

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of)
)

CERTAIN GPS DEVICES AND)
PRODUCTS CONTAINING SAME)

) Inv. No. 337-TA-602
) Enforcement Proceeding
)
)
)

COMPLAINT FOR ENFORCEMENT PROCEEDING UNDER RULE 210.75

Complainants:

Global Locate, Inc.
5300 California Avenue
Irvine, California 92617
Tel: (949) 450-8700
Fax: (949) 450-8710

Broadcom Corporation
5300 California Avenue
Irvine, California 92617
Tel: (949) 450-8700
Fax: (949) 450-8710

Proposed Enforcement Respondents:

SiRF Technology, Inc.
217 Devcon Drive
San Jose, California 95112
Tel: (408) 467-0410

CSR plc
Churchill House
Cambridge Business Park
Cowley Road
Cambridge CB4 0WZ
England
+44 (0)1223 692000

MiTAC International Corporation
No. 200 Wen Hwa 2nd Road
Kuei Shan Hsiang
Taoyuan
Taiwan
Tel: + 886-3-396-2888

Mio Technology Limited, USA
47988 Fremont Boulevard
Fremont, California 94538
Tel: (510) 252-6950

MiTAC Digital Corporation
471 El Camino Real
Santa Clara, California 95050
Tel: (408) 615-5100

E-TEN Information Systems Co., Ltd.
No. 256 Yangguang Street
Neihu Chiu
Taipei, 114
Taiwan
Tel: +886-2-7721-0000

Pharos Science & Applications, Inc.
411 Amapola Avenue
Torrance, California 90501
Tel: (888) 742-7678

Counsel for Complainants:

William F. Lee
Michael J. Summersgill
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, Massachusetts 02109
Tel: (617) 526-6000
Fax: (617) 526-5000

James L. Quarles III
Michael D. Esch
Todd C. Zubler
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue, N.W.
Washington, DC 20006
Tel: (202) 663-6000
Fax: (202) 663-6363

S. Calvin Walden
WILMER CUTLER PICKERING
HALE AND DORR LLP
399 Park Avenue
New York, New York 10022
Tel: (212) 937-7200
Fax: (212) 230-8800

Keith Slenkovich
WILMER CUTLER PICKERING
HALE AND DORR LLP
950 Page Mill Road
Palo Alto, CA 94304
Tel: (650) 858-6000
Fax: (650) 858-6100

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I. INTRODUCTION

1. Complainants Global Locate, Inc. and Broadcom Corporation (collectively, “Broadcom”) request that the United States International Trade Commission commence formal enforcement proceedings pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), and 19 C.F.R. § 210.75, to remedy the continuing unfair acts of SiRF Technology, Inc. (“SiRF”), MiTAC International Corporation (“MiTAC”), Mio Technology Limited, USA (“Mio”), E-TEN Information Systems Co., Ltd. (“E-TEN”), and Pharos Science & Applications, Inc. (“Pharos”) (collectively the “602 Respondents”) in violation of the Limited Exclusion Order and Cease and Desist Orders issued by the Commission on January 15, 2009.

2. Broadcom filed a complaint with the Commission on March 31, 2007, setting forth, *inter alia*, the 602 Respondents’ violation of Section 337 by infringement of Global Locate’s U.S. Patent Nos. 6,606,346, 6,651,000, 7,158,080, 6,704,651, 6,417,801, and 6,937,187 patents (collectively, the “asserted patents”). The Commission instituted Investigation No. 337-TA-602 on April 30, 2007. On August 8, 2008, the presiding administrative law judge (“ALJ”) issued an Initial Determination on Violation of Section 337 (“ID”), finding infringement of all six of the asserted patents by SiRF’s SiRFstarIII and SiRF InstantGPS chips and accompanying embedded software. On August 22, 2008, the ALJ issued a Recommended Determination on Remedy and Bond. On October 10, 2008, the Commission determined to review in part the ALJ’s Initial Determination. On January 15, 2009, the Commission – with certain minor modifications – adopted the ALJ’s findings of infringement and of violation of Section 337 by all five respondents.

3. On January 15, 2009, the Commission also issued its final determination on remedy, bonding, and the public interest. The Commission issued a Limited Exclusion Order prohibiting the unlicensed entry of GPS devices and products containing GPS devices that infringe the asserted patents and are manufactured abroad by or on behalf of, or imported by or on behalf of, the 602 Respondents or any of their affiliates. The Commission also issued Cease and Desist Orders directed to SiRF, Mio, and Pharos.

4. On April 12, 2010, the Federal Circuit affirmed the Commission's Final Determination in its entirety. Respondents did not move for reconsideration of the Federal Circuit's decision, or otherwise appeal, and thus the Commission's determinations have now become final.

5. SiRF, Mio, and Pharos have ignored the terms of the Cease and Desist Orders from the day they were issued, by marketing and advertising the very products that the Commission found to infringe. Broadcom also was able to purchase, months after the issuance of the Limited Exclusion Order, many of the products that the Commission determined to infringe. In response to this evidence and a specific request from Broadcom to document when these products were imported, the 602 Respondents refused to provide any information whatsoever, leading to the reasonable conclusion that the products were imported and/or sold in violation of the Commission's orders.

6. SiRF, Mio, and Pharos have also violated the Cease and Desist Orders by marketing, advertising, importing, and/or selling additional infringing products, including products in the SiRFStarIV, Prima, Atlas and Titan families. For example, Broadcom has demonstrated that SiRF chips that support the SiRF InstantFix service infringe at least the claims of U.S. Patent Nos. 7,158,080, 6,704,6516, and 7,651,000. Yet SiRF has advertised, and

continues to advertise, that its chips within each of the SiRFStarIII, SiRFStarIV, Prima, Atlas, and Titan families support SiRF InstantFix.

7. SiRF, Mio, and Pharos have, since the issuance of the Cease and Desist Orders on January 15, 2009, violated those orders by, among other things, (a) marketing and advertising infringing GPS Devices and products containing same, (b) importing and selling for importation into the United States infringing GPS Devices and products containing same, and (c) aiding and abetting other entities in the importation, sale for importation, sale after importation, transfer, or distribution of the infringing GPS Devices and products containing same in the United States.

8. The 602 Respondents and their affiliates (including SiRF, Mio, MiTAC Digital Corporation (“MiTAC Digital”), E-TEN, and Pharos) also have violated the Commission’s Limited Exclusion Order by importing and selling for importation into the United States GPS Devices and products that infringe Broadcom’s asserted patents. As described in more detail below, Broadcom has acquired products that were specifically found to infringe, as well as newer products that do not differ in any material way from the products Broadcom demonstrated infringed the patents-in-suit.

9. The only excuse the 602 Respondents have offered for their unlawful actions is that they have purportedly redesigned certain (unspecified) products, and they assert that U.S. Customs and Border Protection (“Customs”) has made a non-public, non-reviewed determination that SiRF has redesigned certain (again unspecified) GPS devices so that they no longer infringe Broadcom’s asserted patents. In a Form 8-K filing with the SEC, for example, SiRF claimed that “Customs determined that SiRF has established by a preponderance of the evidence that SiRF’s redesigned GPS chips fall outside of the scope of the exclusion order issued by the ITC.” *See* Ex. 1 (June 1, 2009 8-K).

10. Neither the 602 Respondents nor Customs, however, provided the Commission or Broadcom an opportunity to participate in the proceedings that led to Custom's determination with respect to the scope of the Commission's Limited Exclusion Order. Indeed, the 602 Respondents did not make available to Broadcom any information about the purportedly redesigned products or the alleged Customs determination.

11. Broadcom has attempted to resolve this matter informally, by sending repeated letters to the 602 Respondents, by requesting informal enforcement proceedings at the Commission, and most recently by filing a Petition to Modify the Exclusion and Cease and Desist Orders. *See* Ex. 2 (February 5, 2009 letter from J. Quarles to G. Castanias); Ex. 3 (March 12, 2009 letter from J. Quarles to Hon. Aranoff); Ex. 4 (March 26, 2009 letter from J. Quarles to Hon. Aranoff); Ex. 5 (June 18, 2009 letter from J. Quarles to G. Castanias).

12. On August 16, 2010, the Commission denied Broadcom's Petition to Modify, but noted that "[w]hile Broadcom's allegations of changed circumstances do not warrant institution of a modification proceeding under Commission Rule 210.76, the party might find a formal enforcement proceeding under Rule 210.75(b) a more suitable avenue to address its concerns." Notice of Institution of Modification Proceedings at 2 (August 16, 2010).

