UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

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

JOINT MOTION OF DISH AND MIRROR TO PARTIALLY TERMINATE THE INVESTIGATION AS TO MIRROR BASED ON SETTLEMENT AGREEMENT

Complainants DISH DBS Corporation; DISH Technologies, L.L.C.; and Sling TV L.L.C. (collectively, "DISH") and Respondents lululemon athletica inc. and Curiouser Products Inc. d/b/a MIRROR (collectively, "MIRROR") jointly move to terminate this investigation only as to claims against MIRROR based on a settlement agreement between DISH and MIRROR. Pursuant to that agreement, DISH and MIRROR have settled all disputes in this investigation.

"An investigation before the Commission may be terminated as to one or more respondents pursuant to section 337(c) of the Tariff Act of 1930 on the basis of a licensing or other settlement agreement." 19 C.F.R. 210.21(b). There is a settlement agreement between DISH and MIRROR concerning the subject matter of this Investigation that, pursuant to 19 C.F.R. 210.21(b)(1), is attached to this motion. *See* **Confidential Exhibit A**. There are no other agreements, written or oral, express or implied between the parties concerning the subject matter of the Investigation.

The Office of Unfair Import Investigations stated that it will take a position on the motion after reviewing the papers as filed.

Good cause exists to terminate this investigation in view of the settlement agreement. The Commission has routinely found settlement to be a proper basis for termination under

such circumstances. *See, e.g.*, *Certain Active Matrix Oled Display Devices & Components Thereof*, Inv. No. 337-TA-1243, Comm'n Notice (Oct. 28, 2021) (EDIS Doc ID 755387) (partially terminating investigation based on a settlement agreement between the parties); *Certain Smart Thermostats, Smart Hvac Systems, & Components Thereof*, Inv. No. 337-TA-1185, Comm'n Notice (Jul. 1, 2020) (EDIS Doc ID 713726) (same); *Certain Clidinium Bromide & Products Containing Same*, Inv. No. 337-TA-1109, Comm'n Notice (Jun. 28, 2018) (EDIS Doc ID 649111) (same).

Termination of this investigation will not adversely affect the public interest. To the contrary, both the public interest and Commission policy generally favor settlement because it preserves resources for both the Commission and the parties. *See, e.g.*, *Certain Digital Cameras, Software, & Components Thereof*, Inv. No. 337-TA-1059, Comm'n Notice at 3 (Mar. 8, 2019) (EDIS Doc ID 669518) ("[T]he public interest favors settlement to avoid needless litigation and to conserve public and private resources"); *Certain Cartridges for Electronic Nicotine Delivery Systems & Components Thereof*, Inv. No. 337-TA-1141, Order No. 21 at 3 (Apr. 10, 2019) (EDIS Doc ID 672688) (same) (unreviewed); *Certain Consumer Electronics, Including Mobile Phones & Tablets*, Inv. No. 337-TA-839, Order No. 35 at 2 (Feb. 4, 2013) (EDIS Doc ID 502784) ("[T]ermination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest and will conserve public and private resources.") (unreviewed).

Request for Non-Disclosure of Settlement Terms

The settlement agreement contains confidential business information within the meaning of 19 C.F.R. 210.6(a). Accordingly, DISH and MIRROR request permission to redact their respective confidential business information, and further request that the un-redacted version of

the settlement agreement be treated as confidential business information under the Protective Order in this Investigation (Order No. 1) and not publicly disclosed. A redacted version of the settlement agreement is attached hereto as **Exhibit B** pursuant to 19 C.F.R. 210.21(b)(1) and will be filed publicly.

Conclusion

For the foregoing reasons, DISH and MIRROR respectfully request that the Commission issue a determination terminating this investigation as to MIRROR.

Respectfully submitted,

February 13, 2023

/s/ *Lisa M. Kattan*
Lisa M. Kattan
Jamie R. Lynn
Lauren J. Dreyer
Thomas C. Martin
Samuel L. Kassa
Andrew Wilson
Eileen Hyde
BAKER BOTTS L.L.P.
700 K Street, NW
Washington, DC 20001
Phone: 202.639.7700

G. Hopkins Guy, III
BAKER BOTTS L.L.P.
1001 Page Mill Road
Building One, Suite 200
Palo Alto, California 94304
Phone: 650.739.7500

Ali Dhanani
Bradley Bowling
Thomas Carter
BAKER BOTTS L.L.P.
910 Louisiana Street
Houston, Texas 77002
Phone: 713.229.1234

