

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

In the Matter of

**CERTAIN WEARABLE ACTIVITY TRACKING
DEVICES, SYSTEMS, AND COMPONENTS
THEREOF**

Inv. No. 337-TA-973

**ORDER NO. 27: INITIAL DETERMINATION TERMINATING THE
INVESTIGATION BASED ON WITHDRAWAL OF THE
COMPLAINT**

(January 3, 2017)

On December 23, 2016, Complainant Fitbit, Inc. (“Fitbit”) filed a motion to terminate the Investigation based on withdrawal of its Complaint naming Aliphcom d/b/a Jawbone and BodyMedia, Inc. (collectively, “Jawbone”) as Respondents. (Motion Docket No. 973-043.) The Motion represents that Jawbone and the Commission Investigative Attorney assigned to the Investigation do not oppose. (Motion at 2.)

Under Commission Rule 210.21(a)(1),

[a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 for an order to terminate an investigation in whole or in part as to any or all respondents on the basis of withdrawal of the complaint or certain allegations contained therein

19 C.F.R. § 210.21(a)(1). Further, “if there are any agreements concerning the subject matter of the investigation, all such agreements shall be identified, and if written, a copy shall be filed with the Commission along with the motion.” *Id.* In determining whether to grant a motion to terminate an investigation as to a respondent based on the withdrawal of allegations in the complaint against the respondent, the Commission has found that “in the absence of extraordinary circumstances, termination of the investigation will be readily granted to a complainant during the pre-hearing stage of the investigation.” *Certain Opaque Polymers, Inv.*

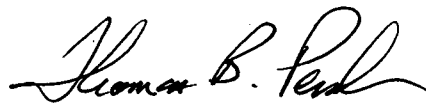
No. 337-TA-883, Order No. 29 at 1-2 (November 3, 2014).

As required by Commission Rule 210.21(a)(1), Fitbit's motion to terminate includes a statement that there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of the Investigation. (Motion at 2.) I find no extraordinary circumstances that prevent the termination of this Investigation. Termination is in the public interest, as public and private resources will be conserved. *Certain Power Supplies*, Inv. No. 337-TA-646, Order No. 18 (Jan. 5, 2009).

Accordingly, it is my Initial Determination to GRANT Motion Docket No. 973-043. This Initial Determination, along with any supporting documentation, is hereby certified to the Commission. This Initial Determination terminates the Investigation in its entirety.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review 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.

SO ORDERED.




Thomas B. Pender
Administrative Law Judge

IN THE MATTER OF CERTAIN WEARABLE ACTIVITY 337-TA-973 (Remand)
TRACKING DEVICES, SYSTEMS AND COMPONENTS THEREOF

CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **PUBLIC INITIAL DETERMINATION ORDER NO. 27** has been served upon the **Commission Investigative Attorney, Yoncha Kundupoglu, Esq.**, and the following parties as indicated on

JAN 03 2017



Lisa R. Barton, Secretary
U.S. International Trade Commission
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