13. In light of the evidence that SiRF's GPS devices continue to infringe, the 602 Respondents' refusal to provide any information to support their contention that their products have been redesigned, and the Commission's determination that formal proceedings are more appropriate, Broadcom seeks, pursuant to 19 C.F.R. § 210.75(b), institution of a formal enforcement proceeding against the 602 Respondents. Broadcom seeks enforcement of the Cease and Desist Orders and Limited Exclusion Order, including, but not limited to, (a) imposition of statutory civil penalties, and (b) modification of the orders to expressly prohibit

the importation of any purportedly “redesigned” GPS devices and products. Broadcom also seeks modification of the original Cease and Desist Orders to expressly apply to the activities of MiTAC’s affiliate, MiTAC Digital, which is a U.S.-based wholly owned subsidiary of MiTAC.

II. JURISDICTION

14. The Commission has jurisdiction over this matter and the proposed parties pursuant to Sections 333 and 337 of the Tariff Act of 1930, as amended, 19 U.S.C. §§ 1333, 1337.

III. PARTIES

A. Enforcement Complainants Global Locate, Inc. and Broadcom Corporation

15. Complainant Broadcom Corp. is a California corporation with its principal place of business at 5300 California Avenue, Irvine, California, 92617.

16. Complainant Global Locate, Inc. (“Global Locate”) is a California corporation with its principal place of business at 5300 California Avenue, Irvine, California, 92617. Global Locate was acquired by Broadcom Corp. on July 12, 2007, and Global Locate. is now a wholly owned subsidiary of Broadcom.

17. Global Locate was founded in 1999 to design a new breed of GPS technologies that would bring GPS to the mainstream consumer. Conventional GPS technology suffered limitations, making consumer applications impractical: the GPS technology did not work well indoors or in cities where GPS signal strength is attenuated; it required massive processing power necessitating GPS receivers that were large and complex; and it was prohibitively expensive for most consumers. Global Locate, Inc. set out to find solutions to these problems and to design chips that would make GPS receivers faster, less expensive, and more suitable for consumer applications, such as in cars, cellular phones, and personal digital assistants (“PDAs”).

18. After Broadcom Corp.'s acquisition of Global Locate in 2007, products incorporating the technology of Global Locate are now sold under the Broadcom name. Broadcom designs, develops, and sells semiconductor solutions to make the Global Locate IndoorGPS® technology available to the full spectrum of mobile wireless devices, including handsets, smartphones, PDAs, and other wireless devices.

19. Global Locate continues to own the six patents that were asserted in the 602 Investigation and that the Commission found to be infringed, not invalid, and enforceable.

B. Proposed Enforcement Respondents

1. SiRF Technology, Inc.

20. Proposed Enforcement Respondent SiRF is a Delaware corporation, having its principal place of business at 217 Devcon Drive, San Jose, California, 95112. SiRF is wholly owned by SiRF Technology Holdings, Inc. On June 26, 2009, SiRF Technology Holdings, Inc. became a wholly owned subsidiary of CSR plc ("CSR").

21. SiRF is a fabless chip company that uses third-party foundries and contract manufacturers to fabricate and complete GPS receiver chips.

22. SiRF sells GPS chips and chipsets and services supported on these chipsets that embody the inventions disclosed and claimed in the asserted patents. SiRF imports into the United States, sells for importation into the United States, and/or sells after importation into the United States the infringing SiRF GPS devices.

2. CSR plc

23. Proposed Enforcement Respondent CSR is a company registered in England, with its registered office at Churchill House, Cambridge Business Park, Cowley Road, Cambridge, CB4 0WZ.

24. CSR is a developer and provider of single chip wireless solutions designed to support data and voice communications between a variety of products over short-range radio links.

25. In 2009, CSR merged with Respondent SiRF Corporation, and, upon information and belief, SiRF Corporation became a wholly-owned subsidiary of CSR.

3. MiTAC International Corporation

26. Proposed Enforcement Respondent MiTAC is a Taiwanese corporation, having its principal place of business at No. 200 Wen Hwa 2nd Road, Kuei Shan Hsiang, Taoyuan, Taiwan.

27. MiTAC manufactures in China products containing infringing SiRF GPS devices. MiTAC imports into the United States, sells for importation into the United States, and/or sells after importation into the United States these products. MiTAC does so through at least its two wholly owned U.S. subsidiaries, Proposed Enforcement Respondents Mio and MiTAC Digital.

4. Mio Technology Limited, USA

28. Proposed Enforcement Respondent Mio is a California corporation, having its principal place of business at 47988 Fremont Blvd., Fremont, California, 94538. Mio is a wholly owned subsidiary of MiTAC.

29. Mio imports into the United States, sells for importation into the United States, and/or sells after importation into the United States products containing infringing SiRF GPS devices. These products are sold under at the least the "Mio" brand.

5. MiTAC Digital Corporation

30. Proposed Enforcement Respondent MiTAC Digital is a California corporation, having its principal place of business at 471 El Camino Real, Santa Clara, California, 95050. MiTAC Digital is a wholly owned subsidiary of MiTAC.

31. MiTAC Digital sells consumer products, including portable vehicle navigation systems and outdoor handheld navigation devices. MiTAC Digital imports into the United States, sells for importation into the United States, and/or sells after importation into the United States products containing infringing SiRF GPS devices. These products are sold under at least the “Magellan” brand. MiTAC acquired the Magellan brand when it purchased the Consumer Product Division of Magellan Navigation, Inc. in January 2009.

6. E-TEN Corporation

32. Proposed Enforcement Respondent E-TEN is a Taiwanese corporation, having its principal place of business at No. 256, Yangguang Street, Neihu Chiu, Taipei 114, Taiwan. The 602 Respondents have indicated, in a brief filed in the United States Court of Appeals for the Federal Circuit, that E-TEN Information Systems Co., Ltd. is the correct name for 602 Respondent E-TEN Corp. E-TEN is wholly owned by Acer Inc.

33. E-TEN manufactures in China products containing infringing SiRF GPS devices. E-TEN imports into the United States, sells for importation into the United States, and/or sells after importation into the United States these products.

7. Pharos Science & Applications, Inc.

34. Proposed Enforcement Respondent Pharos Science & Applications, Inc. (“Pharos”) is a California corporation, having its principal place of business at 411 Amapola Avenue, Torrance, California, 90501.

35. Pharos imports into the United States, sells for importation into the United States, and/or sells after importation into the United States products containing infringing SiRF GPS devices.

IV. PATENTS AT ISSUE

A. U.S. Patent No. 6,606,346 – the Partial Correlation Patent

36. U.S. Patent No. 6,606,346 (the “‘346 patent”) describes a method and apparatus for performing correlation. Correlation is the process by which GPS receivers compare incoming signals to locally generated codes to identify the satellite sending the signal and the “offset” between the received signal and the stored code. The ‘346 system divides the correlations into multiple “partial correlations” allowing it to do in one sequence what earlier architectures had required to be done serially. As a result, as even SiRF’s own expert conceded at the 602 Investigation hearing, the ‘346 system can calculate a full correlation 82% faster than the prior art.

B. U.S. Patent No. 6,651,000 – the Compaction Patent

37. U.S. Patent No. 6,651,000 (the “‘000 patent”) addresses the problem that conventional GPS receivers needed up to 18 seconds of uninterrupted strong signal reception to receive the satellite ephemeris information in a satellite’s NAV message. The ‘000 patent addresses that problem by compressing or “compacting” the satellite information (called “satellite tracking data” in the claims). The data is compacted at a network server and then sent to a GPS receiver via, among other methods, the Internet. By being compacted, the satellite tracking information can be received by GPS receivers more quickly than uncompact data.

C. U.S. Patent No. 7,158,080 – the Long-Term Orbit Patent

38. U.S. Patent No. 7,158,080 (the “‘080 patent”) allows a GPS receiver to operate for extended periods without downloading ephemeris data from satellites or an A-GPS server. The patent teaches using complex algorithms to predict ephemeris data for satellites into the

future. The patent then teaches receiving that “long term” data at a receiver and using it to acquire satellites and calculate position.

D. U.S. Patent No. 6,704,651 – the Acquisition Sensitivity Patent

39. U.S. Patent No. 6,704,651 (the “‘651 patent”) teaches using satellite ephemeris data in an A-GPS system to help a GPS receiver lock onto (*i.e.*, “acquire”) satellite signals. Before the ‘651 patent, a GPS receiver used the less-precise almanac data (which could be downloaded and stored for months) to acquire satellite signals, and used ephemeris primarily to calculate the receiver’s position. The ‘651 patent teaches sending ephemeris to a mobile GPS receiver through an A-GPS network, using the ephemeris at the receiver to more precisely locate the satellites and narrow the search window for weak signals, and thereby improve the receiver’s acquisition sensitivity.

