

Apple plans rescue for \$17 billion watch business in face of ban

December 19 2023, by Mark Gurman, Bloomberg News



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Apple Inc., just days away from a U.S. ban of its smartwatches, is plotting a rescue mission for the \$17 billion business that includes software fixes and other potential workarounds.

Engineers at the [company](#) are racing to make changes to algorithms on the device that measure a user's blood oxygen level—a feature that Masimo Corp. has argued infringes its patents' rights. They're adjusting how the technology determines [oxygen saturation](#) and presents the data to customers, according to people familiar with the work.

It's a high-stakes engineering effort unlike any Apple has undertaken before. Though the iPhone maker's products have previously been barred in certain countries over legal disputes, this restriction would hit one of Apple's biggest moneymakers in its home country—on Christmas no less. Without a last-minute veto by the White House, a ban imposed by the International Trade Commission will take effect on Dec. 25.

Apple could settle with Masimo, though that's a route it typically prefers not to take. And the two companies don't appear to have engaged on that front. For now, Apple is focused on modifying its technology and trying to win favor with regulators.

If the ban holds, Apple is working on a range of legal and technical options. Already, it's begun preparing stores for the change. It sent new signs to its [retail outlets](#) that promote the Apple Watch without showing photos of the Series 9 and Ultra 2—two models targeted by the ban. The company's lower-end SE watch will still be available.

Apple plans to stop selling the prohibited watches on its website on Thursday and then pull them from its roughly 270 brick-and-mortar outlets by Dec. 24.

Work within Apple suggests that the company believes software changes—rather than a more complicated hardware overhaul—will be enough to bring the device back to store shelves. But the patents at the heart of the dispute are mostly related to hardware, including how light is emitted into the skin to measure the amount of oxygen in a person's

blood.

An Apple spokeswoman said the company is working on submitting a workaround to the U.S. customs agency, which is in charge of approving changes to get a product back on the market.

Masimo has said that a software fix will be an insufficient remedy. "The hardware needs to change," the maker of medical devices said.

The ITC ban will take the form of an import restriction that makes it impossible for Apple to sell the device in the U.S. The company relies on overseas suppliers for the watch's components and its assembly.

Such disputes are typically settled before they get to this point, said Evan Zimmerman, co-founder and chief executive officer of Edge, which makes software for drafting patents.

"These types of disputes that lead to import restrictions are rare and are often used as leverage in settlement negotiations," he said. It may be a challenge for Apple to resolve the dispute with software tweaks, given how broad Masimo's patents are, Zimmerman said. But Apple could make a plausible argument that the software controls how the device works, he said.

While the company is working on both hardware and software fixes, actually getting the new technology to market will take time. Apple's internal software testing process is lengthy, for good reason. The company needs to ensure that any changes won't break other smartwatch features. The adjustments also may need additional testing given their medical purpose.

In a scenario where Apple needs to remove hardware from its device, getting new models produced and shipped could take at least three

months, according to one person familiar with the company's operations. And that doesn't account for how long it will take the customs agency to approve the move.

The blood-oxygen feature was first added to the Apple Watch in 2020 with the Series 6 model. At the time, the coronavirus pandemic was raging and some doctors used blood-oxygen levels to assess the impact of the virus on patients' ability to breathe.

The feature monitors a person's levels throughout the day. A user also can get a current reading, which takes about 15 seconds. Many patients seek levels between 95% and 100%.

The capability was also included on the Apple Watch Series 7 and Series 8. Apple stopped selling the Series 7 when new models were released, but the Series 8 remains available as a refurbished device. If the ban takes effect, those sales will need to stop as well.

The ITC ban only applies to Apple's direct sales channels, so third-party retailers like Walmart Inc., Best Buy Co. and Target Corp. can continue offering the device. Walmart and Best Buy both said Monday that they don't plan to stop.

Apple has increasingly used health and safety features to market its smartwatches, helping turn the lineup into a major growth driver in recent years. Analysts estimate that it generated \$16.9 billion in revenue for Apple in fiscal 2023, up from \$9.1 billion annually five years ago.

Though that's a fraction of the \$200 billion generated by the iPhone, the watch also helps keep people locked into the Apple ecosystem.

It's unclear if the White House will ultimately grant Apple a reprieve. An administration official said that U.S. Trade Representative Katherine Tai

is handling the review and carefully considering all factors in the dispute.

The White House has the power to veto ITC decisions, and the Obama administration did just that with a ban of the iPhone in 2013 in the U.S. But that ruling stemmed from a patent fight with South Korea-based Samsung Electronics Co. Masimo is located in Irvine, California, which means the government would have to pick one US company over another.

Masimo said in a statement that the ITC's judgment "should be respected." The ban "demonstrates that even the world's most powerful company must abide by the law," it said.

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Citation: Apple plans rescue for \$17 billion watch business in face of ban (2023, December 19) retrieved 17 May 2024 from <https://techxplore.com/news/2023-12-apple-billion-business.html>

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