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October 2, 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-853**

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:

1. Complainants Technology Properties Limited LLC, Phoenix Digital Solutions LLC And Patriot Scientific Corporation’s Motion For Leave To Amend The Complaint
2. Complainants Technology Properties Limited LLC, Phoenix Digital Solutions LLC And Patriot Scientific Corporation’s Memorandum of Points And Authorities in Support of Motion for Leave to Amend The Complaint
3. Appendix.

Respectfully submitted,



James C. Otteson

Enclosures

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

Before the Honorable E. James Gildea
Administrative Law Judge

In the Matter of

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

Investigation No. 337-TA-853

**COMPLAINANTS TECHNOLOGY PROPERTIES LIMITED LLC, PHOENIX
DIGITAL SOLUTIONS LLC AND PATRIOT SCIENTIFIC CORPORATION'S
MOTION FOR LEAVE TO AMEND THE COMPLAINT**

Pursuant to 19 C.F.R. § 210.14, Complainants Technology Properties Limited LLC (“TPL”), Phoenix Digital Solutions LLC, and Patriot Scientific Corporation (collectively “Complainants”) respectfully request leave to amend their Complaint to include a summary of additional litigation.

As set forth in detail in the attached Memorandum of Points and Authorities, good cause exists pursuant to Rule 210.14(b)(1) to amend the complaint. This motion seeks to amend the Complaint in order to include information about litigation between the listed inventors of U.S. Patent No. 5,809,336 and one or more of the Complainants that were inadvertently omitted from

the original complaint. This amendment will not prejudice the parties to this Investigation or the public interest, and are in the best interests of the pending Investigation, the Commission, the parties, and the public. Accordingly, TPL respectfully requests that the Administrative Law Judge issue an Initial Determination granting this Motion for Leave to Amend the Complaint.

Ground Rule 2.2 Certification

Pursuant to Ground Rule 2.2, counsel for Complainant TPL certifies that it has made reasonable, good faith efforts to resolve this matter with the other parties at least two business days in advance of filing this motion.

On September 26, 2012, TPL provided notice to all Respondents and the Commission Investigative Staff that TPL intended to file a motion for leave to amend its complaint. TPL invited all parties to state their respective positions on such a motion.

Respondent Sierra Wireless indicated that it reserves its position until after review of the papers, but it would oppose at least the portion related to Sierra Wireless' own motion to terminate filed on September 28, 2012. Respondents Garmin Ltd., Garmin International, Inc., Garmin USA, Inc., Nintendo Co., Ltd., Nintendo of America, Inc., HTC Corporation, HTC America, Samsung Electronics Co., Ltd, Samsung Electronics America, Inc., Barnes & Noble, Inc., Kyocera Corporation, Kyocera Communications, Inc., LG Electronics, Inc., LG Electronics U.S.A., Inc., ZTE Corporation, ZTE (USA) Inc., Huawei Technologies Co., LTD., and Huawei North America reserve their positions pending review of the papers. The remaining Respondents did not take a position. The Commission Investigative Staff reserves its position pending review of the papers as filed.

Dated: October 2, 2012

Respectfully submitted,

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

Before the Honorable E. James Gildea

Administrative Law Judge

In the Matter of

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

Investigation No. 337-TA-853

**COMPLAINANTS TECHNOLOGY PROPERTIES LIMITED LLC, PHOENIX
DIGITAL SOLUTIONS LLC AND PATRIOT SCIENTIFIC CORPORATION'S
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR
LEAVE TO AMEND THE COMPLAINT**

