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6 Attorneys for Defendant  
KYOCERA COMMUNICATIONS, INC.  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10  
11 TECHNOLOGY PROPERTIES LIMITED LLC,  
12 PHOENIX DIGITAL SOLUTIONS LLC, and  
Patriot Scientific Corporation,

13 Plaintiffs,

14 v.

15 KYOCERA CORPORATION AND KYOCERA  
16 COMMUNICATIONS, INC.,

17 Defendants.

Case No. CV12-03860 JSC

**DEFENDANT'S NOTICE OF  
MOTION AND MOTION TO  
STAY; MEMORANDUM OF  
POINTS AND AUTHORITIES**

Hearing Date: October 25, 2012  
Time: 9:00 a.m.  
Courtroom F

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**NOTICE OF MOTION AND MOTION**

TO ALL PARTIES AND THEIR ATTORNEYS IN THE ABOVE ACTIONS:

PLEASE TAKE NOTICE that on October 25, 2012, at 9:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom F of the above-captioned Court, located at 450 Golden Gate Avenue, 15th Floor, San Francisco, California, 94102, Defendant Kyocera Communications, Inc. (“Kyocera”) will and does hereby respectfully move for a stay of all proceedings in this action.

This motion is based upon this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the Declaration of M. Andrew Woodmansee (“Woodmansee Decl.”) filed herewith and exhibits thereto, the papers and records on file in this action, and any evidence and argument presented at the hearing of this motion. By seeking a stay of this action, Kyocera does not waive any defense it may have, whether based upon lack of personal jurisdiction, improper venue, standing, insufficiency of process, insufficiency of service of process, or any other basis whatsoever.

Dated: September 20, 2012

DAVID C. DOYLE  
M. ANDREW WOODMANSEE  
MORRISON & FOERSTER LLP

By: s/ M. Andrew Woodmansee  
M. ANDREW WOODMANSEE

Attorneys for Defendant  
KYOCERA COMMUNICATIONS,  
INC.

**MEMORANDUM OF POINTS AND AUTHORITIES**

1  
2 Defendant Kyocera Communications, Inc. (“Kyocera”) moves this Court to stay this  
3 action in its entirety pending the conclusion of an investigation by the United States International  
4 Trade Commission (ITC) in response to the complaint filed by Plaintiffs Technology Properties  
5 Limited LLC, Patriot Scientific Corporation and Phoenix Digital Solutions LLC (collectively,  
6 “TPL”) on July 23, 2012 (“ITC Complaint”).

**I. STATEMENT OF ISSUE TO BE DECIDED**

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8 Whether the Court should stay this action while the ITC completes its investigation of one  
9 of the three related patents asserted by TPL in this litigation.

**II. SUMMARY OF ARGUMENT**

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11 The Court’s answer to the issue before it should be a resounding “Yes.” To circumvent  
12 the automatic stay of the three patents at issue in this case, TPL asserted only one of those patents  
13 in its concurrently filed ITC Complaint. TPL, however, cannot escape the substantial similarities  
14 between the patent asserted in both actions and the two additional patents asserted only in this  
15 litigation: the patents all claim aspects of microprocessor design, arise from a common patent  
16 application, and share the same inventors. Nor can TPL demonstrate prejudice because it, not  
17 Kyocera, chose to limit its claims before the ITC. In contrast, Kyocera would undoubtedly suffer  
18 hardship from duplicative discovery if this case were to proceed. A stay of this case, therefore,  
19 will minimize duplication, advance the interest of judicial economy, and preserve the resources of  
20 the parties and this Court. The ITC investigation will define the extent and nature of the dispute  
21 between the parties; its resolution may assist this Court in narrowing the issues and may lead to  
22 settlement, withdrawal, or dismissal of this case. Moreover, all three patents at issue here are  
23 currently being litigated in this Court. A stay may allow the parties and the Court to benefit from  
24 rulings on common issues in that litigation. Resolution of those cases likely will dictate, or at  
25 least influence, the outcome of this action.

**III. STATEMENT OF FACTS**

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27 On July 24, 2012, TPL sued Kyocera in this Court alleging infringement of three patents:  
28 U.S. Patents Nos. 5,809,336 (the ’336 Patent), 5,440,749 (the ’749 Patent), and 5,530,890 (the

1 '890 Patent). The day before it filed this suit, TPL lodged a complaint with the ITC against  
 2 Kyocera, among other parties. (Declaration of M. Andrew Woodmansee ("Woodmansee Decl.")  
 3 Ex. A.) The ITC Complaint alleges claims related to the '336 Patent only. (*Id.*) The non-  
 4 overlapping patents before this Court, the '749 Patent and the '890 Patent, are related closely to  
 5 the '336 Patent. All three patents relate to microprocessor design, arise from the same patent  
 6 application, and share the same inventors, Charles H. Moore and Russell H. Fish, III. (*Compare*  
 7 *Compl. Exs. A, B, and C.*) In addition, both actions identify the Kyocera Clip S2100 cell phone  
 8 as an accused product.<sup>1</sup> (*Id.*) The chart below summarizes the patents asserted against Kyocera  
 9 in the two actions, showing these similarities:

Patent No.	Case(s)	Title	Inventors	Accused Products
5,809,336	N.D. Cal.; ITC	High Performance Microprocessor Having Variable Speed System Clock	Charles H. Moore; Russell H. Fish, III	Clip S2100 (N.D. Cal. and ITC) Milano C5120 (ITC only)
5,440,749	N.D. Cal.	High Performance, Low Cost Microprocessor	Charles H. Moore; Russell H. Fish, III	Clip S2100
5,530,890	N.D. Cal.	High Performance, Low Cost Microprocessor	Charles H. Moore; Russell H. Fish, III	Clip S2100

17 TPL agrees the non-overlapping patents are similar to the patent before the ITC. In the  
 18 ITC Complaint, TPL asserts, "[t]he '336 patent is closely related to the other patents in the MMP  
 19 Portfolio," including the '749 Patent. (Woodmansee Decl. Ex. A ¶¶ 162–123.) Plaintiff further  
 20 notes that all three patents "cover specific fundamental microprocessor technology," "resulted  
 21 from the one fundamental patent application," and "include[] the same two inventors." (*Id.*)

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 27 <sup>1</sup> Both actions identify Clip S2100 as representative of the accused products. The only  
 28 other representative product identified in ITC Complaint is the Milano C5120.

1           Litigation of the three patents above against various other defendants is currently pending  
2 in this District (formerly before Chief Judge Ware and now assigned to Magistrate Judge Paul S.  
3 Grewal). On June 12, 2012, Judge Ware issued a ruling construing most claim terms of the three  
4 patents but requesting additional briefing by the parties on a potentially dispositive term. *Acer,*  
5 *Inc. v. Tech. Props.*, 2012 U.S. Dist. LEXIS 81322 (N.D. Cal. June 12, 2012).

#### 6       **IV.     ARGUMENT**

##### 7           **A.     The Court Must Stay the Claims Addressing the '336 Patent**

8           A stay of this civil action with respect to the '336 Patent, which is asserted here and in the  
9 ITC Complaint, is automatic pursuant to 28 U.S.C. § 1659. (“[T]he district court shall stay, until  
10 the determination of the Commission becomes final, proceedings in the civil action with respect  
11 to any claim that involves the same issues involved in the proceeding before the  
12 Commission . . .”).<sup>2</sup> The only issue for the Court, therefore, is whether to exercise its inherent  
13 power to stay the case in its entirety until the ITC completes its investigation.

##### 14           **B.     The Court Should Stay the Remainder of this Action Pursuant to Its inherent** 15 **Authority**

16           The power of this Court to stay the claims concerning the remaining two non-overlapping  
17 patents is “incidental to the power inherent in every court to control the disposition of the causes  
18 on its docket with economy of time and effort for itself, for counsel, and for litigants.”  
19 *FormFactor, Inc. v. Micronics Japan Co.*, 2008 U.S. Dist. LEXIS 13114, at \*5–7 (N.D. Cal. Feb.  
20 11, 2008) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)); *Leyva v. Certified Grocers of*  
21 *California, Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979) (“A trial court may, with propriety, find it is

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23           <sup>2</sup> Section 1659 provides in full: “In a civil action involving parties that are also parties to a  
24 proceeding before the United States International Trade Commission under section 337 of the  
25 Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the  
26 proceeding before the Commission, the district court shall stay, until the determination of the  
27 Commission becomes final, proceedings in the civil action with respect to any claim that involves  
28 the same issues involved in the proceeding before the Commission, but only if such request is  
made within- (1) 30 days after the party is named as a respondent in the proceeding before the  
Commission, or (2) 30 days after the district court action is filed, whichever is later.” The ITC  
instituted its investigation on August 21, 2012. Kyocera timely filed this motion on September  
20, 2012, within the allotted time.

1 efficient for its own docket and the fairest course for the parties to enter a stay of an action before  
2 it, pending resolution of independent proceedings which bear upon the case.”) (cert. denied, 444  
3 U.S. 827 (1979)).

4 When deciding a motion to stay, a court must consider: (1) “possible damage which may  
5 result from the granting of a stay,” (2) “the hardship or inequity which a party may suffer in being  
6 required to go forward,” and (3) “the orderly course of justice measured in terms of the  
7 simplifying or complicating of issues, proof, and questions of law which could be expected to  
8 result from a stay.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (citing *Landis*, 299 U.S. at 254–55).

### 9 C. All Three Landis Factors Weigh In Favor of Staying This Action

#### 10 1. Staying This Action Would Not Prejudice TPL

11 TPL will be benefitted, not prejudiced, by a stay because some of the same issues to be  
12 decided here will be addressed by the ITC investigation, yet the ITC’s rulings are not binding on  
13 this Court. Moreover, TPL could have asserted the ’749 Patent and the ’890 Patent in the ITC  
14 Complaint, especially given their relationship to the ’336 Patent. Under such circumstances,  
15 Courts have found no prejudice resulting from a stay. *See, e.g., FormFactor, Inc. v. Micronics*  
16 *Japan Co.*, 2008 U.S. Dist. LEXIS 13114, at \*5–7 (N.D. Cal. Feb. 11, 2008); *see also, Flexsys*  
17 *Americas, LP v. Kumho Tire, U.S.A., Inc.*, No. 5:05CV156, 2005 WL 1126750 (N.D. Ohio Apr.  
18 29, 2005), at \*3.

19 Indeed, the court in *FormFactor* was presented with a scenario very similar to the  
20 circumstances here where two patents asserted in the district court action were not asserted in the  
21 ITC action. The plaintiff argued that it would be prejudiced because the ITC could not grant  
22 injunctive relief for those patents only asserted in the district court action. The court concluded  
23 that the plaintiff would not suffer prejudice, stating, “[T]he fact that injunctive relief is not  
24 available arises because of FormFactor’s own decision not to include the non-overlapping patents  
25 in its ITC complaint.”

26 Likewise, the court in *Flexsys* determined the plaintiff would not be prejudiced by staying  
27 the non-overlapping patent and questioned the motives behind the plaintiff’s ITC filing strategy.  
28 *Flexsys*, 2005 WL 1126750 at \*1–3 (“It is entirely unclear to this Court why plaintiff would opt

1 to pursue only two of the three [] patents [disputed here] before the ITC, other than in an attempt  
2 to avoid the mandatory stay requirements of 28 U.S.C. § 1659(a).”) To the extent there would be  
3 any prejudice at all to TPL—and there is none—it is entirely of TPL’s own making and does not  
4 weigh against staying this case.

5 Here, TPL chose to file two separate actions on a common set of patents. TPL easily  
6 could have included all three patents in the ITC action, but it chose not to do so. TPL, therefore,  
7 cannot demonstrate prejudice.

## 8 **2. Kyocera Would Be Prejudiced without a Stay**

9 This factor weighs heavily in favor of granting a stay. Kyocera will suffer hardship if this  
10 action is allowed to proceed, even in part, because it will create duplicative discovery. All three  
11 patents share the same inventors. As a result, there will be common witnesses and documents  
12 related to the patents and the accused products in both this action and in the ITC. Avoiding such  
13 needless duplication in discovery is reason enough not to allow the two actions to proceed  
14 simultaneously. *FormFactor*, 2008 U.S. Dist. LEXIS 13114, at \*5–7 (“Without a stay, the parties  
15 would have to conduct multiple depositions of the same witness because of the inventors’ ability  
16 to speak only to the non-overlapping patents while the overlapping patents are stayed”); *Flexsys*,  
17 2005 WL 1126750 at \*3 (“requiring defendants to litigate both this case and the ITC Action at the  
18 same time will result in prejudice.”)

19 In addition, if this action is stayed only with respect to the ’336 Patent, Kyocera would be  
20 required to re-litigate many of the same issues in this court—once now with respect to the ’794  
21 and ’890 Patents and once later with respect to the ’336 Patent—thereby duplicating efforts and  
22 prolonging the litigation at potentially significant expense with no clear benefit.

