

**U.S. INTERNATIONAL TRADE COMMISSION  
WASHINGTON, DC**

**In the Matter of**

**CERTAIN MARINE SONAR IMAGING  
SYSTEMS, PRODUCTS CONTAINING  
THE SAME, AND COMPONENTS  
THEREOF**

Investigation No. 337-TA-\_\_\_\_\_

**COMPLAINT UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

**Complainants:**

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Racine, WI 53403  
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**Proposed Respondents:**

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## TABLE OF CONTENTS

Table of Exhibits.....	ii
Table of Physical Exhibits .....	iii
Table of Appendices .....	iv
I. Introduction and Plain English Identification of Accused Products .....	1
II. The Parties .....	3
A. Complainants .....	3
B. Proposed Respondents .....	3
1. Garmin International, Inc.....	3
2. Garmin North America, Inc. ....	4
3. Garmin USA, Inc. ....	4
4. Garmin Corporation .....	5
III. The Technology and Products at Issue .....	5
IV. The Asserted Patents and Non-Technical Description of the Inventions .....	8
A. Ownership of the Asserted Patents .....	8
B. U.S. Patent No. 7,652,952.....	8
C. U.S. Patent No. 7,710,825.....	11
D. U.S. Patent No. 7,755,974.....	12
E. Counterparts of the Asserted Patents .....	13
F. Licensees under the Asserted Patents .....	13
V. Respondents' Unlawful and Unfair Acts .....	13
A. Direct Infringement.....	14
B. Induced Infringement.....	15
C. Contributory Infringement.....	16
VI. Specific Instances of Unfair Importation and Sale .....	17
VII. Harmonized Tariff Schedule Numbers .....	18
VIII. Related Litigation.....	19
IX. Domestic Industry.....	20
A. Economic Prong.....	21
1. Significant Investment in Plant and Equipment.....	21
2. Significant Employment of Labor and Capital .....	24
3. Substantial Investment in Engineering and R&D.....	25
B. Technical Prong .....	25
X. Request for Relief .....	26

## **TABLE OF EXHIBITS**

<b><u>Exhibit</u></b>	<b><u>Description</u></b>
1	Copy of U.S. Patent No. 7,652,952
2	Certified Copy of U.S. Patent No. 7,710,825
3	Certified Copy of U.S. Patent No. 7,755,974
4	Certified Assignment of U.S. Patent No. 7,652,952
5	Certified Assignment of U.S. Patent No. 7,710,825
6	Certified Assignment of U.S. Patent No. 7,755,974
7	Claim Chart Showing Practice of Asserted Patents by Humminbird Side Imaging <sup>®</sup> model no. 999ci HD SI Combo
8	Confidential List of Licensee(s) of the Asserted Patents
9	Exemplary Claim Chart Showing Infringement of U.S. Patent No. 7,652,952
10	Exemplary Claim Chart Showing Infringement of U.S. Patent No. 7,710,825
11	Exemplary Claim Chart Showing Infringement of U.S. Patent No. 7,755,974
12	Garmin Ltd. 2013 Form 10-K Annual Report
13	Declaration of David A. Betts under 37 C.F.R. 1.132 dated Dec. 10, 2007 (without exhibits)
14	Second Declaration of David A. Betts under 37 C.F.R. 1.132 dated Feb. 5, 2009
15	Declaration of Jeff Davison under 37 C.F.R. 1.132 dated Dec. 9, 2007
16	Second Declaration of Jeff Davison under 37 C.F.R. 1.132 dated Feb. 5, 2009 (without exhibits)
17	Declaration of Jeff Davison under 37 C.F.R. § 1.132 dated June 6, 2012 (without exhibits)
18	Declaration of Mark Gibson under 37 C.F.R. 1.132 dated Dec. 10, 2007 (without exhibits)
19	Second Declaration of Mark Gibson under 37 C.F.R. 1.132 dated Feb. 5, 2009
20	Confidential License Agreement
21	SideVü/DownVü Transducer Installation Instructions dated February 2014 (excerpt)
22	GCV 10 Installation Instructions dated November 2013
23	GPSMAP 800/100 Series Owner's Manual dated January 2014 (excerpt)
24	Garmin side scan display screenshots
25	Photographs of SideVü/DownVü, GCV 10, echoMAP 70dv and GPSMAP 1040xs
26	Copies of receipts
27	Excerpt of "Defendant Garmin's Opposition to Navico's Motion for Preliminary Injunction," <i>Navico, Inc. v. Garmin Int'l, Inc.</i> , No. CJ-2012-01444 (Okla. Dist. Ct., Tulsa County), dated March 28, 2012, and Exhibit 11 thereto
28	Confidential Declaration of F. Wayne Gibson
29	Confidential Declaration of Richard J. Fiegel

## **TABLE OF PHYSICAL EXHIBITS**

<b><u>Exhibit</u></b>	<b><u>Description</u></b>
P1	Physical sample of a domestic product protected by the Asserted Patents (Humminbird Side Imaging® model no. 999ci HD SI Combo)
P2	Physical samples of the following imported product that are the subject of this complaint: Garmin SideVü/DownVü sonar imaging transducer, GCV 10 sounder module, and echoMAP 70dv sonar display



## **TABLE OF APPENDICES**

<b><u>Appendix</u></b>	<b><u>Description</u></b>
A	Certified Copy of Prosecution History of U.S. Patent No.7,652,952
B	Certified Copy of Prosecution History of U.S. Patent No.7,710,825
C	Certified Copy of Prosecution History of U.S. Patent No.7,755,974
D	Copies of Cited References for U.S. Patent No. 7,652,952
E	Copies of Cited References for U.S. Patent No. 7,710,825
F	Copies of Cited References for U.S. Patent No. 7,755,974

**I. INTRODUCTION AND PLAIN ENGLISH  
IDENTIFICATION OF ACCUSED PRODUCTS**

1. Johnson Outdoors Inc. (“Johnson Outdoors”) and Johnson Outdoors Marine Electronics, Inc., d/b/a Humminbird (“Humminbird”<sup>1</sup> and together with Johnson Outdoors, “Complainants”) file this complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), based on the unlawful importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain marine sonar imaging systems, products containing the same, and components thereof.