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<i>Certain Connecting Devices (“Quick Clamps”) for Use with Modular Compressed Air Conditioning Units, Including Filters, Regulators, & Lubricators (.....</i>	3
<i>Certain Insect Traps,</i> Inv. No. 337-TA-498, Order No. 7 (April 7, 2004)	3, 6, 7, 8
<i>Certain Laminated Floor Panels,</i> Inv. No. 337-TA-545, Order No. 4 (Sept. 19, 2005)	7
<i>Certain Light Emitting Diodes & Products Containing Same,</i> Inv. No. 337-TA-512, Order No. 6 (July 21, 2004)	3
<i>Certain NOR & NAND Flash Memory Devices & Products Containing Same,</i> Inv. No. 337-TA-560, Order No. 4 (Apr. 25, 2006)	2
<i>Certain Short-Wavelength Light Emitting Diodes, Laser Diodes, and Products Containing Same,</i> Inv. No. 337-TA-640, Order No. 33 (Sept. 25, 2008)	8
<i>Certain Video Displays, Components Thereof, & Products Containing Same,</i> Inv. No. 337-TA-687, Order No. 12 (Jan. 8, 2010)	8
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<i>Certain Wireless Consumer Electronics Devices & Components Thereof,</i> Inv. No. 337-TA-853; Federal Register, Vol. 77, No. 165 (Aug. 24, 2012)	1

Rules and Regulations

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Introduction

Complainants filed their original Complaint on July 24, 2012, in which they asserted infringement of U.S. Patent No. 5,809,336 (“the ’336 patent”). The Notice of Institution of Investigation was issued on August 21, 2012 and was published in the Federal Register on August 24, 2012. *See* Notice of Investigation, *Certain Wireless Consumer Electronics Devices & Components Thereof*, Inv. No. 337-TA-853; Federal Register, Vol. 77, No. 165 (Aug. 24, 2012) at 51572.

The Investigation is in its earliest stage. On September 21, 2012, the parties submitted discovery statements and filed a proposed procedural schedule. On September 24, 2012 TPL served its responses to a first round of discovery requests, including interrogatories and requests for production from the Respondents who have served discovery.¹ Fact discovery cutoff has just been set by the ALJ as February 22, 2013. *See* Order No. 7, Setting Procedural Schedule (Mtn. Dkt. No. 492144). Trial is scheduled for June 3, 2013, more than eight months away. *Id.*

In their original Complaint, Complainants were diligent in identifying all past and current litigation involving the assertion of the ’336 patent (and/or declaratory judgments of noninfringement). *See* Appendix, Ex. C, ¶¶ 134-155. However, TPL recently discovered, through Sierra Wireless, that Complainants inadvertently omitted the identification of a civil action that could potentially impact the ownership and standing applicable to the ’336 patent (*Moore v. Technology Properties Limited, LLC, et al.*, Case No. 110-cv-183613 (Santa Clara

¹ Respondents Amazon.com, Inc., Garmin Ltd., Garmin International, Inc. and Garmin USA, Inc., HTC Corporation and HTC America, Huawei Technologies Co., Ltd., Kyocera Corporation and Kyocera Communications, Inc., LG Electronics, Inc. and LG Electronics U.S.A., Inc., Nintendo Co., Ltd. and Nintendo of America, Inc. Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., and ZTE Corporation and ZTE (USA) Inc. have served first sets of interrogatories and requests for production, while Respondents Acer Inc. and Acer America Corporation, Barnes & Noble, Inc. and Novatel Wireless, Inc. have not served any discovery to date.

Super. Ct., Sept. 27, 2010)). In the course of investigating the matter, TPL learned that three additional terminated litigations, which potentially related to ownership and/or standing, were also inadvertently omitted from the Complaint.

Good cause exists for the requested amendment. In short, Complainants were diligent in identifying all of the large number of current and terminated litigations regarding the *assertion* of the '336 patent, but inadvertently neglected to identify litigations that could impact the ownership and/or right to assert the '336 patent. Complainants are acting promptly to remedy the issue, and no prejudice to Respondents or the public interest will result.

With this Motion, Complainants provide a proposed First Amended Complaint. *See* Appendix, Ex. A. All proposed changes to the original Complaint are shown in the redlined excerpt of the First Amended Complaint. *See id.*, Ex. B. The proposed amendment makes no changes to the exhibits previously submitted.

