

**STATEMENT UNDER 37 CFR 3.73(c)**Applicant/Patent Owner: C. Earl WoolforkApplication No./Patent No.: Continuation of 13/356,949 Filed/Issue Date: 2/25/2013Titled: Wireless Digital Audio SystemOne-E-Way, a Corporation

(Name of Assignee)

(Type of Assignee: e.g., corporation, partnership, university, government agency, etc.)

states that, for the patent application/patent identified above, it is (choose one of options 1, 2, 3 or 4 below):

1.  The assignee of the entire right, title, and interest.
2.  An assignee of less than the entire right, title, and interest (check applicable box):
- The extent (by percentage) of its ownership interest is \_\_\_\_\_%. Additional Statement(s) by the owners holding the balance of the interest must be submitted to account for 100% of the ownership interest.
- There are unspecified percentages of ownership. The other parties, including inventors, who together own the entire right, title and interest are:

Additional Statement(s) by the owner(s) holding the balance of the interest must be submitted to account for the entire right, title, and interest.

3.  The assignee of an undivided interest in the entirety (a complete assignment from one of the joint inventors was made). The other parties, including inventors, who together own the entire right, title, and interest are:

Additional Statement(s) by the owner(s) holding the balance of the interest must be submitted to account for the entire right, title, and interest.

4.  The recipient, via a court proceeding or the like (e.g., bankruptcy, probate), of an undivided interest in the entirety (a complete transfer of ownership interest was made). The certified document(s) showing the transfer is attached.

The interest identified in option 1, 2 or 3 above (not option 4) is evidenced by either (choose one of options A or B below):

- A.  An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 026542, Frame 0331, or for which a copy thereof is attached.
- B.  A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at:

Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

2. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at:

Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

[Page 1 of 2]

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**STATEMENT UNDER 37 CFR 3.73(c)**

3. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at:  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

4. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at:  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

5. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at:  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

6. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at:  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet(s).

As required by 37 CFR 3.73(c)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 9.11.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee:

Signature

C. Earl Woolfork

Printed or Typed Name

Date

2-24-2013

Title or Registration Number

CEO

## Electronic Patent Application Fee Transmittal

<b>Application Number:</b>				
<b>Filing Date:</b>				
<b>Title of Invention:</b>	Wireless Digital Audio System			
<b>First Named Inventor/Applicant Name:</b>	C. Earl Woolfork			
<b>Filer:</b>	Megan Elizabeth Lyman			
<b>Attorney Docket Number:</b>	1028.7			
Filed as Small Entity				
<b>Utility under 35 USC 111(a) Filing Fees</b>				
<b>Description</b>	<b>Fee Code</b>	<b>Quantity</b>	<b>Amount</b>	<b>Sub-Total in USD(\$)</b>
<b>Basic Filing:</b>				
Utility filing Fee (Electronic filing)	4011	1	98	98
Utility Search Fee	2111	1	310	310
Utility Examination Fee	2311	1	125	125
<b>Pages:</b>				
<b>Claims:</b>				
<b>Miscellaneous-Filing:</b>				
<b>Petition:</b>				
<b>Patent-Appeals-and-Interference:</b>				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
<b>Post-Allowance-and-Post-Issuance:</b>				
<b>Extension-of-Time:</b>				
<b>Miscellaneous:</b>				
<b>Total in USD (\$)</b>				<b>533</b>

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	15034707
<b>Application Number:</b>	13775754
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	1030
<b>Title of Invention:</b>	Wireless Digital Audio System
<b>First Named Inventor/Applicant Name:</b>	C. Earl Woolfork
<b>Customer Number:</b>	68533
<b>Filer:</b>	Megan Elizabeth Lyman
<b>Filer Authorized By:</b>	
<b>Attorney Docket Number:</b>	1028.7
<b>Receipt Date:</b>	25-FEB-2013
<b>Filing Date:</b>	
<b>Time Stamp:</b>	15:16:03
<b>Application Type:</b>	Utility under 35 USC 111(a)

### Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	\$533
RAM confirmation Number	15806
Deposit Account	
Authorized User	

### File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
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1	Abstract	ABSTRACT.pdf	40965 c127c492f4344a6a0dcafcdb6059f34799a078e7d	no	1
<b>Warnings:</b>					
<b>Information:</b>					
2	Application Data Sheet	ADS.pdf	1433080 a410a5808ab43889ffe346f123541381462c926e	no	6
<b>Warnings:</b>					
<b>Information:</b>					
3	Claims	ContAppClaims.pdf	46584 4a770578011ba4a3801a0ff4eeefe865ac8b0ef3a	no	2
<b>Warnings:</b>					
<b>Information:</b>					
4	Drawings-only black and white line drawings	Figures.pdf	3282322 b96a5844953856a31546f9e7175ff08534deb1345	no	3
<b>Warnings:</b>					
<b>Information:</b>					
5	Specification	Spec.pdf	76265 7c7d2075585aecd816d1e0e95f9f97ec37b879	no	7
<b>Warnings:</b>					
<b>Information:</b>					
6	Oath or Declaration filed	EarlDeclarationScan.pdf	1578569 94e2c248f9c2aa1c3cd6dada8e7f7e9a39df445	no	1
<b>Warnings:</b>					
<b>Information:</b>					
7	Assignee showing of ownership per 37 CFR 3.73.	EarlAssignDecScan.pdf	458178 0889255b7a27382e315f24367b81880a6955218	no	1
<b>Warnings:</b>					
<b>Information:</b>					
8	Power of Attorney	EarlPOAScan.pdf	2424339 60a1a9b54ee17e7685fd83ce89021d09e6f578bf	no	2
<b>Warnings:</b>					
<b>Information:</b>					
9	Fee Worksheet (SB06)	fee-info.pdf	32474 469446d6480c7af35fcc975e2c7f2a0cf2c29f04	no	2
<b>Warnings:</b>					
<b>Information:</b>					

**This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.**

**New Applications Under 35 U.S.C. 111**

**If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.**

**National Stage of an International Application under 35 U.S.C. 371**

**If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.**

**New International Application Filed with the USPTO as a Receiving Office**

**If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.**

ABSTRACT

A wireless digital audio system includes a portable audio source with a digital audio transmitter operatively coupled thereto and an audio receiver operatively coupled to a headphone set. The audio receiver is configured for digital wireless communication with the audio transmitter. The digital audio receiver utilizes fuzzy logic to optimize digital signal processing. Each of the digital audio transmitter and receiver is configured for code division multiple access (CDMA) communication. The wireless digital audio system allows private audio enjoyment without interference from other users of independent wireless digital transmitters and receivers sharing the same space.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

<b>Application Data Sheet 37 CFR 1.76</b>		Attorney Docket Number	1028.7
		Application Number	
Title of Invention	Wireless Digital Audio Music System		
The application data sheet is part of the provisional or nonprovisional application for which it is being submitted. The following form contains the bibliographic data arranged in a format specified by the United States Patent and Trademark Office as outlined in 37 CFR 1.76. This document may be completed electronically and submitted to the Office in electronic format using the Electronic Filing System (EFS) or the document may be printed and included in a paper filed application.			

**Secrecy Order 37 CFR 5.2**

<input type="checkbox"/>	Portions or all of the application associated with this Application Data Sheet may fall under a Secrecy Order pursuant to 37 CFR 5.2 (Paper filers only. Applications that fall under Secrecy Order may not be filed electronically.)
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**Inventor Information:**

Inventor 1					Remove	
Legal Name						
Prefix	Given Name	Middle Name	Family Name	Suffix		
Mr.	C.	Earl	Woolfork			
Residence Information (Select One) <input checked="" type="radio"/> US Residency <input type="radio"/> Non US Residency <input type="radio"/> Active US Military Service						
City	Pasadena	State/Province	CA	Country of Residence	i	US
Mailing Address of Inventor:						
Address 1	PO Box 70848					
Address 2						
City	Pasadena	State/Province	CA			
Postal Code	91107	Country	i	US		
All Inventors Must Be Listed - Additional Inventor Information blocks may be generated within this form by selecting the Add button.						Add

**Correspondence Information:**

Enter either Customer Number or complete the Correspondence Information section below. For further information see 37 CFR 1.33(a).			
<input type="checkbox"/> An Address is being provided for the correspondence information of this application.			
Customer Number	68533		
Email Address	melyman@lymanpatents.com	Add Email	Remove Email

**Application Information:**

Title of the Invention	Wireless Digital Audio Music System		
Attorney Docket Number	1028.7	Small Entity Status Claimed	<input checked="" type="checkbox"/>
Application Type	Nonprovisional		
Subject Matter	Utility		
Suggested Class (if any)		Sub Class (if any)	
Suggested Technology Center (if any)	2614		
Total Number of Drawing Sheets (if any)	3	Suggested Figure for Publication (if any)	1

<b>Application Data Sheet 37 CFR 1.76</b>		Attorney Docket Number	1028.7
		Application Number	
Title of Invention	Wireless Digital Audio Music System		

**Publication Information:**
 Request Early Publication (Fee required at time of Request 37 CFR 1.219)

 **Request Not to Publish.** I hereby request that the attached application not be published under 35 U.S.C. 122(b) and certify that the invention disclosed in the attached application **has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.
**Representative Information:**

Representative information should be provided for all practitioners having a power of attorney in the application. Providing this information in the Application Data Sheet does not constitute a power of attorney in the application (see 37 CFR 1.32). Either enter Customer Number or complete the Representative Name section below. If both sections are completed the customer Number will be used for the Representative Information during processing.

Please Select One:	<input checked="" type="radio"/> Customer Number	<input type="radio"/> US Patent Practitioner	<input type="radio"/> Limited Recognition (37 CFR 11.9)
Customer Number	68533		

**Domestic Benefit/National Stage Information:**

This section allows for the applicant to either claim benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) or indicate National Stage entry from a PCT application. Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and 37 CFR 1.78.

Prior Application Status	Pending		<a href="#">Remove</a>		
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)		
13356949	Continuation of	12940747	2010-11-05		
Prior Application Status	Patented		<a href="#">Remove</a>		
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)	Patent Number	Issue Date (YYYY-MM-DD)
12940747	Continuation of	12570343	2009-09-30	8131391	2012-03-06
Prior Application Status	Patented		<a href="#">Remove</a>		
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)	Patent Number	Issue Date (YYYY-MM-DD)
12570343	Continuation of	12144729	2008-07-12	7865258	2011-01-04
Prior Application Status	Patented		<a href="#">Remove</a>		
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)	Patent Number	Issue Date (YYYY-MM-DD)
12144729	Continuation of	10648012	2003-08-26	7684885	2010-03-23
Prior Application Status	Patented		<a href="#">Remove</a>		

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<b>Application Data Sheet 37 CFR 1.76</b>		Attorney Docket Number	1028.7		
		Application Number			
Title of Invention	Wireless Digital Audio Music System				
Application Number	Continuity Type	Prior Application Number	Filing Date (YYYY-MM-DD)	Patent Number	Issue Date (YYYY-MM-DD)
10648012	Continuation in part of	10027391	2001-12-21	7412294	2008-08-12
Additional Domestic Benefit/National Stage Data may be generated within this form by selecting the <b>Add</b> button.					<input type="button" value="Add"/>

**Foreign Priority Information:**

This section allows for the applicant to claim benefit of foreign priority and to identify any prior foreign application for which priority is not claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and 37 CFR 1.55(a).

Application Number	Country <sup>i</sup>	Filing Date (YYYY-MM-DD)	Priority Claimed
			<input checked="" type="radio"/> Yes <input type="radio"/> No

Additional Foreign Priority Data may be generated within this form by selecting the **Add** button.

**Authorization to Permit Access:**

Authorization to Permit Access to the Instant Application by the Participating Offices

If checked, the undersigned hereby grants the USPTO authority to provide the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the World Intellectual Property Office (WIPO), and any other intellectual property offices in which a foreign application claiming priority to the instant patent application is filed access to the instant patent application. See 37 CFR 1.14(c) and (h). This box should not be checked if the applicant does not wish the EPO, JPO, KIPO, WIPO, or other intellectual property office in which a foreign application claiming priority to the instant patent application is filed to have access to the instant patent application.

In accordance with 37 CFR 1.14(h)(3), access will be provided to a copy of the instant patent application with respect to: 1) the instant patent application-as-filed; 2) any foreign application to which the instant patent application claims priority under 35 U.S.C. 119(a)-(d) if a copy of the foreign application that satisfies the certified copy requirement of 37 CFR 1.55 has been filed in the instant patent application; and 3) any U.S. application-as-filed from which benefit is sought in the instant patent application.

In accordance with 37 CFR 1.14(c), access may be provided to information concerning the date of filing this Authorization.

**Applicant Information:**

Providing assignment information in this section does not substitute for compliance with any requirement of part 3 of Title 37 of CFR to have an assignment recorded by the Office.

<b>Application Data Sheet 37 CFR 1.76</b>	Attorney Docket Number	1028.7
	Application Number	
Title of Invention	Wireless Digital Audio Music System	

<b>Applicant 1</b>	<input type="button" value="Remove"/>
<p>If the applicant is the inventor (or the remaining joint inventor or inventors under 37 CFR 1.45), this section should not be completed. The information to be provided in this section is the name and address of the legal representative who is the applicant under 37 CFR 1.43; or the name and address of the assignee, person to whom the inventor is under an obligation to assign the invention, or person who otherwise shows sufficient proprietary interest in the matter who is the applicant under 37 CFR 1.46. If the applicant is an applicant under 37 CFR 1.46 (assignee, person to whom the inventor is obligated to assign, or person who otherwise shows sufficient proprietary interest) together with one or more joint inventors, then the joint inventor or inventors who are also the applicant should be identified in this section.</p>	
<input type="button" value="Clear"/>	
<input type="radio"/> Assignee	<input type="radio"/> Legal Representative under 35 U.S.C. 117
<input type="radio"/> Person to whom the inventor is obligated to assign.	<input type="radio"/> Person who shows sufficient proprietary interest
If applicant is the legal representative, indicate the authority to file the patent application, the inventor is:	
Name of the Deceased or Legally Incapacitated Inventor : <input type="text"/>	
If the Applicant is an Organization check here. <input type="checkbox"/>	

Prefix	Given Name	Middle Name	Family Name	Suffix

<b>Mailing Address Information:</b>				
Address 1				
Address 2				
City		State/Province		
Country <sup>i</sup>		Postal Code		
Phone Number		Fax Number		
Email Address				

Additional Applicant Data may be generated within this form by selecting the Add button.	<input type="button" value="Add"/>
------------------------------------------------------------------------------------------	------------------------------------

## Non-Applicant Assignee Information:

Providing assignment information in this section does not substitute for compliance with any requirement of part 3 of Title 37 of CFR to have an assignment recorded by the Office.

<b>Assignee 1</b>
<p>Complete this section only if non-applicant assignee information is desired to be included on the patent application publication in accordance with 37 CFR 1.215(b). Do not include in this section an applicant under 37 CFR 1.46 (assignee, person to whom the inventor is obligated to assign, or person who otherwise shows sufficient proprietary interest), as the patent application publication will include the name of the applicant(s).</p>
<input type="button" value="Remove"/>

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<b>Application Data Sheet 37 CFR 1.76</b>		Attorney Docket Number	1028.7	
		Application Number		
Title of Invention	Wireless Digital Audio Music System			
If the Assignee is an Organization check here. <input checked="" type="checkbox"/>				
Organization Name	One-E-Way Inc.			
<b>Mailing Address Information:</b>				
Address 1	PO Box 70848			
Address 2				
City	Pasadena	State/Province	CA	
Country i	US	Postal Code	91107	
Phone Number	919 625 4966	Fax Number		
Email Address	earl@one-e-way.com			
Additional Assignee Data may be generated within this form by selecting the Add button.				<input type="button" value="Add"/>

**Signature:**

NOTE: This form must be signed in accordance with 37 CFR 1.33. See 37 CFR 1.4 for signature requirements and certifications					
Signature	/Megan Lyman/			Date (YYYY-MM-DD)	2013-02-25
First Name	Megan	Last Name	Lyman	Registration Number	57054
Additional Signature may be generated within this form by selecting the Add button.					<input type="button" value="Add"/>

This collection of information is required by 37 CFR 1.76. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 23 minutes to complete, including gathering, preparing, and submitting the completed application data sheet form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

# Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

1. A method for coded wireless digital music audio transmission and reception between a mobile digital music audio transmitter and mobile digital music audio receiver comprising the steps of:

operatively coupling a digital audio transmitter to a music audio source and configuring said digital audio transmitter to transmit a unique user code and an original music audio signal representation in the form of packets, wherein said digital audio transmitter coupled to said music audio source, and configured to be directly communicable with a mobile digital audio receiver, is capable of being moved in any direction during operation, said wireless digital music audio transmitter comprising:

encoding operative to encode said original music audio signal representation to reduce intersymbol interference to aid in lowering signal detection error of said music audio representation signal respective to said mobile digital audio receiver and said mobile digital audio transmitter coupled to said music audio source;

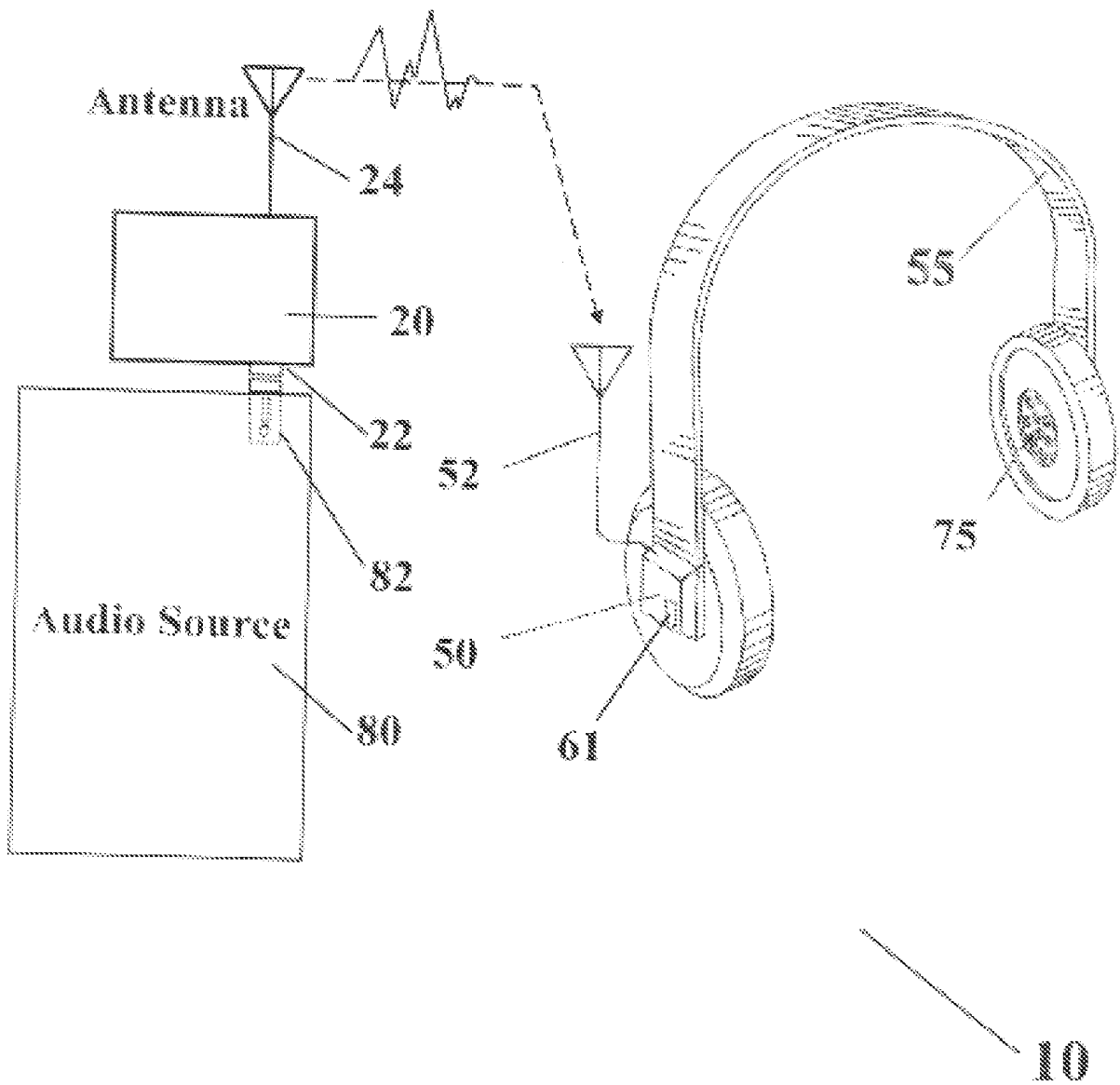
a digital modulator module configured for independent code division multiple access (CDMA) communication operation, said music audio having been wirelessly transmitted and reproduced virtually free from interference from other device transmitted signals.

2. A method for coded wireless digital music audio transmission and reception between a mobile digital music audio transmitter and mobile digital music audio receiver comprising the steps of:

operatively coupling a digital audio transmitter to a music audio source and configuring said digital audio transmitter to transmit a unique user code and an original music audio signal representation in the form of packets, wherein said digital audio transmitter coupled to said music audio source, and configured to be directly communicable with a mobile digital audio receiver, is capable of being moved in any direction during operation, said unique user code configured to spread the spectrum of said audio signal and further configured for independent communication operation, said wireless digital music audio transmitter comprising:

encoding operative to encode said original music audio signal representation to reduce intersymbol interference to aid in lowering signal detection error of said music audio representation signal respective to said mobile digital audio receiver and said mobile digital audio transmitter coupled to said music audio source, said music audio having been wirelessly transmitted and reproduced virtually free from interference from other device transmitted signals.





**FIG.1**

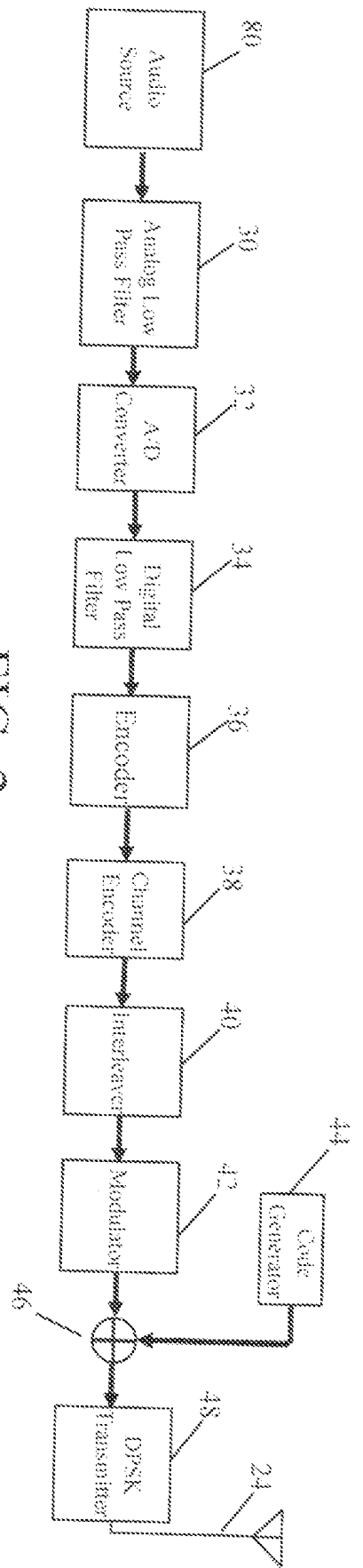


FIG. 2

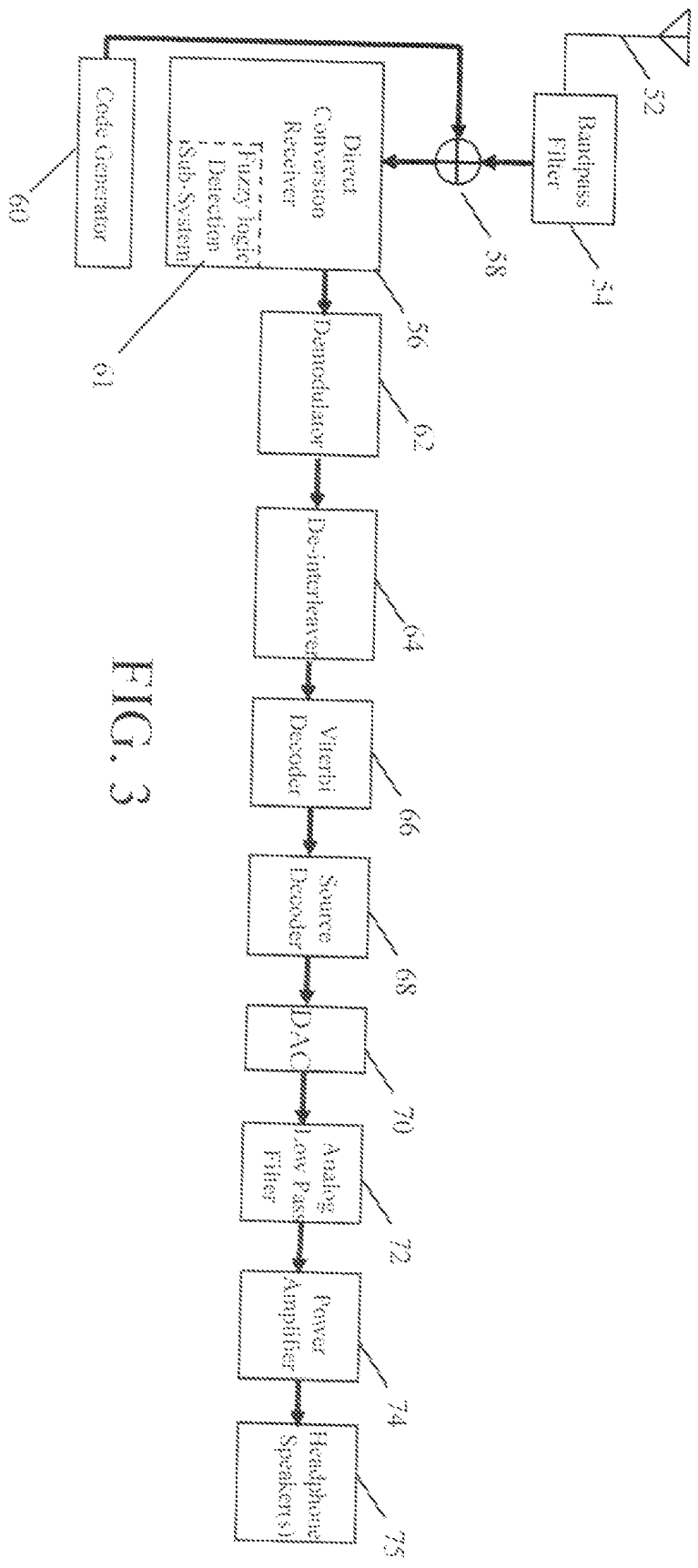


FIG. 3

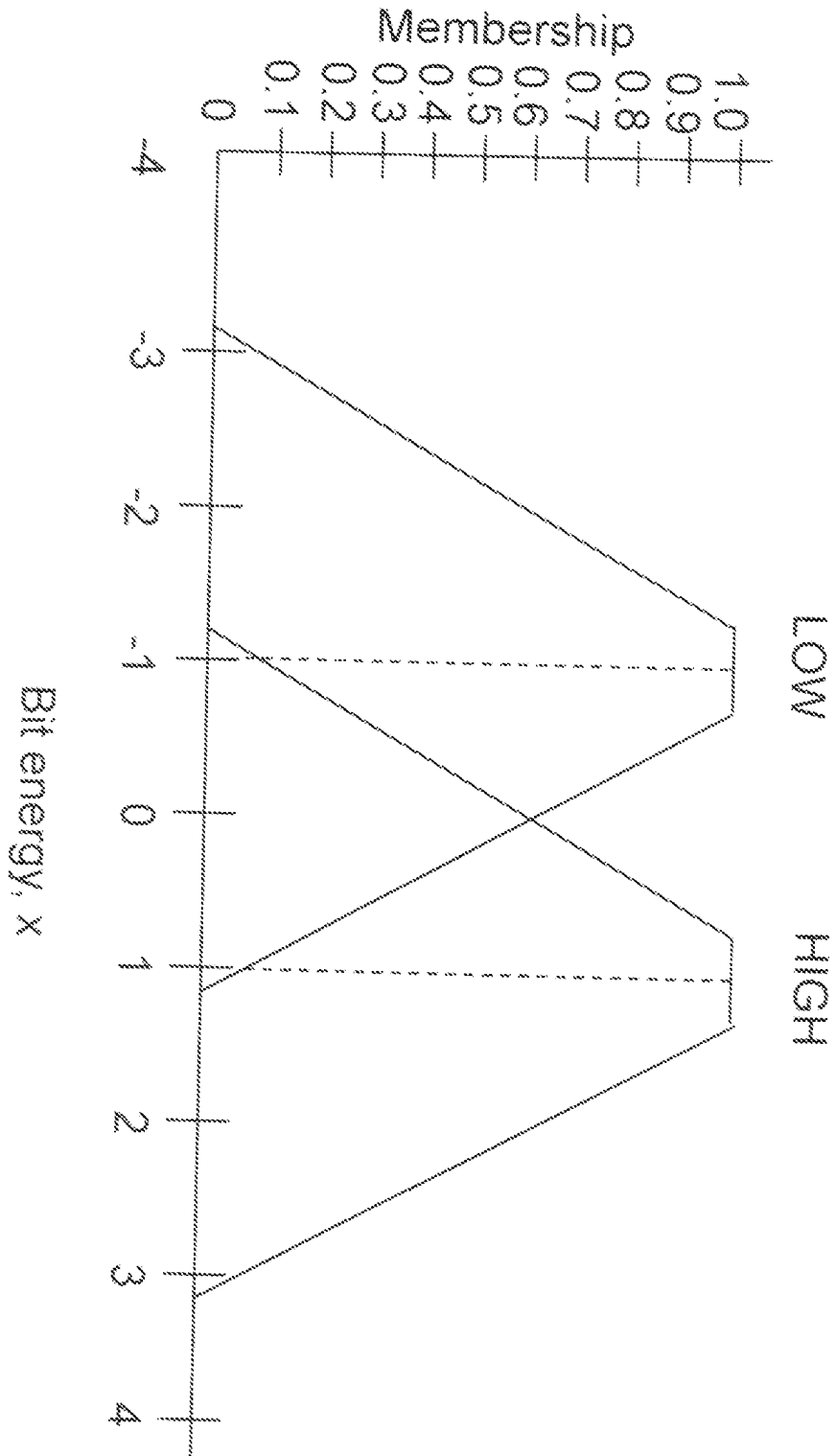


Fig. 4

## WIRELESS DIGITAL AUDIO MUSIC SYSTEM

This continuation application claims the benefit of U.S. Patent Application No. 13/356,949 filed January 24, 2012, which was a continuation application claiming the benefit of U.S. Patent Application Serial No. 12/940,747 filed November 5, 2010, now U.S. Patent No. 8,131,391, which was a continuation application claiming the benefit of U.S. Patent Application Serial No. 12/570,343 filed September 30, 2009, now U.S. Patent No. 7,865,258, which was a continuation claiming the benefit of U.S. Patent Application Serial No. 12/144,729 filed July 12, 2008, now U.S. Patent No. 7,684,885, which was a continuation claiming benefit of U.S. Patent Application Serial No. 10/648,012 filed August 26, 2003, now U.S. Patent No. 7,412,294, which was a continuation-in-part claiming benefit from U.S. Patent Application Serial No. 10/027,391, filed December 21, 2001, for "Wireless Digital Audio System," published under US 2003/0118196 A1 on June 26, 2003, now abandoned, the disclosures of which are incorporated herein in their entireties by reference.

