

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

_____)
In the Matter of)
)
CERTAIN HANDHELD) Investigation
MAGNIFIERS AND) No. 337-TA- _____
PRODUCTS)
CONTAINING SAME)
)
_____)

**COMPLAINT UNDER SECTION 337 OF
THE TARIFF ACT OF 1930, AS AMENDED**

Complainant:

Freedom Scientific, Inc.
11800 31st Court North
St. Petersburg, FL 33716-1805
(727) 803-8000

Proposed Respondents:

Aumed Group Corp.
3/F Building D
No. 31 Jiaoda Dong Road
Haidian District
Beijing 100044, China

Aumed Inc.
131 Glenn Way, Unit 5
San Carlos, CA 94070, USA

Counsel for Complainant:

Matthew B. Lowrie
Aaron W. Moore
FOLEY & LARDNER LLP
111 Huntington Avenue
Boston, MA 02199
Phone: (617) 342-4000
Fax: (617) 342-4001

I. INTRODUCTION

1. This Complaint is filed by Freedom Scientific, Inc. ("Freedom Scientific"), pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 ("Section 337"), based upon the unlawful importation into the United States, the sale for importation, and/or the sale after importation by Respondents Aumed Group Corp. and Aumed, Inc. (collectively, "Aumed") of certain handheld magnifiers that infringe U.S. Des. Patent No. D624,107 (the "'107 patent") and that infringe claims 1-7 of United States Letters Patent No. 8,264,598 (the "'598 patent").

2. Freedom Scientific is the owner of the '107 and '598 patents and seeks as relief an order excluding from entry into the United States all Aumed magnifiers that infringe the '107 Patent and that infringe the aforementioned claims of the '598 Patent, and a cease and desist order halting the sale by Aumed of all such infringing, imported magnifiers.

II. COMPLAINANT

3. Complainant Freedom Scientific is a Delaware corporation with a principal place of business at 11800 31st Court North, St. Petersburg, Florida 33716-1805.

4. Freedom Scientific is in the business of designing, developing, manufacturing, and marketing products to assist blind and low-vision individuals, including magnification hardware and software, screen reading software, keyboards, and braille displays.

III. RESPONDENTS

5. Respondent Aumed Group Corp. ("Aumed Group") is a corporation organized and existing under the laws of China, with a principal place of business at 3/F Building D, No. 31 Jiaoda Dong Road, Haidian District, Beijing 100044, China. Aumed Group is the manufacturer of certain handheld magnifiers and products containing same that are the subject of this investigation.

6. Respondent Aumed Inc. is a corporation organized and existing under the laws of California, with a principal place of business at 131 Glenn Way, Unit 5, San Carlos, CA 94070. Aumed Inc. is the United States sales agent for certain handheld magnifiers and products containing same that are manufactured by Aumed Group and are the subject of this investigation.

7. Respondents are in the business of developing, manufacturing, importing, offering to sell, and selling what they describe as medical technologies. As part of their business, Respondents manufacture and sell handheld magnifiers in competition with Freedom Scientific.

IV. THE HANDHELD MAGNIFIER INDUSTRY

8. The products at issue are handheld magnifiers used by low vision users and others to enlarge materials for easier viewing or reading.

9. Freedom Scientific has been a pioneer in the development of handheld magnifiers and, as a result of numerous innovations, including those described and claimed in the '107 and '598 patents, Freedom Scientific has become one of the world's leading suppliers of such magnifiers.

10. Among the handheld magnifiers sold by Freedom Scientific is the acclaimed RUBY[®] handheld magnifier, which is covered by the claims of the '107 and '598 patents.

V. THE '598 AND '107 PATENTS

11. On September 21, 2010, the United States Patent and Trademark Office ("USPTO") duly, properly, and legally issued United States Patent No. D624,107, titled "Hand held multi position magnifier camera," to Freedom Scientific as the assignee of the inventor. An original certified copy of the '107 patent is submitted with this Complaint and a copy is attached as Exhibit A. An original certified copy of the assignment from the inventor to Freedom Scientific is submitted with this Complaint, and a copy is attached as Exhibit B.

12. Freedom Scientific presently owns all right, title, and interest in the '107 patent.

13. The '107 patent issued from Application Serial Number D/338,154, filed June 5, 2009. A certified copy of the USPTO prosecution history for the '107 patent and three additional copies of that prosecution history are being submitted with this Complaint.

14. On September 11, 2012, the United States Patent and Trademark Office ("USPTO") duly, properly, and legally issued United States Patent No. 8,264,598, titled "Multiposition Handheld Electronic Magnifier," to Freedom Scientific as the assignee of the inventors. An original certified copy of the '598 patent is submitted with this Complaint and a copy is attached as Exhibit C. An original certified copy of the assignment from the inventors to Freedom Scientific is submitted with this Complaint, and a copy is attached as Exhibit D.

