

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MARINE SONAR IMAGING
DEVICES, INCLUDING DOWNSCAN
AND SIDESCAN DEVICES, PRODUCTS
CONTAINING THE SAME, AND
COMPONENTS THEREOF**

Investigation No. 337-TA-921

MODIFIED LIMITED EXCLUSION ORDER

The Commission found on December 1, 2015, that there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), in the unlawful importation, sale for importation, and sale after importation by Garmin International, Inc. and Garmin USA, Inc., each of Olathe, Kansas, and Garmin (Asia) Corporation of New Taipei City, Taiwan (collectively, “Respondents”) of certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof by reason of infringement of claims 1, 5, 7, 9, 11, 16-19, 23, 32, 39-41, 63, and 70-72 of U.S. Patent No. 8,305,840 (“the ’840 patent”) and claims 32 and 44 of U.S. Patent No. 8,605,550 (“the ’550 patent”).

The Commission determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of covered marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns. The Commission also determined that the public interest factors enumerated in 19 U.S.C. §§ 1337(d)(1) and 1337(f)(1) do not preclude the issuance of the limited exclusion order. The Commission further determined to set a bond during the period of

Presidential review in the amount of 100 percent of the entered value of the marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof that are subject to this Order.

The Commission has determined to modify the December 1, 2015 limited exclusion order. Accordingly, the Commission hereby **ORDERS** that:

1. Marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof that are covered by one or more of claims 1, 5, 7, 9, 11, 16-19, 23, 32, 39-41, 63, and 70-72 of the '840 patent and claims 32 and 44 of the '550 patent and that are manufactured abroad by or on behalf of, or imported by or on behalf of, Respondents or any of their affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patent, except under license of the patent owner or as provided by law.

2. Notwithstanding Paragraph 1 of this Order, the aforementioned marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption under bond in the amount of 100 percent of the entered value of such articles pursuant to subsection (j) of section 337 (19 U.S.C. § 1337(j)) and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43,251), from the day after this Order is received by the United States Trade Representative until such time as the United States Trade Representative notifies the Commission that this Order is approved or disapproved but, in any event, not later than sixty days after the date of receipt of this Order.

3. At the discretion of U.S. Customs and Border Protection (CBP) and pursuant to procedures that it establishes, persons seeking to import marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are either not excluded from entry under Paragraph 1 of this Order or are permitted to enter under Paragraph 4 of this Order as intended for sale for use other than in the infringing marine sonar imaging devices. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate the certification.

4. The provisions of this Order shall not apply to marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof, found to be non-infringing as detailed in the Commission Opinion dated December 1, 2015, at pages 28-31 and 45-46, and as clarified in the Commission Opinion leading to this modified limited exclusion order. Specifically, the provisions of this Order shall not apply to standalone products (for example, a standalone transducer product) that are, or will be, both imported as standalone products and sold after importation as standalone products. By contrast, the provisions of this Order shall apply to components (for example, a transducer component) of marine sonar imaging devices when such components are, or will be, imported or sold after importation as part of a marine sonar imaging system covered by one or more of the claims recited above in Paragraph 1.

5. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to certain marine sonar imaging devices, including downscan and sidescan devices, products containing the same, and components thereof imported by and for the use of the United

States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

6. The Commission may modify this Order in accordance with the procedures described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

7. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and U.S. Customs and Border Protection.

8. Notice of this Order shall be published in the *Federal Register*.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: August 18, 2016

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Peter J. Sawert, Esq., and the following parties as indicated, on **August 18, 2016**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
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On Behalf of Complainants Navico, Inc. and Navico Holding

AS:

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**On Behalf of Respondents Garmin International, Inc.,
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