## BACKGROUND OF THE INVENTION

[0001] This invention relates to audio player devices and more particularly to systems that include headphone listening devices. The new audio system uses an existing headphone jack (i.e., this is the standard analog headphone jack that connects to wired headphones) of a music audio player (i.e., portable CD player, portable cassette player, portable A.M./F.M. radio, laptop/desktop computer, portable MP3 player, and the like) to connect a battery powered transmitter for wireless transmission of a signal to a set of battery powered receiving headphones.

[0002] Use of audio headphones with audio player devices such as portable CD players, portable cassette players, portable A.M./F.M. radios, laptop/desktop computers, portable MP3 players and the like have been in use for many years. These systems incorporate an audio source having an analog headphone jack to which headphones may be connected by wire.

[0003] There are also known wireless headphones that may receive A.M. and F.M. radio transmissions. However, they do not allow use of a simple plug in (i.e., plug in to the

existing analog audio headphone jack) battery powered transmitter for connection to any music audio player device jack, such as the above mentioned music audio player devices, for coded wireless transmission and reception by headphones of audio music for private listening without interference where multiple users occupying the same space are operating wireless transmission devices. Existing audio systems make use of electrical wire connections between the audio source and the headphones to accomplish private listening to multiple users.

[0004] There is a need for a battery powered simple connection system for existing music audio player devices (i.e., the previously mentioned music devices), to allow coded digital wireless transmission (using a battery powered transmitter) to a headphone receiver (using a battery powered receiver headphones) that accomplishes private listening to multiple users occupying the same space without the use of wires.

#### SUMMARY OF THE INVENTION

[0005] The present invention is generally directed to a wireless digital audio system for coded digital transmission of an audio signal from any audio player with an analog headphone jack to a receiver headphone located away from the audio player. Fuzzy logic technology may be utilized by the system to enhance bit detection. A battery-powered digital transmitter may include a headphone plug in communication with any suitable music audio source. For reception, a battery-powered headphone receiver may use embedded fuzzy logic to enhance user code bit detection. Fuzzy logic detection may be used to enhance user code bit detection during decoding of the transmitted audio signal. The wireless digital audio music system provides private listening without interference from other users or wireless devices and without the use of conventional cable connections.

[0006] These and other features, aspects and advantages of the present invention will become better understood with reference to the following drawings, description and claims.

## BRIEF DESCRIPTION OF THE DRAWINGS

[0007] Some aspects of the present invention are generally shown by way of reference to the accompanying drawings in which:

Figure 1 schematically illustrates a wireless digital audio system in accordance with the present invention;

Figure 2 is a block diagram of an audio transmitter portion of the wireless digital audio system of Fig. 1.;

Figure 3 is a block diagram of an audio receiver portion of the wireless digital audio system of Fig. 1; and

Figure 4 is an exemplary graph showing the utilization of an embedded fuzzy logic coding algorithm according to one embodiment of the present invention.

## DETAILED DESCRIPTION

[0008] The following detailed description is the best currently contemplated modes for carrying out the invention. The description is not to be taken in a limiting sense, but is made merely for the purpose of illustrating the general principles of the invention.

[0009] Referring to Figures 1 through 3, a wireless digital audio music system 10 may include a battery powered transmitter 20 connected to a portable music audio player or music audio source 80. The battery powered wireless digital audio music transmitter 20 utilizes an analog to digital converter or ADC 32 and may be connected to the music audio source 80 analog headphone jack 82 using a headphone plug 22. The battery powered transmitter 20 may have a transmitting antenna 24 that may be omni-directional for transmitting a spread spectrum modulated signal to a receiving antenna 52 of a battery powered headphone receiver 50. The battery powered receiver 50 may have headphone speakers 75 in headphones 55 for listening to the spread spectrum demodulated and

decoded communication signal. In the headphone receiver 50, fuzzy logic detection may be used to optimize reception of the received user code. The transmitter 20 may digitize the audio signal using ADC 32. The digitized signal may be processed downstream by an encoder 36. After digital conversion, the digital signal may be processed by a digital low pass filter. To reduce the effects of channel noise, the battery powered transmitter 20 may use a channel encoder 38. A modulator 42 modulates the digital signal to be transmitted. For further noise immunity, a spread spectrum DPSK (differential phase shift key) transmitter or module 48, is utilized. The battery powered transmitter 20 may contain a code generator 44 that may be used to create a unique user code. The unique user code generated is specifically associated with one wireless digital audio system user, and it is the only code recognized by the battery powered headphone receiver 50 operated by a particular user. The radio frequency (RF) spectrum utilized (as taken from the Industrial, Scientific and Medical (ISM) band) may be approximately 2.4 GHz. The power radiated by the transmitter adheres to the ISM standard.

[0010] Particularly, the received spread spectrum signal may be communicated to a 2.4 GHz direct conversion receiver or module 56. Referring to Figures 1 through 4, the spread spectrum modulated signal from transmit antenna 24 may be received by receiving antenna 52 and then processed by spread spectrum direct conversion receiver or module 56 with a receiver code generator 60 that contains the same transmitted unique code, in the battery powered receiver 50 headphones. The transmitted signal from antenna 24 may be received by receiving antenna 52 and communicated to a wideband bandpass filter (BPF). The battery powered receiver 50 may utilize embedded fuzzy logic 61 (as graphically depicted in Figures 1, 4) to optimize the bit detection of the received user code. The down converted output signal of direct conversion receiver or module 56 may be summed by receiver summing element 58 with a receiver code generator 60 signal. The receiver code generator 60 may contain the same unique wireless transmission of a signal code word that was transmitted by audio transmitter 20 specific to a particular user. Other code words from wireless digital audio systems 10 may appear as noise to audio receiver 50. This may also be true for other device transmitted wireless signals operating in the wireless digital audio spectrum of digital audio system 10. This code division multiple access (CDMA) may be used to provide each user independent audible

enjoyment. The resulting summed digital signal from receiving summary element 58 and direct conversion receiver or module 56 may be processed by a 64-Ary demodulator 62 to demodulate the signal elements modulated in the audio transmitter 20. A block de-interleaver 64 may then decode the bits of the digital signal encoded in the block interleaver 40. Following such, a Viterbi decoder 66 may be used to decode the bits encoded by the channel encoder 38 in audio transmitter 20. A source decoder 68 may further decode the coding applied by encoder 36.

[0011] Each receiver headphone 50 user may be able to listen (privately) to high fidelity audio music, using any of the audio devices listed previously, without the use of wires, and without interference from any other receiver headphone 50 user, even when operated within a shared space. The fuzzy logic detection technique 61 used in the receiver 50 could provide greater user separation through optimizing code division in the headphone receiver.

[0012] The battery powered transmitter 20 sends the audio music information to the battery powered receiver 50 in digital packet format. These packets may flow to create a digital bit stream rate less than or equal to 1.0 Mbps.

[0013] The user code bits in each packet may be received and detected by a fuzzy logic detection sub-system 61 (as an option) embedded in the headphone receiver 50 to optimize audio receiver performance. For each consecutive packet received, the fuzzy logic detection sub-system 61 may compute a conditional density with respect to the context and fuzziness of the user code vector, i.e., the received code bits in each packet. Fuzziness may describe the ambiguity of the high (1)/low (0 or -1) event in the received user code within the packet. The fuzzy logic detection sub-system 61 may measure the degree to which a high/low bit occurs in the user code vector, which produces a low probability of bit error in the presence of noise. The fuzzy logic detection sub-system 61 may use a set of if-then rules to map the user code bit inputs to validation outputs. These rules may be developed as if-then statements.

[0014] Fuzzy logic detection sub-system 61 in battery-powered headphone receiver 50 utilizes the if-then fuzzy set to map the received user code bits into two values: a low (0




or -1) and a high (1). Thus, as the user code bits are received, the “if” rules map the signal bit energy to the fuzzy set low value to some degree and to the fuzzy set high value to some degree. Figure 4 graphically shows that x-value -1 equals the maximum low bit energy representation and x-value 1 equals the maximum high bit energy representation. Due to additive noise, the user code bit energy may have some membership to a low and high as represented in Figure 4. The if-part fuzzy set may determine if each bit in the user code, for every received packet, has a greater membership to a high bit representation or a low bit representation. The more a user code bit energy fits into the high or low representation, the closer its subethood, i.e., a measure of the membership degree to which a set may be a subset of another set, may be to one.

[0015] The if-then rule parts that make up the fuzzy logic detection sub-system 61 must be followed by a defuzzifying operation. This operation reduces the aforementioned fuzzy set to a bit energy representation (i.e., -1 or 1) that is received by the transmitted packet. Fuzzy logic detection sub-system 61 may be used in battery-powered headphone receiver 50 to enhance overall system performance.

[0016] The next step may process the digital signal to return the signal to analog or base band format for use in powering speaker(s) 75. A digital-to-analog converter 70 (DAC) may be used to transform the digital signal to an analog audio signal. An analog low pass filter 72 may be used to filter the analog audio music signal to pass a signal in the approximate 20 Hz to 20 kHz frequency range and filter other frequencies. The analog audio music signal may then be processed by a power amplifier 74 that may be optimized for powering headphone speakers 75 to provide a high quality, low distortion audio music for audible enjoyment by a user wearing headphones 55. A person skilled in the art would appreciate that some of the embodiments described hereinabove are merely illustrative of the general principles of the present invention. Other modifications or variations may be employed that are within the scope of the invention. Thus, by way of example, but not of limitation, alternative configurations may be utilized in accordance with the teachings herein. Accordingly, the drawings and description are illustrative and not meant to be a limitation thereof.

[0017] Moreover, all terms should be interpreted in the broadest possible manner consistent with the context. In particular, the terms “comprises” and “comprising” should be interpreted as referring to elements, components, or steps in a non-exclusive manner, indicating that the referenced elements, components, or steps may be present, or utilized, or combined with other elements, components, or steps that are not expressly referenced. Thus, it is intended that the invention cover all embodiments and variations thereof as long as such embodiments and variations come within the scope of the appended claims and their equivalents.

## DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

Title of Invention	Wireless Digital Audio System
<p>As the below named inventor, I hereby declare that:</p> <p>This declaration is directed to: <input checked="" type="checkbox"/> The attached application, or <input type="checkbox"/> United States application or PCT international application number _____ filed on _____.</p> <p>The above-identified application was made or authorized to be made by me.</p> <p>I believe that I am the original inventor or an original joint inventor of a claimed invention in the application.</p> <p>I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.</p> <p style="text-align: center;"><b>WARNING:</b></p> <p>Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identify theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.</p>	
<p>LEGAL NAME OF INVENTOR</p> <p>Inventor: <u>C. Earl Woolfork</u> Date (Optional): <u>2-24-2013</u></p> <p>Signature: </p>	
<p><small>Note: An application data sheet (PTO/SB/14 or equivalent), including naming the entire inventive entity, must accompany this form or must have been previously filed. Use an additional PTO/AIA/01 form for each additional inventor.</small></p>	

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I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(c).

I hereby appoint:

Practitioners associated with Customer Number: **68533**

OR

Practitioner(s) named below (if more than ten patent practitioners are to be named, then a customer number must be used):

Name	Registration Number	Name	Registration Number

As attorney(s) or agent(s) to represent the undersigned before the United States Patent and Trademark Office (USPTO) in connection with any and all patent applications assigned only to the undersigned according to the USPTO assignment records or assignments documents attached to this form in accordance with 37 CFR 3.73(c).

Please change the correspondence address for the application identified in the attached statement under 37 CFR 3.73(c) to:

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Address			
City	State	Zip	
Country			
Telephone	Email		

Assignee Name and Address: **One-E-Way, Inc.  
 P.O. Box 70848  
 Pasadena, CA 91107**

A copy of this form, together with a statement under 37 CFR 3.73(c) (Form PTO/AIA/96 or equivalent) is required to be filed in each application in which this form is used. The statement under 37 CFR 3.73(c) may be completed by one of the practitioners appointed in this form, and must identify the application in which this Power of Attorney is to be filed.

**SIGNATURE of Assignee of Record**  
 The individual whose signature and title is supplied below is authorized to act on behalf of the assignee

Signature		Date	2-24-2013
Name	C. Earl Woolfork	Telephone	818-625-9966
Title	CEO		

This collection of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.31 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
13/775,754	02/25/2013	C. Earl Woolfork	1028.7

68533  
MEGAN LYMAN  
1816 SILVER MIST CT.  
RALEIGH, NC 27613

**CONFIRMATION NO. 1030**  
**POA ACCEPTANCE LETTER**



Date Mailed: 03/27/2013

**NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 02/25/2013.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/sfu/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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Table with 7 columns: APPLICATION NUMBER, FILING or 371(c) DATE, GRP ART UNIT, FIL FEE REC'D, ATTY. DOCKET NO, TOT CLAIMS, IND CLAIMS. Row 1: 13/775,754, 02/25/2013, 2631, 533, 1028.7, 2, 2

CONFIRMATION NO. 1030

68533
MEGAN LYMAN
1816 SILVER MIST CT.
RALEIGH, NC 27613

FILING RECEIPT



Date Mailed: 03/27/2013

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections

Inventor(s)

C. Earl Woolfork, Pasadena, CA;

Applicant(s)

C. Earl Woolfork, Pasadena, CA;

Assignment For Published Patent Application

One-E-Way Inc., Pasadena, CA

Power of Attorney: The patent practitioners associated with Customer Number 68533

Domestic Applications for which benefit is claimed - None.

A proper domestic benefit claim must be provided in an Application Data Sheet in order to constitute a claim for domestic benefit. See 37 CFR 1.76 and 1.78.

Foreign Applications for which priority is claimed (You may be eligible to benefit from the Patent Prosecution Highway program at the USPTO. Please see http://www.uspto.gov for more information.) - None.

Foreign application information must be provided in an Application Data Sheet in order to constitute a claim to foreign priority. See 37 CFR 1.55 and 1.76.

If Required, Foreign Filing License Granted: 03/19/2013

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US 13/775,754

Projected Publication Date: 08/28/2014

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

**Title**

Wireless Digital Audio Music System

**Preliminary Class**

375

**Statement under 37 CFR 1.55 or 1.78 for AIA (First Inventor to File) Transition Applications: No**

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**PATENT APPLICATION FEE DETERMINATION RECORD**

Substitute for Form PTO-875

Application or Docket Number  
13/775,754

**APPLICATION AS FILED - PART I**

(Column 1) (Column 2)

FOR	NUMBER FILED	NUMBER EXTRA
BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A
SEARCH FEE (37 CFR 1.16(k), (l), or (m))	N/A	N/A
EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A
TOTAL CLAIMS (37 CFR 1.16(j))	2 minus 20 = *	
INDEPENDENT CLAIMS (37 CFR 1.16(h))	2 minus 3 = *	
APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$310 (\$155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).	
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))		

\* If the difference in column 1 is less than zero, enter "0" in column 2.

**SMALL ENTITY**

RATE(\$)	FEE(\$)
N/A	70
N/A	300
N/A	360
x 40 =	0.00
x 210 =	0.00
	0.00
TOTAL	730

**OR OTHER THAN SMALL ENTITY**

RATE(\$)	FEE(\$)
N/A	
N/A	
N/A	
TOTAL	

**APPLICATION AS AMENDED - PART II**

(Column 1) (Column 2) (Column 3)

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total (37 CFR 1.16(i))	* Minus **	=
Independent (37 CFR 1.16(h))	* Minus ***	=	
Application Size Fee (37 CFR 1.16(s))			
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))			

**SMALL ENTITY**

RATE(\$)	ADDITIONAL FEE(\$)
x =	
x =	
TOTAL ADD'L FEE	

**OR OTHER THAN SMALL ENTITY**

RATE(\$)	ADDITIONAL FEE(\$)
x =	
x =	
TOTAL ADD'L FEE	

(Column 1) (Column 2) (Column 3)

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total (37 CFR 1.16(i))	* Minus **	=
Independent (37 CFR 1.16(h))	* Minus ***	=	
Application Size Fee (37 CFR 1.16(s))			
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))			

**SMALL ENTITY**

RATE(\$)	ADDITIONAL FEE(\$)
x =	
x =	
TOTAL ADD'L FEE	

**OR OTHER THAN SMALL ENTITY**

RATE(\$)	ADDITIONAL FEE(\$)
x =	
x =	
TOTAL ADD'L FEE	

\* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

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Table with 4 columns: APPLICATION NUMBER (13/775,754), FILING OR 371(C) DATE (02/25/2013), FIRST NAMED APPLICANT (C. Earl Woolfork), ATTY. DOCKET NO./TITLE (1028.7)

CONFIRMATION NO. 1030

PUBLICATION NOTICE

68533
MEGAN LYMAN
1816 SILVER MIST CT.
RALEIGH, NC 27613



Title:Wireless Digital Audio Music System

Publication No.US-2014-0241543-A1

Publication Date:08/28/2014

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO.
13/775,754 02/25/2013 C. Earl Woolfork 1028.7 1030

68533 7590 02/25/2015
MEGAN LYMAN
1816 SILVER MIST CT.
RALEIGH, NC 27613

Table with 1 column: EXAMINER

FLANDERS, ANDREW C

Table with 2 columns: ART UNIT, PAPER NUMBER

2656

Table with 2 columns: NOTIFICATION DATE, DELIVERY MODE

02/25/2015

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MELYMAN@LYMANPATENTS.COM



## DETAILED ACTION

### ***Notice of Pre-AIA or AIA Status***

The present application is being examined under the pre-AIA first to invent provisions.

### ***Claim Rejections - 35 USC § 103***

In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under pre-AIA 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 1 – 2** are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over Lavelle (U.S. Patent 6,678,892) in view of Schotz (U.S. Patent 5,946,343) in further view of Lindemann (U.S. Patent Application Publication 2004/0223622).

Regarding **Claim 1**, Lavelle discloses:

A method for coded wireless digital music audio transmission and reception between a mobile digital music audio transmitter and mobile digital music audio (operation of Fig. 1B) receiver comprising the steps of:

operatively coupling a digital audio transmitter (510) to a music audio source (any of the sources diagramed in Fig. 1B, for example “CD Player”) and configuring said digital audio transmitter to transmit a unique user code (matching the inherent code in CDMA to initiate decoding, i.e. each channel in CDMA corresponds to a different random sequence, this sequence must be received and recognized by receiving unit in order for the device to operate) and an original music audio signal representation (music transmitted by 510), wherein said digital audio transmitter coupled to said music audio source (510), and configured to be directly communicable with a mobile digital audio receiver (510 to 152 or 154), is capable of being moved in any direction during operation (headsets can move in any of 3 directions),

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Lavelle does not explicitly disclose:

the audio signal in the form of packets.

However, transmitting digital music via packets is notoriously well known in the art. For example, Schotz discloses transmitting audio using data packets. Applying this transmission technique would have been obvious to one of ordinary skill in the art at the time the invention was made. Doing so would have been nothing more than simple substitution of one known element for another to obtain predictable results as:

1) the prior art contained a device in Lavelle which differed in they technique of data streaming from the claimed invention;

2) streaming digital music using packets is notoriously well known in the art as evidenced by Schotz; and

3) substitution of the digital streaming for the packet based method would have been predictable as packet based digital communication is a notoriously well known technique often used in communication systems, providing efficient data transfers.

The combination also fails to disclose:

said wireless digital music audio transmitter comprising:

encoding operative to encode said original music audio signal representation to reduce intersymbol interference to aid in lowering signal detection error of said music audio representation signal respective to said mobile digital audio receiver and said mobile digital audio transmitter coupled to said music audio source

However, reducing intersymbol interference in audio coding for CDMA transmission is notoriously well known in the art.

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Lindemann discloses a device that transmits digital audio between a stereo system and a speaker using CDMA. Lindemann also includes that the transmission stream is created using a Reed-Solomon encoding and interleaver and a corresponding decoder in the decoder; Figs. 6 and 8.

Applying these teachings to the encoding of the combination discloses:

encoding operative to encode said original music audio signal representation to reduce intersymbol interference to aid in lowering signal detection error of said music audio representation signal respective to said mobile digital audio receiver and said mobile digital audio transmitter coupled to said music audio source (Fig. 8 element 802 which is a Reed Solomon decoder and Interleaver; it is known in the art to configure Reed Solomon encoding or decoding/interleaving to reduce ISI as is shown by Roberts 6,418,558. Reducing ISI is a desirable feature to any digital transmission).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the reed Solomon encoder/decoder in the combinations channel encoding. Doing so would have been nothing more than applying a known technique to a known device ready for improvement to yield predictable results as:

1) the prior art contained a base device in the combination's wireless CDMA headphone set that, when including intersymbol interference reduction, can be seen as in improvement;

2) the prior art contained a known technique (i.e. Reed Solomon encoding/decoding to reduce ISI) in a comparable device in Lindemann (i.e. wireless audio transmission); And



3) applying the teachings of Lindemann to the combination would have been predictable as both operate on wireless CDMA communications of audio.

The combination further discloses:

a digital modulator module configured for independent code division multiple access (CDMA) communication operation, said music audio having been wirelessly transmitted and reproduced virtually free from interference from other device transmitted signals (reception side of 152 and 154 receiving the CDMA communication).

Regarding **Claim 2**, in addition to the elements stated above regarding claim 1, the combination further discloses:

said unique user code configured to spread the spectrum of said audio signal and further configured for independent communication operation (matching the inherent code in CDMA to initiate de-spreading, i.e. each channel in CDMA corresponds to a different random sequence, this sequence must be received and recognized by receiving unit 200 in order for the device to operate).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory double

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patenting rejection is appropriate where the claims at issue are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the reference application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement. A terminal disclaimer must be signed in compliance with 37 CFR 1.321(b).

The USPTO internet Web site contains terminal disclaimer forms which may be used. Please visit <http://www.uspto.gov/forms/>. The filing date of the application will determine what form should be used. A web-based eTerminal Disclaimer may be filled out completely online using web-screens. An eTerminal Disclaimer that meets all requirements is auto-processed and approved immediately upon submission. For more information about eTerminal Disclaimers, refer to <http://www.uspto.gov/patents/process/file/efs/guidance/eTD-info-I.jsp>.

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Claims 1 and 2 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1 – 19 of U.S. Patent No. 7,412,294. Although the claims at issue are not identical, they are not patentably distinct from each other because the claims of the '294 patent anticipate the claims of the instant application.

Claims 1 and 2 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1 – 10 of U.S. Patent No. 8,131,391. Although the claims at issue are not identical, they are not patentably distinct from each other because the claims of the '391 patent anticipate the claims of the instant application.

Claims 1 and 2 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1 – 20 of U.S. Patent No. 7,684,885. Although the claims at issue are not identical, they are not patentably distinct from each other because the claims of the '885 patent anticipate the claims of the instant application.

Claims 1 and 2 are rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1 – 13 of U.S. Patent No. 7,865,258. Although the claims at issue are not identical, they are not patentably distinct from each other because the claims of the '258 patent anticipate the claims of the instant application.

Claim 1 and 2 are provisionally rejected on the ground of nonstatutory double patenting as being unpatentable over claims 1 - 11 of copending Application No.

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13/356,949. Although the claims at issue are not identical, they are not patentably distinct from each other because the claims of the '949 application anticipate the claims of the instant application.

This is a provisional nonstatutory double patenting rejection because the patentably indistinct claims have not in fact been patented.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C. Flanders whose telephone number is (571)272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Andrew C Flanders/  
Primary Examiner, Art Unit 2656

<b>Notice of References Cited</b>	Application/Control No. 13/775,754	Applicant(s)/Patent Under Reexamination WOOLFORK, C. EARL	
	Examiner Andrew C. Flanders	Art Unit 2656	Page 1 of 2

**U.S. PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification	
*	A	US-6,130,643	10-2000	Trippett et al.	342/380
*	B	US-6,982,132	01-2006	Goldner et al.	429/162
*	C	US-2001/0025358	09-2001	Eidson et al.	714/752
*	D	US-7,099,413	08-2006	Chuang et al.	375/347
*	E	US-2004/0223622	11-2004	Lindemann et al.	381/079
*	F	US-7,047,474	05-2006	Rhee et al.	714/755
*	G	US-6,418,558	07-2002	Roberts et al.	725/129
*	H	US-5,175,558	12-1992	DuPree, James E.	342/378
*	I	US-6,317,039	11-2001	Thomason, John A.	340/505
*	J	US-5,771,441	06-1998	Altstatt, John E.	455/66.1
*	K	US-5,946,343	08-1999	Schotz et al.	375/141
*	L	US-5,491,839	02-1996	Schotz, Larry	455/39
*	M	US-6,424,820	07-2002	Burdick et al.	455/41.1

**FOREIGN PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N				
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**NON-PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
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<b>Notice of References Cited</b>	Application/Control No. 13/775,754	Applicant(s)/Patent Under Reexamination WOOLFORK, C. EARL	
	Examiner Andrew C. Flanders	Art Unit 2656	Page 2 of 2

**U.S. PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A US-6,898,585	05-2005	Benson et al.	706/52
*	B US-6,781,977	08-2004	Li, Yingtao	370/335
*	C US-5,781,542	07-1998	Tanaka et al.	370/342
*	D US-6,678,892	01-2004	Lavelle et al.	725/75
*	E US-6,456,645	09-2002	Kurrrat, Jens	375/140
	F US-			
	G US-			
	H US-			
	I US-			
	J US-			
	K US-			
	L US-			
	M US-			

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	V				
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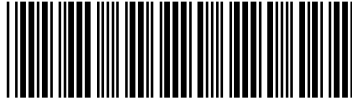
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BIB DATA SHEET

CONFIRMATION NO. 1030

<b>SERIAL NUMBER</b> 13/775,754	<b>FILING or 371(c) DATE</b> 02/25/2013 <b>RULE</b>	<b>CLASS</b> 700	<b>GROUP ART UNIT</b> 2656	<b>ATTORNEY DOCKET NO.</b> 1028.7	
<b>APPLICANTS</b> <b>INVENTORS</b> C. Earl Woolfork, Pasadena, CA; ** CONTINUING DATA ***** ** FOREIGN APPLICATIONS ***** ** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** ** SMALL ENTITY ** 03/19/2013					
Foreign Priority claimed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No 35 USC 119(a-d) conditions met <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Verified and /ANDREW C FLANDERS/ Acknowledged Examiner's Signature	<input type="checkbox"/> Met after Allowance _____ Initials	<b>STATE OR COUNTRY</b> CA	<b>SHEETS DRAWINGS</b> 3	<b>TOTAL CLAIMS</b> 2	<b>INDEPENDENT CLAIMS</b> 2
<b>ADDRESS</b> MEGAN LYMAN 1816 SILVER MIST CT. RALEIGH, NC 27613 UNITED STATES					
<b>TITLE</b> Wireless Digital Audio Music System					
<b>FILING FEE RECEIVED</b> 533	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		<input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees (Filing) <input type="checkbox"/> 1.17 Fees (Processing Ext. of time) <input type="checkbox"/> 1.18 Fees (Issue) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit		



<b><i>Index of Claims</i></b>  	<b>Application/Control No.</b> 13775754	<b>Applicant(s)/Patent Under Reexamination</b> WOOLFORK, C. EARL
	<b>Examiner</b> ANDREW C FLANDERS	<b>Art Unit</b> 2656

✓	<b>Rejected</b>
=	<b>Allowed</b>


-	<b>Cancelled</b>
÷	<b>Restricted</b>

N	<b>Non-Elected</b>
I	<b>Interference</b>

A	<b>Appeal</b>
O	<b>Objected</b>

Claims renumbered in the same order as presented by applicant
  CPA
  T.D.
  R.1.47

CLAIM		DATE							
Final	Original	02/19/2015							
	1	✓							
	2	✓							

<b>Search Notes</b>  	<b>Application/Control No.</b>  13775754	<b>Applicant(s)/Patent Under Reexamination</b>  WOOLFORK, C. EARL
	<b>Examiner</b>  ANDREW C FLANDERS	<b>Art Unit</b>  2656

<b>CPC- SEARCHED</b>		
<b>Symbol</b>	<b>Date</b>	<b>Examiner</b>
H04R2420/07	2/18/15	acf
H04R5/04, 033	2/18/15	acf
H04B1/086	2/18/15	acf
H04B5/06	2/18/15	acf
H04M1/6041, 6066	2/18/15	

<b>CPC COMBINATION SETS - SEARCHED</b>		
<b>Symbol</b>	<b>Date</b>	<b>Examiner</b>
see history attached		

<b>US CLASSIFICATION SEARCHED</b>			
<b>Class</b>	<b>Subclass</b>	<b>Date</b>	<b>Examiner</b>

<b>SEARCH NOTES</b>		
<b>Search Notes</b>	<b>Date</b>	<b>Examiner</b>
see history attached	2/19/15	acf
reviewed search strategy and classes searched in entire family 10/027,391; 10/648,012; 12/144,729; 12/570,343; 12/940,747; 13/356,949	2/19/15	acf
eDan, EAST and PALM inventor search	2/19/15	acf
google.com patents search	2/19/15	acf

<b>INTERFERENCE SEARCH</b>			
<b>US Class/ CPC Symbol</b>	<b>US Subclass / CPC Group</b>	<b>Date</b>	<b>Examiner</b>

	/ANDREW C FLANDERS/ Primary Examiner.Art Unit 2656
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## EAST Search History

## EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
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S27	18	("rechargeable battery" and portable) and "milliamp hours" and @ad<"20011220"	US-PGPUB; USPAT	OR	OFF	2006/08/31 12:17
S28	29	"5491839"	US-PGPUB; USPAT	OR	OFF	2006/08/30 12:56
S29	1	("5491839").PN.	US-PGPUB; USPAT	OR	OFF	2006/08/30 12:56
S30	1	("5771441").PN.	US-PGPUB; USPAT	OR	OFF	2006/08/30 12:56
S31	1	("6,107,147").PN.	US-PGPUB; USPAT	OR	OFF	2006/08/31 12:17
S32	0	(10/648012).APP.	US-PGPUB; USPAT	OR	OFF	2006/09/25 09:26
S33	1	("5946343").PN.	US-PGPUB; USPAT	OR	OFF	2006/09/25 09:50
S34	422	(455/564.1,412,413).CCLS.	US-PGPUB; USPAT	OR	OFF	2006/09/25 09:50

