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

**Before the Honorable David P. Shaw**
**Administrative Law Judge**

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| **In the Matter of**<br><br>**CERTAIN FITNESS DEVICES, STREAMING COMPONENTS THEREOF, AND SYSTEMS CONTAINING SAME** | **Investigation No. 337-TA-1265** |

# RESPONDENTS' NOTICE OF PRIOR ART

Pursuant to Order No. 2, Ground Rule 5, Respondents ICON Health & Fitness, Inc. and its subsidiaries Free Motion Fitness, Inc. and NordicTrack, Inc. (collectively, "ICON"), lululemon athletica inc. and Curiouser Products Inc. d/b/a MIRROR (collectively, "MIRROR"), and Peloton Interactive, Inc. ("Peloton") (ICON, MIRROR, and Peloton are referred to herein collectively as "Respondents") hereby provides its Notice of Prior Art.

Respondents identify prior art to the asserted patents in Appendices attached hereto, as follows: (1) U.S. Patent No. 9,407,564 (Ex. A); (2) U.S.Patent No. 10,469,554 (Ex. B); (3) U.S. Patent No. 10,469,555 (Ex. B); (4) U.S. Patent No. 10,757,156 (Ex. A); and U.S. Patent No. 10,951,680 (Ex. B). The prior art identified in Appendices A and B lists the prior art references on which Respondents may rely, either singly or in any combination, to establish the invalidity of the asserted claims of the asserted patents or to demonstrate the relevant state of the art or level of skill in the art.

Respondents may also rely on, either singly or in any combination, the prior art identified on the face of or during prosecution of the asserted patents or any related patents, or identified in other proceedings before the United States Patent and Trademark Office for the asserted patents

or related patents.

Respondents may also rely on prior art identified or produced by Complainants or any subpoenaed third parties in this Investigation, prior art admitted into evidence or identified as an exhibit at the hearing or at deposition, and/or prior art identified during the remainder of fact and expert discovery.

Respondents may rely on documents and information that are not prior art, and therefore need not be disclosed in this Notice, for other purposes including, but not limited to, evidence of inherency in any of the prior art or establishing the prior art as prior art, including documents establishing the sales or use dates of prior art products.

Respondents may rely on any person identified as an author or inventor of any prior art identified herein as a prior inventor or as having prior knowledge of or as having previously used or offered for sale the alleged inventions of the asserted patents. Respondents may also rely on individuals, the names and addresses of which are within Complainants' possession, including Complainants' employees, former employees, consultants, and/or other persons affiliated with Complainants who may have knowledge of, or have previously made, used, sold or offered for sale, the alleged inventions of the asserted patents.

Respondents may supplement or amend this Notice as discovery proceeds, including third-party discovery. Respondents note that discovery, including third-party discovery, is ongoing. Claim construction briefing has just begun, thus Respondents' ability to understand the scope of potentially relevant prior art is limited. In addition, expert reports on infringement have not been exchanged, and expert discovery has not started. Respondents may amend and/or supplement this Notice and the attached Appendices A and B upon written notice for good cause shown to identify prior art references that may be discovered after the date of this Notice or to identify additional

prior art that may be rendered material based upon positions Complainants or its expert witnesses may adopt in this Investigation, or if Complainants attempt to rely on anyclaims, for any purpose, that have not been identified to date.

Dated: September 10, 2021

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# Appendix A

**U.S. Patent Nos. 9,407,564 and 10,757,156**

**Patent Prior Art**

| Country | Number | Date | Name of Patentee |
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| United States | 6091775 | Apr. 17, 1997 | Hibi |
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| United States | 6161201 | Feb. 26, 1998 | Payne |
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| *Video coding for streaming media delivery on the internet* | March 2001 | *All pages* |
| *Streaming Media Demystified* | 2002 | *All pages* |