2. The proposed Respondents are Garmin International, Inc., Garmin North America, Inc., Garmin USA, Inc. and Garmin Corporation (collectively, “Garmin” or “Respondents”), all of which are subsidiaries of Garmin Ltd. according to its 2013 Form 10-K Annual Report (Exhibit 12, the “Garmin 2013 Annual Report”).

3. This complaint is directed to Respondents’ imported marine sonar imaging systems, products containing the same, and components thereof that infringe one or more of claims 1, 2, 17, 25, 26, 31, 32, 35, 36, 41-43, 53 and 56 of reexamined U.S. Patent No. 7,652,952 (“the ’952 Patent”), claims 1, 5, 7, 8, 21, 22, 24, 25, 28 and 29 of reexamined U.S. Patent No. 7,710,825 (“the ’825 Patent”) and claims 14, 18, 21-23, 25 and 33 of reexamined U.S. Patent No. 7,755,974 (“the ’974 Patent”) (collectively, the “Asserted Patents,” copies of which are attached as Exhibits 1-3<sup>2</sup>). Such systems, products, and components include at least the Garmin

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<sup>1</sup> Humminbird originally operated as Techsonic Industries, Inc., which was acquired by Johnson Outdoors in May 2004, and which changed its name to Johnson Outdoors Marine Electronics, Inc. in December 2009. Techsonic Industries, Inc. will also be referred to as “Humminbird.”

<sup>2</sup> Certified copies of the ’825 and ’974 Patents are submitted herewith. A certified copy of the ’952 Patent has been ordered from the United States Patent and Trademark Office and will be submitted upon its receipt.

SideVü/DownVü sonar imaging transducer (part number 010-12089-00), the Garmin GCV 10 sounder module, and compatible Garmin echoMAP and GPSMAP series sonar displays, for example, the Garmin echoMAP 70dv and 70s and GPSMAP 721, 721xs, 741, 741xs, 820, 820xs, 840xs, 1020, 1020xs and 1040xs sonar displays (collectively, the “Accused Products”).<sup>3</sup>

4. According to the Garmin 2013 Annual Report, Garmin introduced the “DownVü and SideVü, which is Garmin’s down and side-scanning sonar technology that provides high resolution imagery” in February 2014. Examples of such imagery are shown in Exhibit 24.

5. Marine sonar imaging products such as the Accused Products are typically used by recreational fisherman to find fish, or the underwater objects, vegetation and structures where fish hide, and are commonly referred to as “fishfinders.”

6. On information and belief, the Accused Products are manufactured, sold for importation into the United States, imported into the United States, and sold after importation into the United States by or on behalf of Respondents.

7. An industry as required by 19 U.S.C. §§ 1337(a)(2) and (3) exists in the United States relating to articles protected by the Asserted Patents.

8. Complainants seek as relief a permanent limited exclusion order prohibiting entry into the United States of Respondents’ infringing marine sonar imaging systems, products containing the same, and components thereof.

9. Complainants also seek permanent cease and desist orders prohibiting Respondents from importing, admitting or withdrawing from a foreign trade zone, marketing, advertising, demonstrating, warehousing inventory, distributing, offering for sale, selling,

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<sup>3</sup> The identification of a specific model or type of product is not intended to limit the scope of the investigation. Discovery may reveal that additional Garmin products infringe the asserted patent claims and/or that additional claims are infringed, and any remedy should extend to all infringing products.

licensing, repairing, programming, or updating its infringing marine sonar imaging systems, products containing the same, and components thereof.

## **II. THE PARTIES**

### **A. Complainants**

10. Johnson Outdoors is a corporation organized and existing under the laws of the State of Wisconsin, having a principal place of business at 555 Main Street, Racine, Wisconsin 53403. Johnson Outdoors owns the Asserted Patents.

11. Humminbird is a wholly owned subsidiary of Johnson Outdoors. Humminbird is a corporation organized and existing under the laws of the State of Alabama, having a principal place of business at 678 Humminbird Lane, Eufaula, Alabama 36027. Humminbird is the exclusive licensee of the Asserted Patents.

12. Humminbird is a leader in developing and manufacturing fishfinders of all types, which it sells under the Humminbird® brand. Humminbird makes and sells Side Imaging® fishfinder products, which practice the side scan sonar inventions of the Asserted Patents.

### **B. Proposed Respondents<sup>4</sup>**

#### **1. Garmin International, Inc.**

13. Proposed Respondent Garmin International, Inc. is a company organized and existing under the laws of the State of Kansas, having a principal place of business at 1200 East 121st Street, Olathe, Kansas 66062.

14. Garmin International, Inc. is a wholly owned subsidiary of Garmin Ltd.<sup>5</sup>

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<sup>4</sup> On July 9, 2014, the Commission instituted Investigation No. 337-TA-921 on behalf of Navico Inc. (and its parent company) against the same Respondents proposed herein, namely, Garmin International, Inc., Garmin North America, Inc., Garmin USA, Inc. and Garmin Corporation. That investigation involves several of the same Garmin products accused herein.

15. Upon information and belief, and as discussed further below, Garmin International, Inc., among other things, is engaged in the importation of the Accused Products into the United States and/or sale of the Accused Products after importation into the United States.

16. Upon information and belief, Garmin International, Inc. imports all or a substantial portion of the Accused Products.

**2. Garmin North America, Inc.**

17. Proposed Respondent Garmin North America, Inc. is a company organized and existing under the laws of the State of Kansas, having a principal place of business at 1200 East 121st Street, Olathe, Kansas 66062.