S35	5294	(375/219,295-297,346,348).CCLS.	US-PGPUB; USPAT	OR	OFF	2006/09/25 10:02
S36	1	("20040223622").PN.	US-PGPUB; USPAT	OR	OFF	2006/09/25 10:04
S37	1	("5946343").PN.	US-PGPUB; USPAT	OR	OFF	2006/09/25 10:05
S38	1	("7,050,419").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/20 09:32
S39	1	("20010025358").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/20 09:37
S40	2618	(375/341,140,147).CCLS.	US-PGPUB; USPAT	OR	OFF	2007/03/20 09:37
S41	1807	S40 and @ad<"20011220"	US-PGPUB; USPAT	OR	OFF	2007/03/20 09:38
S42	8	("2001/0025358").URPN.	USPAT	OR	OFF	2007/03/20 09:51
S43	0	("2002/0025009").URPN.	USPAT	OR	OFF	2007/03/20 09:59
S44	0	("2002/0025009").URPN.	USPAT	OR	OFF	2007/03/20 10:01
S45	12	("20020159543"   "5434623"   "5867532"   "5973642"   "6243423"   "6327314"   "6339612"   "6459728"   "6477210"   "6480554"   "6654429"   "6671338").PN. OR ("7099413").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/20 10:08
S46	74	"band pass" and demodulator and interleaver and "viterbi decoder"	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/20 10:08
S47	59	S46 and @ad<"20011220"	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/20 10:08
S48	17	("4278978"   "4635063"   "5175558"   "5493307").PN. OR ("6130643").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/20 10:15
S49	1	("5175558").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/20 10:16
S50	13	("4651155"   "4931977").PN. OR ("5175558").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2007/03/20 10:34
S51	1	("5946343").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/20 11:40
S52	7186	(375/295,146,130,340,316,148).CCLS.	US-PGPUB; USPAT	OR	OFF	2007/03/20 11:41
S53	4473	S52 and @ad<"20011220"	US-PGPUB; USPAT	OR	OFF	2007/03/20 11:41
S54	1	("20040223622").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/21 12:11
S55	5	"reed solomon" with "intersymbol interference"	US-PGPUB; USPAT	OR	OFF	2007/03/21 12:13
S56	30	"reed solomon" same "intersymbol interference"	US-PGPUB; USPAT	OR	OFF	2007/03/21 12:13
S57	21	S56 and @ad<"20011220"	US-PGPUB; USPAT	OR	OFF	2007/03/21 12:27
S58	1	("20030045235").PN.	US-PGPUB;	OR	OFF	2007/03/21

			USPAT			12:37
S59	1	("5790595").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/21 12:37
S60	2435	((375/262,265,341) or (714/794,795)).OCLS.	US-PGPUB; USPAT	OR	OFF	2007/03/24 09:15
S62	56	"375".clas. and "fuzzy logic"	US-PGPUB; USPAT	OR	OFF	2007/03/26 11:04
S64	1	("4970637").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/28 13:46
S65	755	(audio sound music voice) same (a/d "analog to digital") same (lpf "low pass")	US-PGPUB; USPAT	OR	OFF	2007/03/28 13:46
S66	282	(audio sound music voice) with (a/d "analog to digital") with ((lpf "low pass") and "digital")	US-PGPUB; USPAT	OR	OFF	2007/03/28 13:47
S67	227	(audio sound music voice) with (a/d "analog to digital") with ((lpf "low pass") and "digital") and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2007/03/28 15:33
S68	34712	"band pass filter" bpf with "direct conversion receiver"	US-PGPUB; USPAT	OR	OFF	2007/03/28 15:33
S69	35	("band pass filter" bpf) with "direct conversion receiver"	US-PGPUB; USPAT	OR	OFF	2007/03/28 15:33
S70	8	S69 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2007/03/28 15:55
S71	1	("20030045235").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/28 16:16
S72	1	("20040223622").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/28 16:20
S73	1	("5946343").PN.	US-PGPUB; USPAT	OR	OFF	2007/03/28 16:27
S74	364	"64-ary"	US-PGPUB; USPAT	OR	OFF	2007/03/28 16:27
S75	74	"64-ary" near modulat\$4	US-PGPUB; USPAT	OR	OFF	2007/03/28 16:27
S76	46	S75 and @ad<"20011120"	US-PGPUB; USPAT	OR	OFF	2007/03/28 16:27
S77	2	(("4970637") or ("5790595")).PN.	US-PGPUB; USPAT	OR	OFF	2007/07/16 09:58
S78	3	(("4970637") or ("5790595") or ("20040223622")).PN.	US-PGPUB; USPAT	OR	OFF	2007/07/16 09:58
S79	3	("2004/0223622").URPN.	USPAT	OR	OFF	2007/07/16 11:25
S80	1	("5771441").PN.	US-PGPUB; USPAT	OR	OFF	2007/07/16 11:25
S81	60	("2236946"   "2828413"   "2840694"   "3080785"   "3085460"   "3087117"   "3296916"   "3579211"   "3743751"   "3781451"   "3825666"   "3863157"   "3901118"   "3906160"   "4004228"   "4229826"   "4335930"   "4344184"   "4369521"   "4430757"   "4453269"   "4464792"   "4471493"   "4612688"   "4647135"   "4721926"   "4794622"   "4845751"   "4899388"   "4988957"   "5025704"   "5214568").PN. OR	US-PGPUB; USPAT; USOCR	OR	OFF	2007/07/16 11:26

		("5771441").URPN.				
S82	2	S81 and cdma	US-PGPUB; USPAT; USOCR	OR	OFF	2007/07/16 11:26
S83	1	("6678892").PN.	US-PGPUB; USPAT	OR	OFF	2008/05/20 11:41
S84	1	("20020072816").PN.	US-PGPUB; USPAT	OR	OFF	2008/05/20 14:24
S85	22	"fuzzy logic" and modulat\$5 and filter and (dpsk "phase shift key")	US-PGPUB; USPAT	OR	OFF	2008/06/06 09:20
S86	0	"455".clas. and "375".clas. and S85	US-PGPUB; USPAT	OR	OFF	2008/06/06 09:21
S87	1	"10100351"	US-PGPUB; USPAT	OR	OFF	2008/06/06 11:49
S88	1	("6,678,892").PN.	US-PGPUB; USPAT	OR	OFF	2008/06/06 12:38
S89	3	("20030021429"   "20030076346"   "6867820").PN.	US-PGPUB; USPAT	OR	OFF	2008/06/06 12:42
S90	13	("4589134"   "4626892"   "5042070"   "5541638"   "5581621"   "5631850"   "5775939"   "6100936"   "6195438").PN. OR ("6867820").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2008/06/06 12:43
S91	2	"10648012"	US-PGPUB; USPAT	OR	OFF	2009/02/14 10:23
S92	1	"12144729"	US-PGPUB; USPAT	OR	OFF	2009/02/14 10:31
S93	1	("5790595").PN.	US-PGPUB; USPAT	OR	OFF	2009/02/14 12:36
S94	1	("6678892").PN.	US-PGPUB; USPAT	OR	OFF	2009/02/14 12:37
S95	1	("6678892").PN.	US-PGPUB; USPAT	OR	OFF	2009/05/26 07:51
S96	1680	portable and music and CDMA and transmitter and receiver	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:35
S97	527	portable and music and CDMA and transmitter and receiver and private	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:35
S98	57	portable and music and CDMA and transmitter and receiver and private and "fuzzy logic"	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:35
S99	0	S98 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:36
S100	41	S97 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:36
S101	1	("6678692").PN.	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:39
S102	1	("6678892").PN.	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:39
S103	25	("5555466"   "5771441"   "6058288"   "6243645"   "6266815"   "6300880"   "6317039").PN. OR ("6678892").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:39
S104	63	("2236946"   "2828413"   "2840694"   "3080785"   "3085460"   "3087117"   "3296916"   "3579211"   "3743751"	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:42

		"3781451"   "3825666"   "3863157"   "3901118"   "3906160"   "4004228"   "4229826"   "4335930"   "4344184"   "4369521"   "4430757"   "4453269"   "4464792"   "4471493"   "4612688"   "4647135"   "4721926"   "4794622"   "4845751"   "4899388"   "4988957"   "5025704"   "5214568").PN. OR ("5771441").URPN.				
S105	10	("20030045235"   "20040223622"   "5491839"   "5771441"   "5790595"   "5946343"   "6342844"   "6418558"   "6678892"   "6982132").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:42
S106	4453	"fuzzy logic" and @ad<"20011221"	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:48
S107	659	S106 and transmitter	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:48
S108	591	S106 and portable	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:48
S109	4	S106 and portable adj player	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:49
S110	0	"fuzzy logic" with reciever	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:50
S111	49	"fuzzy logic" with receiver	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:50
S112	27	S111 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:50
S113	192	"fuzzy logic" same receiver	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/01 11:51
S114	72	S113 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/01 11:52
S115	71	("4019141"   "4229829"   "5264795"   "5404577"   "5437057"   "5568516"   "5694467"   "5771438"   "5771441"   "5867223"   "5978689"   "6006115").PN. OR ("6424820").URPN.	US-PGPUB; USPAT; USOCR	OR	OFF	2009/09/02 11:27
S116	34	S115 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:28
S117	31	bluetooth with (headphone headset earphone "head phone" "head set" "ear phone") with cdma	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:32
S118	2	S117 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:32
S119	32	wireless with (headphone headset earphone "head phone" "head set" "ear phone") with cdma	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:33
S120	3	S119 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:33
S121	57	(headphone headset earphone "head phone" "head set" "ear phone") with	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:34



		cdma				
S122	10	S121 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:34
S123	0	WO0056093	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:36
S124	0	WO0056093	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2009/09/02 11:37
S125	0	WO/0056093	US-PGPUB; USPAT; USOCR; FPRS; EPO; JPO; DERWENT; IBM_TDB	OR	OFF	2009/09/02 11:37
S126	2	(("5781542") or ("5799005")).PN.	US-PGPUB; USPAT	OR	OFF	2009/09/02 11:42
S127	1	(("6199076")).PN.	US-PGPUB; USPAT	OR	OFF	2009/09/02 13:51
S128	0	woolfork-earl.in.	US-PGPUB; USPAT	OR	OFF	2009/11/23 11:44
S129	3	woolfork-c-\$.in.	US-PGPUB; USPAT	OR	OFF	2009/11/23 11:44
S139	1	(("7412294")).PN.	US-PGPUB; USPAT	OR	OFF	2010/01/11 12:21
S140	1	(("7412294")).PN.	US-PGPUB; USPAT	OR	OFF	2010/06/01 09:29
S141	3	"12144729"	US-PGPUB; USPAT	OR	OFF	2010/06/01 09:34
S142	843	cdma and "fuzzy logic"	US-PGPUB; USPAT	OR	OFF	2010/10/18 09:46
S143	66	S142 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2010/10/18 09:46
S144	14	cdma same "fuzzy logic"	US-PGPUB; USPAT	OR	OFF	2010/10/18 09:46
S145	5	S144 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2010/10/18 09:46
S146	11	code same wireless same "fuzzy logic"	US-PGPUB; USPAT	OR	OFF	2010/10/18 09:49
S147	2	S146 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2010/10/18 09:49
S148	2704	(700/94).OCLS.	US-PGPUB; USPAT	OR	OFF	2010/10/21 12:51
S149	3	(("7412294") or ("7865258") or ("7684885")).PN.	US-PGPUB; USPAT	OR	OFF	2011/05/02 14:06
S150	1	(("6418558")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/11/03 09:41
S151	1	(("6678892")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2011/11/03 09:42
S152	1	S150 and reed same intersymbol	US-PGPUB;	OR	OFF	2011/11/03

			USPAT; USOCR			10:03
S154	1	("8131391").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/10/02 10:23
S155	1	("8131391").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/10/02 10:27
S156	1765	wireless and (audio music) and "direct conversion"	US-PGPUB; USPAT; USOCR	OR	OFF	2013/10/02 10:30
S157	177	S156 and @ad<"20011221"	US-PGPUB; USPAT	OR	OFF	2013/10/02 10:30
S158	6	S157 and (headphone "head phone" earphone "ear phone")	US-PGPUB; USPAT	OR	OFF	2013/10/02 10:31
S159	18	(US-20010025358-\$ or US-20040223622-\$).did. or (US-6130643-\$ or US-6982132-\$ or US-7099413-\$ or US-7047474-\$ or US-6418558-\$ or US-5175558-\$ or US-6317039-\$ or US-5771441-\$ or US-5946343-\$ or US-5491839-\$ or US-6424820-\$ or US-6898585-\$ or US-6781977-\$ or US-5781542-\$ or US-6678892-\$ or US-6456645-\$).did.	US-PGPUB; USPAT	OR	OFF	2013/10/02 10:34
S160	6	S159 and packet	US-PGPUB; USPAT; USOCR	OR	OFF	2013/10/02 10:34
S161	6	S159 and cdma	US-PGPUB; USPAT; USOCR	OR	OFF	2013/10/02 10:44
S162	1	S159 and "direct conversion"	US-PGPUB; USPAT; USOCR	OR	OFF	2013/10/02 10:52
S163	4	(("8131391") or ("7865258") or ("7684885") or ("7412294")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2013/10/02 12:00
S164	18	(US-20010025358-\$ or US-20040223622-\$).did. or (US-6130643-\$ or US-6982132-\$ or US-7099413-\$ or US-7047474-\$ or US-6418558-\$ or US-5175558-\$ or US-6317039-\$ or US-5771441-\$ or US-5946343-\$ or US-5491839-\$ or US-6424820-\$ or US-6898585-\$ or US-6781977-\$ or US-5781542-\$ or US-6678892-\$ or US-6456645-\$).did.	US-PGPUB; USPAT	OR	OFF	2013/12/05 09:59
S165	1	S164 and intersymbol	US-PGPUB; USPAT; USOCR	OR	OFF	2013/12/05 09:59
S166	1	S164 and intersymbol and reed	US-PGPUB; USPAT; USOCR	OR	OFF	2013/12/05 09:59
S167	18	(US-20010025358-\$ or US-20040223622-\$).did. or (US-6130643-\$ or US-6982132-\$ or US-7099413-\$ or US-7047474-\$ or US-6418558-\$ or US-5175558-\$ or US-6317039-\$ or US-5771441-\$ or US-5946343-\$ or	US-PGPUB; USPAT	OR	OFF	2014/12/16 09:58

		US-5491839-\$ or US-6424820-\$ or US-6898585-\$ or US-6781977-\$ or US-5781542-\$ or US-6678892-\$ or US-6456645-\$.did.				
S168	18	(US-20010025358-\$ or US-20040223622-\$).did. or (US-6130643-\$ or US-6982132-\$ or US-7099413-\$ or US-7047474-\$ or US-6418558-\$ or US-5175558-\$ or US-6317039-\$ or US-5771441-\$ or US-5946343-\$ or US-5491839-\$ or US-6424820-\$ or US-6898585-\$ or US-6781977-\$ or US-5781542-\$ or US-6678892-\$ or US-6456645-\$.did.	US-PGPUB; USPAT	OR	OFF	2014/12/16 10:03

**EAST Search History (Interference)**

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
S130	0	woolfork-earl.in.	USPAT; UPAD	OR	OFF	2009/11/23 11:44
S131	1	woolfork-c-\$.in.	USPAT; UPAD	OR	OFF	2009/11/23 11:44
S132	195	(700/94).CCLS.	UPAD	OR	OFF	2009/11/23 11:59
S133	225	((700/94) or (455/3.06)).CCLS.	UPAD	OR	OFF	2010/01/11 11:18
S153	31	(700/94).CCLS.	UPAD	OR	OFF	2012/01/09 11:39

2/ 19/ 2015 12:05:27 PM

C:\Users\aflanders\Documents\EAST\Workspaces\12940747.wsp

Statement under MPEP 2001.06(c)

To Whom It May Concern:

The above application is involved in an ITC investigation. The applicant notifies the Patent Office of this matter in accordance with MPEP 2001.06(c), which states “[w]here the subject matter of patent is being sought is or has been involved in litigation, the existence of such litigation and any other material information arising therefrom must be brought to the attention of the U.S. Patent and Trademark Office.” It is with candor and good faith that this information is provided. Please do not hesitate to contact me with any questions or concerns. synergy

March 8, 2015

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Megan E. Lyman".

Megan E. Lyman, Registration No. 57,054  
1816 Silver Mist Ct.  
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## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	21708160
<b>Application Number:</b>	13775754
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	1030
<b>Title of Invention:</b>	Wireless Digital Audio Music System
<b>First Named Inventor/Applicant Name:</b>	C. Earl Woolfork
<b>Customer Number:</b>	68533
<b>Filer:</b>	Megan Elizabeth Lyman
<b>Filer Authorized By:</b>	
<b>Attorney Docket Number:</b>	1028.7
<b>Receipt Date:</b>	09-MAR-2015
<b>Filing Date:</b>	25-FEB-2013
<b>Time Stamp:</b>	12:24:37
<b>Application Type:</b>	Utility under 35 USC 111(a)

### Payment information:

Submitted with Payment	no
------------------------	----

### File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	Notice of concurrent proceedings / decisions	SatementforCFR.pdf	68712 <small>e76cc9dcbd3f9998eff4ff80a677efb88ae1c be</small>	no	1

### Warnings:

### Information:

**This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.**

**New Applications Under 35 U.S.C. 111**

**If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.**

**National Stage of an International Application under 35 U.S.C. 371**

**If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.**

**New International Application Filed with the USPTO as a Receiving Office**

**If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.**

Transmission of Opposing Arguments in Litigation

To Whom It May Concern:

The above application is involved in an ITC investigation. The applicant notifies the Patent Office of this and has attached the opposing arguments that have been made. Please find attached: Response of Beats Electronics, etc to the Complaint and Notice of Investigation; AlphCom's Answer to Complaint and Notice of Investigation; Sony's Answer to Complaint and Notice of Investigation; GN Netcom's Answer to Complaint and Notice of Investigation; Creative's Answer to Complaint and Notice of Investigation; Sennheiser's Answer to Complaint and Notice of Investigation; and BlueAnt's Answer to Complaint and Notice of Investigation. It is with candor and good faith that this information is provided. Please do not hesitate to contact me with any questions or concerns.

March 16, 2015

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Megan E. Lyman". The signature is fluid and cursive, with a long horizontal line extending to the right.

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Raleigh, NC 27613  
melyman@lymanpatents.com  
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UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C. 20436

Before the Honorable Thomas B. Pender

In the Matter of

CERTAIN WIRELESS HEADSETS

Investigation No. 337-TA-943

**RESPONSE OF BEATS ELECTRONICS, LLC  
AND BEATS ELECTRONICS INTERNATIONAL  
TO THE COMPLAINT AND NOTICE OF INVESTIGATION**

Pursuant to 19 C.F.R. § 210.13, Respondents Beats Electronics, LLC and Beats Electronics International (collectively, the “Beats Respondents”) hereby respond to the Complaint and Notice of Investigation in the above-captioned matter.

The Beats Respondents deny that they have engaged in any unfair acts which violate 19 U.S.C. § 1337 (“Section 337”) under any asserted theory. The Beats Respondents deny importing, selling for importation, and/or selling within the United States after importation any products that infringe any claim of Complainant’s asserted patents. The Beats Respondents also deny that Complainant’s asserted patents are valid or enforceable. Except as specifically admitted herein, the Beats Respondents deny all allegations of the Complaint.

For ease of reference, the Beats Respondents have adopted the headings found in the Complaint. However, to the extent that such headings themselves contain factual and/or legal characterizations, the Beats Respondents deny all such characterizations.



## RESPONSE TO THE COMPLAINT

### I. INTRODUCTION

1. The Beats Respondents admit that Complainant One-E-Way (“Complainant” or “One-E-Way”) has filed a Complaint requesting that the United States International Trade Commission commence an investigation pursuant to Section 337. The Beats Respondents deny the merits of the Complaint, and deny that they have engaged in any unlawful acts under Section 337. The Beats Respondents deny infringement of any asserted claim of U.S. Patent Nos. 7,865,258 (“the ‘258 patent”) or 8,131,391 (“the ‘391 patent) (collectively, the “patents-in-suit”), and deny that the patents-in-suit are valid or enforceable. To the extent that the allegations in Paragraph 1 are directed to the Beats Respondents, the Beats Respondents deny all remaining allegations in Paragraph 1. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 1, and therefore deny the allegations.

2. The Beats Respondents admit that documents purporting to be certified copies of the ‘258 and ‘391 patents accompany the Complaint as Exhibits 1 and 2, respectively. The Beats Respondents admit that documents entitled “Intellectual Property Transfer Agreement” accompany the Complaint as Exhibits 3 and 4. To the extent that the allegations in Paragraph 2 are directed to the Beats Respondents, the Beats Respondents deny all remaining allegations in Paragraph 2. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 2, and therefore deny the allegations.

3. The Beats Respondents admit that the named Respondents are Sony Corporation, Sony Corporation of America, Sony Electronics, Inc., Sennheiser Electronic GmbH & Co. KG, Sennheiser Electronic Corporation, BlueAnt Wireless Pty, Ltd., BlueAnt Wireless, Inc., Creative

Technology Ltd., Creative Labs, Inc., Beats Electronics, LLC, Beats Electronics International, Jawbone, Inc., and GN Netcom A/S which is alleged to do business as Jabra (collectively “Respondents”). The Beats Respondents, however, deny that they should be Respondents in this Investigation, and deny that they have engaged in any unfair acts which violate Section 337 under any asserted theory. To the extent that the allegations in Paragraph 3 are directed to the Beats Respondents, the Beats Respondents deny all remaining allegations in Paragraph 3. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 3, and therefore deny the allegations.

4. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 4, and therefore deny the allegations.

5. The Beats Respondents admit that Complainant purports to seek, as relief from the Commission, limited exclusion orders excluding from entry into the United States certain wireless headset devices of Respondents that Complainant alleges to infringe the asserted claims of the patents-in-suit. The Beats Respondents admit that Complainant also purports to seek as relief cease and desist orders directed to Respondents to halt the importation, marketing, advertising, demonstration, warehousing of inventory for distribution, sale and use of such devices in the United States. The Beats Respondents deny infringement of any asserted claim of any patent-in-suit, and deny that Complainant is entitled to any of the relief sought against them. To the extent that the allegations in Paragraph 5 are directed to the Beats Respondents, the Beats Respondents deny all remaining allegations in Paragraph 5. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 5, and therefore deny the allegations.

## **II. COMPLAINANT**

6. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 6, and therefore deny the allegations.

## **III. RESPONDENTS**

### **Sony, Sony America, and Sony Electronics**

7. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 7, and therefore deny the allegations.

8. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 8, and therefore deny the allegations.

9. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 9, and therefore deny the allegations.

10. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 10, and therefore deny the allegations.

### **Sennheiser and Sennheiser America**

11. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 11, and therefore deny the allegations.

12. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 12, and therefore deny the allegations.

13. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 13, and therefore deny the allegations.

### **BlueAnt and BlueAnt-US**

14. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 14, and therefore deny the allegations.

15. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 15, and therefore deny the allegations.

**Creative and Creative Labs**

16. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 16, and therefore deny the allegations.

17. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 17, and therefore deny the allegations.

18. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 18, and therefore deny the allegations.

**Beats and Beats Ireland**

19. The Beats Respondents admit that Beats Electronics, LLC (“Beats”) is a corporation organized under the laws of the State of Delaware with its principal place of business in Culver City, California 90232. Except as so admitted, the Beats Respondents deny the allegations in Paragraph 19.

20. The Beats Respondents admit that Beats Electronics International (“Beats Ireland”) was formerly registered as Beats Electronics International Limited. The Beats Respondents admit that Beats Electronics International is an Irish corporation, which formerly had its registered office at The Malt House South, Grand Canal Quay, Dublin 2, Ireland. Except as so admitted, the Beats Respondents deny the allegations in Paragraph 20.

21. The Beats Respondents admit that Beats Ireland was formerly an indirect subsidiary of Beats. Except as so admitted, the Beats Respondents deny the allegations in Paragraph 21.

**Jawbone**

22. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 22, and therefore deny the allegations.

**Jabra**

23. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 23, and therefore deny the allegations.

**IV. THE TECHNOLOGIES AND PRODUCTS AT ISSUE**

24. The Beats Respondents deny that any Beats product practices the ‘258 and/or ‘391 patents. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 24, and therefore deny the allegations.

**V. THE PATENTS-IN-SUIT**

25. The Beats Respondents admit that the ‘391 patent states that it issued from U.S. Patent Application No. 12/940,747, which, the ‘391 patent states, is a continuation application of U.S. Patent Application No. 12/570,343, which, the ‘391 patent states, issued as the ‘258 patent. The Beats Respondents admit that the ‘391 patent lists U.S. Patent Application No. 10/027,391, filed on December 21, 2001, as a “Related U.S. Application.” The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 25, and therefore deny the allegations.

**A. The ‘258 Patent**

**Identification of the Patent and Ownership**

26. The Beats Respondents admit that the ‘258 patent is entitled “Wireless Digital Audio System,” and that the ‘258 patent states that it issued on January 4, 2011. The Beats Respondents admit that the ‘258 patent states that C. Earl Woolfork is the sole named inventor.

The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 26, and therefore deny the allegations.

27. The Beats Respondents admit that a document purporting to be a copy of the prosecution history for the '258 patent accompanies the Complaint as Appendix A, and that documents purporting to be copies of the references mentioned in the prosecution history of the '258 patent accompany the Complaint as Appendix B. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 27, and therefore deny the allegations.

**Non-Technical Description of the Patented Invention**

28. The Beats Respondents deny the allegations in Paragraph 28 insofar as they relate in any way to a proposed construction of the specification or claims of the '258 patent. The Beats Respondents deny that the '258 patent discloses "inventions." The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 28, and therefore deny the allegations.

29. The Beats Respondents deny the allegations in Paragraph 29 insofar as they relate in any way to a proposed construction of the specification or claims of the '258 patent. The Beats Respondents deny that the '258 patent discloses "inventions." The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 29, and therefore deny the allegations.

**B. The '391 Patent**

**Identification of the Patent and Ownership**

30. The Beats Respondents admit that the '391 patent states that it issued on March 6, 2012. The Beats Respondents admit that the '391 patent states that it is a continuation of the

patent application that issued as the '258 patent. The Beats Respondents admit that the '391 patent states that C. Earl Woolfork is the sole named inventor. The Beats Respondents deny that the '391 patent is entitled "Wireless Digital Audio System." The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 30, and therefore deny the allegations.

31. The Beats Respondents admit that a document purporting to be a copy of the prosecution history for the '391 patent accompanies the Complaint as Appendix C, and that documents purporting to be copies of the references mentioned in the prosecution history of the '391 patent accompany the Complaint as Appendix D. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 31, and therefore deny the allegations.

**Non-Technical Description of the Patented Invention**

32. The Beats Respondents deny the allegations in Paragraph 32 insofar as they relate in any way to a proposed construction of the specification or claims of the '391 patent. The Beats Respondents deny that the '391 patent discloses "inventions." The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 32, and therefore deny the allegations.

33. The Beats Respondents deny the allegations in Paragraph 33 insofar as they relate in any way to a proposed construction of the specification or claims of the '391 patent. The Beats Respondents deny that the '391 patent discloses "inventions." The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 33, and therefore deny the allegations.

## VI. ALLEGED UNFAIR ACTS OF THE RESPONDENTS

### A. Sony, Sony America, and Sony Electronics

34. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 34, and therefore deny the allegations.

35. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 35, and therefore deny the allegations.

36. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 36, and therefore deny the allegations.

37. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 37, and therefore deny the allegations.

38. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 38, and therefore deny the allegations.

39. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 39, and therefore deny the allegations.

40. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 40, and therefore deny the allegations.

### B. Sennheiser and Sennheiser America

41. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 41, and therefore deny the allegations.

42. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 42, and therefore deny the allegations.

43. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 43, and therefore deny the allegations.



44. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 44, and therefore deny the allegations.

45. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 45, and therefore deny the allegations.

46. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 46, and therefore deny the allegations.

47. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 47, and therefore deny the allegations.

**C. BlueAnt and BlueAnt-US**

48. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 48, and therefore deny the allegations.

49. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 49, and therefore deny the allegations.

50. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 50, and therefore deny the allegations.

51. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 51, and therefore deny the allegations.

52. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 52, and therefore deny the allegations.

53. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 53, and therefore deny the allegations.

54. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 54, and therefore deny the allegations.

**D. Creative and Creative Labs**

55. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 55, and therefore deny the allegations.

56. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 56, and therefore deny the allegations.

57. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 57, and therefore deny the allegations.

58. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 58, and therefore deny the allegations.

59. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 59, and therefore deny the allegations.

60. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 60, and therefore deny the allegations.

61. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 61, and therefore deny the allegations.

**E. Beats and Beats Ireland**

62. The Beats Respondents deny the allegations in Paragraph 62.

63. The Beats Respondents admit that headsets have been sold under the following names: Studio Wireless, Solo<sup>2</sup> Wireless, and Powerbeats2 Wireless (“Accused Beats Products”). The Beats Respondents deny that these headsets infringe any asserted claim of any patent-in-suit. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 63, and therefore deny the allegations.

64. The Beats Respondents admit that the Accused Beats Products have been manufactured, assembled, and/or packaged outside of the United States. Except as so admitted, the Beats Respondents deny the allegations in Paragraph 64.

65. The Beats Respondents deny the allegations in Paragraph 65.

66. The Beats Respondents deny the allegations in Paragraph 66.

67. The Beats Respondents deny the allegations in Paragraph 67.

68. The Beats Respondents deny the allegations in Paragraph 68.

**F. Jawbone**

69. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 69, and therefore deny the allegations.

70. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 70, and therefore deny the allegations.

71. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 71, and therefore deny the allegations.

72. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 72, and therefore deny the allegations.

73. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 73, and therefore deny the allegations.

74. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 74, and therefore deny the allegations.

75. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 75, and therefore deny the allegations.

**G. Jabra**

76. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 76, and therefore deny the allegations.

77. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 77, and therefore deny the allegations.

78. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 78, and therefore deny the allegations.

79. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 79, and therefore deny the allegations.

80. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 80, and therefore deny the allegations.

81. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 81, and therefore deny the allegations.

82. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 82, and therefore deny the allegations.

**VII. SPECIFIC INSTANCES OF ALLEGED UNFAIR IMPORTATION AND SALE**

83. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 83, and therefore deny the allegations.

84. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 84, and therefore deny the allegations.

85. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 85, and therefore deny the allegations.

86. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 86, and therefore deny the allegations.

87. The Beats Respondents admit that the Accused Beats Products have been manufactured outside of the United States. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 87, and therefore deny the allegations.

88. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 88, and therefore deny the allegations.

89. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 89, and therefore deny the allegations.

#### **VIII. CLASSIFICATION OF THE ACCUSED PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

90. The Beats Respondents deny the allegations in Paragraph 90.

#### **IX. RELATED LITIGATION**

91. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 91, and therefore deny the allegations.

#### **X. DOMESTIC INDUSTRY**

92. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 92, and therefore deny the allegations.