E. U.S. Patent No. 6,417,801 – the Time-Free Navigation Patent

40. Conventional GPS receivers had to receive time information from the NAV message before they could calculate their position, which made them slower and often inoperable in weak-signal environments. U.S. Patent No. 6,417,801 (the “‘801 patent”) teaches a GPS receiver that can calculate its position without having to wait to receive time information from a satellite, thereby allowing the receiver to calculate its position more quickly and even in weak-signal environments.

F. U.S. Patent No. 6,937,187 – the Dynamic Model Patent

41. U.S. Patent No. 6,937,187 (the “‘187 patent”) is a continuation-in-part of the ‘801 patent. The ‘187 patent extends the time-free navigation solution of the ‘801 patent from the single, discrete calculation of a GPS receiver’s position at a particular moment to the use of a

“dynamic model” that allows the improved, repeated calculation of a GPS receiver’s position as it changes over time.

V. PRODUCTS AT ISSUE

A. SiRF’s GPS Chips

42. SiRF and its parent CSR manufacture and have manufactured several lines of GPS chips, including the SiRFstarIII and SiRF InstantGPS (a/k/a SiRF Instant), SiRFStarIV, Atlas, Titan, and Prima lines. The ALJ found that at least the entire SiRFstarIII line of chips and associated software infringes five of Broadcom’s asserted patents (the ‘000, ‘080, ‘651, ‘801, and ‘187 patents). The ALJ also found that at least the SiRF InstantGPS chips infringe three of Broadcom’s asserted patents (the ‘346, ‘801, and ‘187 patents). Chips in the SiRFStarIV, Atlas, Titan, and Prima lines were introduced after discovery closed in the initial 602 Investigation.

43. The ALJ specifically found the following SiRFstarIII chips to infringe Global Locate’s ‘000, ‘080, ‘651, ‘801, and ‘187 patents: GSC3, GSC3e/LP, GSC3f/LP, GSC3f, GSC3LT, GSC3LTf, GSC3LTi, GSC3LTif, GSP3e, GSP3f, and GSD3t. *See* ID at 13; 90-96; 125-132; 142-148; 171-173; 200-202. The ALJ found the following SiRF InstantGPS series of chips to infringe Global Locate’s ‘346, ‘801, and ‘187 patents: the GSCi-4100/4200 and GSCi-5000 series. *See* ID at 61-67; 171-173; 200-202.

44. Infringement of the ‘346 patent was based upon the hardware correlator included within the InstantGPS chips. *See* ID at 61-67.

45. Infringement of the ‘000, ‘080, and ‘651 patents was based upon the SiRF chips’ support of SiRF’s InstantFix and SiRFLoc services. *See* ID at 90-96; 126-132; 142-148. SiRF’s InstantFix service is SiRF’s end-to-end Assisted GPS system that provides server-generated 3-day and 7-day extended ephemeris (“EE”) files to end-user devices via the Internet, using a

wireless or wireline connection. *See* ID at 85. All of the accused SiRFstarIII chips support SiRF InstantFix. *See* ID at 88. SiRFLoc is SiRF's end-to-end network service that provides, among other assistance data, current satellite ephemeris to SiRFLoc-enabled roaming GPS devices. *See* ID at 89-90.

46. Infringement of the '801 and '187 patents was based upon the use of SiRF's common navigation software library, including specifically SiRF's SyncFreeNav module. *See* ID at 12-14; 171-173; 200-203.

47. On information and belief, SiRF's products continue to infringe Global Locate's patents, based upon, among other things:

- A. SiRF's failure to offer any redesign of the hardware correlator in the InstantGPS products. *See* Ex. 6 (SiRF March 2, 2009 10-K) at 9 ("SiRF has not sought approval from U.S. Customs on any new versions of the GSCi-4100, GSCi-4200 and GSCi-5000 *hardware* products") (emphasis added);
- B. SiRF's products, including but not limited to SiRFstarIII products' and SiRF Prima products' continued support of the InstantFix service. *See, e.g.,* Ex. 7 (*Location Platforms*) ("Supported on all SiRFstarIII™ chip solutions, SiRFInstantFix is the perfect solution for occasionally or always connected navigation-enabled devices"); and
- C. the "times to first fix" (TTFFs) advertised for SiRF's products, which indicate infringement of at least the '801 patent. *Compare* Ex. 8 (GSC3LTf Product Brochure) (indicating time to first fix of under 0.6 seconds using GSM coarse time in an MS based mode) *with* Ex. 9 (Braasch Decl., Ex. 16B) (indicating that

times to first fix less than 6 seconds using GSM coarse time in an MS based mode demonstrate infringement of the '801 patent).

- D. On information and belief, some or all of the infringing features of the SiRFstarIII architecture, including its support of InstantFix and the SiRFstarIII navigation library, also have been incorporated into additional SiRF GPS devices, including: SiRFStarIV, Prima, Atlas, Titan, GSD3tw, GSC3f/LPx, GSC3e/LPa, and GSCe/LPx. *See, e.g.*, Ex. 10 (SiRFPrima Product Brochure) (indicating continued support of SiRFInstantFix); Ex. 11 (GSD3tw Product Brochure) (indicating SiRFstarIII architecture); Ex. 12 (GSC3f/LPx Product Brochure) (indicating SiRFstarIII architecture); Ex. 13 (GSC3e/LPa Product Specification) (indicating SiRFstarIII architecture); Ex. 14 (GSC3e/LPx Product Specification) (indicating SiRFstarIII architecture).

B. Mio's GPS Products Containing SiRF GPS Chips

48. Mio incorporates SiRF's SiRFstarIII chips and chipsets into its consumer GPS products. Mio consumer GPS products include personal navigation devices (PNDs) and personal digital assistants (PDAs). The ALJ identified at least the following Mio products as infringing Broadcom's '000, '080, '651, '801, and '187 patents: C220, C230, C250, C310, C320, C520, C620, C710, C720, P350, P520, P550, H610, A501, A700, A701, and A702. *See* ID at 15-16; 90-96; 125-132; 142-148; 171-173; 200-202.

49. The Commission, however, did not limit either the Cease and Desist Orders or the Limited Exclusion Order to these specific products; instead, the Commission directed its Orders to any GPS Device or product containing same that infringes Broadcom's asserted patents. *See* Ex. 15 (Cease and Desist Orders) at 1; Ex. 16 (Limited Exclusion Order) at 1-2. On information

and belief, additional Mio products incorporate the infringing SiRFstarIII architecture, including at least: the Mio Moov 200, Mio Moov 300, Mio Moov 310, Mio Moov 500, Mio Knightrider, Mio Moov S401, Mio Moov S501, Mio Moov M300, Mio Moov M301, Mio Moov M400, Mio Moov M401. *See* Ex. 17 (Mio Moov 200, Mio Moov 210, Mio Moov 300, Mio Moov 310, Mio Moov 500, and Mio Knightrider Specifications) (indicating incorporation of Highly Sensitive GPS Receiver; Ex. 18 (March 7, 2009 Mio Specifications) (indicating that the Mio Moov 200, Mio Moov 210, Mio Moov 300, Mio Moov 310, and Mio Moov 500 devices incorporate SiRFstarIII receivers); Ex. 19 (Knight Rider Press Release) (identifying the Knight Rider’s GPS receiver as a “SiRFstarIII”); Ex. 20 (Mio Moov S Series Product Description) (indicating that the Mio Moov S Series devices contain the SiRFstarIII GPS receiver); Ex. 21 (Mio Moov M Series Product Description) (indicating that the Mio Moov M Series devices contain the SiRFstarIII GPS receiver).

C. MiTAC Digital’s GPS Products Containing SiRF GPS Chips

50. On information and belief, MiTAC Digital – a wholly owned subsidiary of MiTAC – incorporates SiRF’s infringing SiRFstarIII, Atlas, and Titan GPS chips into its consumer GPS products. MiTAC Digital’s infringing consumer GPS products include PNDs and PDAs. On information and belief, these products are marketed under the “Magellan” brand name and include at least: the Magellan Triton 200, Magellan Triton 300, Magellan Triton 400, Magellan Triton 500, Magellan Triton 1500, Magellan Triton 2000, Magellan Maestro 3200, Magellan Maestro 3210, Magellan Maestro 3220, Magellan Maestro 3225, Magellan Maestro 3250, Magellan Maestro 4200, Magellan Maestro 4210, Magellan Maestro 4220, Magellan Maestro 4250, Magellan Maestro 4350, Magellan Maestro 4370, Magellan Maestro 4700, Magellan Maestro 5310, Magellan RoadMate 1400, Magellan RoadMate 1412, Magellan

RoadMate 1430, Magellan eXplorist GC. *See* Ex. 22 (Magellan Device Specifications) (indicating incorporation of SiRFstarIII, Atlas and Titan GPS chips or chipsets); Ex. 23 (Magellan Maestro 4700 Product Description) (indicating that Magellan Maestro 4700 contains SiRFstarIII); Ex. 24 (Magellan eXplorist GC Product Description) (indicating that Magellan eXplorist GC contains SiRFstarIII).

