

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Before the Honorable
Administrative Law Judge David P. Shaw

In the Matter of

CERTAIN POINT-TO-POINT NETWORK
COMMUNICATION DEVICES AND
PRODUCTS CONTAINING SAME

Investigation No. 337-TA-892

**COMPLAINANT STRAIGHT PATH'S MOTION TO TERMINATE THE
INVESTIGATION BASED ON WITHDRAWAL OF THE COMPLAINT, REQUEST
FOR SUSPENSION OF THE PROCEDURAL SCHEDULE, AND REQUESTS FOR
SHORTENED RESPONSE TIME AND WAIVER OF 2-DAY RULE**

Pursuant to Commission Rules 210.21(a) (1) and 210.15 and Ground Rule 5, Complainant Straight Path IP Group, Inc. ("Straight Path") respectfully moves to terminate the Investigation based on withdrawal of the Complaint as to the remaining Respondents in this Investigation. Straight Path hereby represents that there are no agreements, written or oral, express or implied between Straight Path and the remaining Respondents concerning the subject matter of the Investigation. To conserve the resources of the Commission and the parties, and in view of the evidentiary hearing scheduled to begin on May 13, 2014, Straight Path requests that the procedural schedule be suspended, including the Staff's May 6, 2014 pre-hearing brief deadline, pending a ruling on this motion to terminate and the Commission's final determination so that the parties and the ALJ need not address pending matters and upcoming deadlines in the procedural schedule. Given the proximity to the hearing date, Straight Path requests a waiver of the 2 day notice rule of Ground Rule 5 and also requests a shortened response time of three business days, so that all responses are received prior to the first day of the scheduled hearing.

As required by Ground Rule 5.e, the Commission Investigative Staff and the remaining Respondents to this Investigation were contacted regarding their position on the present motion, the stay of the procedural schedule, the waiver of the two day period, and expedited briefing on Friday, May 2. AmTRAN and Panasonic stated that they did not oppose any part of the motion or the requests. The Staff stated that it did not oppose the motion to stay the procedural schedule, and the requests for waiver of the two day period and for expedited briefing, and would provide its position on the motion to terminate after reviewing the papers. Toshiba stated that it did not oppose the request for waiver of the 2 day period. No other responses were received.

Dated: May 5, 2014

Respectfully submitted,

/s/ Michael T. Renaud

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**COMPLAINANT STRAIGHT PATH'S MEMORANDUM IN SUPPORT OF ITS
MOTION TO TERMINATE THE INVESTIGATION BASED ON WITHDRAWAL OF
THE COMPLAINT, REQUEST FOR SUSPENSION OF THE PROCEDURAL
SCHEDULE, AND REQUEST FOR SHORTENED RESPONSE TIME**

Complainant Straight Path IP Group, Inc. ("Straight Path") respectfully submits this memorandum of points and authorities in support of its motion to terminate the investigation in its entirety based on a withdrawal of the Complaint, request for suspension of the procedural schedule, and request for a shortened response time of three business days.

I. Background

On August 1, 2013 Straight Path filed a Complaint alleging a violation of Section 337 by importation, selling for importation, and/or selling within the United States after importation certain point-to-point network communication devices and products containing same. The Complaint names as Respondents AmTRAN Logistics, Inc., AmTRAN Technology Co., Ltd. (the "AmTRAN Respondents"); LG Electronics Inc., LG Electronics U.S.A., Inc., LG Electronics MobileComm U.S.A., Inc. (the "LG Respondents"); Panasonic Corporation, Panasonic Corporation of North America (the "Panasonic Respondents"); Sharp Corporation, Sharp Electronics Corporation (the "Sharp Respondents"); Sony Computer Entertainment, Inc., Sony Computer Entertainment America Inc., Sony Computer Entertainment America LLC, Sony

Corporation, Sony Corporation of America, Sony Electronics Inc., Sony Mobile Communications AB, Sony Mobile Communications (USA) Inc., Sony Ericsson Mobile Communications (USA) Inc. (the “Sony Respondents”); Toshiba Corporation, Toshiba America Inc., Toshiba American Information Systems, Inc. (the “Toshiba Respondents”); and Vizio, Inc. (“Vizio”).¹ The Commission issued a Notice of Institution on September 4, 2013, and the Notice of Investigation 337-TA-892 published in the Federal Register on September 9, 2013. *See* Fed. Reg. 55096 (September 9, 2013). On October 18, 2013, the ALJ set January 9, 2015 as the target date for completion of this Investigation. *See* Order No. 6. The hearing is scheduled for May 13-20, 2014. *See* Order No. 9.

On January 22, 2014, Straight Path and the Sharp Respondents moved to terminate the investigation as to the Sharp Respondents on the basis of a settlement. (Motion Docket No. 892-017). On February 5, 2014, the ALJ entered an Initial Determination terminating the investigation as to the Sharp Respondents (*see* Order No. 18), and on February 25, 2014 the Commission determined not to review that initial determination.

Straight Path has also reached settlement agreements with a number of the remaining Respondents to the investigation. On March 18, 2014, Straight Path and the Panasonic Respondents reached agreement on the material terms of a license and settlement agreement. The procedural schedule is currently suspended as to the Panasonic Respondents until May 9, 2014, in order to give the parties time to execute the agreement. Complainant and Panasonic are close to finalizing an agreement, but have not yet done so.

¹ On September 20, 2013, Straight Path filed an unopposed motion for leave to amend the Complaint and Notice of Investigation to remove mention of two Sony entities because Sony Computer Entertainment America Inc. has ceased to exist and Sony Ericsson Mobile Communications (USA) had been renamed and merged into Sony Mobile Communications (USA) Inc. (Motion Docket No. 892-002). On September 23, 2013, the ALJ issued an Initial Determination amending the Complaint and Notice of Investigation to remove references to Sony Computer Entertainment America Inc. and Sony Ericsson Mobile Communications (USA) (*see* Order No. 2) and on November 4, 2013, the Commission determined not to review that initial determination.

On April 16, 2014, Straight Path and the AmTRAN Respondents reached agreement on the material terms of a license and settlement agreement. The procedural schedule is currently suspended as to the AmTRAN Respondents until May 7, 2014 in order to give the parties time to finalize and execute the agreement. Order No. 32. Complainant and AmTRAN are close to finalizing an agreement, but have not yet done so.

On April 23, 2014, Straight Path and the Sony Respondents executed a settlement and patent license agreement, and on April 25, 2014 filed a joint motion to terminate the investigation as to the Sony Respondents which is currently pending before the ALJ. (Motion Docket No. 892-045). On May 1, this motion was granted and the Investigation was terminated as to the Sony Respondents. Order No. 34.

Settlement agreements have not been reached between Straight Path and the LG Respondents, the Toshiba Respondents, and Vizio.

II. Relevant Law

Commission Rule 210.21(a)(1) states that “[a]ny party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 to terminate an investigation in whole or in part as to any or all respondents, on the basis of withdrawal of the complaint...” The Commission has stated that “in the absence of extraordinary circumstances, termination of the investigation will be readily granted to a complainant during the prehearing stage of an investigation.” *Certain Hand-Held Meat Tenderizers*, Inv. No. 337-TA-647, Order No. 6, at 2 (Sept. 5, 2008) (“*Meat Tenderizers*”), citing *Certain Ultrafiltration Membrane Systems, and Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm’n Action and Order, at 2 (March 11, 1982).

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