**System Prior Art**

| Name of System | Date | Exemplary Supporting Evidence |
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| Level 3 | Oct. 1, 2002 | Level 3 CDN and technologies related to the SandpiperNetworks Footprint CDN (including RealNetworks Inc. RealSystem G2 integration).<br>For example, the following documents provide disclosures regarding the Level 3 system:<br>• Conklin<br>• Sandpiper Adds RealSystem G2 to its Content Delivery Network August 4, 1999), RESP-PA02644-RESP-PA02645<br>• Sandpiper Networks Signs Partner Deals (October 7, 1999), RESP-PA02623-RESP-PA02624<br>• Improving Quality May Help to Boost Streaming Media (December 19, 1999), RESP-PA02625-RESP-PA02631<br>• Introduction to Streaming Media with RealOne Player (October 1, 2002), RESP-PA00001-RESP-PA00154<br>• RealNetworks Production Guide with RealOne Player (2002), RESP-PA02834-RESP-PA03495<br>• RealSystem G2 Production Guide (1998), RESP-PA03502-RESP-PA03631<br>• Streaming Video from End to End (February 28, 1999), RESP-PA03632-RESP-PA03640<br>• RealNetworks Tests G2 (July 13, 1998), RESP-PA03461-RESP-PA03642. |
| Limelight | Jan. 13, 2002 | Limelight CDN (including EdgePrism and Orchestrate |

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| | | Platform). For example, the following documents provide disclosures regarding the Limelight system:<br>• Fresh Approach (January 13, 2002), RESP-PA02632-RESP-PA02640. |
| Akamai | Jan. 2, 2002 | Akamai CDN (including technologies related to the InterVu Inc. CDN and Speedera Networks Inc. CDN).<br>For example, the following documents provide disclosures regarding the Akamai system:<br>• Akamai Buys InterVu (February 7, 2000), RESP-PA02597-RESP-PA02599<br>• InterVu Streams Ahead Behind the Scenes (January 2, 2002), RESP-PA02600-RESP-PA02604<br>• InterVu Granted Key Internet Patent (December 16, 1999), RESP-PA02605-RESP-PA02606<br>• U.S. Patent No. 6,181,867 to Kenner, RESP-PA01300-RESP-PA01313<br>• U.S. Patent No. 6,112,239 to Kenner et al., RESP-PA01449-RESP-PA01465<br>• U.S. Patent No. 6,003,030 to Kenner et al., RESP-PA01676-RESP-PA01690<br>• U.S. Patent No. 6,625,643 to Colby et al., RESP-PA01720-RESP-PA01744<br>• U.S. Patent No. 6,154,744 to Kenner et al., RESP-PA01806-RESP-PA01819<br>• InterVu & Excalibur Partner to Deliver Live Internet Newscasts (December 9, 1999), RESP-PA02607-RESP-PA02608<br>• Sitaraman<br>• A Transport Layer for Live Streaming in a Content Delivery Network, RESP-PA02554-RESP-PA02564<br>• U.S. Patent No. 6,665,726 to Leighton et al., RESP-PA02390-RESP-PA02399<br>• |
| IBM | Aug. 14, 2003 | AIX Media Streamer & Video Charger and related streaming technologies.<br>For example, the following documents provide disclosures regarding the IBM system:<br>• Day 1<br>• Day 2<br>• Day 3<br>• U.S. Patent App. Pub. No. 2003/0152036 to Quigg Brown et al., RESP-PA01475-RESP-PA01486<br>• U.S. Patent App. Pub. No. 2003/0014684 to Kashyap, RESP-PA01560-RESP-PA01574<br>• IBM Goes Straight to Video (December 3, 1996), RESP-PA02567-RESP-PA02569<br>• IBM Digital Library Version 2 Expands Its Comprehensive Solution Framework (August 12, 1997), RESP-PA02570-RESP-PA02596 |

