

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, DC**

**In the Matter of**

**Certain Marine Sonar Imaging Devices,  
Including Downscan and Sidescan  
Devices, Products Containing the Same,  
and Components Thereof**

**Investigation No. 337-TA-921  
Enforcement Proceeding**

**COMPLAINT TO ENFORCE CEASE AND DESIST ORDERS  
PURSUANT TO COMMISSION RULE 210.75**

**Complainants:**

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**Proposed Enforcement Respondents:**

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## LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	Cease and Desist Orders
2	Examples of Garmin's Website Advertising, Marketing, and Promoting a Covered Product
3	Garmin's ClearVü Web pages
4	Screen Shot of Garmin Promotional Video Demonstrating the DownVü Sonar with a Covered Product
5	Garmin Public Statement regarding the ITC's Orders
6	January 27, 2016 Letter to Garmin

## I. INTRODUCTION

1. Navico, Inc. and Navico Holding AS (“Navico”) request that the United States International Trade Commission commence a formal enforcement proceeding pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §1337 (“Section 337”) and Commission Rule 210.75, 19 C.F.R. §210.75, to investigate and remedy repeated violations of the Cease and Desist Orders (Ex. 1) issued by the Commission on December 1, 2015 to Garmin International, Inc. and Garmin USA, Inc. (collectively, “Garmin” or “Enforcement Respondents”).

2. On July 9, 2014, the Commission instituted Investigation No. 337-TA-921 based on a complaint filed by Navico alleging violations of Section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof (“the Covered Products”) by reason of infringement of various claims of one or more of United States Patent Nos. 8,305,840 (“the ’840 Patent”), 8,605,550 (“the ’550 Patent”), and 8,300,499 (“the ’499 Patent”) (collectively “the Asserted Patents”). *See* EDIS Doc ID 537683. The complaint named four respondents, Garmin International, Inc., Garmin USA, Inc., Garmin Corp., and Garmin North America, Inc.

3. On December 1, 2015, the Commission issued its “Notice of the Commission’s Final Determination Finding a Violation of Section 337; Issuance of a Limited Exclusion Order and a Cease and Desist Order; Termination of the Investigation” (EDIS Doc ID 569980) and “Commission Opinion” (EDIS Doc ID 569986) (collectively, the “Final Determination”). In the Final Determination, the Commission found violations of Section 337 by Garmin International, Inc., Garmin USA, Inc., Garmin Corp. based upon infringement of claims 1, 5, 7, 9, 11, 16-19,

23, 32, 39-41, 63, and 70-72 of the '840 Patent and infringement of claims 32 and 44 of the '550 Patent.

4. Additionally, the Commission issued a Limited Exclusion Order (EDIS Doc ID 569983) (the "LEO") as well as Cease and Desist Orders (EDIS Doc ID 569987, attached as Ex. 1) (individually a "CDO," and collectively the "CDOs") directed to Garmin International, Inc. and Garmin USA, Inc.<sup>1</sup>

## II. JURISDICTION

5. The Commission has jurisdiction over this matter and the proposed Enforcement Respondents pursuant to Sections 333 and 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §§1333 and 1337.

6. The Commission has personal jurisdiction over the proposed Enforcement Respondents by virtue of their participating fully in the underlying investigation, their stipulations regarding importation (*see* EDIS Doc ID 541285), and by virtue of the CDOs directed to them (*see* EDIS ID # 569987).

## III. COMPLAINANTS

### A. Navico, Inc.

7. Navico, Inc. is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 4500 South 129<sup>th</sup> East Avenue, Suite 200, Tulsa, Oklahoma 74134.

8. Navico, Inc. was founded in March 2006 and is the U.S. entity of one of the world's largest manufacturers of marine sonar equipment. Navico, Inc. manufactures and markets products under the Lowrance, B&G, and Simrad Yachting brands of marine electronics.

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<sup>1</sup> The Commission also issued a Cease and Desist Order directed to Garmin Corporation.

9. Lowrance Electronics, Inc. has been a leader in marine electronics since it invented the first consumer marine sonar device in Joplin, Missouri, in 1957. Carl Lowrance, an avid fisherman, shared his love of the sport with his two sons, Darrell and Arlen. Collectively, these family members determined that an instrument was needed to show fishermen where to concentrate their fishing efforts, and they set out to design such an instrument themselves, focusing on making it compact, lightweight, and relatively inexpensive.