Legal Standard

Commission Rule 210.14(b)(1) states in part: “After an investigation has been instituted, the complaint or notice of investigation may be amended only by leave of the Commission for good cause shown and upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to the investigation.” 19 C.F.R. § 210.14(b)(1). A motion to amend must be submitted to the Administrative Law Judge who may grant it by filing an initial determination or deny it by order. *Id.*

“Timely motions to amend the complaint . . . are *routinely granted*.” *Certain NOR & NAND Flash Memory Devices & Products Containing Same*, Inv. No. 337-TA-560, Order No. 4 (Apr. 25, 2006) (emphasis added); *see also Certain Cold Cathode Fluorescent Lamp (“CCFL”) Inverted Circuits & Products Containing the Same*, Inv. No. 337-TA-666, Order No. 8 (May 13,

2009); *Certain Light Emitting Diodes & Products Containing Same*, Inv. No. 337-TA-512, Order No. 6 (July 21, 2004).

Good cause to amend has been found to exist when a Complainant needs to correct its original pleading when an error or omission was made due to mistake or inadvertence. *See Certain Insect Traps*, Inv. No. 337-TA-498, Order No. 7 (April 7, 2004) (permitting Complainant to amend its complaint to reflect Complainant’s proper state of incorporation); *see also Certain Connecting Devices (“Quick Clamps”) for Use with Modular Compressed Air Conditioning Units, Including Filters, Regulators, & Lubricators (“FRL’s”) That Are Part of Larger Pneumatic Systems & The FRL Units They Connect*, Inv. No. 337-TA-587, Order No. 8 (Aug. 6, 2007) (granting Complainant’s motion to amend its complaint by redacting a specific paragraph in the public version). Good cause to amend has also been found when it “is necessary in developing a complete record.” *Certain Video Displays, Components Thereof, & Products Containing the Same*, Inv. No. 337-TA-687, Order No. 12 (Jan. 8, 2010).

Argument

I. GOOD CAUSE EXISTS TO AMEND THE COMPLAINT TO INCLUDE A SUMMARY OF ADDITIONAL LITIGATION.

In its original Complaint, Complainants included Section VIII – entitled “Related Litigation” – which identified both “Pending and Ongoing Litigation” and “Terminated Litigation.” *See* Appendix, Ex. C, ¶¶ 134-155. In preparing Section VIII of the Complaint, Complainants were diligent in identifying all litigation that related to assertions of infringement and/or non-infringement of the ’336 patent. Appendix, Ex. D, ¶ 4. The original Complaint identified sixteen civil actions, including the following:

- *Acer, Inc., Acer America Corporation, Gateway, Inc. v. TPL, PTSC and Alliacense* (N.D. Cal.) (Case No. 3:08-cv-00877)

- *HTC Corporation and HTC America, Inc. v. PLT, PTSC, and Alliacense* (N.D. Cal.) (Case No. 3:08-cv-00882)
- *Barco NV v. TPL, PTSC, and Alliacense* (N.D. Cal.) (Case No. 3:08-cv-05398)
- *PTSC v. Sony Corporation of America* (S.D.N.Y.) (Case No. 1:03-cv-10142)
- *PTSC v. Toshiba America, Inc.* (S.D.N.Y.) (Case No. 1:03-cv-10180)
- *PTSC v. NEC USA, Inc.*, (E.D.N.Y.) (Case No. 2:03-cv-06432)
- *PTSC v. Fujitsu Microelectronics America, Inc.* (N.D. Cal.) (Case No. 4:03-cv-05787)
- *PTSC v. Matsushita Electric Corporation of America* (D. N.J.) (Case No. 2:03-cv-06210)
- *Intel v. PTSC* (N.D. Cal.) (Case No. 4:04-cv-00439)
- *PTSC v. Moore, TPL, and Daniel E. Leckrone* (N.D. Cal.) (Case No. 5:04-cv-00618-JF)
- *TPL v. Fujitsu Limited et al.* (E.D. Tex.) (Case No. 2:05-cv-00494)
- *ASUSTek Computer, Inc. v. TPL, PTSC, and Alliacense* (N.D. Cal.) (Case No. 5:08-cv-00884)
- *TPL and PTSC v. HTC et al.* (E.D. Tex.) (Case No. 2:08-cv-00172)
- *TPL and PTSC v. Acer et al.* (E.D. Tex.) (Case No. 2:08-cv-00176)
- *TPL, PTSC, and MCM v. ASUSTek* (E.D. Tex.) (Case No. 2:08-cv-00177)
- *Sirius XM Radio, Inc. v. TPL, PTSC, and Alliacense* (S.D.N.Y.) (Case No. 1:09-cv-04083; transferred Case No. 3:10-cv-00816)

See Appendix, Ex. C, ¶¶ 134-155.