18. Upon information and belief, Garmin North America, Inc. is a subsidiary of Garmin Ltd.

19. Upon information and belief, and as discussed further below, Garmin North America, Inc., among other things, is engaged in the importation of the Accused Products into the United States and/or sale of the Accused Products after importation into the United States.

**3. Garmin USA, Inc.**

20. Proposed Respondent Garmin USA, Inc. is a company organized and existing under the laws of the State of Kansas, having a principal place of business at 1200 East 121st Street, Olathe, Kansas 66062.

21. Garmin USA, Inc. is a wholly owned subsidiary of Garmin Ltd.

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<sup>5</sup> Garmin Ltd. is a Swiss corporation having a principal place of business at Mühlentalstrasse 2, 8200 Schaffhausen, Switzerland. Should discovery reveal that Garmin Ltd. is involved in the sale for importation, importation, or sale after importation of any of the Accused Products, Complainants may seek leave to add it as a respondent.

22. Upon information and belief, and as discussed further below, Garmin USA, Inc., among other things, is engaged in the importation of the Accused Products into the United States and/or sale of the Accused Products after importation into the United States.

23. Upon information and belief, Garmin USA, Inc. sells after importation all or a substantial portion of the Accused Products.

#### **4. Garmin Corporation**

24. Proposed Respondent Garmin Corporation is a company organized under the laws of Taiwan, having a principal place of business at No. 68, Zhangshu 2nd Road, Xizhi Dist., New Taipei City 221, Taiwan (R.O.C.).

25. Garmin Corporation is a subsidiary of Garmin Ltd., as per Exhibit 21.1 of the Garmin 2013 Annual Report. Additional information concerning Garmin Corporation may be found on its website, available at <http://www.garmin.com.tw/>.

26. Upon information and belief, Garmin Corporation is the manufacturer of the Accused Products.

27. Upon information and belief, and as discussed further below, Garmin Corporation is engaged in the sale of the Accused Products for importation into the United States and/or importation of the Accused Products into the United States.

### **III. THE TECHNOLOGY AND PRODUCTS AT ISSUE**

28. In the early 2000s, Humminbird employees invented a new boat-mounted sonar system that uses side scan sonar beams to locate fish and underwater structures. This new sonar system, because for example of its size, cost and performance, offered recreational fisherman the first fishfinder that presented high resolution imagery—clear, detailed and recognizable images on both sides and below a boat. *See* Exhibits 13-19.

29. The first products were introduced into the marketplace by Humminbird in March 2005 that employ this now patented side scan sonar technology. *See* Exhibits 13-19. In the years that followed, Humminbird has sold an array of side scan sonar products under its Side Imaging<sup>®</sup> registered trademark. *See* Confidential Exhibit 29. Humminbird's Side Imaging<sup>®</sup> products are covered by each of the Asserted Patents. *See infra* § IX.B and Exhibit 7.

30. The marketplace has enthusiastically accepted these Humminbird side scan sonar products. They have become the industry leading high-end, premium sonar fishfinders used for inland (freshwater) and near-shore (saltwater) sports fishing and recreational boating.

31. Sales of the Humminbird Side Imaging<sup>®</sup> products have grown accordingly, even despite the difficult market for the recreational boating and fishing industries. *See* Exhibit 17; Confidential Exhibit 29. The Humminbird Side Imaging<sup>®</sup> products are Humminbird's most important and profitable products. Confidential Exhibit 29. Side scan sonar is now a "must have" product for many recreational fishermen—a market singularly created by Humminbird. *See* Exhibits 13-19.

32. Humminbird Side Imaging<sup>®</sup> products have received very positive testimonials from objective, actual users and opinion leaders in the industry. *See* Exhibits 13-19.

33. Humminbird Side Imaging<sup>®</sup> products have received many industry awards, including, for example, the 2006 International Convention of Allied Sportsfishing Tackle (ICAST) Best in Show Award for Electronics, the 2008 Innovation Award for Marine Electronics at the Seawork Exhibition in Great Britain, and the 2008 Technical Innovation of the Year at the Fishing News Awards, also in Great Britain. *See also* Exhibits 13-19.

34. Humminbird manufactures these side scan sonar products in its Eufaula, Alabama factory. Of the leading marine product companies (according to Garmin itself<sup>6</sup>), consisting of Navico, Inc. (“Navico”), Garmin, Furuno Electronic Company, Raymarine Inc. and Humminbird, on information and belief Humminbird is the only one that manufactures its marine sonar imaging products in the United States.

35. Since 2003, Humminbird has spent millions of dollars in the United States related to the research and development, testing, manufacture, sales, support, repair and service of its side scan sonar and other sonar imaging products. These expenditures and efforts demonstrate the commitment of Humminbird to bring state-of-the-art side sonar imaging products to U.S. consumers.

36. The Accused Products are certain Garmin marine sonar imaging systems, products containing the same, and components thereof, including but not limited to the Garmin SideVü/DownVü sonar imaging transducer (part number 010-12089-00), the Garmin GCV 10 sounder module, and compatible Garmin echoMAP and GPSMAP series sonar displays, for example, the Garmin echoMAP 70dv and 70s and GPSMAP 721, 721xs, 741, 741xs, 820, 820xs, 840xs, 1020, 1020xs and 1040xs sonar displays. These Accused Products, when installed per Garmin’s instructions, practice Complainants’ patented side scan sonar technology.

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<sup>6</sup> “For marine products, Garmin believes that its principal competitors are Furuno Electronic Company, the Humminbird division of Johnson Outdoors, Inc., Navico and Raymarine Inc.” See Garmin 2013 Annual Report.



**IV. THE ASSERTED PATENTS AND NON-TECHNICAL DESCRIPTION OF THE INVENTIONS<sup>7</sup>**

**A. Ownership of the Asserted Patents**

37. Johnson Outdoors owns the entire right, title, and interest to the Asserted Patents.

Certified copies of the assignments for the Asserted Patents are attached as Exhibits 4-6.