10. By November 1959 Lowrance Electronics, Inc. had designed and introduced the world's first high frequency transistorized marine sonar for sport fishing and boating. This portable sonar unit became the most popular sonar in the world, and Lowrance Electronics, Inc. produced more than a million units between 1959 and 1984.

11. In 1964, Lowrance Electronics, Inc. moved its operations to Tulsa, Oklahoma, and manufacturing started there in January of 1965. In 1965, based on its research and development, Lowrance Electronics, Inc. introduced the first marine sonars and transducers capable of high-speed performance. Over the next several decades, Lowrance Electronics, Inc. continued to develop and introduce sonar and radar units, fish finders, mapping products, GPS devices, software tools, and a variety of other products and accessories that have revolutionized marine electronics.

12. In 2006, Lowrance Electronics, Inc. and Simrad Yachting merged to form Navico, Inc., which remains today located in Tulsa, Oklahoma. Navico, Inc. manufactures and markets three well-known brands of marine electronics, namely, Lowrance, B&G, and Simrad Yachting.

13. Research is one of the keys to Navico, Inc.'s success and provides the necessary cornerstone for its cutting-edge products. In 2008, Navico, Inc. introduced the first High Definition System ("HDS") Multifunction Display. Navico, Inc. has since continued to launch new award-winning products bearing features that redefine marine electronics, including

StructureScan® HD with sidescan and DownScan Imaging™, Broadband Sonar, Trackback™ review, Broadband 4G Radar, and StructureMap™.

14. Since 2008, Navico, Inc. has spent millions of dollars in U.S. expenditures related to the development, testing, product support, repair, and service of its DownScan Imaging™ and StructureScan® product lines, which, *inter alia*, embody the innovations of the Asserted Patents and many others in Navico's patent portfolio. These expenditures and efforts demonstrate Navico's commitment to bringing state-of-the-art marine sonar equipment to U.S. consumers.

**B. Navico Holding AS**

15. Navico Holding AS is a corporation organized under the laws of Norway, with its principal place of business at Nyåskaiveien 2, 4370 Egersund, Norway.

16. Navico Holding AS is the holding company for the company's legal entities, and owns the entire right, title, and interest to the Asserted Patents. Navico Holding AS houses the head office functions and is the global manager of research and development activities, enabling use of common design and technical platforms and the most efficient use of available resources. It oversees seven research and development centers located in the United States, New Zealand, Mexico, Norway, the United Kingdom, Italy, and Russia.

17. These research and development centers focus on a variety of technological development, including software, hardware, project management, mechanical, technical writing, and optics.

18. Navico Holding AS continues to own, and Navico, Inc. continues to be the exclusive licensee of, the Asserted Patents at issue in this enforcement action, which are the subject of the Commission's LEO and CDOs.

#### **IV. PROPOSED ENFORCEMENT RESPONDENTS**

##### **A. Garmin International, Inc.**

19. Proposed Enforcement Respondent Garmin International, Inc. is a company organized and existing under the laws of the State of Kansas, having a principal place of business at 1200 East 121<sup>st</sup> Street, Olathe, Kansas 66062. Garmin International, Inc., among other things, is engaged in the importation into the United States and sale after importation into the United States of marine sonar equipment, including Garmin's DownVü Products.

20. Upon information and belief, Garmin International, Inc. imports all or a substantial portion of Garmin's DownVü Products.

21. Garmin International, Inc. is a wholly owned subsidiary of Garmin Ltd., a Swiss corporation whose shares are publicly traded on the NASDAQ stock market. Additional information concerning Garmin Ltd. may be found in its 2014 Form 10K, available at [http://www8.garmin.com/aboutGarmin/invRelations/reports/10-K\\_2014.pdf](http://www8.garmin.com/aboutGarmin/invRelations/reports/10-K_2014.pdf).

##### **B. Garmin USA, Inc.**

22. Proposed Enforcement Respondent Garmin USA, Inc. is a company organized and existing under the laws of the State of Kansas, having a principal place of business at 1200 East 121<sup>st</sup> Street, Olathe, Kansas 66062. Garmin USA, Inc., among other things, is engaged in the sale after importation into the United States of marine sonar equipment, including Garmin's DownVü Products.