On or about September 21, 2012, Sierra Wireless informed TPL that the original Complaint omitted one litigation, *Moore v. TPL, Alliacense, et al.* (Santa Clara County Superior Court) (Case No. 1-10-CV-183613), that potentially relates to the ownership and/or standing of the '336 patent. *See* Appendix, Ex. D, ¶¶ 3-4. In that litigation, Charles H. Moore, one of the named inventors of the '336 patent, initiated a civil action against TPL et al. related to payments allegedly due to him based on royalties received relating to the '336 patent.

After TPL's counsel was made aware of *Moore v. TPL, Alliacense, et al.* (Case No. 1-10-CV-183613), in the course of additional investigation, Complainants discovered that additional litigations that potentially related to patent ownership rights had also been inadvertently omitted from the original Complaint. *Id.*, ¶ 4. These additional civil actions include:

- *Janet Long Fish, as trustee of the Fish Family Trust v. Nanotronics Corp., Gloria H. Felcyn, and PTSC* (San Diego County Super. Ct.) (Case No. 726285) (appealed to the California Fourth District Court of Appeal (Case No. D037293))
- *PTSC v. TPL* (Santa Clara County Super. Ct.) (Case No. 1-10-cv-169836)
- *Russell H. Fish, III and Robert Anderson v. PTSC* (N.D. Tex., Dallas Division) (3:06-CV-0815-K) (removed from the 101st Judicial District Court, Dallas County, Texas, *Russell H. Fish III and Robert C. Anderson, as trustee of the Fish Family Trust v. PTSC* (Dist. Ct. of Dallas County, Tex.) (No. 06-03336-E); consolidated with *PTSC v. Russell H. Fish III and Robert C. Anderson, as trustee of the Fish Family Trust* (N.D. Tex., Dallas Division) (3:06-CV-1203-K), transferred from the Southern District of California, *PTSC v. Russell H. Fish and Janet L. Fish* (S.D. Cal.) (Case No. 3:06-CV-00777-BEN-RBB))

The omission of the above civil actions was an inadvertent oversight on the part of Complainants' counsel, who focused on the identification of patent *infringement* cases when preparing the original Complaint. Appendix, Ex. D, ¶ 5. It was only after Sierra Wireless brought the *Moore v. TPL* case to TPL's attention that Complainants realized there were several additional cases that potentially related to patent ownership of the '336 patent. *Id.*, ¶ 4. Moreover, counsel's omission also stemmed from the sheer number of civil actions related to the '336 patent (now 20 in total) dating as far back as 1998 and spanning numerous federal and state courts and arbitration forums across the country, including the Northern District of California, the Southern District of New York, the Eastern District of New York, the District of New Jersey, the Eastern District of Texas, Santa Clara County Superior Court, the Northern District of Texas, San Diego County Superior Court, District Court of Dallas County, and Southern District of California. *Id.*, ¶ 5.

Based on demonstrated good cause, Complainants now timely move to amend the Complaint to include the above civil actions promptly after they were made aware of the issue. *Id.*

On the issue of good cause, *Certain Insect Traps* is instructive. In that case, Complainant ABC pled that it was a Rhode Island corporation when in fact it was a Delaware corporation. *Certain Insect Traps*, Inv. No. 337-TA-498, Order No. 7 at 1. ABC did not notice this error until the Respondent, Blue Rhino, filed its motion for summary determination. Although Blue Rhino opposed to motion to amend the complaint, the ALJ found that good cause existed to grant the motion to amend. Specifically, the ALJ found:

[I]t has not been shown that ABC should be prevented from curing the error that exists in the complaint. In this instance, a complainant has provided some incorrect information about its incorporation based on facts surrounding a defunct corporation as to which it has some historical connection. However, there is no evidence that the erroneous

information was provided for any reason other than through an honest mistake, or that the erroneous information has had any deleterious effect on the litigants or this investigation. ABC moved to correct its mistake as soon as it discovered the error. Good cause exists for allowing the pleadings to be corrected.

Id. at 3.

