

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.

In the Matter of

**CERTAIN PERSONAL DATA AND  
MOBILE COMMUNICATIONS  
DEVICES AND RELATED  
SOFTWARE**

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

**COMPLAINT OF APPLE INC. *ET AL.* UNDER  
SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

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## TABLE OF SUPPORTING MATERIALS

### EXHIBITS

| <u>Exhibit No.</u> | <u>Description</u>   |
|--------------------|--|
| 1.                 | Certified copy of U.S. Patent No. 5,481,721                            |
| 2.                 | U.S. Patent No. 5,519,867  |
| 3.                 | Certified copy of U.S. Patent No. 5,566,337                            |
| 4.                 | Certified copy of U.S. Patent No. 5,929,852                            |
| 5.                 | U.S. Patent No. 5,946,647  |
| 6.                 | U.S. Patent No. 5,969,705  |
| 7.                 | Certified copy of U.S. Patent No. 6,275,983                            |
| 8.                 | U.S. Patent No. 6,343,263  |
| 9.                 | U.S. Patent No. 5,915,131  |
| 10.                | U.S. Patent No. RE39,486   |
| 11.                | Certified copy of the assignment records for U.S. Patent No. 5,481,721 |
| 12.                | Assignment records for U.S. Patent No. 5,519,867                       |
| 13.                | Certified copy of the assignment records for U.S. Patent No. 5,566,337 |
| 14.                | Certified copy of the assignment records for U.S. Patent No. 5,929,852 |
| 15.                | Assignment records for U.S. Patent No. 5,946,647                       |
| 16.                | Assignment records for U.S. Patent No. 5,969,705                       |
| 17.                | Certified copy of the assignment records for U.S. Patent No. 6,275,983 |
| 18.                | Certified copy of the assignment records for U.S. Patent No. 6,343,263 |
| 19.                | Assignment records for U.S. Patent No. 5,915,131                       |

20. Assignment records for U.S. Patent No. RE39,486
21. List of each foreign patent, each foreign patent application (not already issued as a patent), and each foreign patent application that has been denied, corresponding to each of the Asserted Patents
22. Infringement claim chart for U.S. Patent No. 5,481,721
23. Infringement claim chart for U.S. Patent No. 5,519,867
24. Infringement claim chart for U.S. Patent No. 5,566,337
25. Infringement claim chart for U.S. Patent No. 5,929,852
26. Infringement claim chart for U.S. Patent No. 5,946,647
27. Infringement claim chart for U.S. Patent No. 5,969,705
28. Infringement claim chart for U.S. Patent No. 6,275,983
29. Infringement claim chart for U.S. Patent No. 6,343,263
30. Infringement claim chart for U.S. Patent No. 5,915,131
31. Infringement claim chart for U.S. Patent No. RE39,486
32. Documents detailing purchase of the HTC Nexus One product, including photographs
33. Documents detailing purchase of the HTC Touch Pro product, including photographs
34. Documents detailing purchase of the HTC Touch Diamond product, including photographs
35. Documents detailing purchase of the HTC Touch Pro2 product, including photographs
36. Documents detailing purchase of the HTC Tilt II product, including photographs
37. Documents detailing purchase of the HTC Pure product, including photographs
38. Documents detailing purchase of the HTC Imagio product, including photographs
39. Documents detailing purchase of the HTC Dream, a/k/a T-Mobile G1 product, including photographs

40. Documents detailing purchase of the HTC myTouch 3G product, including photographs
41. Documents detailing purchase of the HTC Hero product, including photographs
42. Documents detailing purchase of the HTC HD2 product, including photographs
43. Documents detailing purchase of the HTC Droid Eris product, including photographs
44. Declaration of Gregory Joswiak (**CONFIDENTIAL**)
45. Domestic Industry claim chart for U.S. Patent No. 5,481,721
46. Domestic Industry claim chart for U.S. Patent No. 5,519,867
47. Domestic Industry claim chart for U.S. Patent No. 5,566,337
48. Domestic Industry claim chart for U.S. Patent No. 5,929,852
49. Domestic Industry claim chart for U.S. Patent No. 5,946,647
50. Domestic Industry claim chart for U.S. Patent No. 5,969,705
51. Domestic Industry claim chart for U.S. Patent No. 6,275,983
52. Domestic Industry claim chart for U.S. Patent No. 6,343,263
53. Domestic Industry claim chart for U.S. Patent No. 5,915,131
54. Domestic Industry claim chart for U.S. Patent No. RE39,486
55. Apple Inc. U.S. SEC Form 10-K (2009)
56. HTC Press Release
57. List of licensees for the asserted patents (**CONFIDENTIAL**)

## APPENDICES

| <u>Appendix Item</u> | <u>Description</u>  |
|----------------------|---|
| A.                   | Certified copy of the prosecution history for U.S. Patent No. 5,481,721 |
| B.                   | Prosecution history for U.S. Patent No. 5,519,867                       |
| C.                   | Certified copy of the prosecution history for U.S. Patent No. 5,566,337 |
| D.                   | Certified copy of the prosecution history for U.S. Patent No. 5,929,852 |
| E.                   | Prosecution history for U.S. Patent No. 5,946,647                       |
| F.                   | Prosecution history for U.S. Patent No. 5,969,705                       |
| G.                   | Certified copy of the prosecution history for U.S. Patent No. 6,275,983 |
| H.                   | Prosecution history for U.S. Patent No. 6,343,263                       |
| I.                   | Prosecution history for U.S. Patent No. 5,915,131                       |
| J.                   | Prosecution history for U.S. Patent No. RE39,486                        |
| K.                   | Cited references for U.S. Patent No. 5,481,721                          |
| L.                   | Cited references for U.S. Patent No. 5,519,867                          |
| M.                   | Cited references for U.S. Patent No. 5,566,337                          |
| N.                   | Cited references for U.S. Patent No. 5,929,852                          |
| O.                   | Cited references for U.S. Patent No. 5,946,647                          |
| P.                   | Cited references for U.S. Patent No. 5,969,705                          |
| Q.                   | Cited references for U.S. Patent No. 6,275,983                          |
| R.                   | Cited references for U.S. Patent No. 6,343,263                          |
| S.                   | Cited references for U.S. Patent No. 5,915,131                          |
| T.                   | Cited references for U.S. Patent No. RE39,486                           |

## PHYSICAL EXHIBITS

| <u>Exhibit Item</u> | <u>Description</u>  |
|---------------------|---|
| 1.                  | Apple iPhone 3GS (in box with packaging)  |
| 2.                  | Apple MacBook Pro running Mac OS X v10.6 Snow Leopard and Apple's iTunes software (in box with packaging) |
| 3.                  | HTC Nexus One (in box with packaging)   |
| 4.                  | HTC Touch Pro (in box with packaging)   |
| 5.                  | HTC Touch Diamond (in box with packaging)   |
| 6.                  | HTC Touch Pro2 (in box with packaging)  |
| 7.                  | HTC Tilt II (in box with packaging)   |
| 8.                  | HTC Pure (in box with packaging)  |
| 9.                  | HTC Imagio (in box with packaging)  |
| 10.                 | HTC Dream (T-Mobile G1) (in box with packaging)   |
| 11.                 | HTC myTouch 3G (in box with packaging)  |
| 12.                 | HTC Hero (in box with packaging)  |
| 13.                 | HTC HD2 (in box with packaging)   |
| 14.                 | HTC Droid Eris (in box with packaging)  |