D. E-TEN's GPS Products Containing SiRF GPS Chips

51. E-TEN incorporates SiRF's SiRFstarIII chips into its consumer GPS products. E-TEN consumer GPS products include PNDs and PDAs. The ALJ identified at least the following E-TEN products as infringing Broadcom's '000, '080, '651, '801, and '187 patents: the G500, M700, X500, X500+, X800, X650, M800, X600, and V900. *See* ID at 15; 90-96; 125-132; 142-148; 171-173; 200-202.

52. The Commission, however, did not limit either the Cease and Desist Orders or the Limited Exclusion Order to these specific products; instead, the Commission directed its Orders to any GPS Device or product containing same that infringes Broadcom's asserted patents. *See* Ex. 15 (Cease and Desist Orders) at 1; Ex. 16 (Limited Exclusion Order) at 1-2. On information and belief, additional E-TEN products incorporate the infringing SiRFstarIII architecture, including at least: the DX900, M810, X610, X900, and M750. *See* Ex. 25 (Specifications for the DX900, M810, X610, X900, and M750) (identifying devices' incorporation of SiRFstarIII chip or chipset).

E. Pharos's GPS Products Containing SiRF GPS Chips

53. Pharos incorporates SiRF's SiRFstarIII chips into its consumer GPS products. Pharos' consumer GPS products include personal navigation devices (PNDs) and personal digital assistants (PDAs). The ALJ identified at least the following Pharos products as infringing

Broadcom's '000, '080, '651, '801, and '187 patents: PDR135, PDR140, PDR150, PDR250, PT120, PT250, PTP10, PTL505, PTL525E, PTL525P, PTL535E, PTL535P, PTL600, and PTL600E. *See* ID at 16; 90-96; 125-132; 142-148; 171-173; 200-202.

54. The Commission, however, did not limit either the Cease and Desist Orders or the Limited Exclusion Order to these specific products; instead, the Commission directed its Orders to any GPS Device or product containing same that infringes Broadcom's asserted patents. *See* Ex. 15 (Cease and Desist Orders) at 1; Ex. 16 (Limited Exclusion Order) at 1-2. On information and belief, additional Pharos products incorporate the infringing SiRFstarIII architecture, including at least: the PDR200, PDR200C, PTL535PB, PTL535X, PTL535VB, PB010, PF080, and PK132. *See* Ex. 26 (Specifications for PDR200, PDR200C, PTL535PB, PTL535X, and PTL535V) (identifying device's incorporation of an Ultra Sensitive GPS Receiver); Ex. 27 (publicly available specifications for PB010, PF080, and PK132) (identifying incorporation of SiRFstarIII chips); Ex. 28 (Pharos Partners) (identifying SiRF as a partner).

VI. THE COMMISSION'S ISSUANCE OF CEASE AND DESIST ORDERS AND A LIMITED EXCLUSION ORDER

55. The Commission instituted Investigation No. 337-TA-602 on April 30, 2007, pursuant to Broadcom's complaint alleging, *inter alia*, that certain GPS devices and products containing the same infringe six Broadcom patents. 72 Fed. Reg. 25,777 (May 7, 2007). An evidentiary hearing before Administrative Law Judge Carl C. Charneski on the issue of violation and remedy was held from April 28, 2008 to May 13, 2008.

56. On August 8, 2008, the ALJ issued an Initial Determination on Violation of Section 337 ("ID"), and on August 22, 2008 issued a Recommended Determination on Remedy and Bond. The ALJ found that all accused devices infringed multiple claims of each asserted Broadcom patent. The ALJ specifically found infringement of claims 4 and 11 of the '346

patent; claims 1, 2 and 22 of the '080 patent; claims 1 and 2 of the '651 patent; and claims 1, 2 and 5 of the '000 patent, claims 1, 2 and 11 of the '801 patent; and claims 1 and 9 of the '187 patent, in violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. *See* ID at 13-16; 61-67; 90-96; 125-132; 142-148; 171-173; 200-202.

57. On October 10, 2008, the Commission determined to review in part the ALJ's findings of infringement. On January 15, 2009, after ordering some minor modifications to the ALJ's original findings, the Commission affirmed the ALJ's finding of a violation of Section 337.

58. In that same January 15, 2009 Opinion, the Commission issued its final determination on remedy, bonding, and the public interest. The Commission determined to issue a Limited Exclusion Order and Cease and Desist Orders.

59. The Commission's Limited Exclusion Order provides that:

GPS devices and products containing the same that are covered by one or more of claims 1, 2, and 11 of the '801 patent, claims 4 and 11 of the '346 patent, claims 1 and 9 of the '187 patent, claims 1, 2, and 22 of the '080 patent, claims 1 and 2 of the '651 patent, and claims 1, 2, and 5 of the '000 patent and that are manufactured abroad by or on behalf of, or imported by or on behalf of, SiRF, Pharos, MiTAC, Mio, and E-TEN or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States[.]

See Ex. 16 (Limited Exclusion Order) at 2.

60. The Commission's Cease and Desist Orders prohibit SiRF, Mio, and Pharos from, *inter alia*:

import[ing] or sell[ing] for importation into the United States covered product;

market[ing], test[ing], distribut[ing], offer[ing] for sale, sell[ing], or otherwise transfer[ing] (except for exportation), in the United States imported covered product;

advertis[ing] imported covered products in the United States;

...
aid[ing] or abet[ing] other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

See, e.g., Ex. 15 (Cease and Desist Orders) at 3; *see also id.* at 2 (defining “covered product” as GPS “devices and products containing same that infringe one or more of claims 1, 2, and 11 of the ‘801 patent; claims 4 and 11 of the ‘346 patent; claims 1 and 9 of the ‘187 patent; claims 1, 2, and 22 of the ‘080 patent; claims 1 and 2 of the ‘651 patent; and claims 1, 2, and 5 of the ‘000 patent”).

61. On April 12, 2010, the Federal Circuit affirmed the Commission’s Final Determination in its entirety. *See SiRF Technology Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319 (Fed. Cir. 2010).

VII. VIOLATION OF THE COMMISSION’S CEASE AND DESIST ORDERS

62. To prevent the continuation of their unlawful acts, the Commission entered Cease and Desists Orders against SiRF, Mio, and Pharos. *See* Ex. 15 (Cease and Desist Orders). The Cease and Desists Order prohibit, *inter alia*, SiRF, Mio, and Pharos from (1) marketing and advertising Covered Products, (2) importing and selling for importation the Covered Products, and (3) aiding and abetting the importation, sale for importation, sale after importation, transfer, or distribution of Covered Products in the United States.

63. Despite their knowledge of the Cease and Desist Orders, SiRF, Mio, and Pharos have engaged in continued activities that violate the Commission’s orders.

A. SiRF's, Mio's, and Pharos's Continued Marketing and Advertising of Infringing GPS Devices and Products Containing GPS Devices

1. SiRF's Continued Marketing and Advertising

64. SiRF has been violating the Commission's Cease and Desist Order since the day it was issued (January 15, 2009) by marketing and advertising in the United States products specifically identified by the ALJ as infringing Global Locate's asserted patents. SiRF's marketing and advertising violations have been continuous and with full knowledge that such actions are violations of the Commission's Cease and Desist Order.

65. On its website, SiRF has made available for download and viewing product brochures and detailed technical information that advertise SiRF chips specifically identified by the ALJ as infringing Global Locate's asserted patents. *See* Ex. 29 (SiRFstarIII Architectures Advertisements) (advertising GSC3LTf and GSC3LTif); ID at 14 (identifying GSC3LTf and GSC3LTif). SiRF's website has even included advertising for named infringing products – such as the GSCi-5000 – that SiRF has not even claimed to have redesigned in response to the Commission's orders. *See* Ex. 30 (GSCi-5000 Product Brochure); ID at 14-15 (identifying GSCi-5000).

66. Additionally, SiRF's website has and continues to advertise and market (SiRF's website has now been incorporated into CSR's website), the very features – the SiRFInstantFix technology, and the SiRFNav software – that the ALJ held established infringement of Global Locate's asserted patents. *See* Ex. 31 (GSD3wt Advertisement) (“This single die, small footprint implementation of *SIRFstarIII*[™] architecture ... execute[s] *SiRFNav*[®] ... and *SiRFInstantFix*[™] technology.”); Ex. 32 (GNSS Products Advertisement) (identifying all SiRF's “GNSS Platforms” as incorporating the SiRFstarIII architecture); Ex. 33 (GSC3e/LPx and GSC3f/LPx Advertisement) (identifying “new” flagship SiRFstarIII chips – GSC3e/LPx and

GSC3f/LPx – as a pin-to-pin replacements for the infringing GSC3e/LP and GSC3f/LP chips, and identifying power performance as the only difference between the new chip and its infringing predecessors); Ex. 13 (GSC3e/LPa Product Specification) (indicating SiRFstarIII architecture); Ex. 14 (GSC3e/LPx Product Specification) (indicating SiRF starIII architecture).

