

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 THE CREATIVE RESPONDENTS BASED ON A
SETTLEMENT AGREEMENT**

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. 25) granting a joint motion to terminate the above-captioned remand investigation as to respondents Creative Technology Ltd. of Singapore and Creative Labs, Inc. of Milpitas, California (collectively, “Creative”) based on a settlement agreement.

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 Creative, as well as 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 previously terminated Sony from the investigation. Order 24 (Feb. 26, 2018) (unreviewed Notice (Mar. 20, 2018)). 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.

On June 15, 2018, One-E-Way and Creative filed a joint motion to terminate the remand investigation as to Creative based upon a settlement and license agreement. No responses to the motion were filed.

On June 26, 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 Creative 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.

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.



Lisa R. Barton
Secretary to the Commission

Issued: July 17, 2018