**TABLE OF CONTENTS**

|       |   |    |
|-------|---|----|
| I.    | INTRODUCTION .....  | 1  |
| II.   | COMPLAINANTS .....  | 4  |
| III.  | THE PROPOSED RESPONDENTS .....  | 5  |
| IV.   | THE TECHNOLOGY AND PRODUCTS AT ISSUE .....                                    | 6  |
| V.    | THE PATENTS IN SUIT AND NON-TECHNICAL DESCRIPTIONS<br>OF THE INVENTIONS ..... | 7  |
|       | A. Overview and Ownership of the Asserted Patents.....                        | 7  |
|       | B. Non-Technical Description of the ‘721 Patent .....                         | 8  |
|       | C. Non-Technical Description of the ‘867 and ‘983 Patents.....                | 9  |
|       | D. Non-Technical Description of the ‘337 Patent .....                         | 10 |
|       | E. Non-Technical Description of the ‘852 Patent .....                         | 11 |
|       | F. Non-Technical Description of the ‘647 Patent .....                         | 12 |
|       | G. Non-Technical Description of the ‘705 Patent .....                         | 13 |
|       | H. Non-Technical Description of the ‘263 Patent .....                         | 14 |
|       | I. Non-Technical Description of the ‘131 Patent .....                         | 14 |
|       | J. Non-Technical Description of the RE ‘486 Patent .....                      | 15 |
|       | K. Foreign Counterparts .....   | 16 |
|       | L. Licenses.....  | 16 |
| VI.   | UNLAWFUL AND UNFAIR ACTS OF RESPONDENT—PATENT<br>INFRINGEMENT.....            | 16 |
|       | A. The ‘721 Patent.....   | 17 |
|       | B. The ‘867 Patent.....   | 17 |
|       | C. The ‘983 Patent.....   | 17 |
|       | D. The ‘337 Patent.....   | 18 |
|       | E. The ‘852 Patent.....   | 18 |
|       | F. The ‘647 Patent.....   | 19 |
|       | G. The ‘705 Patent.....   | 20 |
|       | H. The ‘263 Patent.....   | 20 |
|       | I. The ‘131 Patent.....   | 20 |
|       | J. The RE ‘486 Patent.....  | 20 |
| VII.  | SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE .....                       | 21 |
| VIII. | HARMONIZED TARIFF SCHEDULE ITEM NUMBERS .....                                 | 24 |
| IX.   | RELATED LITIGATION .....  | 24 |
| X.    | THE DOMESTIC INDUSTRY .....   | 25 |
|       | A. United States Investments In The Domestic Industry.....                    | 25 |
|       | B. Apple’s Practice of the Asserted Patents .....                             | 28 |



XI. RELIEF REQUESTED.....29

## **I. INTRODUCTION**

1. Apple Inc. ("Apple") is a leading designer and manufacturer of personal computers, portable digital media players, and mobile communications devices. Apple's personal digital media and communications products, such as the iPhone and the iPod line of digital media players, are groundbreaking products that revolutionized their respective industries, enjoy enormous commercial success and popular acclaim, and continue to lead their fields in innovation, performance, and ease of use. Apple's product portfolio also includes its industry-leading line of Macintosh (or "Mac") desktop and notebook computers, including the MacBook products such as the MacBook Pro and the ultra-light MacBook Air, and its portfolio of software, such as the OS X operating system that comes pre-installed on every Macintosh computer.

2. Apple's history of launching products that are technically innovative and commercially successful stems from its ongoing commitment to research and development. Throughout its history, Apple has made substantial investments in research and development in a wide variety of technical fields, including computer hardware and software, graphical and touch-based user interfaces, digital media players, and personal communications. Substantially all of this research and development has been conducted by employees located in the company's Cupertino, California, headquarters. Apple's commitment to research and development has led to pioneering innovations that have laid the groundwork for, and are used extensively in, each of Apple's product lines, including the iPhone, iPod, Macintosh computers, and Mac OS X software. Apple has been awarded patent protection for certain of its innovations by the United States Patent and Trademark Office, and Apple continues to seek and obtain patent protection for

its recent and ongoing innovations, including innovations related to its groundbreaking iPhone product.

3. High Tech Computer Corp. a/k/a HTC Corp. (“HTC”), HTC America, Inc. (“HTC America”), and Exedea, Inc. (“Exedea”) (collectively, “Respondents”) manufacture, import, sell after importation, service, and repair mobile communications devices (including smartphones, personal digital assistants (“PDAs”), computer devices including notebooks, and other handheld communication devices), software to be loaded into and used on such devices, and components of such devices (collectively, the “Accused Products”). The Accused Products manufactured, imported, and sold by Respondents incorporate, without license, many technologies developed by Apple and protected by patents issued to and owned by Apple and its wholly-owned subsidiaries, including NeXT.

4. Accordingly, Apple and NeXT Software, Inc. f/k/a NeXT Computer, Inc. (“NeXT”) (collectively, “Complainants”) file this Complaint under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based upon the unlawful importation into the United States, the sale for importation into the United States, and the sale within the United States after importation by the proposed Respondents of certain mobile communication devices and components thereof that infringe certain claims of U.S. Patent Nos. 5,481,721 (“the ‘721 patent”); 5,519,867 (“the ‘867 patent”); 5,566,337 (“the ‘337 patent”); 5,929,852 (“the ‘852 patent”); 5,946,647 (“the ‘647 patent”); 5,969,705 (“the ‘705 patent”); 6,275,983 (“the ‘983 patent”); 6,343,263 (“the ‘263 patent”); 5,915,131 (“the ‘131 patent”); and RE39,486 (“the RE ‘486 patent”) (collectively, the “Asserted Patents”). The presently-asserted claims of these patents are as follows:

| <b>Patent Number</b> | <b>Asserted Claims</b>           |
|----------------------|----------------------------------|
| 5,481,721            | 1-6, 19-22                       |
| 5,519,867            | 1-3, 7, 12, 32                   |
| 5,566,337            | 1, 3, 8-10, 12, 18-19, 23-24     |
| 5,929,852            | 1-3, 7-13                        |
| 5,946,647            | 1, 3, 6, 8, 10, 13-16, 19-20, 22 |
| 5,969,705            | 1                                |
| 6,275,983            | 1, 3, 7, 8, 22                   |
| 6,343,263            | 1-6, 24-25, 29-30                |
| 5,915,131            | 1, 3, 4, 6, 7, 9, 10, 15, 17     |
| RE39,486             | 1-3, 6, 8-9, 12, 14-17           |

5. Complainants own all right, title, and interest in and to each of the Asserted Patents. Certified copies of the Asserted Patents are attached as Exhibits 1 through 10. Certified copies of the assignment records of the Asserted Patents are attached as Exhibits 11 through 20.<sup>1</sup>

6. A domestic industry as required by 19 U.S.C. §§ 1337(a)(2) and (3) exists in the United States relating to the technology protected by the Asserted Patents.

