

CHAIRMAN



UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C. 20436

December 22, 2022

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

In accordance with subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337) (“Section 337”), and the July 21, 2005 Memorandum for the United States Trade Representative (70 *Fed. Reg.* 43251), I am transmitting to you and the United States Trade Representative copies of the Commission’s limited exclusion order and cease and desist order, as described below, and the record upon which the Commission based its determination.

On December 22, 2022, the United States International Trade Commission issued a limited exclusion order and a cease and desist order pursuant to Section 337 in USITC Investigation No. 337-TA-1266, *Certain Wearable Electronic Devices with ECG Functionality and Components Thereof*.

The limited exclusion order prohibits Respondent Apple Inc., of Cupertino, California (“Apple”) from importing into the United States wearable electronic devices with ECG functionality and components thereof that infringe one or more of claims 12, 13, and 19-23 of U.S. Patent No. 10,638,941; and claims 1, 3, 5, 8-10, 12, 15, and 16 of U.S. Patent No. 10,595,731 (“covered products”), except under license of the patent owner or as provided by law, and except for articles or components imported for use in servicing, repairing, or replacing covered articles that were imported prior to the effective date of this Order pursuant to existing service and warranty contracts. The cease and desist order prohibits Apple from further importing, selling, or distributing covered products in the United States.

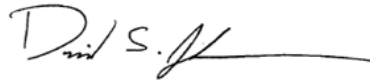
The Commission concluded that the statutory public interest factors enumerated in subsections (d)(1) and (f)(1) of Section 337 do not preclude the issuance of this remedy. The Commission determined that, during the period of Presidential review, the products described

The President
December 22, 2022
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above, manufactured abroad or imported by, for, or on behalf of Apple, may be imported and sold in the United States with the posting a bond in the amount of \$2 per unit imported.

The Commission, however, has determined to suspend enforcement of the orders, including the bond provision, pending final resolution of the U.S. Patent and Trademark Office, Patent Trial and Appeal Board's Final Written Decisions finding the asserted patent claims unpatentable. See *Apple, Inc. v. AliveCor, Inc.*, IPR2021-00971, Patent 10,595,731, Final Written Decision Determining All Challenged Claims Unpatentable (Dec. 6, 2022); *Apple, Inc. v. AliveCor, Inc.*, IPR2021-00972, Patent 10,638,941, Final Written Decision Determining All Challenged Claims Unpatentable (Dec. 6, 2022).

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Johanson", with a long horizontal flourish extending to the right.

David S. Johanson
Chairman

Enclosures

CHAIRMAN



UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C. 20436

December 22, 2022

The Honorable Janet L. Yellen
Secretary of the Treasury
Washington, D.C. 20220

Dear Madame Secretary:

In accordance with subsection (d) of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337) (“Section 337”), I am transmitting to you a copy of the Commission’s limited exclusion order, as described below, and the record upon which the Commission based its determination.

On December 22, 2022, the United States International Trade Commission issued a limited exclusion order pursuant to Section 337 in USITC Investigation No. 337-TA-1266, *Certain Wearable Electronic Devices with ECG Functionality and Components Thereof*.

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The Commission concluded that the statutory public interest factors enumerated in subsections (d)(1) of Section 337 do not preclude the issuance of this remedy. The Commission determined that, during the period of Presidential review, the products described above, manufactured abroad or imported by, for, or on behalf of Respondent Apple, may be imported and sold in the United States with the posting of a bond in the amount of \$2 per unit imported.

The Commission, however, has determined to suspend enforcement of the orders, including the bond provision, pending final resolution of the U.S. Patent and Trademark Office,

Secretary Yellen
December 22, 2022
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Patent Trial and Appeal Board's Final Written Decisions finding the asserted patent claims unpatentable. *See Apple, Inc. v. AliveCor, Inc.*, IPR2021-00971, Patent 10,595,731, Final Written Decision Determining All Challenged Claims Unpatentable (Dec. 6, 2022); *Apple, Inc. v. AliveCor, Inc.*, IPR2021-00972, Patent 10,638,941, Final Written Decision Determining All Challenged Claims Unpatentable (Dec. 6, 2022).

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Johanson", with a long horizontal flourish extending to the right.

David S. Johanson
Chairman

Enclosures

cc: Dax Terrill, Chief
Exclusion Order Enforcement
Office of International Trade
Regulation and Rulings
U.S. Customs and Border Protection
90 K Street, N.E.
Washington, D.C. 20229-1177

CHAIRMAN



UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C. 20436

December 22, 2022

The Honorable Katherine Tai
United States Trade Representative
Washington, D.C. 20508

Dear Ambassador Tai:

In accordance with subsection (j) of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337) (“Section 337”), and the July 21, 2005, Memorandum for the United States Trade Representative (70 Fed. Reg. 43251), I am transmitting to you and the President copies of the Commission’s limited exclusion order and cease and desist order, as described below, and the record upon which the Commission based its determination.

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The Commission concluded that the statutory public interest factors enumerated in subsections (d)(1) and (f)(1) of Section 337 do not preclude the issuance of this remedy. The Commission determined that, during the period of Presidential review, the products described

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