Good cause exists here as well. Due to the number of related litigation matters and their complexity, counsel for Complainants inadvertently and through an honest mistake omitted several civil actions that are not patent infringement cases but instead primarily breach of contract disputes alleging tortious conduct relating to royalty payments. Appendix, Ex. D, ¶ 5. The civil actions that were inadvertently omitted are all publicly available, and as soon as one omission was brought to counsel's attention, Complainants moved to correct this omission as well as others that were similarly omitted. *Id.* Thus, there was no intent to conceal any of these public litigations (nor could there have been).

II. COMPLAINANTS' PROPOSED AMENDMENT WILL NOT PREJUDICE THE PARTIES OR THE PUBLIC INTEREST.

Amending the Complaint to add the additional litigation will not prejudice the rights of the parties to this Investigation or the public interest. Discovery has just begun and fact discovery cut-off has only recently been set for February 22, 2013, almost five months away. Likewise, trial is not scheduled to commence until June 3, 2013, which is more than eight months away. Motions for leave to amend have been granted at later stages of the proceeding. *See Certain Coenzyme Q10 Products & Methods of Making Same*, Inv. No. 337-TA-790, Order No. 10 at 7 (Dec. 22, 2011) (no prejudice to parties when there are over three months left before the close of discovery and hearing is more than six months away); *Certain Laminated Floor Panels*, Inv. No. 337-TA-545, Order No. 4 (Sept. 19, 2005) (adding respondents would not adversely affect public interest or rights of parties where hearing is almost seven months away).

The addition of this litigation will not alter any underlying infringement allegations. Complainants do not seek to amend the complaint to add any new patents or assert additional patent claims. Amending the Complaint as sought herein will not broaden the scope of relief sought in any way.

Further, amending the complaint will also not prejudice the Respondents, as Complainants are not seeking to amend the procedural schedule or delay this Investigation.

Allowing Complainants to amend the Complaint also serves the public interest. “[T]he public interest would not be served by derailing this investigation and putting the parties and the Commission to the expense of a possible institution of another investigation.” *Certain Insect Traps*, Inv. No. 337-TA-498, Order No. 7 at 3. *Cf. Certain Short-Wavelength Light Emitting Diodes, Laser Diodes, & Products Containing Same*, Inv. No. 337-TA-640, Order No. 33 (Sept. 25, 2008) (public interest is generally served by adjudicating all related matters in a single investigation, which will foster the efficient use of judicial resources). Here, the public interest will not be prejudiced by the additional litigation summaries as the sole purpose of the amendment is to make a complete and accurate record of the related litigation identified in the Complaint. *Cf. Certain Video Displays, Components Thereof, & Products Containing Same*, Inv. No. 337-TA-687, Order No. 12, at 3 (Jan. 8, 2010); *cf. Certain Coenzyme Q10 Products & Methods of Making Same*, Inv. No. 337-TA-790, Order No. 10, at 8 (“precise purpose of this motion is to name the correct entities that import into the United States, sell for importation, or sell within the United States after importation, the Accused Products.”).

Conclusion

For the foregoing reasons, TPL respectfully requests that the ALJ issue an initial determination granting leave to file TPL's First Amended Complaint adding additional litigation to Section VIII of the original Complaint.²

Dated: October 2, 2012

Respectfully submitted,

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² Complainants do not seek to amend the Notice of Investigation because the Notice of Investigation does not include a summary of related litigation, so the proposed amendment is not required.

Appendix of Exhibits and Declarations

- Exhibit A: Complainants' proposed First Amended Complaint
- Exhibit B: Excerpts from Complainants' proposed First Amended Complaint
(amendments in redline)
- Exhibit C: Complainants' original Complaint
- Exhibit D: Declaration of James C. Otteson In Support of Complainants'
Motion for Leave to Amend Complaint

EXHIBIT A

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-853

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

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EXHIBITS TO COMPLAINT

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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); *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).

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 virginmmobileusa.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.

