

**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

**COMPLAINANT’S MOTION FOR TERMINATION AS TO
RESPONDENTS BEATS ELECTRONICS, LLC AND
BEATS ELECTRONICS INTERNATIONAL**

Complainant One-E-Way, Inc. (“One-E-Way”), by and through its undersigned counsel, pursuant to 19 C.F.R. § 210.21(a), moves for the withdrawal of the allegations of the Complaint against Respondents Beats Electronics, LLC and Beats Electronics International (collectively “Beats”), and the termination of this Investigation with respect to Beats. In addition, so as to conserve the parties’ and judicial resources, One-E-Way requests that the procedural schedule be suspended with respect to Beats pending a ruling on the motion to terminate. This motion is based upon Beats’ statements in discovery responses that Beats does not presently, and did not at the time of the filing of the Complaint in this Investigation, import or sell any of the products accused of infringement in this Investigation, and that such activities have been carried out entirely by other entities during the relevant time period. With the exception of a Non-Disclosure Agreement put in place to facilitate possible settlement discussions, there are no agreements, written or oral, express or implied, between One-E-Way and Beats concerning the subject matter of this Investigation.

GROUND RULE 5.1.2 CERTIFICATION

Pursuant to Ground Rule 5.1.2, One-E-Way certifies that it has made good-faith efforts to resolve the matter with all parties since March 23, 2015. Respondents Beats, BlueAnt, Creative, Jawbone, Sennheiser and Sony have no objections to the filing of this motion. Respondent GN Netcom has not taken a position. The Staff is not taking a position on the motion until its filing.

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Ground Rule 5.1.1, this Memorandum of Points and Authorities is included within the four corners of this Joint Motion because it is less than five pages in length.

Commission Rule 210.21(a), 19 C.F.R. § 210.21(a), authorizes the termination of an Investigation against any respondent or respondents for good cause. “[I]n the absence of extraordinary circumstances, termination of the investigation will be granted to a complainant during the prehearing stage of an investigation.” *Certain Digital Televisions and Components Thereof*, Inv. No. 337-TA-789, Order No. 17 (Oct. 17, 2011) (quoting *Certain Ultrafiltration Systems and Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm’n Action and Order at 2 (Mar. 11, 1982)). “Public policy supports termination in order to conserve public and private resources.” *Certain Integrated Circuits, Chipsets, and Products Containing Same Including Televisions, Media Players, and Cameras*, Inv. No. 337-TA-709, Order No. 48 (Feb. 7, 2011). In particular, an Investigation may be terminated as to a respondent who “does not sell for importation, import, or sell after importation any accused products.” *Certain Integrated Circuits, Chipsets, and Products Containing Same Including Televisions, Media Players, and Cameras*, Inv. No. 337-TA-709, Order No. 20 (Sept. 30, 2010).

Here, according to Beats’ discovery responses, Beats does not presently, and did not at the time of the filing of the Complaint in this Investigation, import or sell any of the products

accused of infringement in this Investigation, and such activities have been carried out entirely by other entities. Beats' counsel confirmed, in conferring with One-E-Way's counsel, that Beats' discovery responses were based on a good faith effort to collect and present accurate information. Accordingly, One-E-Way submits that good cause exists for the termination of the Investigation with respect to Beats only. In addition, in order to avoid unnecessary work on the part of the private parties and the Administrative Law Judge, One-E-Way proposes that the procedural schedule be suspended with respect to Beats pending a ruling on this motion to terminate. One-E-Way and Beats are in agreement that suspension is appropriate in light of the motion to terminate.

One-E-Way therefore respectfully requests that the Administrative Law Judge (1) stay the procedural schedule with respect to Beats pending a ruling on One-E-Way's motion to terminate Beats, (2) issue an Initial Determination granting this motion by terminating this Investigation with respect to Respondents Beats Electronics, LLC and Beats Electronics International in accordance with 19 C.F.R. § 210.21(a), and (3) certify the Initial Determination to the Commission.

Respectfully submitted,

Dated: March 31, 2015

By: /s/ Douglas G. Muehlhauser
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Paul A. Stewart
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CERTIFICATE OF SERVICE

The undersigned certifies that on March 31, 2015, I caused copies of **COMPLAINANT'S MOTION FOR TERMINATION AS TO RESPONDENTS BEATS ELECTRONICS, LLC AND BEATS ELECTRONICS INTERNATIONAL** to be filed and served as indicated below:

U.S. International Trade Commission	
The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E Street, S.W., Room 112 Washington, DC 20436	Via Electronic Filing (EDIS)
Administrative Law Judge – U.S. International Trade Commission	
The Honorable Thomas B. Pender U.S. International Trade Commission 500 E Street, S.W., Room 317 Washington, DC 20436	Via overnight delivery (2 copies) and Via E-mail - Gregory.Moldafsky@usitc.gov
Staff Investigative Attorney – U.S. International Trade Commission	
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Respondents	
<i>For Respondents Sony Corporation / Sony Corporation of America / Sony Electronics Inc.</i> Paul T. Qualey KENYON & KENYON LLP 1500 K Street, N.W. Washington, D.C. 20005 Telephone: (202) 220-4200 Facsimile: (202) 220-4201	Via E-mail – Sony-ITC-943@kenyon.com

<p><i>For Respondent</i> <i>Sennheiser Electronic Corporation and</i> <i>Sennheiser Electronic GmbH & Co. KG</i></p> <p>Sean DeBruine KILPATRICK, TOWNSEND & STOCKTON LLP 1080 Marsh Road Menlo Park, CA 94025</p>	<p>Via E-mail – SennheiserITC@kilpatricktownsend.com</p>
<p><i>For Respondents</i> <i>BlueAnt Wireless, Inc. and BlueAnt</i> <i>Wireless Pty, Ltd.</i></p> <p>Duane H. Mathiowetz NOVAK DRUCE CONNOLLY BOVE + QUIGG LLP 555 Mission Street, 34th Floor San Francisco, CA 94105</p>	<p>Via Email – BlueAntITC@novakdruce.com</p>
<p><i>For Respondents</i> <i>Creative Technology Ltd. and Creative Labs, Inc.</i></p> <p>Jonathan Baker FARNEY DANIELS PC 411 Borel Avenue, Suite 350 San Mateo, CA 94402</p>	<p>Via E-mail – Creative-ITC-943@farneydaniels.com</p>
<p><i>For Respondents</i> <i>Beats Electronics, LLC and</i> <i>Beats Electronics International</i></p> <p>Celine J. Crowson HOGAN LOVELLS U.S. LLP 555 Thirteenth Street, N.W. Washington, D.C. 20004 Telephone: 202-637-5600</p>	<p>Via E-mail – Beats-OEWCase@hoganlovells.com</p>
<p><i>For Respondent</i> <i>AliphCom d/b/a Jawbone</i></p> <p>Stephen R. Smith COOLEY LLP 1299 Pennsylvania Avenue, NW Suite 700 Washington, DC 20004 Tel: (202) 842-7800 Fax: (202) 842-7899</p>	<p>Via E-mail - stephen.smith@cooley.com Jawbone-ITC@cooley.com</p>

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