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| | | • IBM VideoCharger (December 18, 1996), RESP-PA02646-RESP-PA02647. |
| Apple | Sep. 20, 2003 | QuickTime media format including QuickTime player, QuickTime Streaming Server, Darwin Streaming Server, and Fast Start streaming technology (including, e.g., QuickTime 4 through 6; QuickTime Streaming Server 5.0).<br>For example, the following documents provide disclosures regarding the Apple system:<br>• SMD<br>• Mac OS X Server QuickTime Steaming Server 5.0 Administration (September 12, 2003), RESP-PA00700-RESP-PA00764<br>• Darwin Streaming Server (1999), RESP-PA02641-RESP-PA02643QuickTime 6: Summary of Changes and Enhancements (July 1, 2002). |
| Microsoft | May 2003 | Windows Media technologies including Windows Media Tools, Windows Media Services, Windows Media Center Extension, Windows Media Player, and related Intelligent Streaming technologies.<br>For example, the following documents provide disclosures regarding the Microsoft system:<br>• Introduction to Streaming Media with RealOne Player (October 1, 2002), RESP-PA00001-RESP-PA00154<br>• SMD<br>• Ravi<br>• Chou ’031<br>• U.S. Patent No. 6,766,407 to Lisitsa et al., RESP-PA01745-RESP-PA01768<br>• U.S. Patent App. Pub. No. 2004/0221088 to Lisitsa et al., RESP-PA02025-RESP-PA0245<br>• Intelligent Streaming (May 2003), RESP-PA02349-RESP-PA2353<br>• Bill Gates Unveils the Next Wave of Digital Media with Windows Microsoft (September 3, 2002), RESP-PA02616-RESP-PA02622<br>• Microsoft Announces Beta Release of Windows Media Technologies 4.0 (April 13, 1999), RESP-PA02611-RESP-PA02615<br>• Improving Quality May Help to Boost Streaming Media (December 19, 1999), RESP-PA02625-RESP-PA02631. |
| Adobe | Nov. 15, 2002 | Adobe and/or Macromedia Flash Player, Flash Communication Server, Flash Media Server, and related streaming technologies.<br><br>For example, the following documents provide disclosures regarding the Adobe system:<br>• Macromedia Delivers Macromedia Flash Communication Server MX (July 9, 2002) |

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| | | • Macromedia Flash Media Server 2 Now Available (Nov. 15, 2002)<br>• SMD, |

**Individuals with Knowledge of Use or Sale of System Prior Art**

| Name of System | Name | Address |
|---|---|---|
| Level 3 | Level 3 Communications LLC | c/o The Registered Agent<br>The Corporation Trust Company<br>Corporation Trust Center<br>1209 Orange Street<br>Wilmington, DE 19801 |
| Limelight | Limelight Networks, Inc. | c/o CT Corporation System<br>2390 E Camelback Road<br>Phoenix, AZ 85016 |
| Akamai | Akamai Technologies, Inc. | c/o Corporation Service Company<br>84 State Street<br>Boston, MA 02109 |
| IBM | International Business Machines Corp. | c/o CT Corporation System<br>330 N. Brand Blvd<br>Glendale, CA 91203 |
| Apple | Apple, Inc. | c/o Julia Lee Choi<br>1 Apple Park Way<br>Cupertino, California 95014 |
| Microsoft | Microsoft Corporation | c/o Corporation Service Company<br>300 Deschutes Way SW, Suite 208 MC-CSC1<br>Tumwater, WA 98501 |
| Adobe | Adobe Inc. | c/o Corporation Service Company<br>251 Little Falls Drive<br>Wilmington, DE 19808 |

# Appendix B

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| United States | 6622171 | Sep. 15, 1998 | Gupta |
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| United States | 6813690 | Jun. 12, 2001 | Lango |
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| United States | 7176957 | May 25, 2004 | Ivashin |
| United States | 7177642 | Jul. 3, 2001 | Sanchez Herrero |

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**Publication Prior Art**

| Title | Date | Page Numbers |
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| *A New Adaptive Multimedia Streaming System for All-IP Multi-Service Network* | March 1, 2004 | *All pages* |
| *Streaming Video over the Internet: Approaches and Directions* | March 2001 | *All pages* |
| *Rate-distortion optimized receiver-driven streaming over best-effort networks* | 2001 | *All pages* |
| *Video coding for streaming media delivery on the internet* | March 2001 | *All pages* |
| *Streaming Media Demystified* | 2002 | *All pages* |

**System Prior Art**

| Name of System | Date | Exemplary Supporting Evidence |
|---|---|---|
| Level 3 | Oct. 1, 2002 | Level 3 CDN and technologies related to the SandpiperNetworks Footprint CDN (including RealNetworks Inc. RealSystem G2 integration).<br>For example, the following documents provide disclosures regarding the Level 3 system:<br>• Conklin<br>• Sandpiper Adds RealSystem G2 to its Content Delivery Network August 4, 1999), RESP-PA02644-RESP-PA02645 |