##### **A. One-E-Way's Alleged Development of the Domestic Industry**

93. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 93, and therefore deny the allegations.

**B. One-E-Way Licensees' Alleged Development of the Domestic Industry**

94. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 94, and therefore deny the allegations.

95. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 95, and therefore deny the allegations.

96. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 96, and therefore deny the allegations.

97. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 97, and therefore deny the allegations.

98. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 98, and therefore deny the allegations.

99. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 99, and therefore deny the allegations.

100. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations in Paragraph 100, and therefore deny the allegations.

**XI. RELIEF REQUESTED**

101. To the extent that the allegations in Paragraph 101 are directed to the Beats Respondents, the Beats Respondents deny all allegations in Paragraph 101, deny the merits of the Complaint, and deny that Complainant is entitled to any of the relief it seeks or any other and further relief. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the remaining allegations in Paragraph 101, and therefore deny the allegations.

## **RESPONSE TO NOTICE OF INVESTIGATION**

Responding to the Notice of Investigation dated January 8, 2015, the Beats Respondents acknowledge that the Commission has initiated an Investigation under Section 337 and that the Beats Respondents are named in that Notice.

The Beats Respondents deny that there has been any violation of Section 337 by them in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain wireless headsets. The Beats Respondents deny infringement of any asserted claim of any asserted patent, and deny that the asserted patents are valid or enforceable. The Beats Respondents lack sufficient information or knowledge to form a belief as to the truth of the allegations that a domestic industry exists under subsection (a)(2) of Section 337 with respect to any of the asserted patents, and therefore deny each and every such allegation. The Beats Respondents deny that Complainant is entitled to any relief in this Investigation, including, but not limited to, any exclusion order or cease and desist order.

### **AFFIRMATIVE DEFENSES**

The Beats Respondents assert the following affirmative and other defenses, reserving the right to modify, amend, or otherwise expand upon these defenses as discovery proceeds in this Investigation.

#### **FIRST AFFIRMATIVE DEFENSE (Non-Infringement of the '258 Patent)**

1. Although the Beats Respondents do not bear the burden of proof on this issue, no valid asserted claims of the '258 patent are infringed directly, contributorily, or by inducement by the Accused Beats Products.

**SECOND AFFIRMATIVE DEFENSE  
(Non-Infringement of the '391 Patent)**

2. Although the Beats Respondents do not bear the burden of proof on this issue, no valid asserted claims of the '391 patent are infringed directly, contributorily, or by inducement by the Accused Beats Products.

**THIRD AFFIRMATIVE DEFENSE  
(Lack of Importation)**

3. Although the Beats Respondents do not bear the burden of proof on this issue, no Accused Beats Product infringes or is able to infringe the asserted claims of the asserted patents at the time of importation.

**FOURTH AFFIRMATIVE DEFENSE  
(Lack of Unfair Acts by the Beats Respondents)**

4. Although the Beats Respondents do not bear the burden of proof on this issue, the Beats Respondents do not presently, and did not at the time of the filing of the Complaint, sell for importation into the United States, import into the United States, or sell after importation into the United States any of the Accused Beats Products.

**FIFTH AFFIRMATIVE DEFENSE  
(Invalidity of the '258 Patent)**

5. The '258 patent is invalid by reason of having been issued in violation of one or more provisions of the patent laws of the United States, including but not limited to such provisions in 35 U.S.C. §§ 101, 102, 103, 112, 115, and/or 116, or the Rules and Regulations of the United States Patent and Trademark Office relating thereto.

6. The audio coding, digital encoding, modulation and transmission techniques (and corresponding decoding, demodulation and reception techniques) claimed in the '258 patent were known to persons of ordinary skill in the art long before the claimed priority date. In many



cases, these techniques pre-dated the '258 patent by several decades or were otherwise related to development of the prior art Bluetooth standard. There is nothing novel or nonobvious about the combination of known elements as claimed in the '258 patent.

7. For example, the asserted claims of the '258 patent are invalid under 35 U.S.C. §§ 102 and/or 103 as anticipated by, or obvious in light of, the prior art references cited by the Examiner during the prosecution of the '258 patent and related applications, and other references. Such references include but are not limited to U.S. 6,781,977 to Li, Specification of the Bluetooth System Version 1.0B (issued Dec. 1, 1999), Specification of the Bluetooth System Version 1.1 (issued Feb. 22, 2001), the documents submitted and proposals presented by participants in the development of the IEEE 802.15 standard, U.S. Patent No. 6,473,449 to Cafarella et al., U.S. Patent No. 7,154,958 to Dabak et al., U.S. Patent No. 6,731,706 to Acharya et al., Samuel C. Yang, *CDMA RF System Engineering* (1998), Andrew R. Cohen, et al., *A New Coding Technique for Asynchronous Multiple Access Communication*, IEEE Trans. On Comm'ns Tech., Vol. Com-19, pp. 849-855 (Oct. 1971), Andrew J. Viterbi, *Error Bounds for Convolutional Codes and an Asymptotically Optimum Decoding Algorithm*, IEEE Trans. On Information Theory, Vol. IT-13, pp. 260-269 (Apr. 1967). The Beats Respondents incorporate by reference all prior art references identified by all the other Respondents in this Investigation in each of their respective Responses to the Complaint. The Beats Respondents are in the process of identifying additional relevant prior art, including through discovery, which is in its early stages at the time of this Response.

8. The asserted claims of the '258 patent are also invalid for failure to meet the requirements of 35 U.S.C. § 112 as a result of the specification lacking sufficient written description, failing to particularly point out and distinctly claim the subject matter which the

inventor regarded as the alleged invention, and/or failing to set forth a written description sufficient to enable any person skilled in the art to make and use the alleged invention.

9. The Beats Respondents will set forth further invalidity allegations upon obtaining relevant prior art and consistent with the forthcoming schedule in this Investigation.

**SIXTH AFFIRMATIVE DEFENSE**  
**(Invalidity of the '391 Patent)**

10. The '391 patent is invalid by reason of having been issued in violation of one or more provisions of the patent laws of the United States, including but not limited to such provisions in 35 U.S.C. §§ 101, 102, 103, 112, 115, and/or 116, or the Rules and Regulations of the United States Patent and Trademark Office relating thereto.

11. The audio coding, digital encoding, modulation and transmission techniques (and corresponding decoding, demodulation and reception techniques) claimed in the '391 patent were known to persons of ordinary skill in the art long before the claimed priority date. In many cases, these techniques pre-dated the '391 patent by several decades or were otherwise related to development of the prior art Bluetooth standard. There is nothing novel or nonobvious about the combination of known elements as claimed in the '391 patent.

12. For example, the asserted claims of the '391 patent are invalid under 35 U.S.C. §§ 102 and/or 103 as anticipated by, or obvious in light of, the prior art references cited by the Examiner during the prosecution of the '391 patent and related applications, and other references. Such references include but are not limited to U.S. 6,781,977 to Li, Specification of the Bluetooth System Version 1.0B (issued Dec. 1, 1999), Specification of the Bluetooth System Version 1.1 (issued Feb. 22, 2001), the documents submitted and proposals presented by participants in the development of the IEEE 802.15 standard, U.S. Patent No. 6,473,449 to Cafarella et al., U.S. Patent No. 7,154,958 to Dabak et al., U.S. Patent No. 6,731,706 to Acharya

et al., Samuel C. Yang, *CDMA RF System Engineering* (1998), Andrew R. Cohen, et al., *A New Coding Technique for Asynchronous Multiple Access Communication*, IEEE Trans. On Comm'ns Tech., Vol. Com-19, pp. 849-855 (Oct. 1971), Andrew J. Viterbi, *Error Bounds for Convolutional Codes and an Asymptotically Optimum Decoding Algorithm*, IEEE Trans. On Information Theory, Vol. IT-13, pp. 260-269 (Apr. 1967). The Beats Respondents incorporate by reference all prior art references identified by all the other Respondents in this Investigation in each of their respective Responses to the Complaint. The Beats Respondents are in the process of identifying additional relevant prior art, including through discovery, which is in its early stages at the time of this Response.

13. The asserted claims of the '391 patent are also invalid for failure to meet the requirements of 35 U.S.C. § 112 as a result of the specification lacking sufficient written description, failing to particularly point out and distinctly claim the subject matter which the inventor regarded as the alleged invention, and/or failing to set forth a written description sufficient to enable any person skilled in the art to make and use the alleged invention.

14. The Beats Respondents will set forth further invalidity allegations upon obtaining relevant prior art and consistent with the forthcoming schedule in this Investigation.

**SEVENTH AFFIRMATIVE DEFENSE  
(Lack of Domestic Industry)**

15. Although the Beats Respondents do not bear the burden of proof on this issue, the Commission lacks jurisdiction over Respondents in this investigation because Complainant has not established any basis for finding that a domestic industry exists or is in the process of being formed with respect to any of the claims of the '258 patent, and/or '391 patent. Specifically, on information and belief prior to discovery, Complainant has failed to show that it or its licensees are practicing the claims of the asserted patents in the United States or that it or its licensees have

made a significant investment in U.S. plant and equipment related to the asserted patents, a significant employment of U.S. labor and capital related to the asserted patents, or a substantial investment in U.S. exploitation of the asserted patents, including engineering, research, development, and/or licensing in the United States.

**EIGHTH AFFIRMATIVE DEFENSE  
(Lack of Standing)**

16. Although the Beats Respondents do not bear the burden of proof on this issue, on information and belief prior to discovery, Complainant lacks standing to pursue the relief sought by virtue of it having less than all necessary rights in the asserted patents.

**NINTH AFFIRMATIVE DEFENSE  
(Waiver, Acquiescence)**

17. Complainant's requested relief is barred, in whole or in part, by the doctrines of waiver and/or acquiescence because it has long known the basis for the allegations it now asserts against the Beats Respondents, but it unreasonably delayed in seeking relief.

**TENTH AFFIRMATIVE DEFENSE  
(Public Interest)**

18. The relief requested by Complainant would not further the public interest, but would adversely affect the public welfare, competitive conditions, and the U.S. consumer.

**ELEVENTH AFFIRMATIVE DEFENSE  
(Additional Defenses)**

19. The Beats Respondents reserve the right to assert additional defenses based on further discovery and investigation. The Beats Respondents further adopt any relevant defenses that may be raised by any other Respondent in this Investigation.

**ADDITIONAL INFORMATION REQUIRED BY 19 C.F.R. § 210.13(b)**

*See* CONFIDENTIAL Exhibit 1, attached hereto, for the statistical and other data required by Commission Rule 210.13 relating to the accused Studio Wireless, Solo<sup>2</sup> Wireless, and Powerbeats2 Wireless headsets.

**REQUEST FOR RELIEF**

WHEREFORE, the Beats Respondents respectfully request that the Commission:

1. Find that that there has been no violation by the Beats Respondents of Section 337 of the Tariff Act of 1930, as amended;
2. Deny all relief requested by Complainant as to the Beats Respondents;
3. Find that the Beats Respondents have not infringed any asserted claim of any asserted patent;
4. Find that the asserted claims of the asserted patents are invalid and/or unenforceable;
5. Find that a public interest exists that precludes any remedy, even if a violation is found;
6. Issue an Order terminating the instant investigation as to the Beats Respondents;  
and
7. Award the Beats Respondents such other and further relief as the Commission deems appropriate.

Dated: February 2, 2015

Respectfully submitted,



---

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*Counsel for Respondents Beats Electronics, LLC,  
and Beats Electronics International*

**VERIFICATION OF BEATS ELECTRONICS, LLC'S  
RESPONSE TO COMPLAINT AND NOTICE OF INVESTIGATION**

I, Gene Daniel Levoff, declare, in accordance with 19 C.F.R. § 210.4, under penalty of perjury under the laws of the United States of America, that the following statements are true:

1. I am Manager of Beats Electronics, LLC and am duly authorized to sign this verification on its behalf.

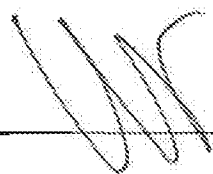
2. I have read the Response of Beats Electronics, LLC and Beats Electronics International to the Complaint and Notice of Investigation (the "Response"), and am familiar with the allegations and statements attributable to Beats Electronics, LLC that are contained therein.

3. The Response is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the Investigation.

4. To the best of my knowledge, information, and belief, based upon reasonable inquiry, the Response is well-founded in fact and is warranted by existing law or by non-frivolous argument for the extension, modification, or reversal of existing law of the establishment of new law.

5. The allegations and other factual contentions contained in the Response that are attributable to Beats Electronics, LLC have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

Executed this 24 day of January 2015.

  
\_\_\_\_\_  
Manager  
Beats Electronics, LLC

**VERIFICATION OF BEATS ELECTRONICS INTERNATIONAL'S  
RESPONSE TO COMPLAINT AND NOTICE OF INVESTIGATION**

I, Cathy Kearney, declare, in accordance with 19 C.F.R. § 210.4, under penalty of perjury under the laws of the United States of America, that the following statements are true:

1. I am a Director of Beats Electronics International and am duly authorized to sign this verification on its behalf.

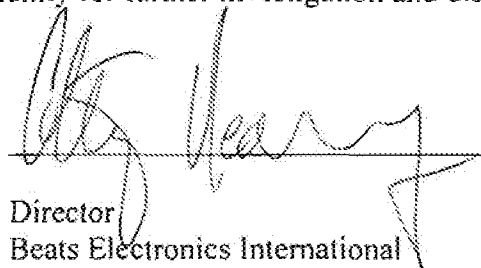
2. I have read the Response of Beats Electronics, LLC and Beats Electronics International to the Complaint and Notice of Investigation (the "Response"), and am familiar with the allegations and statements attributable to Beats Electronics International that are contained therein.

3. The Response is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the Investigation.

4. To the best of my knowledge, information, and belief, based upon reasonable inquiry, the Response is well-founded in fact and is warranted by existing law or by non-frivolous argument for the extension, modification, or reversal of existing law of the establishment of new law.

5. The allegations and other factual contentions contained in the Response that are attributable to Beats Electronics International have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

Executed this 29<sup>th</sup> day of January 2015.

  
Director  
Beats Electronics International



# **EXHIBIT 1**

**EXHIBIT 1**

Pursuant to 19 C.F.R. § 210.13(b), Respondent Beats Electronics, LLC (“Beats”) provides the following information. By providing such information, Beats only intends to supply the required data. Beats denies that any of the supplied data refers or relates to any unlawful act under Section 337 (19 U.S.C. § 1337) or otherwise.

1. The following reflects the approximate quantity and value of sales in the United States of the accused Studio Wireless, Solo<sup>2</sup> Wireless, and Powerbeats2 Wireless products (“Accused Beats Products”) for the year 2014:

a. Studio Wireless

	2014
Total Quantity of U.S. Units Sold	[REDACTED]
(U.S.) Retail Price	\$379.95

b. Solo<sup>2</sup> Wireless

	2014
Total Quantity of U.S. Units Sold	[REDACTED]
(U.S.) Retail Price	\$299.95

c. Powerbeats2 Wireless

	2014
Total Quantity of U.S. Units Sold	[REDACTED]
(U.S.) Retail Price	\$199.95

2. The relative significance of the U.S. market for the Accused Beats Products is as follows: The U.S. market constitutes approximately [REDACTED] of worldwide sales.

3. The Accused Beats Products fall within the following classification of the Harmonized Tariff Schedule of the United States: HTSUS 8517.62.0050.

4. The Beats Respondents do not manufacture or have any capacity to produce the Accused Beats Products. The foreign manufacturers of the Accused Beats Products are: Fugang Electronic (Dong Guan) Co., Ltd. (Studio Wireless and Powerbeats2 Wireless) and Innovation Sound Technology, Co. Ltd. (Solo<sup>2</sup> Wireless). Fugang's and Innovation's capacity to produce the Accused Beats Products is determined by the forecasts and purchase orders they receive for the products.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing RESPONSE TO THE COMPLAINT AND NOTICE OF INVESTIGATION was served in the manner indicated below on February 2, 2015:

The Honorable Lisa R. Barton  
Secretary  
U.S. INTERNATIONAL TRADE  
COMMISSION  
500 E St., SW  
Washington, DC 20436

- VIA FIRST CLASS MAIL
- VIA ELECTRONIC FILING (EDIS)
- VIA OVERNIGHT COURIER
- VIA HAND DELIVERY
- VIA EMAIL (PDF File)

The Honorable Thomas B. Pender  
Administrative Law Judge  
U.S. INTERNATIONAL TRADE  
COMMISSION  
500 E St., SW  
Washington, DC 20436

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- VIA HAND DELIVERY (2 Copies)
- VIA EMAIL (Word format to  
Gregory.Moldafsky@usitc.gov)

Vu Bui  
Office of Unfair Import Investigations  
U.S. International Trade Commission  
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555 Thirteenth Street, NW  
Washington, DC 20004

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

Before the Honorable Thomas B. Pender  
Administrative Law Judge

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IN THE MATTER OF: )

CERTAIN WIRELESS HANDSETS )

Inv. No. 337-TA-943

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RESPONDENT ALIPHCOM D/B/A JAWBONE'S RESPONSE TO COMPLAINANT'S  
STATEMENT OF PUBLIC INTEREST, COMPLAINT UNDER SECTION 337 OF THE  
TARIFF ACT OF 1930, AND NOTICE OF INVESTIGATION

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February 2, 2015

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**PRELIMINARY STATEMENT**

Pursuant to Commission Rule 210.13 (19 C.F.R. § 210.13), Respondent AliphCom d/b/a Jawbone (“Jawbone” or “Respondent”) submits the following Response to the Statement of Public Interest and Complaint filed by Complainant One-E-Way (“One-E-Way” or “Complainant”) on December 4, 2014, as well as to the U.S. International Trade Commission’s (“Commission”) Notice of Institution issued on January 8, 2015 and published in the Federal Register on January 13, 2015 (80 Fed. Reg. 1663-1664).

Jawbone denies that it has directly, or through its affiliates or third parties, engaged in acts of unfair competition or otherwise violated section 337 by importing, selling for importation, and/or selling within the United States after importation any product that infringes literally and/or under the doctrine of equivalents, either directly, contributorily, and/or by inducement, any valid and enforceable claim of United States Patent No. 7,865,258 (the “258 Patent”), and/or United States Patent No. 8,131,391 (the “391 Patent”), (collectively, the “Asserted Patents”). Jawbone further denies that any claim of the Asserted Patent is valid and/or enforceable. Except as specifically admitted herein, Jawbone denies all allegations of the Complaint and Notice of Investigation.

Given the recency of this investigation, Jawbone has not had sufficient time and opportunity to collect and review all of the information that may be relevant and necessary to respond to the matters raised in the Complaint. To the extent that any allegations of the Complaint refer to or rely upon such information, Jawbone is without information sufficient to admit or deny such allegations, and therefore denies the same. Moreover, Jawbone reserves the right to take such further positions and raise additional defenses based on further information that may be discovered subsequent to the filing of this Response.

## **RESPONSE TO STATEMENT OF PUBLIC INTEREST**

To the extent that Complainant's Statement of Public Interest contains factual allegations regarding Jawbone or Jawbone products, Jawbone denies that such factual allegations are entirely accurate or complete. To the extent Complainant's Statement of Public Interest contains factual allegations that do not pertain to Jawbone or Jawbone products, Jawbone lacks sufficient information to form a belief as to the truth of such allegations and therefore denies them. Jawbone disputes Complainant's contention that an exclusion order banning importation of the accused Jawbone products would not implicate significant public health, safety, or welfare concerns in the United States. Jawbone reserves the right to take discovery, introduce evidence, and make arguments regarding public interest issues throughout the course of this Investigation.

## **RESPONSE TO COMPLAINT**

In the following sections, each heading and paragraph number refers to the respective heading and paragraph number used in the Complaint. Reproducing the headings and paragraph numbers of the Complaint is done only for convenience, and does not indicate any agreement or other endorsement by Jawbone of such headings and any text of the Complaint. Jawbone denies any and all allegations made in the Complaint that are not specifically and expressly admitted below.

### **I. INTRODUCTION**

1. Jawbone admits that Complainant One-E-Way, Inc. ("One-E-Way" or "Complainant") filed their Complaint requesting that the U.S. International Trade Commission institute an investigation pursuant to section 337 of the Tariff Act of 1930, as amended, regarding alleged importation, sale for importation, and/or sale within the United States after importation of certain wireless headsets. Jawbone also admits that it is listed as a Respondent on the Complaint, as alleged in paragraph 1 of the Complaint. Jawbone denies that it has engaged

in violations of section 337 and denies the remaining allegations of paragraph 1 of the Complaint made with respect to Jawbone or Jawbone products. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 1 of the Complaint and therefore denies them.

2. Jawbone admits that Exhibit 1 to the Complaint purports to be a copy of the '258 Patent. Jawbone admits that Exhibit 2 to the Complaint purports to be a copy of the '391 Patent. Jawbone also admits that Exhibit 3 to the Complaint purports to include various documents regarding alleged assignment of the '258. Jawbone also admits that Exhibit 4 to the Complaint purports to include various document regarding alleged assignment of the '391 Patent. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 2 of the Complaint, and, on that basis, denies them.

3. Jawbone denies that it has engaged in unfair acts in violation of Section 337 through the unlawful importation, sale for importation, and/or sale after importation of wireless audio devices. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 3 of the Complaint, and, on that basis, denies them.

4. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 4 of the Complaint, and, on that basis, denies them.

5. Jawbone admits that Complainant seeks a limited exclusion order and cease and desist orders. Jawbone denies that Complainant is entitled to the relief described in paragraph 5 of the Complaint or to any other or different relief and denies any and all remaining allegations contained in paragraph 5 of the Complaint.

## **II. COMPLAINANTS**

6. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 of the Complaint, and, on that basis, denies them.

### III. RESPONDENTS

#### Sony, Sony America and Sony Electronics

7. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Complaint, and, on that basis, denies them.

8. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Complaint, and, on that basis, denies them.

9. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Complaint, and, on that basis, denies them.

10. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Complaint, and, on that basis, denies them.

#### Sennheiser and Sennheiser America

11. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Complaint, and, on that basis, denies them.

12. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Complaint, and, on that basis, denies them.

13. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Complaint, and, on that basis, denies them.

#### BlueAnt and BlueAnt-US

14. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Complaint, and, on that basis, denies them.

15. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 15 of the Complaint, and, on that basis, denies them.

**Creative and Creative Labs**

16. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 16 of the Complaint, and, on that basis, denies them.

17. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 17 of the Complaint, and, on that basis, denies them.

18. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18 of the Complaint, and, on that basis, denies them.

**Beats and Beats Ireland**

19. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 19 of the Complaint, and, on that basis, denies them.

20. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20 of the Complaint, and, on that basis, denies them.

21. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 of the Complaint, and, on that basis, denies them.

**Jawbone**

22. Jawbone admits that AliphCom d/b/a Jawbone is a California Corporation and that Jawbone has its principal place of business at 99 Rhode Island Street, 3<sup>rd</sup> Floor, San Francisco, California 94103. Jawbone denies the remaining allegations in paragraph 22 of the Complaint.

**Jabra**

23. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23 of the Complaint, and, on that basis, denies them.

**IV. THE TECHNOLOGIES AND PRODUCTS AT ISSUE**

24. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 of the Complaint, and, on that basis, denies them.

**V. THE PATENTS-IN-SUIT**

25. Jawbone admits that the '391 Patent purports to be the result of U.S. Application No. 12/940,747, which on its face, claims to be a continuation-in-part of Application No. 12/570,343, which issued as the '258 Patent. The '391 Patent and the '258 Patent appear to share an identical specification and both claim priority to U.S. Patent Application No. 10/027,391, filed on December 21, 2001. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 25 of the Complaint, and, on that basis, denies them.

**A. The '258 Patent**

**Identification of the Patent and Ownership by One-E-Way**

26. Jawbone admits that the '258 Patent is entitled "Wireless Digital Audio System," that it issued on January 4, 2011, and that it names C. Earl Woolfork as the sole inventor. Jawbone admits that Exhibit 1 to the Complaint purports to be a copy of the '258 Patent. Jawbone also admits Exhibit 3 to the Complaint purports to include various documents regarding alleged assignment of the '258 patent. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 26 of the Complaint, and, on that basis, denies them.

27. Jawbone admits that Appendix A and B to the Complaint purports to be a copy of the '258 Patent prosecution history and cited references. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 27 of the Complaint, and, on that basis, denies them.

**Non-Technical Description of the Patented Invention**

28. Jawbone denies any and all allegations of paragraph 28 to the extent they purport to apply to Jawbone. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of all other allegations in paragraph 28 of the Complaint, and on that basis, denies them.

29. Jawbone denies any and all allegations of paragraph 28 to the extent they purport to apply to Jawbone. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of all other allegations in paragraph 28 of the Complaint, and on that basis, denies them.

**B. The '391 Patent**

**Identification of the Patent and Ownership by One-E-Way**

30. Jawbone admits that the '391 Patent is entitled "Wireless Digital Audio System," that it issued on March 6, 2012, and that it names C. Earl Woolfork as the sole inventor. Jawbone admits that Exhibit 2 to the Complaint purports to be a copy of the '391 Patent. Jawbone also admits Exhibit 4 to the Complaint purports to include various documents regarding alleged assignment of the '391 patent. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 30 of the Complaint, and, on that basis, denies them.

31. Jawbone admits that Appendix C and D to the Complaint purports to be respectively a copy of the '391 Patent prosecution history and cited references. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 31 of the Complaint, and, on that basis, denies them.

**Non-Technical Description of the Patented Invention**

32. Jawbone denies any and all allegations of paragraph 32 to the extent they purport to apply to Jawbone. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of all other allegations in paragraph 32 of the Complaint, and on that basis, denies them.

33. Jawbone denies any and all allegations of paragraph 33 to the extent they purport to apply to Jawbone. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of all other allegations in paragraph 33 of the Complaint, and on that basis, denies them.

**VI. UNFAIR ACTS OF THE RESPONDENTS**

**A. Sony, Sony America, and Sony Electronics**

34. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34 of the Complaint, and on that basis, denies them.

35. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35 of the Complaint, and on that basis, denies them.

36. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36 of the Complaint, and on that basis, denies them.

37. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37 of the Complaint, and on that basis, denies them.

38. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 of the Complaint, and on that basis, denies them.

39. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 of the Complaint, and on that basis, denies them.

40. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 of the Complaint, and on that basis, denies them.

**B. Sennheiser and Sennheiser America**

41. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 of the Complaint, and on that basis, denies them.

42. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 of the Complaint, and on that basis, denies them.



43. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43 of the Complaint, and on that basis, denies them.

44. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 of the Complaint, and on that basis, denies them.

45. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 of the Complaint, and on that basis, denies them.

46. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 of the Complaint, and on that basis, denies them.

47. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47 of the Complaint, and on that basis, denies them.

**C. BlueAnt and BlueAnt-US**

48. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 48 of the Complaint, and on that basis, denies them.

49. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 of the Complaint, and on that basis, denies them.

50. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50 of the Complaint, and on that basis, denies them.

51. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 of the Complaint, and on that basis, denies them.

52. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 of the Complaint, and on that basis, denies them.

53. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 of the Complaint, and on that basis, denies them.

54. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 54 of the Complaint, and on that basis, denies them.

**D. Creative and Creative Labs**

55. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 55 of the Complaint, and on that basis, denies them.

56. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 of the Complaint, and on that basis, denies them.

57. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 of the Complaint, and on that basis, denies them.

58. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 58 of the Complaint, and on that basis, denies them.

59. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59 of the Complaint, and on that basis, denies them.

60. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 60 of the Complaint, and on that basis, denies them.

61. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the Complaint, and on that basis, denies them.

**E. Beats and Beats Ireland**

62. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62 of the Complaint, and on that basis, denies them.

63. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the Complaint, and on that basis, denies them.

64. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64 of the Complaint, and on that basis, denies them.

65. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 65 of the Complaint, and on that basis, denies them.

66. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 66 of the Complaint, and on that basis, denies them.

67. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 67 of the Complaint, and on that basis, denies them.

68. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 68 of the Complaint, and on that basis, denies them.

**F. Jawbone**

69. Jawbone denies that it makes or has made products that infringe any claim of any Patents-in-Suit. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 69 of the Complaint, and on that basis, denies them.

70. Jawbone admits that Exhibit 20 purports to be an image of ERA headsets with images of the physical product contained in Exhibit 48. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 69 of the Complaint, and on that basis, denies them.

71. Jawbone admits that it imports, sells, and offers for sale wireless headsets. To the extent paragraph 71 contains allegations regarding certain third-party activities, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations, and on that basis, denies them.

72. Jawbone admits that Exhibit 21 purports to be a claim chart alleging infringement. Jawbone denies that it directly infringes the '391 Patent. Jawbone lacks knowledge or

information sufficient to form a belief as to the truth of the remaining allegations in paragraph 72 of the Complaint, and on that basis, denies them.

73. Jawbone admits that Exhibit 22 purports to be a claim chart alleging indirect infringement of the '258 and '391 Patents. Jawbone denies that it indirectly infringes the '258 and '391 Patents. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 73 of the Complaint, and on that basis, denies them.

74. Jawbone denies that it received a written notice on August 8, 2014 from Complainants regarding infringement. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 74 of the Complaint, and on that basis, denies them.

75. Jawbone denies that it actively induced others to directly infringe the Patents-in-Suit. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 75 of the Complaint, and on that basis, denies them.

**G. Jabra**

76. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 76 of the Complaint, and on that basis, denies them.

77. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 77 of the Complaint, and on that basis, denies them.

78. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 78 of the Complaint, and on that basis, denies them.

79. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 79 of the Complaint, and on that basis, denies them.

80. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 80 of the Complaint, and on that basis, denies them.

81. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 81 of the Complaint, and on that basis, denies them.

82. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 82 of the Complaint, and on that basis, denies them.

**VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

83. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 83 of the Complaint, and on that basis, denies them.

84. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 84 of the Complaint, and on that basis, denies them.

85. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 85 of the Complaint, and on that basis, denies them.

86. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 86 of the Complaint, and on that basis, denies them.

87. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 87 of the Complaint, and on that basis, denies them.

88. Jawbone admits that Exhibit 31 purports to be a copy of a receipt from a purchase of a Jawbone product. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 88 of the Complaint, and on that basis, denies them.

89. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 89 of the Complaint, and on that basis, denies them.

**VIII. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITES STATES**

90. Jawbone admits that certain of its wireless headset products and specifically, the “ERA Headset” identified in paragraph 90 of the Complaint, are imported into the United States under Harmonized Tariff Schedule number 8517.62.0050. Jawbone denies all remaining allegations of paragraph 90 of the Complaint with respect to Jawbone. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 90 of the Complaint, and on that basis, denies them.