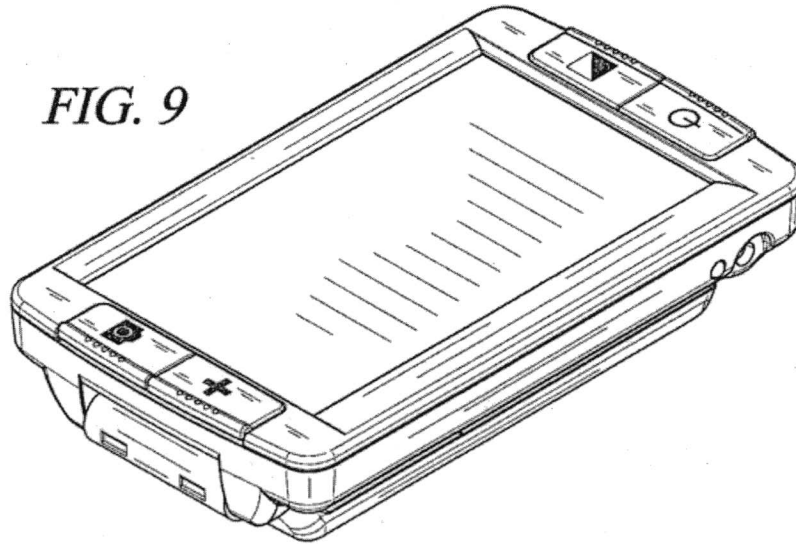
15. Freedom Scientific presently owns all right, title, and interest in the '598 patent.

16. The '598 patent issued from Application Serial Number 12/478,993, filed April June 5, 2009. A certified copy of the USPTO prosecution history for the '598 patent and three additional copies of that prosecution history are being submitted with this Complaint.

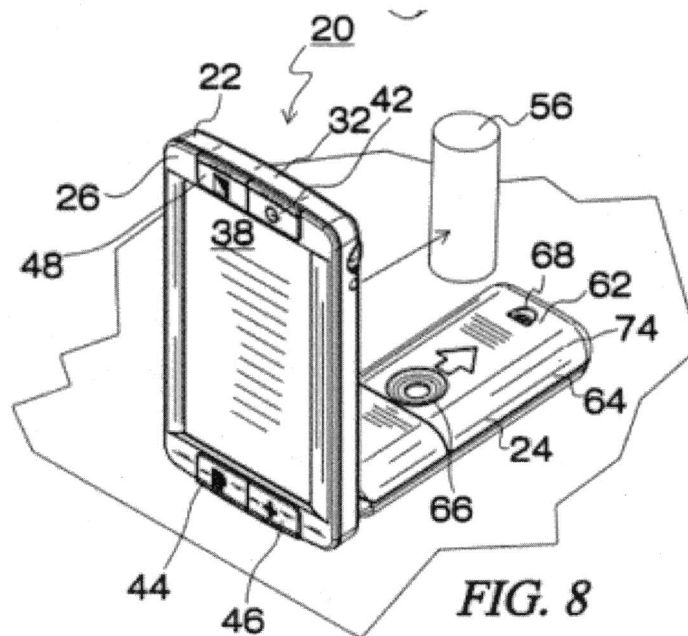
17. The technology embodied in the '107 and '598 patents represents a significant advancement in handheld magnifiers. Prior art magnifiers were heavy and bulky, and included only one mode of operation, requiring a user to hold the device at a fixed distance above the object being viewed. The improvements embodied in the '107 and '598 patents result in magnifiers that are portable and capable of use in multiple modes.

18. The '107 patent is directed to the ornamental design of a handheld magnifier.

Figure 9, reproduced below, shows one view of the patented design:



19. The '598 patent is directed to a magnifier that includes a camera that displays enlarged images upon a screen for easy viewing. The magnifier also includes a handle that is pivotally connected to a housing, allowing for handheld use in a variety of different configurations. One embodiment is shown in Figure 8, reproduced below:



20. The following foreign patents corresponding to the '107 patent have issued:

<u>Country/Region</u>	<u>Patent Number</u>
China	CN 301438773 S
Europe	001639832-0001
Japan	1405162

21. Other than those listed above, there are no foreign patents, pending foreign patent applications, or foreign patent applications that have been denied, abandoned, or withdrawn corresponding to the '107 patent.

22. The following foreign patents corresponding to the '598 patent have issued:

<u>Country/Region</u>	<u>Patent Number</u>
Europe	10784085.2

23. Other than those listed above, there are no foreign patents, pending foreign patent applications, or foreign patent applications that have been denied, abandoned, or withdrawn corresponding to the '598 patent.