7. Complainants seek as relief a permanent limited exclusion order prohibiting infringing mobile communication devices, and components thereof, manufactured or sold by or on behalf of Respondents, from entry into the United States. Complainants further seek a permanent cease and desist order prohibiting Respondents from marketing, distributing, selling, offering for sale, warehousing inventory for distribution, or otherwise transferring or bringing into the United States infringing mobile communication devices or components thereof.

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<sup>1</sup> At the time of filing, the U.S. Patent Office has not provided certified copies of the following patents and/or their assignment records to Apple: 5,519,867; 5,946,647; 5,969,705; 6,343,263; 5,915,131 and RE39,486. Apple has provided non-certified copies for these patents at the time of filing, and will provide the certified copies as soon as they become available.

## II. COMPLAINANTS

8. Apple Inc. is a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014.

9. As set forth above, Apple designs, develops, markets, and sells (i) the Mac line of desktop and notebook computers, such as MacBook products, including the MacBook Pro and the ultra-light MacBook Air; (ii) a portfolio of software, such as the Mac OS X operating system that comes pre-installed on every Macintosh computer; (iii) the iPod line of mobile digital devices; (iv) the iPhone (including the iPhone 3G and the iPhone 3GS) and related accessories and services, including a complete software development kit (“SDK”) providing tools for programmers to create their own iPhone applications; and (v) a variety of related products, accessories, peripherals, and services, including warranty and customer support. Apple sells its products worldwide through its online stores, its own retail stores, its direct sales force, and third-party wholesalers, resellers, and value-added resellers. Apple owns by assignment the entire right, title, and interest in and to the ‘867, ‘337, ‘852, ‘647, ‘705, ‘983, ‘263, ‘131, and RE ‘486 patents.

10. NeXT, a wholly-owned subsidiary of Apple, is a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014. NeXT was an early developer of software for object-oriented programming. Software originally developed by NeXT forms the basis for portions of Mac OS X. Complainant NeXT owns by assignment the entire right, title, and interest in and to the ‘721 patent, and has licensed that patent to Apple.

11. Complainants researched and developed technology that is protected by the Asserted Patents. Complainants have made and continue to make significant investment in the design and development of products protected by the Asserted Patents. These include the iPhone, iPods, Macintosh computers, and Mac OS X software products, among others.

12. Complainants use the technologies covered by the Asserted Patents in the United States, as described in Section X below. In connection with the exploitation of these technologies, Complainants have made significant investments in the United States in facilities, equipment, labor, and capital, also as described in Section X below.

### **III. THE PROPOSED RESPONDENTS**

13. On information and belief, High Tech Computer Corp. (“HTC Corp.” or “HTC”) is a corporation organized and existing under the laws of Taiwan and having its principal place of business at 23 Xinghua Road, Taoyuan City, Taoyuan County 330, Taiwan, Republic of China. On information and belief, HTC is engaged in the design, manufacture, importation into the United States, and sale after importation of the Accused Products.

14. On information and belief, HTC (BVI) Corp. is a wholly-owned subsidiary of Respondent HTC. HTC (BVI) Corp., while not a Respondent, is engaged in global investing and related activities on behalf of its parent, Respondent HTC, and is itself the parent company of additional Respondents.

15. On information and belief, HTC America is a corporation organized and existing under the laws of the State of Texas and having a principal place of business at 13920 SE Eastgate Way, Suite 400, Bellevue, Washington 98005. On information and belief, HTC America is a wholly-owned subsidiary of HTC (BVI) Corp. On information and belief, HTC America performs several services to support the importation and sale of Accused Products into and within the United States, including marketing of the Accused Products, repair of the Accused Products, and other after-sale services, such as supporting and configuring the Accused Products, as well as interfacing with U.S.-based customers and distributors to conform the Accused Products to purchaser requests.

16. On information and belief, Exedea is a corporation organized and existing under the laws of the State of Texas and having a principal place of business at 5950 Corporate Drive, Houston, Texas, 77036. On information and belief, Exedea is a wholly-owned subsidiary of HTC (BVI) Corp. On information and belief, Exedea, *inter alia*, imports Accused Products into the United States and distributes and sells Accused Products after their importation into the United States.

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

17. The technologies at issue relate generally to hardware and software used in a variety of devices, including mobile communications equipment imported into and sold within the United States by or on behalf of Respondents. The technologies at issue in the '867, '337, '852, '647, '721 '705, '983, '131, and RE '486 patents generally relate to software architectures, frameworks, and implementations, including various aspects of software used to implement operating systems. The technologies at issue in the '263 patent relate to an interface for a processor, such as a digital signal processor.

18. The Accused Products include computing and mobile communication devices, including but not limited to cellular phones and smartphones, together with software designed for use on, and intended to be loaded onto, such devices. The Accused Products are imported into and sold within the United States by or on behalf of Respondents.

19. Certain HTC products imported into the United States comprise, include, or contain software based on an operating system known as "Android." These products are referred to herein as the "Accused HTC Android Products." Exemplary Accused HTC Android Products include the HTC Nexus One, the HTC Dream, which is sold commercially as the T-Mobile G1,

the HTC Magic, which is sold commercially as the HTC myTouch 3G, the HTC Hero, and the HTC Droid Eris.<sup>2</sup>

20. Additional HTC products imported (or that HTC intends to import) into the United States include digital signal processing functionality. These products are referred to herein as the “Accused HTC DSP Products.” Exemplary Accused HTC DSP Products include the HTC Touch Pro, the HTC Touch Diamond, the HTC Touch Pro2, the HTC Tilt II, the HTC Pure, the HTC HD2, and the HTC Imagio.

V. **THE PATENTS IN SUIT AND NON-TECHNICAL DESCRIPTIONS OF THE INVENTIONS**

A. **Overview and Ownership of the Asserted Patents**

21. As set forth below, Complainants own by assignment the entire right, title, and interest in and to each of the Asserted Patents. *See* Exhibits 11–20.

22. Pursuant to Commission Rule 210.12(c), four copies of the certified prosecution histories of each of the Asserted Patents have been submitted with this Complaint as Appendices A through J.<sup>3</sup> Pursuant to Commission Rule 210.12(c), the cited references for each of the Asserted Patents also have been submitted with this Complaint as Appendices K through T.

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<sup>2</sup> The categories listed in Section IV are a shorthand summary of products currently accused of infringement by Complainants. These descriptions, and the examples given therein, are not intended to exclusively define or otherwise limit the categories of Accused Products. Respondents have announced their intention to release additional products in the future that will infringe the Asserted Patents. Complainants may, if necessary, amend or modify the above descriptions as discovery progresses. For example, *see* Exhibit 56, a press release announcing HTC’s intention to begin U.S. sales of the HD2 in “early 2010.”

