

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

In the Matter of

CERTAIN ELECTROCHEMICAL
GLUCOSE MONITORING SYSTEMS
AND COMPONENTS THEREOF

Investigation No. 337-TA-1075

**NOTICE OF COMMISSION DETERMINATION TO REVIEW AND, ON REVIEW,
AFFIRM WITH MODIFICATIONS AN INITIAL DETERMINATION
GRANTING AN UNOPPOSED MOTION FOR SUMMARY DETERMINATION THAT
COMPLAINANT SATISFIED THE ECONOMIC PRONG
OF THE DOMESTIC INDUSTRY REQUIREMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review and, on review, affirm with modifications an initial determination (Order No. 32) granting an unopposed motion for summary determination that the complainant satisfied the economic prong of the domestic industry requirement.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202-205-3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 25, 2017, based on a complaint filed on September 18, 2017, on behalf of Dexcom, Inc. of San Diego, California ("Dexcom"). 82 Fed. Reg. 49420 (Oct. 25, 2017). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electrochemical glucose monitoring systems and components thereof by reason of infringement of one or more of claims of U.S. Patent Nos. 9,724,045 and 9,750,460. The notice of investigation named as a respondent AgaMatrix, Inc. of

Salem, New Hampshire (“AgaMatrix”). The Office of Unfair Import Investigations was not named as a party in the investigation.

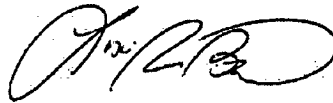
On May 17, 2018, Dexcom filed a motion for summary determination that Dexcom satisfies the economic prong of the domestic industry requirement under 19 U.S.C. § 1337(a)(3)(A) and (B). On May 29, 2018, AgaMatrix filed a response stating that it did not oppose Dexcom’s motion that it satisfies the economic prong of the domestic industry requirement as of the time of the filing of the complaint.

On June 6, 2018, the presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) (Order No. 32), granting Dexcom’s motion. The ID found that the undisputed facts demonstrate that the economic prong of the domestic industry requirement has been satisfied. No petitions for review of the ID were filed.

The Commission has determined to review the subject ID and, on review, affirm the ID with modifications. Specifically, the Commission vacates the ID’s statement on page 4 referring to Dexcom’s post-complaint lease obligations and the ID’s statements on page 8 referring to Dexcom’s costs of goods sold. The Commission affirms the remainder of the ID.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in part 210 of the Commission’s Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: July 5, 2018

**CERTAIN ELECTROCHEMICAL GLUCOSE
MONITORING SYSTEMS AND COMPONENTS THEREOF**

Inv. No. 337-TA-1075

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **NOTICE** has been served to the following parties as indicated, on July 5, 2018.



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

On Behalf of Complainants Dexcom, Inc.:

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- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Respondents AgaMatrix, Inc.:

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