## 23 **3. Staying This Action Will Further the Orderly Course of Justice**

24 As shown above, the two non-overlapping patents asserted in this action are related to the  
25 patent before the ITC “because they are related to the same device, the same patent family, and  
26 the same subject matter.” *FormFactor*, 2008 U.S. Dist. LEXIS 13114, at \*10. As a result, the  
27 ITC’s interpretation of the ’336 Patent will inform (but not bind) this Court.  
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1           Allowing the ITC investigation to proceed and thereafter (if necessary) resolving all the  
2 issues at issue here together will avoid piecemeal, duplicative litigation. It will also minimize the  
3 burden on the Court for dispositive motions and trial, as the parties may resolve and narrow the  
4 issues to be decided in light of the ITC’s final determination. Because the accused products in  
5 this litigation and the ITC action are the same, the ITC’s determination may result in settlement,  
6 withdrawal, or dismissal of this case in its entirety.

7           The court in *FormFactor* extended a mandatory stay of overlapping patents to the non-  
8 overlapping ones because “the similarity of the patents in subject matter [was] sufficient to  
9 warrant staying th[e] matter. . . to gain the additional knowledge of the ITC proceedings  
10 and . . . to benefit from litigating the four patents in this action together, rather than separately.”  
11 2008 U.S. Dist. LEXIS 13114, at \*11. Similarly, the court in *Flexsys* found that by granting a  
12 stay until after the ITC proceeding was resolved, it “would benefit tremendously from a  
13 narrowing of the complex issues in this case.” *Flexsys*, 2005 WL 1126750 at \*3. The *Flexsys*  
14 Court also held that if the case were stayed only with respect to the overlapping patents it “would  
15 essentially be relitigated after the lifting of the mandatory stay.” *Id.* at \*3. The same factors  
16 weigh in favor of a stay here.

17           By staying this action in its entirety, the parties and the Court may benefit from the rulings  
18 in the already-pending litigation of the three patents before Magistrate Judge Grewal. The parties  
19 may be able avoid the unnecessary expense of conducting discovery and litigating issues that will  
20 be disposed of in that litigation. Resolution of that litigation likely will dictate settlement or  
21 disposition of this action.

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1 **V. CONCLUSION**

2 For the foregoing reasons, the Court should grant Kyocera's Motion to Stay this action as  
3 to all parties and patents.

4 Dated: September 20, 2012

DAVID C. DOYLE  
M. ANDREW WOODMANSEE  
MORRISON & FOERSTER LLP

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By: s/ M. Andrew Woodmansee  
M. ANDREW WOODMANSEE

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Attorneys for Defendant  
KYOCERA COMMUNICATIONS,  
INC.

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on September 20, 2012, true and correct copies of the foregoing documents were filed electronically with this Court. As such, the foregoing documents were served on all counsel below who have consented to electronic service.

**VIA ELECTRONIC SERVICE**

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/s/ M. Andrew Woodmansee  
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6 Attorneys for Defendant  
KYOCERA COMMUNICATIONS, INC.  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10  
11 TECHNOLOGY PROPERTIES LIMITED LLC,  
12 PHOENIX DIGITAL SOLUTIONS LLC, and  
Patriot Scientific Corporation,

13 Plaintiffs,

14 v.

15 KYOCERA CORPORATION AND KYOCERA  
16 COMMUNICATIONS, INC.,

17 Defendants.

Case No. CV12-03860 JSC

**DECLARATION OF M. ANDREW  
WOODMANSEE IN SUPPORT  
OF DEFENDANT'S NOTICE OF  
MOTION AND MOTION TO  
STAY**

Hearing Date: October 25, 2012  
Time: 9:00 a.m.  
Courtroom F

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1 I, M. Andrew Woodmansee, state and declare:

2 1. I am a partner with Morrison & Foerster LLP, counsel of record for defendant  
3 Kyocera Communications, Inc. in this action, and admitted to practice in the State of California  
4 and in this Court. I have personal knowledge of the matters stated herein, and if called upon to do  
5 so, I would testify competently to them.

6 2. Attached as **Exhibit A** is a true and correct copy of the complaint filed with the  
7 United States International Trade Commission (ITC) by Plaintiffs Technology Properties Limited  
8 LLC, Patriot Scientific Corporation and Phoenix Digital Solutions LLC (collectively, "TPL") on  
9 July 23, 2012 (without exhibits), which was instituted by the ITC on August 21, 2012.

10 I declare under penalty of perjury of the laws of the United States of America that the  
11 foregoing is true and correct. Executed on September 20, 2012, in San Diego, California.

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By: s/ M. Andrew Woodmansee  
M. ANDREW WOODMANSEE

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on September 20, 2012, true and correct copies of the foregoing documents were filed electronically with this Court. As such, the foregoing documents were served on all counsel below who have consented to electronic service.

**VIA ELECTRONIC SERVICE**

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/s/ M. Andrew Woodmansee  
M. Andrew Woodmansee

# EXHIBIT A



James C. Otteson  
jim@agilityiplaw.com

CBI 12-350

July 24, 2012

DOCKET NUMBER
2904
Office of the Secretary Int'l Trade Commission

Acting Secretary Lisa R. Barton  
United States International Trade Commission  
500 E Street, S.W.  
Washington, DC 20436

**Re: *Certain Wireless Consumer Electronics Devices and Components Thereof,***  
**Inv. No. 337-TA-\_\_\_**

Dear Secretary Barton:

I write on behalf of Technology Properties Limited LLC ("TPL"), Phoenix Digital Solutions LLC ("PDS") and Patriot Scientific Corporation ("PTSC") (collectively, "Complainants"), who are concurrently filing a Complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C § 1337.

In accordance with Commission Rules 201.6 and 210.5 (19 C.F.R. §§ 201.6 and 210.5), Complainants request confidential treatment of the business information contained in Confidential Exhibits 2-M, 2-O, 2-P, 2-Q, 3, 39, 39-A, 39-B, 39-C, 39-D, 39-E, 39-F, 39-G, 39-H, 39-I, 39-K, 39-L, 40, 41, 42, 43, 44, 45, 46, and 47.

The information for which confidential treatment is sought is proprietary commercial, financial and/or technical information not otherwise publicly available. Specifically, these exhibits contain proprietary commercial information concerning Complainants' licensing of the asserted patent, financial information of the Complainants and the Complainants' investments in the domestic industry, as well as confidential and proprietary technical information belonging to the Complainants.

The information described above qualifies as confidential business information pursuant to Rule 201.6(a) because:

1. It is not available to the public;
2. Unauthorized disclosure of such information could cause substantial harm to competitive position of Complainants;
3. The disclosure of the information could impair the Commission's ability to obtain information necessary to perform its statutory functions.

Please contact me if you have any questions regarding this request, or if it is not granted in full.



Acting Secretary Lisa R. Barton  
July 24, 2012  
Page 2

Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James C. Otteson', with a long horizontal flourish extending to the right.

James C. Otteson

Enclosures





James C. Otteson  
jim@agilityiplaw.com

July 24, 2012

Lisa R. Barton  
Acting Secretary  
United States International Trade Commission  
500 E Street, S.W.  
Washington, DC 20436

**Re: *Certain Wireless Consumer Electronics Devices and Components Thereof,*  
Inv. No. 337-TA-\_\_\_\_\_**

Dear Secretary Barton:

Enclosed for filing on behalf of Technology Properties Limited LLC (“TPL”), Phoenix Digital Solutions LLC (“PDS”) and Patriot Scientific Corporation (“PTSC”) (collectively, “Complainants”) are the following documents in support of Complainants’ request that the Commission commence an investigation under Section 337 of Tariff Act of 1930, as amended. Pursuant to the Commission Rules of Practice and Procedure, a request for confidential treatment is being transmitted concurrently herewith regarding certain confidential information contained in the Complaint, exhibits, and appendices. Accordingly, Complainants submit the following documents:

- An original and eight (8) copies of the verified nonconfidential Complaint, one (1) copy of the accompanying nonconfidential exhibits in electronic form (on DVD), and one (1) copy of the confidential exhibits, segregated from the other material submitted, in electronic form (on DVD) (Rules 201.6(c), 210.4(f)(2), and 210.8(a));
- Twenty-four (24) additional copies of the Complaint and accompanying non-confidential and confidential exhibits, one each for service upon the twenty-four Proposed Respondents (Rules 210.4(f)(3)(i), 210.8(a), and 210.11(a)(1));
- Certified copy of United States Patent No. 5,809,336 (the ‘336 Patent) is included as Exhibit 1 of the Complaint (Rule 210.12(a)(9)(i));
- Certified Copies of the Assignments Record for the ‘336 Patent are included as Exhibit 2-A, Exhibit 2-B, Exhibit 2-C, Exhibit 2-D, Exhibit 2-E, Exhibit 2-F, Exhibit 2-G, Exhibit 2-H, Exhibit 2-I, Exhibit 2-J, Exhibit 2-K, and Exhibit 2-L, in all copies of the Complaint (Rule 210.12(a)(9)(ii));
- An identification of each licensee for the ‘336 Patent is included as Confidential Exhibit 3 (Rule 210.12(a)(9)(iii));



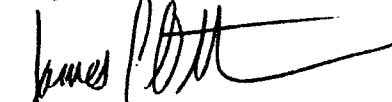
Acting Secretary Lisa R. Barton

July 24, 2012

Page 2

- Certified Copies of the prosecution history of the '336 Patent are included as Appendices A, C, D, E and G to the original Complaint, and three (3) additional copies are provided on CD (Rule 210.12(c)(1));
- Six (6) additional copies of the complaint for service upon each of the embassies in Washington, D.C. of the countries of the foreign respondents (Canada, China, Japan, Republic of Korea (South Korea), Switzerland and Taiwan) (Rules 210.8(a)(1)(iv) and 210.11(a)(1)(ii));
- Eight (8) copies of the Statement of Public Interest pursuant to 19 C.F.R. § 210.8(b);
- A letter and certification pursuant to 19 C.F.R. 201.6(b) and Commission Rules 210.5(d) requesting confidential treatment of confidential exhibits 2-M, 2-O, 2-P, 2-Q, 3, 39, 39-A, 39-B, 39-C, 39-D, 39-E, 39-F, 39-G, 39-H, 39-I, 39-K, 39-L, 40, 41, 42, 43, 44, 45, 46, and 47.

Respectfully submitted,



James C. Otteson

Enclosures

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.**

**In the Matter of**

**CERTAIN WIRELESS CONSUMER  
ELECTRONICS DEVICES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-\_\_\_\_\_**

**COMPLAINANTS' STATEMENT OF PUBLIC INTEREST**

In support of their Complaint, entitled "In the Matter of Certain Wireless Consumer Electronics Devices and Components Thereof," Complainants Technology Properties Limited, LLC ("TPL"), Patriot Scientific Corporation ("PTSC") and Phoenix Digital Solutions LLC ("PDS") respectfully submit this separate Statement of Public Interest, as required by Commission Rule 210.8(b). All substantial rights to U.S. Patent No. 5,809,336 (the '336 Patent), the subject patent of the Complaint, are held in the aggregate by Complainant TPL (along with any residual rights held by Complainants PTSC and PDS).

As discussed below, exclusion of the infringing electronic devices ("Accused Products") identified in the Complaint would not have an adverse effect on the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or consumers in the United States.

**i. Explain how the articles potentially subject to the requested remedial orders are used in the United States.**

The articles potentially subject to an exclusion order and cease and desist orders in this matter include notebooks, tablets, smartphones, e-readers, data cards, handheld game consoles

and other consumer electronic devices with wireless capabilities. *See* Complaint, Exhibits 4, 6, 8, 10, 12, 13, 15, 16, 18, 19, 21, 22, 24, 25, 27, 28, 30, 32, 33, 35 and 36. The consumer electronic devices with these features have incorporated technologies protected by the '336 Patent. The infringing devices are imported into and sold in the United States by or on behalf of the Respondents identified in the Complaint.

The infringing consumer electronic devices contain microprocessor systems with a central processing unit and first clock on an integrated circuit connected to a second clock independent from the first clock, where the first clock times the central processing unit and the second clock times input/output functions, increasing speed and efficiency of the systems.

**ii. Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders.**

The issuance of exclusion and cease and desist orders in this matter would not adversely affect the public health, safety, or welfare in the United States. The infringing consumer electronic devices and products containing the same are not historically the type of products that have raised concerns by the Commission about public health, safety, or welfare. *See, e.g., Certain Toothbrushes and the Packaging Thereof*, Inv. No. 337-TA-391, Comm'n Op., 1997 WL 803475 at \*2 (Oct. 15, 1997) (toothbrushes do not raise public interest concerns); *Certain Hardware Logic Emulation Systems and Components Thereof*, Inv. No. 337-TA-383, Comm'n Op., 1996 WL 1056217 at \*4 (Oct. 15, 1996) (hardware logic emulators do not raise public interest concerns); *Certain Asian-Style Kamaboko Fish Cakes*, Inv. No. 337-TA-378, Comm'n Op., 1996 WL 1056211 at \*3 (Sept. 24, 1996) (kamaboko fish cakes not type of product to raise public interest concerns); *but see Certain Fluidized Supporting Apparatus and Components Thereof*, Inv. No. 337-TA-182/188, ID, 1984 WL 273788 at \*60 (Jun. 16, 1984) (denying temporary exclusion order of hospital beds for burn patients because exclusion would result in dangerous shortage for domestic health care).