**IX. RELATED LITIGATION**

91. Jawbone lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 91 of the Complaint and therefore denies them.

**X. DOMESTIC INDUSTRY**

92. Paragraph 92 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 92 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

**A. One-E-Way’s Development of the Domestic Industry**

93. Paragraph 93 of the Complaint contains legal assertions and conclusions to which no response is required. Jawbone admits that Complainants attached purported images of the Patented Products to the Complaint in Exhibit33. Jawbone admits that Complainants attached purported claim charts to the Complaint as Exhibits 34-35. Jawbone also admits that attached to the Complaint as Exhibit 36 is a purported declaration providing details regarding One-E-Way’s business. Paragraph 93 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 93 of the Complaint contains factual allegations,

Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

**B. One-E-Way Licensees' Development of the Domestic Industry**

94. Paragraph 94 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 94 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

95. Jawbone admits that Exhibit 37 attached to the Complaint is a purported image of Plantronics Licensed Products and Exhibits 38-39 are purported claim charts to the Complaint. Paragraph 95 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 95 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

96. Paragraph 96 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 96 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

97. Paragraph 97 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 97 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

98. Jawbone admits that Exhibit 40 attached to the Complaint is a purported image of Jaybird Licensed Products and Exhibits 41-42 are purported claim charts to the Complaint. Paragraph 98 of the Complaint contains legal assertions and conclusions to which no response is

required. To the extent paragraph 98 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

99. Paragraph 99 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 99 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

100. Paragraph 100 of the Complaint contains legal assertions and conclusions to which no response is required. To the extent paragraph 100 of the Complaint contains factual allegations, Jawbone lacks knowledge or information sufficient to form a belief as to the truth of such allegations and on that basis, denies them.

#### **XI. RELIEF REQUESTED**

101. Jawbone denies that Complainants are entitled to the requested relief in section XI a) through e) of the Complaint or any other different relief.

#### **RESPONSE TO THE NOTICE OF INVESTIGATION**

Pursuant to Commission Rule 210.13, Jawbone responds to the Notice of Investigation issued by the U.S. International Trade Commission on January 8, 2015, and published in the Federal Register on January 13, 2015 (80 Fed. Reg. 1663-1664).

Jawbone admits that the Commission issued an original Notice of Investigation, based on the Complaint filed by Complainants on December 4, 2014, which published in the Federal Register on January 13, 2015 (80 Fed. Reg. 1663-1664). Jawbone admits that the Complaint generally sets forth the allegations summarized in the Notice of Investigation, but denies those allegations with respect to Jawbone. Jawbone admits that, as set forth in the Notice of Investigation, Complainants requested that an investigation be instituted and that, after the



investigation, a limited exclusion order, or cease and desist orders be issued, but denies that Complainants are entitled to any such relief.

Jawbone denies that there has been any violation of Section 337 by Jawbone. In addition, Jawbone contends that one or more asserted claims of the Asserted Patents are invalid and cannot support any remedy for alleged infringement. Jawbone further contends that it has performed no unfair act, that Complainants have no domestic industry, and that the requested relief is not in the public interest.

**ADDITIONAL INFORMATION REQUIRED UNDER COMMISSION RULE 210.13(b)**

By providing the following information, Jawbone intends only to supply data required by 19 C.F.R. § 210.13(b). Jawbone specifically denies that any of the information or data supplied below, or in the exhibits accompanying this Response, relates to or supports any allegation of infringement against Jawbone or any violation of 19 U.S.C. § 1337 by Jawbone.

The quantity and estimated value of Jawbone's imports of the accused Jawbone product identified in the Complaint, Jawbone ERA Headset ("Accused Jawbone Product") are provided in Confidential Exhibit A to this Response.

The manufacturer of the Accused Jawbone Product is identified in Confidential Exhibit A to this Response.

Purchases in the United States account for a significant percentage of Jawbone wireless headsets that Jawbone sells worldwide.

**AFFIRMATIVE DEFENSES**

Jawbone alleges and asserts the following defenses in response to the allegations in the Complaint, and undertakes the burden of proof only as to those defenses that are deemed by law to be affirmative defenses. Jawbone has not had sufficient opportunity to collect and review

information in connection with this Investigation that is relevant to potentially available defenses against the allegations in the Complaint. Jawbone reserves the right to supplement and/or amend its defenses as the Investigation progresses and based on discovery. Jawbone also reserves the right to rely upon any defense(s) raised by any other party to this Investigation.

**First Affirmative Defense**  
**(Non-Infringement)**

1. Although Jawbone does not bear the burden of proof on this issue, has not directly infringed, indirectly infringed, contributed to, or induced infringement of any valid and enforceable claim of the '258 and '391 patents, including asserted claims 3, 4, 8, 10 and 11 of the '258 Patent; asserted claims 1, 2, 3, 4, 5, 6 and 10 of the '391 Patent (collectively, the "Asserted Claims").

**Second Affirmative Defense**  
**(Invalidity)**

2. Upon information and belief, one or more Asserted Claims of the Asserted Patents are invalid for failure to comply with one or more of the requirements of patentability set forth in the Patent Act, including, but not limited to 35 U.S.C. §§ 101, 102, 103, 112, 115, and/or 116.

3. Upon information and belief, one or more Asserted Claims are invalid under 35 U.S.C. § 101 for failing to claim patent eligible subject matter and for lacking utility.

4. Upon information and belief, one or more Asserted Claims are invalid under 35 U.S.C. §§ 102 and/or 103 as anticipated by, or obvious in light of, at least the prior art references cited by the examiner during prosecution of asserted patents and related applications; prior art references disclosed during prosecution of those applications; prior art references disclosed during reexamination of those applications; prior art identified in Exhibit B to this response; and/or additional prior art to be produced in discovery. Jawbone incorporates by reference all

prior art references identified by all the other Respondents in this Investigation in each of their respective Responses to the Complaint. Jawbone is in the process of identifying additional relevant prior art, including through discovery, which is in its early stages at the time of this Response. Jawbone will set forth further invalidity allegations and contentions upon obtaining relevant prior art and consistent with the forthcoming schedule in this Investigation.

5. Upon information and belief, one or more Asserted Claims are also invalid for failure to meet the requirements of 35 U.S.C. § 112 as a result of the specification lacking sufficient written description, failing to particularly point out and distinctly claim the subject matter which the inventors regarded as the alleged invention, and/or failing to set forth a written description sufficient to enable any person skilled in the art to make and use the alleged invention.

**Third Affirmative Defense**  
**(Prosecution History Estoppel)**

6. Upon information and belief, Complainants are precluded by the doctrine of prosecution history estoppel and/or by prior art from asserting any construction of some or all of the claims of the Asserted Patents, or from asserting infringement under the doctrine of equivalents, that could cover any products used, imported, sold, or offered for sale by Jawbone due to certain arguments, cancellations, representations, admissions and statements made to the USPTO during the prosecution of the applications that resulted in the asserted patents and applications related thereto.

**Fourth Affirmative Defense**  
**(Lack of Domestic Industry)**

7. On information and belief, Complainants cannot establish a domestic industry for the Asserted Patents exists or is in the process of being established as required under Section 337(a)(2) and as defined in part by Section 337(a)(3) of the Tariff Act of 1930, as amended.

**Fifth Affirmative Defense**  
**(Standing)**

8. To the extent that Complainants do not have substantially all rights to the asserted '258 and/or '391 Patents or the purported assignments are defective for any reason, Complainants lack standing to bring this action.

**Sixth Affirmative Defense**  
**(No Unfair Act)**

9. Jawbone has not committed an unfair act in violation of Section 337.

**Seventh Affirmative Defense**  
**(Equitable Defenses)**

10. Upon information and belief, Complainants claims for relief are barred, in whole or in part, by defenses of license (either express or implied), waiver, estoppel, patent exhaustion, and/or unclean hands.

**Eighth Affirmative Defense**  
**(Lack of Importation)**

11. Although Jawbone does not bear the burden of proof on this issue, no Accused Jawbone Product infringes or is able to infringe the Asserted Claims of the Asserted Patents at the time of importation.

**Ninth Affirmative Defense**  
**(Public Interest)**

12. The relief request by Complainant would not further the public interest, but would adversely affect the public welfare, competitive conditions and the U.S. consumer.

**Tenth Affirmative Defense**  
**(Unenforceability of All Asserted Patents Based on Patent Misuse)**

12. Complainant knows and has known that the asserted patents are invalid and/or unenforceable based on the prior art disclosed by the patent office and defendants in the prior litigation.

13. By knowingly raising claims of infringement of invalid and/or unenforceable patents, Complainant has attempted to impermissibly broaden the temporal and physical scope of their patents with an anticompetitive effect.

14. Complainant's asserted patents are unenforceable based on patent misuse.

**Eleventh Affirmative Defense**  
**(Additional Defenses)**

15. Jawbone reserves the right to assert additional defenses based on further discovery and investigation. Jawbone further adopts any relevant defenses that may be raised by any other Respondent in this Investigation.

**CONCLUSION**

WHEREFORE, by reason of the foregoing, Jawbone respectfully requests that the Commission issue an order:

A. determining that no violation of Section 337 of the Tariff Act of 1930, as amended, exists by reason of any manufacture, importation, offer for sale, or sale by Jawbone of any Certain Wireless Headsets as described in the Complaint and Notice of Investigation, and terminate the Investigation;

B. determining that Jawbone has not imported, sold for importation, or sold within the United States after importation any product covered by a valid and enforceable claim of the Asserted Patents;

C. determining that Complainant's demands for relief are barred under 19 U.S.C. § 1337(d)(1), (f)(1), and (g)(1) because of the relief's effect upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers;

D. denying Complainant's request for a limited exclusion order, cease and desist order, and all other relief requested as to Jawbone and/or its respective accused products;

E. awarding Jawbone its attorneys' fees and costs incurred in responding to the Complaint and defending this Investigation;

F. dismissing the Complaint and terminating the present Investigation; and

G. granting such other relief as the Commission deems just and proper.

Dated: February 2, 2015

Respectfully submitted,

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*Counsel for AliphCom d/b/a Jawbone*

# EXHIBIT A

Will Be Filed Separately

# EXHIBIT B



U.S. Patents Cited

U.S. No. 6,781,977

U.S. No. 6,473,449

U.S. No. 7,154,958

U.S. No. 6,731,706

Other References

Specification of the Bluetooth System Version 1.0B (issued Dec. 1, 1999).

Specification of the Bluetooth System Version 1.1 (issued Feb. 22, 2001).

Documents submitted and proposals presented by participants in the development of the IEEE 802.15 standard.

Samuel C. Yang, *CDMA RF System Engineering* (1998).

Andrew R. Cohen, et al., *A New Coding Technique for Asynchronous Multiple Access Communication*, IEEE Trans. On Commc'ns Tech., Vol. Com-19, pp. 849-855 (Oct. 1971).

Andrew J. Viterbi, *Error Bounds for Convolutional Codes and an Asymptotically Optimum Decoding Algorithm*, IEEE Trans. On Information Theory, Vol. IT-13, pp. 260-269 (Apr. 1967).

Haartsen, *The Bluetooth Radio System*, IEEE Personal Communications, Feb. 2000, pgs. 28 *et seq.*

Rappaport, *Wireless Communications: Principles and Practice*, 1996.

*In the Matter of Certain Wireless Headsets*  
**Investigation No. 337-TA-943**

**CERTIFICATE OF SERVICE**

I hereby certify that on February 2, 2015, copies of **RESPONDENT ALIPHCOM D/B/A JAWBONE'S RESPONSE TO COMPLAINANTS' STATEMENT OF PUBLIC INTEREST, COMPLAINT UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AND NOTICE OF INVESTIGATION** were filed and served upon the following parties as indicated:

The Honorable Lisa R. Barton  
Secretary  
U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436

- Via EDIS
- Via Hand Delivery
- Via Overnight Delivery
- Not Served

The Honorable Thomas B. Pender  
Administrative Law Judge  
U.S. International Trade Commission  
500 E Street, S.W., Room 317  
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- Via Hand Delivery (2 Copies)
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Dated: February 2, 2015

*/s/ Laura Williams*

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Laura Williams  
COOLEY LLP

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C. 20436

Before The Honorable Thomas B. Pender  
Administrative Law Judge

In the Matter of

CERTAIN WIRELESS HEADSETS

Investigation No. 337-TA-943

**RESPONSE OF SONY CORPORATION,  
SONY CORPORATION OF AMERICA, AND SONY ELECTRONICS INC. TO  
THE COMPLAINT OF ONE-E-WAY UNDER SECTION 337 OF  
THE TARIFF ACT OF 1930, AS AMENDED, AND NOTICE OF INVESTIGATION**

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*Counsel for Respondents Sony Corporation, Sony  
Corporation of America, and Sony Electronics Inc.*

February 2, 2015

Pursuant to 19 C.F.R. § 210.13, Respondents Sony Corporation (“SC”), Sony Corporation of America (“SCA”), and Sony Electronics Inc. (“SEL”) (collectively, the “Sony Respondents”) hereby respond to the Complaint filed pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”) by One-E-Way, Inc. (“One-E-Way” or “Complainant”) on December 8, 2014 and to the Notice of Investigation issued by the United States International Trade Commission (“the Commission”) on January 13, 2015. *See* 80 Fed. Reg. 1663 (Jan. 13, 2015).

Because discovery has just begun, the Sony Respondents have not had sufficient time and opportunity to collect and review all of the information that may be relevant to the issues raised in this Response. The Sony Respondents therefore reserve the right to amend or supplement this Response, including raising any additional defenses, based on any additional facts or developments that become available or that arise after the filing of this Response. In this light, the Sony Respondents deny each and every allegation averred in the Complaint that is not expressly admitted below. Any admission below is not an admission to any purported conclusions, characterizations, implications, or speculations that might follow from the admitted facts.

The Sony Respondents have adopted the headings in the Complaint for ease of reference. However, to the extent that such headings themselves contain factual and legal characterizations, the Sony Respondents deny such characterizations.

## **RESPONSE TO THE COMPLAINT**

### **I. INTRODUCTION**

1. The Sony Respondents admit that One-E-Way has requested that the United States International Trade Commission (“I.T.C”) commence an investigation pursuant to Section

337. The Sony Respondents admit that One-E-Way is asserting U.S. Patent Nos. 7,865,258 (“the ’258 Patent”) and 8,131,391 (“the ’391 Patent”) (collectively, “the Patents-in-Suit”). The Sony Respondents deny the remaining allegations contained in paragraph 1.

2. The Sony Respondents admit what purports to be certified copies of the Patents-in-Suit are attached to the Complaint as Exhibits 1 and 2. The Sony Respondents admit that what purports to be patent assignment records of the Patents-in-Suit are attached to the Complaint as Exhibits 3 and 4 of the Complaint. The Sony Respondents admit that One-E-Way is asserting claims 3-4, 8, and 10-11 of the ’258 Patent and claims 1-6 and 10 of the ’391 Patent. The Sony Respondents deny the remaining allegations contained in paragraph 2.

3. The Sony Respondents admit that One-E-Way has named as the Sony Respondents, Sennheiser Electronic GmbH & Co. KG, Sennheiser Electronic Corporation, BlueAnt Wireless Pty, Ltd., BlueAnt Wireless, Inc., Creative Technology Ltd., Creative Labs, Inc., Beats Electronics, LLC, Beats Electronics International Ltd., Jawbone, Inc., and GN Netcom A/S which does business as Jabra (collectively “Respondents”). The Sony Respondents deny the remaining allegations contained in paragraph 3.

4. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4, and therefore deny the same.

5. The Sony Respondents admit that One-E-Way is seeking relief, including a limited exclusion order pursuant to Section 337, and cease and desist orders directed to the Sony Respondents, but deny that One-E-Way is entitled to such relief.

## **II. COMPLAINANT**

6. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, and therefore deny the same.

### **III. RESPONDENTS**

#### **Sony, Sony America and Sony Electronics**

7. The Sony Respondents admit that SC is a corporation organized under the laws of Japan with its principal place of business at 1-7-1 Konan, Minato-ku, Tokyo 108-0075, Japan. The Sony Respondents deny the remaining allegations contained in paragraph 7.

8. The Sony Respondents admit that SCA is a corporation organized under the laws of the State of New York with its principal place of business at 550 Madison Avenue, New York, New York 10022. The Sony Respondents deny the remaining allegations contained in paragraph 8.

9. The Sony Respondents deny that SEL is a corporation organized under the laws of the State of California. The Sony Respondents admit that SEL has its principal place of business at 16530 Via Esprillo, San Diego, CA 92127. The Sony Respondents deny the remaining allegations contained in paragraph 9.

10. The Sony Respondents admit that SC is the direct or indirect corporate parent of a number of Sony-branded entities. The Sony Respondents admit that SC has certain responsibilities with respect to the business planning and manufacturing of Sony-branded products. The Sony Respondents admit that SCA is an indirect subsidiary of SC and SEL is a subsidiary of SCA. The Sony Respondents admit that SCA and SEL have certain responsibilities with respect to business planning, marketing, and sales of Sony-branded products within the United States. The Sony Respondents deny the remaining allegations of paragraph 10.

#### **Sennheiser and Sennheiser America**

11. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11, and therefore deny the same.



12. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 12, and therefore deny the same.

13. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13, and therefore deny the same.

**BlueAnt and BlueAnt-US**

14. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14, and therefore deny the same.

15. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15, and therefore deny the same.

**Creative and Creative Labs**

16. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16, and therefore deny the same.

17. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17, and therefore deny the same.

18. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18, and therefore deny the same.

**Beats and Beats Ireland**

19. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19, and therefore deny the same.

20. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20, and therefore deny the same.

21. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21, and therefore deny the same.

## **Jawbone**

22. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22, and therefore deny the same.

## **Jabra**

23. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23, and therefore deny the same.

## **IV. THE TECHNOLOGIES AND PRODUCTS AT ISSUE**

24. The Sony Respondents deny the allegations contained in paragraph 24.

## **V. THE PATENTS-IN-SUIT**

25. The Sony Respondents admit that the face of the '391 Patent states that it issued from U.S. Patent Application No. 12/940,747 and purports to be a continuation of U.S. Patent Application No.12/570,343 which issued as the '258 Patent. The Sony Respondents admit that the '391 Patent and the '258 Patent purport to claim priority to U.S. Patent Application No. 10/027,391. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 25, and therefore deny the same.

### **A. The '258 Patent**

26. The Sony Respondents admit the face of the '258 Patent states that it is entitled "Wireless Digital Audio System," issued on January 4, 2011, C. Earl Woolfork is the sole named inventor, and One-E-Way is the sole assignee. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 26, and therefore deny the same.

27. The Sony Respondents admit that what appears to be a certified copy of the prosecution history of the '258 Patent and reference documents mentioned in the prosecution

history are attached to the Complaint in Appendices A and B. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 27, and therefore deny the same.

28. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28, and therefore deny the same.

29. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29, and therefore deny the same.

**B. The '391 Patent**

30. The Sony Respondents admit that the face of the '391 Patent states that it is entitled "Wireless Digital Audio System," issued on March 6, 2012, C. Earl Woolfork is the sole named inventor, and One-E-Way is the sole assignee. The '391 Patent purports to be a continuation of U.S. Patent Application No.12/570,343 which issued as the '258 Patent. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30, and therefore deny the same.

31. The Sony Respondents admit that what appears to be a certified copy of the prosecution history of the '391 Patent and reference documents mentioned in the prosecution history are attached to the Complaint in Appendices C and D. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 31, and therefore deny the same.

32. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32, and therefore deny the same.

33. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 33, and therefore deny the same.

## **VI. [PURPORTED] UNFAIR ACTS OF THE RESPONDENTS**

### **A. Sony, Sony America and Sony Electronics**

34. The Sony Respondents deny the allegations contained in paragraph 34.

35. The Sony Respondents admit that One-E-Way has accused the following products of patent infringement: Premium Bluetooth headsets (MDR-1RBT), Bluetooth and Noise Cancelling Headset (MDR-ZX750BN), Premium Bluetooth Wireless headsets (MDR-10RBT), Bluetooth headsets (DR-BTN200), and Stereo Bluetooth headset (SBH80) (“the Accused Products”). The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 35, and therefore deny the same.

36. The Sony Respondents admit that the products listed in paragraph 35 are manufactured, assembled and/or packaged outside of the United States. The Sony Respondents further admit that the products listed in paragraph 35 are imported into the United States, sold for importation into the United States and/or sold after importation by the Sony Respondents. The Sony Respondents deny the remaining allegations contained in paragraph 36.

37. The Sony Respondents admit that what purports to be claim charts are attached to the Complaint as Exhibit 6. The Sony Respondents deny the remaining allegations contained in paragraph 37.

38. The Sony Respondents admit that what purports to be claim charts are attached to the Complaint as Exhibit 7. The Sony Respondents deny the remaining allegations contained in paragraph 38.

39. The Sony Respondents deny the allegations contained in paragraph 39.

40. The Sony Respondents deny the allegations contained in paragraph 40.

**B. Sennheiser and Sennheiser America**

41. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41, and therefore deny the same.

42. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42, and therefore deny the same.

43. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43, and therefore deny the same.

44. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44, and therefore deny the same.

45. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45, and therefore deny the same.

46. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46, and therefore deny the same.

**C. BlueAnt and BlueAnt-US**

47. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47, and therefore deny the same.

48. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48, and therefore deny the same.

49. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49, and therefore deny the same.

50. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50, and therefore deny the same.

51. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 51, and therefore deny the same.

52. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52, and therefore deny the same.

53. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53, and therefore deny the same.

54. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54, and therefore deny the same.

**D. Creative and Creative Labs**

55. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55, and therefore deny the same.

56. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56, and therefore deny the same.

57. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 57, and therefore deny the same.

58. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 58, and therefore deny the same.

59. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59, and therefore deny the same.

60. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60, and therefore deny the same.

61. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 61, and therefore deny the same.

**E. Beats and Beats Ireland**

62. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 62, and therefore deny the same.

63. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 63, and therefore deny the same.

64. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 64, and therefore deny the same.

65. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 65, and therefore deny the same.

66. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 66, and therefore deny the same.

67. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67, and therefore deny the same.

68. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 68, and therefore deny the same.

**F. Jawbone**

69. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 69, and therefore deny the same.

70. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 70, and therefore deny the same.

71. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 71, and therefore deny the same.

72. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 72, and therefore deny the same.

73. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 73, and therefore deny the same.

74. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 74, and therefore deny the same.

75. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 75, and therefore deny the same.

**G. Jabra**

76. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 76, and therefore deny the same.

77. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 77, and therefore deny the same.

78. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 78, and therefore deny the same.

79. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 79, and therefore deny the same.

80. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 80, and therefore deny the same.

81. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 81, and therefore deny the same.

82. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 82, and therefore deny the same.



**VII. [PURPORTED] SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

83. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 83, and therefore deny the same.

84. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 84, and therefore deny the same.

85. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 85, and therefore deny the same.

86. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 86, and therefore deny the same.

87. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 87, and therefore deny the same.

88. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 88, and therefore deny the same.

89. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 89, and therefore deny the same.

**VIII. CLASSIFICATION OF THE [ALLEGEDLY] INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

90. The Sony Respondents admit that the Sony products identified in the Complaint are classifiable under the Harmonized Tariff Schedule (“HTS”) of the United States. The Sony Respondents admit that the following Accused Products may be classified under HTS No. 8517.62.0050: Premium Bluetooth headsets (MDR-1RBT), Bluetooth (DR-BTN200) headsets, and Stereo Bluetooth headset (SBH80). The Sony Respondents further admit that the following Accused Products may be classified under HTS No. 8518.30.2000: the Bluetooth and Noise Cancelling (MDR-ZX750BN), Premium Bluetooth headsets (MDR-1RBT), Premium Bluetooth

Wireless headsets (MDR-10RBT), and Bluetooth (DR-BTN200) headsets. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 90, and therefore deny the same.

#### **IX. RELATED LITIGATION**

91. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 91, and therefore deny the same.

#### **X. DOMESTIC INDUSTRY**

92. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 92, and therefore deny the same.

93. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 93, and therefore deny the same.

94. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 94, and therefore deny the same.

95. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 95, and therefore deny the same.

96. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 96, and therefore deny the same.

97. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 97, and therefore deny the same.

98. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 98, and therefore deny the same.

99. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 99, and therefore deny the same.

100. The Sony Respondents are without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 100, and therefore deny the same.

#### **XI. RELIEF REQUESTED**

101. The Sony Respondents deny the statements in One-E-Way's "Relief Requested" section to the extent that they purport to allege the existence of any factual or legal predicates for the relief requested. Further, the Sony Respondents deny that One-E-Way is entitled to any of the relief requested, including the relief outlined in subparagraphs (a) through (e).

#### **RESPONSE TO THE NOTICE OF INVESTIGATION**

Pursuant to Commission Rule 210.13, Sony responds to the Notice of Investigation issued by the U.S. International Trade Commission on January 8, 2015 and published in the Federal Register on January 13, 2015 (80 Fed. Reg. 1663), as follows:

The Sony Respondents admit that the Complaint generally sets forth the allegations summarized in the Notice of Investigation, but deny those allegations with respect to the Sony Respondents.

The Sony Respondents admit that One-E-Way has requested that an investigation be instituted and that, after the investigation, a limited exclusion order and a cease and desist order be issued, as set forth in the Notice of Investigation, but deny that One-E-Way is entitled to any such relief.

Specifically, the Sony Respondents deny that it has engaged in any action that would constitute unlawful importation into the United States, sale for importation, or sale within the United States after importation, of Certain Wireless Headsets that infringe the Patents-in-Suit. The Sony Respondents contend that the asserted claims of the Patents-in-Suit are invalid and cannot support any remedy for alleged infringement.

The Sony Respondents deny that One-E-Way is entitled to any relief in this proceeding.

**STATEMENT UNDER COMMISSION RULE 210.13(b)**

By providing the following information, the Sony Respondents intend only to supply data required by 19 C.F.R. § 210.13(b). The Sony Respondents specifically deny that any of the information or data supplied relates to or supports any allegation of infringement against the Sony Respondents or any violation of Section 337.

The Sony Respondents or their subsidiaries import the accused Premium Bluetooth headsets (MDR-1RBT), Bluetooth and Noise Cancelling Headset (MDR-ZX750BN), Premium Bluetooth Wireless headsets (MDR-10RBT), Bluetooth headsets (DR-BTN200), and Stereo Bluetooth headset (SBH80) into the United States under the following HTS item numbers: 8518.30.2000 and 8517.62.0050.

Confidential Exhibit A to this Response provides statistical data on the quantity and value of imports of the accused Premium Bluetooth headsets (MDR-1RBT), Bluetooth and Noise Cancelling Headset (MDR-ZX750BN), Premium Bluetooth Wireless headsets (MDR-10RBT), Bluetooth headsets (DR-BTN200) , and Stereo Bluetooth headset (SBH80), a statement concerning the Sony Respondents capacity to produce the accused article, and the relative significance of the U.S. market to the Sony Respondents' operations.

**DEFENSES**

The Sony Respondents specifically allege and assert the following defenses, undertaking the burden of proof only as to those defenses that are deemed by law to be affirmative defenses. The Sony Respondents further state that they have not had sufficient opportunity to collect and review information relevant to potentially available defenses against the allegations of the Complaint, and thus reserve the right to modify defenses or to raise additional defenses as

discovery proceeds in this Investigation. The Sony Respondents further reserve the right to rely upon any defenses raised by any other party to this Investigation.

**First Defense: Non-Infringement**

1. The Sony Respondents do not infringe any valid and enforceable claim of the '258 Patent, including asserted claims 3-4, 8, and 10-11.

2. The Sony Respondents do not infringe any valid and enforceable claim of the '391 Patent, including asserted claims 1-6 and 10. Also, even if direct infringement of the claims of the '391 Patent by a user of a Sony device is found, there can be no contributory infringement by Sony because the accused devices are capable of substantial noninfringing uses.

**Second Defense: Invalidity**

3. Upon information and belief, the asserted claims of the Patents-in-Suit are each invalid because they fail to comply with the requirements of at least 35 U.S.C. §§ 102, 103, 112 and/or 132.

4. Upon information and belief, the asserted claims of the '258 Patent are invalid under 35 U.S.C. §§ 102 and/or 103 as anticipated by or obvious in light of one or more of the prior art references cited by the examiner during prosecution of the Patents-in-Suit and related applications; one or more of the prior art references disclosed by the applicants during prosecution of those applications; and/or one or more of the prior art references identified in Exhibit B to this response, taken alone or in combination.

5. Upon information and belief, the asserted claims of the '391 Patent are invalid under 35 U.S.C. §§ 102 and/or 103 as anticipated by or obvious in light of one or more of the prior art references cited by the examiner during prosecution of the Patents-in-Suit and related applications; one or more of the prior art references disclosed by the applicants during

prosecution of those applications; and/or one or more of the prior art references identified in Exhibit B to this response, taken alone or in combination

6. Upon information and belief, the asserted claims of the Patents-in-Suit are also invalid for failure to meet the requirements of 35 U.S.C. § 112 as a result of their specifications lacking sufficient written description, failing to particularly point out and distinctly claim the subject matter which the inventors regarded as the alleged invention, and/or failing to set forth written descriptions sufficient to enable any person skilled in the art to make and use the alleged inventions.

7. Upon information and belief, the asserted claims of the Patents-in-Suit are also invalid for failure to meet the requirements of 35 U.S.C. § 132 as a result of the introduction of new matter into the specification of the Patents-in-Suit and/or their parent applications during prosecution before the United States Patent and Trademark Office.

**Third Defense: Lack of Domestic Industry**

8. Upon information and belief, One-E-Way has not adequately established the existence of a domestic industry for the Patents-in-Suit as required by Section 337(a)(2) and defined by Section 337(a)(3). Specifically, One-E-Way has not established that it (and/or a licensee) has made a “significant investment” in plant, equipment, labor, or capital relating to articles protected by at least one claim of each of the Patents-in-Suit, sufficient to satisfy the economic prong of the domestic industry requirement. Further, One-E-Way has not established that it (and/or a licensee) has made a “substantial investment” in licensing, research and development, or other qualifying activities relating to each of the Patents-in-Suit and/or to articles protected by at least once claim of each of the Patents-in-Suit, sufficient to satisfy the

economic prong of the domestic industry requirement. Finally, One-E-Way has not established that it (and/or a licensee) satisfies the technical prong of the domestic industry requirement.

**Fourth Defense: No Unfair Act**

9. The Sony Respondents have not committed an unfair act in violation of Section 337.

**Fifth Defense: Other Defenses**

10. The Sony Respondents are continuing to obtain and review information related to the Patents-in-Suit. As such, the Sony Respondents reserve the right to amend this Response to include other defenses learned of during the course of this Investigation, including but not limited to immunity from a remedial order of Sony consumer electronics for use of the United States, or to be used for the United States with the authorization or consent of the government; indemnity; prosecution laches; estoppel; and/or unenforceability due to breaches of 37 C.F.R. § 1.56 by the named inventor on the Patents-in-Suit and others substantively involved in the prosecution of applications leading to the Patents-in-Suit. The Sony Respondents further reserve the right to rely upon any defenses raised by any other party to this Investigation.