24. Freedom Scientific has not granted any licenses under the '107 patent or any counterparts.

25. Freedom Scientific has not granted any licenses under the '598 patent or any counterparts.

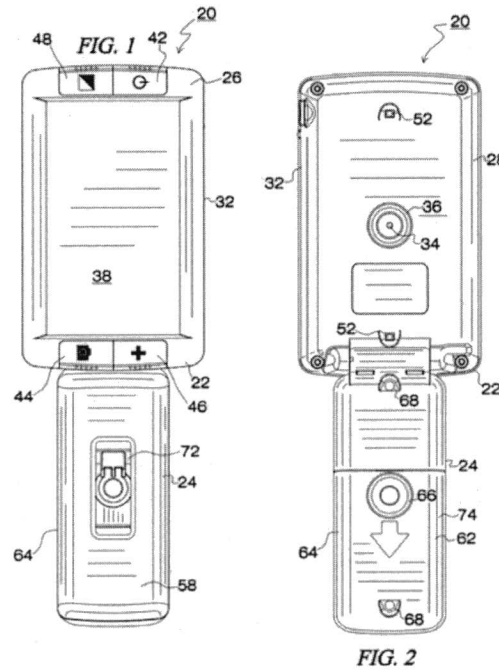
VI. INFRINGEMENT

26. The '107 patent is infringed by certain Aumed handheld magnifiers, including, in particular but without limitation, Aumed's "Image" Magnifier.

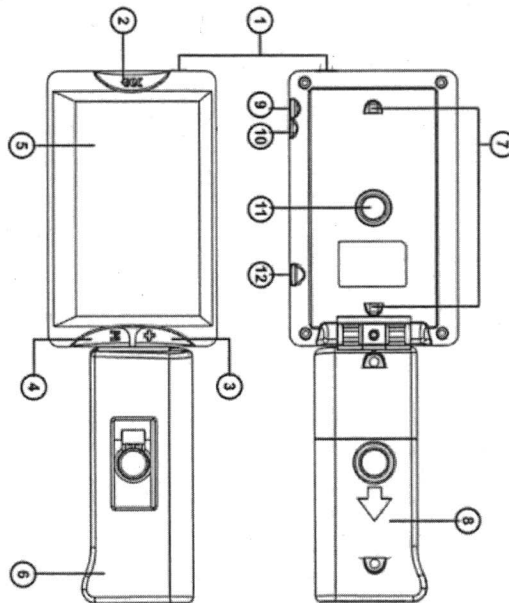
27. Claims 1-7 of the '598 patent are infringed by certain Aumed handheld magnifiers, including, in particular but without limitation, Aumed's "Image" Magnifier.

A. Infringement of the '107 Patent

28. Reproduced below are Figures 1 and 2 of the '107 Patent.



29. Reproduced below are drawings of the Aumed "Image" magnifier, taken from Aumed's manual for the device (Exhibit E):

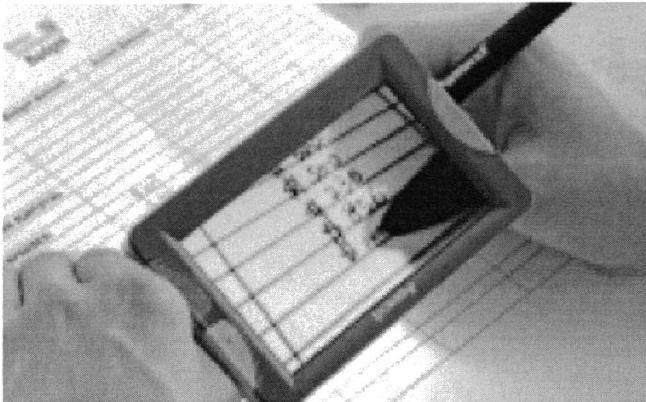



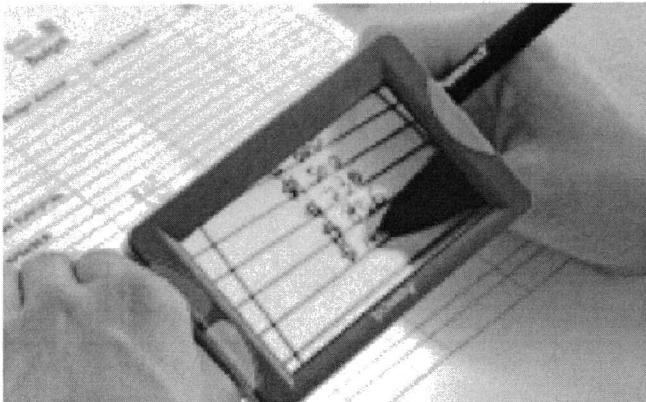
30. As can be seen from these figures alone, the Aumed “Image” product appropriates virtually all of the ornamental features of the patented design, such that, in the eye of an ordinary observer, the accused design and the patented design would be substantially the same. Exhibit F provides a claim chart in which a series of photos of the Aumed “Image” product are each displayed adjacent to the corresponding view of the Figures of the ’107 Patent.