Moreover, the public interest favors protection of intellectual property rights in the United States by excluding infringing imports. *Certain Two-Handle Centerset Faucets and Escutcheons, and Components Thereof*, Inv. No. 337-TA-422, Comm'n Op. at 9 (Jun. 19, 2000); *Certain Hardware Logic Emulation Systems and Components Thereof*, Inv. No. 337-TA-383, Comm'n Op., 1996 WL 1056217 at \*4 (Oct. 15, 1996). The issuance of exclusion and cease and desist orders in this matter would have the beneficial effect of protecting Complainants' intellectual property rights, which would further the public interest. Thus, the exclusion of infringing consumer electronic devices and products containing the same would not implicate significant public health, safety, or welfare concerns in the United States.

**iii. Identify like or directly competitive articles that complainant, its licensees, or third parties make which could replace the subject articles if they were to be excluded.**

Many leading electronics companies have purchased licenses under the Asserted Patents, including, for example, Ford, Mattel, Sony, HP, Fujitsu, Toshiba, Philips and others that design and sell consumer electronic devices similar to those that are the subject of the Complaint. These and many other licensees could replace the infringing consumer electronic devices if the infringing devices were to be excluded. Examples of licensed products include, but are not limited to, mobile telephones, tablets, hotspots, GPS devices, etc.

**iv. Indicate whether the complainant, its licensees, and/or third parties have the capacity to replace the volume of articles subject to the requested remedial orders in a commercially reasonable time in the United States.**

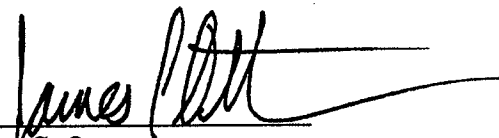
Complainants license rights under the Asserted Patents to manufacture and sell products similar to the accused consumer electronic devices that are the subject of the Complaint. *See, e.g.*, Complaint, Exhibits 40-47. Complainants contend that their licensees have the capacity to replace consumer electronic devices subject to an exclusion order in a commercially reasonable time in the United States.

v. **State how the requested remedial orders would impact consumers.**

The issuance of exclusion and cease and desist orders in this investigation will not adversely impact consumers. Complainants contend that their licensees can adequately supply and meet the demand of the United States market. Thus, U.S. consumers will still be able to purchase competitively priced consumer electronic devices, similar to those that are the subject of the Complaint through manufacturers licensed under the Asserted Patents. Accordingly, the requested remedial orders in this matter will not significantly impact U.S. consumers.

Dated: July 23, 2012

Respectfully Submitted,

  
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**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

**CERTAIN WIRELESS CONSUMER  
ELECTRONICS DEVICES AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-\_\_\_\_\_**

**COMPLAINT OF TECHNOLOGY PROPERTIES LIMITED LLC**  
**UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

**COMPLAINANTS**

Technology Properties Limited LLC  
20883 Stevens Creek Blvd., Suite 100  
Cupertino, CA 95014  
Telephone: (408) 446-4222

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**COUNSEL FOR PATRIOT SCIENTIFIC  
CORPORATION**

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Amazon.com, Inc.  
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Shenzhen 518129, China

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Shenzhen 518057, China

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Richardson, TX 75080



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**EXHIBITS TO COMPLAINT**

- Exhibit 1: U.S. Patent No. 5,809,336
- Exhibit 2-A: Patent Assignment Abstract of Title for U.S. Patent No. 5,809,336
- Exhibit 2-B Patent Assignment recorded October 28, 1996  
(Reel/Frame 008194/0013)
- Exhibit 2-C Patent Assignment recorded November 20, 2001  
(Reel/Frame 012312/0156)
- Exhibit 2-D Patent Assignment recorded May 23, 2002  
(Reel/Frame 012916/0309)
- Exhibit 2-E Patent Assignment recorded August 5, 2002  
(Reel/Frame 013146/0267)
- Exhibit 2-F Patent Assignment recorded September 3, 2002  
(Reel/Frame 013240/0294)
- Exhibit 2-G Patent Assignment recorded February 14, 2003  
(Reel/Frame 013751/0408)
- Exhibit 2-H Patent Assignment recorded December 8, 2003  
(Reel/Frame 014178/0319)
- Exhibit 2-I Patent Assignment recorded August 8, 2005  
(Reel/Frame 016784/0693)
- Exhibit 2-J Patent Assignment recorded March 24, 2009  
(Reel/Frame 022440/0445)
- Exhibit 2-K Patent Assignment recorded February 10, 2012  
(Reel/Frame 027685/0600)
- Exhibit 2-L Patent Assignment recorded February 10, 2012  
(Reel/Frame 027689/0067)
- Conf. Exhibit 2-M License between Charles H. Moore and Technology Properties  
Limited dated October 21, 2002
- Exhibit 2-N Assignments of Russell H. Fish, III's Rights in the Asserted Patent
- Conf. Exhibit 2-O License between Patriot Scientific Corporation and P-NewCo dated  
June 15, 2005
- Conf. Exhibit 2-P License between Technology Properties Limited and T-NewCo dated  
June 15, 2005
- Conf. Exhibit 2-Q Commercialization Agreement by and among P-NewCo and  
Technology Properties Limited and Patriot Scientific Corporation

- Conf. Exhibit 3: List of Licensees for MMP Portfolio (including U.S. Patent No. 5,809,336)
- Exhibit 4: Claim Chart applying U.S. Patent No. 5,809,336 to accused Acer Aspire AS5755
- Exhibit 5: Notice letter to Acer
- Exhibit 6: Claim Chart applying U.S. Patent No. 5,809,336 to accused Amazon.com Kindle Fire
- Exhibit 7: Notice letter to Amazon.com
- Exhibit 8: Claim Chart applying U.S. Patent No. 5,809,336 to accused Barnes & Noble NOOK Tablet - 8 GB
- Exhibit 9: Notice letter to Barnes & Noble
- Exhibit 10: Claim Chart applying U.S. Patent No. 5,809,336 to accused Garmin Nuvi 3450
- Exhibit 11: Notice letter to Garmin
- Exhibit 12: Claim Chart applying U.S. Patent No. 5,809,336 to accused HTC Thunderbolt
- Exhibit 13: Claim Chart applying U.S. Patent No. 5,809,336 to accused HTC Jetstream
- Exhibit 14: Notice letter to HTC
- Exhibit 15: Claim Chart applying U.S. Patent No. 5,809,336 to accused Huawei M835
- Exhibit 16: Claim Chart applying U.S. Patent No. 5,809,336 to accused Huawei MediaPad
- Exhibit 17: Notice letter to Huawei
- Exhibit 18: Claim Chart applying U.S. Patent No. 5,809,336 to accused Kyocera Clip S2100
- Exhibit 19: Claim Chart applying U.S. Patent No. 5,809,336 to accused Kyocera Milano C5120
- Exhibit 20: Notice letter to Kyocera
- Exhibit 21: Claim Chart applying U.S. Patent No. 5,809,336 to accused LG Lucid 4G LTE
- Exhibit 22: Claim Chart applying U.S. Patent No. 5,809,336 to accused LG Nitro HD

- Exhibit 23: Notice letter to LG
- Exhibit 24: Claim Chart applying U.S. Patent No. 5,809,336 to accused Nintendo 3DS
- Exhibit 25: Claim Chart applying U.S. Patent No. 5,809,336 to accused Nintendo DSi
- Exhibit 26: Notice letter to Nintendo
- Exhibit 27: Claim Chart applying U.S. Patent No. 5,809,336 to accused Novatel MiFi 2372
- Exhibit 28: Claim Chart applying U.S. Patent No. 5,809,336 to accused Novatel Ovation MC760 USB Modem
- Exhibit 29: Notice letter to Novatel
- Exhibit 30: Claim Chart applying U.S. Patent No. 5,809,336 to accused Samsung Galaxy Note
- Exhibit 31: Notice letter to Samsung
- Exhibit 32: Claim Chart applying U.S. Patent No. 5,809,336 to accused Sierra Wireless Aircard 890
- Exhibit 33: Claim Chart applying U.S. Patent No. 5,809,336 to accused Sierra Wireless Elevate 4G
- Exhibit 34: Notice letter to Sierra Wireless
- Exhibit 35: Claim Chart applying U.S. Patent No. 5,809,336 to accused ZTE T-Mobile 4G
- Exhibit 36: Claim Chart applying U.S. Patent No. 5,809,336 to accused ZTE Score M
- Exhibit 37: Notice letter to ZTE
- Exhibit 38: Declaration of Cory A. Smith
- Exhibit 38-A Receipt for Acer Aspire AS5755
- Exhibit 38-B Receipt for Kyocera Clip S2100, Garmin NUVI 3450, Amazon Kindle Fire and Nintendo 3DS
- Exhibit 38-C Receipt for Barnes & Noble NOOK Tablet - 8GB
- Exhibit 38-D Receipt for HTC Thunderbolt
- Exhibit 38-E Receipt for HTC Jetstream
- Exhibit 38-F Receipt for Huawei M835

Exhibit 38-G	Receipt for Huawei MediaPad
Exhibit 38-H	Receipt for Kyocera Milano
Exhibit 38-I	Receipt for LG Nitro HD, LG Lucid 4G LTE and Samsung Galaxy Note
Exhibit 38-J	Receipt for Nintendo DSi
Exhibit 38-K	Receipt for Novatel MiFi 2372 and Sierra Wireless Aircard 890
Exhibit 38-L	Receipt for Novatel Ovation MC760 USB Modem
Exhibit 38-M	Receipt for Sierra Wireless Elevate 4G
Exhibit 38-N	Receipt for ZTE T-Mobile 4G
Exhibit 38-O	Receipt for ZTE Score M
Conf. Exhibit 39:	Declaration of Dwayne Hannah
Conf. Exhibit 39-A	Standard License Program Letter
Conf. Exhibit 39-B	Standard License Agreement
Conf. Exhibit 39-C	Claim Chart applying U.S. Patent No. 5,809,336 to xSil 248
Conf. Exhibit 39-D	Claim Chart applying U.S. Patent No. 5,809,336 to xSil 269-G
Conf. Exhibit 39-E	Claim Chart applying U.S. Patent No. 5,809,336 to xSil 271-G
Conf. Exhibit 39-F	Claim Chart applying U.S. Patent No. 5,809,336 to xSil 212
Conf. Exhibit 39-G	Claim Chart applying U.S. Patent No. 5,809,336 to xSil 251
Conf. Exhibit 39-H	List of OnSpec products developed through the innovations taught by the Asserted Patent
Conf. Exhibit 39-I	OnSpec Sales Revenue Report
Exhibit 39-J	List of MMP patents issued and patent applications filed since MMP program launch
Conf. Exhibit 39-K	List of Entities Offered Licenses to Asserted Patent
Conf. Exhibit 39-L	List of Licensees of the Asserted Patent
Conf. Exhibit 40:	Claim Chart applying U.S. Patent No. 5,809,336 to confidential licensee's smartphone product
Conf. Exhibit 41:	Claim Chart applying U.S. Patent No. 5,809,336 to licensed Nokia Lumia

- Conf. Exhibit 42: Claim Chart applying U.S. Patent No. 5,809,336 to licensed Blackberry Bold
- Conf. Exhibit 43: Claim Chart applying U.S. Patent No. 5,809,336 to confidential licensee's tablet product
- Conf. Exhibit 44: Claim Chart applying U.S. Patent No. 5,809,336 to licensed Pantech Element
- Conf. Exhibit 45: Claim Chart applying U.S. Patent No. 5,809,336 to licensed HP Pavilion
- Conf. Exhibit 46: Claim Chart applying U.S. Patent No. 5,809,336 to confidential licensee's laptop product
- Conf. Exhibit 47: Claim Chart applying U.S. Patent No. 5,809,336 to licensed Fujitsu Lifebook

**APPENDICES TO COMPLAINT**

- Appendix A: File history for U.S. Patent No. 5,809,336
- Appendix B: Copies of each reference mentioned in the prosecution history for U.S. Patent No. 5,809,336
- Appendix C: File history for U.S. Patent Reexamination Application No. 90/008,306 (Ex Parte Reexamination Certificate No. 5,809,336 C1)
- Appendix D: File history for U.S. Patent Reexamination Application No. 90/008,237 (Ex Parte Reexamination Certificate No. 5,809,336 C1)
- Appendix E: File history for U.S. Patent Reexamination Application No. 90/008,474 (Ex Parte Reexamination Certificate No. 5,809,336 C1)
- Appendix F: Copies of each reference mentioned in the prosecution histories for Ex Parte Reexamination Certificate No. 5,809,336 C1
- Appendix G: File history for U.S. Patent Reexamination Application No. 90/009,457 (Ex Parte Reexamination Certificate No. 5,809,336 C2)
- Appendix H: Copies of each reference mentioned in the prosecution histories for Ex Parte Reexamination Certificate No. 5,809,336 C2



## I. INTRODUCTION

1. This Complaint is filed by Technology Properties Limited LLC (“TPL”), Patriot Scientific Corporation (“PTSC”), and Phoenix Digital Solutions LLC (“PDS”) (collectively, “Complainants”) requesting the United States International Trade Commission to commence an investigation under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), to remedy the unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation, by manufacturers, importers, or consignees (or any agent of the owner, importer or consignee) of certain wireless consumer electronic devices and components thereof (collectively, “Accused Products”) that infringe one or more claims of the following United States Patent No. 5,809,336 (“the ’336 Patent” or the “Asserted Patent”):

- Claims 1, 6, 7, 9, 10, 11, 13, 14, 15, 16 of the ’336 Patent (*See* Exhibit 1)

2. On information and belief, Respondents have engaged in violations of Section 337 through the unlicensed importation into the United States, the sale for importation, and/or the sale within the United States after importation of Accused Products that infringe one or more claims of the ’336 Patent to the detriment of the domestic industry of TPL and its licensees in the United States relating to the ’336 Patent.