142. On September 26, 2010, Charles H. Moore filed an action for cancellation of instrument, for rescission and restitution, for damages for fraudulent promise, for contractual damages, for conspiracy, for breach of contract, for constructive trust and accounting, and for preliminary and permanent injunction against TPL, Alliacense, Daniel Edwin Leckrone, Daniel McNary Leckrone, and Michael Davis (collectively “Defendants”) in the Superior Court of the State of California for the County of Santa Clara (Case No. 1-10-CV-183613) (previously brought in arbitration, AAA Case No. 79117Y0004609 JEMO, March 2009).

143. On January 17, 2012, TPL filed a cross-complaint against Mr. Moore and Greenarrays, Inc.

144. On December 6, 2011, the Court denied Defendants’ demurrer. The action remains pending. On May 3, 2012, the Court denied a motion to quash service of summons.

B. Terminated Litigation

145. On December 3, 1998, Janet Long Fish and the Fish Family Trust filed a complaint against Nanotronics Corporation, Gloria H. Felcyn, Helmut Falk Family Trust, and PTSC in San Diego County Superior Court (Case No. 726285) for, *inter alia*, declaratory relief, breach of contract, and rescission and restitution relating to alleged payments owed to Fish and the Fish Family Trust of royalty payments relating to a patent portfolio that included the '336 Patent. In October 1999, the parties filed cross-motions for summary judgment/adjudication. The trial court granted summary adjudication for the Defendants on all but two causes of action. Fish's cross-motions were denied, and Fish appealed. On June 9, 2003, the California Fourth Appellate District Division 1 upheld the trial court's summary adjudication in favor of Nanotronics and PTSC (Case No. D037293).

146. 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.

147. 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.

148. 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.

149. 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.

150. 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.

151. 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.

152. 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.

153. 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.

154. On April 5, 2006, Russell H. Fish III and Robert C. Anderson, as trustee of the Fish Family Trust filed a complaint against PTSC for breach of contract as to Mr. Fish as a contracting party and alternatively as a third party beneficiary relating to a portfolio of patents including the ‘336 Patent. The original complaint was filed in the 101st Judicial District Court, Dallas County, Texas (Case No. 06-03336-E). On May 5, 2006, PTSC successfully removed the case to the Northern District of Texas (Case No. 3:06-CV-0815-K). A second amended complaint was filed by Fish and Anderson on September 22, 2006. On October 26, 2006, this case was consolidated with *PTSC v. Russell H. Fish III and Robert C. Anderson, as trustee of the Fish Family Trust* (N.D. Tex., Dallas Division) (Case No. 3:06-CV-1203-K), which had been transferred from the Southern District of California in a civil action filed on April 5, 2006 by PTSC for declaratory relief to determine the parties’ respective rights and duties relating to payments under an agreement (Case No. 3:06-CV-00777-BEN-RBB). On November 15, 2006, PTSC filed its counterclaim against Fish and Anderson. Based on a joint stipulation among the parties, the court dismissed with prejudice all claims and counterclaims that were or could have been asserted in Civil Action No. 3:06-CV-0815-K and Civil Action No. 3:06-CV-1203-K.

155. 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.

156. 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.

157. 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.

158. 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.

159. 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.

160. On April 22, 2010, PTSC filed a complaint for breach of contract and a variety of other causes of action against TPL and Alliacense relating to TPL's licensing program for the MMP patent portfolio, including the '336 Patent, in Santa Clara County Superior Court (Case No. 1-10-cv-169836). The Complaint was amended on October 20, 2010 and dismissed on October 28, 2011 in conjunction with a settlement agreement entered into by the parties.

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

IX. THE DOMESTIC INDUSTRY

162. 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.

163. 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).

164. 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.

165. 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.

166. 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.

167. 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.

168. 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”).

169. 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.

170. 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.

171. 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.

172. 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.

173. 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.

174. 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.

175. 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).

176. 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.

177. 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: October 2, 2012

Respectfully submitted,

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EXHIBIT B

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-~~853~~

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

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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.

142. On September 26, 2010, Charles H. Moore filed an action for cancellation of instrument, for rescission and restitution, for damages for fraudulent promise, for contractual damages, for conspiracy, for breach of contract, for constructive trust and accounting, and for preliminary and permanent injunction against TPL, Alliacense, Daniel Edwin Leckrone, Daniel McNary Leckrone, and Michael Davis (collectively “Defendants”) in the Superior Court of the State of California for the County of Santa Clara (Case No. 1-10-CV-183613) (previously brought in arbitration, AAA Case No. 79117Y0004609 JEMO, March 2009).