67. Beyond merely advertising and marketing, SiRF's website has directed prospective purchasers of the infringing GPS devices to SiRF's sales representatives at its Corporate headquarters in California. *See* Ex. 34 (SiRF Sales Contacts). SiRF has even provided a lengthy list of U.S. sales representatives and distributors sorted by state. *See* Ex. 35 (SiRF Sales Representatives and Distributors).

68. SiRF's public statements since the Commission issued the Cease and Desist Orders further demonstrate SiRF's willful disregard for the Commission's authority. Indeed, on the very day the Commission issued its Cease and Desist Order against SiRF, SiRF incorrectly informed its customers that the Cease and Desist Order permitted SiRF to sell the infringing products and services to all SiRF customers "[o]ther than the four named customers in the investigation." *See* Ex. 36 (SiRF Press Release, "ITC Final Determination Notice Minimally Affects Only a Few SiRF Customers") (January 15, 2009). While SiRF said it would "work closely with the named customers to conform with the Commission's ruling," SiRF announced that "all other SiRF customers are not affected." *Id.*

69. SiRF's statements are incorrect as a matter of law because the Cease and Desist Order makes any United States marketing, advertising, offer for sale, or sale of an infringing SiRF product to any customer – regardless of whether that customer is a named respondent – unlawful.

70. SiRF's narrow recasting of the Commission's orders is also incorrect because the Commission's Limited Exclusion Order also covers MiTAC Digital, a wholly owned subsidiary of MiTAC and the manufacturer of Magellan consumer GPS products. The Limited Exclusion Order expressly covers MiTAC and Mio and "any of their affiliated companies, parents, subsidiaries, or other related business entities." Ex. 16 (Limited Exclusion Order) at 2.

71. SiRF's marketing materials demonstrate that SiRF's products, as marketed and advertised broadly in the United States, continue to infringe Global Locate's patents. In a brochure available on its website, for example, SiRF explained that its GSD3tw chip uses "SiRFNavIII™ standalone GPS navigation software," the very software the ALJ held infringed the '801 and '187 patents when used in the SiRFstarIII chips. *See* ID at 13-14; 171-173; 200-202; Ex. 11 (GSD3tw Product Brochure). Furthermore, multiple SiRF product sheets – including product sheets dated as recently as April 2009 – continued to advertise "times to first fix" that indicate infringement of at least the '801 patent. *See e.g.*, Ex. 8 (GSC3LTf Product Brochure). These product sheets claim that the GPS chips are capable of having times to first fix of well-under 6 seconds using GSM coarse time in an MS based mode. *See* Ex. 37 (GSC3LTif Product Brochure) (time to first fix of less than 0.6 seconds); Ex. 8 (GSC3LTf Product Brochure) (same); Ex. 11 (GSD3tw Product Brochure) (same); Ex. 12 (GSC3f/LPx Product Brochure) (time to first fix of less than 1.5 seconds). As Global Locate identified in its original complaint, such fast "times to first fix" evidence infringement of the '801 patent. *See* Ex. 9 (Braasch Decl., Ex. 16B) (indicating that times to first fix less than 6 seconds using GSM coarse time in an MS based mode demonstrate infringement of the '801 patent).

72. Furthermore, SiRF has continued to advertise its SiRFstarIII chips as supporting SiRF's InstantFix and SiRFLoc services. *See, e.g.*, Ex. 38 (SiRFLoc Client Product Brochure)

(identifying SiRFstarIII as a supported platform for SiRFLoc); Ex. 39 (SiRFInstantFix Product Brochure) (“Compatible with SiRFprima and all SiRFstarIII and SiRFstarII™ chip solutions.”); Ex. 37 (GSC3LTif Product Brochure) (identifying SiRFLoc and SiRFInstantFix as “supported software”); Ex. 8 (GSC3LTf Product Brochure) (same); Ex. 11 (GSD3tw Product Brochure) (same); Ex. 12 (GSC3f/LPx Product Brochure) (same). Indeed, SiRF has continued to advertise the use of the “SiRFInstantFix extended ephemeris” service that was specifically found to infringe claims 1, 2, and 22 of the ‘080 patent. *See, e.g.*, Ex. 39 (SiRF InstantFix Product Brochure); Ex. 38 (GSC3LTif Product Brochure); Ex. 8 (GSC3LTf Product Brochure); Ex. 11 (GSD3tw Product Brochure); Ex. 12 (GSC3f/LPx Product Brochure); ID at 90-96. As with the InstantFix service found to be infringing by the ALJ, SiRF has continued to advertise its InstantFix “extended ephemeris” as a file “acquired over any wireless or wireline internet connection, with accuracy up to seven days” and “yielding an accurate fix long after a traditional broadcast ephemeris has timed out – about four hours.” Ex. 39 (SiRFInstantFix Product Brochure). SiRF’s support of use of this file – by itself – is evidence of infringement of Claims 1, 2, and 22 of the ‘080 patent. *See* ID at 90-96.

73. These same brochures also advertise capabilities that the ALJ found to infringe the ‘651 patent. In Broadcom’s initial complaint, its expert stated that improved “autonomous acquisition sensitivity” from -142dBm to signal levels as low as -159dBm when tracking with multi-mode GPS demonstrated infringement of Claim 1 of the ‘651 patent. *See* Ex. 40 (Dafesh Decl., Ex. 18B). SiRF’s product brochures have continued to tout this improved acquisition sensitivity, despite the ALJ’s finding that such increased sensitivity occurs through infringement of the ‘651 patent. *See* Ex. 37 (GSC3LTif Product Brochure); Ex. 8 (GSC3LTf Product Brochure); Ex. 11 (GSD3tw Product Brochure) (touting levels from -148dBm to -159dBm); Ex.

12 (GSC3f/LPx Product Brochure). The only difference between the technical specifications of SiRF's "new" chips and its old, infringing chips is a decrease in power consumption. *Compare* Ex. 41 (Dafesh Decl., Ex. 18B(8)) (SiRFstarIII GSC3e/LP & GSC3f/LP Product Brochure submitted as evidence of infringement with Global Locate's original complaint) *with* Ex. 12 (GSC3f/LPx Product Brochure) (containing the *exact same technical specifications* – except for improved power performance – as the GSC3e/LP & GSC3f/LP chips, which were both found to infringe Global Locate's asserted patents).

74. These same brochures also advertise capabilities that the ALJ found to infringe the '000 patent. The ALJ found that SiRF's InstantFix and SiRFLoc services, used with its SiRFstarIII chips and software, practice every element of claims 1, 2, and 5 of the '000 patent. *See* ID at 126-132. The SiRF InstantFix service advertised at the time of Broadcom's initial complaint included a Client Location Manager ("CLM") program that "unpacks the EE file" at the remote receiver. *See* Ex. 42 (Dafesh Decl., Ex. 21C). Likewise, the InstantFix service currently advertised uses a CLM program that "unpacks the EE file" at the remote receiver. *See, e.g.,* Ex. 39 (SiRF InstantFix Product Brochure).

2. Mio's Continued Marketing and Advertising

75. Mio is violating the Commission's Cease and Desist Order by marketing and advertising in the United States products specifically identified by the ALJ as infringing Broadcom's asserted patents. Mio's marketing and advertising violations have been continuous and with full knowledge that such actions are violations of the Commission's Cease and Desist Order.

76. From January 15, 2009 to shortly after February 5, 2009, Mio violated the Commission's Cease and Desist Order by marketing and advertising its Mio Digiwalker C230,

C320, and C520 on its U.S. website. Mio removed these devices from its website only after Broadcom demanded that Mio alter its website to conform to the Commission's Cease and Desist Order. *See* Ex. 43 (March 18, 2009 letter from G. Castanias and K. Konrad to Hon. Aranoff).

77. Mio's U.S. website, however, has continued to market and advertise "new" Mio products that implement the same SiRFstarIII architecture that the ALJ held infringed Global Locate's asserted patents. For example, Mio's website marketed and advertised the Mio Knight Rider Navigational Device. *See* Ex. 44 (Mio Knight Rider Advertisement). A press release announcing the device's availability indicated that the Knight Rider uses a SiRFstarIII architecture. *See* Ex. 19 (Mio Knight Rider GPS Press Release) (identifying the device's GPS receiver as a "SiRFstarIII").