3. An industry as required by 19 U.S.C. § 1337(a)(2) and (3) exists in the United States relating to products protected by the Asserted Patent.

4. As relief, Complainants seek an order, pursuant to Section 337(d), to permanently exclude from entry into the United States Respondents’ infringing wireless consumer electronic devices. Pursuant to Section 337(f), Complainants further seek a permanent cease and desist order directing Respondents to immediately discontinue importing, selling, marketing, advertising, distributing, offering for sale, transferring and/or soliciting U.S. agents or distributors for Respondents’ wireless consumer electronic devices. Finally, Complainants seek any other relief the ITC deems proper.

## II. COMPLAINANTS AND OWNERSHIP

5. Complainants herein are TPL, a California limited liability company with its principal place of business at 20883 Stevens Creek Blvd., Suite 100, Cupertino, California 95014; PTSC, a Delaware corporation with its principal place of business at 701 Palomar Airport Road, Suite 170, Carlsbad, California 92011; and Phoenix Digital Solutions LLC, a Delaware limited liability company with its principal place of business at 20883 Stevens Creek Blvd., Suite 100, Cupertino, California 95014. TPL, PTSC and PDS each hold rights to the Moore Microprocessor Patent (“MMP”) Portfolio, which includes the ’336 Patent, through respective assignments and/or licenses from each of the co-inventors of the MMP Portfolio, Charles H. Moore and Russell H. Fish, III. TPL is the assignee of a forty-five percent ownership interest in all of Mr. Moore’s rights, title and interest in the MMP Portfolio. TPL is also the exclusive licensee of all substantial rights in Mr. Moore’s remaining fifty-five percent ownership interest in the MMP Portfolio. *See* Confidential Exhibit 2-M. PTSC is the assignee of all of Mr. Fish’s rights, title and interest in the MMP Portfolio. *See* Exhibit 2-N. Through a series of transactions, TPL and PTSC each licensed to Phoenix Digital Solutions, LLC (“PDS”), a company they jointly own, the exclusive right to assert and/or grant licenses under the MMP Portfolio. *See* Confidential Exhibits 2-O and 2-P. PDS then granted to TPL all the rights licensed to it by both TPL and PTSC, including the exclusive right to assert and/or grant licenses under the MMP Portfolio. *See* Confidential Exhibit 2-Q. Thus, all substantial rights to the MMP Portfolio are held in the aggregate by Complainant TPL (along with any residual rights maintained by Complainants PTSC and PDS). A Patent Assignment Abstract of Title and the recorded assignments for the ’336 Patent are attached as Exhibits 2-A through 2-L.

6. TPL specializes in advanced product development and commercialization relating to microprocessor-based product and the MMP Portfolio of intellectual property that surrounds them; the ’336 Patent is part of the MMP Portfolio. In addition, TPL maintains an extensive licensing program across a broad array of industries, which it drives through both internal development and the acquisition of intellectual property assets.

7. The technology claimed in the '336 Patent was created by Moore and Fish in connection with the development of a microprocessor, which came to be known as "ShBoom." Beginning in 1989, TPL organized and funded the ShBoom development program, which resulted in the MMP Portfolio (which includes the '336 Patent), with Moore and Fish as co-inventors. Each co-inventor had an undivided and unfettered right to the whole, thereby creating two independent chains of title, one for Moore and one for Fish. The rights of Fish ultimately came to be owned by PTSC. The rights of Moore ultimately came to be the subject of an Exclusive License and Assignment between Moore and TPL, which made TPL the exclusive licensee of all of Moore's substantial rights in the MMP Portfolio, and gave TPL the exclusive right to manage, license, and enforce the MMP Portfolio, as well as a 45% ownership interest.

8. Over the years, TPL has developed a number of innovative technologies relating to the MMP Portfolio that have been embodied in TPL's products; and, through licensing, the MMP technology has been incorporated into other companies' products. TPL continues to make significant investments in the design, development, and marketing of MMP-based products (including embedded processors and development boards used in wireless consumer electronic devices and components thereof and products containing the same) under the OnSpec brand.

9. Microprocessor chips are the "brains" of most electronic devices throughout the world. Indeed, microprocessors are used in everyday items like computers, cell phones, tablets, digital cameras, video game players, navigation devices, automobiles, medical devices, home appliances, security systems, televisions, and much more. The MMP technology enables digital products to perform faster and be manufactured and operated at a lower cost. Today, MMP technology includes a set of fundamental building blocks for virtually all modern microprocessor architectures, and has become a *de facto* standard.

10. The MMP Portfolio is the subject of an extensive licensing program through which TPL provides access to the '336 Patent and other patents. TPL has been successful in its licensing efforts, and the MMP licensing program currently includes 94 licensed entities across a variety of industries, such as consumer electronics, computers, audio/visual products,

automobiles, medical equipment, industrial products, scientific instruments, and more. Among the licensees of the Asserted Patent are Ford, Mattel, Sony, HP, Fujitsu, Toshiba and Philips.

### III. THE PROPOSED RESPONDENTS

11. On information and belief, Proposed Respondent Acer Inc. ("Acer Inc.") is a Taiwanese corporation with a principal place of business at 8F, 88, Sec. 1, Xintai 5th Rd., Xizhi, New Taipei City 221, Taiwan. On information and belief, Proposed Respondent Acer America Corporation ("Acer America" and collectively with Acer Inc., "Acer") is a California corporation with a principal place of business at 333 West San Carlos Street, San Jose, CA 95110. On information and belief, and as stated more fully in Paragraphs 41 through 47, Proposed Respondent Acer Inc. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 41 through 47, Proposed Respondent Acer America is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

12. On information and belief, Proposed Respondent Amazon.com, Inc. ("Amazon") is a Delaware corporation with a principal place of business at 410 Terry Avenue North, Seattle, Washington 98109-5210. On information and belief, and as stated more fully in Paragraphs 48 through 54, Proposed Respondent Amazon is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

13. On information and belief, Proposed Respondent Barnes & Noble, Inc. ("Barnes & Noble") is a Delaware corporation with a principal place of business at 122 Fifth Avenue, New York, NY 10011. On information and belief, and as stated more fully in Paragraphs 55 through 61, Proposed Respondent Barnes & Noble is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

14. On information and belief, Proposed Respondent Garmin Ltd. (“Garmin Ltd.”) is a Swiss corporation with a principal place of business at Mühlenalstrasse 2, 8200 Schaffhausen, Switzerland. On information and belief, Proposed Respondent Garmin International, Inc. (“Garmin International”) is a Kansas corporation with a principal place of business at 1200 East 151st Street, Olathe, Kansas 66062. On information and belief, Garmin USA, Inc. (“Garmin USA” and collectively with Garmin Global and Garmin International, “Garmin”) is a Kansas corporation with a principal place of business at 1200 East 151st Street, Olathe, Kansas 66062. On information and belief, and as stated more fully in Paragraphs 62 through 68, Proposed Respondent Garmin Ltd. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 62 through 68, Proposed Respondent Garmin International is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 62 through 68, Proposed Respondent Garmin USA is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

15. On information and belief, Proposed Respondent HTC Corporation (“HTC Corp.”) is a Taiwanese corporation with a principal place of business at 23 Xinghua Road, Taoyuan 330, Taiwan. On information and belief, Proposed Respondent HTC America (“HTC America” and collectively with HTC Corp., “HTC”) is a Texas corporation with a principal place of business at 13920 SE Eastgate Way, Suite #200, Bellevue, WA 98005. On information and belief, and as stated more fully in Paragraphs 69 through 75, Proposed Respondent HTC Corp. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 69 through 75, Proposed Respondent HTC America is engaged in one or more of the manufacture, importation, sale for

importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

16. On information and belief, Proposed Respondent Huawei Technologies Co., Ltd. (“Huawei Tech”) is a Chinese corporation with a principal place of business at Huawei Industrial Base, Bantian Longgang, Shenzhen, 518129 China. On information and belief, Proposed Respondent Huawei North America (“Huawei America” and collectively with Huawei Tech, “Huawei”) is a Texas corporation with a principal place of business at 5700 Tennyson Parkway, Suite 500, Plano, TX 75024. On information and belief, and as stated more fully in Paragraphs 76 through 82, Proposed Respondent Huawei Tech is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 76 through 82, Proposed Respondent Huawei America is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

17. On information and belief, Proposed Respondent Kyocera Corporation (“Kyocera Corp.”) is a Japanese corporation with a principal place of business at 6 Takeda Tobadono-cho, Fushimi-ku, Kyoto, Japan 612-8501. On information and belief, Proposed Respondent Kyocera Communications, Inc. (“Kyocera America” and collectively with Kyocera Global, “Kyocera”) is a Delaware corporation with a principal place of business at 9520 Towne Centre Drive, San Diego, CA 92121. On information and belief, and as stated more fully in Paragraphs 83 through 89, Proposed Respondent Kyocera Corp. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 83 through 89, Proposed Respondent Kyocera America is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

18. On information and belief, Proposed Respondent LG Electronics, Inc. (“LG Electronics, Inc.”) is a Korean corporation with a principal place of business at LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu, Seoul 150-721, Republic of Korea. On information and belief, LG Electronics U.S.A., Inc. (“LG USA” and collectively with LG Electronics, Inc., “LG”) is a Delaware corporation with a principal place of business at 1000 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. On information and belief, and as stated more fully in Paragraphs 90 through 96, Proposed Respondent LG Electronics, Inc. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 90 through 96, Proposed Respondent LG USA is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

19. On information and belief, Proposed Respondent Nintendo Co., Ltd. (“Nintendo Co.”) is a Japanese corporation with a principal place of business at 11-1 Kamitoba Hokotate-Cho, Minami-Ku, Kyoto 601-8501, Japan. On information and belief, Proposed Respondent Nintendo of America, Inc. (“Nintendo America” and collectively with Nintendo Co., “Nintendo”) is a Washington corporation with a principal place of business at 4600 150th Avenue, NE, Redmond, WA 98052. On information and belief, and as stated more fully in Paragraphs 97 through 103, Proposed Respondent Nintendo Co. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 97 through 103, Proposed Respondent Nintendo America is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

20. On information and belief, Proposed Respondent Novatel Wireless, Inc. (“Novatel Wireless”) is a Delaware corporation with a principal place of business at 9645 Scranton Road, Suite #205, San Diego, California 92121. On information and belief, and as stated more fully in

Paragraphs 104 through 110, Proposed Respondent Novatel Wireless is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

21. On information and belief, Proposed Respondent Samsung Electronics Co., Ltd. (“Samsung Electronics Co.”) is a Korean corporation with a principal place of business at Samsung Main Building, 250, Taepyeongno 2-ga, Jung-gu, Seoul 100-742, South Korea. On information and belief, Proposed Respondent Samsung Electronics America, Inc. (“Samsung America” and collectively with Samsung Electronics Co., “Samsung”) is a New York corporation with a principal place of business at 105 Challenger Road, Ridgefield Park, NJ 07660. On information and belief, and as stated more fully in Paragraphs 111 through 117, Proposed Respondent Samsung Electronics Co. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 111 through 117, Proposed Respondent Samsung America is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

22. On information and belief, Proposed Respondent Sierra Wireless, Inc. (“Sierra Wireless Wireless, Inc.”) is a Canadian corporation with a principal place of business at 13811 Wireless Way, Richmond, British Columbia V6V 3A4, Canada. On information and belief, Proposed Respondent Sierra Wireless America, Inc. (“Sierra Wireless America” and collectively with Sierra Wireless, Inc., “Sierra Wireless”) is a Delaware corporation with a principal place of business at 2200 Faraday Avenue, Suite 150, Carlsbad, CA 92008. On information and belief, and as stated more fully in Paragraphs 118 through 124, Proposed Respondent Sierra Wireless Wireless, Inc. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 118 through 124, Proposed Respondent Sierra Wireless America is engaged in one or more of the manufacture, importation,



sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

23. On information and belief, Proposed Respondent ZTE Corporation (“ZTE Corp.”) is a Chinese corporation with a principal place of business at ZTE Plaza, Keji South Road, Hi & New Tech Industrial Park, Nanshan District, Shenzhen 518057, China. On information and belief, Proposed Respondent ZTE (USA) Inc. (“ZTE USA” and collectively with ZTE Corp., “ZTE”) is a New Jersey corporation with a principal place of business at 2425 N. Central Expressway, Suite 323, Richardson, TX 75080. On information and belief, and as stated more fully in Paragraphs 125 through 131, Proposed Respondent ZTE Corp. is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices. On information and belief, and as stated more fully in Paragraphs 125 through 131, Proposed Respondent ZTE USA is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing wireless consumer electronic devices.