/s/ Stephen R. Smith
Stephen R. Smith
Phillip E. Morton
Emily E. Terrell
Naina Soni
Elizabeth Shrieves
COOLEY L.L.P.
1299 Pennsylvania Avenue, NW, Suite 700
Washington, DC 20004
Phone: 202.842.7800

Heidi Keefe
Cameron Vanderwall
COOLEY L.L.P.
3175 Hanover Street
Palo Alto, California 94304
Phone: 650.843.5000

Michael Rhodes
COOLEY L.L.P.
3 Embarcadero Center, 20th Floor
San Francisco, CA 94111-5800
Phone: 415.693.2000

Email: Mirror-ITC@cooley.com

Counsel for Respondents lululemon athletica

Bethany R. Salpietra
BAKER BOTTS L.L.P.
2001 Ross Avenue, Suite 900
Dallas, Texas 75201
Phone: 214.953.6500

Email: DISHABRITC@BakerBotts.com

Attorneys for Complainants DISH DBS Corporation, DISH Technologies L.L.C., and Sling TV L.L.C.

inc. and Curiouser Products Inc. (d/b/a MIRROR)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **JOINT MOTION OF DISH AND MIRROR TO PARTIALLY TERMINATE THE INVESTIGATION AS TO MIRROR BASED ON SETTLEMENT AGREEMENT** has been filed and served on this 13th day of February, 2023, on the following:

United States International Trade Commission

The Honorable Lisa R. Barton Secretary to the Commission U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, SW, Room 112 Washington, D.C. 20436	☐ Via First Class Mail ☐ Via Hand Delivery ☐ Via Overnight Courier ☒ Via EDIS
The Honorable Clark S. Cheney Chief Administrative Law Judge U.S. International Trade Commission 500 E Street, S.W. Washington, DC 20436 Email: Cheney337@usitc.gov	☐ Via First Class Mail ☐ Via Hand Delivery (by Next Business Day) ☐ Via Overnight Courier ☒ Via Electronic Mail ☒ Via Box

Office of Unfair Import Investigations

Aaron Rauh, Esq. Commission Investigative Attorney Office of Unfair Import Investigations U.S. International Trade Commission 500 E Street, S.W., Room Washington, D.C. 20436 Email: Aaron.Rauh@USITC.com	☐ Via First Class Mail ☐ Via Hand Delivery ☐ Via Overnight Courier ☒ Via Electronic Mail ☒ Via Box

Respondents iFit, Inc.; FreeMotion Fitness, Inc.; and NordicTrack, Inc.

Charles S. Barquist **MASCHOFF BRENNAN** 300 South Grand Ave., Suite 1400 Los Angeles, CA 90071 Tyson K. Hottinger Christina L. Trinh **MASCHOFF BRENNAN** 100 Spectrum Center Drive, Suite 1200 Irvine, CA 92618 Email: icon_mb_dish@mabr.com	☐ Via First Class Mail ☐ Via Hand Delivery ☐ Via Overnight Courier ☒ Via Electronic Mail

Respondents iFit, Inc.; FreeMotion Fitness, Inc.; and NordicTrack, Inc.

Liane M. Peterson **FOLEY LARDNER LLP**	☐ Via First Class Mail

Washington Harbor 300 K Street N.W., Suite 600 Washington, D.C. 20007-5143 David R. Wright Jared J. Braithwaite Taylor J. Wright **FOLEY LARDNER LLP** 136 S. Main Street, Suite 400 Salt Lake City, UT 84101 Kevin Malaney **FOLEY LARDNER LLP** 777 E. Wisconsin Avenue Milwaukee, WI 53202-5306 iFit-ITC1265@Foley.com	☐ Via Hand Delivery ☐ Via Overnight Courier ☒ Via Electronic Mail

Respondent Peloton Interactive, Inc.

Josh A. Krevitt Katherine Q Dominguez Allen Kathir **GIBSON, DUNN & CRUTCHER LLP** 200 Park Avenue, 47th Floor New York, NY 10166 Y. Ernest Hsin **GIBSON, DUNN & CRUTCHER LLP** 555 Mission Street San Francisco, CA 94105-0921 Brian M. Buroker Shuo Josh Zhang **GIBSON, DUNN & CRUTCHER LLP** 1050 Connecticut Ave., N.W. Washington, D.C. 20036-5306 Ryan K. Iwahashi **GIBSON, DUNN & CRUTCHER LLP** 1881 Page Mill Road Palo Alto, CA 94304-1211 Email: GDC-Peloton-ITC@gibsondunn.com	☐ Via First Class Mail ☐ Via Hand Delivery ☐ Via Overnight Courier ☒ Via Electronic Mail

/s/ Steven M. Liquori
Steven M. Liquori