38. Johnson Outdoors granted Humminbird an exclusive license<sup>8</sup> to make and sell the Side Imaging<sup>®</sup> products under the Asserted Patents. *See* Exhibit 20.

**B. U.S. Patent No. 7,652,952**

39. The '952 Patent, entitled "Sonar Imaging System for Mounting to Watercraft," issued on January 26, 2010, to inventors David A. Betts, Robert W. Derrow and David J. Howells. The '952 Patent issued from U.S. Patent Application No. 11/195,107 filed on August 2, 2005. Pursuant to a 10-day extension, the '952 Patent expires on August 12, 2025. U.S. Patent Application No. 11/195,107 claims priority to U.S. Provisional Application No. 60/598,326, filed on August 2, 2004.

40. On October 17, 2011, the '952 Patent was placed into *ex parte* reexamination before the United States Patent and Trademark Office ("USPTO") by Alston & Bird LLP on behalf of its client Navico, the real-party-in-interest, and was assigned Reexamination Control No. 90/009,956. The reexamination certificate for the '952 Patent issued on July 30, 2013.

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<sup>7</sup> All non-technical descriptions of the inventions herein are presented to give a general background of those inventions. Such statements are not intended to be used, nor should be used, for purposes of patent claim interpretation. Complainants present these statements subject to, and without waiver of, their right to argue that claim terms should be construed in a particular way, as contemplated by claim interpretation jurisprudence and the relevant evidence.

<sup>8</sup> Johnson Outdoors and Humminbird together granted a limited, non-exclusive license under the Asserted Patents to a third party.

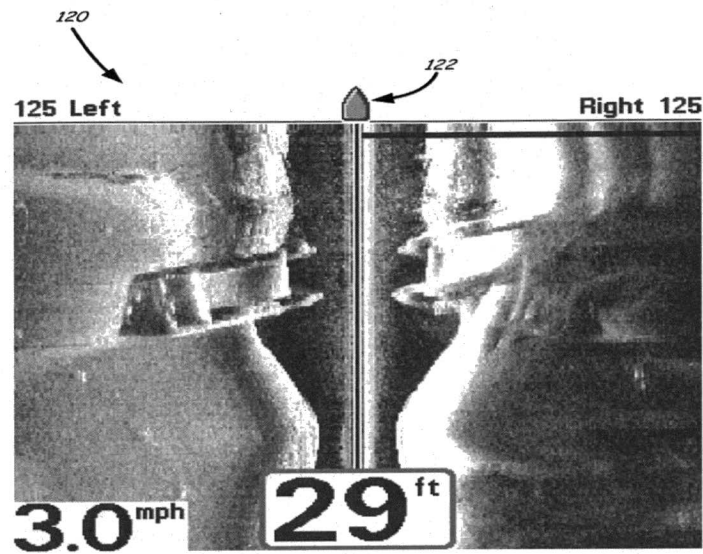
41. A copy of the '952 Patent, including the July 30, 2013 reexamination certificate and a March 9, 2010 Certificate of Correction, is attached as Exhibit 1.

42. A certified copy of the prosecution history of the '952 Patent (including both original examination and reexamination) and copies of each reference cited in the '952 Patent during original examination and reexamination are included in Appendices A and D, respectively.

43. The '952 Patent has 56 claims, 12 of which are independent claims. Complainants are asserting claims 1, 2, 17, 25, 26, 31, 32, 35, 36, 41-43, 53 and 56 of the '952 Patent.

44. Historically, down looking and side looking sonars suitable for use by recreational fisherman (i.e., fishfinders) provided a blurry, low-resolution view of fish and objects beneath and to the sides of the watercraft, which required much skill and experience to interpret, even guesswork. *See* Exhibits 13, 14 & 18-19. High-resolution boat-mounted and towed side scanning sonars existed before the present inventions, but they were not practical to use as a recreational fishfinder, in part because they did not have a compact transducer assembly.

45. Pursuant to 19 C.F.R. § 210.12(a)(9)(vi), the non-technical explanation of the inventions of the '952 Patent follows. The '952 Patent is directed to a side scanning sonar imaging system with a boat-mounted transducer assembly and an electronic control head. The sonar uses thin slices of sound to produce clear, high-resolution images containing details of underwater articles and the bottom and shadows, as if they were taken with a traditional camera using light. Consequently, fishermen can now literally see submerged structures, rocks, vegetation and other objects underneath the water located hundreds of feet away from the sides of their boat, as shown in Fig. 19 of the '952 Patent, reproduced below.



*FIG. 19*

46. The '952 Patent's transducer assembly is compact and can be readily attached, for example, to the transom of a sports fishing boat. The transducer assembly housing typically contains rectangular left and right side scan acoustic elements that generate and transmit sound into the water, which have total lengths of up to about 7 inches substantially co-extensive with the length of the housing. The side scan acoustic elements also have total widths of up to about 0.5 inches.

47. The compactness of the transducer assembly may be further achieved by placing the sonar transmitting and receiving circuitry in the display or sounder module instead of in the transducer assembly itself.

48. The compactness of the transducer assembly may be still further achieved by placing the downward scan acoustic elements, if any, between the left and right side scan acoustic elements, rather than in front of or behind them.

**C. U.S. Patent No. 7,710,825**

49. The '825 Patent, entitled "Side Scan Sonar Imaging System with Boat Position on Display," issued on May 4, 2010, to inventors David A. Betts, Robert W. Derrow and David J. Howells. The '825 Patent issued from U.S. Patent Application No. 12/319,594 filed on January 9, 2009, as a continuation of U.S. Patent Application No. 11/195,107 (which issued as the '952 Patent), and expires on August 2, 2025.