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

24. The technology at issue relates to hardware used in a broad range of devices, including wireless consumer electronics devices. In general, the Asserted Patent relates to devices that incorporate microprocessors, memory and/or input/output interfaces that enable connectivity.

25. The Accused Products include notebooks, tablets, smartphones, e-readers, data cards, handheld game consoles and other consumer electronic devices with wireless capabilities. The Accused Products are imported into and sold within the United States by or on behalf of Respondents.

26. Consumer electronic devices are intended for everyday use, most often in communications, entertainment and office productivity. These products have largely merged with the computer industry in what is increasingly referred to as the “consumerization” of information technology. More and more products include wireless connectivity. Even products

not traditionally associated with computer use, such as game consoles and navigation systems, now provide options to connect to the Internet wirelessly to provide access to digital content.

27. The ever-increasing need to stay connected and informed – anytime, anywhere – has popularized a variety of wirelessly connected portable computing devices that enable communications, productivity, and lifestyle activities that drive not only our day-to-day decisions but, ultimately, our economic markets. While consumer electronics continues in its trend of convergence, combining elements of many products, manufacturers face various challenges in their efforts to keep products current and competitive.

28. The MMP technology enables manufacturers to include more features in a smaller package than would otherwise be possible, while enabling the same, if not better, performance at a lower cost. The higher versatility, better performance, and lower power consumption enabled by the Asserted Patent are at the core of the ever-increasing sophistication of many features, such as wireless connectivity, cellular data/voice transmissions, and real-time GPS data traffic.

29. Accordingly, to avoid design complexity and higher manufacturing costs, as well as to ensure better performance, lower power consumption and smaller size, wireless consumer electronic devices have adopted the MMP technology covered by the Asserted Patent.

30. The need for the features enabled by MMP technology in wireless consumer electronic devices has created a market situation where the only way to compete is to incorporate the lessons of the MMP patents. Companies in the wireless consumer electronic devices market segment would simply cease to exist without the MMP technology claimed by the Asserted Patent.

## **V. THE PATENT IN SUIT AND NON-TECHNICAL DESCRIPTIONS OF THE INVENTION**

### **A. Overview of the Asserted '336 Patent**

31. United States Patent No. 5,809,336, entitled “High Performance Microprocessor Having Variable Speed System Clock,” issued on September 15, 1998 to Moore, et al. *See* Exhibit 1. The '336 Patent issued from Application No. 08/484,918, filed on June 7, 1995. *Id.*

32. The '336 Patent has been the subject of six ex parte reexamination challenges before the U.S. Patent and Trademark Office ("PTO"), leading to issuance of two reexamination certificates; the first on December 15, 2009 and the second on November 23, 2010. Collectively, the '336 patent was allowed over 607 prior art references cited during reexamination.

33. Following reexamination, the '336 Patent has six independent claims and six dependent claims. *See* Exhibit 1. TPL is currently asserting one or more of independent claims 1, 6, 10, 11, 13, 16 and one or more of dependent claims 7, 9, 14, and 15 against certain Respondents, as stated herein. Further investigation and discovery may lead to the assertion of additional claims of the '336 Patent against one or more Respondents.

34. Pursuant to Commission Rule 210.12(c), four copies of the prosecution history of the '336 Patent are attached hereto. *See* Appendices A, C-E and G. Pursuant to Commission Rule 210.12(c) four copies of each reference mentioned in the '336 Patent and/or its prosecution history are also attached hereto. *See* Appendices B, F and H.

35. There are no non-U.S. counterpart patents or patent applications for the '336 Patent, and no non-U.S. counterpart patent applications have been denied, abandoned or withdrawn.

36. As required under Commission Rule 210.12(a)(9)(iii), a list of entities licensed under the '336 Patent is attached to this Complaint as Confidential Exhibit 3. On information and belief, there are no other current licenses involving the '336 Patent.

37. Below is a table that summarizes which claims of the '336 Patent Complainants are asserting against each Respondent (or related group of respondents):

Company	US'336 Claims									
	1	6	7	9	10	11	13	14	15	16
Acer Inc.	x	x	x	x	x	x	x	x	x	x
Amazon.com, Inc.	x	x	x	x	x	x	x	x	x	x
Barnes and Noble, Inc.	x	x	x	x	x	x	x	x	x	x
Garmin Ltd.	x	x	x	x	x	x	x	x	x	x
High Tech. Computer (HTC)	x	x	x	x	x	x	x	x	x	x
Huawei Technologies Co., Ltd.	x	x	x	x	x	x	x	x	x	x
Kyocera Corporation	x	x	x	x	x	x	x	x	x	x
LG Electronics	x	x	x	x	x	x	x	x	x	x
Nintendo Co., Ltd.	x	x	x	x	x	x	x	x	x	x
Novatel Wireless, Inc.	x	x	x	x	x	x	x	x	x	x
Samsung Electronics Co., Ltd.	x	x	x	x	x	x	x	x	x	x
Sierra Wireless, Inc.	x	x	x	x	x	x	x	x	x	x
ZTE Corporation	x	x	x	x	x	x	x	x	x	x

#### B. Non-Technical Description of the Asserted '336 Patent

38. Microprocessors are complex machines with millions of individual parts whose operation requires coordination – both internally and with external components – for the microprocessor to function properly. This coordination is enabled by clock signals. The '336 Patent teaches the use of two independent clocks in a microprocessor system: (1) an on-chip clock to time the CPU; and (2) a second independent clock to time the input/output (I/O) interface. This innovation was widely adopted by the industry and became fundamental to the increased speed and efficiency of modern microprocessors. Decoupling the system clock from the I/O clock allows the clocks to run independently (or “asynchronously”).

#### VI. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS – PATENT INFRINGEMENT

39. Each Respondent has engaged in unfair trade practices, including the manufacture abroad for importation into the United States, importation into the United States, and/or sale in the United States after importation of certain electronic devices that infringe one or more of the Asserted Claims of the '336 Patent. Exemplary instances of such unfair trade practices and infringing products (the “Accused Products”) are provided below for each Respondent.

40. Exemplary instances of importation and sale of infringing products are provided below for each Respondent.

**A. Acer**

41. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Acer is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Acer Accused Products include at least the following: Aspire AS5755. Exemplary instances of importation and sale of infringing Acer products are set forth below.

42. On information and belief, the Acer Accused Products are assembled in a foreign country and imported into the United States. The photographs of the Aspire AS5755 in the attached claim chart indicate that the device is a notebook that is "Made In China." See Exhibit 4 at 3. The Aspire AS5755 is imported into the United States and sold after importation in the United States through retailers. See Exhibit 4 at 2 (Aspire AS5755 available for purchase from Acer at Acer.com); see also Exhibit 38, Declaration of Cory Smith ("Smith Decl."), ¶¶ 2 and 3 & Exhibit 38-A (confirming Aspire AS5755 purchase in the U.S. from online retailer Amazon.com).

43. On information and belief, Acer directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Acer Accused Products in the United States.

44. On information and belief, Acer induces others to infringe claims 1, 6, 7, 9, 11, 13, 14 and 15 of the '336 Patent by encouraging and facilitating others to perform actions known by Acer to infringe and with the intent that performance of the actions will infringe. TPL provided Acer notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated July 15, 2005. See Exhibit 5.

45. On information and belief, Acer induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the Aspire AS5755 with a SATA

input/output interface for connecting the accused device to a peripheral device, the peripheral device having a clock independent of the CPU clock (e.g., ring oscillator) connected to the central processing unit on the microprocessor of the Aspire AS5755 and (ii) instructing consumers to connect the accused product to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

46. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the Aspire AS5755 in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessor of the Aspire AS5755, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

47. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to the exemplary Acer infringing product, along with the attachments referenced therein, are attached as Exhibit 4. Further discovery may reveal that additional claims of the Asserted Patent are infringed by this accused product and that other Acer products infringe the Asserted Patent.

**B. Amazon.com, Inc.**

48. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Amazon is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Amazon Accused Products include at least the following: Kindle Fire. Exemplary instances of importation and sale of infringing Amazon products are set forth below.

49. On information and belief, the Amazon Accused Products are assembled in a foreign country and imported into the United States. The photographs of the Kindle Fire in the attached claim charts indicate that the device is a tablet that is "Assembled In China." See Exhibit 6 at 2. The Kindle Fire is imported into the United States and sold after importation in

the United States through retailers. *See* Exhibit 6 at 2 (Kindle Fire available for purchase from Amazon at Amazon.com); *see also* Smith Decl., ¶¶ 4 and 5 & Exhibit 38-B (confirming Kindle Fire purchase in the U.S. from online retailer Amazon.com).

50. On information and belief, Amazon directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Amazon Accused Products in the United States.

51. On information and belief, Amazon induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Amazon to infringe and with the intent that performance of the actions will infringe. TPL provided Amazon notice of the '336 Patent by letter (with an enclosed product report identifying the '336 patent) dated October 15, 2007. *See* Exhibit 7.

52. On information and belief, Amazon induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the Kindle Fire with a USB input/output interface for connecting the accused device to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessor of the Kindle Fire and (ii) instructing consumers to connect the accused product to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

53. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the Kindle Fire in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessor of the Kindle Fire, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

54. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to the exemplary Amazon infringing product,

along with the attachments referenced therein, are attached as Exhibit 6. Further discovery may reveal that additional claims of the Asserted Patent are infringed by the accused product and that other Amazon products infringe the Asserted Patent.

**C. Barnes & Noble, Inc.**

55. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Barnes & Noble is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Barnes & Noble Accused Products include at least the following: NOOK Tablet - 8GB. Exemplary instances of importation and sale of infringing Barnes & Noble products are set forth below.

56. On information and belief, the Barnes & Noble Accused Products are assembled in a foreign country and imported into the United States. The photographs of the NOOK Tablet - 8GB in the attached claim chart indicate that the device is a tablet that is "Assembled in China." *See* Exhibit 8 at 2. The NOOK Tablet - 8GB is imported into the United States and sold after importation in the United States through retailers. *See* Exhibit 8 at 2 (NOOK Tablet - 8GB available for purchase from Barnes & Noble at [Barnesandnoble.com](http://Barnesandnoble.com)); *see also* Smith Decl., ¶¶ 6 and 7 & Exhibit 38-C (confirming NOOK Tablet - 8GB purchase in the U.S. from Barnes & Noble's own online store at [Barnesandnoble.com](http://Barnesandnoble.com)).

57. On information and belief, Barnes & Noble directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Barnes & Noble Accused Products in the United States.

58. On information and belief, Barnes & Noble induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Barnes & Noble to infringe and with the intent that performance of the actions will infringe. TPL provided Barnes & Noble notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated January 14, 2010. *See* Exhibit 9.



59. On information and belief, Barnes & Noble induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the NOOK Tablet - 8GB with a USB input/output interface for connecting the accused device to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessor of the NOOK Tablet - 8GB and (ii) instructing consumers to connect the accused product to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

60. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the NOOK Tablet - 8GB in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessor of the NOOK Tablet - 8GB, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

61. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to the exemplary Barnes & Noble infringing product, along with the attachments referenced therein, are attached as Exhibit 8. Further discovery may reveal that additional claims of the Asserted Patent are infringed by this accused product and that other Barnes & Noble products infringe the Asserted Patent.

**D. Garmin**

62. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Garmin is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Garmin Accused Products include at least the NUVI 3450. Exemplary instances of importation and sale of an infringing Garmin product are set forth below.

63. On information and belief, the Garmin Accused Products are assembled in a foreign country and imported into the United States. The photographs of the NUVI 3450 in the

attached claim chart indicate that the device is a GPS device that is "Made in Taiwan." See Exhibit 10 at 2. The NUVI 3450 is imported into the United States and sold after importation in the United States through retailers. See Exhibit 10 at 2 (NUVI 3450 available for purchase from Garmin at Garmin.com); see also Smith Decl., ¶¶ 8 and 9 & Exhibit 38-B (confirming NUVI 3450 purchase in the U.S. from online retailer Amazon.com).

64. On information and belief, Garmin directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Garmin Accused Products in the United States.

65. On information and belief, Garmin induces others to infringe claims 1, 6, 7, 9, 11, 13, 14 and 15 of the '336 Patent by encouraging and facilitating others to perform actions known by Garmin to infringe and with the intent that performance of the actions will infringe. TPL provided Garmin notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated July 9, 2007. See Exhibit 11.