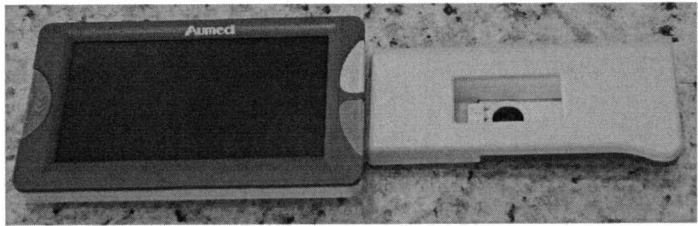
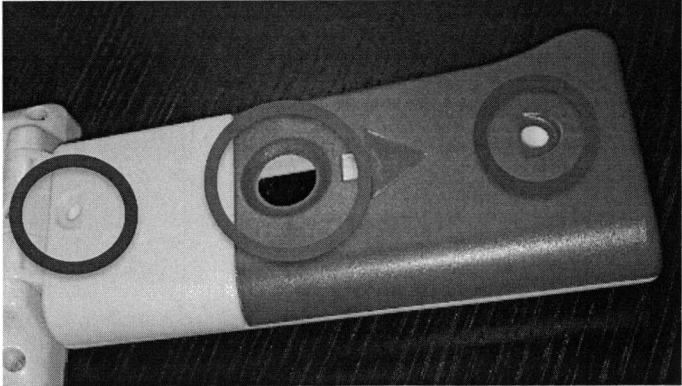
31. Freedom Scientific’s analysis of the Aumed “Image” product thus demonstrates that it infringes the ’107 Patent.

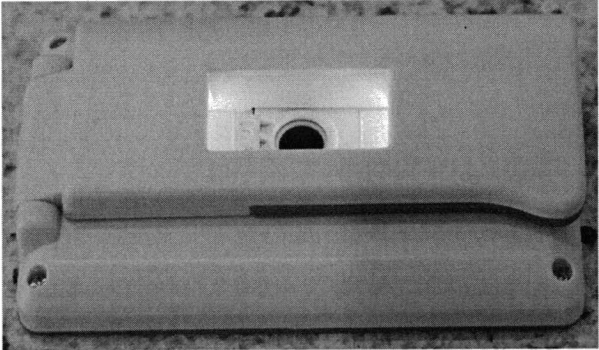

B. Infringement of the ’598 Patent

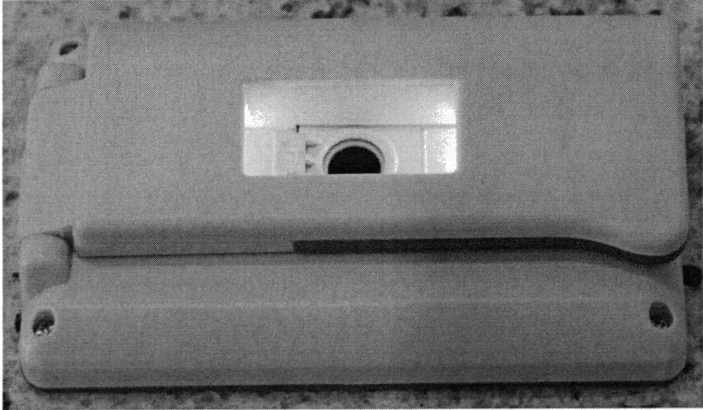
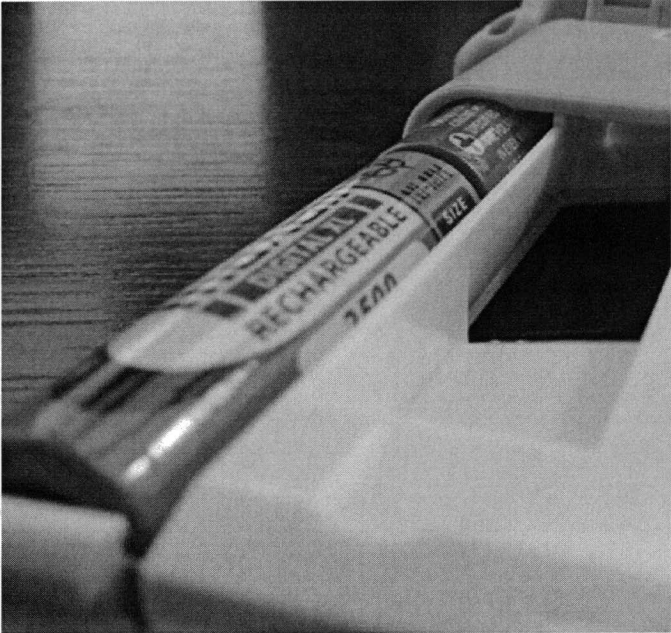
32. The following chart reads claims 1-7 of the ’598 patent on the Aumed “Image” Product:


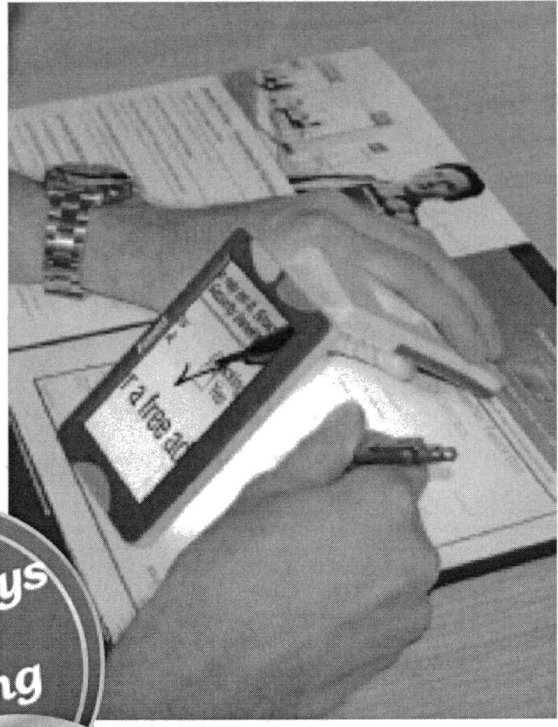
’598 Patent	Aumed “Image” Product
<p>1. A handheld electronic magnifier to assist blind or low vision users in viewing objects, the magnifier comprising:</p>	<p>The Aumed “Image” is a handheld electronic magnifier to assist blind or low vision users in viewing objects, as shown in the image below from Aumed flyer for the product (Exhibit G):</p> 
<p>a housing having a front face, a back face, and a peripheral edge therebetween,</p>	<p>The Aumed “Image” has a housing with a front face, a back face, and a peripheral edge therebetween, as shown above and below.</p>