78. Mio currently indicates on its website that the Mio Moov Series products (Mio Moov 200, Mio Moov 210, Mio Moov 300, Mio Moov 310, Mio Moov 500) and the Mio Moov M Series products (Mio Moov M300, Mio Moov M301, Mio Moov M400, Mio Moov M401) contain a SiRFstarIII GPS receiver. *See* Ex. 20 (Mio Moov Series Product Description); Ex. 21 (Mio Moov M Series Product Description).

79. Additionally, Mio's U.S. website included a "Where to Buy" link that identified U.S. retailers that Mio recommends for the purchase of its GPS products. *See* Ex. 45 (Mio – "Where to Buy") (identifying thirteen U.S. retailers). Mio's recommended retailers, in turn, continued to offer for sale and sell many of the specific devices the ALJ found to infringe one or more of the Global Locate patents. *See* Ex. 46 (Products Offered For Sale) (providing non-exhaustive list of Mio products readily available from Mio's recommended retailers).

80. To confirm that the offered products were indeed still available despite the Commission's Cease and Desist Order, Global Locate purchased several devices. *See* Ex. 47

(Purchased Products). The purchased products each contain a SiRFstarIII chip, and their sale constitutes a violation of the Commission's Cease and Desist Order.

3. MiTAC Digital's Continued Marketing and Advertising

MiTAC Digital has been violating the Commission's Cease and Desist Order by marketing and advertising products under the "Magellan" brand name that contain the same SiRFstarIII architecture that the ALJ held infringed Global Locate's asserted patents. For example, the following products have been advertised that contain a SiRFstarIII chip: the Magellan Triton 200, Magellan Triton 300, Magellan Triton 400, Magellan Triton 500, Magellan Triton 1500, Magellan Triton 2000, Magellan Maestro 3200, Magellan Maestro 3210, Magellan Maestro 3220, Magellan Maestro 3225, Magellan Maestro 3250, Magellan Maestro 4200, Magellan Maestro 4210, Magellan Maestro 4220, Magellan Maestro 4250, Magellan Maestro 4350, Magellan Maestro 4370, Magellan Maestro 4700, Magellan Maestro 5310, Magellan RoadMate 1400, Magellan RoadMate 1412, Magellan RoadMate 1430, Magellan eXplorist GC. *See* Ex. 22 (Magellan Device Specifications) (indicating incorporation of SiRFstarIII, Atlas and Titan GPS chips or chipsets); Ex. 23 (Magellan Maestro 4700 Product Description) (indicating that Magellan Maestro 4700 contains SiRFstarIII); Ex. 24 (Magellan eXplorist GC Product Description) (indicating that Magellan eXplorist GC contains SiRFstarIII).

4. Pharos's Continued Marketing and Advertising

81. Pharos is violating the Commission's Cease and Desist Order by marketing and advertising in the United States products specifically identified by the ALJ as infringing Global Locate's asserted patents. Pharos's marketing and advertising violations have been continuous and with full knowledge that such actions are violations of the Commission's Cease and Desist Order.

82. From January 15, 2009 to shortly after February 5, 2009, Pharos violated the Commission's Cease and Desist Order by marketing and advertising its PDR150, PDR250, PTL505, PTL535e, PTL600, PTL600e, PT120, PT250, and PTP10 devices on its U.S. website. Pharos removed these devices from its website only after Global Locate demanded that Pharos alter its website to conform to the Commission's Cease and Desist Order. *See* Ex. 43 (March 18, 2009 letter from G. Castanias and K. Konrad to Hon. Aranoff).

83. Pharos's U.S. website included a "Where to Buy" link that identified U.S. retailers that Pharos recommended for the purchase of its GPS products. *See* Ex. 48 (Pharos – "Where to Buy") (identifying thirty-five U.S. retailers). Pharos' recommended retailers, in turn, continued to offer for sale and sell many of the specific devices the ALJ found to infringe one or more of the Global Locate patents. *See* Ex. 46 (Products Offered For Sale) (providing non-exhaustive list of Pharos products readily available from Pharos' recommended retailers). Indeed, when a visitor to Pharos' U.S. website clicks on one of the recommended retailers, Dell, the visitor is transported to Dell's "Pharos store." *See* Ex. 49 (Dell's Pharos Store). Dell's Pharos store offered many of the devices the ALJ specifically identified as infringing Global Locate's asserted patents. *See id.* (offering for sale the PTL535P, PTL535V, and PTL600E) The "Where to Buy" link has since been changed to the "Locate Dealers" link.

84. To confirm that the offered products were indeed still available despite the Commission's Cease and Desist Order, Global Locate purchased several devices. *See* Ex. 47 (Purchased Products). The purchased products each contain a SiRFstarIII chip, and their sale constitutes a violation of the Commission's Cease and Desist Order.

B. Mio and Pharos Continue to Import and Sell for Importation into the United States Products Containing Infringing GPS Devices

I. Mio's Continued Importation and Sale for Importation into the United States

85. Because the 602 Respondents have maintained that they were not in violation of the Commission's Cease and Desist Orders, Broadcom sought to verify their compliance through informal means.

86. Using the "Recommended Retailers" identified by Mio, Global Locate purchased a Mio C230, C520, C320, and Moov 310. *See* Ex. 47 (Purchased Products). The ALJ specifically identified the C230, C520 and C320 as infringing Global Locate's asserted patents. *See* ID at 15-16.

87. As discussed above, Mio's website indicated that the Mio Moov 310 incorporates a "Highly Sensitive GPS Receiver." The Mio Moov 310 box, however, clearly indicates that the "Highly Sensitive GPS Receiver" is a SiRFstarIII chip. *See* Ex. 50 (Photocopy of Mio Moov 310 Box). Mio's website currently indicates that all Mio Moov Series products, including Mio Moov 310, contain a SiRFstarIII GPS receiver. *See* Ex. 20 (Mio Moov Series Product Description). The Mio Moov 310 and other Mio Moov devices containing SiRFstarIII chips infringes Broadcom's asserted patents and are covered by the Commission's Cease and Desist Order.

88. Broadcom asked Mio to explain how the availability of these products did not demonstrate importation or sale for importation of Covered Products. *See* Ex. 5 (June 18, 2009 Letter from J. Quarles to G. Castanias). Mio offered no such explanation. *See* Ex. 51 (June 26, 2009 Letter from G. Castanias and K. Konrad to J. Quarles). Accordingly, the only reasonable

conclusion is that such products have been imported and/or sold for importation in violation of the Commission's Cease and Desist Order.

2. Pharos's Continued Importation and Sale for Importation into the United States

89. Broadcom also purchased Pharos devices in order to confirm Pharos's compliance with the Commission's Cease and Desist Order.

90. Using the "Recommended Retailers" identified by Pharos, Global Locate purchased a PDR150, PTL600E, PTL535P and PTL535E. *See* Ex. 47 (Purchased Products). Each of these devices was identified by the ALJ as infringing Broadcom's asserted patents. *See* ID at 16.

91. Broadcom asked Pharos to explain how the availability of these products did not demonstrate importation or sale for importation of Covered Products. *See* Ex. 5 (June 18, 2009 Letter from J. Quarles to G. Castanias). Pharos offered no such explanation. *See* Ex. 51 (June 26, 2009 Letter from G. Castanias and K. Konrad to J. Quarles). Accordingly, the only reasonable conclusion is that such products have been imported and/or sold for importation in violation of the Commission's Cease and Desist Order.

C. SiRF, Mio, and Pharos Continue to Aid or Abet Other Entities in the Importation, Sale for Importation, Sale After Importation, Transfer, or Distribution of Infringing GPS Devices and Products Containing Such Devices in the United States

1. SiRF's Continued Aiding and Abetting

92. Since the very day the Commission issued a Cease and Desist Order against it, SiRF has aided and abetted other entities (namely all SiRF customers other than Mio, MiTAC, E-TEN, and Pharos) in the importation, sale for importation, sale after importation, transfer, or distribution of GPS Devices and products containing the same in the United States.

93. On January 15, 2009 – the day the Commission issued its Cease and Desist Orders – SiRF stated that the Commission’s Final Determination “minimally affects only a few SiRF customers.” *See* Ex. 36 (SiRF Press Release). SiRF’s press release focuses on the Commission’s Limited Exclusion Order. *See id.* (“ITC limited exclusion orders only impact parties named in the investigation”). The press release notably neglects to mention, let alone discuss the ramifications of, the Commission’s Cease and Desist Orders.

94. While the Limited Exclusion Order applies to infringing GPS Devices and products containing same that are manufactured abroad by or on behalf of, or imported by or on behalf of, the 602 Respondents and their affiliates, the Cease and Desist Orders prohibit certain conduct by SiRF (as well as Mio and Pharos) irrespective of whether the GPS Devices are imported by or on behalf of the 602 Respondents. *See* Ex. 15 (Cease and Desist Orders).