<sup>3</sup> At the time of filing, the U.S. Patent Office has not provided certified file histories for the following patents to Apple: 5,519,867; 5,946,647; 5,969,705; 6,343,263; 5,915,131; and RE39,846. Apple has provided non-certified file histories for these patents at the time of filing, and will provide the certified copies as soon as they become available.



**B. Non-Technical Description of the '721 Patent<sup>4</sup>**

23. United States Patent No. 5,481,721, entitled "Method for Providing Automatic and Dynamic Translation of Object Oriented Programming Language-Based Message Passing Into Operation System Message Passing Using Proxy Objects," issued on January 2, 1996, to inventors Bertrand Serlet, Lee Boynton, and Avadis Tevanian. The '721 patent issued from United States Patent Application No. 08/332,486, filed on October 31, 1994, and expires on January 2, 2013. NeXT owns by assignment the entire right, title, and interest in and to the '721 patent.

24. The '721 patent has twenty-four claims: three independent claims and twenty-one dependent claims.

25. The '721 patent relates generally to a means of allowing computer programs running one process to access objects that are located within a different process. Broadly speaking, a process refers to a computer program that is being executed by a computer. As a general rule, separate processes execute independently (even when they may be executed simultaneously), and software within one process cannot directly access resources from or make calls on software within another process. Conventional methods for inter-process communication often required the software programmer to understand and utilize low-level operating system functionalities. The '721 patent describes a more efficient method for inter-process communication by way of a proxy object, which exists in a local process and acts as a local representation of objects that are located in a different process.

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<sup>4</sup> This description and any other non-technical descriptions within this complaint are for illustrative purposes only. Nothing in any non-technical description contained within this complaint is intended to, either implicitly or explicitly, express any position regarding the proper construction of any claim of the Asserted Patents.

**C. Non-Technical Description of the '867 and '983 Patents**

26. United States Patent No. 5,519,867, entitled "Object-Oriented Multitasking System," issued on May 21, 1996, to inventors Christopher P. Moeller, Eugenie L. Bolton, Daniel F. Chernikoff, and Russell T. Nakano. The '867 patent issued from United States Patent Application No. 08/094,673, filed on July 19, 1993. The '867 patent is terminally disclaimed to United States Patent No. 5,379,432, and expires on July 19, 2013. Apple owns by assignment the entire right, title, and interest in and to the '867 patent.

27. The '867 patent has fifty-three claims: seven independent claims and forty-six dependent claims.

28. United States Patent No. 6,275,983, entitled "Object-Oriented Operating System," issued on August 14, 2001, to inventors Debra Lyn Orton, Eugenie Bolton, Daniel F. Chernikoff, David Brook Goldsmith, and Christopher P. Moeller. The '983 patent issued from United States Patent Application No. 09/140,253, filed on August 26, 1998. The '983 patent is terminally disclaimed to United States Patent No. 5,379,432, and expires on July 19, 2013. Apple owns by assignment the entire right, title, and interest in and to the '983 patent.

29. The '983 patent has twenty-four claims: four independent claims and twenty dependent claims.

30. The '867 and '983 patents relate to the execution of object-oriented programs on a computer running a procedural operating system. Object-oriented programming is organized around "objects" — generally, constructs capable of storing data and defining the methods that must be used to access and interact with that data. By contrast, in a procedural programming architecture, code is programmed in a procedural order, and access to data is not organized using an object framework. Object-oriented programming is used widely for computer applications, but many operating systems, which provide the basic, low-level computer services that

applications depend on, are written in a procedural manner. Because of the differences between the object-oriented and procedural paradigms, object-oriented programs cannot directly access the services provided by a procedural operating system.

31. The '867 patent describes a way for an object-oriented program to access services provided by a procedural operating system that allows for the control of multiple simultaneous "threads" of program execution.

32. The '983 patent relates to an environment in which an object-oriented program can invoke native system services provided by a procedural operating system, and in which the native services can make use of data associated with an object. Certain claims of the '983 patent relate to further optimizations that save memory by allowing some of the object-oriented code to be loaded only at runtime, when it actually is needed.

#### **D. Non-Technical Description of the '337 Patent**

33. United States Patent No. 5,566,337, entitled "Method and Apparatus for Distributing Events in an Operating System," issued on October 15, 1996, to inventors Steven J. Szymanski, Thomas E. Saulpaugh, and William J. Keenan. The '337 patent issued from United States Patent Application No. 08/242,204, filed on May 13, 1994, and expires on May 13, 2014. Apple owns by assignment the entire right, title, and interest in and to the '337 patent.

34. The '337 patent has twenty-four claims: three independent claims and twenty-one dependent claims.

35. The '337 patent relates generally to the distribution of event notifications between different software elements in a computer system. Complex software environments may include multiple independent software elements. Some of these elements may, at times, be interested in events occurring in or generated by other software modules, so that they can respond to those events or alter their own behavior. For example, in a mobile system, programs may be interested

in events generated by a battery status indicator so that they can alter their behavior or appearance when the battery state is low. The '337 patent describes a system in which a software module called an event consumer can indicate an interest in receiving notifications about a specific set of events, and it provides an architecture for efficiently providing notifications to the consumer. Certain claims of the '337 patent more specifically describe the use of a distributor functionality that provides additional control over which consumers receive notification of a given event, as well as the use of event consumers of different classes that may receive notifications in different manners.

**E. Non-Technical Description of the '852 Patent**

36. United States Patent No. 5,929,852, entitled "Encapsulated Network Entity Reference of a Network Component System," issued on July 27, 1999, to inventors Stephen Fisher, Michael A. Cleron, and Timo Bruck. The '852 patent issued from United States Patent Application No. 09/007,691, filed on January 15, 1998, and expires on May 5, 2015. Apple owns by assignment the entire right, title, and interest to and in the '852 patent.

37. The '852 patent has twenty claims: three independent claims and seventeen dependent claims.

38. The '852 patent relates generally to providing an efficient way for allowing a user to access a computing resource that is stored at a remote location, including by efficiently collecting the different software components needed to access that resource. The '852 patent describes a computer system that operates using "components," which generally are pieces of software that can be replaced with other software with relatively little effort. The use of components allows a software user easily to replace parts of the software with new or preferred elements, or to extend the functionality of the software by adding new parts. The '852 patent recognizes that a computer user may wish to access computing resources, such as data, pictures,

Web pages, or the like, that are stored on a computer network at a remote location. Frequently in such cases, the user must make use of one or more different software components, each of which is associated with a particular data type, in order to view the desired network resource correctly. The '852 patent simplifies the user's access to this type of data by providing an encapsulated entity component, which contains a reference to the location of the desired resource, together with a way of identifying the software components needed to access it. This component is represented visually on a computer screen so that the user easily can access and manipulate it.

**F. Non-Technical Description of the '647 Patent**

39. United States Patent No. 5,946,647, entitled "System and Method for Performing an Action on a Structure in Computer-Generated Data," issued on August 31, 1999, to inventors James R. Miller, Thomas Bonura, Bonnie Nardi, and David Wright. The '647 patent issued from United States Patent Application No. 08/595,257, filed on February 1, 1996, and expires on February 1, 2016. Apple owns by assignment the entire right, title, and interest to and in the '647 patent.