**CONCLUSION**

WHEREFORE, by reason of the foregoing, the Sony Respondents respectfully request that the Commission:

A. Find that no violation of Section 337 exists by reason of any manufacture, importation, offer for sale, or sale by the Sony Respondents of any Certain Wireless Headsets as described in the Complaint and Notice of Investigation, and terminate the Investigation;

B. Determine that the Sony Respondents have not imported, sold for importation, or sold within the United States after importation any Certain Wireless Headsets covered by a valid and enforceable asserted claim of the Patents-in-Suit;

C. Find that One-E-Way's demands for relief are barred under Section 337 (d)(1), (f)(1) and (g)(1) because of the relief's effect upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers;

D. Deny One-E-Way's request for an exclusion order, cease and desist order, bond, and all other relief requested as to the Sony Respondents and/or their accused products;

E. Impose such sanctions upon One-E-Way as deemed appropriate and just, including attorneys' fees; and

F. Award the Sony Respondents such other relief as the Commission deems appropriate based on the facts determined by the authority of the Commission.



Dated: February 2, 2015

Respectfully submitted,

*/s/ Paul T. Qualey*

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Paul T. Qualey

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*Counsel for Respondents Sony Corporation,  
Sony Corporation of America, and Sony  
Electronics Inc.*

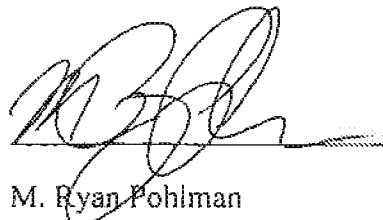
## VERIFICATION

I, M. Ryan Pohlman, in accordance with 19 C.F.R. §§ 210.4 and 210.13 declare as follows. I am Intellectual Property Counsel for Sony Corporation of America. I have been authorized to make this verification on behalf of Respondents Sony Corporation, Sony Corporation of America, and Sony Electronics Inc. (collectively, "the Sony Respondents") in this Investigation. I have reviewed the contents of the *Response of Sony Corporation, Sony Corporation of America, and Sony Electronics Inc. to the Complaint of One-E-Way Under Section 337 of the Tariff Act of 1930, as Amended, and Notice of Investigation* and state that the responses of the Sony Respondents are true to the best of my knowledge, information, and belief after a reasonable inquiry under the circumstances. Although the facts of said responses may not be known to me personally, I know them to be based in whole or in part on information received from others or derived from corporate records.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. This Verification is executed at Kenyon & Kenyon, One Broadway, New York, NY 10004-1007.

Date: January 30, 2015

By:



M. Ryan Pohlman  
Intellectual Property Counsel  
Sony Corporation of America

**CONFIDENTIAL EXHIBIT A**

**REDACTED IN ENTIRETY**

# **EXHIBIT B**

U.S. 5,491,839

U.S. 5,668880

U.S. 5,721783

U.S. 5,771441

U.S. 5,781542

U.S. 5,790595

U.S. 5,946343

U.S. 6,115478

U.S. 6,236862

U.S. 6,342844

U.S. 6,418558

U.S. 6,678892

U.S. 6,781977

U.S. 6,982132

U.S. 7,505823

U.S. 2003/0045235

U.S. 2004/0223622

GB 2252013 A

WO/2000076272 A1

WO2001033836 A1

Microsoft Computer Dictionary definition for Code Division Multiplex Access, copyright 2002.

American National Standard for Methods of Measurement of Compatibility Between Wireless Communication Devices and Hearing Aids-ANSI C63. 19-2001.

A Conferencing Spread Spectrum Radio, KM Lye, TT Tjhung, KC Chua, TC Pek, WH Yung, WP Goh, YP Chia, WK Loh, FL Ma, KM Low, 1994.

Specification of the Bluetooth System, Version 1.0 B, pp. 17-27, 4144, 81-86, 143-147, Nov. 20, 1999.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Sony's Response to the Complaint of One-E-Way were served upon the following parties as indicated on this 2<sup>nd</sup> day of February, 2015.

Lisa R. Barton, Secretary  
**U.S. International Trade Commission**  
 500 E Street, S.W., Room 112  
 Washington, D.C. 20436

- Via Hand Delivery
- Via Overnight Federal Express Delivery
- Via First Class Mail
- Via Facsimile
- Via Electronic Filing

Honorable Thomas B. Pender  
**U.S. International Trade Commission**  
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 Email: [Gregory.Maldafsky@usitc.gov](mailto:Gregory.Maldafsky@usitc.gov)

- Via Hand Delivery
- Via Overnight Federal Express Delivery
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- Via Facsimile
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Vu Bui, Esq.  
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/s/ Emily J. Murphy  
Project Assistant

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

Before the Honorable Thomas B. Pender  
Administrative Law Judge

In the Matter of

CERTAIN WIRELESS HEADSETS

Inv. No. 337-TA-943

GN NETCOM A/S'S RESPONSE TO THE COMPLAINT AND NOTICE OF  
INVESTIGATION

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Pursuant to 19 C.F.R. § 210.13, GN Netcom A/S (“GN”), by and through counsel, respectfully submits the following response (“Response”) to One-E-Way, Inc.’s (“Complainant”) Complaint Under Section 337 of the Tariff Act of 1930, as Amended (“Complaint”) and to the Notice of Investigation (“Investigation”) issued on January 8, 2015 by the United States International Trade Commission (the “Commission”).

GN admits only those facts expressly admitted below and denies all others averred in the Complaint or stated in the Investigation. The Response reflects only the current status of GN’s knowledge and belief regarding the subject matter of the allegations. The Response is subject to additional or different information that may be discovered during the course of this Investigation. GN reserves the right to take additional and/or modified positions, or raise additional defenses, after this Response is submitted.

GN provides information pursuant to 19 C.F.R. § 210.13(b) in confidential Exhibit A filed concurrently with this Response.

## **GN’S RESPONSE TO THE COMPLAINT**

### **I. RESPONSE TO ALLEGATIONS REGARDING INTRODUCTION**

1. GN admits that Complainant has requested the Commission to commence an investigation under Section 337 of the Tariff Act of 1930, as Amended, 19 U.S.C. § 1337. GN denies that it has engaged in the unlawful importation into the United States, the sale for importation into the United States, or the sale within the United States after importation of any articles covered by any valid and enforceable claim of U.S. Patent Nos. 7,865,258 (“the ‘258 Patent”) and 8,131,391 (“the ‘391 Patent”) (collectively, the “Patents-in-Suit”). To the extent Paragraph 1 of the Complaint includes any other factual allegations, GN denies them.

2. GN admits that the documents attached to the Complaint as Exhibits 1 and 2 are purported to be certified copies of the Patents-in-Suit. GN is without knowledge or information

sufficient to form a belief as to the truth of the allegations about One-E-Way's ownership of the Patents-in-Suit in Paragraph 2 of the Complaint and therefore, they are denied. GN admits that the documents attached to the Complaint as Exhibits 3 and 4 are purported to be copies of the assignments of the Patents-in-Suit. GN denies that it has unlawfully imported, sold for importation, and/or sold after importation articles that infringe, directly or indirectly, any claim of the Patents-in-Suit, including claims 3, 4, 8, 10, or 11 of the '258 Patent or claims 1-6, or 10 of the '391 Patent. To the extent Paragraph 2 of the Complaint includes any other factual allegations, GN denies them.

3. GN admits that the Complaint names the following respondents: Sony Corporation, Sony Corporation of America, Sony Electronics, Inc., Sennheiser Electronic GmbH & Co. KG, Sennheiser Electronic Corporation, BlueAnt Wireless Pty, Ltd., BlueAnt Wireless, Inc., Creative Technology Ltd., Creative Labs, Inc., Beats Electronics, LLC, Beats Electronics International Ltd., Jawbone, Inc., and GN Netcom A/S. GN denies that it has engaged in unfair acts in violation of Section 337 through the unlawful importation, sale for importation, and/or sale after importation of certain wireless audio devices covered by one or more claims of the '258 and/or '391 Patents. With respect to the alleged activities of other respondents, GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Complaint and therefore, they are denied. To the extent Paragraph 3 of the Complaint includes any other factual allegations, GN denies them.

4. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Complaint and therefore, they are denied.

5. GN admits that Complainant seeks exclusion orders pursuant to Section 337(d) and/or cease and desist orders pursuant to Section 337(f). GN denies that its wireless audio

devices are covered by one or more claims of the Patents-in-Suit. With respect to the alleged wireless audio devices of other respondents, GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Complaint and therefore, they are denied. To the extent Paragraph 5 of the Complaint includes any other factual allegations, GN denies them.

## **II. RESPONSE TO ALLEGATIONS REGARDING COMPLAINANT**

6. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Complaint and therefore, they are denied.

## **III. RESPONSE TO ALLEGATIONS REGARDING RESPONDENTS**

### **Response to Allegations Regarding Sony, Sony America and Sony Electronics**

7. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Complaint and therefore, they are denied.

8. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Complaint and therefore, they are denied.

9. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Complaint and therefore, they are denied.

10. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Complaint and therefore, they are denied.

### **Response to Allegations Regarding Sennheiser and Sennheiser America**

11. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Complaint and therefore, they are denied.

12. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Complaint and therefore, they are denied.

13. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the Complaint and therefore, they are denied.

**Response to Allegations Regarding BlueAnt and BlueAnt-US**

14. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of the Complaint and therefore, they are denied.

15. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of the Complaint and therefore, they are denied.

**Response to Allegations Regarding Creative and Creative Labs**

16. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of the Complaint and therefore, they are denied.

17. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of the Complaint and therefore, they are denied.

18. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18 of the Complaint and therefore, they are denied.

**Response to Allegations Regarding Beats and Beats Ireland**

19. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19 of the Complaint and therefore, they are denied.

20. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20 of the Complaint and therefore, they are denied.

21. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21 of the Complaint and therefore, they are denied.

**Response to Allegations Regarding Jawbone**

22. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22 of the Complaint and therefore, they are denied.

**Response to Allegations Regarding Jabra**

23. GN admits that it is organized under the laws of Denmark with a principal place of business at Lautrupbjerg 7, 2750 Ballerup, Denmark. GN admits that it owns the federally-registered trademark JABRA® used on or in connection with GN's goods or services, and that Complainant refers to GN as "Jabra" throughout the Complaint. GN denies that manufactures, markets, sells for importation, imports, and/or sells after importation into the United States products that infringe, directly or indirectly, any claim of the Patents-in-Suit. To the extent Paragraph 23 of the Complaint includes any other factual allegations, GN denies them.

**IV. RESPONSE TO ALLEGATIONS REGARDING THE TECHNOLOGIES AND PRODUCTS AT ISSUE**

24. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of the Complaint and therefore, they are denied.

**V. RESPONSE TO ALLEGATIONS REGARDING THE PATENTS-IN-SUIT**

25. GN admits that the '391 Patent states that it issued from U.S. Patent Application No. 12/940,747, and that the '258 Patent states that it issued from U.S. Patent Application No. 12/570,343. GN admits that U.S. Patent Application No. 12/940,747 states that it is a continuation of U.S. Patent Application No. 12/570,343. GN is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 25 of the Complaint and therefore, they are denied.

**A. Response to Allegations Regarding the '258 Patent**

**Response to Allegations Regarding Identification of the Patent and Ownership by One-E-Way**

26. GN admits that the '258 Patent states that its title and issue date are "Wireless Digital Audio System" and January 4, 2011, respectively. GN admits that the '258 Patent states that it has only one inventor, C. Earl Woolfork, and one assignee, Complainant. GN is without

knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 26 of the Complaint and therefore, they are denied.

27. GN admits that the documents attached to the Complaint as Appendices A and B are purported to contain (1) a certified copy and three additional copies of the prosecution history of the '258 Patent, and (2) four copies of each reference document mentioned in the prosecution history. To the extent Paragraph 27 of the Complaint includes any other factual allegations, GN denies them.

**Response to Allegations Regarding Non-Technical Description of the Patented Invention**

28. The allegations in Paragraph 28 of the Complaint constitute legal conclusions to which no response is required. To the extent that Paragraph 28 of the Complaint contains any factual allegations, GN denies them.

29. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29 of the Complaint and therefore, they are denied.

**B. Response to Allegations Regarding The '391 Patent**

**Response to Allegations Regarding Identification of the Patent and Ownership by One-E-Way**

30. GN admits that the '391 Patent states that its title and issue date are "Wireless Digital Audio System" and March 6, 2012, respectively. GN admits that the '391 Patent states that it has only one inventor, C. Earl Woolfork, and one assignee, Complainant. GN is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 26 of the Complaint and therefore, they are denied.

31. GN admits that the documents attached to the Complaint as Appendices C and D are purported to contain (1) a certified copy and three additional copies of the prosecution history of the '391 Patent, and (2) four copies of each reference document mentioned in the prosecution



history. To the extent Paragraph 31 of the Complaint includes any other factual allegations, GN denies them.

**Response to Allegations Regarding Non-Technical Description of the Patented Invention**

32. The allegations in Paragraph 32 of the Complaint constitute legal conclusions to which no response is required. To the extent that Paragraph 32 of the Complaint contains any factual allegations, GN denies them.

33. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33 of the Complaint and therefore, they are denied.

**VI. RESPONSE TO ALLEGATIONS REGARDING UNFAIR ACTS OF THE RESPONDENTS**

**A. Response to Allegations Regarding Sony, Sony America and Sony Electronics**

34. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34 of the Complaint and therefore, they are denied.

35. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Complaint and therefore, they are denied.

36. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Complaint and therefore, they are denied.

37. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37 of the Complaint and therefore, they are denied.

38. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38 of the Complaint and therefore, they are denied.

39. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39 of the Complaint and therefore, they are denied.

40. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40 of the Complaint and therefore, they are denied.

**B. Response to Allegations Regarding Sennheiser and Sennheiser America**

41. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Complaint and therefore, they are denied.

42. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42 of the Complaint and therefore, they are denied.

43. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43 of the Complaint and therefore, they are denied. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43 of the Complaint and therefore, they are denied.

44. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44 of the Complaint and therefore, they are denied.

45. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45 of the Complaint and therefore, they are denied.

46. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46 of the Complaint and therefore, they are denied.

47. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47 of the Complaint and therefore, they are denied.

**C. Response to Allegations Regarding BlueAnt and BlueAnt-US**

48. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48 of the Complaint and therefore, they are denied.

49. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49 of the Complaint and therefore, they are denied.

50. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50 of the Complaint and therefore, they are denied.

51. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51 of the Complaint and therefore, they are denied.

52. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52 of the Complaint and therefore, they are denied.

53. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53 of the Complaint and therefore, they are denied.

54. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 54 of the Complaint and therefore, they are denied.

**D. Response to Allegations Regarding Creative and Creative Labs**

55. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55 of the Complaint and therefore, they are denied.

56. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 56 of the Complaint and therefore, they are denied.

57. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 57 of the Complaint and therefore, they are denied.

58. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58 of the Complaint and therefore, they are denied.

59. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 59 of the Complaint and therefore, they are denied.

60. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60 of the Complaint and therefore, they are denied.

61. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61 of the Complaint and therefore, they are denied.

**E. Response to Allegations Regarding Beats and Beats Ireland**

62. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62 of the Complaint and therefore, they are denied.

63. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63 of the Complaint and therefore, they are denied.

64. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64 of the Complaint and therefore, they are denied.

65. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65 of the Complaint and therefore, they are denied.

66. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66 of the Complaint and therefore, they are denied.

67. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67 of the Complaint and therefore, they are denied.

68. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68 of the Complaint and therefore, they are denied.

**F. Response to Allegations Regarding Jawbone**

69. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69 of the Complaint and therefore, they are denied.

70. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70 of the Complaint and therefore, they are denied.

71. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71 of the Complaint and therefore, they are denied.

72. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 72 of the Complaint and therefore, they are denied.

73. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 73 of the Complaint and therefore, they are denied.

74. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 74 of the Complaint and therefore, they are denied.

75. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 75 of the Complaint and therefore, they are denied.

**G. Response to Allegations Regarding Jabra**

76. GN denies the allegations of Paragraph 76 of the Complaint.

77. GN denies the allegations of Paragraph 77 of the Complaint.

78. GN denies the allegations of Paragraph 78 of the Complaint.

79. GN denies the allegations of Paragraph 79 of the Complaint.

80. GN denies the allegations of Paragraph 80 of the Complaint.

81. GN denies the allegations of Paragraph 81 of the Complaint.

82. GN denies the allegations of Paragraph 82 of the Complaint.

**VII. RESPONSE TO ALLEGATIONS REGARDING SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

83. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 83 of the Complaint and therefore, they are denied.

84. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 84 of the Complaint and therefore, they are denied.

85. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 85 of the Complaint and therefore, they are denied.

86. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 86 of the Complaint and therefore, they are denied.

87. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 87 of the Complaint and therefore, they are denied.

88. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 88 of the Complaint and therefore, they are denied.

89. GN denies the allegations of Paragraph 89 of the Complaint.

**VIII. RESPONSE TO ALLEGATIONS REGARDING CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

90. With respect to the classification of products allegedly imported by other respondents, GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90 of the Complaint and therefore, they are denied. GN admits that Exhibit A contains a list of Harmonized Tariff Schedule classification numbers. To the extent Paragraph 90 of the Complaint includes any other factual allegations, GN denies them.

**IX. RESPONSE TO ALLEGATIONS REGARDING RELATED LITIGATION**

91. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 91 of the Complaint and therefore, they are denied.

**X. RESPONSE TO ALLEGATIONS REGARDING DOMESTIC INDUSTRY**

92. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 92 of the Complaint and therefore, they are denied.

**A. Response to Allegations Regarding One-E-Way's Development of the Domestic Industry**

93. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 93 of the Complaint and therefore, they are denied.

**B. Response to Allegations Regarding One-E-Way Licensees' Development of the Domestic Industry**

94. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 94 of the Complaint and therefore, they are denied.

95. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 95 of the Complaint and therefore, they are denied.

96. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 96 of the Complaint and therefore, they are denied.

97. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 97 of the Complaint and therefore, they are denied.

98. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 98 of the Complaint and therefore, they are denied.

99. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 99 of the Complaint and therefore, they are denied.

100. GN is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 100 of the Complaint and therefore, they are denied.

**XI. RESPONSE TO ALLEGATIONS REGARDING RELIEF REQUESTED**

101. GN denies that Complainant is entitled to any of the relief requested in Paragraph 101 of the Complaint.

## GN'S RESPONSE TO THE NOTICE OF INVESTIGATION

102. GN admits the Investigation has been instituted, and that GN is a named respondent therein. GN otherwise denies the existence of the predicates and requirements for liability under such Investigation and, therefore, denies the allegations in the Notice of Investigation to the extent such allegations exist. Specifically, GN denies that there has been any violation of 19 U.S.C. § 1337 by GN in the importation into the United States, sale for importation, or sale within the United States after importation of certain wireless headsets by reason of infringement of any valid and enforceable claims of the Patents-in-Suit. On information and belief, Complainant has not adequately alleged and cannot prove that a domestic industry exists and/or that such domestic industry is in the process of being established, as is required under § 1337(a)(2) and defined under § 1337(a)(3), in connection with Patents-in-Suit. GN further contends that the asserted claims of the Patents-in-Suit are invalid and/or unenforceable and cannot support any contention of alleged infringement. GN denies that Complainant is entitled to any relief and/or remedies as a result of the Investigation. GN contends that the public interest does not support granting any relief and/or remedies to Complainant.



**GN'S AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE  
(Non-Infringement)**

103. GN denies that it (i) infringes or has infringed, either literally or under the doctrine of equivalents, (ii) contributes or has contributed to infringement by others, and/or (iii) induces or has induced others to infringe any valid and enforceable claims of the Patents-in-Suit.

104. GN has not manufactured, imported, sold for importation, or sold within the United States after importation, any product that is covered by any valid and enforceable claim of the Patents-in-Suit.

**SECOND AFFIRMATIVE DEFENSE  
(Invalidity)**

105. On information and belief, and without prejudice to further amendment upon information found during discovery, each asserted claim of the Patents-in-Suit is invalid for failure to meet the requirements set forth in Title 35 of the United States Code, including §§ 101, 102, 103, 112, 115, 116, or 256, or judicially created doctrines of invalidity including, but not limited to, obviousness-type double patenting.

106. For example, the asserted claims of the Patents-in-Suit are invalid under 35 U.S.C. §§ 102 and/or 103 as anticipated by, or obvious in light of, one or more prior art references, either alone or in combination. The prior art references include: (i) the prior art references cited by the examiner and/or disclosed during prosecution of the Patents-in-Suit and the related applications and patents, including the applications and patents to which the Patents-in-Suit claim priority; (ii) the prior-art references listed in Exhibit B to this Response; and (iii) all prior-art references identified by all the other respondents in this Investigation in each of their respective responses to the Complaint, which are incorporated herein by reference.

107. As another example, the asserted claims of the Patents-in-Suit are invalid for failure to comply with the requirements of 35 U.S.C. § 112 due to lack of written description, failure to particularly point out and distinctly claim the subject matter which is regarded as the alleged invention, and/or failure to set forth a written description sufficient to enable any person skilled in the art to make and use the alleged invention. For instance, the claim term “virtually free from interference,” which appears in all asserted claims of the Patents-in-Suit, fails to particularly point out and distinctly claim the subject matter which is regarded as the alleged invention because, among other deficiencies, the phrase does not reasonably apprise one of ordinary skill in the art of the scope of the alleged invention and provides no objective boundaries.

108. The examples listed above are exemplary only and do not limit GN’s defenses in this Investigation. GN reserves the right to alter, amend, or supplement this affirmative defense as the Investigation proceeds. GN is in the process of identifying additional relevant prior art, including through discovery, which is in its early stages at the time of this Response. GN reserves the right to rely on additional prior art.

**THIRD AFFIRMATIVE DEFENSE**  
**(Prosecution History Estoppel)**

109. On information and belief, by reason of the proceedings in the U.S. Patent and Trademark Office (“USPTO”) during the prosecution of the applications resulting in the issuance of the Patents-in-Suit, namely, the cancellations, concessions, admissions, representations, and amendments made on behalf of the applicant(s) for the Patents-in-Suit and for related patents and patent applications, Complainant is estopped from extending the coverage of the asserted claims of the Patents-in-Suit, including under the doctrine of equivalents, to cover any allegedly infringing GN product.

110. For example, during prosecution and in response to prior-art rejections from the USPTO, the applicant(s) represented that the unique code is used to spread and despread the signal spectrum at the transmitter and receiver, respectively. As such, Complainant is estopped from asserting that the unique code encompasses functions or elements that do not spread and/or despread signal spectrum, including without limitation access codes, device addressing, and packet format codes.

111. The examples listed above are exemplary only and do not limit GN's defenses in this Investigation. GN reserves the right to alter, amend, or supplement this affirmative defense as the Investigation proceeds.

**FOURTH AFFIRMATIVE DEFENSE**  
**(Lack of Importation)**

112. Complainant is barred, in whole or in part, from asserting the Patents-in-Suit against GN products that have never been or are no longer imported into the United States.

113. Complainant is barred, in whole or in part, from obtaining exclusion orders pursuant to Section 337(d) and/or cease and desist orders pursuant to Section 337(f) for GN products that are imported into the United States by third parties.

**FIFTH AFFIRMATIVE DEFENSE**  
**(Lack of Unfair Act)**

114. GN has not committed any unfair acts defined within 19 U.S.C. 1337(a)(1) and does not make, import into the United States, sell for importation, or sell within the United States any product that infringes any asserted claim of the Patents-in-Suit.

**SIXTH AFFIRMATIVE DEFENSE**  
**(Lack of Domestic Industry)**

115. On information and belief, Complainant has not adequately alleged and cannot prove: (1) that a domestic industry exists; and/or (2) that such domestic industry is in the process

of being established, as is required under § 1337(a)(2) and defined under § 1337(a)(3), in connection with Patents-in-Suit. Specifically, on information and belief, and prior to meaningful discovery, Complainant has failed to show it or its licensees practice a valid claim of the Patents-in-Suit or that it or its licensees have made a substantial investment in the exploitation of a valid claim of the Patents-in-Suit, including substantial investments in labor, capital, research, development, design, engineering, product support, or licensing in the United States.

116. Complainant cannot establish that it or its licensees have made “significant investment” in plant, equipment, labor, or capital relating to articles protected by at least one claim of each of the Patents-in-Suit. Complainant cannot establish a “substantial investment” in licensing, research and development, or other qualifying activities relating to the Patents-in-Suit, sufficient to satisfy the economic prong of the domestic industry requirement. Complainant also cannot establish satisfaction of the technical prong of the domestic industry requirement in this Investigation. On information and belief, as no protectable industry exists or is being established in the United States as defined under Section 337 with respect to the Patents-in-Suit, GN reserves the right to assert the lack of domestic industry as a defense.

**SEVENTH AFFIRMATIVE DEFENSE**  
**(Unenforceability)**

117. On information and belief, Complainant has made claims that are barred in whole or in part by the doctrines of acquiescence, estoppel, waiver, unclean hands, patent exhaustion, patent misuse, and/or other equitable doctrines.

**EIGHTH AFFIRMATIVE DEFENSE**  
**(Lack of Ownership and Standing)**

118. To the extent that Complainant does not have substantially all the rights or all the rights to the Patents-in-Suit, or to the extent the purported assignments of the Patents-in-Suit are defective for any reason, Complainant lacks standing to bring this action. In particular, on

information and belief, third parties that are not parties to this Investigation have security and/or other ownership rights in the Patents-in-Suit. Complainant improperly seeks to assert the Patents-in-Suit without joinder of all such third parties who possess such rights.

**NINTH AFFIRMATIVE DEFENSE**  
**(Inventorship)**

119. To the extent that the alleged inventors did not invent the purported inventions, or to the extent that the actual inventors are not named as inventors, the Patents-in-Suit are unenforceable.

**TENTH AFFIRMATIVE DEFENSE**  
**(Prosecution Laches)**

120. On information and belief, and prior to meaningful discovery, Complainant's claims are barred in whole or in part pursuant to the doctrine of prosecution laches. Specifically, on information and belief, Complainant unreasonably delayed in filing and prosecution of the applications that later issued as the Patents-in-Suit. For example, the parent application to which the Patents-in-Suit claims the benefit of priority—U.S. Patent Application No. 10/027,391—was filed on December 21, 2001, more than seven years before the either of the applications for the Patents-in-Suit was filed. Additionally, a total of four different patent applications were filed over that seven-plus year period.

121. The examples listed above are exemplary only and do not limit GN's defenses in this Investigation. GN reserves the right to alter, amend, or supplement this affirmative defense as the Investigation proceeds.

**ELEVENTH AFFIRMATIVE DEFENSE**  
**(Relief Not in the Public Interest)**

122. Complainant demands relief and/or remedies that are barred under 19 U.S.C. § 1337(d)-(f) because the relief and/or remedies Complainant seeks are contrary to the public

interest, to competitive conditions in the U.S. economy, and to the interests of U.S. consumers. There are strong public policy reasons for denying the relief and/or remedies Complainant seeks.

**TWELFTH AFFIRMATIVE DEFENSE**  
**(Other Defenses)**

123. GN further reserves the right to amend its Response to include other affirmative defenses that GN may learn of during the course of this Investigation by way of discovery of additional evidence or otherwise.

**PRAYER FOR RELIEF**

WHEREFORE, GN requests that the Commission issue an order:

124. Denying all relief requested in the Complaint;
125. Finding that GN has not violated Section 337 of the Tariff Act of 1930, as Amended, 19 U.S.C. § 1337;
126. Finding that GN has not infringed, directly or indirectly, any of the asserted claims of the Patents-in-Suit;
127. Finding that the Patents-in-Suit are invalid for failure to meet the requirements set forth in Title 35 of the United States Code, including §§ 101, 102, 103, 112, 115, 116, or 256, or under judicially created doctrines of invalidity;
128. Finding that there is no domestic industry for the Patents-in-Suit;
129. Awarding GN its attorneys' fees and costs incurred in responding to the Complaint and defending this Investigation;
130. Dismissing the Complaint and terminating the Investigation; and
131. Awarding such other and/or further relief as the Commission deems just and proper.

Dated: February 2, 2015

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ William B. Nash

William B. Nash  
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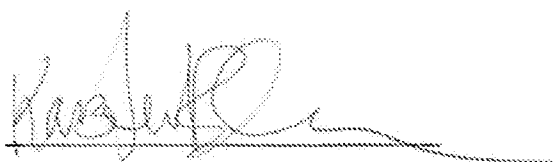
*Attorneys for Respondent GN Netcom A/S*



VERIFICATION

I, Karsten Bernholm Sørensen, am Corporate Legal Counsel, Attorney at Law of GN Netcom A/S. I am authorized to make this verification on behalf of GN Netcom A/S. I have read GN Netcom A/S's Response to the Complaint and Notice of Investigation and know its contents. I am informed and believe that the matters stated herein are true, and on that ground only, and not based upon personal knowledge of the matters stated herein, I declare under penalty of perjury that same are true and correct.

Dated: February 2, 2015



GN Netcom A/S  
Lautrupbjerg 7  
P.O. Box 99  
DK - 2750 Ballerup

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing GN Netcom A/S's Response to the Complaint and Notice of Investigation were served upon the following parties on this 2nd day of February, 2015 in the manner stated below.

/s/ William B. Nash

William B. Nash

Lisa R. Barton, Secretary  
U.S. International Trade Commission  
500 E. Street, S.W., Room 112  
Washington, DC 20436

- Via Hand Delivery
- Via Overnight Delivery (2 copies)
- Via E-Mail:
- Via First Class Mail
- Via Electronic Filing - EDIS

The Honorable Thomas B. Pender  
U.S. International Trade Commission  
500 E. Street, S.W., Room 317  
Washington, DC 20436

- Via Hand Delivery
- Via Overnight Delivery (2 copies)
- Via E-Mail to Attorney Advisor:  
Gregory.moldafsky@usitc.gov
- Via First Class Mail
- Via Electronic Filing - EDIS

Vu Bui, Esq.  
Office of Unfair Import Investigations  
U.S. International Trade Commission  
500 E. Street, S.W., Room 401  
Washington, DC 20436

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- Via First Class Mail
- Via Electronic Filing - EDIS

Complainant One-E-Way, Inc.  
Douglas G. Muchlhauser  
Knobbe, Martens, Olson & Bear, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, CA 92614

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- Via Overnight Delivery
- Via E-Mail: 1EWayITC@knobbe.com
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- Via Electronic Filing - EDIS

Respondents Sony Corporation, Sony Corporation of America, and Sony Electronics, Inc.

Paul T. Qualey  
Kenyon & Kenyon, LLP  
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Washington, DC 20005-1257

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- Via First Class Mail
- Via Electronic Filing - EDIS

Respondent Sennheiser Electronic GmbH & Co. KG, and Sennheiser Electronic Corporation

Sean P. DeBruine  
Kilpatrick Townsend & Stockton, LLP  
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Menlo Park, CA 94025

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- Via First Class Mail
- Via Electronic Filing - EDIS

Respondent BlueAnt Wireless Pty. Ltd. and BlueAnt Wireless, Inc.