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| | | • Sandpiper Networks Signs Partner Deals (October 7, 1999), RESP-PA02623-RESP-PA02624<br>• Improving Quality May Help to Boost Streaming Media (December 19, 1999), RESP-PA02625-RESP-PA02631<br>• Introduction to Streaming Media with RealOne Player (October 1, 2002), RESP-PA00001-RESP-PA00154<br>• RealNetworks Production Guide with RealOne Player (2002), RESP-PA02834-RESP-PA03495<br>• RealSystem G2 Production Guide (1998), RESP-PA03502-RESP-PA03631<br>• Streaming Video from End to End (February 28, 1999), RESP-PA03632-RESP-PA03640<br>• RealNetworks Tests G2 (July 13, 1998), RESP-PA03461-RESP-PA03642. |
| Limelight | Jan. 13, 2002 | Limelight CDN (including EdgePrism and Orchestrate Platform). For example, the following documents provide disclosures regarding the Limelight system:<br>• Fresh Approach (January 13, 2002), RESP-PA02632-RESP-PA02640. |
| Akamai | June 13, 2005 | Akamai CDN (including technologies related to the InterVu Inc. CDN and Speedera Networks Inc. CDN).<br>For example, the following documents provide disclosures regarding the Akamai system:<br>• Akamai Buys InterVu (February 7, 2000), RESP-PA02597-RESP-PA02599<br>• InterVu Streams Ahead Behind the Scenes (January 2, 2002), RESP-PA02600-RESP-PA02604<br>• InterVu Granted Key Internet Patent (December 16, 1999), RESP-PA02605-RESP-PA02606<br>• U.S. Patent No. 6,181,867 to Kenner, RESP-PA01300-RESP-PA01313<br>• U.S. Patent No. 6,112,239 to Kenner et al., RESP-PA01449-RESP-PA01465<br>• U.S. Patent No. 6,003,030 to Kenner et al., RESP-PA01676-RESP-PA01690<br>• U.S. Patent No. 6,625,643 to Colby et al., RESP-PA01720-RESP-PA01744<br>• U.S. Patent No. 6,154,744 to Kenner et al., RESP-PA01806-RESP-PA01819<br>• InterVu & Excalibur Partner to Deliver Live Internet Newscasts (December 9, 1999), RESP-PA02607-RESP-PA02608<br>• Sitaraman<br>• A Transport Layer for Live Streaming in a Content Delivery Network, RESP-PA02554-RESP-PA02564<br>• U.S. Patent No. 6,665,726 to Leighton et al., RESP-PA02390-RESP-PA02399<br>• Akamai Completes Acquisition of Speedera Networks (June 13, 2005), RESP-PA02609-RESP-PA02610 |

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| | | • Speedera Posts Another Record Fiscal Year (July 14, 2004), RESP-PA02648-RESP-PA02651. |
| IBM | Feb. 14, 2002 | AIX Media Streamer & Video Charger and related streaming technologies.<br>For example, the following documents provide disclosures regarding the IBM system:<br>• Day 1<br>• Day 2<br>• Day 3<br>• U.S. Patent App. Pub. No. 2003/0152036 to Quigg Brown et al., RESP-PA01475-RESP-PA01486<br>• U.S. Patent App. Pub. No. 2003/0014684 to Kashyap, RESP-PA01560-RESP-PA01574<br>• IBM Goes Straight to Video (December 3, 1996), RESP-PA02567-RESP-PA02569<br>• IBM Digital Library Version 2 Expands Its Comprehensive Solution Framework (August 12, 1997), RESP-PA02570-RESP-PA02596<br>• IBM VideoCharger (December 18, 1996), RESP-PA02646-RESP-PA02647. |
| Apple | Sep. 20, 2003 | QuickTime media format including QuickTime player, QuickTime Streaming Server, Darwin Streaming Server, and Fast Start streaming technology (including, e.g., QuickTime 4 through 6; QuickTime Streaming Server 5.0).<br>For example, the following documents provide disclosures regarding the Apple system:<br>• SMD<br>• Mac OS X Server QuickTime Steaming Server 5.0 Administration (September 12, 2003), RESP-PA00700-RESP-PA00764<br>• Darwin Streaming Server (1999), RESP-PA02641-RESP-PA02643QuickTime 6: Summary of Changes and Enhancements (July 1, 2002). |
| Microsoft | May 2003 | Windows Media technologies including Windows Media Tools, Windows Media Services, Windows Media Center Extension, Windows Media Player, and related Intelligent Streaming technologies.<br>For example, the following documents provide disclosures regarding the Microsoft system:<br>• Introduction to Streaming Media with RealOne Player (October 1, 2002), RESP-PA00001-RESP-PA00154<br>• SMD<br>• Ravi<br>• Chou ’031<br>• U.S. Patent No. 6,766,407 to Lisitsa et al., RESP-PA01745-RESP-PA01768<br>• U.S. Patent App. Pub. No. 2004/0221088 to Lisitsa et al., RESP-PA02025-RESP-PA0245 |