40. The '647 patent has twenty-four claims: five independent claims and nineteen dependent claims.

41. The '647 patent generally relates to a computer-based system and method for detecting structures and performing computer-based actions on the detected structures. In particular, this invention recognizes that computer data may contain structures, for example, phone numbers, post-office addresses, and dates, and performs related actions with that data. The '647 patent accomplishes this by identifying the structure, associating candidate actions to the structures, enabling selection of an action, and automatically performing the selected action on the structure. For instance, the system may receive data that includes a phone number,

highlight it for a user, and then, in response to a user's interaction with the highlighted text, offer the user the choice of making a phone call to the number.

**G. Non-Technical Description of the '705 Patent**

42. United States Patent No. 5,969,705, entitled "Message Protocol for Controlling a User Interface From an Inactive Application Program," issued on October 19, 1999, to inventors Stephen Fisher and Eric Mathew Trehus. The '705 patent issued from United States Patent Application No. 08/816,492, filed on March 13, 1997, and expires on June 28, 2013. Apple owns by assignment the entire right, title, and interest to and in the '705 patent.

43. The '705 patent has one independent claim and no dependent claims.

44. The '705 patent relates generally to a software environment in which a foreground application can make use of a process running in the background to perform useful operations while simultaneously allowing the user to continue interacting with the user interface. The background process can then report its results to the foreground process in a manner that causes the user interface to be updated. In particular, the '705 patent recognizes that, in some cases, it may be beneficial for a foreground process — one that can control the user interface — to use a separate, background, process to perform services on behalf of the foreground process. For instance, an application may wish to utilize a specialized background application to perform tasks relating to receiving information about events occurring over a network. The '705 patent allows the background process to send events to the foreground process, and the foreground process is equipped with an event handler that receives the events from the background process and uses them to update the user interface, without the background process ever controlling the user interface itself.

#### **H. Non-Technical Description of the '263 Patent**

45. United States Patent No. 6,343,263, entitled "Real-Time Signal Processing System for Serially Transmitted Data," issued on January 29, 2002, to James B. Nichols and John Lynch. The '263 patent issued from United States Patent Application No. 08/284,061, filed on August 2, 1994, and expires on January 29, 2019. Apple owns by assignment the entire right, title, and interest to and in the '263 patent.

46. The '263 patent has forty-one claims: four independent claims and thirty-seven dependent claims.

47. The '263 patent relates generally to providing programming abstraction layers for real-time processing applications. The '263 patent discloses the use of real-time application programming interfaces (APIs) interposed between application software or driver software and the real-time processing subsystem. These APIs provide an abstraction for the real-time processing subsystem (*e.g.*, a digital signal processor) from the higher-level software that utilizes the real-time processing subsystem, allowing changes to the real-time processing subsystem without requiring changes to the higher-level software.

#### **I. Non-Technical Description of the '131 Patent**

48. United States Patent No. 5,915,131, entitled "Method and Apparatus for Handling I/O Requests Utilizing Separate Programming Interfaces to Access Separate I/O Service," issued on June 22, 1999 to inventors Holly N. Knight, Carl D. Sutton, Wayne N. Meretsky, and Alan B. Mimms. The '131 patent expires on June 22, 2016. Apple owns by assignment the entire right, title, and interest in and to the '131 patent.

49. The '131 patent has twenty claims: five independent claims and fifteen dependent claims.

50. The '131 patent relates generally to the use of application programming interfaces (APIs) to access system services. Generally speaking, APIs provide an abstract interface by which one piece of software can access functionalities provided by other software, or by the system itself, without knowing any of the details of how the functionality in question is implemented. The APIs may, for instance, define a series of functions that can be called to access particular services. The '131 patent describes a way in which a system can efficiently provide access to different kinds of system services by using multiple distinct APIs, each of which is tailored to provide an interface customized for a particular set of services. The '131 patent also describes efficient ways in which the system can deal with calls to different APIs, and in which the system can customize the way it responds to API calls according to the type of services being requested.

**J. Non-Technical Description of the RE '486 Patent**

51. United States Patent No. RE39,486, entitled "Extensible, Replaceable Network Component System," reissued on February 6, 2007, to inventors Michael A. Cleron, Stephen Fisher, and Timo Buck. The RE '486 patent issued from United States Patent Application No. 10/408,789, filed on April 3, 2003. The RE '486 patent is a reissue of United States Patent No. 6,212,575, which issued from United States Patent Application No. 08/435,377, filed on May 5, 1995. The RE '486 patent expires on May 5, 2015. Apple owns by assignment the entire right, title, and interest to and in the RE '486 patent.

52. The RE '486 patent has twenty claims: three independent claims and seventeen dependent claims.

53. The RE '486 patent generally relates to a computer system that operates using "component layers." Generally speaking, "components" include pieces of software that can be replaced with other software with relatively little effort. The use of components allows a



software user to easily replace parts of a software program with new or preferred elements, or to extend its functionality by adding new parts. The RE '486 patent describes a computing arrangement in which software components are used to form a network "layer," which provides access to network-related resources and services. This arrangement extends the flexibility and extensibility of component-based computing to network functionalities by providing a layered component arrangement such that a software layer has access to a network layer through an application programming interface.

**K. Foreign Counterparts**

54. A list of the foreign counterparts to the Asserted Patents is included with this Complaint as Exhibit 21. Complainants own all right, title, and interest in and to each of these foreign counterparts. Complainants are aware of no other foreign counterparts or foreign counterpart applications corresponding to the Asserted Patents that have been issued, abandoned, denied, or which remain pending.

**L. Licenses**

55. Confidential Exhibit 57 includes a list of licensed entities for the Asserted Patents.

**VI. UNLAWFUL AND UNFAIR ACTS OF RESPONDENT—PATENT INFRINGEMENT**

56. On information and belief, the proposed Respondents manufacture abroad, sell for importation into the United States, import into the United States, and/or sell within the United States after importation, mobile communications devices and components thereof that infringe one or more of the Asserted Patents.

57. Respondents directly infringe and/or will infringe the Asserted Patents by making, using, selling, offering for sale, and importing the articles claimed by, or practicing the claimed methods of, the Asserted Patents. Moreover, Respondents are aware of the Asserted Patents, at

least because Respondents were provided with a copy of this Complaint via registered mail as of the date of its filing. Respondents indirectly infringe the Asserted Patents by contributing to and/or inducing the infringement of these patents by end users of their products.

**A. The '721 Patent**

58. On information and belief, the Accused HTC Android Products infringe at least claims 1-6, and 19-22 of the '721 patent. Additionally, on information and belief, users making routine use of the Accused HTC Android Products infringe at least claims 1-6 and 19-22 of the '721 patent. On information and belief, Respondents are aware of the '721 patent. Further, on information and belief, Respondents knowingly induce users of the Accused HTC Android Products to infringe at least claims 1-6 and 19-22 of the '721 patent. On information and belief, Respondents contribute to infringement of at least claims 1-6 and 19-22 of the '721 patent because Respondents know that the Accused HTC Android Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the '721 patent to the Accused HTC Android Products is attached as Exhibit 22.