95. Specifically, the Cease and Desist Orders prohibit *any* conduct by SiRF that aids or abets other entities in the importation, sale for importation, sale after importation, transfer, or distribution of Covered Products in the United States.

96. By continuing to market and advertise Covered Products to customers not named in the original complaint, SiRF is aiding and abetting these customers in their importation, sale for importation, sale after importation, transfer, or distribution of Covered Products in the United States.

2. Mio’s Continued Aiding and Abetting

97. As discussed above, Mio’s U.S. website includes a “Where to Buy” link. *See* Ex. 52 (Mio Homepage). When an Internet user clicks on the “Where to Buy” link, the user has been directed to up to 13 retailers where “Mio car navigation devices are available.” *See* Ex. 45 (Mio – “Where to Buy”). These retailers, in turn, offer Mio products that contain a SiRFstarIII chip.

See Ex. 46 (Products Offered For Sale) (providing non-exhaustive list of Mio products readily available from Mio's recommended retailers).

98. Through its "Where to Buy" link, Mio is aiding and abetting the importation, sale for importation, sale after importation, transfer, or distribution of GPS products covered by Global Locate's asserted patents. Such conduct is in direct violation of the Commission's Cease and Desist Order. *See* Ex. 15 (Cease and Desist Orders).

99. Importantly, Mio's conduct violates the Commission's Cease and Desist Order even if the products sold by the "Recommended Retailers" were imported into the United States prior to the January 15, 2009 issuance of the Cease and Desist Order. The order prohibits aiding and abetting not only the "importation [or] sale for importation" of infringing devices but also the "sale after importation, transfer, or distribution" of such devices.

3. Pharos's Continued Aiding and Abetting

100. As discussed above, Pharos's U.S. website includes a "Where to Buy" (also called "Locate Dealers") link. *See* Ex. 53 (Pharos Homepage). When an Internet user clicks on the "Where to Buy" link, the user is directed to as many as 35 retailers where Pharos products can be purchased. *See* Ex. 48 (Pharos – "Where to Buy"). These retailers, in turn, offer Pharos products that contain SiRFstarIII chips. *See* Ex. 46 (Products Offered For Sale) (providing non-exhaustive list of Pharos products readily available from Pharos' recommended retailers).

101. Through its "Where to Buy" link, Pharos is aiding and abetting the importation, sale for importation, sale after importation, transfer, or distribution of GPS products covered by Broadcom's asserted patents. Such conduct is in direct violation of the Commission's Cease and Desist Order. *See* Ex. 15 (Cease and Desist Orders).

102. Importantly, Pharos’s conduct violates the Commission’s Cease and Desist Order even if the products sold by the “Recommended Retailers” were imported into the United States prior to the January 15, 2009 issuance of the Cease and Desist Order. The order prohibits aiding and abetting not only the “importation [or] sale for importation” of infringing devices but also the “sale after importation, transfer, or distribution” of such devices.

VIII. VIOLATION OF THE COMMISSION’S EXCLUSION ORDER

103. The Commission’s Limited Exclusion Order “exclude[s] from entry for consumption into the United States” any GPS Device or product containing a GPS Devices manufactured abroad by or on behalf of, or imported by or on behalf of the 602 Respondents or their affiliates, parents or subsidiaries that infringes one or more of claims 1, 2, and 11 of the ‘801 patent, claims 4 and 11 of the ‘346 patent, claims 1 and 9 of the ‘187 patent, claims 1, 2, and 22 of the ‘080 patent, claims 1 and 2 of the ‘651 patent, and claims 1, 2, and 5 of the ‘000 patent. *See Ex. 16 (Limited Exclusion Order).*

104. Despite the Commission’s Limited Exclusion Order, the 602 Respondents and their subsidiaries continue to import for consumption into the United States GPS Devices and products containing GPS Devices that infringe Broadcom’s asserted patents. Such importation violates the Commission’s Limited Exclusion Order.

A. Mio’s Importation

105. As discussed above, Global Locate was able to purchase Mio products C230, C520, C320 and Moov 310. These purchases were made well after the Commission’s Limited Exclusion Order was issued. *See Ex. 47 (Purchased Products).*

106. In the absence of any exculpatory explanation from Mio, these purchases each demonstrate that Mio has acted in violation of the Commission’s Limited Exclusion Order.

107. Further, despite the Commission's Limited Exclusion Order, products specifically identified by the ALJ as infringing Broadcom's asserted patents have been readily available at many online stores. *See e.g.*, Ex. 54 (Mio Product Availability) (demonstrating availability of the C230 at 15 stores, the C520 at 4 stores, the C720 at 7 stores, and the H610 at 3 stores). Additional infringing products, not specifically identified by the ALJ, have also been readily available at many online stores. *See e.g., id.* (Mio Product Availability) (demonstrating availability of the Mio Moov 200 at 13 stores, the Mio Moov 300 at 16 stores, and Mio Moov 310 at 19 stores).

108. Because Mio controls the importation of its products into the United States, the availability of these products from numerous stores demonstrates that the Mio has acted in violation of the Commission's Limited Exclusion Order.

B. MiTAC Digital's Importation

109. After the Commission's Limited Exclusion Order issued, Broadcom purchased two Magellan-brand products that MiTAC Digital identifies as incorporating a SiRFstarIII chip. These products are the Magellan Maestro 4200 and the Magellan Triton 500. *See* Ex. 47 (Purchased Products); Ex. 22 (Magellan Device Specifications).

110. In addition, the Magellan website has identified numerous additional Magellan products that are available for purchase directly from Magellan and contain either a SiRFstarIII, SiRF Atlas or SiRF Titan GPS chip. These additional products include: the Magellan Triton 200, Magellan Triton 300, Magellan Triton 400, Magellan Triton 1500, Magellan Triton 2000, Magellan Maestro 3200, Magellan Maestro 3210, Magellan Maestro 3220, Magellan Maestro 3225, Magellan Maestro 3250, Magellan Maestro 4210, Magellan Maestro 4220, Magellan Maestro 4350, Magellan Maestro 4370, Magellan Maestro 4250, Magellan Maestro 4700,

Magellan Maestro 5310, Magellan eXplorer GC, Magellan RoadMate 1400, Magellan RoadMate 1412, and Magellan RoadMate 1430. *See* Ex. 22 (Magellan Device Specifications); Ex. 23 (Magellan Maestro 4700 Product Description) (indicating that Magellan Maestro 4700 contains SiRFstarIII); Ex. 24 (Magellan eXplorer GC Product Description) (indicating that Magellan eXplorer GC contains SiRFstarIII).

111. In the absence of any exculpatory explanation from MiTAC Digital, these purchases demonstrate that MiTAC Digital has acted in violation of the Commission's Limited Exclusion Order.

112. Further, despite the Commission's Limited Exclusion Order, products specifically identified as incorporating either a SiRFstarIII, SiRF Atlas or SiRF Titan GPS chip have been available at numerous online stores. *See e.g.*, Ex. 55 (Magellan Product Availability) (demonstrating availability of the Magellan Maestro 3200 at 16 stores, the Magellan Maestro 3210 at 6 stores, the Magellan Maestro 3220 at 26 stores, the Magellan Maestro 3225 at 6 stores, the Magellan Maestro 3250 at 27 stores, the Magellan Maestro 4200 at 11 stores, the Magellan Maestro 4210 at 15 stores, the Magellan Maestro 4220 at 8 stores, the Magellan Maestro 4250 at 74 stores, the Magellan Maestro 4350 at 31 stores, the Magellan Maestro 4370 at 3 stores, the Magellan Maestro 5310 at 28 stores, the Magellan RoadMate 1400 at 22 stores, the Magellan RoadMate 1412 at 104 stores, the Magellan RoadMate 1430 at 34 stores, the Magellan Triton 200 at 20 stores, the Magellan Triton 300 at 125 stores, the Magellan Triton 400 at 133 stores, the Magellan Triton 500 at 114 stores, the Magellan Triton 1500 at 135 stores, and the Magellan Triton 2000 at 105 stores).

113. Because MiTAC Digital controls the importation of its products into the United States, the availability of these products from hundreds of online stores demonstrates that the MiTAC Digital has acted in violation of the Commission's Limited Exclusion Order.

C. E-TEN's Importation

114. Broadcom also purchased several E-TEN products that were specifically identified by the ALJ as infringing Broadcom's asserted patents. Broadcom purchased E-TEN products from E-TEN's "Recommended Retailers." *See* Ex. 56 (E-TEN – "Where to Buy") (identifying six US retailers from which to purchase infringing products); Ex. 46 (Products Offered For Sale) (providing non-exhaustive list of E-TEN products readily available from E-TEN's recommended retailers). The purchased E-TEN products are the X800, X500, and X610 products. *See* Ex. 47 (Purchased Products). The ALJ identified the X800 and X500 products specifically in the ID. *See* ID at 15. The X610, while not specifically identified in the ID, includes a SiRFstarIII chip. *See* Ex. 25 (X610 Specification) (identifying built-in GPS as a SiRFstarIII chip).

