

BenQ America Corp.
15375 Barranca
Suite A205
Irvine, CA 92618

Qisda Corp.
No. 157 Shanying Road
Gueishan Township, Taoyuan 333
Taiwan

Kingston Technology Company, Inc.
17600 Newhope Street
Fountain Valley, CA 92708

Kingston Technology (Shanghai) Co. Ltd.
Building 7, No. 308, Fen Ju Road
Wai Gao Qiao Free Trade Zone
Shanghai 200131, China

Kingston Technology Far East Co.
No. 1-5, Li-Hsin Road., I
Science Based Industrial Park,
Hsin-Chu, Taiwan

Kingston Technology Far East (Malaysia)
Sdn Bhd
Plot 111-B Bayan Lepas Industrial Park
Lebuhraya Kampung Jawa
Bayan Legas 11900, Malaysia

MiTAC Digital Corporation (aka Magellan)
471 El Camino Real
Santa Clara, CA 95050

MiTAC International Corporation
No. 1, Yen-Fa 2nd Rd.
Hsin-Chu Science Based Industrial Park
Hsin-Chu Hsien, Taiwan R.O.C.

Nokia Corp.
Keilalahdentie 4
FIN 0045 Espoo, Finland

Nokia Inc.
6000 Connection Drive
Irving, TX 75039

PNY Technologies, Inc.
299 Webro Rd.
Parsippany, NJ 07054-0218

Research In Motion Ltd.
295 Phillip Street
Waterloo, Ontario
Canada N2L 3W8

Research In Motion Corporation
122 W. John Carpenter Parkway, Suite 430
Irving, TX 75039

Sirius XM Radio, Inc.
1221 Avenue of the Americas 36th Floor
New York, NY 10020

Transcend Information Inc.
No. 70, XingZhong Rd., NeiHu District
Taipei, Taiwan

Transcend Information, Inc. (US)
1645 North Brian Street
Orange, CA 92867

Transcend Information Inc.
(Shanghai Factory)
4F, Kaixuan City Industrial Park
No. 1010, Kaixuan Rd.
Shanghai, China 200052

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. THE PARTIES.....	3
A. The Complainant.....	3
B. The Accused Products.....	4
C. The Proposed Respondents.....	6
III. THE TECHNOLOGY AT ISSUE.....	16
IV. THE PATENTS AT ISSUE AND NON-TECHNICAL DESCRIPTION OF THE PATENTS	20
A. The '922 Patent	20
B. The '124 Patent.....	21
C. The '625 Patent.....	23
D. The '416 Patent.....	24
V. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENTS- PATENT INFRINGEMENT	25
A. Infringement of the '922 Patent.....	26
B. Infringement of the '124 Patent.....	28
C. Infringement of the '625 Patent.....	29
D. Infringement of the '416 Patent.....	30
VI. RELATED LITIGATION	32
VII. INSTANCES OF UNFAIR IMPORTATION AND SALE	32
VIII. DOMESTIC INDUSTRY.....	35
A. The '922 Patent.....	36
B. The '124 Patent.....	36
C. The '625 Patent.....	37

D.	The '416 Patent.....	37
IX.	GENERAL EXCLUSION ORDER.....	38
X.	RELIEF.....	40

I. INTRODUCTION

1. This Complaint is filed by Spansion LLC, (“Spansion”) pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”). Spansion respectfully requests that the U.S. International Trade Commission (“Commission”) institute an investigation relating to the unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain Samsung flash memory chips and downstream products containing those chips that utilize, without Spansion’s authorization, the inventions claimed in Spansion’s valid patents.

2. The Respondents, defined herein, currently and/or imminently will manufacture, sell for importation into the United States, import, and/or sell within the United States after importation certain Samsung flash memory chips and downstream products containing those Samsung chips that use, without Spansion’s authorization, the inventions claimed in Spansion’s valid patents. The proposed “Samsung Respondents” are identified in paragraph 18 below. The proposed “Downstream Respondents” are identified in paragraphs 22-48 below.

3. Through the current and/or imminent manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of the accused flash memory chips and downstream products which contain such chips, Respondents are infringing the following United States Patents (collectively “the Spansion Patents”), all of which are owned by Spansion LLC:

Patent Number	Claims Infringed	Abbreviated Reference	Title
7,018,922	1-7	“the ‘922 Patent”	Patterning for Elongated Vss Contact Flash Memory

6,900,124	1-10	“the ‘124 Patent”	Patterning for Elliptical Vss Contact on Flash Memory
6,459,625	1-14	“the ‘625 Patent”	Three Metal Process for Optimizing Layout Density
6,369,416	1-4	“the ‘416 Patent”	Semiconductor Device with Contacts Having a Sloped Profile

4. The current and/or imminent sale for importation into the United States, importation, and/or sale within the United States after importation of certain Samsung flash memory chips and downstream products containing those Samsung chips that use the inventions claimed in the Spansion Patents are unlawful and constitute infringement of the valid and enforceable Spansion Patents in violation of Section 337.

5. An industry in the United States relating to articles protected by the Spansion Patents exists within the meaning of 19 U.S.C. §§ 1337(a)(2) and 1337 (a)(3). *See* Facts and Information Regarding Domestic Industry, Exhibit 14.

6. Spansion seeks as permanent relief a general exclusion order excluding from entry into the United States all Samsung flash memory chips and downstream products containing such chips as described and claimed in the Spansion Patents. In the alternative, Spansion seeks a permanent limited exclusion order, specifically directed to each named Respondent, excluding from entry into the United States all infringing Samsung flash memory chips and downstream products containing such chips as described and claimed in the Spansion Patents. Spansion also seeks a cease and desist order pursuant to 19 U.S.C. § 1337(f), prohibiting the importation, sale for importation, use, offering for sale, sale after importation, inventory for distribution, distribution, licensing, or otherwise transferring within the United States, of certain Samsung flash memory chips or downstream products containing those chips. Further, Spansion requests that the Commission impose a bond upon Respondents’ importation of infringing flash

memory chips and downstream products containing such chips during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j) to prevent further injury to Spansion's domestic industry relating to the Spansion Patents.

II. THE PARTIES

A. The Complainant

7. Complainant Spansion LLC is a wholly owned operating subsidiary company of Spansion, Inc. Spansion LLC is incorporated in Delaware and is located at 915 DeGuigne Road, Sunnyvale, California 94085. Spansion LLC is the owner of the Spansion Patents. *See* Exhibits 3, 6, 9, and 12. Spansion LLC is a leading worldwide manufacturer of flash memory technology.

8. Spansion is the largest company in the world dedicated exclusively to designing, developing, manufacturing, marketing, and selling flash memory solutions. It is also one of the last major manufacturers of flash memory left in the United States, selling about \$1.2 billion in flash memory each year.

9. Spansion designs, develops, manufactures, markets, licenses, and sells flash memory technology and solutions for retail, commercial, and institutional customers worldwide. As described more fully herein, Spansion manufactures flash memory products that use the technology claimed in the Spansion Patents, uses the technology of the Spansion Patents in research and development, and/or licenses the Spansion Patents.

10. Spansion devotes substantial resources to its highly sophisticated research and development program in the United States, and as a result, is a leading innovator in the flash memory technology industry. For example, Spansion has developed a revolutionary charge trapping MirrorBit® flash memory technology, which is designed to

provide higher performance and greater flexibility than competitive flash technologies (namely, floating-gate NOR and NAND memory). Charge trapping technology, including Spansion's MirrorBit® technology, is widely described as the next generation of flash memory.