**B. The '867 Patent**

59. On information and belief, the Accused HTC Android Products infringe at least claims 1-3, 7, 12, and 32 of the '867 patent. An exemplary claim chart comparing each asserted independent claim of the '867 patent to the Accused HTC Android Products is attached as Exhibit 23.

**C. The '983 Patent**

60. On information and belief, the Accused HTC Android Products infringe at least claims 1, 3, 7, 8, and 22 of the '983 patent. Additionally, on information and belief, users making routine use of the Accused HTC Android Products infringe at least claims 7 and 8 of the

'983 patent. On information and belief, Respondents are aware of the '983 patent. Further, on information and belief, Respondents knowingly induce users of the Accused HTC Android Products to infringe at least claims 7 and 8 of the '983 patent. On information and belief, Respondents contribute to infringement of at least claims 7 and 8 of the '983 patent because Respondents know that the Accused HTC Android Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the '983 patent to the Accused HTC Android Products is attached as Exhibit 28.

**D. The '337 Patent**

61. On information and belief, the Accused HTC Android Products infringe at least claims 1, 3, 8-10, 12, 18-19, and 23-24 of the '337 patent. Additionally, on information and belief, users making routine use of the Accused HTC Android Products infringe at least claims 18, 19, and 23-24 of the '337 patent. On information and belief, Respondents are aware of the '337 patent. Further, on information and belief, Respondents knowingly induce users of the Accused HTC Android Products to infringe at least claims 18, 19, and 23-24 of the '337 patent. On information and belief, Respondents contribute to infringement of at least claims 18, 19, and 23-24 of the '337 patent because Respondents know that the Accused HTC Android Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An Exemplary claim chart comparing each asserted independent claim of the '337 patent to the Accused HTC Android Products is attached as Exhibit 24.

**E. The '852 Patent**

62. On information and belief, the Accused HTC Android Products infringe at least claims 1-3 and 7-13 of the '852 patent. Additionally, on information and belief, users making

routine use of the Accused HTC Android Products infringe at least claims 1–3 of the ‘852 patent. On information and belief, Respondents are aware of the ‘852 patent. Further, on information and belief, Respondents knowingly induce users of the Accused HTC Android Products to infringe at least claims 1–3 of the ‘852 patent. On information and belief, Respondents contribute to infringement of at least claims 1–3 of the ‘852 patent because Respondents know that the Accused HTC Android Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the ‘852 patent to the Accused HTC Android Products is attached as Exhibit 25.

**F. The ‘647 Patent**

63. On information and belief, the Accused HTC Android Products infringe claims 1, 3, 6, 8, 10, 13-16, 19, 20, and 22 of the ‘647 patent. Additionally, on information and belief, users making routine use of the Accused HTC Android Products infringe at least claims 13, 15, 16, 19, 20, and 22 of the ‘647 patent. On information and belief, Respondents are aware of the ‘647 patent. Further, on information and belief, Respondents knowingly induce users of the Accused HTC Android Products to infringe at least claims 13, 15, 16, 19, 20, and 22 of the ‘647 patent. On information and belief, Respondents contribute to the infringement of at least claims 13, 15, 16, 19, 20, and 22 of the ‘647 patent because Respondents know that the Accused HTC Android Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the ‘647 patent to the Accused HTC Android Products is attached as Exhibit 26.

**G. The '705 Patent**

64. On information and belief, the Accused HTC Android Products infringe claim 1 of the '705 patent. Additionally, on information and belief, users making routine use of the Accused HTC Android Products infringe claim 1 of the '705 patent. On information and belief, Respondents are aware of the '705 patent. Further, on information and belief, Respondents knowingly induce users of the Accused HTC Android Products to infringe claim 1 of the '705 patent. On information and belief, Respondents contribute to the infringement of claim 1 of the '705 patent because Respondents know that the Accused HTC Android Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the '705 patent to the Accused HTC Android Products is attached as Exhibit 27.

**H. The '263 Patent**

65. On information and belief, the Accused HTC DSP Products and the Accused HTC Android Products infringe at least claim 1, 2, 3-6, 24-25, and 29-30 of the '263 patent. Exemplary claim charts comparing each asserted independent claim of the '263 patent to the Accused HTC DSP Products and the Accused HTC Android Products are attached as Exhibit 29.

**I. The '131 Patent**

66. On information and belief, the Accused HTC Android Products infringe at least claims 1, 3, 4, 6, 7, 9, 10, 15, and 17 of the '131 patent. An exemplary claim chart comparing each asserted independent claim of the '131 patent to the Accused HTC Android Products is attached as Exhibit 30.

**J. The RE '486 Patent**

67. On information and belief, the Accused HTC Android Products infringe at least claims 1-3, 6, 8-9, 12, and 14-17 of the RE '486 patent. Exemplary claim charts comparing each

asserted independent claim of the RE '486 patent to the Accused HTC Android Products are attached as Exhibit 31.

## **VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

68. Respondents, either themselves or through subsidiaries or third parties acting on behalf of Respondents, are engaged in the manufacture, importation, sale for importation, offer for sale after importation, sale and/or use after importation into the United States of infringing mobile communication devices.

69. The HTC Nexus One is manufactured in Taiwan. (*See* Exhibit 32, photograph of a HTC Nexus One (indicating that device is “Made in Taiwan”).) The HTC Nexus One is imported into the United States. For example, the photographed HTC Nexus One was purchased from Google Phone Webstore on January 5, 2010. The receipt for this purchase is attached as Exhibit 32. The photographed HTC Nexus One device, in its packaging, is submitted as Physical Exhibit 3.

70. The HTC Touch Pro is manufactured in Taiwan. (*See* Exhibit 33, photograph of a HTC Touch Pro (indicating that device is “Made in Taiwan”).) The HTC Touch Pro is imported into the United States. For example, the photographed HTC Touch Pro was purchased from Buy.com on November 21, 2009. The receipt for this purchase is attached as Exhibit 33. The photographed HTC Touch Pro device, in its packaging, is submitted as Physical Exhibit 4.

71. The HTC Touch Diamond is manufactured in Taiwan. (*See* Exhibit 34, photograph of an HTC Touch Diamond (indicating that device is “Made in Taiwan”).) The HTC Touch Diamond is imported into the United States. For example, the photographed HTC Touch Diamond was purchased from Amazon on October 27, 2009. The receipt for this purchase is

attached as Exhibit 34. The photographed HTC Touch Diamond device, in its packaging, is submitted as Physical Exhibit 5.

72. The HTC Touch Pro2 is manufactured in Taiwan. (See Exhibit 35, photograph of an HTC Touch Pro2 (indicating that device is “Made in Taiwan”).) The HTC Touch Pro2 is imported into the United States. For example, the photographed HTC Touch Pro2 was purchased from Buy.com on November 21, 2009. The receipt for this purchase is attached as Exhibit 35. The photographed HTC Touch Pro2 device, in its packaging, is submitted as Physical Exhibit 6.