115. In the absence of any exculpatory explanation from E-TEN, these purchases demonstrate that E-TEN has acted in violation of the Commission's Limited Exclusion Order.

D. Pharos's Importation

116. As discussed above, Broadcom was able to purchase Pharos' PDR150, PTL600E, PTL535P, and PTL535E products. These purchases occurred well after the date of the Commission's Exclusion Order. *See* Ex. 47 (Purchased Products).

117. In the absence of any exculpatory explanation from Pharos, these purchases demonstrate that Pharos has acted in violation of the Commission's Limited Exclusion Order.

118. Further, despite the Commission's Limited Exclusion Order, products specifically identified by the ALJ as infringing Global Locate's asserted patents have been readily available at numerous online stores. *See e.g.*, Ex. 57 (Pharos Product Availability) (demonstrating availability of the PDR135 at 6 stores, the PDR140 at 6 stores, the PDR150 at 95 stores, the PDR250 at 8 stores, the PT120 at 63 stores, the PT250 at 18 stores, the PTL525E at 12 stores, the PTL525P from 6 stores, the PTL 535E at 54 stores, the PTL535P at 19 stores, the PTL600 at 96 stores, and the PTL600E at 80 stores). Additional infringing products, not specifically identified by the ALJ, are also readily available. *See e.g., id.* (Pharos Product Availability) (demonstrating availability of the PDR200 at 98 stores, the PTL535X at 54 stores, the PB010 at 69 stores, the PK132 at 52 stores, and the PSD80 at 56 stores).

119. Because Pharos controls the importation of its products into the United States, the availability of these products from hundreds of online stores demonstrates that Pharos has acted in violation of the Commission's Limited Exclusion Order.

IX. CONCLUSION

120. SiRF's, Mio's, and Pharos's continued marketing and advertising in the United States of GPS devices and products containing GPS devices that were found to infringe Broadcom's six asserted patent constitutes a violation of Section 337 and the Cease and Desist Orders.

121. SiRF's, Mio's, and Pharos's continued importation and sale for importation into the United States of GPS devices and products containing GPS devices that were found to infringe Broadcom's six asserted patents constitute a violation of Section 337 and the Cease and Desist Orders.

122. SiRF's, Mio's, and Pharos's continued aiding and abetting of other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products in the United States constitutes a violation of Section 337 and the Cease and Desist Orders.

123. SiRF's, MiTAC's, Mio's, MiTAC Digital's, Pharos's, and E-TEN's importation of GPS Devices and products containing same that infringe Broadcom's asserted patents and are manufactured abroad by or on behalf of SiRF, MiTAC, Mio, MiTAC, MiTAC Digital, and Pharos constitutes a violation of Section 337 and the Commission's Limited Exclusion Order.

X. RELIEF

WHEREFORE, by reason of the foregoing, Broadcom requests that the United States International Trade Commission:

- a. Institute a formal enforcement proceeding, pursuant to 19 C.F.R. § 210.75, to confirm the violations of the Cease and Desist Orders described herein;
- b. Promptly refer this matter to the Administrative Law Judge for issuance of an Initial Determination on the issues of the enforcement violations and remedy requested;
- c. Direct the Administrative Law Judge to (i) issue a supplemental protective order, if necessary, to protect the 602 Respondents' confidential business information; (ii) permit a necessary and expedited period for fact discovery on the 602 Respondents' continued violations of the Cease and Desist Orders and the Limited Exclusion Order; (iii) hold a hearing, as appropriate; and (iv) issue an Initial Determination on Enforcement within nine months of initiation of the enforcement proceeding; and

d. After the enforcement proceeding, in the event the Commission determines that there has been a violation of the Commission's Limited Exclusion and/or Cease and Desist Orders, issue the following remedies:

- i. impose against SiRF, Mio, and Pharos civil penalties pursuant to 19 U.S.C. § 1337(f) that are twice the value of the goods imported or sold, or \$100,000, whichever is greater, for each day the Cease and Desist order is violated, and if necessary, bring a civil action in a United States District Court pursuant to 19 U.S.C. § 1337(f)(2) and 19 C.F.R. § 210.75(c) to recover such civil penalties;
- ii. modify the Commission's Cease and Desist Orders pursuant to 19 C.F.R. § 210.75(b)(4) to include MiTAC Digital as a party subject to their prohibitions, to expressly include within their scope any purportedly "redesigned" GPS devices and products, and in any other manner that would assist in the prevention of the unfair practices that were originally the basis for issuing such orders or assist in the detection of violations of such orders;
- iii. issue a permanent cease and desist order pursuant to 19 U.S.C. § 1337(f) and 19 C.F.R. § 210.75, prohibiting SiRF, Mio, MiTAC Digital, and Pharos and their affiliates from engaging in illegal activities;
- iv. modify the Commission's Limited Exclusion Order pursuant to 19 C.F.R. § 210.75(b)(4) to expressly include CSR and MiTAC Digital, to expressly prohibit the importation of any purportedly "redesigned" GPS devices and products, and in any other manner that would assist in the prevention of the unfair

practices that were originally the basis for issuing such orders or assist in the detection of violations of such orders;

v. seek any additional appropriate injunctive relief against Respondents and their affiliates in a United States District Court pursuant to 19 U.S.C. § 1337(f)(2) and 19 C.F.R. § 210.75(c); and

vi. impose such other remedies and sanctions as are appropriate and within the Commission's authority;

Dated: October 8, 2010

Respectfully submitted,



William F. Lee
Michael J. Summersgill
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
Tel: (617) 526-6000
Fax: (617) 526-5000

James L. Quarles III
Michael D. Esch
Todd C. Zubler
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue, N.W.
Washington, DC 20006
Tel: (202) 663-6000
Fax: (202) 663-6363

S. Calvin Walden
WILMER CUTLER PICKERING
HALE AND DORR LLP
399 Park Avenue
New York, NY 10022
Tel: (212) 937-7200
Fax: (212) 230-8800

Keith Slenkovich
WILMER CUTLER PICKERING
HALE AND DORR LLP
950 Page Mill Road
Palo Alto, CA 94304
Tel: (650) 858-6000
Fax: (650) 858-6100

VERIFICATION

I, Scott Pomerantz, am Vice President and General Manager, GPS BU, Wireless Connectivity, for Broadcom Corporation and am duly authorized to execute this complaint on behalf of Broadcom Corporation. I have read the complaint and am aware of its contents. To the best of my knowledge, information, and belief, I hereby certify as follows:


1. The complaint is not being presented for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the investigation;

2. The claims and other legal contentions in the complaint are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

3. The allegations and other factual contentions 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 penalty of perjury that the foregoing is true and correct.

Executed on October 8, 2010



Vice President and General Manager
GPS BU, Wireless Connectivity
Broadcom Corporation

*In the Matter of CERTAIN GPS DEVICES AND PRODUCTS CONTAINING SAME,
Inv. No. 337-TA-602*

CERTIFICATE OF SERVICE

I, Nicholas Bouquet, hereby certify that copies of the foregoing **COMPLAINANTS BROADCOM CORPORATION AND GLOBAL LOCATE, INC.'S COMPLAINT FOR ENFORCEMENT PROCEEDING UNDER RULE 210.75** were filed and served upon the following parties as indicated below on this 8th day of October, 2010.

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

- Via Hand Delivery
- Via Facsimile
- Via E-Filing

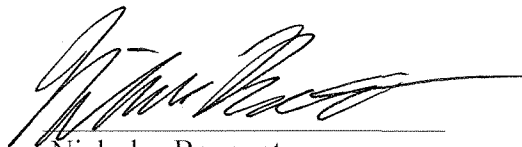
Vu Q. Bui, Esq.
Office of Unfair Import Investigations
U.S. International Trade Commission
500 E Street, S.W., Room 401-O
Washington, DC 20436

- Via Hand Delivery (1 Copy)
- Via FedEx
- Via Facsimile
- Via Electronic Mail (pdf)
vu.bui@usitc.gov

On Behalf of Respondents

F. David Foster
James B. Altman
David F. Nickel
Miller & Chevalier, Chartered
655 Fifteenth Street, N.W., Suite 900
Washington, D.C. 20005-5701

- Via Hand Delivery (1 Copy)
- Via FedEx
- Via Facsimile
- Via Electronic Mail (pdf)
dfoster@milchev.com
jaltman@milchev.com
dnickel@milchev.com



Nicholas Bouquet
Project Assistant