50. On October 17, 2011, the '825 Patent was placed into *ex parte* reexamination before the USPTO by real-party-in-interest Navico, and was assigned Reexamination Control No. 90/009,958. The reexamination certificate for the '825 Patent issued on May 8, 2013.

51. A certified copy of the '825 Patent, including the May 8, 2013 reexamination certificate and a June 11, 2013 Certificate of Correction, is attached as Exhibit 2.

52. A certified copy of the prosecution history of the '825 Patent (including both original examination and reexamination) and copies of each reference cited in the '825 Patent during original examination and reexamination are included in Appendices B and E, respectively.

53. The '825 Patent has 30 claims, 4 of which are independent claims. Complainants are asserting claims 1, 5, 7, 8, 21, 22, 24, 25, 28 and 29 of the '825 Patent.

54. Pursuant to 19 C.F.R. § 210.12(a)(9)(vi), the non-technical explanation of the inventions of the '825 Patent follows. The '825 Patent is directed to a side scanning sonar system which displays left and/or right side images; a boat location relative to the image; and a distance of an object from the side of the boat. For example, as shown in Fig. 19 of the '825 Patent (*supra* ¶ 45), the boat position is shown as the centerline of left- and right-sided images, and the lateral distance of an object from the boat is shown as the number of feet to the left and right of the centerline ("125 Left" and "125 Right").

55. In one example of this system, the length of the transducer assembly housing is substantially co-extensive with the total length of the left and right side scan acoustic elements. In another example, the left and right side scan acoustic elements are mounted within the housing at a depression angle between 20 and 40 degrees from horizontal by positioning them in a cradle.

**D. U.S. Patent No. 7,755,974**

56. The '974 Patent, entitled "Side Scan Sonar Imaging System with Enhancement," issued on July 13, 2010, to inventors David A. Betts, Robert W. Derrow and David J. Howells. The '974 Patent issued from U.S. Patent Application No. 12/319,586 filed on January 9, 2009, as a continuation of U.S. Patent Application No. 11/195,107 (which issued as the '952 Patent), and expires on August 2, 2025. The '974 Patent is subject to a terminal disclaimer based on the '952 Patent.

57. On October 17, 2011, the '974 Patent was placed into *ex parte* reexamination before the USPTO by real-party-in-interest Navico, and was assigned Reexamination Control No. 90/009,957. The reexamination certificate for the '974 Patent issued on May 13, 2013.

58. A certified copy of the '974 Patent, including the May 13, 2013 reexamination certificate and a July 30, 2013 Certificate of correction, is attached as Exhibit 3.

59. A certified copy of the prosecution history of the '974 Patent (including both original examination and reexamination) and copies of each reference cited in the '974 Patent during original examination and reexamination are included in Appendices C and F, respectively.

60. The '974 Patent has 34 claims, 8 of which are independent claims. Complainants are asserting claims 14, 18, 21-23, 25 and 33 of the '974 Patent.

61. Pursuant to 19 C.F.R. § 210.12(a)(9)(vi), the non-technical explanation of the inventions of the '974 Patent follows. The '974 Patent is directed to a side scanning sonar

imaging system, whereby an image enhancement algorithm is applied to the side scan image data to provide an enhanced image. This image enhancement algorithm may be used, for example, to reduce unwanted noise that is picked up by the acoustic elements.

**E. Counterparts of the Asserted Patents**

62. A list of each foreign patent, each pending foreign patent application, and each foreign application that has been denied, abandoned, or withdrawn corresponding to the Asserted Patents, with an indication of the prosecution status of each such foreign patent application, is shown below (all below-listed foreign applications, like each of the Asserted Patents, claim priority to U.S. Provisional Application No. 60/598,326). Johnson Outdoors is aware of no other foreign patent, foreign pending patent application, or foreign application that has been denied, abandoned, or withdrawn corresponding to the Asserted Patents.

<b>Jurisdiction</b>	<b>Application</b>	<b>Status</b>	<b>Patent</b>
EP	05782717.2	Issued	1891461
CA	2 588 047	Abandoned	
AU	2005271581	Issued	2005271581
JP	2007-524919	Abandoned	
NO	20071151	Abandoned	
WIPO	PCT/US2005/027436	Expired	

**F. Licensees under the Asserted Patents**

63. Parties licensed under the Asserted Patents are identified in Confidential Exhibit 8, and a copy of the license agreement between Johnson Outdoors and Humminbird is submitted as Confidential Exhibit 20.

**V. RESPONDENTS' UNLAWFUL AND UNFAIR ACTS**

64. As discussed in detail below, the Accused Products are marine sonar imaging systems, products containing the same, and components thereof that infringe the Asserted Patents

and are manufactured abroad, sold for importation into the United States, imported into the United States, and/or sold within the United States after importation by or on behalf of Garmin. Information regarding representative Accused Products discussed below can be found in Exhibits 21-25.

65. Garmin directly infringes, contributes to the infringement of, and/or induces the infringement of at least claims 1, 2, 17, 25, 26, 31, 32, 35, 36, 41-43, 53 and 56 of the '952 Patent, claims 1, 5, 7, 8, 21, 22, 24, 25, 28 and 29 of the '825 Patent and claims 14, 18, 21-23, 25 and 33 of the '974 Patent, with respect to the Accused Products.

66. Complainants have not licensed or otherwise authorized Garmin or its customers to make, use, sell, offer to sell or import the Accused Products.

67. Garmin will be given notice of its infringement of the Asserted Patents no later than the filing and/or receipt of the July 17, 2014 complaint filed in the United States District Court for the Middle District of Alabama (*see infra* ¶ 85), a courtesy copy of which was received by Garmin on or before July 18, 2014.

68. Exemplary claim charts showing infringement of certain claims of the '952 Patent, '825 Patent and '974 Patent by certain of Garmin's Accused Products, specifically, SideVü/DownVü sonar imaging transducers, GCV 10 sounder modules and compatible echoMAP and GPSMAP sonar displays, are attached as Exhibits 9-11.