23. Upon information and belief, Garmin USA, Inc. sells after importation a substantial portion of Garmin's DownVü Products.

24. Garmin USA, Inc. is a wholly owned subsidiary of Garmin Ltd.



## V. THE TECHNOLOGY AND COVERED PRODUCTS

25. Navico's Asserted Patents are a reflection of the breadth of Navico's extensive dedication to and investment in marine electronics technology. Ever since its modest beginnings dating back to 1957, Navico has strived to provide its customers with cutting-edge marine sonar devices.

26. Early marine sonar imaging systems, such as fish finders utilizing broadband sonar, generated images that helped locate fish but did not provide a clear view of underwater topography or structure, such as sunken trees or rocks. Navico's DownScan Imaging™ sonar technology, by contrast, raised the bar in fish and structure-finding technology by providing greater target and bottom definition with improved clarity and detail. The new technology has proven to be particularly adept at generating sharp, picture-like images of structure, fish, thermoclines, and more, making for more productive fishing, diving, and search and recovery.

27. Navico's research and development of its DownScan Imaging™ sonar technology evolved from its high-definition sidescan imaging technology, which Navico first envisioned in 2004 and designed, developed, and tested in 2007, continuing into 2008. Navico's sidescan imaging sonar generates detailed, picture-like images of structure, terrain, and other information found in the water to the left and right sides of a boat, but not directly beneath the boat.

28. Beginning in 2008, Navico developed its DownScan Imaging™ technology, designed to generate near picture-perfect images of structure, fish, and bottom contours located directly beneath the boat. By about July 2009, Navico began filing patent applications to protect its DownScan Imaging™ innovations.

29. The Covered Products are certain Garmin marine sonar imaging devices, products containing the same, and components thereof that incorporate, without authorization, certain of Navico's DownScan Imaging™ and StructureScan® technologies as set forth and claimed in the

Asserted Patents. Garmin generally advertises these products as containing DownVü or SideVü technologies.

30. Specifically, the Covered Products include Garmin's "echo products, echoMAP products, and GPSMAP products with their respective transducers" and the "GCV10 and GSD25 sonar modules with their respective transducers." EDIS Doc ID 569980 at 3.

31. The Covered Products fall into the categories of products that are generally known in plain English as fishfinders, fishfinder/GPS combos, chartplotters, chartplotter/sonar combos, marine multifunction displays, and/or sonar modules.

## **VI. THE CEASE AND DESIST ORDERS**

32. As a result of the finding of a violation of Section 337, the Commission issued CDOs to, *inter alia*, Garmin International, Inc. and Garmin USA, Inc. on December 1, 2015. Exhibit 1.

33. Each CDO prohibits Garmin, and its employees and agents, from, *inter alia*, marketing or advertising the Covered Products. Exhibit 1 at 3.

34. Each CDO also prohibits Garmin and its distributors from continuing to "distribute, sell, or otherwise transfer" the Covered Products. *Id.* at 2-3.

35. Each CDO also prohibits Garmin from aiding or abetting any other entities in the sale after importation of covered products. *Id.* at 3.

## **VII. GARMIN'S VIOLATIONS OF THE COMMISSION'S CEASE AND DESIST ORDERS**

36. On each day from December 2, 2015 to the present, Garmin has continued to advertise and promote the Covered Products on its website.

37. For example, prior to the issuance of the CDOs, Garmin had a webpage on its website (Garmin.com) dedicated to the advertisement, marketing, and promotion of Covered

Products branded as “echo dv,” “echoMAP dv,” “GPSMAP xs,” “GPSMAP xsv,” and “GCV 10.” Each of those webpages has continued to exist through the present, and each advertises, markets, and promotes the Covered Products and specifically the use of the DownVü sonar that was the subject of the underlying investigation.

