch Series 6
32	January 28, 2021 Apple 10K Filing with SEC
33	Fowler, Geoffrey, "The new Apple Watch says my lungs may be sick. Or perfect. It can't decide." <i>Washington Post</i> , September 23, 2020.
34	Masimo Form 10-K, dated February 23, 2021
35	"The Apple Watch's blood oxygen sensor is less accurate than you think"
36	"Can the Apple Watch Series 6 Keep the Doctor Away?"
37	"Apple Watch Series 6 review – Minute Improvements"
38	"The New Apple Watch 6 May Have a Problem. Oddly Enough, That's OK"
39	"Apple Watch Series 6 and SE Review – Watch Out for the Upsell"
40	Provisional Application No. 60/367,428

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.