**A. Direct Infringement**

69. On information and belief, Garmin manufactures and/or sells for importation the Accused Products, imports the Accused Products into the United States, and directly or through authorized agents, sells the Accused Products within the United States to distributors, independent retailers, other resellers and/or consumers.

70. On information and belief, Garmin directly infringes the above-identified claims of each of the Asserted Patents by importing into the United States and selling in the United States, SideVü/DownVü sonar imaging transducers to be mounted to boats and operably connected per their instructions to GCV 10 sounder modules and compatible echoMAP or GPSMAP sonar displays, and/or by using boat-mounted SideVü/DownVü sonar imaging transducers operably connected to GCV 10 sounder modules and compatible echoMAP or GPSMAP sonar displays. Similarly, third-party users of the Accused Products, deploying them in accordance with Garmin's user manual instructions, also directly infringe the above-identified claims of each of the Asserted Patents.

**B. Induced Infringement**

71. Upon information and belief, Garmin has also actively induced, and continues to actively induce, the direct infringement of the above-identified claims of the Asserted Patents by others, with specific intent, for example, by encouraging and facilitating users of the Accused Products to mount SideVü/DownVü sonar imaging transducers to boats and operably connect those transducers to GCV 10 sounder modules, and the GCV 10 sounder modules to compatible echoMAP or GPSMAP sonar displays, so as to infringe the above-identified claims of each of the Asserted Patents. Garmin, upon information and belief, among other things advertises the Accused Products, publishes datasheets and promotional literature describing the installation and operation of the Accused Products, creates and/or distributes user manuals for the Accused Products, and offers support and technical assistance to its customers, all with the intention of instructing and encouraging users of the Accused Products to deploy them so as to infringe the above-identified claims of each of the Asserted Patents.



72. Upon information and belief, Garmin knows, at least as a result of the filing and/or receipt of the July 17, 2014 complaint filed in the United States District Court for the Middle District of Alabama (*see supra* ¶ 67 and *infra* ¶ 85), that when the Accused Products are deployed in the manner Garmin promotes, there is a direct infringement of the above-identified claims of each of the Asserted Patents.

73. Moreover, Garmin has had knowledge of the Asserted Patents since at least March 28, 2012—nearly two years before Garmin introduced the Accused Products into the marketplace—when Garmin International, Inc. filed a pleading in *Navico, Inc. v. Garmin Int'l, Inc.*, No. CJ-2012-01444 (Okla. Dist. Ct., Tulsa County) that specifically refers to them: “In Johnson Outdoors, Inc. and Johnson Outdoors Marine Electronics, Inc. v. Navico, Inc. (Case No. 2:10-CV-67-WKW-CSC, United States District Court, Middle District of Alabama, Northern Division), competitor Johnson Outdoors sued Navico for infringement of its FSP [freshwater sonar products] sonar patents.” Exhibit 27 at 15-16. Garmin also attached an exhibit to that pleading that specifically referred to the Asserted Patents. *See id.* (Garmin’s Exhibit 11, pp. 1-2).

**C. Contributory Infringement**

74. On information and belief, Garmin has also contributed, and continues to contribute, to the infringement of the above-identified claims of the Asserted Patents by users of the Accused Products, by importing into the United States and selling within the United States components of the patented systems. These components include but are not limited to the aforementioned SideVü/DownVü sonar imaging transducers, the GCV 10 sounder modules, and/or compatible echoMAP or GPSMAP sonar displays, and constitute material parts of the inventions described in the Asserted Patents (see claim charts at Exhibits 9-11).

75. Upon information and belief, these components are known, or should have been known, by Garmin to be especially made or especially adapted for use in the infringement of the Asserted Patents, and are not staple articles or commodities of commerce suitable for substantial non-infringing use. For example, Garmin instructs its customers to deploy the Accused Products so as to create sonar imaging systems that infringe the above-identified claims of each of the Asserted Patents, *i.e.*, to mount SideVü/DownVü sonar imaging transducers to boats and operably connect those transducers to GCV 10 sounder modules, and the GCV 10 sounder modules to compatible echoMAP or GPSMAP sonar displays.

#### **VI. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

76. Complainants purchased examples of Accused Products, namely a SideVü/DownVü sonar imaging transducer, a GCV 10 sounder module and an echoMAP 70dv display, from a retailer in Prattville, Alabama on April 3, 2014 and March 31, 2014. *See* Exhibit 26. Samples of the Accused Products are being submitted as Physical Exhibit P2, and photographs of the Accused Products are contained in Exhibit 25. These photographs show that these Accused Products, and their packaging, are marked as having been “Made in Taiwan,” with the exception of certain cables, which are marked as having been made in China.

77. The Accused Products are believed to be manufactured by Respondent Garmin Corporation at its manufacturing facilities in Taiwan, and then sold for importation or imported into the United States by the same. According to the Garmin 2013 Annual Report:

Garmin Corporation owns and occupies a 249,326 square foot facility in Sijhih, Taipei County, Taiwan, a 223,469 square foot facility in Jhongli, Tao-Yang County, Taiwan, and an approximately 580,000 square foot facility in LinKou, Tao-Yang County, Taiwan. *In these three facilities, Garmin Corporation manufactures all of Garmin’s consumer and portable aviation products and warehouses, markets and supports products for the Pacific Rim countries.*

\* \* \* \* \*

*Garmin Corporation (GC) is primarily responsible for the manufacturing and distribution of the Company's products to the Company's subsidiaries and, to a lesser extent, new product development and sales and marketing of the Company's products in Asia and the Far East.*

Exhibit 12 at 30, 69 (emphasis added).