73. The HTC Tilt II is manufactured in Taiwan. (See Exhibit 36, photograph of an HTC Tilt II (indicating that device is “Made in Taiwan”).) The HTC Tilt II is imported into the United States. For example, the photographed HTC Tilt II was purchased from eWireless Experts on December 1, 2009. The receipt for this purchase is attached as Exhibit 36. The photographed HTC Tilt II device, in its packaging, is submitted as Physical Exhibit 7.

74. The HTC Pure is manufactured in Taiwan. (See Exhibit 37, photograph of an HTC Pure (indicating that device is “Made in Taiwan”).) The HTC Pure is imported into the United States. For example, the photographed HTC Pure was purchased from eWireless Experts on December 1, 2009. The receipt for this purchase is attached as Exhibit 37. The photographed HTC Pure device, in its packaging, is submitted as Physical Exhibit 8.

75. The HTC Imagio is manufactured in Taiwan. (See Exhibit 38, photograph of an HTC Imagio (indicating that device is “Made in Taiwan”).) The HTC Imagio is imported into the United States. For example, the photographed HTC Imagio was purchased from PhoneSale.com on December 1, 2009. The receipt for this purchase is attached as Exhibit 38. The photographed HTC Imagio device, in its packaging, is submitted as Physical Exhibit 9.

76. The HTC Dream is manufactured in Taiwan. (See Exhibit 39, photograph of an HTC Dream (indicating that device is “Made in Taiwan”).) The HTC Dream is imported into the United States, where it is sold as the T-Mobile G1. For example, the photographed HTC Dream was purchased from T-Mobile on December 1, 2009. The receipt for this purchase is attached as Exhibit 39. The photographed HTC Dream device, in its packaging, is submitted as Physical Exhibit 10.

77. The HTC myTouch 3G is manufactured in Taiwan. (See Exhibit 40, photograph of an HTC myTouch 3G (indicating that device is “Made in Taiwan”).) The HTC myTouch 3G is imported into the United States. For example, the photographed HTC myTouch 3G was purchased from T-Mobile on December 1, 2009. The receipt for this purchase is attached as Exhibit 40. The photographed HTC myTouch 3G device, in its packaging, is submitted as Physical Exhibit 11.

78. The HTC Hero is manufactured in Taiwan. (See Exhibit 41, photograph of an HTC Hero (indicating that device is “Made in Taiwan”).) The HTC Hero is imported into the United States. For example, the photographed HTC Hero was purchased from Buy.com on November 21, 2009. The receipt for this purchase is attached as Exhibit 41. The photographed HTC Hero device, in its packaging, is submitted as Physical Exhibit 12.

79. The HTC Droid Eris is manufactured in Taiwan. (See Exhibit 43, photograph of an HTC Droid Eris (indicating that device is “Made in Taiwan”).) The HTC Droid Eris is imported into the United States. For example, the photographed HTC Hero was purchased from BestBuy on November 21, 2009. The receipt for this purchase is attached as Exhibit 43. The photographed HTC Droid Eris device, in its packaging, is submitted as Physical Exhibit 14.



80. The HTC HD2 is manufactured in Taiwan. (See Exhibit 42, photograph of an HTC HD2 (indicating that device is “Made in Taiwan”).) As discussed above, the HTC HD2 is planned for importation into the United States. An HTC HD2 European version was purchased from Overseas Electronics on November 30, 2009. The receipt for this purchase is attached as Exhibit 42. The photographed HTC HD2 device, in its packaging, is submitted as Physical Exhibit 13.

### **VIII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS**

81. On information and belief, the accused products fall within at least the following classification of the Harmonized Tariff Schedule (“HTS”) of the United States: 8517.12.00. The HTS number is intended to be for illustration only and is not exhaustive of the products accused of infringement in this Complaint. The HTS number is not intended to limit the scope of the Investigation.

### **IX. RELATED LITIGATION**

82. At present, the ‘705, ‘263, ‘131, ‘867, and RE ‘486 patents are the subject of an investigation (instituted on February 24, 2010) by the United States International Trade Commission in *In the Matter of Certain Mobile Communications and Computer Devices and Components Thereof*, Investigation No. 337-TA-704. At present, these patents are also the subject of counterclaims by Apple (filed on February 24, 2010) to a patent infringement complaint brought by Respondent Nokia in *Nokia Corporation v. Apple Inc.* (on December 29, 2009), Civil Action 09-1002-GMS, currently pending in the District of Delaware.

83. Concurrent with the filing of this complaint, Complainants will file a civil action in the United States District Court for the District of Delaware accusing Respondents of infringing the Asserted Patents.

84. None of the other Asserted Patents have been the subject of any other foreign or domestic court or agency litigation.

## **X. THE DOMESTIC INDUSTRY**

85. There is a domestic industry, as defined under 19 U.S.C. § 1337(a)(3)(A), (B), and (C), comprising significant investments in physical operations, employment of labor and capital, and exploitation of the Asserted Patents.

### **A. United States Investments In The Domestic Industry**

86. Apple makes extensive use of the inventions claimed in the Asserted Patents in numerous products. Apple currently makes and sells Macintosh computers with pre-installed software including Mac OS X v10.6 Snow Leopard, iTunes, and other software. Apple also currently makes and sells the iPhone. The iPhone and Macintosh computers are developed in the United States, manufactured abroad, and sold within the United States. As set forth in greater detail below, these products collectively practice each of the Asserted Patents.

87. Apple has made significant investment in plant and equipment with respect to the Apple products that practice the Asserted Patents. Apple's headquarters are located in Cupertino, California. (See Exhibit 55, Apple 2009 Form 10-K at 24.) As of September 26, 2009,<sup>5</sup> Apple owned facilities for research and development and corporate functions in Cupertino, California, including land for the future development of its second corporate campus in Cupertino, California. (See *id.* at 24.) Apple also owned a data center in Newark, California and, during 2009, purchased additional land in North Carolina for a future data center facility.

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<sup>5</sup> Apple's fiscal year is the 52 or 53-week period that ends on the last Saturday of September. Unless otherwise stated, all information presented is based on Apple's fiscal calendar. (See Exhibit 55, Apple 2009 Form 10-K at 1.)

(*See id.*) Substantially all of the research, development, design, engineering, and testing of the Apple products that practice the Asserted Patents was done by Apple employees using or working within these Apple facilities in the United States.

88. Moreover, at the end of calendar year 2009, Apple had opened a total of 273 retail stores, including 217 stores in the United States. (*See Exhibit 55 at 2.*) Apple has made substantial investments in its 217 United States retail stores which, in addition to sales, provide product advice, service, and training for Apple hardware and software, including the Apple products that practice the Asserted Patents. (*See id.*) In fiscal year 2009, Apple's cash payments for capital asset purchases for its retail store facilities were \$369 million. (*See id.* at 50.)