66. On information and belief, Garmin induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the NUVI 3450 with a ULPI input/output interface for connecting the accused device to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessor of the NUVI 3450 and (ii) instructing consumers to connect the accused product to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

67. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the NUVI 3450 in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessor of the NUVI 3450, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

68. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to the exemplary Garmin infringing product, along with the attachments referenced therein, are attached as Exhibit 10. Further discovery may reveal that additional claims of the Asserted Patent are infringed by this accused product and that other Garmin products infringe the Asserted Patent.

**E. HTC**

69. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, HTC is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the HTC Accused Products include at least the following: Thunderbolt and Jetstream. Exemplary instances of importation and sale of infringing HTC products are set forth below.

70. On information and belief, the HTC Accused Products are assembled in a foreign country and imported into the United States. The photographs of the Thunderbolt in the attached claim chart indicate that the device is a smartphone that is "Made In Taiwan." See Exhibit 12 at 2. The photographs of the Jetstream in the attached claim chart indicate that the device is a tablet that is "Made In Taiwan." See Exhibit 13 at 2. The Thunderbolt and Jetstream are imported into the United States and sold after importation in the United States through retailers. See Exhibit 12 at 2 (Thunderbolt available for purchase from Verizon at Verizon.com); see Exhibit 13 at 2 (Jetstream available for purchase from AT&T at Att.com); see also Smith Decl., ¶¶ 10 through 13 & Exhibits 38-D and 38-E (confirming Thunderbolt purchase in the U.S. from retailer Best Buy and Jetstream purchase in the U.S. from retailer AT&T).

71. On information and belief, HTC directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the HTC Accused Products in the United States.

72. On information and belief, HTC induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions

known by HTC to infringe and with the intent that performance of the actions will infringe. TPL provided HTC notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated November 7, 2006. *See* Exhibit 14.

73. On information and belief, HTC induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the Jetstream and Thunderbolt products with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessors of the Jetstream and Thunderbolt products and (ii) instructing consumers to connect the accused products to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

74. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the Jetstream and Thunderbolt products in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the Jetstream and Thunderbolt products, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

75. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary HTC infringing products, along with the attachments referenced therein, are attached as Exhibits 12 and 13. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other HTC products infringe the Asserted Patent.

**F. Huawei**

76. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Huawei is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On

information and belief, the Huawei Accused Products include at least the following: M835 and MediaPad. Exemplary instances of importation and sale of infringing Huawei products are set forth below.

77. On information and belief, the Huawei Accused Products are assembled in a foreign country and imported into the United States. The photographs of the M835 in the attached claim chart indicate that the device is a mobile phone that is "Made In China." See Exhibit 15 at 2. The photographs of the MediaPad in the attached claim chart indicate that the device is a tablet that is "Made In China." See Exhibit 16 at 2. The M835 and MediaPad are imported into the United States and sold after importation in the United States through retailers. See Exhibit 15 at 2 (M835 available for purchase from MetroPCS at metropcs.com); see Exhibit 16 at 2 (MediaPad available for purchase from Newegg at newegg.com); see also Smith Decl., ¶¶ 14 through 17 & Exhibits 38-F and 38-G (confirming M835 purchase in the U.S. from online retailer MetroPCS.com and MediaPad purchase in the U.S. from online retailer Provantage.com).

78. On information and belief, Huawei directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Huawei Accused Products in the United States.

79. On information and belief, Huawei induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Huawei to infringe and with the intent that performance of the actions will infringe. TPL provided Huawei notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated September 18, 2006. See Exhibit 17.

80. On information and belief, Huawei induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the M835 and MediaPad products with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (e.g., ring oscillator) connected to the central processing unit on the microprocessors of the M835 and MediaPad products and (ii) instructing consumers to connect the accused products to a peripheral device

such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

81. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the M835 and MediaPad products in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the M835 and MediaPad products, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

82. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary Huawei infringing products, along with the attachments referenced therein, are attached as Exhibits 15 and 16. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other Huawei products infringe the Asserted Patent.

**G. Kyocera**

83. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Kyocera is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Kyocera Accused Products include at least the following: Clip S2100 and Milano C5120. Exemplary instances of importation and sale of infringing Kyocera products are set forth below.

84. On information and belief, the Kyocera Accused Products are assembled in a foreign country and imported into the United States. The photographs of the Clip S2100 in the attached claim chart indicate that the device is a mobile phone that is "Made In China." See Exhibit 18 at 2. The photographs of the Milano C5120 in the attached claim chart indicate that the device is a smartphone that is "Made In China." See Exhibit 19 at 3. The Clip S2100 and Milano C5120 are imported into the United States and sold after importation in the United States

through retailers. *See* Exhibit 18 at 2 (Clip S2100 available for purchase from Virgin Mobile at virginmobileusa.com); *see* Exhibit 19 at 2 (Milano C5120 available for purchase from Kyocera's own online store at Kyocera.com); *see also* Smith Decl., ¶¶ 18 through 21 & Exhibits 38-B and 38-H (confirming Clip S2100 purchase in the U.S. from online retailer Amazon.com and Milano C5120 purchase in the U.S. from online retailer RadioShack Wireless).

85. On information and belief, Kyocera directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Kyocera Accused Products in the United States.

86. On information and belief, Kyocera induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Kyocera to infringe and with the intent that performance of the actions will infringe. TPL provided Kyocera notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated October 26, 2005. *See* Exhibit 20.

87. On information and belief, Kyocera induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the Clip S2100 and Milano C5120 products with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessors of the Clip S2100 and Milano C5120 products and (ii) instructing consumers to connect the accused products to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

88. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the Clip S2100 and Milano C5120 in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the Clip S2100 and Milano

C5120 products, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

89. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary Kyocera infringing products, along with the attachments referenced therein, are attached as Exhibits 18 and 19. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other Kyocera products infringe the Asserted Patent.

**H. LG**

90. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, LG is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the LG Accused Products include at least the following: Lucid 4G LTE and Nitro HD. Exemplary instances of importation and sale of infringing LG products are set forth below.

91. On information and belief, the LG Accused Products are assembled in a foreign country and imported into the United States. The photographs of the Nitro HD in the attached claim chart indicate that the device is a smartphone that is "Made In Korea." *See* Exhibit 22 at 2. The photographs of the Lucid 4G LTE in the attached claim chart indicate that the device is a smartphone that is "Made In Korea." *See* Exhibit 21 at 3. The LG Accused Products are imported into the United States and sold after importation in the United States through retailers. *See* Exhibits 22 at 2 (Nitro HD available for purchase from Amazon at amazon.com) and Exhibit 21 at 2 (Lucid 4G LTE available for purchase from Verizon Wireless at verizonwireless.com); *see also* Smith Decl., ¶¶ 22 through 25 & Exhibit 38-I (confirming Nitro HD purchase in the U.S. from retailer Best Buy; Lucid 4G LTE purchase in the U.S. from retailer Best Buy).

92. On information and belief, LG directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the LG Accused Products in the United States.



93. On information and belief, LG induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by LG to infringe and with the intent that performance of the actions will infringe. TPL provided LG notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated October 3, 2005. *See* Exhibit 23.

94. On information and belief, LG induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the LG Accused Products with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessors of the LG Accused Products and (ii) instructing consumers to connect the accused products to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

95. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the LG Accused Products in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the LG Accused Products, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

96. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary LG infringing products, along with the attachments referenced therein, are attached as Exhibits 21 and 22. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other LG products infringe the Asserted Patent.

**I. Nintendo**

97. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Nintendo is engaged in the manufacture, importation, sale for

importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Nintendo Accused Products include at least the following: DSi and 3DS. Exemplary instances of importation and sale of infringing Nintendo products are set forth below.

98. On information and belief, the Nintendo Accused Products are assembled in a foreign country and imported into the United States. The photographs of the DSi in the attached claim chart indicate that the device is a handheld game console that is "Made In China." *See* Exhibit 25 at 2. The photographs of the 3DS in the attached claim chart indicate that the device is a handheld game console that is "Made In China." *See* Exhibit 24 at 2. The DSi and 3DS are imported into the United States and sold after importation in the United States through retailers. *See* Exhibit 25 at 2 (DSi available for purchase from Amazon at amazon.com); *see* Exhibit 24 at 2 (3DS available for purchase from Amazon at amazon.com); *see also* Smith Decl., ¶¶ 26 through 29 & Exhibits 38-J and 38-B (confirming 3DS purchase in the U.S. from online retailer Amazon.com and DSi purchase in the U.S. from retailer Best Buy).

99. On information and belief, Nintendo directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Nintendo Accused Products in the United States.

100. On information and belief, Nintendo induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Nintendo to infringe and with the intent that performance of the actions will infringe. TPL provided Nintendo notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated October 3, 2005. *See* Exhibit 26.

101. On information and belief, Nintendo induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the 3DS and DSi products with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessors of the 3DS and DSi products and

(ii) instructing consumers to connect the accused products to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

102. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the 3DS and DSi products in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the 3DS and DSi products, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

103. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary Nintendo infringing products, along with the attachments referenced therein, are attached as Exhibits 24 and 25. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other Nintendo products infringe the Asserted Patent.

**J. Novatel Wireless**

104. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Novatel Wireless is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Novatel Wireless Accused Products include at least the following: MiFi 2372 and Ovation MC760. Exemplary instances of importation and sale of infringing Novatel Wireless products are set forth below.

105. On information and belief, the Novatel Wireless Accused Products are assembled in a foreign country and imported into the United States. The photographs of the MiFi 2372 in the attached claim chart indicate that the device is a mobile hotspot that is "Manufactured In China." *See* Exhibit 27 at 2. The photographs of the Ovation MC760 in the attached claim chart indicate that the device is a USB data card that is made in "Korea." *See* Exhibits 28 at 2. The MiFi 2372 and Ovation MC760 are imported into the United States and sold after importation in

the United States through retailers. *See* Exhibits 27 at 2 (MiFi 2372 available for purchase from Amazon at amazon.com); *see* Exhibit 28 at 2 (Ovation MC760 available for purchase from Virgin Mobile at virginmobileusa.com); *see also* Smith Decl., ¶¶ 30 through 33 & Exhibits 38-K and 38-L (confirming MiFi 2372 purchase in the U.S. from online retailer Amazon and Ovation MC760 purchase in the U.S. from online retailer Virgin Mobile).

106. On information and belief, Novatel Wireless directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Novatel Wireless Accused Products in the United States.

107. On information and belief, Novatel Wireless induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Novatel Wireless to infringe and with the intent that performance of the actions will infringe. TPL provided Novatel Wireless notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated March 17, 2008. *See* Exhibit 29.

108. On information and belief, Novatel Wireless induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the MiFi 2372 and Ovation MC760 with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessors of the MiFi 2372 and Ovation MC760 products (ii) instructing consumers to connect the accused products to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

109. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the MiFi 2372 and Ovation MC760 products in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the MiFi

2372 and Ovation MC760 products, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

110. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary Novatel Wireless infringing products, along with the attachments referenced therein, are attached as Exhibits 27 and 28. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other Novatel Wireless products infringe the Asserted Patent.

**K. Samsung**

111. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Samsung is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Samsung Accused Products include at least the following: Galaxy Note. Exemplary instances of importation and sale of infringing Samsung products are set forth below.

112. On information and belief, the Samsung Accused Products are assembled in a foreign country and imported into the United States. The photographs of the Galaxy Note in the attached claim chart indicate that the device is a smartphone that is "Made In Korea." *See* Exhibit 30 at 2. The Galaxy Note is imported into the United States and sold after importation in the United States through retailers. *See* Exhibit 30 at 2 (Galaxy Note available for purchase from AT&T at wireless.att.com); *see also* Smith Decl., ¶¶ 34 and 35 & Exhibit 38-I (confirming Galaxy Note purchase in the U.S. from retailer Best Buy).

113. On information and belief, Samsung directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Samsung Accused Products in the United States.

114. On information and belief, Samsung induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Samsung to infringe and with the intent that performance of the actions will

infringe. TPL provided Samsung notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated August 4, 2005. *See* Exhibit 31.

115. On information and belief, Samsung induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the Galaxy Note with a USB input/output interface for connecting the accused device to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessor of the Galaxy Note and (ii) instructing consumers to connect the accused product to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

116. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the Galaxy Note in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessor of the Galaxy Note, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

117. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to the exemplary Samsung infringing product, along with the attachments referenced therein, are attached as Exhibit 30. Further discovery may reveal that additional claims of the Asserted Patent are infringed by this accused product and that other Samsung products infringe the Asserted Patent.

**L. Sierra Wireless**

118. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, Sierra Wireless is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Sierra Wireless Accused Products include at least the following:

Aircard 890 and Elevate 4G. Exemplary instances of importation and sale of infringing Sierra Wireless products are set forth below.