Duane H. Mathiowetz  
Novak Druce Connolly Bove & Quigg LLP  
555 Mission Street, 34<sup>th</sup> Floor  
San Francisco, CA 94105

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- Via E-Mail: [BlueAntITC@novakdruce.com](mailto:BlueAntITC@novakdruce.com)
- Via Overnight Delivery
- Via First Class Mail
- Via Electronic Filing - EDIS

Respondent Creative Labs, Inc. and Creative Technology, Ltd.

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Farney Daniels, P.C.  
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- Via Electronic Filing - EDIS

Respondent Beats Electronics, LLC, and Beats Electronics International Ltd.

Celine Jimenez Crowson  
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Respondent AliphCom d/b/a Jawbone, Inc.

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Exhibit A



[REDACTED]

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

Before the Honorable Thomas B. Pender  
Administrative Law Judge

In the Matter of

CERTAIN WIRELESS HEADSETS

Inv. No. 337-TA-943

[REDACTED] EXHIBIT A TO GN NETCOM A/S'S RESPONSE TO THE  
COMPLAINT AND NOTICE OF INVESTIGATION

Pursuant to 19 C.F.R. § 210.13(b), GN Netcom A/S ("GN") provides the following additional information. By providing this information, GN intends only to supply data required by 19 C.F.R. § 210.13(b). GN specifically denies that any of the information or data supplied below relates to or supports any allegations of infringement against GN or any violation of Section 337.

Paragraph 77 of the Complaint Under Section 337 of the Tariff Act of 1930, as Amended ("Complaint") lists allegedly infringing "names and model numbers" purportedly manufactured, marketed, sold for importation, imported, and/or sold after importation by GN. Based on the list alleged in Paragraph 77 of the Complaint, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]









[Redacted]

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[Redacted]

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- [Redacted]

[Redacted]

- [Redacted]

[Redacted]

- [Redacted]

[Redacted]

[REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

# Exhibit B

## Prior Art References

### Patents and Patent Applications

- U.S. Patent No. 6,061,387 A to Kwan
- U.S. Patent No. 6,269,130 B1 to Hansquine
- WO 2000/076272 A1 to Lindemann et al.,
- EP1024617 A2 to Deepen et al.

### Treatises

- Bernard Sklar, Digital Communications: Fundamentals and Applications (1987)
- John G. Proakis, Digital Communications (3d ed. 1994)
- John G. Proakis & Masoud Salehi, Communication Systems Engineering (1994)
- Andrew J. Viterbi, CDMA: Principles of Spread Spectrum Communication (1995)
- David J. Goodman, Wireless Personal Communications Systems (1997)
- Jennifer Bray & Charles F. Sturman, Bluetooth: Connect Without Cables (2001)
- Brent A. Miller & Chatschik Bisdikian, Bluetooth Revealed (2001)
- John G. Proakis & Masoud Salehi, Communication Systems Engineering (2d ed. 2001)
- Bernard Sklar, Digital Communications: Fundamentals and Applications (2d ed. 2001)

### Standards and related documents

- Bluetooth v1.0A (1999)
- Bluetooth v1.0B (1999)
- Bluetooth v1.1 (2001)
- Kardach, Bluetooth Architecture Overview (Mar. 1999)
- Baatz, Integration of Bluetooth into LAN Environments (July 1999)
- Bisdikian, Bluetooth Architecture Overview (Sept. 1999)
- Courville, An OFDM based solution granting compatibility between next G of high rate WPANs and WLANs: HIPERPAN? (July 10, 2000)
- IEEE 802.15 Working Group for Wireless Personal Area Networks (WPANs) Submission, LCW Proposal for High Rate WPAN Combined PHY and MAC r3 (5 Sept. 2000)
- IEEE P802.15 Working Group for Wireless Personal Area Networks (WPANs) Submission, LCW HRWPAN Throughput Calculations (27 Oct. 2000)
- IEEE P802.15 Working Group for Wireless Personal Area Networks (WPANs) Submission, IEEE802.15 TG3 PHY Sub-Group Conference Call Minutes (24 Dec. 2000)
- IEEE P802.15 Working Group for Wireless Personal Area Networks (WPANs) Submission, Supergold Encoding for High Rate WPAN Physical Layer (16 January 2001)
- IEEE P802.15 Wireless Personal Area Networks submission, Adaptive Frequency Hopping ad-hoc group update (May 10, 2001)
- IEEE P802.15 Working Group for Wireless Personal Area Networks (WPANs) Submission, Nokia PHY submission to Task Group 4 (2 July 2001)

### Other Publications

- Hills, A., "Terrestrial Wireless Networks," Scientific American

- Hughes, et al., “Spread-Spectrum Radio,” Scientific American (April 1998)

Products and related documents

- GN Netcom A/S, GN 9010 / GN 9015 Bluetooth(TM) Headset (B00011)
- Digianswer A/S, Digianswer Bluetooth(TM) Headset (B00012)
- Ericsson Mobile Communications AB, Ericsson Bluetooth Headset (B00057)
- Japan Total Design Communication Co., Ltd., JTDC Headset & Dongle Evaluation Kit (B00128)
- GN Netcom, Bluetooth Wireless Headset (B00374)
- Ericsson Mobile Communications AB, Ericsson Bluetooth Headset (B00392)
- Emkay Innovative Products, Bluetooth Headset (B00420)
- RTX Telecom A/S, MARS 2.4GHz Frequency hopping and Dual slot diversity System
- Motorola’s Bluetooth Solution to Interference Rejection and Coexistence with 802.11

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.**

**Before The Honorable Thomas B. Pender  
Administrative Law Judge**

**In the Matter of**

**CERTAIN WIRELESS HEADSETS**

**Investigation No. 337-TA-943**

**RESPONSE OF RESPONDENTS CREATIVE TECHNOLOGY LTD. AND  
CREATIVE LABS, INC. TO THE COMPLAINT OF ONE-E-WAY, INC.  
AND NOTICE OF INVESTIGATION**

**RESPONDENTS:**

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31 International Business Park  
#03-01, Creative Resource  
Singapore 609921  
Telephone: +65 6895 4000

Creative Labs, Inc.  
1901 McCarthy Boulevard  
Milpitas, CA 95035  
Telephone: (408) 428-6600

**COUNSEL FOR RESPONDENTS:**

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Gurtej Singh  
FARNEY DANIELS PC  
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Facsimile: (424) 268-5219

Pursuant to Commission Rule 210.13, 19 C.F.R § 210.13, Respondents Creative Technology Ltd. (“CTL”) and Creative Labs, Inc. (“CLI”) (CTL and CLI, collectively, “Creative”) hereby respond to the Complaint filed by One-E-Way, Inc. (“One-E-Way” or Complainant”) on December 8, 2014, and to the Notice of Investigation issued by the United States International Trade Commission (“Commission”) on January 8, 2015. As to the Notice of Investigation, Creative admits that such an investigation exists and that CTL and CLI are named as two of the respondents therein. Creative otherwise denies the existence of the predicates and requirements for liability under such investigation, and therefore, denies the allegations in the Notice of Investigation to the extent such allegations exist.

As an initial matter, Creative denies that it has engaged in unfair competition or violated Section 337 of the Tariff Act of 1930, as amended, by importing, selling for importation, or selling within the United States after importation any device that infringes any valid or enforceable intellectual property right at issue in this investigation. Creative further denies that any patent claims at issue in this investigation are valid or enforceable. Creative further reserves the right to amend or supplement its response based on additional facts or developments that become available or that arise after the filing of this Response. Creative responds to the Complaint by admitting only those facts expressly admitted below and denying all others averred in the Complaint.

For ease of reference, Creative has adopted the headings set forth in the Complaint. To the extent that such headings themselves contain factual or legal characterizations, however, Creative denies such characterizations.



## I. INTRODUCTION

1. Creative admits that One-E-Way has filed the Complaint under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. Creative denies engaging in unlawful importation into the United States, the unlawful sale for importation and/or the unlawful sale within the United States after importation, of articles covered by valid and enforceable United States patents owned by One-E-Way. Creative denies that the Creative articles cited in the Complaint as being accused are covered by U.S. Patent Nos. 7,865,258 (“the ’258 Patent”) and 8,131,391 (“the ’391 Patent”) (collectively, the “Patents-in-Suit”). Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 1 and, therefore, denies those allegations.

2. Creative admits that certified copies of the ’258 and ’391 Patents accompanied the Complaint. Creative denies that the importation, sale for importation, and/or sale after importation of the named Creative products are unlawful or infringe the Asserted Claims. Creative lacks sufficient knowledge or information regarding One-E-Way’s alleged ownership of the Patents-in-Suit, and therefore, denies these allegations. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 2 and, therefore, denies those allegations.

3. Creative admits CLI and CTL and the remaining Respondents were identified as Respondents in the Complaint, but denies that Creative has engaged in unfair acts in violation of Section 337 through the unlawful importation, sale for importation, and/or sale after importation of wireless audio devices covered by one or more claims of the ’258 and ’391 Patents. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 3 and, therefore, denies those allegations.

4. To the extent Paragraph 4 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative denies the allegations and characterizations of Paragraph 4.

5. Creative admits that One-E-Way seeks limited exclusion orders excluding from entry into the United States the Respondents' wireless audio devices allegedly covered by one or more claims of the '258 and/or '391 Patents, but denies that One-E-Way is entitled to any of the requested relief. Creative further admits that One-E-Way seeks cease and desist orders directed to Respondents to halt the importation, marketing, advertising, demonstration, warehousing of inventory for distribution, sale and use of such imported products in the United States, but denies that One-E-Way is entitled to any of the requested relief. Creative also denies that any of its products infringe any valid and enforceable claim of the Patents-in-Suit. Creative denies the remaining allegations and characterizations of Paragraph 5.

**II. COMPLAINANT**

6. Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 6 and, therefore, denies those allegations.

**III. RESPONDENTS**

**Sony, Sony America and Sony Electronics**

7. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 7 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 7 and, therefore, denies those allegations.

8. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 8 is required,

Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 8 and, therefore, denies those allegations.

9. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 9 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 9 and, therefore, denies those allegations.

10. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 10 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 10 and, therefore, denies those allegations.

**Sennheiser and Sennheiser America**

11. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 11 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 11 and, therefore, denies those allegations.

12. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 12 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 12 and, therefore, denies those allegations.

13. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 13 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 13 and, therefore, denies those allegations.

**BlueAnt and BlueAnt-US**

14. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 14 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 14 and, therefore, denies those allegations.

15. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 15 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 15 and, therefore, denies those allegations.

**Creative and Creative Labs**

16. Creative admits that CTL is a corporation organized under the laws of Singapore with its principal place of business at 31 International Business Park, #03-01, Creative Resource, Singapore 609921. Creative denies that CTL manufactures, markets, sells for importation, imports, and/or sells after importation into the United States products that directly and/or indirectly infringe the '258 and/or '391 Patents. Creative denies the remaining allegations and characterizations of Paragraph 16.

17. Creative admits that CLI is a corporation organized under the laws of the State of California with its principal place of business at 1901 McCarthy Blvd., Milpitas, California 95035. Creative denies that CLI manufactures, markets, sells for importation, imports, and/or sells after importation into the United States products that directly and/or indirectly infringe the '258 and/or '391 Patents. Creative denies the remaining allegations and characterizations of Paragraph 17.

18. Creative admits that CTL is the parent entity of CLI and has primary responsibility for the manufacturing of Creative-branded products. Creative admits that CLI has primary responsibility for the marketing and sales of Creative-branded products within the United States. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 18 and, therefore, denies those allegations.

**Beats and Beats Ireland**

19. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 19 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 19 and, therefore, denies those allegations.

20. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 20 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 20 and, therefore, denies those allegations.

21. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 21 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 21 and, therefore, denies those allegations.

**Jawbone**

22. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 22 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 22 and, therefore, denies those allegations.

**Jabra**

23. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 23 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 23 and, therefore, denies those allegations.

**IV. THE TECHNOLOGIES AND PRODUCTS AT ISSUE**

24. Creative denies that the accused Creative products practice the '258 and '391 Patents. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations in Paragraph 24 and, therefore, denies those allegations.

**V. THE PATENTS-IN-SUIT**

25. Creative admits that the '391 Patent indicates that it issued from U.S. Patent Application No. 12/940,747, which is a continuation of U.S. Patent Application No. 12/570,343, which issued as the '258 Patent. Creative further admits that the '391 Patent and the '258 Patent purport to claim priority, via a continuation-in-part, to U.S. Patent Application No. 10/027,391, filed on December 21, 2001. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 25 and, therefore, denies those allegations.

**A. The '258 Patent****Identification of the Patent and Ownership by One-E-Way**

26. Creative admits that the face of the '258 Patent indicates it is entitled "Wireless Digital Audio System," was issued on January 4, 2011, and lists C. Earl Woolfork as the sole named inventor. Creative further admits that Exhibit 1 purports to be a certified copy of the '258 Patent. Creative further admits that Exhibit 3 purports to contain materials from the U.S. Patent

and Trademark Office showing information regarding assignments of the '258 Patent. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 26 and, therefore, denies those allegations.

27. To the extent that Paragraph 27 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative admits that Appendix A purports to contain a certified copy of the file wrapper for the '258 Patent. Although the Complainant's filing via EDIS does not identify any documents as comprising Appendix B, Creative admits that Complainant appears to have filed via EDIS at least some of the references cited in the prosecution history. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 27 and, therefore, denies those allegations.

**Non-Technical Description of the Patented Invention**

28. To the extent that Paragraph 28 makes any allegations about the scope or construction of the claims of the '258 Patent, such allegations mischaracterize the claims of the '258 Patent, and therefore Creative denies those allegations and characterizations. Creative denies that the description of the '258 Patent in Paragraph 28 is complete or accurate. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 28 and, therefore, denies those allegations.

29. To the extent that Paragraph 29 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 29 and, therefore, denies those allegations.

**B. The '391 Patent****Identification of the Patent and Ownership by One-E-Way**

30. Creative admits that the face of the '391 Patent indicates it is entitled "Wireless Digital Audio Music System," was issued on March 6, 2012, is a continuation of the earlier patent application that issued as the '258 Patent, and lists C. Earl Woolfork as the sole named inventor. Creative further admits that Exhibit 2 purports to be a certified copy of the '391 Patent. Creative further admits that Exhibit 4 purports to contain materials from the U.S. Patent and Trademark Office showing information regarding assignments of the '391 Patent. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 30 and, therefore, denies those allegations.

31. To the extent that Paragraph 31 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative admits that Appendix C purports to contain a certified copy of the file wrapper for the '391 Patent. Although the Complainant's filing via EDIS does not identify any documents as comprising Appendix D, Creative admits that Complainant appears to have filed via EDIS at least some of the references cited in the prosecution history. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 31 and, therefore, denies those allegations.

**Non-Technical Description of the Patented Invention**

32. To the extent that Paragraph 32 makes any allegations about the scope or construction of the claims of the '391 Patent, such allegations mischaracterize the claims of the '391 Patent, and therefore Creative denies those allegations and characterizations. Creative denies that the description of the '391 Patent in Paragraph 32 is complete or accurate. Creative



lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 32 and, therefore, denies those allegations.

33. To the extent that Paragraph 33 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 33 and, therefore, denies those allegations.

## **VI. UNFAIR ACTS OF THE RESPONDENTS**

### **A. Sony, Sony America, and Sony Electronics**

34. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 34 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 34 and, therefore, denies those allegations.

35. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 35 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 35 and, therefore, denies those allegations.

36. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 36 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 36 and, therefore, denies those allegations.

37. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 37 is required,

Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 37 and, therefore, denies those allegations.

38. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 38 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 38 and, therefore, denies those allegations.

39. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 39 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 39 and, therefore, denies those allegations.

40. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 40 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 40 and, therefore, denies those allegations.

**B. Sennheiser and Sennheiser America**

41. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 41 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 41 and, therefore, denies those allegations.

42. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 42 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 42 and, therefore, denies those allegations.

43. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 43 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 43 and, therefore, denies those allegations.

44. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 44 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 44 and, therefore, denies those allegations.

45. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 45 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 45 and, therefore, denies those allegations.

46. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 46 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 46 and, therefore, denies those allegations.

47. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 47 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 47 and, therefore, denies those allegations.

**C. BlueAnt and BlueAnt-US**

48. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 48 is required,

Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 48 and, therefore, denies those allegations.

49. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 49 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 49 and, therefore, denies those allegations.

50. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 50 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 50 and, therefore, denies those allegations.

51. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 51 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 51 and, therefore, denies those allegations.

52. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 52 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 52 and, therefore, denies those allegations.

53. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 53 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 53 and, therefore, denies those allegations.

54. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 54 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 54 and, therefore, denies those allegations.

**D. Creative and Creative Labs**

55. Creative denies that it manufactures, markets, sells for importation, imports, and/or sells after importation into the United States any products that directly infringe the '391 Patent and/or indirectly infringe the '258 and '391 Patents. Creative denies the remaining allegations and characterizations of Paragraph 55.

56. Creative admits that One-E-Way has accused headsets sold under the following names: Sound Blaster EVO Zx, Sound Blaster EVO Wireless, Aurvana Platinum, Aurvana Gold, WP-450, Hitz WP380, WP-350, WP-300, and WP-250 (hereinafter referred to as the "Accused Creative Products"), but Creative denies that any of these accused Creative products infringe any valid and enforceable claim of the '258 or '391 Patents. Creative further admits that Exhibit 14 appears to contain images of examples of these products and images of physical Exhibit 46. Creative denies the remaining allegations and characterizations of Paragraph 56.

57. Creative admits that the Accused Creative Products are manufactured, assembled, and/or packaged outside of the United States and then imported into the United States. Creative further admits that these products are sold after importation into the United States by CLI. Creative denies the remaining allegations and characterizations of Paragraph 57.

58. Creative denies that its actions constitute direct infringement of the '391 Patent. Creative admits that Exhibit 15 consists of claim charts that purport to show infringement of the

'391 Patent. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in paragraph 58 and, therefore, denies those allegations.

59. Creative denies that its actions constitute contributory and induced infringement of the '258 and '391 Patents. Creative admits that Exhibit 16 consists of claim charts that purport to show indirect infringement of the '258 and '391 Patents. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in paragraph 59 and, therefore, denies those allegations.

60. To the extent Paragraph 60 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative admits that CLI received a letter dated August 8, 2014 from counsel for Complainant alleging that Creative was infringing the Patents-in-Suit. Creative denies the remaining allegations and characterizations of Paragraph 60.

61. To the extent Paragraph 61 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative admits that CLI received a letter dated August 8, 2014 from counsel for Complainant alleging that Creative was infringing the Patents-in-Suit. Creative denies the remaining allegations and characterizations of Paragraph 61.

**E. Beats and Beats Ireland**

62. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 62 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 62 and, therefore, denies those allegations.

63. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 63 is required,

Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 63 and, therefore, denies those allegations.

64. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 64 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 64 and, therefore, denies those allegations.

65. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 65 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 65 and, therefore, denies those allegations.

66. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 66 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 66 and, therefore, denies those allegations.

67. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 67 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 67 and, therefore, denies those allegations.

68. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 68 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 68 and, therefore, denies those allegations.

F. Jawbone

69. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 69 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 69 and, therefore, denies those allegations.

70. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 70 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 70 and, therefore, denies those allegations.

71. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 71 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 71 and, therefore, denies those allegations.

72. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 72 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 72 and, therefore, denies those allegations.

73. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 73 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 73 and, therefore, denies those allegations.

74. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 74 is required,



Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 74 and, therefore, denies those allegations.

75. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 75 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 75 and, therefore, denies those allegations.

**G. Jabra**

76. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 76 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 76 and, therefore, denies those allegations.

77. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 77 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 77 and, therefore, denies those allegations.

78. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 78 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 78 and, therefore, denies those allegations.

79. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 79 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 79 and, therefore, denies those allegations.

80. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 80 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 80 and, therefore, denies those allegations.

81. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 81 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 81 and, therefore, denies those allegations.

82. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 82 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 82 and, therefore, denies those allegations.

**VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

83. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 83 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 83 and, therefore, denies those allegations.

84. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 84 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 84 and, therefore, denies those allegations.

85. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 85 is required,

Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 85 and, therefore, denies those allegations.

86. Creative admits that Exhibit 29 purports to be a receipt for a “Creative WP-350 Wireless Bluetooth Headphones with Invisible Mic.” Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 86 and, therefore, denies those allegations.

87. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 87 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 87 and, therefore, denies those allegations.

88. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 88 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 88 and, therefore, denies those allegations.

89. Creative understands that this Paragraph is not directed to Creative, and no response from Creative is needed. To the extent that a response to Paragraph 89 is required, Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 89 and, therefore, denies those allegations.

**VIII. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

90. Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 90 and, therefore, denies those allegations.

**IX. RELATED LITIGATION**

91. Creative admits that the Patents-in-Suit have been the subject of prior litigation in the United States district courts. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 91 and, therefore, denies those allegations.

**X. DOMESTIC INDUSTRY**

92. To the extent that Paragraph 92 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative denies that a domestic industry as required by 19 U.S.C. § 1337(a)(2) and (a)(3) exists with respect to the Patents-in-Suit. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 92 and, therefore, denies those allegations.

**A. One-E-Way's Development of the Domestic Industry**

93. Creative admits that Exhibits 34 and 35 consist of claim charts purporting to show how certain One-E-Way products allegedly practice the Patents-in-Suit. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 93 and, therefore, denies those allegations.

**B. One-E-Way Licensees' Development of the Domestic Industry**

94. Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 94 and, therefore, denies those allegations.

95. Creative admits that Exhibits 38 and 39 consist of claim charts purporting to show how certain Plantronics products allegedly practice the Patents-in-Suit. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 95 and, therefore, denies those allegations.

96. Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 96 and, therefore, denies those allegations.

97. Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 97 and, therefore, denies those allegations.

98. Creative admits that Exhibits 41 and 42 consist of claim charts purporting to show how certain Jaybird products allegedly practice the Patents-in-Suit. Creative lacks sufficient knowledge or information to form a belief regarding the remaining allegations contained in Paragraph 98 and, therefore, denies those allegations.

99. Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 99 and, therefore, denies those allegations.

100. Creative lacks sufficient knowledge or information to form a belief regarding the allegations contained in Paragraph 100 and, therefore, denies those allegations.

**XI. RELIEF REQUESTED**

101. To the extent that Paragraph 101 contains conclusions of law, no response is necessary. To the extent that a response is necessary, Creative denies the statements in this Paragraph to the extent that those statements purport to allege the existence of any factual or legal predicates for the relief requested as to Creative. Creative further denies that One-E-Way is entitled to relief pursuant to 19 U.S.C. § 1337(d), (f), or (j) as to Creative, and further denies that it has violated Section 337. Creative also denies that One-E-Way is entitled to any relief whatsoever with respect to Creative, including without limitation the relief requested in this paragraph. Creative denies the remaining allegations contained in Paragraph 101.

RESPONSE TO THE NOTICE OF INVESTIGATION

Without admitting any of the specific allegations set forth in One-E-Way's Complaint as referenced in the Notice of Investigation, Creative provides the following response to the Notice of Investigation.

Creative admits that a Complaint was filed on behalf of One-E-Way with the Commission on December 8, 2014, pursuant to Section 337 of the Tariff Act of 1930, as amended. Creative admits that the Complaint alleges certain violations of Section 337 in the importation, the sale for importation, and the sale after importation of certain wireless headsets, but denies that it has violated Section 337. Creative admits that the Complaint further alleges that an industry in the United States exists as required by Section 337 but denies that an industry in the United States exists or is in the process of being created as required by Section 337. Creative admits that One-E-Way requested that the Commission instituted an investigation and, after the investigation, issue a general or limited exclusion order and cease and desist orders, but denies that the Commission should issue any such relief to One-E-Way. Creative admits that the Commission instituted an investigation as set forth in the Notice of Investigation.

Specifically, Creative denies that it has engaged in any acts of unfair competition or violated Section 337 by importing, selling for importation, or selling within the United States after importation any articles that infringe any valid and enforceable claim of the Patents-in-Suit, or otherwise. Creative denies all of One-E-Way's allegations and characterizations of infringement and domestic industry. Creative denies that any asserted claim of the Patents-in-Suit is valid and enforceable. Creative denies that One-E-Way is entitled to any relief whatsoever. Except as expressly admitted, Creative denies the allegations and characterizations in the Notice of Investigation.

STATEMENT UNDER COMMISSION RULE 210.13(b)

Pursuant to Commission Rule 210.13(b), 19 C.F.R. § 210.13(b), Creative provides the following additional information. By providing the following information, Creative intends only to supply data required by 19 C.F.R. § 210.13(b). Creative specifically denies that any of the information or data supplied below relate to or support any allegations of infringement against Creative or any violation of Section 337.

Creative understands that One-E-Way in its Complaint accuses certain Creative products of infringing certain claims of the Patents-in-Suit.

Creative provides statistical data on the quantity and value of these accused products in Confidential Exhibit 1.

The Harmonized Tariff Schedule Number for the accused Creative products is believed to include at least 8517.62.0050 or one or more sub-classifications under that number.

Creative has the capacity to produce, or to have made by others, sufficient quantities of the accused wireless headset products to satisfy the foreseeable demand.

Creative states that the significance of the United States market for its accused wireless headset products is illustrated by the information provided in Confidential Exhibit 1.

Creative provides the name and address of the suppliers of the accused Creative products in Confidential Exhibit 1.

**CREATIVE'S AFFIRMATIVE AND OTHER DEFENSES**

1. Creative asserts the following affirmative and other defenses. Creative's inclusion of these defenses is not a concession that Creative bears the burden of proof with respect to any of these defenses. Creative notes that this Investigation is in its early stages and that discovery has just recently commenced. Creative has not yet had the opportunity to identify and assert certain possible defenses, for example due to lack of discovery, and thus necessarily does not yet know the full extent of its defenses to One-E-Way's allegations. Accordingly, Creative reserves the right to supplement and amend its defenses to assert additional defenses as this Investigation proceeds.

**First Defense  
(Non-Infringement)**

2. Creative has not directly or indirectly infringed, contributed to, or induced infringement of any valid and enforceable claim of the Patents-in-Suit, either literally or under the doctrine of equivalents, and has not otherwise committed any acts in violation of 35 U.S.C. § 271 and/or 19 U.S.C. § 1337. By way of example and without limitation, and subject to further investigation, the accused Creative products lack at least the following limitations, which are present in each asserted claim of the Patents-in-Suit: "virtually free from interference" and "a digital demodulator [module] configured for independent [code division multiple access / CDMA] communication operation." Additionally, by way of example and without limitation, the accused Creative products were not especially made for use in infringement of the Patents-in-Suit, and are staple articles suitable for substantial non-infringing use, and Creative lacks any intent to cause infringement of the Patents-in-Suit by others. Furthermore, by way of example and without limitation, Complainant's theories of indirect infringement against the accused Creative products are not properly the subject of a Section 337 investigation because the alleged



acts of direct infringement which appear to be the basis for Complainant's theories of indirect infringement occur, if at all, in the United States after importation. Creative's investigation relating to Complainant's allegations of infringement are ongoing, and Creative expects to identify additional grounds demonstrating that the accused Creative products do not infringe the Patents-in-Suit as the Investigation proceeds.

**Second Defense  
(Invalidity)**

3. Each of the claims of the Patents-in-Suit alleged to be infringed by Creative is invalid for failing to comply with one or more of the conditions for patentability set forth in Part II of the Title 35 United States Code, including but not limited to 35 U.S.C. §§ 101, 102, 103, 112, and/or 256, or any judicially created doctrine of invalidity, including but not limited to obviousness-type double patenting.

4. The Complaint appears to allege that the asserted claims cover wireless headsets complying with the Bluetooth standard. As such, the asserted claims are invalid over the prior art. The use of wireless communications between a transmitter and a wireless headset for transmitting audio material from an audio source to a listener was well-known in the prior art. For example, WO 00/19632 (Dress) which was published on April 6, 2000 discloses a base unit with a wireless connection to a headphone receiver. This reference further discloses the use of digital modulation and coding over the wireless communication channel, as well as the use of spread spectrum methods such as code-division multiple access. Additionally, the Bluetooth standard itself constitutes prior art since the Bluetooth 1.0 Specification was released in July 1999, which is more than one year before the August 26, 2003 priority date of the Patents-in-Suit. On information and belief, wireless headsets using Bluetooth technology were sold in 2000 and therefore also qualify as prior art. Accordingly, the Dress reference, the Bluetooth standard,

and the prior art Bluetooth wireless headsets either anticipate or render the asserted claims obvious under the Complainant's theory of infringement.

5. The asserted claims of the Patents-in-Suit are also invalid due to indefiniteness under 35 U.S.C. § 112. By way of example, the limitations "virtually free of interference" and "reduced intersymbol interference coding" are indefinite for failure to inform those skilled in the art about the scope of the invention with reasonable certainty.

6. The asserted claims of the Patents-in-Suit are also invalid due to lack of written description and lack of enablement under 35 U.S.C. § 112. By way of example, the specification fails to describe or enable the limitations "virtually free of interference" and "reduced intersymbol interference coding."

7. Creative's investigation of the invalidity of the Patents-in-Suit is ongoing and Creative expects to locate and identify additional prior art and additional grounds demonstrating the invalidity of the asserted claims as the Investigation proceeds.

**Third Defense  
(Lack Of Domestic Industry)**

9. Complainant cannot satisfy the domestic industry requirement of either Section 337(a)(2) or Section 337(a)(3) in connection with any of the Patents-in-Suit.

10. Complainant cannot establish that any of its products practice at least one claim of each of the Patents-in-Suit. The Complainant further cannot establish that it has made a significant investment in plant and equipment, significant employment of labor and capital, or substantial investment in exploitation, including engineering, research and development, or licensing, with respect to any articles that are covered by one or more claims of the Patents-in-Suit.

11. Complainant cannot establish that it may properly rely on the activities of its licensees to satisfy the domestic industry requirements because those licenses were revenue-driven rather than production-driven licenses. Additionally, Complainant cannot establish that any of One-E-Way Licensees' products practice at least one claim of each of the Patents-in-Suit. Complainant further cannot establish that any of One-E-Way Licensees have made a significant investment in plant and equipment, significant employment of labor and capital, or substantial investment in exploitation, including engineering, research and development, or licensing, with respect to any articles that are covered by one or more claims of the Patents-in-Suit.

**Fourth Defense  
(Prosecution History Estoppel/Disclaimer)**

12. By reason of representations, omissions, and/or concession made during prosecution of the Patents-in-Suit, and/or related U.S. or foreign patents and patent applications, the Complainant is estopped from claiming that Creative infringes the Patents-in-Suit.

**Fifth Defense  
(Relief Not In Public Interest)**

13. The Complainant's demands for relief are barred under 19 U.S.C. § 1337(d)(1) and (f)(1) because of the detrimental effect such relief would have upon the public health and welfare, competitive conditions in the United States economy, the product of like or directly competitive articles in the United States, and United States consumers.