89. Apple has been and is engaged in a significant employment of labor with respect to the Apple products that practice the Asserted Patents. As of September 26, 2009, Apple had approximately 34,300 full-time equivalent employees and an additional 2,500 temporary equivalent employees and contractors. (*See id.* at 13.) Most of Apple's key employees are located in Silicon Valley, California. (*See id.* at 20.) Substantially all of the research, development, design, engineering, and testing of the Apple products that practice the Asserted Patents was done by Apple employees working within the United States. (*See Confidential Exhibit 44, Joswiak Decl. ¶ 5.*)

90. Apple has made substantial investments in the Apple products that practice the Asserted Patents, including by way of example investments in engineering, research, and development. Detailed information regarding Apple's research and development expenditures may be found in the accompanying Confidential Declaration of Gregory Joswiak. (*See Confidential Exhibit 44, Joswiak Decl. ¶ 5.*) Substantially all of the research and development covered by these investments took place in the United States. (*See id.*) In particular, the Apple

products that practice the Asserted Patents were conceived, researched, and developed in the United States. (*Id.*)

91. Apple has established a network of authorized service centers in the United States to provide repair and replacement services for Apple products, including the Apple products that practice the Asserted Patents. For instance, Apple has developed a training and certification program for Apple-certified technicians to ensure that Apple's customers receive industry-leading support for its Mac, iPhone, and iPod products and related software and services. Apple has also established an extensive support program for developers to create applications for the iPhone and iPod Touch. (*See Confidential Exhibit 44, Joswiak Decl. at ¶ 9.*)

92. For the 2009 fiscal year, Apple's net revenues were \$36.54 billion, including \$13.78 billion from Macintosh product sales, \$2.41 billion from software licensing and services, \$8.09 billion from iPod product sales, and \$6.75 billion were iPhone and related products and services. (*See Exhibit 55 at 41.*) During the 2009 fiscal year, Apple sold 10.4 million Macintosh units, 54.1 million iPod units, and 20.7 million iPhone units. (*See id. at 41.*) The United States represents Apple's largest geographic marketplace. (*See id. at 12.*) Approximately 54% of Apple's net sales in fiscal year 2009 came from sales to customers inside the United States. (*See id.*)

93. Additional confidential business information regarding Apple's investments in plant, equipment, labor, and research and development related to products that incorporate the technology of the Asserted Patents is set forth in the Declaration of Greg Joswiak, Apple's Vice President of Worldwide Product Marketing for iPod and iPhone, attached as Confidential Exhibit 44.

94. Apple's investments in the relevant domestic industry are continuing and ongoing.

**B. Apple's Practice of the Asserted Patents**

95. Apple makes extensive use of the Asserted Patents in numerous different products. As noted above, Apple currently makes and sells Macintosh computers with pre-installed software including Mac OS X v10.6 Snow Leopard, iTunes, and other software. These products practice at least the '867, '337, '852, '721, '705, '983, '263, '131, and RE '486 patents. The allocations of R&D expenses and related items for these products are captured by the sum of the "Mac hardware" and "Mac OS X" categories in the accompanying Joswiak Declaration (Confidential Exhibit 44). Apple also presently makes and sells the iPhone. That product practices at least the '647 patent. The allocations of R&D expenses and related items for these products are captured by the "iPhone" category, and prior to its introduction, by other categories, including portions of the "iPod" category, in the accompanying Joswiak Declaration. Specific examples of use are described in this section, below, and charted in associated exhibits.

96. A sample iPhone 3GS is provided concurrently with this Complaint as Physical Exhibit 1.

97. A sample of Mac OS X v10.6 Snow Leopard and Apple's iTunes software, in this case running on an Apple MacBook Pro laptop computer, are provided concurrently with this Complaint as Physical Exhibit 2.

98. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '721 patent is attached as Exhibit 45.

99. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to representative claims of the '867 patent is attached as Exhibit 46.

100. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '337 patent is attached as Exhibit 47.

101. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '852 patent is attached as Exhibit 48.

102. An exemplary claim chart comparing Apple's iPhone 3GS to a representative claim of the '647 patent is attached as Exhibit 49.

103. An exemplary claim chart comparing Apple's iTunes software, running on a MacBook Pro, to claim 1 of the '705 patent is attached as Exhibit 50.

104. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '983 patent is attached as Exhibit 51.

105. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '263 patent is attached as Exhibit 52.

106. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '131 patent is attached as Exhibit 53.

107. An exemplary claim chart comparing Mac OS X v10.6 to a representative claim of the RE '486 patent is attached as Exhibit 54.

## **XI. RELIEF REQUESTED**

108. 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' mobile communications devices and components thereof, and

products and components thereof made on behalf of Respondents, that infringe one or more asserted claims of Complainants' '721, '867, '337, '852, '647, '705, '983, '263, '131, and RE '486 patents;

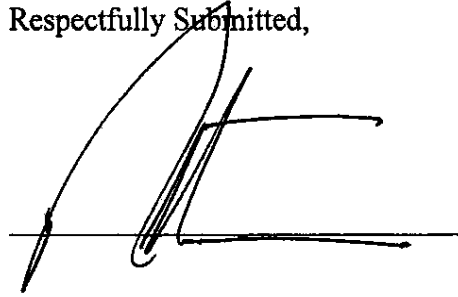
(b) Schedule and conduct a hearing on said unlawful acts and, following said hearing;

(c) Issue a permanent exclusion order, pursuant to 19 U.S.C. § 1337(d)(1), barring from entry into the United States all mobile communication devices and components thereof made by or on behalf of Respondents, and products containing same, that infringe one or more asserted claims of Complainants' '721, '867, '337, '852, '647, '705, '983, '263, '131, and RE '486 patents;

(d) Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), prohibiting Respondents, and others acting on their behalf, from importing, marketing, advertising, demonstrating, warehousing inventory for distribution, distributing, offering for sale, selling, licensing, using, or transferring outside the United States for sale in the United States any mobile communication devices, components thereof, and products containing same, that infringe one or more asserted claims of Complainants' '721, '867, '337, '852, '647, '705, '983, '263, '131, and RE '486 patents; 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.

Respectfully Submitted,



Dated: March 2, 2010

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## VERIFICATION OF COMPLAINT

I, Gregory Joswiak, declare, in accordance with 19 C.F.R. §§ 210.4 and 210.12(a), under penalty of perjury, that the following statements are true:

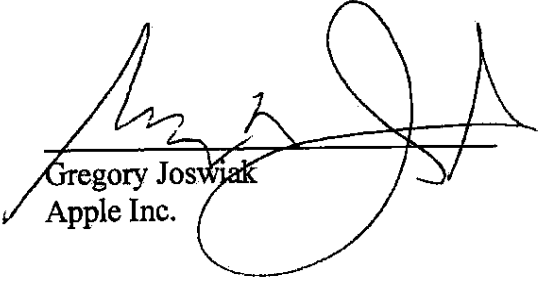
1. I am currently Apple's Vice President of Worldwide Product Marketing for iPod and iPhone. I am duly authorized by Apple to verify the foregoing Complaint.

2. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the allegations of the Complaint are well grounded in fact and have evidentiary support, or, where specifically identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

3. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the claims and other legal contentions set forth in the Complaint are warranted by existing law or by a good faith, non-frivolous argument for extension, modification, or reversal of existing law, or by the establishment of new law; and

4. The Complaint is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Executed this 1 day of March, 2010

  
\_\_\_\_\_  
Gregory Joswiak  
Apple Inc.