11. Spansion's ability to compete and its success as a company depend on its ability to innovate and to protect these innovations. To that end, Spansion spends significant sums on research and development each year. *See* Exhibit 14. Spansion generates significant revenue from sales of products covered by its patents. Spansion maintains fabrication and testing facilities in Austin, Texas that manufacture such products. Spansion also expects to generate even more revenue from products that benefit from its ongoing research and development based on the technology of the Spansion Patents.

12. Spansion's ability to compete also depends on protecting its inventions through patents. Spansion's long-term financial success depends, in significant part, on its ability to establish, maintain, and protect its proprietary technology through enforcement of its patent rights. That ability has been significantly damaged by the acts complained of in this Complaint.

B. The Accused Products

13. The "Samsung Chips" at issue include some of Samsung's most recent generations of flash memory chips. These include Samsung's 65 nanometer ("nm") NAND Flash Memory Technology Node, Samsung's 51 nm NAND Flash Memory Technology Node, Samsung's 42 nm NAND Flash Memory Technology Node and Samsung's 35 nm NAND Flash Memory Technology Node. Each of these four

Technology Nodes includes Samsung NAND and One Nand flash memory devices.

Samsung's One NAND devices share the same core-array architecture and processing as Samsung's NAND devices. *See* Declaration of James M. Pak ("Pak Dec.") at paragraph 31, Exhibit 1.

14. The terms "65 nm," "51 nm," "42 nm," "35 nm," etc., refer generally to the size of the features (*i.e.*, individual elements such as transistors) that make up the structures on a flash memory chip. In the industry, different generations of chips generally are referred to using these size designations. Therefore, the process used to manufacture a 51 nm chip is known as a "51 nm process technology." It can also be referred to as a "51 nm technology node" or "51 nm process node." *See* Pak Dec. at paragraphs 31-32, Exhibit 1.

15. Upon information and belief, all Samsung Chips within a specific generation (65 nm, 51 nm, 42 nm, and 35 nm) operate and are constructed in a substantially identical fashion. Any differences are not relevant to the Spansion Patents at issue. *See* Pak Dec. at paragraphs 33-34, Exhibit 1.

16. In addition, upon information and belief, the different technology nodes (65 nm, 51 nm, 42 nm, and 35 nm) also operate and are constructed in a similar fashion. Any differences are not relevant to the patents in issue except as described herein. *See* Pak Dec. at paragraphs 33-34, Exhibit 1.

17. The bases for Complainant's conclusions as to infringement are set forth in the attached Pak Dec. at paragraphs 27-34, Exhibit 1 and shown in Claim Charts at Exhibits 25-39.

C. The Proposed Respondents

18. The proposed “Samsung Respondents” include various commonly owned Samsung entities that either manufacture, sell for importation into the United States, import, and/or sell within the United States after importation Samsung flash memory chips and downstream products containing such chips. With respect to the Samsung Respondents, Spansion alleges the following upon information and belief:

(i) Samsung Electronics Co., Ltd. is a corporation organized under the laws of South Korea and has its principal place of business at 250, Taepyeongno 2-ga, Jung-gu, Seoul, Korea. Samsung Electronics Co., Ltd. manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation Samsung Chips and products containing such chips. *See Pak Dec.* at paragraph 3, Exhibit 1.

(ii) Samsung Electronics America, Inc. is a subsidiary of Samsung Electronics Co., Ltd. It is incorporated in the state of Delaware and has its principal place of business at 105 Challenger Road, Ridgefield Park, New Jersey 07660. Samsung Electronics America, Inc., sells for importation into the United States, imports, and/or sells within the United States after importation Samsung Chips and/or products containing such chips. *See Pak Dec.* at paragraph 4, Exhibit 1.

(iii) Samsung International, Inc. is a subsidiary of Samsung Electronics Co., Ltd. It is incorporated in the state of New Jersey and has its principal place of business at 10220 Sorrento Valley Road, San Diego, California, 92121. Samsung International, Inc. sells for importation into the United States, imports, and/or sells within

the United States after importation Samsung Chips and/or products containing such chips. *See* Pak Dec. at paragraph 5, Exhibit 1.

(iv) Samsung Semiconductor, Inc. is a subsidiary of Samsung Electronics Co., Ltd. It is incorporated in the state of California and has its principal place of business at 3655 North First Street, San Jose, California 95134. Samsung Semiconductor, Inc, sells for importation into the United States, imports, and/or sells within the United States after importation Samsung Chips and/or products containing such chips. *See* Pak Dec. at paragraph 6, Exhibit 1.

(v) Samsung Telecommunications America, LLC is a subsidiary of Samsung Electronics Co., Ltd. It is incorporated in the state of Delaware and has its principal place of business at 1301 E. Lookout Drive, Richardson, Texas 75082. Samsung Telecommunications America, LLC sells for importation into the United States, imports, and/or sells within the United States after importation Samsung Chips and/or products containing such chips. *See* Pak Dec. at paragraph 7, Exhibit 1.

19. The relationship between the Samsung Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraphs 3-7, Exhibit 1.

20. Examples of the Samsung products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraphs 31-39, Exhibit 1.

21. The proposed “Downstream Respondents” currently and/or imminently will manufacture, sell for importation into the United States, import, and/or sell within the United States after importation certain products containing Samsung Chips.

22. With respect to the Downstream “Apple Respondents,” Spansion alleges the following upon information and belief:

(i) Apple, Inc. is a corporation organized under the laws of California and has its principal place of business at 1 Infinite Loop, Cupertino, California 95014. Apple, Inc. manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation MP3 players, mobile telephones, and laptop and other computers containing flash memory chips. *See* Pak Dec. at paragraph 8, Exhibit 1.

23. The relationship between the Apple Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraph 8, Exhibit 1.

24. Examples of the Apple products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraphs 40-41, Exhibit 1.

25. With respect to the Downstream “BenQ Respondents,” Spansion alleges the following upon information and belief:

(i) BenQ Corp. is a corporation organized and existing under the laws of Taiwan with its principal place of business at 16 Jihu Road, Taipei 114, Taiwan. BenQ Corp. has or imminently will manufacture, sell for importation into the United States, import, and/or sell within the United States after importation certain electronic reader devices containing flash memory chips. *See* Pak Dec. at paragraph 9, Exhibit 1.

(ii) BenQ America Corp. is a subsidiary of BenQ Corp. incorporated under the laws of California with its principal place of business at 15375 Barranca, Suite A205,

Irvine, CA 92618. BenQ America Corp. has or imminently will sell for importation into the United States, import, and/or sell within the United States after importation electronic reader devices containing flash memory chips. *See* Pak Dec. at paragraph 10, Exhibit 1.

(iii) Qisda Corp. is the parent of BenQ Corp. and BenQ America Corp. incorporated under the laws of Taiwan with its principal place of business at No. 157 Shanying Road, Gueishan Township, Taoyuan 333, Taiwan. Qisda Corp. has or imminently will sell for importation into the United States, import, and/or sell within the United States after importation electronic reader devices containing flash memory chips. *See* Pak Dec. at paragraph 11, Exhibit 1.