**Sixth Defense  
(No Unfair Acts)**

14. Creative has not committed any unfair acts as defined within 19 U.S.C. § 1337.

**Seventh Defense  
(Other Defenses)**

15. Creative expressly adopts any defenses raised by any other respondent to this Investigation and reserves the right to assert additional defenses based on further discovery and investigation.

**CREATIVE'S PRAYER FOR RELIEF**

WHEREFORE, by reason of the foregoing, Creative respectfully requests that the Commission issue an order:

- A. Denying all relief requested in the Complaint, including but not limited to the request for a limited exclusion order and a cease and desist order;
- B. Finding that Creative has not violated Section 337 of the Tariff Act of 1930, as amended;
- C. Finding that Creative has not imported, sold for importation, or sold within the United States after importation any product covered by a valid and enforceable claim of the Patents-in-Suit;
- D. Finding that Creative has not infringed, whether directly and/or indirectly, any asserted claim of the Patents-in-Suit;
- E. Finding that the Patents-in-Suit are invalid and unenforceable;
- F. Finding that no domestic industry exists in connection with any of the Patents-in-Suit;
- G. Awarding Creative its attorneys' fees and costs incurred in responding to One-E-Way's Complaint and defending this Investigation;
- H. Dismissing the Complaint and terminating the present Investigation; and
- I. Granting such other relief as the Commission deems just and proper.

Dated: February 2, 2015

Respectfully submitted,

By: /s/ Jonathan D. Baker

Jonathan D. Baker  
FARNEY DANIELS PC  
411 Borel Avenue, Suite 350  
San Mateo, California 94402  
Telephone: (424) 268-5210  
Facsimile: (424) 268-5219

*Counsel for Respondents  
Creative Labs, Inc. and Creative  
Technology Ltd.*

**VERIFICATION OF RESPONSE TO THE COMPLAINT  
AND NOTICE OF INVESTIGATION**

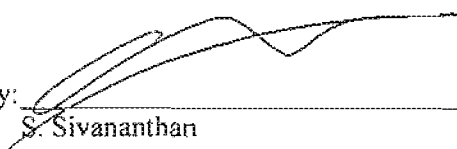
I, S. Sivananthan, am Vice President of Legal Services of Creative Technology, Ltd.

I submit this verification on behalf of Creative Technology, Ltd. in accordance with 19 C.F.R. §§ 210.4(c) and 210.13(b), and declare as follows:

1. I am duly authorized to execute this verification.
2. I have read the Response to the Complaint and Notice of Investigation and am familiar with its contents.
3. To the best of my knowledge, information, and belief formed after reasonable inquiry, the foregoing Response and statements made therein:
  - a. are not made for any improper purposes;
  - b. are well grounded in fact and are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;
  - c. have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
  - d. to the extent they deny factual contentions, are warranted on the evidence or are reasonably based on a lack of information or belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: February 2<sup>nd</sup>, 2015

By:   
S. Sivananthan  
Vice President of Legal Services  
Creative Technology, Ltd.

**VERIFICATION OF RESPONSE TO THE COMPLAINT  
AND NOTICE OF INVESTIGATION**

I, Russell N. Swerdon, am Director of Intellectual Property of Creative Labs, Inc.

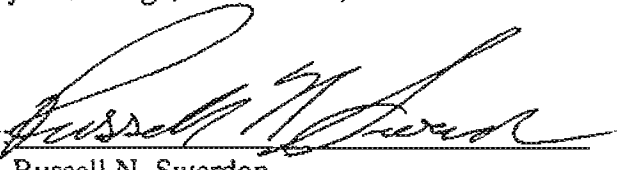
I submit this verification on behalf of Creative Labs, Inc. in accordance with 19 C.F.R.

§§ 210.4(c) and 210.13(b), and declare as follows:

1. I am duly authorized to execute this verification.
2. I have read the Response to the Complaint and Notice of Investigation and am familiar with its contents.
3. To the best of my knowledge, information, and belief formed after reasonable inquiry, the foregoing Response and statements made therein:
  - a. are not made for any improper purposes;
  - b. are well grounded in fact and are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;
  - c. have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
  - d. to the extent they deny factual contentions, are warranted on the evidence or are reasonably based on a lack of information or belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: February 2, 2015

By:   
Russell N. Swerdon  
Director of Intellectual Property  
Creative Labs, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing document have been served on February 2, 2015 on the following:

<p>Lisa R. Barton, Secretary  <b>U.S. International Trade Commission</b>                  500 E. Street, S.W.                  Washington, D.C. 20436</p>	<p>Via Electronic Filing (EDIS)</p>
<p>Honorable Thomas B. Pender  <b>U.S. International Trade Commission</b>                  500 E. Street, S.W., Room 317                  Washington, D.C. 20436                  Gregory.Moldafsky@usitc.gov</p>	<p>Via Hand Delivery (2 copies); and                  Via Electronic Mail (word format)</p>
<p>Vu Bui, Esq.  <b>Office of Unfair Import Investigations</b>  <b>U.S. International Trade Commission</b>                  500 E. Street, S.W., Room 317                  Washington, D.C. 20436                  Vu.Bui@usitc.gov</p>	<p>Via Electronic Mail</p>
<p><b>COUNSEL FOR COMPLAINANT</b>  <b>ONE-E-WAY, INC.</b></p> <p>Douglas G. Muehlhauser                  Paul A. Stewart                  Payson LeMeilleur                  Alan G. Laquer                  Yimeng Dou  <b>KNOBBE, MARTENS, OLSON &amp; BEAR LLP</b>                  2040 Main Street, 14<sup>th</sup> Floor                  Irvine, CA 92614                  1EWayITC@knobbe.com</p>	<p>Via Electronic Mail</p>
<p><b>RESPONDENTS:</b></p>	
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/s/ Peter R. Eichman  
Peter R. Eichman, Paralegal

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C. 20436**

**Before The Honorable Thomas B. Pender  
Administrative Law Judge**

**In the Matter of**

**CERTAIN WIRELESS HEADSETS**

**Investigation No. 337-TA-943**

**RESPONSE OF SENNHEISER ELECTRONIC CORPORATION AND SENNHEISER  
ELECTRONIC GmbH & CO. KG TO THE COMPLAINT OF ONE-E-WAY, INC.  
UNDER SECTION 337 OF THE TARIFF ACTION OF 1930, AS AMENDED AND  
NOTICE OF INVESTIGATION**

Pursuant to 19 C.F.R. § 210.13, Sennheiser Electronic Corporation and Sennheiser electronic GmbH & Co. KG (collectively, “Sennheiser”) hereby respond to the Complaint filed pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”) by One-E-Way, Inc. (“Complainant”) on December 8, 2014, and to the Notice of Investigation issued by the United States International Trade Commission (“the Commission”) on January 8, 2015, (80 Fed Reg. 1663).

As an initial matter, Sennheiser denies that it has engaged in unfair competition or violated Section 337 by importing, selling for importation, or selling within the United States after importation any devices, products, or articles that infringe any valid and enforceable intellectual property rights as alleged in this Investigation.

Because discovery and Sennheiser’s investigation have just begun, Sennheiser has not had sufficient time and opportunity to collect and review all of the information that may be relevant to the issues raised in this Response. Accordingly, Sennheiser reserves the right to

amend or supplement this Response, including raising additional defenses, based on any additional facts, analysis or developments that become available or that arise after the filing of this Response. Sennheiser also incorporates herein by this reference the Responses to the Complaint filed by the other Respondents in this Investigation.

Further, Sennheiser denies each and every allegation averred in the Complaint that is not expressly admitted below. Any factual allegation admitted below is admitted only as to the specific admitted facts, and not as to any purported conclusions, characterizations, implications or speculations that might follow from the admitted facts.

Although Sennheiser includes the headings from the Complaint in this Response for clarity, to the extent such headings themselves contain factual and legal characterizations, Sennheiser denies such characterizations.

## **RESPONSE TO THE COMPLAINT**

### **I. INTRODUCTION**

1. Sennheiser admits that Complainant requested that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, to remedy the purportedly unlawful importation into the United States, sale for importation into the United States, and sale within the United States after importation of articles purportedly covered by U.S. Patents No. 7,865,258 (“the ’258 patent”) and No. 8,131,391 (“the ’391 patent”) (collectively, the “Patents-in-Suit” or “Asserted Patents”), but Sennheiser denies that it has engaged in any such unlawful activities as alleged, and on information and belief denies that Complainant is the owner of the Patents-in-Suit, and denies that the Patents-in-Suit are valid or enforceable.

2. Sennheiser admits that Exhibits 1 and 2 are attached to the Complaint and contain what Complainant purports to be a certified copies of the ’258 and ’391 patents. Sennheiser

admits that Exhibit 3 and 4 are attached to the Complaint and contain what purport to be copies of the assignments of the '258 and '391 patents respectively, but on information and belief, denies that Complainant is the owner of the entire right, title, or interest of the '258 and '391 patents. Sennheiser admits that Complainant asserts the following claims (the "Asserted Claims") of the '258 and '391 patents against certain named Respondents, including Sennheiser: claims 3, 4, 8, 10, and 11 of the '258 patent; and claims 1, 2, 3, 4, 5, 6, and 10 of the '391 patent. Sennheiser specifically denies that any Sennheiser product infringes, directly or indirectly, any Asserted Claim of any Patent-in-Suit, and Sennheiser denies any and all remaining allegations contained in paragraph 2 of the Complaint. Moreover, the allegations of indirect infringement in paragraph 2 are irrelevant and should be stricken, as indirect infringement as alleged does not constitute a violation of § 337.

3. Sennheiser admits that it is identified as a respondent in paragraph 3 of the Complaint, but denies that it has engaged in any unlawful activity alleged in paragraph 3. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 3, and therefore denies the same.

4. Sennheiser denies that an industry as defined by Section 337(a)(3) exists in the United States, or is in the process of being created in the United States, relating to certain wireless audio devices protected by the '258 and '391 patents.

5. Sennheiser admits that Complainant seeks relief in this action, including a limited exclusion order, and cease and desist orders, but Sennheiser denies that any such relief is proper. Sennheiser denies any and all remaining allegations contained in paragraph 5 of the Complaint.

## **II. COMPLAINANT**

6. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6, and therefore denies the same.

### III. RESPONDENTS

#### Sony, Sony America and Sony Electronics

7. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7, and therefore denies the same.

8. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8, and therefore denies the same.

9. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9, and therefore denies the same.

10. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10, and therefore denies the same.

#### Sennheiser and Sennheiser America

11. Sennheiser electronic GmbH & Co. KG admits that it is organized under the laws of the Federal Republic of Germany and has its principal place of business at Am Labor 1, 30900 Wedemark, Germany. Sennheiser electronic GmbH & Co. KG denies the remaining allegations in paragraph 11.

12. Sennheiser Electronic Corporation (“Sennheiser America”) admits that it is a corporation organized under the laws of Delaware with its principal place of business at 1 Enterprise Drive, Old Lyme CT 06371. Sennheiser Electronic Corporation denies the remaining allegations of paragraph 12.

13. Sennheiser is without information as to the meaning of “parent entity” in paragraph 13 and on that basis denies the allegations in the first sentence of that paragraph. Sennheiser admit that Sennheiser America is engaged in the marketing and sales of the accused Sennheiser headsets in the United States. Sennheiser denies the remaining allegations of paragraph 13.

**BlueAnt and BlueAnt-US**

14. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14, and therefore denies the same.

15. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15, and therefore denies the same.

**Creative and Creative Labs**

16. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16, and therefore denies the same.

17. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17, and therefore denies the same.

18. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18, and therefore denies the same.

**Beats and Beats Ireland**

19. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19, and therefore denies the same.

20. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20, and therefore denies the same.

21. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21, and therefore denies the same.

**Jawbone**

22. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22, and therefore denies the same.

**Jabra**

23. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23, and therefore denies the same.

#### **IV. THE TECHNOLOGIES AND PRODUCTS AT ISSUE**

24. On information and belief Sennheiser denies that any products practice any valid claim of the Asserted Patents. Sennheiser understands that the remaining general allegations in this paragraph do not require a response, and therefore denies the same.

#### **V. THE PATENTS-IN-SUIT**

25. Sennheiser admits that the '391 patent purports to have issued from U.S. Patent Application No. 12/940,747, which purports to be a continuation application of U.S. Patent Application No. 12/570,343. Sennheiser also admits that the '258 patent purports to have issued from U.S. Patent Application No. 12/570,343. Sennheiser admits that the '391 patent purports to claim priority to U.S. Patent Application No. 10/027,391 ("the '391 application"), and that the '391 patent states that this application was filed on December 21, 2001. On information and belief, Sennheiser denies that the '391 patent has priority to December 21, 2001. Sennheiser admits that a certificate of correction appended to the '258 patent purports to claim priority to the '391 application, and that the certificate of correction states that the '391 application was filed on December 21, 2001. On information and belief, Sennheiser denies that the '258 patent has priority to December 21, 2001. Sennheiser is without knowledge as to the status of any corresponding foreign patents or applications, and on that basis denies those allegations.

##### **B. The '258 Patent**

##### **Identification of the Patent and Ownership by One-E-Way**

26. Sennheiser admits that that Exhibit 1 to the Complaint appears to be a copy of the asserted '258 patent and that Earl C. Woolfork is the only inventor named on that patent. On information and belief Sennheiser denies that One-E-Way is the assignee of the '258 patent.



Sennheiser is without knowledge as to the status of any corresponding foreign patents or applications, and on that basis denies those allegations.

27. Sennheiser admits that Appendices A and B of the Complaint appear to include the file history and cited references for the '258 patent. Except as expressly admitted, Sennheiser denies the allegations of paragraph 27.

**Non-Technical Description of the Patented Invention**

28. Sennheiser denies the allegations of paragraph 28.

29. To the extent that paragraph 29 is directed to Sennheiser, Sennheiser denies the allegations in paragraph 29. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 29, and therefore denies the same.

**C. The '391 Patent**

**Identification of the Patent and Ownership by One-E-Way**

30. Sennheiser admits that Exhibit 2 to the Complaint appears to be a copy of the asserted '391 patent and that Earl C. Woolfork is the only inventor named on that patent. On information and belief, Sennheiser denies that One-E-Way is the assignee of the '391 patent. Sennheiser is without knowledge as to the status of any corresponding foreign patents or applications, and on that basis deny those allegations.

31. Sennheiser admits that Appendices C and D of the Complaint appear to include the file history and cited references for the '391 patent. Except as expressly admitted, Sennheiser denies the allegations of paragraph 31.

**Non-Technical Description of the Patented Invention**

32. Sennheiser denies the allegations of paragraph 32.

33. To the extent that paragraph 33 is directed to Sennheiser, Sennheiser denies the allegations in paragraph 33. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 33, and therefore denies the same.

## **VI. UNFAIR ACTS OF THE RESPONDENTS**

### **Sony, Sony America and Sony Electronics**

34. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34, and therefore denies the same.

35. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 35, and therefore denies the same.

36. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 36, and therefore denies the same.

37. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37, and therefore denies the same.

38. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38, and therefore denies the same.

39. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39, and therefore denies the same.

40. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40, and therefore denies the same.

### **Sennheiser and Sennheiser America**

41. Sennheiser denies the allegations of paragraph 41.

42. Sennheiser admits that Complaint has alleged that the headsets with the following names and/or model numbers infringe the Asserted Claims: MM 550-X (XPLT22), MM 550-X (XZUC6806), MM 450-X (XZIC6902), MM 400-X (XZUC6802), Presence Basic (XLC2104),

VMX 200-II (XMDSC2004), and EZX 80 (XM2D2305). Sennheiser denies that the model numbers listed in parentheses in the Complaint (XPLT22, XZUC6806, XZ1C6902, XZUC6802, XLC2104, XMDSC2004, XM2D2305) are Sennheiser model numbers. Sennheiser admits that Exhibit 8 includes photographs of certain of these products. Except as expressly admitted, Sennheiser denies the allegations of paragraph 42.

43. Admitted.

44. Sennheiser admits that exhibit 9 purports to be a claim chart comparing the accused products to claims of the '391 patent. Except as expressly admitted, Sennheiser denies the allegations of paragraph 44.

45. Sennheiser admits that exhibit 10 purports to be a claim chart comparing the accused products to claims of the '258 and '391 patents. Except as expressly admitted, Sennheiser denies the allegations of paragraph 45. Moreover, the allegations of indirect infringement in exhibit 10 are irrelevant, as indirect infringement as alleged does not constitute a violation of § 337.

46. Sennheiser denies the allegations of paragraph 46. Moreover, the allegations of paragraph 46 are irrelevant, as indirect infringement as alleged does not constitute a violation of § 337.

47. Sennheiser denies the allegations of paragraph 47. Moreover, the allegations of paragraph 46 are irrelevant, as indirect infringement as alleged does not constitute a violation of § 337.

**BlueAnt and BlueAnt-US**

48. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48, and therefore denies the same.

49. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49, and therefore denies the same.

50. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50, and therefore denies the same.

51. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 51, and therefore denies the same.

52. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52, and therefore denies the same.

53. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53, and therefore denies the same.

54. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54, and therefore denies the same.

**Creative and Creative Labs**

55. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55, and therefore denies the same.

56. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56, and therefore denies the same.

57. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 57, and therefore denies the same.

58. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 58, and therefore denies the same.

59. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59, and therefore denies the same.

**Beats and Beats Ireland**

60. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60, and therefore denies the same.

61. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 61, and therefore denies the same.

62. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 62, and therefore denies the same.

63. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 63, and therefore denies the same.

64. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 64, and therefore denies the same.

65. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 65, and therefore denies the same.

66. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 66, and therefore denies the same.

67. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67, and therefore denies the same.

68. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 68, and therefore denies the same.

**Jawbone**

69. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 69, and therefore denies the same.

70. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 70, and therefore denies the same.

71. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 71, and therefore denies the same.

72. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 72, and therefore denies the same.

73. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 73, and therefore denies the same.

74. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 74, and therefore denies the same.

75. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 75, and therefore denies the same.

**Jabra**

76. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 76, and therefore denies the same.

77. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 77, and therefore denies the same.

78. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 78, and therefore denies the same.

79. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 79, and therefore denies the same.

80. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 80, and therefore denies the same.

81. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 81, and therefore denies the same.

82. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 82, and therefore denies the same.

**VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

83. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 83, and therefore denies the same.

84. Sennheiser admits that Exhibit 27 appears to be a receipt for the purchase of one MM 400-X headset. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 84, and therefore denies the same.

85. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 85, and therefore denies the same.

86. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 86, and therefore denies the same.

87. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 87, and therefore denies the same.

88. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 88, and therefore denies the same.

89. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 89, and therefore denies the same.

**VIII. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE OF THE**

90. To the extent this paragraph is directed toward Sennheiser Accused Products, Sennheiser admits that the Sennheiser Accused Products are classifiable under Harmonized

Tariff Schedule No. 8518.30.95 or 8517.62.00. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 90, and therefore denies the same.

#### **IX. RELATED LITIGATION**

91. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 91, and therefore denies the same.

#### **X. DOMESTIC INDUSTRY**

92. On information and belief, Sennheiser denies that a domestic industry exists or is the process of being established in the United States in products covered by the Asserted Patents, as required under 19 U.S.C. § 1337.

##### **B. One-E-Way's Development of the Domestic Industry**

93. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 93, and therefore denies the same. Further, even if taken as true, the facts alleged in paragraph 93 are not sufficient to carry Complainant's burden of proof to establish the existence of the required domestic industry as a matter of law.

##### **C. One-E-Way's Licensees' Development of the Domestic Industry**

94. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 94, and therefore denies the same.

95. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 95, and therefore denies the same.

96. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 96, and therefore denies the same.

97. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 97, and therefore denies the same.



98. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 98, and therefore denies the same.

99. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 99, and therefore denies the same.

100. Sennheiser is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 100, and therefore denies the same.

#### **XI. RELIEF REQUESTED**

101. Sennheiser denies that any relief is appropriate as to Sennheiser, including as set forth in subparagraphs (a) through (e). In particular, on information and belief Sennheiser contends that Complainant does not have standing to pursue this investigation, that Sennheiser has not undertaken any unfair acts and that the asserted patent claims are invalid and unenforceable, and thus the requirements for any relief under 19 U.S.C. § 1337 are not met.

#### **RESPONSE TO THE NOTICE OF INVESTIGATION**

Pursuant to Commission Rule 210.13, Sennheiser responds to the Notice of Investigation issued by the United States International Trade Commission (“the Commission”) on January 8, 2015, and published in the Federal Register on January 13, 2015 (80 Fed Reg. 1663) as follows:

Sennheiser admits that the Commission issued an original Notice of Investigation, based on the Complaint filed by Complainant on December 8, 2014, which published in the Federal Register on January 13, 2015 (80 Fed. Reg. 1663). Sennheiser admits that the Complaint generally sets forth the allegations summarized in the Notice of Investigation, but denies those allegations with respect to Sennheiser. Sennheiser admits that, as set forth in the Notice of Investigation, Complainant requested that an investigation be instituted and that, after the investigation, a limited exclusion order, or cease and desist orders be issued, but denies that Complainant is entitled to any such relief.

Sennheiser denies that there has been any violation of Section 337 by Sennheiser. In addition, Sennheiser contends that one or more of the Asserted Claims of the Asserted Patents are invalid and cannot support any remedy for alleged infringement. Sennheiser further contends that it has performed no unfair act, that Complainant has no domestic industry, the requested relief is not in the public interest, and that Complainant has waived its right to enforce, and is equitably estopped from enforcing, one or more of the Asserted Patents.

#### **STATEMENT UNDER COMMISSION RULE 210.13(b)**

By providing the following information, Sennheiser intends only to supply data required by 19 C.F.R. § 210.13(b). Sennheiser denies that any of the information or data supplied relates to or supports any violation of Section 337 or any allegation of infringement against Sennheiser.

Sennheiser imports the Sennheiser Accused Products into the United States under Harmonized Tariff Schedule No. 8518.30.20. Confidential Exhibit A to this Response provides statistical data on the quantity and value of imports of the Sennheiser Accused Products, a statement concerning Sennheiser's capacity to produce the Sennheiser Accused Products, and the relative significance of the United States market to Sennheiser's operations.

Sennheiser has relied on and currently relies on third parties to produce the Sennheiser Products. The names and addresses of Sennheiser's suppliers of the Sennheiser Products are also set forth in Confidential Exhibit A.

#### **DEFENSES**

Sennheiser alleges and asserts the following defenses in response to the allegations in the Complaint, and undertakes the burden of proof only as to those defenses that are deemed by law to be affirmative defenses. Sennheiser has not had sufficient opportunity to collect and review information in connection with this Investigation that is relevant to potentially available defenses

against the allegations in the Complaint. Sennheiser reserves the right to supplement and/or amend its defenses as the Investigation progresses. Sennheiser also reserves the right to rely upon any defense(s) raised by any other party to this Investigation.

**First Defense: Non-Infringement**

1. Sennheiser has not directly infringed nor contributed to or induced infringement of any valid and enforceable claim of the '258 and '391 patents, including asserted claims 3, 4, 8, 10, and 11 of the '258 Patent; and asserted claims 1, 2, 3, 4, 5, 6, and 10 of the '391 Patent. Moreover, indirect infringement as alleged, the only grounds asserted in the Complaint as to all claims of the '258 patent and claims 3 and 4 of the '391 patent, does not constitute an unfair act in violation of §337.

**Second Defense: Prosecution History Estoppel**

2. Upon information and belief, Complainant is precluded by the doctrine of prosecution history estoppel and/or by prior art from asserting any construction of some or all of the claims of the Asserted Patents, or from asserting infringement under the doctrine of equivalents, that could cover any products used, imported, sold, or offered for sale by Sennheiser due to certain arguments, cancellations, representations, admissions and statements made to the USPTO during the prosecution of the applications that resulted in the asserted patents and applications related thereto.

**Third Defense: Invalidity**

3. Upon information and belief, one or more of the Asserted Patents are invalid for failure to comply with one or more of the requirements of patentability set forth in the Patent Act, including, but not limited to 35 U.S.C. §§ 102, 103, 112, 115 and/or 116.

4. Upon information and belief, one or more of the Asserted Claims are invalid under 35 U.S.C. § 112 for failure to satisfy the written description and/or enablement requirements, and for failing to particularly point out and distinctly claim the alleged invention.

5. Upon information and belief, one or more of the Asserted Claims of the Asserted Patents are invalid under 35 U.S.C. §§ 102 and/or 103 as anticipated by, or obvious in light of, the prior art, including but not limited to the prior art references cited by the examiner during prosecution of asserted patents and related applications; prior art references disclosed during prosecution of those applications and other prior art references not disclosed to the patent office. By way of example and without limitation, on information and belief Sennheiser states that respondent GN Netcom began commercial sales of a wireless digital audio transmitter and headphone system in or around September 2000. That system operated on the Bluetooth standard, and included all of the elements of the Asserted Claims, or would render those claims obvious in light of well-known prior art wireless networking concepts. *See, e.g.* Haartsen, *The Bluetooth Radio System*, IEEE Personal Communications, Feb. 2000, pgs. 28 *et seq.*, Bluetooth Specifications v. 1.0b *et seq.*, Rappaport, *Wireless Communications: Principles and Practice*, 1996. Sennheiser incorporates by reference all prior art references identified by all the other Respondents in this Investigation in each of their respective Responses to the Complaint. Sennheiser is in the process of identifying further relevant prior art, including through discovery, which is in its early stages at the time of this Response. Sennheiser will set forth further invalidity allegations upon obtaining relevant prior art and consistent with the forthcoming procedural schedule in this Investigation. Sennheiser reserves the right to amend its response after further discovery in this investigation, including offering invalidity charts under Rule 210.13(b)(3), after further discovery in this investigation.

**Fourth Defense: Lack of Domestic Industry**

6. Upon information and belief, Complainant has not and cannot adequately established the existence of a domestic industry for the Asserted Patents as required by Section 337(a)(2) and defined by Section 337(a)(3). Specifically, Complainant has not established that it (and/or a licensee) has made a “significant investment” in plant, equipment, labor, or capital relating to articles protected by at least one claim of each of the asserted patents, sufficient to satisfy the economic prong of the domestic industry requirement. Further, Complainant has not established that it (and/or a licensee) has made a “substantial investment” in licensing, research and development, or other qualifying activities relating to each of the asserted patents and/or to articles protected by at least once claim of each of the asserted patents, sufficient to satisfy the economic prong of the domestic industry requirement. Upon information and belief, Complainant has not, and cannot, adequately establish under section 337 (a)(2), that there is a domestic industry which is in the process of being established, or that they have taken, and are presently taking, the necessary tangible steps to establish such an industry in the United States, or that there is a significant likelihood that the domestic industry requirement will be satisfied in the future. Finally, Complainant has not established that it (and/or a licensee) has satisfied the technical prong of the domestic industry requirement.

**Fifth Defense: No Unfair Act**

7. Sennheiser has not committed an unfair act in violation of Section 337.

**Sixth Defense: Equitable Defenses**

8. Upon information and belief, Complainant’s claims for relief are barred, in whole or in part, by defenses of license (either express or implied), waiver, estoppel, patent exhaustion, and/or laches.

**Seventh Defense: Lack of Ownership and Standing**

9. To the extent that Complainant does not have substantially all rights to the asserted '258 or '391 Patents or the purported assignments are defective for any reason, Complainant lacks standing to bring this action.

**Eighth Defense: Unenforceability of All Asserted Patents Based on Patent Misuse**

10. Complainant knows and has known that the asserted patents are invalid and/or unenforceable based on the prior art disclosed by the patent office and defendants in the prior litigation.

11. By knowingly raising claims of infringement of invalid and/or unenforceable patents, Complainant has attempted to impermissibly broaden the temporal and physical scope of their patents with an anticompetitive effect.

12. Complainant's asserted patents are unenforceable based on patent misuse.

**Ninth Defense: Other Defenses**

13. Sennheiser further reserves the right to amend its Response to include other affirmative defenses that it may learn of during the course of this Investigation.

**CONCLUSION**

WHEREFORE, by reason of the foregoing, Sennheiser respectfully requests that the Commission:

A. find that no violation of Section 337 of the Tariff Act of 1930, as amended, exists by reason of any manufacture, importation, offer for sale, or sale by Sennheiser of any Certain Wireless Headsets as described in the Complaint and Notice of Investigation, and terminate the Investigation;

B. find that Sennheiser has not imported, sold for importation, or sold within the United States after importation any Certain Wireless Headsets covered by a valid and enforceable asserted claim of the '258 or '391 patents;

C. find that Complainant's demands for relief are barred under 19 U.S.C. § 1337(d)(1), (f)(1), and (g)(1) because of the relief's effect upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers;

D. deny Complainant's request for a limited exclusion order, cease and desist order, and all other relief requested as to Sennheiser and/or its respective accused products;

E. impose sanctions upon Complainant as deemed appropriate and just, including attorneys' fees; and

F. award Sennheiser such other and further relief as the Commission deems appropriate based on the facts determined by the authority of the Commission.

DATED: February 2, 2015

Respectfully submitted,

/s/ Sean DeBruine  
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*Counsel for Respondents Sennheiser Electronic Corporation and Sennheiser electronic GmbH & Co. KG*

**CERTIFICATE OF SERVICE**

I, Sharon D. Eurich, certify that on February 2, 2015, I caused the foregoing **RESPONSE OF RESPONDENTS SENNHEISER ELECTRONIC CORPORATION and SENNHEISER eLECTRONIC GmbH & CO. KG TO THE COMPLAINT OF ONE-E-WAY, INC. UNDER SECTION 337 OF THE TARRIF ACTION OF 1930, AS AMENDED AND NOTICE OF INVESTIGATION** to be served upon the following parties in the manner indicated below:

<p>The Honorable Lisa R. Barton Secretary to the Commission <b>U.S. International Trade Commission</b> 500 E Street SW, Room 112 Washington, D.C. 20436</p>	<p>Via Electronic Filing (EDIS)</p>
<p>The Honorable Thomas B. Pender Administrative Law Judge <b>U.S. International Trade Commission</b> 500 E Street SW, Room 317 Washington, D.C. 20436 Gregory.Moldafsky@usitc.gov Rebecca.Barbisch@usitc.gov</p>	<p>Via Electronic Filing (EDIS); Hand Delivery (2 copies); and Electronic Mail (Word format)</p>
<p>Vu Bui, Esq. <b>Office Of Unfair Import Investigations (OUII)</b> <b>U.S. International Trade Commission</b> 500 E Street SW, Room 401 Washington, D.C. 20436 Vu.Bui@usitc.gov</p>	<p>Via Electronic Mail</p>
<p>COUNSEL FOR COMPLAINANT ONE-E-WAY, INC.</p> <p>Douglas G. Muehlhauser Paul A. Stewart Payson LeMeilleur Alan G. Laquer Yimeng Dou KNOBBE, MARTENS, OLSON &amp; BEAR LLP 2040 Main Street, 14<sup>th</sup> Floor Irvine, CA 92614 1EWayITC@knobbe.com</p>	<p>Via Electronic Mail</p>



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/s/ Sharon D. Eurich  
Sharon D. Eurich