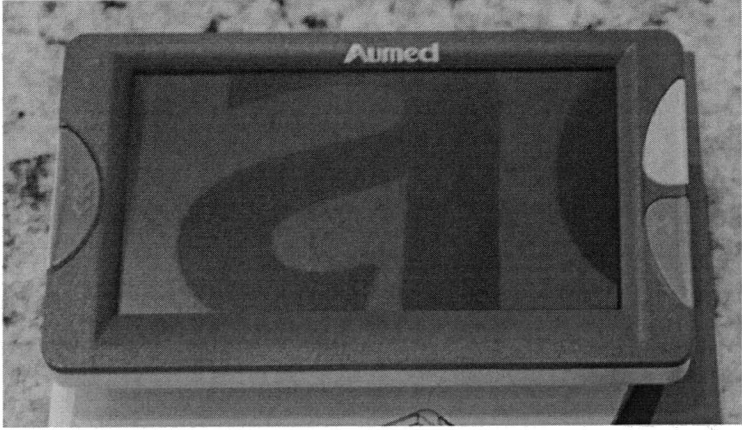
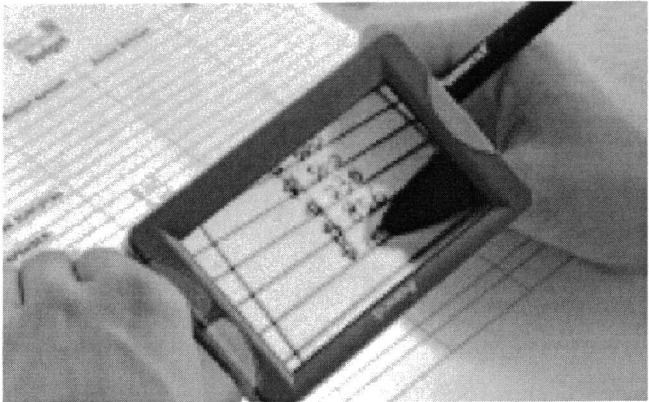
'598 Patent	Aumed "Image" Product
<p>a camera positioned within the housing,</p>	<p>The Aumed "Image" has a camera positioned within the housing, circled in red in the center of the photo below, reproduced from Exhibit H:</p> 
<p>a camera aperture formed within the back face and in alignment with the camera,</p>	<p>The Aumed "Image" has a camera aperture formed within the back face and in alignment with the camera, as shown in the image immediately above.</p>
<p>an LCD screen recessed within the front face, the LCD screen selectively displaying objects viewed by the camera,</p>	<p>The Aumed "Image" has an LCD screen recessed within the front face, the LCD screen selectively displaying objects viewed by the camera, as shown in an image below from the Aumed flyer (Exhibit G):</p> 
<p>a series of controls adjacent to the LCD screen,</p>	<p>The Aumed "Image" has a series of controls adjacent to the LCD screen, namely the green, yellow, and red buttons shown above.</p>



'598 Patent	Aumed "Image" Product
<p>a pair of LEDs positioned upon the back face, the LEDs being angled inwardly towards a focal point;</p>	<p>The Aumed "Image" has a pair of LEDs positioned upon the back face, the LEDs being angled inwardly towards a focal point, as shown in the red circles in the photo below reproduced from Exhibit H:</p> 
<p>a handle pivotally connected to the housing, the handle having a front face, a back face, and a peripheral edge therebetween,</p>	<p>The Aumed "Image" has a handle pivotally connected to the housing, the handle having a front face, a back face, and a peripheral edge therebetween, as shown at right in the photo below reproduced from Exhibit H:</p> 
<p>an aperture and a pair of light guides formed within the back face,</p>	<p>The Aumed "Image" has an aperture (in the red circle) and a pair of light guides formed within the back face of the handle (in the blue circles), as shown in the photo below reproduced from Exhibit H:</p> 