26. The relationship between the BenQ Respondents with respect to their products currently and/or imminently manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraphs 9-11, Exhibit 1.

27. Examples of the BenQ products that contain the infringing Samsung Chips and how they are or imminently will be imported and sold into the United States are described in the Pak Dec. at paragraph 42, Exhibit 1.

28. With respect to the Downstream “Kingston Respondents,” Spansion alleges the following upon information and belief:

(i) Kingston Technology Company, Inc. is a corporation organized under the laws of Delaware and has its principal place of business at 17600 Newhope Street, Fountain Valley, California 92708, Kingston Technology Company, Inc. manufactures products containing flash memory chips at its manufacturing facilities in the United States, Taiwan, Malaysia, and Shanghai and Shenzhen, China. Kingston Technology

Company, Inc. then sells for importation into the United States, imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See Pak Dec.* at paragraph 12, Exhibit 1.

(ii) Kingston Technology (Shanghai) Co. Ltd. is a subsidiary of Kingston Technology Company, Inc. has its principal place of business at Building 7, No. 308, Fen Ju Road, Wai Gao Qiao Free Trade Zone, Shanghai 200131, China. Kingston Technology (Shanghai) Co., Ltd. manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See Pak Dec.* at paragraph 13, Exhibit 1.

(iii) Kingston Technology Far East Co. is a subsidiary of Kingston Technology Company, Inc. organized under the laws of Taiwan and has its principal place of business at No. 1-5, Li-Hsin Road, I Science Based Industrial Park, Hsin-Chu, Taiwan. Kingston Technology Far East Co. manufactures products containing flash memory chips at its manufacturing facilities in Taiwan and then sells for importation into the United States, imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See Pak Dec.* at paragraph 14, Exhibit 1.

(iv) Kingston Technology Far East (Malaysia) Sdn. Bhd. is a subsidiary of Kingston Technology Company, Inc. organized under the laws of Malaysia and has its principal place of business at Plot 111-B Bayan Lepas Industrial Park, Lebuhraya Kampung Jawa, Bayan Legas 1 1900, Malaysia. Kingston Technology Far East (Malaysia) Sdn. Bhd. Manufactures products containing flash memory chips at its manufacturing facilities in Malaysia and then sells for importation into the United States,

imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See* Pak Dec. at paragraph 15, Exhibit 1.

29. The relationship between the Kingston Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraphs 12-15, Exhibit 1.

30. Examples of the Kingston products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraph 43, Exhibit 1.

31. With respect to the Downstream “Magellan Respondents,” Spansion alleges the following upon information and belief:

(i) MiTAC Digital Corporation (aka “Magellan”) is a corporation organized and existing under the laws of California with its principal place of business at 471 El Camino Real, Santa Clara, CA 95050. Magellan manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation certain GPS devices containing flash memory chips. *See* Pak Dec. at paragraph 16, Exhibit 1.

(ii) MiTAC International Corporation is the parent corporation of Magellan organized and existing under the laws of Taiwan with its principal place of business at No. 1, Yen-FA 2nd Rd., Hsin-Chu Science Based Industrial Park, Hsin-Chu Hsien, Taiwan R.O.C. MiTAC International Corporation sells for importation into the United States, imports, and/or sells within the United States after importation certain GPS devices containing flash memory chips. *See* Pak Dec. at paragraph 17, Exhibit 1.

32. The relationship between the Magellan Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraphs 16-17, Exhibit 1.

33. Examples of the Magellan products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraph 44, Exhibit 1.

34. With respect to the Downstream “Nokia Respondents,” Spansion alleges the following upon information and belief:

(i) Nokia Corp. is a corporation organized and existing under the laws of Finland with its principal place of business at Keilalahdentie 4, FIN 0045 Espoo, Finland. Nokia manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation certain wireless phone devices containing flash memory chips. *See* Pak Dec. at paragraph 18, Exhibit 1.

(ii) Nokia Inc. is a subsidiary of Nokia Corp. with its principal place of business at 6000 Connection Drive, Irving, TX 75039 (and has an additional place of business at 102 Corporate Park Drive, White Plains, NY 10604). Nokia Inc. sells for importation into the United States, imports, and/or sells within the United States after importation certain wireless phone devices containing flash memory chips. *See* Pak Dec. at paragraph 19, Exhibit 1.

35. The relationship between the Nokia Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraphs 18-19, Exhibit 1.

36. Examples of the Nokia products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraphs 45-47, Exhibit 1.

37. Upon information and belief, Downstream “PNY Respondents,” PNY Technologies, Inc. is a corporation organized under the laws of New Jersey and has its principal place of business at 299 Webro Rd., Parsippany, New Jersey 07054-021 8. PNY Technologies, Inc. sells for importation into the United States, imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See* Pak Dec. at paragraph 20, Exhibit 1.

38. The relationship between PNY Technologies, Inc. to the PNY products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraph 20, Exhibit 1.

39. Examples of the PNY products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraph 48, Exhibit 1.

40. With respect to the Downstream “Research In Motion Respondents,” Spansion alleges the following upon information and belief:

(i) Research In Motion, Ltd, is a corporation organized and existing under the laws of Canada with its principal place of business at 295 Phillip Street, Waterloo, Ontario, Canada N2L 3 W8. Research In Motion, Ltd. manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation Blackberry wireless devices containing flash memory chips. *See* Pak Dec. at paragraph 21, Exhibit 1.

(ii) Research In Motion Corporation is a subsidiary of Research In Motion, Ltd. with its principal place of business at 122 W. John Carpenter Parkway, Suite 430, Irving, TX 75039. Research In Motion Corporation sells for importation into the United States, imports, and/or sells within the United States after importation Blackberry wireless devices containing flash memory chips. *See* Pak Dec. at paragraph 22, Exhibit 1.

41. The relationship between the Research In Motion Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraphs 21-22, Exhibit 1.

42. Examples of the Research In Motion products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraph 49, Exhibit 1.

43. With respect to the Downstream “Sirius Respondents,” Spansion alleges the following upon information and belief:

(i) Sirius XM Radio, Inc. is a corporation organized and existing under the laws of New York with its principal place of business at 1221 Avenue of the Americas, 36th Floor, New York, NY 10020. Sirius XM Radio, Inc. manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation certain portable satellite radio devices containing flash memory chips. *See* Pak Dec. at paragraph 23, Exhibit 1.

44. The relationship between the Sirius Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec. at paragraph 23, Exhibit 1.

45. Examples of the Sirius products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraph 50, Exhibit 1.

46. With respect to the Downstream “Transcend Respondents,” Spansion alleges the following upon information and belief:

(i) Transcend Information Inc. is a corporation organized under the laws of Taiwan with its principal place of business at No. 70, XingZhong Rd., NeiHu District, Taipei, Taiwan. Transcend Information, Inc. manufactures products containing flash memory chips at its manufacturing facilities in Taiwan and China, and sells for importation into the United States, imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See* Pak Dec. at paragraph 24, Exhibit 1.

(ii) Transcend Information Inc. (US) is a subsidiary of Transcend Information Inc. with its principal place of business at 1645 North Brian Street, Orange, California 92867. Transcend Information Inc. (US) sells for importation into the United States, imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See* Pak Dec. at paragraph 25, Exhibit 1.

