

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 SETTING THE TARGET DATE AT NINETEEN MONTHS**

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. 22) setting the target date at nineteen months to May 13, 2019 in the above-captioned remand investigation.

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, 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 Sony Corporation of Tokyo, Japan; Sony Corporation of America of New York, New York; and Sony Electronics, Inc. of San Diego, California; Beats Electronics, LLC of Culver City, California and Beats Electronics International Ltd. of Dublin, Ireland; Sennheiser Electronic GmbH & Co. KG of Wedemark, Germany and Sennheiser Electronic Corporation of Old Lyme, Connecticut; BlueAnt Wireless Pty, Ltd. of Richmond, Australia and BlueAnt Wireless, Inc. of Chicago, Illinois; Creative Technology Ltd. of Singapore and Creative Labs, Inc. of Milpitas, California; GN Netcom A/S d/b/a Jabra of Ballerup, Denmark; and Jawbone, Inc. (Jawbone) of San Francisco, California. *Id.* The Office

of Unfair Import Investigations was also named as a party to the investigation. *Id.* The Commission previously terminated the investigation with respect to Beats and Sennheiser. See Notice (Apr. 29, 2015); Notice (June 11, 2015). The Commission also previously terminated the investigation with respect to certain claims of the '258 and '391 patents. *See* Notice (May 26, 2015); Notice (Aug. 26, 2015). On February 16, 2016, the Commission amended the Notice of investigation to correct the name of respondent Jawbone, Inc. to AliphCom d/b/a Jawbone, and also terminated the investigation as to AliphCom. Notice (Feb. 16, 2016).

On September 21, 2015, the presiding administrative law judge (“ALJ”) issued Order No. 17, granting Respondents’ motion for summary determination that all of the asserted claims of the '258 and '391 patents are invalid as indefinite under 35 U.S.C. § 112, ¶ 2 and finding no violation of section 337. 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).

On November 13, 2017, the ALJ issued the subject ID pursuant to Commission Rule 210.42(c) (19 CFR 210.42(c), setting the target date for completion of the remand investigation at nineteen months – May 13, 2019. The ID further notes that the final remand ID on violation will be due on January 14, 2019.

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: December 7, 2017