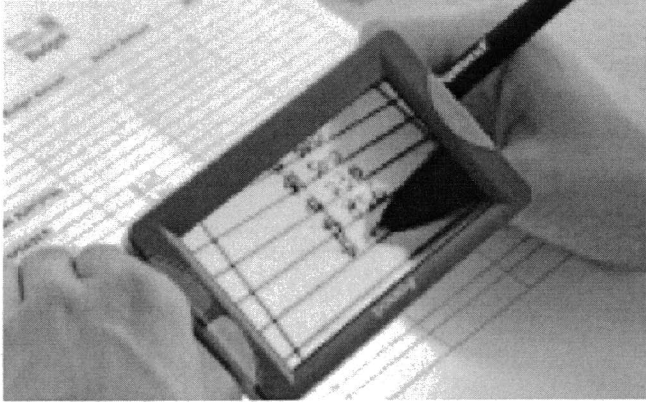

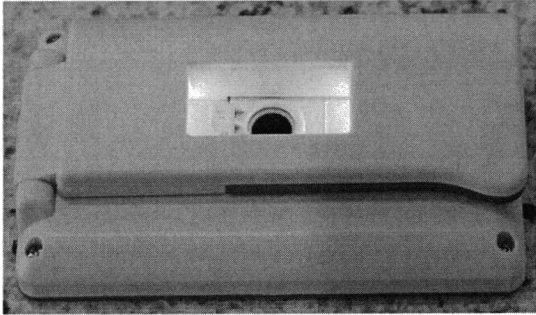
'598 Patent	Aumed "Image" Product
<p>an opening formed within the front face,</p>	<p>The Aumed "Image" has an opening formed within the front face of the handle, as shown in the photo below reproduced from Exhibit H:</p> 
<p>the aperture and opening being in alignment,</p>	<p>The aperture and opening are in alignment, as shown in in the image immediately above.</p>
<p>a battery door within the back face;</p>	<p>The Aumed "Image" has a battery door within the back face of the handle, as shown (in dark grey) in the image below reproduced from Exhibit H:</p> 


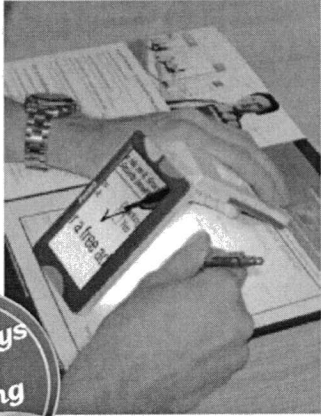
'598 Patent	Aumed "Image" Product
<p>a light chamber formed within the handle, the light chamber having a color that promotes light reflection and further including angled surfaces positioned immediately below the light guides,</p>	<p>The Aumed "Image" has a light chamber formed within the handle, the light chamber having a color that promotes light reflection and further including angled surfaces positioned immediately below the light guides, as shown in the image below reproduced from Exhibit H:</p> 
<p>a pair of battery compartments positioned adjacent to the light chamber, whereby the battery door can be removed to gain access to the battery compartments;</p>	<p>The Aumed "Image" has a pair of battery compartments positioned adjacent to the light chamber, whereby the battery door can be removed to gain access to the battery compartments, as shown in the photo below reproduced from Exhibit H:</p> 



'598 Patent	Aumed "Image" Product
<p>the magnifier having a first orientation wherein the housing and handle are in alignment, such that the handle can be held by the user to position the camera at a distance from the object being viewed,</p>	<p>The Aumed "Image" has a first orientation wherein the housing and handle are in alignment, such that the handle can be held by the user to position the camera at a distance from the object being viewed, as shown in the photo below reproduced from Exhibit H:</p> 
<p>the magnifier having a second orientation wherein the handle and housing are angularly related, such that the handle can be positioned upon a surface and objects can be placed in front of the camera,</p>	<p>The Aumed "Image" has a second orientation wherein the handle and housing are angularly related, such that the handle can be positioned upon a surface and objects can be placed in front of the camera, as shown in the image below from the Aumed flyer (Exhibit G):</p> 



'598 Patent	Aumed "Image" Product
<p>the magnifier having a third orientation wherein the back faces of the housing and handle are brought together, such that the handle can be positioned over top of the object being viewed;</p>	<p>The Aumed "Image" has a third orientation wherein the back faces of the housing and handle are brought together, such that the handle can be positioned over top of the object being viewed, as shown in the photo below reproduced from Exhibit H:</p> 
<p>whereby the third orientation permits the camera to view objects through the apertures and the opening, and directs light from the LEDs, through the light guides, into the light chamber, and out through the opening to thereby illuminate the object being viewed.</p>	<p>As shown in the image immediately above, the third orientation permits the camera to view objects through the apertures and the opening, and directs light from the LEDs, through the light guides, into the light chamber, and out through the opening to thereby illuminate the object being viewed. If the LEDs did not illuminate the surface in this fashion, it would not be viewable on the LED screen in this configuration.</p>
<p>2. A handheld magnifier to assist blind or low vision users in viewing objects, the magnifier comprising:</p>	<p>The Aumed "Image" is a handheld magnifier to assist blind or low vision users in viewing objects, as shown in the image below from the Aumed flyer for the product (Exhibit G):</p> 

