

remand vacating the Commission's previous finding of no violation, the Commission found a violation of section 337 based on infringement of the asserted claims of the patents and issued a general exclusion order ("GEO") and, *inter alia*, a cease and desist order ("CDO") directed against Double Diamond. 76 FR 43723–24 (July 21, 2011).

On March 28, 2020, the '789 patent expired. Accordingly, the GEO and CDO, by their terms, are only directed to articles that infringe one or more of claims 1 and 2 of the '858 patent. On December 8, 2020, Double Diamond submitted a request for institution of an expedited advisory opinion proceeding to determine whether its new Original Beach DAWGS™ shoes with plastic washers are subject to the GEO or CDO. On December 18, 2020, Crocs opposed Double Diamond's request for an expedited advisory opinion proceeding. On December 22, 2020, Double Diamond moved for leave to file a reply to Crocs' opposition, and on December 23, 2020, Crocs responded to Double Diamond's motion for leave to reply.

On January 7, 2021, the Commission instituted an advisory opinion proceeding to determine whether Double Diamond's new Original Beach DAWGS™ shoes with plastic washers fell within the scope of the GEO or CDO. 86 FR 2696 (January 13, 2021). Concurrent with the notice, the Commission ordered supplemental information and a product sample from Double Diamond. Comm'n Order (Jan. 7, 2021). On January 14, 2021, Double Diamond submitted its response to the Commission Order. On January 28, 2021, Crocs submitted its reply to Double Diamond's submission.

Having considered the record evidence including the parties' filings, the Commission has determined that Double Diamond's new Original Beach DAWGS™ shoes with permanent plastic washers that prevent all direct contact between the strap and the base of the shoe do not fall within the scope of the GEO or CDO and therefore should not be excluded. The reasons for the Commission's determination are set forth in the accompanying Advisory Opinion, and the advisory opinion proceeding is hereby terminated.

The Commission vote for this determination took place on April 13, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: April 13, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

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## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *In the Matter of Certain Fitness Devices, Streaming Components Thereof, and Systems Containing Same, DN 3544*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov).

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of DISH DBS Corporation, DISH Technologies L.L.C., and Sling TV L.L.C on April 13, 2021. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of

certain fitness devices, streaming components thereof, and systems containing same. The complainant names as respondents: ICON Health & Fitness, Inc. of Logan, UT; FreeMotion Fitness, Inc. of Logan, UT; NordicTrack, Inc. of Logan, UT; lululemon athletica inc. of Canada; Curiouser Products Inc. d/b/a MIRROR of New York, NY; and Peloton Interactive, Inc. of New York, NY. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues

must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (“Docket No. 3544”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures<sup>1</sup>). Please note the Secretary’s Office will accept only electronic filings during this time. Filings must be made through the Commission’s Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel<sup>2</sup>, solely for cybersecurity

<sup>1</sup> Handbook for Electronic Filing Procedures: [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf).

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup>

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission’s Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 14, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

[Prohibited Transaction Exemption 2021-01; Exemption Application No. D-12018]

#### Exemption for Certain Prohibited Transaction Restrictions Involving DWS Investment Management Americas, Inc. (DIMA or the Applicant) and Certain Current and Future Asset Management Affiliates of Deutsche Bank AG (each a DB QPAM) Located in New York, New York

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Notice of exemption.

**SUMMARY:** This document is a notice of exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). The exemption allows entities with specified relationships to Deutsche Bank AG to continue to rely on the exemptive relief provided by Prohibited Transaction Class Exemption 84-14, if certain conditions are met.

**DATES:** This exemption will be in effect for a period of up to three (3) years beginning on April 18, 2021.

**FOR FURTHER INFORMATION CONTACT:** Frank Gonzalez of the Department at (202) 693-8553. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** On February 12, 2021, the Department published a notice of proposed exemption in the **Federal Register** at 86 FR 9376, for certain qualified professional asset managers within the corporate family of Deutsche Bank AG

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

(Deutsche Bank), including DWS Investment Management Americas Inc. (DIMA or the Applicant), to continue relying on the class exemptive relief granted in Prohibited Transaction Exemption (PTE) 84-14 (PTE 84-14 or the QPAM Class Exemption), for up to three years, notwithstanding the 2017 criminal conviction of DB Group Services (UK) Limited (the U.S. Conviction). The Department is granting this exemption to ensure that Covered Plans with assets managed by an asset manager within the corporate family of Deutsche Bank may continue to benefit from the relief provided by PTE 84-14, with the protection of this exemption’s additional conditions.<sup>1</sup>

The grant of this three-year exemption does not imply that the Department will grant additional relief for the DB QPAMs to continue to rely on the relief in PTE 84-14 beyond the end of this exemption’s three-year term. This exemption provides only the relief specified in the text of the exemption, and only with respect to the criminal convictions or criminal conduct described herein. It provides no relief from violations of any law other than the prohibited transaction provisions of ERISA and the Code.

The Department intends for the terms of this exemption to promote adherence to basic fiduciary standards under ERISA and the Code. This exemption also aims to ensure that Covered Plans can terminate relationships in an orderly and cost-effective fashion in the event the fiduciary of a Covered Plan determines it is prudent to terminate the relationship with a DB QPAM. The Department makes the requisite findings under ERISA section 408(a) based on adherence to all the conditions of the exemption. Accordingly, affected parties should be aware that the conditions incorporated in this exemption are,

<sup>1</sup> For purposes of this exemption, a “Covered Plan” is a plan subject to Part 4 of Title 1 of ERISA (“ERISA-covered plan”) or a plan subject to section 4975 of the Code (“IRA”) with respect to which a DB QPAM relies on PTE 84-14, or with respect to which a DB QPAM (or any Deutsche Bank affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84-14). A Covered Plan does not include an ERISA-covered plan or IRA to the extent the DB QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into its contract, arrangement, or agreement with the ERISA-covered plan or IRA. Notwithstanding the above, a DB QPAM may disclaim reliance on QPAM status or PTE 84-14 in a written modification of a contract, arrangement, or agreement with an ERISA-covered plan or IRA, where: The modification is made in a bilateral document signed by the client; the client’s attention is specifically directed toward the disclaimer; and the client is advised in writing that, with respect to any transaction involving the client’s assets, the DB QPAM will not represent that it is a QPAM, and will not rely on the relief described in PTE 84-14.