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| | | • Intelligent Streaming (May 2003), RESP-PA02349-RESP-PA2353<br>• Bill Gates Unveils the Next Wave of Digital Media with Windows Microsoft (September 3, 2002), RESP-PA02616-RESP-PA02622<br>• Microsoft Announces Beta Release of Windows Media Technologies 4.0 (April 13, 1999), RESP-PA02611-RESP-PA02615<br>• Improving Quality May Help to Boost Streaming Media (December 19, 1999), RESP-PA02625-RESP-PA02631. |
| Adobe | Nov. 15, 2002 | Adobe and/or Macromedia Flash Player, Flash Communication Server, Flash Media Server, and related streaming technologies.<br>For example, the following documents provide disclosures regarding the Adobe system:<br>• Macromedia Delivers Macromedia Flash Communication Server MX (July 9, 2002)<br>• Macromedia Flash Media Server 2 Now Available (Nov. 15, 2002)<br>• SMD, |

**Individuals with Knowledge of Use or Sale of System Prior Art**

| Name of System | Name | Address |
|---|---|---|
| Level 3 | Level 3 Communications LLC | c/o The Registered Agent<br>The Corporation Trust Company<br>Corporation Trust Center<br>1209 Orange Street<br>Wilmington, DE 19801 |
| Limelight | Limelight Networks, Inc. | c/o CT Corporation System<br>2390 E Camelback Road<br>Phoenix, AZ 85016 |
| Akamai | Akamai Technologies, Inc. | c/o Corporation Service Company<br>84 State Street<br>Boston, MA 02109 |
| IBM | International Business Machines Corp. | c/o CT Corporation System<br>330 N. Brand Blvd<br>Glendale, CA 91203 |
| Apple | Apple, Inc. | c/o Julia Lee Choi<br>1 Apple Park Way<br>Cupertino, California 95014 |
| Microsoft | Microsoft Corporation | c/o Corporation Service Company<br>300 Deschutes Way SW, Suite 208 MC-CSC1<br>Tumwater, WA 98501 |

## CERTIFICATE OF SERVICE

I, Russell O. Shapiro, certify that on September 10, 2021, a copy of the foregoing document was served, pursuant to Commission regulations, on the following interested parties in the manner so indicated:

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| The Honorable David P. Shaw<br>Administrative Law Judge<br>U.S. International Trade Commission<br>500 E Street, S.W.<br>Washington, D.C. 20436 | Via Email: Shaw337@USITC.gov |
| Joseph Speyer<br>Attorney-Advisor<br>U.S. International Trade Commission<br>500 E Street, S.W.<br>Washington, D.C. 20436 | Via Email:<br><br>Joseph.Speyer@usitc.gov |
| Aaron Rauh, Esq.<br>Office of Unfair Import Investigations<br>U.S. International Trade Commission<br>500 E Street, S.W., Suite 401<br>Washington, D.C. 20436<br>(202) 205-2025 | Via Email:<br><br>Aaron.Rauh@usitc.gov |
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