38. As one example, prior to the CDOs, Garmin advertised, marketed, and promoted its echoMAP 74dv with GT-21 transducer, part number 010-01524-01. Every day between December 1, 2015 and the present, Garmin’s website has continued to advertise, market, and promote the very same product. Even today, Garmin has a page dedicated to part number 010-01524-01, which includes the message that the product includes “DownVü scanning sonar with the clearest images on the water.” *See Exhibit 2.*

39. While Garmin’s website has discontinued direct sales of many of these products, the web pages direct prospective purchasers to a list of authorized Garmin dealers where the user may continue to purchase Covered Product. *Id.*

40. Similarly, prior to December 1, 2015, Garmin’s website (Garmin.com) included a page advertising and promoting its “ClearVü Scanning Sonar,” and noted that, “This family includes DownVü and DownVü/SideVü scanning sonar with CHIRP technology.” Garmin’s ClearVü webpage exists even today, continuing to demonstrate the use of the technology found to infringe in the Covered Products. *See Exhibit 3.*

41. Additionally, Garmin continues to advertise, market, and promote Covered Products at trade shows. For example, upon information and belief, from February 3-7, 2016, Garmin attended and exhibited Covered Products at the Atlantic City International Power Boat Show in Atlantic City, New Jersey.

42. Moreover, Garmin continued to advertise, market, and promote Covered Products through its use of professional and/or semi-professional fishermen past December 1, 2015.

Garmin provides such fishermen Garmin products, including Covered Products, and compensates them to use, advertise, and promote the Covered Products. As one example, Garmin released a promotional video on or about December 24, 2015, showing one of its professional anglers using a Covered Product. *See* Exhibit 4. Upon information and belief, these activities continue today.

43. Upon information and belief, Garmin has also aided and abetted and encouraged its authorized distributors to continue to distribute Covered Products after December 1, 2015 (the date of the CDOs) and also after January 30, 2016 (the end of the Presidential Review period), and its authorized distributors have indeed done so. For example, despite the clear prohibition in the CDOs of any authorized Garmin distributor from distributing or selling Covered Products, Garmin has actively, openly, and repeatedly stated that distributors may continue to sell Covered Products. *See, e.g.*, Exhibit 5.

44. Upon information and belief, Garmin has also aided and abetted its authorized dealers (i.e. retailers) in their continued sales of Covered Products. For example, Garmin has provided various incentives, including rebates, price protections, and/or other incentives, to its authorized dealers in order to aid, abet, and encourage their continued sales of Covered Products after December 1, 2015 and after January 30, 2016.

45. Garmin has posted no bond with respect to the above activities, as required by the CDOs, to the extent that these activities took place during the Presidential Review Period. As such, Garmin has violated the CDOs each and every day since their issuance.

46. On January 27, 2016, near the end of the Presidential Review Period, Navico informed Garmin of the above conduct, and requested that it cease no later than the end of the Presidential Review Period, which ended on January 30, 2015. *See* Exhibit 6. Upon information

and belief, Garmin has taken no remedial actions subsequent to the letter or the expiration of the Presidential Review Period, thus exhibiting its intent to continue to knowingly violate the CDOs.

### **VIII. CONCLUSION**

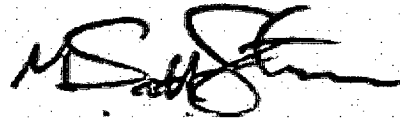
47. Garmin's conduct plainly violates the CDOs issued by the Commission. Garmin's flagrant disregard for the CDOs is evident from the fact that Garmin has not changed any of its advertising, marketing, or promotion of Covered Products after December 1, 2015. As a result, Navico respectfully requests that the Commission institute an enforcement proceeding, and impose civil penalties for every day subsequent to December 1, 2015.

### **IX. REQUEST FOR RELIEF**

48. Complainants request that the United States International Trade Commission:
- a. Institute a formal enforcement proceeding pursuant to 19 C.F.R. §210.75, to confirm the violations of the Cease and Desist Orders described herein;
  - b. Determine that there has been one or more violations of the Cease and Desist Orders by each Enforcement Respondent;
  - c. Impose civil penalties for violations of the Cease and Desist Orders, and if necessary, bring a civil action in an appropriate United States District Court pursuant to 19 C.F.R. §210.75(4) requesting the imposition of such civil penalties or the issuance of such injunctions as the Commission deems necessary to enforce its orders and protect the public interest; and
  - d. Grant such other and further relief as the Commission deems just and proper based on the facts determined by the investigation and the authority of the Commission.

Dated: February 16, 2016

Respectfully submitted,



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