78. Garmin International, Inc., Garmin North America, Inc. and Garmin USA, Inc. are believed to be importing the Accused Products into the United States or selling them after their importation into the United States. For example, the Garmin 2013 Annual Report states:

*Garmin International, Inc. and Garmin USA, Inc. occupy a facility of approximately 1,120,000 square feet on 42 acres in Olathe, Kansas, where the majority of product design and development work is conducted, the majority of aviation panel/mount products are manufactured and products are warehoused, distributed, and supported for North, Central and South America.*

\* \* \* \* \*

*Garmin International, Inc. (GII) is primarily responsible for sales and marketing of the Company's products in the Americas region and for most of the Company's research and new product development.*

Exhibit 12 at 29, 69 (emphasis added).

79. In addition, both Garmin Corporation and Garmin International, Inc. are listed, for example, on the product literature for the SideVü/DownVü sonar imaging transducer, the GCV 10 sounder module and the GPSMAP 800/1000 Series sonar display. Exhibits 21-23.

## **VII. HARMONIZED TARIFF SCHEDULE NUMBERS**

80. On information and belief, the Accused Products have been imported into the United States under at least the following Harmonized Tariff Schedule numbers: 9014.80.40 and 9014.90.60.

## **VIII. RELATED LITIGATION**

81. Complainants asserted the Asserted Patents (prior to their reexamination) against Navico in the United States District Court for the Middle District of Alabama, from January 26, 2010 to January 13, 2012.

82. In particular, in December 2009, Navico began selling in the United States the side scan sonar imaging product known as LSS-1 StructureScan. On January 26, 2010, the same day the '952 Patent issued, Johnson Outdoors and Humminbird sued Navico for patent infringement in the United States District Court for the Middle District of Alabama. Eventually, Johnson Outdoors and Humminbird sued Navico on a total of four patents related to side scan sonar.

83. In December 2011, Johnson Outdoors, Humminbird and Navico reached a confidential settlement of their dispute, and the lawsuit terminated on January 13, 2012. Navico thereafter discontinued sales of the accused LSS-1 StructureScan products, and now sells the LSS-2 StructureScan HD.

84. On October 17, 2011, prior to the aforementioned settlement, real-party-in-interest Navico put the four Johnson Outdoors side scan patents-in-suit into reexamination before the USPTO, asserting what it believed to be the closest prior art. Three of those patents, the '952, '825 and '974 Patents asserted here, were reexamined by numerous experienced USPTO examiners and were found patentable over the asserted prior art. Many additional claims were also deemed patentable. Their respective reexamination certificates issued on June 30, May 8 and May 13, 2013.

85. On July 17, 2014, Complainants filed a civil action in the United States District Court for the Middle District of Alabama against Respondents Garmin International, Inc., Garmin North America, Inc. and Garmin USA, Inc. seeking damages and injunctive relief for infringement of the Asserted Patents by the same Accused Products at issue herein.

## **IX. DOMESTIC INDUSTRY**

86. A domestic industry, as defined by 19 U.S.C. § 1337(a)(3)(A)-(C), exists with respect to Complainants' activities in the United States related to products protected by the Asserted Patents by reason of Complainants' (a) significant investment in plant and equipment, (b) significant employment of labor and capital and (c) substantial investments in the exploitation of the Asserted Patents. As described below, Complainant Humminbird currently manufactures, tests, packages, engineers, markets and services in the United States all of its side scan sonar imaging products that utilize the technology protected by the Asserted Patents. (*See* Confidential Exhibit 29 ¶ 6).

87. By way of background, the total market value of Humminbird Covered Products manufactured by Humminbird in its Fiscal Year 2013, based on their wholesale price when sold, was significant. Using these same prices, Complainants project that the total market value of the actual and/or projected production volume for Humminbird Covered Products in its Fiscal Year 2014 will be even greater. Further details about the market value of the Humminbird Covered Products made by Humminbird are described in the Confidential Fiegel Declaration. (*See* Confidential Exhibit 29 ¶ 3).

88. Indeed, sales of Humminbird Covered Products have grown rapidly since their inception, which not only evidences the domestic industry but confirms the validity of the inventions of the Asserted Patents. For example, in Complainants' Fiscal Year 2006—the first such fiscal year with a full 12 months of sales—Complainant Humminbird sold 2,666 Humminbird Covered Products. Exhibit 17 ¶ 6. The next fiscal year, sales of Humminbird Covered Products increased several times over to 12,795 units. (*Id.*) This figure doubled by Fiscal Year 2011, during which Complainants sold 25,993 Humminbird Covered Products, resulting in nearly \$30 million in net sales. (*Id.*).

**A. Economic Prong**

**1. Significant Investment in Plant and Equipment**

89. A domestic industry exists in the United States by virtue of Complainants' significant investments in plant and equipment devoted to manufacturing, testing, packing, engineering, marketing and servicing side scan sonar imaging products that utilize technology covered by one or more claims of each of the Asserted Patents.

90. Complainant Humminbird manufactures marine electronics products under its Humminbird<sup>®</sup> trade name and brand. Its sonar fishfinder products that embody the technology of the Asserted Patents also carry Johnson Outdoors' Side Imaging<sup>®</sup> trademark. Since 2005, Humminbird has manufactured Side Imaging<sup>®</sup> products in Eufaula, Alabama. These products are covered by one or more of the claims of each of the Asserted Patents, including Physical Exhibit P1, model no. 999ci HD SI Combo. Hereinafter, these side scan sonar products that utilize the patented technology are referred to as the "Humminbird Covered Products." The correspondence of the Humminbird Covered Products to a representative claim of each of the Asserted Patents is discussed and established in Section IX.B. ("Technical Prong") below.

91. In its Fiscal Year 2013,<sup>9</sup> for example, Humminbird sold a significant number of Humminbird Covered Products that were all manufactured in Eufaula, and further details of Humminbird's significant manufacturing activities are described in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 ¶¶ 3, 6, 8 & 12-14).

