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Peloton Will Pay Dish $75M To Avoid Import Ban

By Dani Kass · Listen to article

Law360 (May 5, 2023, 10:33 PM EDT) -- Peloton Interactive Inc. on Friday said it has agreed to pay a Dish Network subsidiary $75 million for a patent license, a month after the U.S. International Trade Commission voted to ban its workout device imports.

Dish and its Sling TV LLC unit asked the ITC to rescind its limited exclusion and cease and desist orders against Peloton since the exercise equipment company will now import under a proper licensing agreement for the adaptive bit rate streaming patents. Peloton will pay Sling $75 million for its license to settle the dispute with all units involved in the case, according to a redacted version of the settlement agreement.

The commission had issued orders on March 8 telling iFIT Inc., FreeMotion Fitness Inc., NordicTrack Inc., and Peloton to stop importing certain products. The settlement did not include details about the three other companies, and their attorneys didn't immediately respond to requests for confirmation about their status.

On the same day Sling and Peloton alerted the agency to their agreement, the commission noted an error in its own decision, and had the cease and desist order modified. The change just replaces "the date of this order" in two parts of the order with a reference to the part of the U.S. Code dealing with unfair practices in import trade, "the date this order becomes final within the meaning of 19 U.S.C. Section 1337(j)(4)."

That specific part of the code says the order becomes final once it's clear that the president will not be stepping in to show their disapproval with the decision.

Sling and Peloton's agreement also closes out infringement litigation in the Eastern District of Texas. That suit had been stayed by U.S. Magistrate Judge Roy S. Payne pending the ITC proceedings.

U.S. District Judge Rodney Gilstrap on Thursday signed off on Sling's request to dismiss the case.

Counsel for Sling and Peloton didn't immediately respond to requests for comment Friday.

The patents-in-suit are U.S. Patent Nos. 9,407,564; 10,469,554; 10,469,555 and 10,757,156.

Dish and Sling are represented by Lisa M. Kattan, Jamie R. Lynn, Thomas C. Martin, Lauren J. Dreyer, Samuel L. Kassa, Andrew Wilson, Eileen Hyde Ali Dhanani, Bethany R. Salpietra, G. Hopkins Guy III, and Thomas Carter of Baker Botts LLP.

Peloton is represented by Josh A. Krevitt, Katherine Q. Dominguez, Allen Kathir, Y. Ernest Hsin, Brian M.

Buroker, Shuo Josh Zhang and Ryan K. Iwahashi of Gibson Dunn & Crutcher LLP and Alexander D. Chinoy of Covington & Burling LLP.

The cases are In the Matter of Certain Fitness Devices, Streaming Components Thereof, and Systems Containing Same, investigation number 337-TA-1265, at the U.S. International Trade Commission, and Dish Technologies LLC et al. v. Peloton Interactive Inc., case number 2:21-cv-00132, in the U.S. District Court for the Eastern District of Texas.

--Editing by Linda Voorhis.

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Case Information

Case Title

DISH Technologies L.L.C. et al v. PELOTON INTERACTIVE, INC.

Case Number

2:21-cv-00132

Court

Texas Eastern

Nature of Suit

Patent

Judge

Rodney Gilstrap

Date Filed

April 13, 2021

Law Firms

- Baker Botts
- Covington & Burling
- Gibson Dunn

Companies

- DISH Network Corp.
- Peloton Interactive Inc.

- Sling TV LLC

Government Agencies

- International Trade Commission
- U.S. District Court for the Eastern District of Texas

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