143. On January 17, 2012, TPL filed a cross-complaint against Mr. Moore and Greenarrays, Inc.

~~144.~~144. On December 6, 2011, the Court denied Defendants’ demurrer. The action remains pending. On May 3, 2012, the Court denied a motion to quash service of summons.

B. Terminated Litigation

145. On December 3, 1998, Janet Long Fish and the Fish Family Trust filed a complaint against Nanotronics Corporation, Gloria H. Felcyn, Helmut Falk Family Trust, and PTSC in San Diego County Superior Court (Case No. 726285) for, *inter alia*, declaratory relief, breach of contract, and rescission and restitution relating to alleged payments owed to Fish and the Fish Family Trust of royalty payments relating to a patent portfolio that included the '336 Patent. In October 1999, the parties filed cross-motions for summary judgment/adjudication. The trial court granted summary adjudication for the Defendants on all but two causes of action. Fish's cross-motions were denied, and Fish appealed. On June 9, 2003, the California Fourth Appellate District Division I upheld the trial court's summary adjudication in favor of Nanotronics and PTSC (Case No. D037293).

142-146. 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.

143-147. 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.

144-148. 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.

145-149. 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.

146.150. 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.

147.151. 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.

148.152. 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.

153. 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.

149.154. On April 5, 2006, Russell H. Fish III and Robert C. Anderson, as trustee of the Fish Family Trust filed a complaint against PTSC for breach of contract as to Mr. Fish as a contracting party and alternatively as a third party beneficiary relating to a portfolio of patents including the ’336 Patent. The original complaint was filed in the 101st Judicial District Court, Dallas County, Texas (Case No. 06-03336-E). On May 5, 2006, PTSC successfully removed the case to the Northern District of Texas (Case No. 3:06-CV-0815-K). A second amended complaint was filed by Fish and Anderson on September 22, 2006. On October 26, 2006, this case was consolidated with *PTSC v. Russell H. Fish III and Robert C. Anderson, as trustee of the Fish Family Trust* (N.D. Tex., Dallas Division) (Case No. 3:06-CV-1203-K), which had been transferred from the Southern District of California in a civil action filed on April 5, 2006 by PTSC for declaratory relief to determine the parties’ respective rights and duties relating to payments under an agreement (Case No. 3:06-CV-00777-BEN-RBB). On November 15, 2006, PTSC filed its counterclaim against Fish and Anderson. Based on a joint stipulation among the

parties, the court dismissed with prejudice all claims and counterclaims that were or could have been asserted in Civil Action No. 3:06-CV-0815-K and Civil Action No. 3:06-CV-1203-K.

~~150.~~155. 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.~~156. 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.~~157. 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.~~158. 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.

159. 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.

~~154.160.~~ On April 22, 2010, PTSC filed a complaint for breach of contract and a variety of other causes of action against TPL and Alliacense relating to TPL's licensing program for the MMP patent portfolio, including the '336 Patent, in Santa Clara County Superior Court (Case No. 1-10-cv-169836). The Complaint was amended on October 20, 2010 and dismissed on October 28, 2011 in conjunction with a settlement agreement entered into by the parties.

~~155.161.~~ There have been no other court or agency actions, domestic or foreign, involving the Asserted Patent.

IX. THE DOMESTIC INDUSTRY

~~156.162.~~ 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.

~~157.163.~~ 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~~.164. 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~~.165. 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~~.166. 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~~.167. 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.

~~462.168.~~ 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").

~~463.169.~~ 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.

~~464.170.~~ 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.

~~465.171.~~ 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.

~~466.172.~~ 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.

~~167.173.~~ 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.

~~168.174.~~ 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.

~~169.175.~~ 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.~~176. 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.~~177. 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,

EXHIBIT C

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-_____

RECEIVED
OFC OF THE SECRETARY
US INTL TRADE COMM
2012 JUL 24 PM 4: 13

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

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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 Mühlfentalstrasse 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); *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).