92. Humminbird's main campus is located in Eufaula, Alabama, and includes three primary facilities: (1) a manufacturing facility, (2) an engineering and R&D facility and (3) a facility for repairs and customer service. These facilities have significant value, and include

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<sup>9</sup> Humminbird's fiscal year spans from October to September. Thus, for example, Fiscal Year 2013 corresponds to October 2012-September 2013.

equipment also of significant value. Because a significant percentage of Humminbird's activities at these facilities relate to the Humminbird Covered Products, a large part of the value of these facilities is related to the Humminbird Covered Products. Further details about the facilities used by Humminbird in connection with the Humminbird Covered Products are described in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 ¶¶ 5-8).

93. Humminbird founded its current manufacturing facility in 1971 for the purpose of manufacturing sonar fishfinder products. (See Confidential Exhibit 29 ¶ 6). Humminbird manufactures all of the Humminbird Covered Products in its Eufaula, Alabama manufacturing facility. (Confidential Exhibit 29 ¶ 6). Below are photographs of the Eufaula manufacturing facility (exterior and interior):





94. Humminbird founded its current R&D facility in Eufaula in May 2014. Prior to the opening of its new R&D facility, those activities were conducted in other facilities in Eufaula, Alabama. Below is a photograph of the current Eufaula R&D facility:



95. Below is a photograph of Humminbird's Eufaula customer service and repairs facility:



96. Additional confidential business information regarding Complainant Humminbird's investments in plant, equipment, labor and engineering related to the Humminbird Covered Products is set forth in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 § II).



97. As of May 30, 2014, Humminbird had a significant number of Humminbird Covered Products in finished goods inventory at Humminbird awaiting distribution. (See Confidential Exhibit 29 ¶ 19).

98. Humminbird maintains warehouse space integral with its manufacturing facility. Further details about Humminbird's warehousing operations and inventory are described in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 ¶ 20).

99. Humminbird also has a location in Alpharetta, Georgia. Further details about Humminbird's property and facilities in Alpharetta are described in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 § II.B).

100. Humminbird conducts various engineering, including mechanical, electrical and software engineering, as well as sales and marketing activities, at its Alpharetta facilities. Further details about these are described in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 ¶¶ 24 & 27).

## **2. Significant Employment of Labor and Capital**

101. A domestic industry exists in the United States by virtue of Humminbird's significant employment of labor and capital in the United States to manufacture, test, package, engineer, market and service the products that utilize technology covered by one or more claims of each of the Asserted Patents.

102. Humminbird employs in the United States a significant number of full-time personnel and contractors, as well as significant number of seasonal personnel, who dedicate a large percentage of their time to activities relating to Humminbird Covered Products. Further details about Humminbird's employment activities and details of the work performed by these employees are described in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 ¶¶ 11-14, 17, 18, 24 & 27).

103. Maintaining the foregoing labor pool costs a significant dollar amount per year. (See Confidential Exhibit 29 ¶¶ 15 & 25). Humminbird also expends a significant dollar amount each year on maintenance and repair of its Eufaula and Alpharetta facilities. (See Confidential Exhibit 29 ¶¶ 10 & 23).

**3. Substantial Investment in Engineering and R&D**

104. A domestic industry exists in the United States by virtue of Complainants' substantial investments in exploiting the Asserted Patents, particularly through its engineering and R&D activities relating thereto.

105. The annual cost of Humminbird's engineering and R&D operations attributable to the Humminbird Covered Products is substantial. (See Confidential Exhibit 29 ¶¶ 16 & 26).

106. These departments employ a significant number of full-time personnel, who dedicate a substantial portion of their time to activities relating to the Humminbird Covered Products, and further details about Humminbird's engineering and R&D activities are described in the Confidential Fiegel Declaration. (See Confidential Exhibit 29 ¶¶ 17, 18 & 27).

107. Complainants' investments in the relevant domestic industry are continuing and ongoing.

**B. Technical Prong**

108. Each of the Humminbird Covered Products practices at least claim 1 of the '952 Patent, at least claim 1 of the '825 Patent and at least claim 14 of the '974 Patent. A claim chart that demonstrates how a representative Covered Humminbird Product of Complainants, namely model no. 999ci HD SI Combo, practices an exemplary claim of each of the Asserted Patents (viz., claim 1 of the '952 Patent, claim 1 of the '825 Patent and claim 14 of the '974 Patent) is attached hereto as Exhibit 7. A physical sample of Complainants' representative Humminbird Sonar, model no. 999ci HD SI Combo, is submitted herewith as Physical Exhibit P1.

**X. REQUEST FOR RELIEF**

109. Complainants request that the U.S. International Trade Commission:

a. Institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violations of Section 337 based upon the sale for importation into the United States, the importation into the United States, and/or the sale within the United States after importation of Respondents' marine sonar imaging systems, products containing the same, and components thereof that infringe one or more claims of the Asserted Patents;

b. Determine that there has been a violation of Section 337 by each Respondent;

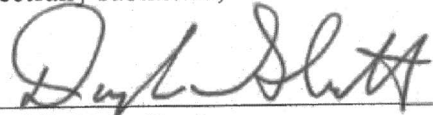
c. Issue a permanent limited exclusion order, pursuant to 19 U.S.C. § 1337(d), prohibiting entry into the United States of all of Respondents' marine sonar imaging systems, products containing the same, and components thereof that infringe one or more claims of the Asserted Patents;

d. Issue permanent cease and desist orders, pursuant to 19 U.S.C. § 1337(f), prohibiting Respondents and their parents, subsidiaries, and other affiliates from importing, admitting or withdrawing from a foreign trade zone, marketing, advertising, demonstrating, warehousing inventory, distributing, offering for sale, selling, licensing, repairing, programming, or updating marine sonar imaging systems, products containing the same, and components thereof that infringe one or more claims of the Asserted Patents; and

e. Grant such other and further relief as the Commission deems just and proper based on the facts determined by the investigation and the authority of the Commission.

Dated: July 18, 2014

Respectfully submitted,



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