(iii) Transcend Information Inc, (Shanghai Factory) is a corporation organized under the laws of China with its principal place of business at 4F, Kaixuan City Industrial Park, No. 1010, Kaixuan Road, Shanghai, 200052, China. Transcend Information, Inc, (Shanghai Factory) manufactures products containing flash memory chips at its manufacturing facilities in China and sells for importation into the United

States, imports, and/or sells within the United States after importation flash cards and USB flash drives containing flash memory chips. *See* Pak Dec. at paragraph 26, Exhibit 1.

47. The relationship between the Transcend Respondents with respect to their products manufactured, imported, sold for importation, and sold within the United States after importation is described in the attached Pak Dec, at paragraphs 24-26, Exhibit 1.

48. Examples of the Transcend products that contain the infringing Samsung Chips and how they are imported and sold into the United States are described in the Pak Dec. at paragraph 51, Exhibit 1.

49. In addition to the Respondents identified above, the investigation may also reveal other potential respondents, including consumers of Respondents' flash memory products that may also be involved in the design, manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of Samsung Chips and downstream products containing those chips. Spansion may request that one or more of these entities be added as additional respondents to the investigation.

III. THE TECHNOLOGY AT ISSUE

50. In general, the Spansion Patents cover what is known as flash memory technology. Flash memory is a type of electronic memory known as “non-volatile memory,” which retains information even in the absence of a power source. Even without power, a single flash memory “cell” can retain information for many years. For example, in cell phones, personal information such as names and telephone numbers and multimedia such as music, video, and photos can be stored in the phone's flash memory and will remain in that memory even when the phone is turned off. In contrast, other

types of computer memory, such as dynamic random-access memory (“DRAM”), lose data if electrical power is removed.

51. In addition to its long-term storage capability, flash memory is relatively inexpensive to manufacture. For these reasons, flash memory is commonly used for data storage in a host of consumer products, such as USB drives, digital cameras and video recorders, wireless phones, GPS devices and music players. More recently, some computer manufacturers are using flash memory as a replacement for hard disk drives in the form of solid state drives (“SSDs”), which are basically multiple, high capacity flash memory chips packaged in a manner similar to a conventional hard disk drive.

52. In general, a flash memory cell stores information in the form of electrical charge. Thus, conventional flash memory cells are programmed by injecting electrons (the charge) into the cell. Conversely, the cell is erased by removing the electrons.

53. Each flash memory cell includes a charge-storage element and special circuitry that allows a charge to be injected into and taken out of the charge-storage element. In conventional flash memory products, the charge-storage element is a “floating gate,” which is a conducting material completely surrounded by an insulator. The insulator prevents the electrical charge from escaping, allowing the cell to retain information for long periods of time. In newer flash memory products, the charge-storage element may be a material such as silicon nitride that is known to “trap” a charge. One of the advantages of “charge trapping” or MirrorBit technology is that the charge-storage element is very thin and easier to shrink in physical size as newer products employ smaller and smaller memory cells.

54. Flash memory products fall into the categories of “single-level” and “multi-level” based on the amount of information that each cell can store. In a traditional single-level cell (“SLC”) flash memory product, each cell can store one bit of information. In that case, the cell has only two states—programmed and erased. These states are conventionally represented by the binary digits “0” and “1,” respectively. In a multi-level cell product, each cell can store two or more bits by discriminating among multiple levels of stored charge. For example, the two binary digits “00” may be represented by a fully programmed cell; “11” a fully erased cell; and “01” and “10” may correspond to intermediate levels of charging (for example, 1/3 and 2/3 of the full charge).

55. Flash memory may also be classified into two basic types, NOR and NAND, according to the way in which cells are arranged in a matrix or array. In a NOR product, each cell is individually accessible for programming or for reading. In a NAND product, groups of cells (*e.g.*, 16 or 32 cells) are connected together in a “string,” and some of the connections to the cells within the string are removed, leaving only connections to the first and last cell of the string. This simplification generally allows for a higher density at the cost of some disadvantages in performance and reliability.

56. When evaluating flash memory solutions, manufacturers consider cost (typically expressed in cost per bit of information), read/write access time, endurance (*i.e.*, number of read/write cycles that a product can tolerate before malfunctioning), and long-term data retention.

57. The cost-effectiveness of a flash memory product is directly related to how densely cells can be packed together. Mass-market applications require as low cost per bit as possible. Flash memory is manufactured by creating groups of memory cells

and their respective control circuitry (known as a “die”) on silicon wafers. Minimizing the surface that a bit of information occupies on the wafer reduces the cost per bit. Making the flash memory cells smaller, and placing them closer together, reduces this occupied surface.

58. However, shrinking the flash memory cells and reducing the distance between the flash memory cells creates a number of technological challenges. As cells shrink in size and are packed closer together, there is greater chance that neighboring cells will interact with one another and charge will leak from one cell to another, causing information to be stored incorrectly. Therefore, certain flash memory cell characteristics, such as the geometry of the cells and the isolation of the cells, must be tightly controlled even where the cell is only a few tens of nanometers in size. As cells are shrunk in newer generations of chips, the spacing between atoms of the material that composes the cell is of the order of a fraction of nanometer. Another problem is that the application of relatively high voltages over small distances creates the possibility of electrical leakages between adjacent cells. The on-going trend to manufacture these products smaller and more inexpensively leads to other problems as well, some of which are addressed in the Spansion Patents.

59. The technology of the Spansion Patents relate to how to structure the memory cells, how to isolate the memory cells, how to program the memory cells and how to manufacture and operate the memory cells in a way that makes the chip containing those memory cells smaller, faster, less expensive, and more reliable.

IV. THE PATENTS AT ISSUE AND NON-TECHNICAL DESCRIPTION OF THE PATENTS

A. The '922 Patent

60. United States Patent No. 7,018,922 entitled "Patterning for Elongated Vss Contact Flash Memory," issued on March 28, 2006. The '922 Patent expires on September 3, 2023 and is based on United States patent application No. 10/968,713 filed on October 19, 2004. The '922 Patent claims priority as a Continuation of U.S. Patent Application No. 10/654,739, filed on September 3, 2003, which issued as the '124 Patent.

61. Spansion LLC owns, by assignment, all right, title, and interest in and to the '922 Patent. Copies of the assignments of the '922 Patent from the inventors to Advanced Micro Devices ("AMD") and from AMD to Spansion are attached as Exhibit 3. There are no counterpart applications filed outside the United States corresponding to this patent.

62. A copy of the '922 Patent has been submitted as Exhibit 2. A copy of the U.S. Patent and Trademark Office file history for the '922 Patent, as well as three (3) copies, are submitted with this Complaint as Appendix B, and copies of the patents and applicable pages of each technical reference mentioned in the file history are submitted with this Complaint as Appendices A and M.

63. The '922 Patent describes a contact, formed between stacked gate layers in a flash memory device, that is shaped to improve reliability as the devices reduce in size.¹

64. The '922 Patent has 1 independent claim and 6 dependent claims. An exemplary claim chart showing how Spansion's products practice the asserted independent claims of the '922 Patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '922 Patent, is attached hereto as Exhibit 4. The '922 Patent is the subject of certain foundry agreements, which contain license agreements by which Spansion has licensed its technology. The '922 Patent also is the subject of certain licenses. Copies of Spansion's foundry agreements and license agreements are attached as Exhibits 15-24.