119. On information and belief, the Sierra Wireless Accused Products are assembled in a foreign country and imported into the United States. The photographs of the Aircard 890 in the attached claim chart indicate that the device is a data card that is “Manufactured In China.” *See* Exhibit 32 at 2. The photographs of the Elevate 4G in the attached claim chart indicate that the device is a mobile hotspot that is “Made In China.” *See* Exhibit 33 at 2. The Aircard 890 and Elevate 4G are imported into the United States and sold after importation in the United States through retailers. *See* Exhibit 32 at 2 (Aircard 890 available for purchase from Amazon at amazon.com); *see* Exhibit 33 at 2 (Elevate 4G available for purchase from Amazon at amazon.com); *see also* Smith Decl., ¶¶ 36 through 39 & Exhibits 38-K and 38-M (confirming Aircard 890 purchase in the U.S. from online retailer Amazon and Elevate 4G purchase in the U.S. from online retailer Amazon Wireless).

120. On information and belief, Sierra Wireless directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the Sierra Wireless Accused Products in the United States.

121. On information and belief, Sierra Wireless induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by Sierra Wireless to infringe and with the intent that performance of the actions will infringe. TPL provided Sierra Wireless notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated January 7, 2008. *See* Exhibit 34.

122. On information and belief, Sierra Wireless induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the Aircard 890 and Elevate 4G products with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessors of the Aircard 890 and Elevate 4G products and (ii) instructing consumers to connect the accused products to a

peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

123. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the Aircard 890 and Elevate 4G products in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the Aircard 890, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

124. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary Sierra Wireless infringing products, along with the attachments referenced therein, are attached as Exhibits 32 and 33. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other Sierra Wireless products infringe the Asserted Patent.

**M. ZTE**

125. On information and belief, either by itself or through its subsidiaries, or through third parties acting on its behalf, ZTE is engaged in the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the ZTE Accused Products include at least the following: T-Mobile 4G and Score M. Exemplary instances of importation and sale of infringing ZTE products are set forth below.

126. On information and belief, the ZTE Accused Products are assembled in a foreign country and imported into the United States. The photographs of the T-Mobile 4G in the attached claim chart indicate that the device is a mobile hotspot that is "Made In China." *See* Exhibit 35 at 3. The photographs of the Score M in the attached claim chart indicate that the device is a mobile phone that is "Made In China." *See* Exhibit 36 at 2. The T-Mobile 4G and Score M are imported into the United States and sold after importation in the United States through retailers. *See* Exhibit 35 at 2 (T-Mobile 4G available for purchase from T-Mobile at t-



mobile.com); *see* Exhibit 36 at 2 (Score M available for purchase from Metro PCS at metropcs.com); *see also* Smith Decl., ¶¶ 40 through 43 & Exhibits 38-N and 38-O (confirming T-Mobile 4G purchase in the U.S. from online retailer Amazon and Score M purchase in the U.S. from online retailer Metro PCS).

127. On information and belief, ZTE directly infringes at least claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by importing, offering for sale, selling, testing and/or using certain of the ZTE Accused Products in the United States.

128. On information and belief, ZTE induces others to infringe claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent by encouraging and facilitating others to perform actions known by ZTE to infringe and with the intent that performance of the actions will infringe. TPL provided ZTE notice of the '336 Patent by letter (with an enclosed disk identifying the MMP patents) dated September 18, 2006. *See* Exhibit 37.

129. On information and belief, ZTE induces consumers to make and use the claimed inventions and to practice the claimed methods by (i) providing the Score M and T-Mobile 4G products with a USB input/output interface for connecting the accused devices to a peripheral device, the peripheral device having a clock independent of the CPU clock (*e.g.*, ring oscillator) connected to the central processing unit on the microprocessors of the Score M and (ii) instructing consumers to connect the accused products to a peripheral device such that the combination includes each element of the asserted apparatus claims of the '336 Patent and use of the combination, as intended, practices each of the elements of the asserted method claims of the '336 Patent.

130. On information and belief, consumers make and use the claimed inventions and practice the claimed methods by using the Score M and T-Mobile 4G products in combination with a peripheral device having a clock that originates clock signals from a source other than the clock connected to the central processing unit on the microprocessors of the Score M and T-Mobile 4G products, thereby directly infringing claims 1, 6, 7, 9, 10, 11, 13, 14, 15 and 16 of the '336 Patent.

131. Claim charts applying the asserted independent claims 1, 6, 10, 11, 13 and 16 and dependent claims 7, 9, 14 and 15 of the '336 Patent to exemplary ZTE infringing products, along with the attachments referenced therein, are attached as Exhibits 35 and 36. Further discovery may reveal that additional claims of the Asserted Patent are infringed by these accused products and that other ZTE products infringe the Asserted Patent.

132. For the Commission's convenience, TPL provides the following table, which summarizes the patent claims infringed by each Respondent as set forth in the preceding paragraphs:

Company	US'336 Claims									
	1	6	7	9	10	11	13	14	15	16
Acer Inc.	x	x	x	x	x	x	x	x	x	x
Amazon.com, Inc.	x	x	x	x	x	x	x	x	x	x
Barnes and Noble, Inc.	x	x	x	x	x	x	x	x	x	x
Garmin Ltd.	x	x	x	x	x	x	x	x	x	x
High Tech. Computer (HTC)	x	x	x	x	x	x	x	x	x	x
Huawei Technologies Co., Ltd.	x	x	x	x	x	x	x	x	x	x
Kyocera Corporation	x	x	x	x	x	x	x	x	x	x
LG Electronics	x	x	x	x	x	x	x	x	x	x
Nintendo Co., Ltd.	x	x	x	x	x	x	x	x	x	x
Novatel Wireless, Inc.	x	x	x	x	x	x	x	x	x	x
Samsung Electronics Co., Ltd.	x	x	x	x	x	x	x	x	x	x
Sierra Wireless, Inc.	x	x	x	x	x	x	x	x	x	x
ZTE Corporation	x	x	x	x	x	x	x	x	x	x

## VII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

133. On information and belief, the Harmonized Tariff Schedule of the United States ("HTSUS") item number(s) under which the infringing electronic products, components thereof, and products containing same have been imported into the United States may be classified under at least 8471, 8471.30.0100, 8471.41.01, 8471.49.00 (portable computers, laptops, tablets); 8517, 8517.12.00, 8517.18.00, 8517.18.0050, 8517.62.00, 8517.62.00.0010, 8517.62.00.0050, 8517.69.00 (mobile phones, tablets, hotspot, etc); 8526, 8526.91.00 (GPS device); 9504,

9504.50.00, 9504.90.40 (portable gaming device); 8471, 8471.30.0100, 8471.41.01, 8471.41.0150, 8471.49.0000, 8471.50.01, 8471.50.0150, 8471.60, 8471.60.10, 8471.60.1050, 8471.60.7000, 8471.60.90, 8471.60.9050, 8471.80, 8471.80.10, 8471.80.40, 8471.80.9000, 8471.90.0000, 8473.30, 8473.30.11, 8473.30.1180, 8473.30.51, 8473.30.91 (hotspot/mobile broadband device). These HTSUS classifications are intended for illustration only and are not intended to be restrictive of the accused devices and products.

## VIII. RELATED LITIGATION

### A. Pending and Ongoing Litigation

134. Concurrent with the filing of this complaint, Complainant is filing civil actions in the United States District for the Northern District of California accusing Respondents (other than Acer and HTC; *see* paragraphs 135, 136, 151 and 152 *infra*) of infringing the Asserted Patent.

135. On February 8, 2008, Acer, Inc., Acer America Corporation, and Gateway, Inc., (collectively “Acer et al.”) filed an action for declaratory judgment of patent noninfringement against TPL, PTSC, and Alliacense Limited (“Alliacense”) in the United States District Court for the Northern District of California (Case No. 3:08-cv-00877). Among other patents not asserted here, Acer’s complaint included a request for a declaratory judgment involving the ’336 Patent. An amended complaint was filed on February 9, 2008. Counterclaims for infringement of the ’336 patent, among others not asserted here, were filed in the Acer action.

136. On February 8, 2008, HTC Corporation and HTC America, Inc. (collectively “HTC et al.”) filed an action for declaratory judgment of patent noninfringement against TPL, PTSC, and Alliacense in the United States District Court for the Northern District of California (Case No. 3:08-cv-00882). Among other patents not asserted here, HTC’s complaint included a request for a declaratory judgment involving the ’336 Patent. An amended complaint was filed on July 10, 2008. Counterclaims for infringement of the ’336 patent, among others not asserted here, were filed in the HTC action.

137. On December 1, 2008, Barco NV (“Barco”) filed an action for declaratory judgment of patent noninfringement against TPL, PTSC, and Alliacense in the United States District Court for the Northern District of California (Case No. 3:08-cv-05398). Counterclaims for infringement of the ‘336 patent, among others not asserted here, were filed in the Barco action.

138. On December 18, 2008, the Acer et al., HTC et al. and Barco cases were ordered related (the “Related Actions”).

139. On June 17, 2009, the Court stayed the Related Actions until September 18, 2009, to allow then-pending reexamination proceedings before the Patent and Trademark Office to advance. On February 22, 2010, the Court dissolved the stay and adopted a scheduling order.

140. On September 1, 2011, the Related Actions were reassigned to Judge James Ware for all further proceedings. On October 5, 2011, the Court adopted a scheduling order for claim construction briefing and a Markman hearing for January 27, 2012.

141. On January 27, 2012, the Court held the Markman hearing and, on June 12, 2012, the Court issued its First Claim Construction Order. The Related Actions remain pending.

#### **B. Terminated Litigation**

142. On December 22, 2003, PTSC filed a complaint against Sony Corporation of America in the United States District Court, Southern District of New York (Case No. 1:03-cv-10142) alleging infringement of the ‘336 Patent. The case was voluntarily dismissed without prejudice on October 14, 2004.

143. On December 23, 2003, PTSC filed a complaint against Toshiba America, Inc. in the United States District Court, Southern District of New York (Case No. 1:03-cv-10180) alleging infringement of the ‘336 Patent. The case was voluntarily dismissed without prejudice on October 14, 2004.

144. On December 23, 2003, PTSC filed a complaint against NEC USA, Inc. in the United States District Court, Eastern District of New York (Case No. 2:03-cv-06432) alleging

infringement of the '336 Patent. The case was voluntarily dismissed without prejudice on February 27, 2004.

145. On December 23, 2003, PTSC filed a complaint against Fujitsu Microelectronics America, Inc. in the United States District Court, Northern District of California (Case No. 4:03-cv-05787) alleging infringement of the '336 Patent. PTSC amended its complaint on February 18, 2004 to include defendants Moore, TPL, and Daniel E. Leckrone for damages and injunctive relief and for declaratory judgment for determination and correction of inventorship and ownership of the '336 patent. Then on March 11, 2004, PTSC filed a consolidated amended complaint against defendants Fujitsu Computers Systems Corporation, Matsushita Electric Corporation of America, NEC Solutions (America), Inc., Sony Electronics Inc., Toshiba America, Inc., Moore, TPL, and Daniel E. Leckrone for damages and injunctive relief and for declaratory judgment for determination and correction of inventorship and ownership of the '336 patent. The case was voluntarily dismissed without prejudice on October 24, 2005.

146. On December 30, 2003, PTSC filed a complaint against Matsushita Electric Corporation of America in the United States District Court, District of New Jersey (Case No. 2:03-cv-06210) alleging infringement of the '336 Patent. The case was voluntarily dismissed without prejudice on March 26, 2004.

147. On February 2, 2004, Intel Corporation ("Intel") filed an action for declaratory judgment of patent noninfringement against PTSC in the United States District Court, Northern District of California (Case No. 4:04-cv-00439). Intel's complaint included a declaratory judgment claim involving the '336 Patent. The case was voluntarily dismissed with prejudice on July 7, 2005.

148. On February 13, 2004, PTSC filed a complaint in the United States District Court, Northern District of California against Moore, TPL, and Daniel E. Leckrone for declaratory judgment for determination and correction of inventorship and ownership of the '336 Patent (Case No. 5:04-cv-00618-JF). PTSC filed an amended complaint on July 5, 2004, and again November 29, 2004. All claims were dismissed on June 9, 2005 based on settlement.

149. On October 24, 2005, TPL filed a complaint in the United States District Court, Eastern District of Texas against Fujitsu Limited, Fujitsu General America, Inc., Fujitsu Computer Products of America, Inc., Fujitsu Computer Systems Corp., Fujitsu Microelectronics America, Inc., Fujitsu Ten Corporation of America (collectively "Fujitsu et al."), Matsushita Electrical Industrial Co., Ltd., Panasonic Corporation of North America, JVC Americas Corporation (collectively "Matsushita et al."), NEC Corporation, NEC America, Inc., NEC Display Solutions of America, Inc., NEC Solutions America, Inc., NEC Unified Solutions, Inc. (collectively "NEC et al."), NEC Electronics America, Inc. ("NEC Electronics"), Toshiba Corporation, Toshiba America, Inc., Toshiba America Electronic Components, Inc., Toshiba America Information Systems, Inc., and Toshiba America Consumer Products, LLC (collectively "Toshiba et al.") (Case No. 2:05-cv-00494), alleging infringement of the '336 Patent (among another patent not asserted here). Amended complaints were filed by TPL and PTSC on September 12, 2006 and February 2, 2007. All claims between Plaintiffs TPL and PTSC and Defendants Fujitsu et al. were dismissed on March 1, 2006 based on settlement. All claims between Plaintiffs TPL and PTSC and Defendants NEC et al. were dismissed on February 21, 2007 based on settlement. All claims between Plaintiffs TPL and PTSC and Defendants Matsushita et al., NEC Electronics, and Toshiba et al. were dismissed on December 20, 2007 based on settlement.

