

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN WIRELESS COMMUNICATIONS
BASE STATIONS AND COMPONENTS
THEREOF

Inv. No. 337-TA-871

**ORDER NO. 35: INITIAL DETERMINATION GRANTING MOTION TO
TERMINATE THE INVESTIGATION IN ITS ENTIRETY**

(December 12, 2013)

On December 3, 2013, Complainant filed a motion to terminate the Investigation in its entirety based on a withdrawal of the Complaint. (Motion Docket No. 871-045.) Complainant cites to Commission precedent to say that such motions are to be readily granted prior to the evidentiary hearing in an investigation. (Mot. Mem. at 2.) According to Complainant, termination will conserve public and private resources and there are no extraordinary circumstances to prevent termination. (*Id.* at 3.) Complainant certifies that “there are no agreements, written or oral, express or implied, between the parties concerning the subject matter of the Investigation.” (*Id.*)

On December 11, 2013, Respondents responded that they do not oppose the motion to terminate. (Resp. at 1.) Respondents allege that Complainant engaged in sanctionable conduct and that their service of a proposed sanctions motion on Complainant caused Complainant to reconsider pursuing its Complaint. (*Id.* at 2.) They emphasize that they have not paid any consideration for Complainant’s withdrawal. (*Id.*)

On December 11, 2013, the Commission Investigative Staff (“Staff”) also responded in support of the motion. (Staff Resp. at 1, 4.)

The Commission's Rules permit a motion to terminate an investigation as to any or all respondents based upon withdrawal of the complaint before issuance of the initial determination on violation of section 337. 19 C.F.R. § 210.21(a)(1). Such a motion must identify any agreements between the parties concerning the subject matter of the investigation, or contain a statement that there are no such agreements, written or oral, express or implied. *Id.* The Administrative Law Judge may grant said motion upon such terms and conditions as he deems proper. *Id.* Further, the Commission has held that "in the absence of extraordinary circumstances, termination of an investigation will be readily granted to a complainant during the prehearing stage of an investigation." *Certain Ultrafiltration Membrane Systems, and Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm'n Action and Order, at 2 (U.S.I.T.C., Mar. 11, 1982).

Here, Complainant certified that there are no agreements between the parties concerning the subject matter of the Investigation. (Mot. Mem. at 3.) In addition, the Administrative Law Judge knows of no extraordinary circumstances to prevent Complainant's withdrawal of the Complaint. Likewise, no party objects to the withdrawal of the Complaint and termination of the Investigation. (Reply at 1; Staff Resp. at 1, 4.) Granting the pending motion will result in the immediate conservation of public and private resources. The Administrative Law Judge does note, however, that termination here will not involve resolution of the overall dispute between the parties, and should Complainant file again on the same facts (*see* Mot. Mem. at 2), there is the danger of duplicated expenditure of public and private resources, not to mention other concerns, some of which are outlined in Respondents' response to the motion. The Administrative Law Judge finds, however, that these concerns should not be a bar to termination now, but should instead be addressed by the Commission or the presiding administrative law judge, as may be appropriate, should Complainant later file an additional complaint against Respondents on the

same operative facts.

Accordingly, it is the Administrative Law Judge's Initial Determination that Motion Docket No. 871-045 should be GRANTED and that this Investigation be terminated in its entirety.

This Initial Determination is hereby certified to the Commission. Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review of the Initial Determination pursuant to 19 C.F.R. § 210.43(a), or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues herein.

SO ORDERED.



E. James Gildea
Administrative Law Judge

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Monica Bhattacharyya, Esq., and upon the following parties as indicated on DEC 13 2013



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