

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

**In the Matter of**

**CERTAIN MOTION-SENSITIVE SOUND  
EFFECTS DEVICES AND IMAGE DISPLAY  
DEVICES AND COMPONENTS AND  
PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-773**

**ORDER NO. 34: [Corrected<sup>1</sup>] INITIAL DETERMINATION GRANTING JOINT  
MOTION TO TERMINATE INVESTIGATION AS TO  
RESPONDENT BENSUSSEN DEUTSCH & ASSOCIATES, INC.**

(September 1, 2011)

On August 12, 2011, Complainant Ogma, LLC (“Ogma”) and Respondent Bensussen Deutsch & Associates, Inc. (“BDA”) filed a motion to terminate BDA from the Investigation based on a settlement. (Motion Docket No. 773-035.) Movants explained that they had executed a settlement agreement (“Agreement”), which they attached to their motion. (Mot. Mem. at 1.) Other than the Agreement, Ogma and BDA represented that there are no agreements, written or oral, express or implied between them concerning the subject matter of this Investigation. (Mot. Mem. at 1.) In support of their motion, Ogma and BDA argued that termination as to BDA would not be adverse to the public interest. (*Id.* at 1-2.)

On August 23, 2011, the Commission Investigative Staff (“Staff”) responded to Ogma and BDA’s motion. Staff supported the motion on the basis that it complied with Commission Rule 210.21(b). (Staff Resp. at 1.) Staff further noted that termination would not run counter to the public interest. (*Id.* at 3.)

The Administrative Law Judge denied Motion Docket No. 773-035 without prejudice

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<sup>1</sup> Only the order number has been corrected, and therefore attachments have not been included.

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because movants failed to attach a public version of the Agreement. (*See* Order No. 31.)

On August 31, 2011, Ogma and BDA filed an unopposed, renewed motion to terminate BDA. (Motion Docket No. 773-042.) The motion differs little in substance from Motion Docket No. 773-035 other than the addition of a non-confidential copy of the Agreement.

The Commission's Rules permit termination of the Investigation in whole or in part with respect to one or more respondents on the basis of a settlement. 19 C.F.R. § 210.21(b)(1). In satisfaction of 19 C.F.R. § 210.21(b)(1), as noted above, Ogma and BDA have attached both public and confidential versions of the Agreement, and have made a statement that they have no other agreements concerning the subject matter of this Investigation. (*Id.*)

In the case of a proposed termination by settlement agreement,

the parties may file statements regarding the impact of the proposed termination on the public interest, and the administrative law judge may hear argument, although no discovery may be compelled with respect to issues relating solely to the public interest. Thereafter, the administrative law judge shall consider and make appropriate findings in the initial determination regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

19 C.F.R. § 210.50(b)(2). Ogma, BDA, and Staff believe that granting the joint motion would not be contrary to the public interest. (Mot. Mem. at 1-2; Staff Resp. to Motion Docket No. 773-035, at 3.) Furthermore, termination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest and will conserve public and private resources.


For good cause shown, it is the Initial Determination of the Administrative Law Judge that the motion to terminate the Investigation as to Bensussen Deutsch & Associates, Inc. (Motion Docket No. 773-042) should be GRANTED. The Investigation remains pending against Respondents Activision Blizzard, Inc.; Canon, Inc.; Canon USA, Inc.; Jakks Pacific, Inc.; Kyocera

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Communications, Inc.; Lenovo (United States), Inc.; Lenovo Group Ltd.; Lenovo (Singapore) Pte. Ltd.; Nintendo Co., Ltd.; Nintendo of America, Inc.; Nyko Technologies, Inc.; 3M Company, Casio America, Inc., Casio Computer Co., Ltd., Christie Digital Systems USA, Inc., Intec, Inc., Mitsubishi Electric Corporation, Mitsubishi Electric & Electronics USA, Inc., Optoma Corporation, Optoma Technology, Inc., Performance Designed Products LLC, Planar Systems, Inc., Supersonic, Inc., Toshiba Corporation, and Toshiba America Information Systems, Inc.

This Initial Determination, along with a non-confidential copy of the Agreement,<sup>2</sup> 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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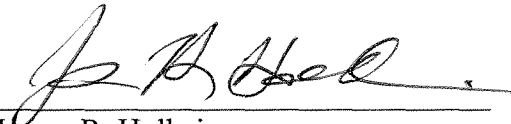
<sup>2</sup> The Commission's Rules require both confidential and public versions of agreements. See 19 C.F.R. § 210.21(b)(1). Copies of the confidential or public versions of the Agreement are attached to the respective confidential and public versions of this Initial Determination.

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**PUBLIC CERTIFICATE OF SERVICE**

I, James R. Holbein, hereby certify that the attached **ORDER** has been served by hand upon, the Commission Investigative Attorney, **Vu Bui, Esq.**, and the following parties as indicated on **2011**.



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