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 virginmmobileusa.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

EXHIBIT D

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

Before the Honorable E. James Gildea

Administrative Law Judge

In the Matter of

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

Investigation No. 337-TA-853

DECLARATION OF JAMES C. OTTESON

I, James C. Otteson, declare as follows:

1. I am a partner at Agility IP Law, LLP and counsel for Technology Properties Limited LLC (“TPL”) in this Investigation. I have personal knowledge of the facts stated in this declaration and, if sworn as a witness, I could and would competently testify as to the matters set forth herein.

2. I submit this Declaration in support of Complainants Technology Properties Limited LLC, Phoenix Digital Solutions LLC and Patriot Scientific Corporation’s Motion for Leave to Amend the Complaint.

3. On September 21, 2012, I learned that Sierra Wireless had informed TPL that Complainants’ original Complaint omitted the description of another litigation that Sierra Wireless believed TPL should have disclosed in its complaint: *Moore v. TPL, Alliacense, et al.*

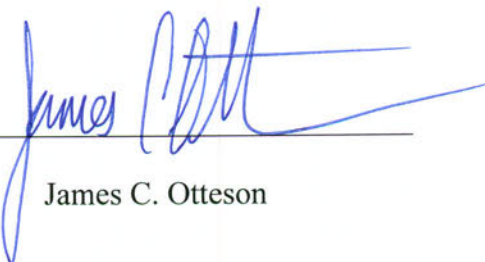
(“*Moore v. TPL*”) (Santa Clara County Superior Court) (Case No. 1-10-CV-183613). The pleadings for *Moore v. TPL* are publicly available on the Santa Clara County Superior Court website.

4. In preparing the original Complaint, we identified all past and current litigation involving infringement of the '336 patent (and/or declaratory judgments of noninfringement), as required by 19 C.F.R. § 210.12(a)(5). It was only after Sierra Wireless brought *Moore v. TPL* to TPL's attention that we realized there were some other cases that potentially related to the ownership of the '336 patent and/or the Complainants' standing to assert it – and that those cases might fairly fall within the meaning of litigation to be described in a complaint under 19 C.F.R. § 210.12(a)(5).

5. The omission of these additional civil actions was an inadvertent oversight and an honest mistake that we did not notice until Sierra Wireless brought one of the cases to our attention. The sheer number of civil actions related to the '336 patent contributed to the inadvertent omissions. In addition, we were focused on the identification of patent *infringement* cases when preparing the original Complaint. As soon as we became aware of the additional case, we investigated further, and then worked diligently to prepare a motion for leave to amend the complaint to cure these omissions.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 2nd day of October, 2012 in Menlo Park, California.


James C. Otteson

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

Before the Honorable E. James Gildea
Administrative Law Judge

In the Matter of

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

Investigation No. 337-TA-853

CERTIFICATE OF SERVICE

I, Ana Villanueva, hereby certify that on October 2, 2012, I copies of the foregoing document was served upon the following parties or their counsel in the manner indicated:

- 1. COMPLAINANTS TECHNOLOGY PROPERTIES LIMITED LLC, PHOENIX DIGITAL SOLUTIONS LLC AND PATRIOT SCIENTIFIC CORPORATION'S MOTION FOR LEAVE TO AMEND THE COMPLAINT**
- 2. COMPLAINANTS TECHNOLOGY PROPERTIES LIMITED LLC, PHOENIX DIGITAL SOLUTIONS LLC AND PATRIOT SCIENTIFIC CORPORATION'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR LEAVE TO AMEND THE COMPLAINT**
- 3. APPENDIX**

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The Honorable Lisa R. Barton Acting Secretary U.S. International Trade Commission 500 E Street, S.W., Room 112A Washington, D.C. 20436	<input checked="" type="checkbox"/> Via EDIS <input checked="" type="checkbox"/> Via Overnight Courier <i>Two Copies</i>
<i>Administrative Law Judge</i>	
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**CERTAIN WIRELESS CONSUMER ELECTRONICS
DEVICES AND COMPONENTS THEREOF**

Inv. No. 337-TA-853

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**CERTAIN WIRELESS CONSUMER ELECTRONICS
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Inv. No. 337-TA-853

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/s/ Ana Villanueva
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