B. The '124 Patent

65. United States Patent No. 6,900,124 entitled "Patterning for Elliptical Vss Contact on Flash Memory," issued on May 31, 2005. The '124 Patent expires on September 3, 2023 and is based on United States patent application No. 10/654,739 filed on September 3, 2003.

66. Spansion LLC owns, by assignment, all right, title, and interest in and to the '124 Patent. Copies of the assignments of the '124 Patent from the inventors to Advanced Micro Devices ("AMD") and from AMD to Spansion are attached as Exhibit 6.

¹ This non-technical description of the '922 Patent is provided for purposes of general information and understanding and is not meant to be a position with respect to claims construction and/or other technical aspects of patent law.

There are no counterpart applications filed outside the United States corresponding to this patent.

67. A copy of the '124 Patent has been submitted as Exhibit 5. A copy of the U.S. Patent and Trademark Office file history for the '124 Patent, as well as three (3) copies, are submitted with this Complaint as Appendix E, and copies of the patents and applicable pages of each technical reference mentioned in the file history are submitted with this Complaint as Appendices D and N.

68. The '124 Patent, like the '922 patent, describes a contact, formed between stacked gate layers in a flash memory device, that is shaped to improve reliability as the devices reduce in size.²

69. The '124 Patent has 2 independent claims and 8 dependent claims. An exemplary claim chart showing how Spansion's products practice the asserted independent claims of the '124 Patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '124 Patent, is attached hereto as Exhibit 7. The '124 Patent is the subject of certain foundry agreements, which contain license agreements by which Spansion has licensed its technology. The '124 Patent also is the subject of certain licenses. Copies of Spansion's foundry agreements and license agreements are attached as Exhibits 15-24.

² This non-technical description of the '124 Patent is provided for purposes of general information and understanding and is not meant to be a position with respect to claims construction and/or other technical aspects of patent law.

C. The '625 Patent

70. United States Patent No. 6,459,625 entitled “Three Metal Process for Optimizing Layout Density,” issued on October 1, 2002. The '625 Patent expires on February 25, 2020 and is based on United States patent application No. 09/767,341 filed on January 23, 2001. The '625 Patent claims priority to U.S. Provisional Patent Application No. 60/185,149, filed on February 25, 2000.

71. Spansion LLC owns, by assignment, all right, title, and interest in and to the '625 Patent. Copies of the assignments of the '625 Patent from the inventors to AMD and from AMD to Spansion are attached as Exhibit 9. There are no counterpart applications filed outside the United States corresponding to this patent.

72. A copy of the '625 Patent has been submitted as Exhibit 8. A copy of the U.S. Patent and Trademark Office file history for the '625 Patent, as well as three (3) copies of the file history are submitted with this Complaint as Appendix H and copies of each patent and applicable pages of each technical reference mentioned in the file history are submitted with this Complaint as Appendices G and O.

73. The '625 Patent describes optimizing electrical interconnection of electrical components in a periphery area of a memory device, thereby minimizing the periphery area. The optimized layout density facilitates smaller overall device sizes.³

74. The '625 Patent has 3 independent claims and 11 dependent claims. An exemplary claim chart, showing how Spansion's products practice the asserted

³ This non-technical description of the '625 Patent is provided for purposes of general information and understanding and is not meant to be a position with respect to claims construction and/or other technical aspects of patent law.

independent claims of the '625 Patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '625 Patent, is attached hereto as Exhibit 10.

75. The '625 Patent is the subject of certain foundry agreements, which contain license agreements by which Spansion has licensed its technology. The '625 Patent also is the subject of certain licenses. Copies of Spansion's foundry agreements and license agreements are attached as Exhibits 15-24.

D. The '416 Patent

76. United States Patent No. 6,369,416 entitled "Semiconductor device with contacts having a sloped profile," issued on April 9, 2002. The '416 Patent expires on September 23, 2019 and is based on United States patent application No. 09/404,394 filed on September 23, 1999.

77. Spansion LLC owns, by assignment, all right, title, and interest in and to the '416 Patent. Copies of the assignments of the '416 Patent from the inventors to AMD and from AMD to Spansion are attached as Exhibit 12. There are no counterpart applications filed outside the United States corresponding to this patent.

78. A copy of the '416 Patent has been submitted as Exhibit 11. A copy of the U.S. Patent and Trademark Office file history for the '416 Patent, as well as three (3) copies, are submitted with this Complaint as Appendix K, and copies of the patents and applicable pages of each technical reference mentioned in the file history are submitted with this Complaint as Appendices J and P.

79. The '416 Patent describes an insulating layer substantially surrounding a gate portion, and a contact in the insulating layer with a sloped profile side that facilitates higher density of devices while reducing charge gain and loss through the contact.⁴

80. The '416 Patent has 1 independent claim and 3 dependent claims. An exemplary claim chart, showing how Spansion's products practice the asserted independent claims of the '416 Patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '416 Patent, is attached hereto as Exhibit 13.

81. The '416 Patent is the subject of certain foundry agreements, which contains license agreements by which Spansion has licensed its technology. The '416 Patent also is the subject of certain cross licenses. Copies of Spansion's foundry agreements and license agreements are attached as Exhibits 15-24.

**V. UNLAWFUL AND UNFAIR ACTS OF PROPOSED RESPONDENTS-
PATENT INFRINGEMENT**

82. Upon information and belief, Respondents currently and/or imminently will manufacture, sell for importation, import, and/or sell within the United States after importation Samsung flash memory chips and downstream products containing such chips that infringe the Spansion Patents either literally or under the doctrine of equivalents. These activities by Respondents constitute direct infringement, pursuant to 35 U.S.C. § 271(a).

83. Upon information and belief, the Samsung Respondents manufacture, sell for importation, import, and/or sell within the United States after importation Samsung

⁴ This non-technical description of the '416 Patent is provided for purposes of general information and understanding and is not meant to be a positions with respect to claims construction and/or other technical aspects of patent law.

flash memory chips that constitute a material part of the inventions claimed in the Spansion Patents, knowing the same to be especially made and/or adapted for use in an infringement of the Spansion Patents, and not staple articles of commerce suitable for substantial non-infringing use. The Samsung Respondents, therefore, are contributory infringers, pursuant to 35 U.S.C. § 271(c).

84. Upon information and belief, the Samsung Respondents were aware of the Spansion Patents. *See Pak Dec.* at paragraphs 28-30, Exhibit 1. Upon information and belief, this Complaint and the notice of investigation that will be published by the Commission in the Federal Register, should the Commission initiate this investigation, will serve as notice to the Samsung Respondents of the Spansion Patents, should the Samsung Respondents contend that they did not previously have knowledge of the Spansion Patents. Upon information and belief, the Samsung Respondents actively and knowingly aid, abet, and induce infringement of Spansion's Patents by the Samsung Respondents' customers, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

A. Infringement of the '922 Patent

85. As described in the Pak Dec. at paragraphs 27-34, Exhibit 1, upon information and belief, each of the Respondents infringe the '922 Patent because each currently is and/or imminently will manufacture, sell for importation into the United States, import, and/or sell within the United States after importation a product that incorporates a Samsung Chip that infringes the '922 Patent.

86. Upon information and belief, the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of Samsung Chips and downstream products containing those chips by the Samsung

Respondents and Downstream Respondents infringe literally or under the doctrine of equivalences at least claims 1 through 7 of the '922 Patent. Claim charts applying independent claim 1 of the '922 Patent to representative accused Samsung Chips are attached as Exhibits 25-28.