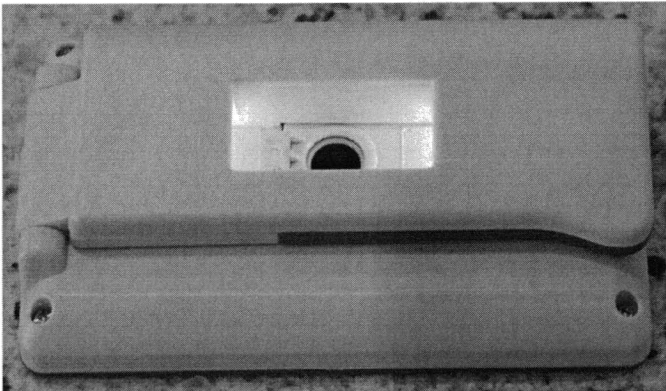
'598 Patent	Aumed "Image" Product
a housing having a front face, a back face, and a peripheral edge therebetween,	The Aumed "Image" has a housing with a front face, a back face, and a peripheral edge therebetween, as shown above and below.
a camera positioned within the housing,	<p>The Aumed "Image" has a camera positioned within the housing, as described for claim 1 and shown in the center of the photo below, reproduced from Exhibit H:</p> 
a camera aperture formed within the back face and in alignment with the camera,	The Aumed "Image" has a camera aperture formed within the back face and in alignment with the camera, as shown in the image immediately above.
a light source positioned adjacent the camera aperture,	<p>The Aumed "Image" has a light source (LEDs) positioned adjacent the camera aperture, as described in claim 1 and shown in the photo below reproduced from Exhibit H:</p> 

'598 Patent	Aumed "Image" Product
<p>a screen positioned within the front face, the screen selectively displaying objects viewed by the camera;</p>	<p>The Aumed "Image" has an LCD screen recessed within the front face, the LCD screen selectively displaying objects viewed by the camera, as shown in an image below from the Aumed flyer (Exhibit G):</p> 
<p>a handle pivotally connected to the housing, the handle having a front face, a back face, and a peripheral edge therebetween,</p>	<p>The Aumed "Image" has a handle pivotally connected to the housing, the handle having a front face, a back face, and a peripheral edge therebetween, as shown in the photo below reproduced from Exhibit H:</p> 
<p>an opening and a light guide formed in the handle;</p>	<p>The Aumed "Image" has an opening and a light guide formed in the handle, as shown in the photo below reproduced from Exhibit H:</p> 
<p>a light chamber formed within the handle;</p>	<p>The Aumed "Image" has a light chamber formed within the handle, as shown above.</p>

'598 Patent	Aumed "Image" Product
<p>the magnifier having a first orientation wherein the housing and handle are in alignment, such that the handle can be held by the user to position the camera at a distance from the object being viewed,</p>	<p>The magnifier has a first orientation wherein the housing and handle are in alignment, such that the handle can be held by the user to position the camera at a distance from the object being viewed, as shown in the photo below reproduced from Exhibit H:</p> 
<p>the magnifier having a second orientation wherein the handle and housing are angularly related, such that the handle can be positioned upon a surface and objects can be placed in front of the camera,</p>	<p>The Aumed "Image" has a second orientation wherein the handle and housing are angularly related, such that the handle can be positioned upon a surface and objects can be placed in front of the camera, as shown in the image below from the Aumed flyer (Exhibit G):</p> 

'598 Patent	Aumed "Image" Product
<p>the magnifier having a third orientation wherein the back faces of the housing and handle are brought together, such that the handle can be positioned over top of the object being viewed;</p>	<p>The Aumed "Image" has a third orientation wherein the back faces of the housing and handle are brought together, such that the handle can be positioned over top of the object being viewed, as shown in the photo below reproduced from Exhibit H:</p> 
<p>whereby the third orientation permits the camera to view objects through the camera aperture and handle opening, and whereby light from the light source is direct into the light guide and into the light chamber to thereby illuminate the object being viewed.</p>	<p>As shown above, the third orientation permits the camera to view objects through the camera aperture and handle opening, and whereby light from the light source is direct into the light guide and into the light chamber to thereby illuminate the object being viewed.</p>
<p>3. The magnifier as described in claim 2 wherein the light source is a pair of LEDs.</p>	<p>In the Aumed "Image," the light source is a pair of LEDs, as shown in the photo below reproduced from Exhibit H:</p> 

'598 Patent	Aumed "Image" Product
<p>4. The magnifier as described in claim 2 wherein the light source is angled.</p>	<p>In the Aumed "Image," the light source is angled, as shown in the photo below reproduced from Exhibit H:</p> 
<p>5. The magnifier as described in claim 2 wherein the handle houses a battery compartment.</p>	<p>In the Aumed "Image," the handle houses a battery compartment, as shown in the photo below reproduced from Exhibit H:</p> 

'598 Patent	Aumed "Image" Product
<p>6. The magnifier as described in claim 2 wherein the light chamber is formed from a light reflective material.</p>	<p>In the Aumed "Image," the light chamber is formed from a light reflective material, as shown in the photo below reproduced from Exhibit H:</p> 
<p>7. The magnifier as described in claim 2 wherein the light chamber includes an angled surface that is positioned immediately below the light guide when in the third orientation.</p>	<p>In the Aumed "Image," the light chamber includes an angled surface that is positioned immediately below the light guide when in the third orientation, as shown in the photo below reproduced from Exhibit H.</p>

33. Freedom Scientific's analysis of the Aumed Image product thus demonstrates that it infringes the '598 Patent.

VII. IMPORTATION AND SALE

34. On information and belief, Aumed has imported, sold for importation, and sold within the United States after importation handheld magnifiers that infringe the '107 and ' 598 patents and plans to continue doing so in violation of, *inter alia*, 19 U.S.C. § 1337(a)(1)(B)(i).

