

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of
CERTAIN WIRELESS HEADSETS

Investigation No. 337-TA-943
(Remand)

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION GRANTING A JOINT MOTION TO TERMINATE THE
INVESTIGATION AS TO RESPONDENT GN NETCOM A/S BASED ON A
SETTLEMENT AGREEMENT;
TERMINATION OF THE INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 29) granting a joint motion to terminate the above-captioned remand investigation as to the last-remaining respondent, GN Netcom A/S d/b/a Jabra of Ballerup, Denmark (“GN”), based on a settlement agreement. The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s electronic docket (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 instituted this investigation on January 13, 2015, based on a complaint filed by One-E-Way, Inc. of Pasadena, California (“One-E-Way”). 80 FR 1663 (Jan. 13, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 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 wireless headsets by reason of infringement of certain claims of U.S. Patent Nos. 7,865,258 (“the ’258 patent”) and 8,131,391 (“the ’391 patent”). *Id.* The notice of investigation named several respondents, including GN Netcom A/S d/b/a Jabra of Ballerup (“GN”), Denmark; BlueAnt Wireless Pty, Ltd. of Richmond, Australia and BlueAnt Wireless, Inc. of Chicago, Illinois (collectively, “BlueAnt”); Creative Technology Ltd. of Singapore and Creative Labs, Inc. of

Milpitas, California (collectively, “Creative”); Sony Corporation of Tokyo, Japan, Sony Corporation of America of New York, New York, and Sony Electronics, Inc. of San Diego, California (collectively, “Sony”). *Id.* The Office of Unfair Import Investigations (“OUII”) was also named as a party to the investigation. *Id.* The Commission also previously terminated other respondents prior to the original termination of the investigation. *See* Notice (Apr. 20, 2015); Notice (June 11, 2015).

On September 21, 2015, the ALJ issued Order No. 17, granting Respondents’ motion for summary determination that the asserted claims of the ’258 and ’391 patents are invalid as indefinite under 35 U.S.C. § 112, ¶ 2 and terminated the investigation with a finding of no violation of section 337. Order No. 17 (Sept. 21, 2015). On May 12, 2016, the Commission affirmed the ID with modification. 81 FR 31257 (May 18, 2016). Thereafter, One-E-Way filed a notice of appeal in the U.S. Court of Appeals for the Federal Circuit (Appeal No. 2016-2105).

On June 12, 2017, the Court reversed the Commission’s summary determination that the asserted claims are invalid as indefinite under § 112, ¶ 2 and remanded the investigation to the Commission for further proceedings. *One-E-Way, Inc. v. ITC*, 859 F.3d 1059 (Fed. Cir. 2017). On October 13, 2016, the Commission remanded the investigation to the ALJ for further proceedings consistent with the Court’s decision. Order (Oct. 13, 2016). OUII is not participating in the remand proceedings. The Commission previously terminated Sony, Creative, and BlueAnt from the remand investigation. Order 24 (Feb. 26, 2018) (unreviewed Notice (Mar. 20, 2018)); Order No. 25 (June 26, 2018) (unreviewed Notice (July 17, 2018)); Order No. 28 (Aug. 1, 2018) (unreviewed Notice (Aug. 15, 2018)).

On August 2, 2018, One-E-Way and GN filed a joint motion to terminate the remand investigation as to GN based upon a settlement and license agreement. The motion was unopposed, and no responses to the motion were filed.

On August 6, 2018, the ALJ issued the subject ID pursuant to Commission Rule 210.21(b) (19 CFR 210.21(b)), granting the joint motion to terminate GN based on a settlement and license agreement. The ID finds that the settlement agreement is consistent with the requirements of Commission Rule 210.21(b)(1) (19 CFR 210.21(b)(1)). The ID also finds, pursuant to Commission Rule 210.50(b)(2) (19 CFR 210.50(b)(2)), that the requested termination does not impose any undue burdens on the public health and welfare, competitive conditions in the United States economy, production of like or directly competitive articles in the United States, or United States consumers. No petitions for review were filed.

The Commission has determined not to review the subject ID. As GN is the last remaining respondent, the termination of GN also terminates the remand investigation in its entirety.

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.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', enclosed within a large, loopy oval flourish.

Lisa R. Barton
Secretary to the Commission

Issued: August 17, 2018