87. Upon information and belief, the Samsung Respondents and the Downstream Respondents directly infringe Spansion's '922 Patent by currently and/or imminently manufacturing, selling for importation into the United States, importing, and/or selling for importation into the United States products that utilize the inventions of the '922 Patent, pursuant to 35 U.S.C. § 271(a).

88. Upon information and belief, the Samsung Respondents manufacture, sell for importation into the United States, import, and/or sell within the United States after importation Samsung Chips that constitute a material part of the inventions claimed in the '922 Patent, knowing the same to be especially made and/or adapted for use in an infringement of the '922 Patent, and not staple articles of commerce suitable for substantial non-infringing use. The Samsung Respondents therefore are contributory infringers, pursuant to 35 U.S.C. § 271(c).

89. Upon information and belief, the Samsung Respondents are aware of the Spansion Patents. *See Pak Dec.* at paragraphs 28-30, Exhibit 1. The Samsung Respondents actively and knowingly aid, abet and induce infringement of Spansion's '922 Patent by knowingly and actively inducing their customers in the United States to use Samsung Chips in a manner that infringes the asserted claims, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

B. Infringement of the '124 Patent

90. As described in the Pak Dec. at paragraphs 27-34, Exhibit 1, upon information and belief, each of the Respondents infringe the '124 Patent because each currently is and/or imminently will manufacture, sell for importation into the United States, import, and/or sell within the United States after importation a product that incorporates a Samsung Chip that infringes the '124 Patent.

91. Upon information and belief, the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation Samsung Chips and downstream products containing those chips by the Samsung Respondents and Downstream Respondents infringe literally or under the doctrine of equivalences at least claims 1 through 10 of the '124 Patent. Claim charts applying independent claims 1 and 6 of the '124 Patent to representative infringing accused Samsung Chips are attached as Exhibits 29-32.

92. Upon information and belief, the Samsung Respondents and the Downstream Respondents directly infringe Spansion's '124 Patent by currently and/or imminently manufacturing, selling for importation into the United States, importing, and/or selling within the United States after importation products that utilize the inventions of the '124 Patent, pursuant to 35 U.S.C. § 271(a).

93. Upon information and belief, the Samsung Respondents manufacture, sell for importation into the United States, import, and/or sell within the United States after importation Samsung Chips that constitute a material part of the inventions claimed in the '124 Patent, knowing the same to be especially made and/or adapted for use in an infringement of the '124 Patent, and not staple articles of commerce suitable for

substantial non-infringing use. The Samsung Respondents therefore are contributory infringers, pursuant to 35 U.S.C. § 271(c).

94. Upon information and belief, the Samsung Respondents are aware of the Spansion Patents. *See* Pak Dec. at paragraphs 28-30, Exhibit 1. The Samsung Respondents actively and knowingly aid, abet and induce infringement of Spansion's '124 Patent by knowingly and actively inducing their customers in the United States to use Samsung Chips in a manner that infringes the asserted claims, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

C. Infringement of the '625 Patent

95. As described in the Pak Dec. at paragraphs 27-34, Exhibit 1, upon information and belief, the Samsung Respondents, Apple Respondents, Magellan Respondents, Kingston Respondents, PNY Respondents, Transcend Respondents and Sirius Respondents infringe the '625 Patent because each manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation a Samsung Chip or a product that incorporates a Samsung Chip that infringes the '625 Patent.

96. Upon information and belief, the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of Samsung Chips and downstream products containing those chips by the Samsung Respondents, Apple Respondents, Magellan Respondents, Kingston Respondents, PNY Respondents, Transcend Respondents and Sirius Respondents infringe literally or under the doctrine of equivalences at least claims 1 through 14 of the '625 Patent. Claim charts applying independent claims 1, 6 and 10 of the '625 Patent to representative accused Samsung products are attached as Exhibits 33-34.

97. Upon information and belief, the Samsung Respondents, Apple Respondents, Magellan Respondents, Kingston Respondents, PNY Respondents, Transcend Respondents and Sirius Respondents directly infringe Spansion's '625 Patent by manufacturing, selling for importation into the United States, importing, and/or selling for importation into the United States products that utilize the inventions of the '625 Patent, pursuant to 35 U.S.C. § 271(a).

98. Upon information and belief, the Samsung Respondents manufacture, sell for importation into the United States, import, and/or sell within the United States after importation Samsung Chips that constitute a material part of the inventions claimed in the '625 Patent, knowing the same to be especially made and/or adapted for use in an infringement of the '625 Patent, and not staple articles of commerce suitable for substantial non-infringing use. The Samsung Respondents therefore are contributory infringers, pursuant to 35 U.S.C. § 271(c).

99. Upon information and belief, the Samsung Respondents are aware of the Spansion Patents. *See Pak Dec.* at paragraphs 28-30, Exhibit 1. The Samsung Respondents actively and knowingly aid, abet and induce infringement of Spansion's '625 Patent by knowingly and actively inducing their customers in the United States to use Samsung Chips in a manner that infringes the asserted claims, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

D. Infringement of the '416 Patent

100. As described in the Pak Dec. at paragraphs 27-34, Exhibit 1, upon information and belief, each of the Respondents infringe the '416 Patent because each currently is and/or imminently will manufacture, sell for importation into the United

States, import, and/or sell within the United States after importation a product that incorporates certain Samsung Chips that infringe the '416 Patent.

101. Upon information and belief, the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of certain Samsung Chips and downstream products containing those chips by the Samsung Respondents and Downstream Respondents currently and/or imminently infringes literally or under the doctrine of equivalences at least claims 1 through 4 of the '416 Patent. Claim charts applying independent claim 1 of the '416 Patent to a representative accused Samsung Chips is attached as Exhibits 35-39.

102. Upon information and belief, the Samsung Respondents and the Downstream Respondents directly infringe Spansion's '416 Patent by currently and/or imminently importing and selling products that utilize the inventions of the '416 Patent, pursuant to 35 U.S.C. § 271(a).

103. Upon information and belief, the Samsung Respondents manufacture, sell for importation into the United States, import, and sell within the United States after importation Samsung Chips that constitute a material part of the inventions claimed in the '416 Patent, knowing the same to be especially made and/or adapted for use in an infringement of the '416 Patent, and not staple articles of commerce suitable for substantial non-infringing use. The Samsung Respondents therefore are contributory infringers, pursuant to 35 U.S.C. § 271(c).

104. Upon information and belief, the Samsung Respondents are aware of the Spansion Patents. *See Pak Dec.* at paragraphs 28-30, Exhibit 1. The Samsung Respondents actively and knowingly aid, abet and induce infringement of Spansion's

'416 Patent by knowingly and actively inducing their customers in the United States to use Samsung Chips in a manner that infringes the asserted claims, which activities constitute active inducement to infringe under 35 U.S.C. §271(b).

VI. RELATED LITIGATION

105. To the best of Spansion's knowledge, information, and belief, the Spansion Patents are not the subject of any other litigation.

VII. INSTANCES OF UNFAIR IMPORTATION AND SALE

106. Upon information and belief, the Samsung Respondents are engaged in the design, manufacture, test and assembly of Samsung Chips at their foreign facilities. The Samsung Respondents then sell for importation into the United States, import, and/or sell within the United States after importation products containing Samsung Chips. Imported Samsung products containing Samsung Chips are widely available for purchase in the United States.