150. On February 8, 2008, ASUSTek Computer, Inc. ("ASUSTek") filed an action for declaratory judgment of patent noninfringement against TPL, PTSC, and Alliacense in the United States District Court, Northern District of California (Case No. 5:08-cv-00884). Among other patents not asserted here, ASUSTek's complaint included a request for a declaratory judgment involving the '336 Patent. The complaint was amended twice, on July 10, 2008 and again on September 23, 2008. All claims were dismissed on February 25, 2009 based on settlement.

151. On April 25, 2008, TPL and PTSC filed a complaint against HTC et al. in the United States District Court, Eastern District of Texas (Case No. 2:08-cv-00172) alleging

infringement of the '336 Patent (among other patents not asserted here). The case was dismissed without prejudice on February 23, 2009.

152. On April 25, 2008, TPL and PTSC filed a complaint against Acer et al. in the United States District Court, Eastern District of Texas (Case No. 2:08-cv-00176) alleging infringement of the '336 Patent (among other patents not asserted here). The case was dismissed without prejudice on February 13, 2009.

153. On April 25, 2008, TPL, PTSC, and MCM filed a complaint against ASUSTek in the United States District Court, Eastern District of Texas (Case No. 2:08-cv-00177) alleging infringement of the '336 Patent (among other patents not asserted here). The case was dismissed on March 6, 2009 based on settlement.

154. On April 24, 2009, Sirius XM Radio Inc. ("Sirius XM") filed an action for declaratory judgment of patent noninfringement against TPL, PTSC, and Alliacense in the United States District Court, Southern District of New York (Case No. 1:09-cv-04083). Among other patents not asserted here, Sirius XM's complaint included a request for a declaratory judgment involving the '336 Patent. The case was transferred to the United States District Court, Southern District of New York (Case No. 3:10-cv-00816) on or about February 26, 2010. The case was dismissed on July 26, 2010 based on settlement.

155. There have been no other court or agency actions, domestic or foreign, involving the Asserted Patent.

#### **IX. THE DOMESTIC INDUSTRY**

156. As required by Section 337(a)(2) and defined by Section 337(a)(3), a domestic industry exists in the United States in connection with the Asserted Patent. In particular, TPL has made substantial investments in the development and enforcement of the Asserted Patent through its significant licensing activities, which have resulted in numerous licensees whose products practice the inventions claimed in the '336 Patent. The fact that many TPL licensees make and sell products covered by the Asserted Patent demonstrates there is a strong nexus between TPL's substantial MMP licensing program and the specific patent asserted in this

Complaint. In addition, TPL has made extensive use of the inventions claimed in the Asserted Patent to develop microprocessor products that, when integrated into systems with relevant features such as an external memory bus and an input/output interface, enable products to practice the Asserted Patent.

**A. A Domestic Industry for the Asserted Patent Exists as a Result of TPL's Substantial Investments in its MMP Licensing Program.**

157. California-based TPL has made and continues to make substantial investments in the development, use, and enforcement of the Asserted Patent in the United States through its MMP Licensing Program, thus establishing a domestic industry under 19 U.S.C. § 1337(a)(3)(C).

158. TPL's substantial domestic investments in its licensing program for the MMP Portfolio, including the Asserted Patent, are set forth in detail in the Confidential Declaration of Dwayne Hannah ("Hannah Decl.") (Confidential Exhibit 39), ¶¶ 12-25. For example, TPL employs multiple legal, technical, financial, and business executives and experts who have worked to analyze and license the MMP Portfolio. Hannah Decl., ¶ 13. TPL also employs teams of many other specialists to: (a) procure products of potential licensees; (b) deconstruct and "tear down" products of potential licensees (including detailed photography of the products); (c) analyze "tear down" reports and prepare claim charts; (d) correspond with potential licensees; (e) make in-person presentations and negotiate licenses; and (f) ensure licensee compliance with royalty and reporting obligations. These California-based teams of TPL employees include Business Analysts, Inventory Control Specialists, Reverse Engineering Specialists, Operations Analysts, Document Production Specialists, Licensing Coordinators and Licensing Executives. TPL has also spent substantial resources to purchase the products of potential licensees for tear-down and analysis. Hannah Decl., ¶¶ 13-22.

159. TPL also leases property for its headquarters in Cupertino, California, where the majority of the employees engaged in the MMP licensing program are based. Hannah Decl., ¶ 23.



160. TPL has contacted over four hundred (400) potential licensees in furtherance of the licensing of its MMP Portfolio, which includes the Asserted Patent. Hannah Decl., ¶ 24 & Confidential Exhibit 39-K. TPL has also been successful in licensing the MMP Portfolio. Hannah Decl., ¶ 25. As evidence of the success of TPL's licensing program, a list of entities licensed under the MMP Portfolio, including the Asserted Patent, is attached to the Hannah Decl. See Hannah Decl., ¶ 25 & Confidential Exhibit 39-L. The MMP licensing program has generated in excess of \$300 million in licensing fees to date. Hannah Decl., ¶ 25.

161. As required by Commission precedent, including *Multimedia Display*, 337-TA-694 (Comm'n Opin., July 22, 2011), there is a strong nexus between the asserted '336 Patent and TPL's substantial domestic investments in the licensing of its MMP Portfolio.

162. The '336 Patent is closely related to the other patents in the MMP Portfolio. This demonstrates that the Asserted Patent fits together congruently with the other patents in the MMP Portfolio because they all cover specific fundamental microprocessor technology. The majority of the MMP Portfolio, including the '336 Patent, resulted from one fundamental patent application: Application No. 07/389,334, filed on August 3, 1989, which issued on August 8, 1995 as U.S. Patent No. 5,440,749 ("the '749 Patent").

163. The inventors of the '749 Patent were Charles H. Moore and Russell H. Fish III. The application for the '749 Patent is an "ancestor" application for the '336 Patent, and both share the same specification. The '336 Patent includes the same two inventors as the '749 Patent. In addition, the '749 application is an "ancestor" application for all the other issued U.S. patents in the MMP Portfolio. Thus, the '336 Patent is closely related to all of the other issued U.S. patents in the MMP Portfolio.

164. As discussed above, the Asserted Patent is directed to technology that is closely related to the subject matter of the other MMP patents. The '336 Patent teaches the use of two independent clocks in a microprocessor system: (1) an on-chip first clock to time the CPU; and (2) a second independent clock to time the input/output (I/O) interface, which allows the clocks

to run independently (or “asynchronously”). The other patents in the MMP Portfolio relate to similar aspects of microprocessor architecture.

165. As shown in the claim charts attached to this Complaint, many MMP licensee products practice the '336 Patent. *See* Confidential Exhibits 40 through 47. This demonstrates a strong nexus between TPL's substantial domestic investments in its licensing program and the Asserted Patent in this case. *See Multimedia Display*, 337-TA-694 (Comm'n Opin., July 22, 2011) at 10-12.

166. For example, multiple models of smartphones from three different MMP licensees include microprocessors that practice the '336 Patent. *See, e.g.*, Confidential Exhibits 40 through 42. Tablet computers from two MMP licensees include microprocessors that practice the '336 Patent. *See, e.g.*, Confidential Exhibits 43 and 44. Multiple MMP licensees make and sell personal computers that practice the '336 Patent. *See, e.g.*, Confidential Exhibits 45 through 47.

167. Thus, TPL has a domestic industry based on its substantial domestic investments in its MMP licensing program, which has led to multiple licensees whose products practice the Asserted Claims in this Complaint.

**B. OnSpec, a Company Funded and Operated by TPL, Developed Products and Technology That Utilized the MMP Patent Portfolio.**

168. TPL participated in the acquisition of OnSpec in April 2006. Hannah Decl., ¶ 4. OnSpec is an employee-funded company founded in 1989 in Northern California. Hannah Decl., ¶ 5. Its business focuses on the development and sale of System-On-Chip (“SoC”) semiconductor products. From its inception, OnSpec attracted interest and awareness in the industry. From its innovative parallel port products that launched an industry of connected peripherals to its Flash USB solutions, OnSpec demonstrated technology leadership and aggressive innovation. OnSpec has designed, manufactured and marketed technology solutions that allowed their microprocessor-based SoCs to connect flash memory cards (including, Memory Stick, CompactFlash, Secure Digital, MultiMediaCard, Smart Media, xD, and

Microdrives) to input/output interfaces (including, USB 1.1, USB 2.0, IDE, PCMCIA, SATA, CompactFlash and 8 or 16 bit general purpose architectures). *See* Hannah Decl., ¶ 5.

169. OnSpec has made extensive use of the inventions claimed in the Asserted Patent in several products. It has sold and continues to sell its SoC microprocessors to manufacturers of consumer electronics products, such as computers, tablets, cell phones, video game players, and navigation devices. Hannah Decl., ¶ 7. OnSpec's product line of controller chips was used in products similar to those sold by Respondents to provide compatibility with various flash card standards (CompactFlash, MemoryStick, SecureDigital, xD, and Smart Media). Hannah Decl., ¶ 8 & Confidential Exhibit 39-I (showing sales of OnSpec microprocessors that make use of inventions claimed in Asserted Patent).

170. OnSpec has made and continues to make significant investments in plant, equipment, labor and capital in the United States with respect to the research, development and engineering of products that practice the Asserted Patent. Hannah Decl., ¶ 9-11.

171. OnSpec microprocessors chips are used in products that practice the Asserted Patent, including the OnSpec xSil 271 G microprocessor. Hannah Decl., ¶ 6 & Confidential Exhibit 39-E (claim chart showing the xSil 271 G). This product practices the '336 Patent. In addition, OnSpec chips are used in a range of other microprocessor products that practice the '336 Patent. Hannah Decl., ¶ 6 & Confidential Exhibits 39-C, 39-D, 39-F and 39-G (claim charts showing, for example, the xSil 248, xSil 269-G, xSil 212 and xSil 251 microprocessors). OnSpec microprocessors are also used in several other products that practice the '336 patent. Hannah Decl., ¶ 6; *see also* Confidential Exhibit 39-H (list of OnSpec products used in practicing the '336 Asserted Patent).

## **X. RELIEF REQUESTED**

WHEREFORE, by reason of the foregoing, Complainants respectfully request that the United States International Trade Commission:

(a) Institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (b)(1), with respect to violations of Section

337 based upon the importation, sale for importation, and sale after importation into the United States of Respondents' wireless consumer electronic devices and components thereof that infringe one or more of the asserted claims of the '336 Patent;

(b) Schedule and conduct a hearing on said unlawful acts and, following said hearing;

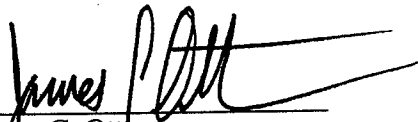
(c) Issue a permanent limited exclusion order pursuant to 19 U.S.C. § 1337(d) barring from entry into the United States all of wireless consumer electronic devices and components thereof that infringe one or more of the asserted claims of the '336 Patent;

(d) Issue permanent cease and desist orders, pursuant to 19 U.S.C. § 1337(f), directing each Respondent to cease and desist from importing, marketing, advertising, demonstrating, warehousing inventory for distribution, offering for sale, selling, distributing, licensing, or using Respondents' imported wireless consumer electronic devices and components thereof that infringe one or more of the asserted claims of the '336 Patent; and

(e) Grant such other and further relief as the Commission deems just and proper based on the facts determined by the investigation and the authority of the Commission.

Dated: July 23, 2012

Respectfully submitted,



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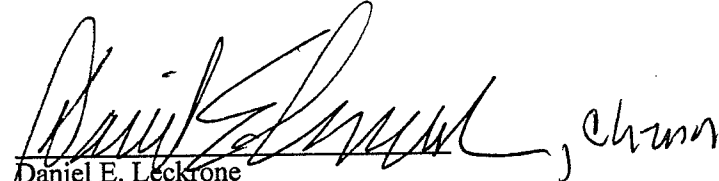
Counsel for Complainant  
PATRIOT SCIENTIFIC CORPORATION

**VERIFICATION OF COMPLAINT**

I, Daniel E. Leckrone, am Chairman and CEO of Technology Properties Limited LLC (“TPL”), and am duly authorized to execute this Complaint on behalf of TPL. I have read the Complaint and am aware of its contents. To the best of my knowledge, information and belief, formed after an inquiry that is reasonable under the circumstances, I hereby certify as follows:

1. The Complaint is not being filed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the investigation;
2. The claims and other legal contentions in the Complaint are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
3. The allegations and other factual contentions in the Complaint have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

I declare under penalty of perjury on this 23rd day of July, 2012 that the foregoing is true and correct.

  
Daniel E. Leckrone  
Chairman and CEO  
Technology Properties Limited LLC