35. By way of example, representatives of Freedom Scientific attended an industry trade show known as the AITA Conference in Orlando, Florida in January of 2013. At that trade show, Aumed displayed, demonstrated, and advertised its "Image" product. A photo of an Aumed graphic from that trade show displaying information concerning the "Image" product is attached as Exhibit I, and the materials attached as Exhibits G and I were collected by Freedom

Scientific representatives at that trade show. Freedom Scientific is informed and believes that Aumed does not have manufacturing facilities in the United States; therefore, the “Image” product used and displayed at the AITA trade show must have been imported.

36. Additionally, Freedom Scientific has obtained a sample of the Aumed “Image” product in the United States, the packaging of which states that the product was “Made in China” and further includes a sticker with a blackened checkbox indicating that the product was manufactured for use in the United States. Photos of the packaging are included as Exhibit H.

37. The item numbers under the Harmonized Tariff Schedules of the United States for handheld magnifiers that have been imported unlawfully into the United States, sold for importation into the United States, or sold after importation into the United States in violation of Freedom Scientific’s patent rights are as follows:

9817.00.96

8528.59.1500

VIII. RELATED LITIGATION

38. On the same day Freedom Scientific is filing this Complaint, it is filing an action against Aumed Group Corp. and Aumed, Inc. for infringement of the ’107 and ’598 patents in the United States District Court for the Middle District of Florida.

39. Neither of the ’107 or ’598 patents, nor any foreign counterparts, nor the subject matter thereof, are or have been the subject of any court or agency litigation.

IX. DOMESTIC INDUSTRY

A. Economic Prong

40. A domestic industry exists with respect to handheld magnifiers by virtue of, *inter alia*, Freedom Scientific’s extensive activities in the United States. Freedom Scientific has made a substantial investment in the exploitation of the ’107 and ’598 patents in the form of research

and development, engineering, sales activities, support activities, and administrative activities in the United States. Freedom Scientific also employs a significant amount of labor in the United States for engineering, marketing, sales, and support of products embodying claims of the '107 and '598 patents. Freedom Scientific's investment in the exploitation of the '107 and '598 patents is detailed in the Confidential Declaration of Roy D. Rafalco, filed herewith.

41. The '107 and '598 patents are important to the success of Freedom Scientific's portable magnifier business, as the technology they embody is incorporated into its flagship portable magnifier product. Physical Exhibit 1 is a sample of a representative Freedom Scientific RUBY[®] portable magnifier product that is covered by the claims of the '107 and '598 patents.

42. Freedom Scientific's domestic activities related to the '107 and '598 patents are detailed in the Confidential Declaration of Roy D. Rafalco, attached as Exhibit L.

B. Technical Prong

43. Freedom Scientific sells products covered by the claims of the '107 and '598 patents in the United States. Photos comparing the Freedom Scientific RUBY[®] Handheld Video Magnifier with the Figures of the '107 patent are attached as Exhibit J, and a chart comparing exemplary claim 1 of the '598 patent to the Freedom Scientific RUBY[®] product is attached as Exhibit K.

X. RELIEF

WHEREFORE, by reason of the foregoing, Freedom Scientific requests that the 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, with respect to violations of that section based upon the unlawful importation into the United States, the sale for importation, or the sale within the United States after importation by Aumed Group Corp. and/or Aumed Inc. of handheld magnifiers that infringe United States Des. Patent No. D624,107 and/or United States Patent No. 8,264,598; and
- b. schedule and conduct a hearing on said unlawful acts and, following said hearing:
 - (i) issue a limited, permanent exclusion order pursuant to Section 337(d) of the Tariff Act of 1930, as amended, excluding entry into and sales within the United States of Aumed Group Corp. handheld magnifiers that infringe the claims at issue herein of United States Des. Patent No. D624,107 and United States Patent No. 8,264,598; and
 - (ii) issue a permanent cease and desist order pursuant to Section 337(f) of the Tariff Act of 1930, as amended, directing Aumed Group Corp. to cease and desist from engaging in the unfair methods or acts relating to the importation into and sale within the United States of any ceramic materials and products thereof that infringe the claims at issue herein of United States Des. Patent No. D624,107 and United States Patent No. 8,264,598; and
- c. grant such other and further relief as the Commission deems just and proper under the law, based on the facts determined by the investigation and under the authority of the Commission.

Dated: September 20, 2013

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Matthew B. Lowrie', written over a horizontal line.

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Boston, MA 02199
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