107. As described in the Pak Dec. at paragraphs 35-39, Exhibit 1, at least the following Samsung products containing infringing Samsung Chips were manufactured outside the United States for sale in the United States, imported into the United States, and sold after importation in the United States.

- a. Samsung Reality SCH-U820 Wireless phone (Pak Dec. at paragraph 35, Exhibit 1);
- b. Samsung SMX-F43 Digital Memory Camcorder (Pak Dec. at paragraph 36, Exhibit 1);
- c. Samsung BD-C6500 1080p Blu-Ray Disc/DVD Player (Pak Dec. at paragraph 37, Exhibit 1);
- d. Samsung P2 4GB MP3 Player (Pak Dec. at paragraph 38, Exhibit 1); and

- e. Samsung The Entertainer i8510 Camera Phone (Pak Dec. at paragraph 39, Exhibit 1).

108. Upon information and belief, the Samsung Respondents also sell Samsung Chips to Downstream Respondents and other third parties for assembly into downstream products, including wireless phones, smartphones, camera phones, MP3 players, DVD players, DVRs, GPS devices, electronic reader devices, televisions, computers and many other devices. Such devices are sold for importation into the United States, imported, and/or sold within the United States after importation. As described in the Pak Dec. at paragraphs 40-51, Exhibit 1, at least the following products, or in the normal course of business, updated versions thereof, containing infringing Samsung Chips are or imminently will be manufactured outside the United States for sale in the United States, imported into the United States, and/or sold after importation in the United States.

- a. Apple iPad A1219 (Pak Dec. at paragraph 40, Exhibit 1);
- b. Apple 3G iPhone (Pak Dec. at paragraph 41, Exhibit 1);
- c. BenQ nReader K60 (Pak Dec. at paragraph 42, Exhibit 1).
- d. Kingston Flash Memory Products (Pak Dec. at paragraph 43, Exhibit 1);
- e. Magellan Maestro 4050 (Pak Dec. at paragraph 44, Exhibit 1);
- f. Nokia E73 (Pak Dec. at paragraph 45 Exhibit 1);
- g. Nokia 5230 (Pak Dec. at paragraph 46, Exhibit 1);
- h. Nokia N81 (Pak Dec. at paragraph 47, Exhibit 1);
- i. PNY Flash Memory Products (Pak Dec. at paragraph 48, Exhibit 1);

- j. RIM Blackberry Storm 2 9550 (Pak Dec. at paragraph 49, Exhibit 1);
- k. Sirius Stiletto 2 SL2 (Pak Dec. at paragraph 50, Exhibit 1);
- l. Transcend Flash Memory Products (Pak Dec. at paragraph 51, Exhibit 1); and

109. Spansion cannot identify all devices sold for importation into the United States, imported, and/or sold within the United States after importation that contain Samsung Chips and may supplement this information and may need to add respondents in the future.

110. These Samsung Chips and products containing those chips are believed to fall within, at least, Heading Nos. 8523 (solid-state non-volatile storage devices) and 8542 (electronic integrated circuits; parts thereof) of the Harmonized Tariff Schedule of the United States (“HTS”). More specifically, the flash memory chips may be classified under Subheading Nos. 8523.51.00 (Semiconductor media: solid-state non-volatile storage devices); 8523.52.00 (Semiconductor media: “Smart cards”); 8523.59.00 (Semiconductor media: other); 8542.31.00 (Electronic integrated circuits: processors and controllers, whether or not combined with memories, converters, logic circuits, amplifiers, clock and timing circuits, or other circuits); and/or 8542.32.00 (Electronic integrated circuits: Memories); 8519.81.4050 (previously 8520) (sound recording or reproducing apparatus: using magnetic, optical, or semiconductor media); 8521.90.00 (video recording or reproducing apparatus, whether or not including a video tuner); 8528.49 and/or 8528.59 (monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-

broadcast receivers or sound or video recording or reproducing apparatus); and/or 8471.30.01 00 (automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included: portable automatic data processing machines, weighing not more than 10 kg, consisting of at least a central processing unit, a keyboard, and a display). These HTS numbers are intended for illustration only and are not intended to be restrictive of the devices or products accused.

VIII. DOMESTIC INDUSTRY

111. In accordance with 19 U.S.C. § 1337(a)(2) and 1337(a)(3), an industry exists or is in the process of being established in the United States with respect to each of the Spansion Patents. Spansion has significant investments in plant and equipment and in labor or capital in the United States and a substantial investment in the exploitation of the Spansion Patents through research and development, engineering, licensing, product development, testing, and quality control.

112. Spansion has a facilities in Austin, Texas that manufacture chips that are sold commercially. The Spansion products that practice the claimed inventions of the Spansion Patents make up the overwhelming majority of the production output at those facilities. Spansion has invested and currently invests substantial amounts of capital into those facilities. Spansion employs numerous persons at these facilities and incurs significant expenses in yearly salary and operational expenses associated with these facilities.

113. In addition, Spansion employs numerous persons at its Austin, Texas and Sunnyvale facilities who are engaged in research and development, process development, design development, and testing. Spansion incurs significant expenses in yearly salary

and other expenses related to the employment of these persons and related to the research and development that lead to the products that practice the claims of the Spansion Patents.

114. Facts and information supporting the existence of a domestic industry are set forth in the Exhibit 14.

A. The '922 Patent

115. Spansion practices the '922 Patent in its 110 nm MirrorBit NOR CS119 Technology family, its 90 nm MirrorBit NOR CS129 Technology family and its 65 nm MirrorBit CS239 NOR Technology family of products. An exemplary claim chart that applies claim 1 of the '922 Patent to the Spansion CS239 65 nm MirrorBit NOR flash memory Technology Family of products is attached at Exhibit 4.

116. A domestic industry exists in the United States by virtue of Spansion's significant investments in the United States in plant and equipment, labor and capital, and research and development related to the '922 Patent. *See Confidential Exhibit 14.*

B. The '124 Patent

117. Spansion practices the '124 Patent in its 110 nm MirrorBit NOR CS119 Technology family, its 90 nm MirrorBit NOR CS129 Technology family and its 65 nm MirrorBit CS239 NOR Technology family of products. An exemplary claim chart that applies claim 1 of the '124 Patent to Spansion's CS239 65 nm MirrorBit NOR Flash Memory Technology Family of products is attached at Exhibit 7.

118. A domestic industry exists in the United States by virtue of Spansion's significant investments in the United States in plant and equipment, labor and capital, and research and development related to the '124 Patent. *See Confidential Exhibit 14.*

C. The '625 Patent

119. Spansion practices the '625 Patent in its 110/130 nm floating gate NOR CS69 Technology family, its 110 nm MirrorBit NOR CS119 Technology family, its 90 nm MirrorBit NOR CS129 Technology family and its 65 nm MirrorBit CS239 NOR Technology family of products. An exemplary claim chart that applies claim 1 of the '625 Patent to CS239 65 nm MirrorBit NOR Flash Memory Technology Family of products is attached at Exhibit 10.

120. A domestic industry exists in the United States by virtue of Spansion's significant investments in the United States in plant and equipment, labor and capital, and research and development related to the '625 Patent. *See Confidential Exhibit 14.*

D. The '416 Patent

121. Spansion practices the '416 Patent in its 110/130 nm floating gate NOR CS69 Technology family, its 110 nm MirrorBit NOR CS119 Technology family, its 90 nm MirrorBit NOR CS129 Technology family and its 65 nm MirrorBit CS239 NOR Technology family of products. An exemplary claim chart that applies claim 1 of the '416 Patent to Spansion's CS69 Floating Gate NOR Flash Memory Technology Family of products is attached at Exhibit 13.

122. A domestic industry exists in the United States by virtue of Spansion's significant investments in the United States in plant and equipment, labor and capital, and research and development related to the '416 Patent. *See Confidential Exhibit 14.*

IX. GENERAL EXCLUSION ORDER

123. Sales of Samsung Chips and the downstream products containing Samsung Chips create a pattern of violation of 19 U.S.C. § 1337. It is difficult to identify all the sources of Samsung Chips and downstream products containing Samsung's Chips.

124. Upon information of belief, there is a pattern of unauthorized use by Samsung of the inventions described and claimed in the Spansion Patents. A substantial number of entities worldwide purchase Samsung Chips and incorporate those chips into downstream products or purchase such downstream products containing Samsung Chips. These entities cause such goods to be sold for importation into the United States, imported, and/or sold after importation into the United States. Spansion has identified in this Complaint the entities for which it has substantial evidence of sale for importation, importation, or sale after importation into the United States of Samsung Chips and downstream products containing such chips. Upon information and belief, other entities are capable of shifting, at minimal expense, a substantial amount of their production to downstream products containing Samsung Chips as described and claimed in the Spansion Patents and then selling them for importation, importing them, or selling them after importation into the United States.

125. Business conditions exist in the United States such that foreign manufacturers other than the named Respondents may enter the market with downstream products containing Samsung Chips. Upon information and belief, demand in the United States for such Samsung Chips and downstream products containing those chips has increased substantially over the last few years and is continuing to increase.

126. Upon information and belief, there is a worldwide supply of downstream products containing Samsung Chips. A substantial number of underutilized downstream

product manufacturing facilities exist worldwide. As a result, downstream products can be made anywhere in the world.

127. Labor costs are a significant part of the overall cost of production of downstream products containing infringing Samsung Chips. Labor costs in the markets from which the infringing downstream products are largely derived (*e.g.*, China, Korea, and Taiwan) are much lower than in the United States. As a result, there is a significant likelihood that additional infringers will enter this market if a General Exclusion Order is not entered.

128. Entry into the market for downstream products containing Samsung Chips is relatively easy due, in part, to the large number of downstream product manufacturers in Asia that are using other, non-Samsung Chips, but which have the capability to convert Samsung Chips. Additionally, some of the downstream products require relatively simple and inexpensive manufacturing. The cost of entry for manufacturers of these downstream products is not high compared to the large demand for downstream products containing infringing Samsung Chips. Upon information and belief, the startup costs for manufacturing substantial quantities of downstream products containing Samsung Chips is relatively modest.

129. Marketing and distribution networks for downstream products containing Samsung Chips are available to foreign manufacturers. Many large distributors in the United States can and already do handle downstream products containing Samsung Chips.

130. In addition, downstream products containing Samsung Chips, including those of Respondents, are regularly offered for sale and sold online through Internet

sources. In addition to Respondents' websites, downstream products containing Samsung Chips are offered for sale and sold via the websites of distributors and retailers.

131. The manufacturers of downstream products identified in this Complaint, as well as other existing and potential manufacturers of downstream products containing Samsung Chips, can readily change importers. Similarly, importers can readily switch between foreign suppliers. As a result, foreign manufacturers and importers could easily circumvent a Limited Exclusion Order directed against particular manufacturers and importers.

132. Moreover, any order limited to the Samsung Respondents and Downstream Product Respondents could and would be readily circumvented in that many Samsung Chips are ultimately imported into the United States in an array of downstream products and by numerous downstream product producers, and additional downstream product producers would likely shift to using Samsung Chips in their downstream products. Accordingly, the relief afforded to Complainant without the coverage of such downstream products would be limited and inadequate.

133. For the foregoing reasons, a General Exclusion Order is necessary to protect Spansion's intellectual property rights under the Spansion Patents.

X. RELIEF

WHEREFORE, by reason of the foregoing, Complainant requests 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. 6 1337, with respect to Respondents' violations of Section 337 based on the sale for importation into the United States, importation, and/or

sale within the United States after importation of Samsung Chips and downstream products containing those chips that infringe one or more claims of Spansion's Patents;

B. Schedule and conduct a hearing on permanent relief pursuant to 19 U.S.C. § 1337(d) and (f);

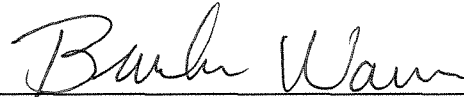
C. Issue a permanent general exclusion order, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States Samsung Chips and downstream products containing Samsung Chips as described and claimed in Spansion's Patents;

D. Issue a permanent limited exclusion order specifically directed each named Respondent and its subsidiaries and affiliates, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States Samsung Chips and all Respondents' downstream products containing Samsung Chips as described and claimed in Spansion's Patents;

E. Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), prohibiting the importation, sale for importation, use, offering for sale, sale after importation, inventory for distribution, distribution, licensing, or otherwise transferring within the United States, Samsung Chips and downstream products containing Samsung Chips; and

F. Issue such other and further relief as the Commission deems just and proper under the law, based upon the facts determined by the investigation and the authority of the Commission.

Respectfully submitted,



Joel M. Freed
Stephen K. Shahida
Robert J. Walters
Bureden (Bonnie) J. Warren
McDermott Will & Emery LLP
600 Thirteenth Street, NW
Washington, DC 20005-3096
202.756.8000
202.756.8087 (facsimile)

Terrence P. McMahon
McDermott Will & Emery LLP
275 Middlefield Road, Suite 100
Menlo Park, CA 94025
650.815.7400
650.815.7401 (facsimile)

**Counsel for Complainant
Spansion LLC**

VERIFICATION OF COMPLAINT

I, Ali Pourkeramati, declare, in accordance with 19 C.F.R. § 210.4 and § 210.12(a), as follows:

1. I am Senior Vice President of Research & Development for Spansion LLC, and I am duly authorized to sign this Complaint;
2. I have read the Complaint and I am aware of its contents;
3. The Complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
4. To the best of my knowledge, information and belief founded upon reasonable inquiry, the claims and legal contentions of the Complaint are warranted by existing law or a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law; and
5. The allegations and other factual contentions made in the Complaint have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

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



Ali Pourkeramati
Sr. Vice President of Research & Development
Spansion LLC

**United States International Trade Commission
Investigation No. 337-TA-_____
In the Matter of Certain Flash Memory Chips
and Products Containing the Same**

CERTIFICATE OF SERVICE

The undersigned certifies that on August 6, 2010, he caused the foregoing **Verified Complaint Under Section 337 of the Tariff Act of 1930, As Amended**, to be served upon the following via hand delivery:

The Honorable Marilyn R. Abbott
Secretary
U.S. International Trade Commission
500 E Street, S.W., Room 112
Washington, D.C. 20436

Dated: August 6, 2010



Michael Rodgers
McDermott Will & Emery
600 Thirteenth Street, N.W.
Washington, DC 20005
(202) 756-8000