

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of)
)
CERTAIN PRODUCTS CONTAINING)
INTERACTIVE PROGRAM GUIDE AND)
PARENTAL CONTROLS TECHNOLOGY)
)

Investigation No.
337-TA-_____

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

Complainants:

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I. INTRODUCTION

1. This Complaint is filed by Rovi Corporation, Rovi Guides, Inc., United Video Properties, Inc., and Index Systems, Inc. (collectively “Rovi” or “Complainants”) pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”). Rovi 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 products containing interactive program guide (IPG) and parental controls technology, including televisions and digital video recorders, that use the inventions claimed in Rovi’s valid patents without Rovi’s authorization (hereinafter the “Accused Toshiba Products”).

2. The Respondents, defined in paragraphs 12(i)-(iv) below, currently manufacture, sell for importation into the United States, import, and/or sell the Accused Toshiba Products within the United States after importation. Respondents infringe the following United States Patents (collectively “the Rovi Patents”), all of which are owned by Rovi through its subsidiaries:

| Patent Number | Claims Infringed | Abbreviated Reference | Title |
|----------------------|-------------------------------------|------------------------------|--|
| 6,020,929 | 1-7 and 13-19 | '929 Patent | Video Mix Program Guide |
| 6,305,016 | 1-3, 7-11, 13-16, 20-24, 26, and 27 | '016 Patent | Systems and Methods for Displaying Information with a Perceived Partial Transparency Over a Television Program |
| 6,701,523 | 1-4, 7, 8, and 10-12 | '523 Patent | V-Chip Plus In-Guide User Interface Apparatus and Method for Programmable Blocking of Television and Other Viewable Programming, Such as for Parental Control of a Television Receiver |

3. The current sale for importation into the United States, importation, and/or sale within the United States after importation of the Accused Toshiba Products are unlawful and constitute infringement of the valid and enforceable Rovi Patents in violation of Section 337.

4. An industry in the United States relating to articles protected by the Rovi Patents exists within the meaning of 19 U.S.C. §§ 1337(a)(2) and 1337(a)(3). *See* paragraphs 102-110 below and Exhibit 16.

5. Rovi seeks as permanent relief a general exclusion order excluding from entry into the United States all products containing interactive program guide (IPG) and parental controls technology that use the inventions described and claimed in the Rovi Patents. In the alternative, Rovi seeks a permanent limited exclusion order, specifically directed to each named Respondent, excluding the Accused Toshiba Products from entry into the United States. Rovi 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 the Accused Toshiba Products. Further, Rovi requests that the Commission impose a bond upon Respondents' importation of infringing products during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j) to prevent further injury to Rovi's domestic industry relating to the Rovi Patents.

II. THE PARTIES

A. The Complainant

6. Complainant Rovi Corporation is incorporated in Delaware and is located at 2830 De La Cruz Blvd., Santa Clara, California 95050. Rovi is a global leader in digital entertainment technology solutions. Rovi provides guidance technology, entertainment data, content protection

and content networking technology to customers for use in the consumer electronics, cable and satellite, entertainment and online distribution markets to enable them to deliver a unique entertainment experience for television, movies, music and photos. Rovi also licenses its patents to third parties who develop their own digital entertainment solutions.

7. Rovi Guides, Inc. (f/k/a Gemstar-TV Guide International Inc.) is incorporated in Delaware and is located at 2830 De La Cruz Blvd., Santa Clara, California 95050. Rovi Guides, Inc. is a wholly-owned subsidiary of Rovi Corporation.

8. Complainant United Video Properties, Inc. is incorporated in Delaware and is located at 2830 De La Cruz Blvd., Santa Clara, California 95050. United Video Properties, Inc. is the owner of U.S. Patent Nos. 6,305,016 and 6,020,929. United Video Properties, Inc. is a wholly-owned subsidiary of complainant Rovi Guides, Inc.

9. Complainant Index Systems, Inc. is incorporated in the British Virgin Islands and is located at Craigmuir Chambers, P.O. Box 71, Road Town, Tortola, British Virgin Islands, VG. Index Systems, Inc. is the owner of U.S. Patent No. 6,701,523. Index Systems, Inc. is a wholly-owned subsidiary of complainant Rovi Guides, Inc.

10. Complainants have led the digital entertainment industry in the development and improved functionality of interactive program guide (“IPG”) and related technology for televisions, recorders, set-top boxes, and other devices. Complainants have developed many, if not most, of the fundamental concepts of this technology. Complainants sell or offer products, software and data embodying this technology, as well as license their patents to third parties who develop their own IPG technology. Complainants’ customers include manufacturers and providers of televisions, recorders, set-top boxes, and other related hardware and software components, as well as those companies that provide television services to end-users such as

operators of cable, satellite, IP and wireless networks. To maintain their leadership position in this industry, Complainants have made significant investments in the design, development and licensing of IPG technology for televisions, recorders, set-top boxes and other components protected by the Rovi Patents. A copy of the February 12, 2010, 10-K annual report for Rovi Corporation accompanies this Complaint as Exhibit 40. A copy of Rovi's July 29, 2010, 10-Q quarterly report accompanies this Complaint as Exhibit 41.

11. Complainants' business also depends, in significant part, on protecting its inventions through patents. Complainants' 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. The proposed Respondents' infringement presents significant and ongoing damages to Rovi's business.

B. The Proposed Respondents

12. The proposed Respondents include various commonly owned Toshiba entities that either manufacture, sell for importation into the United States, import, and/or sell within the United States after importation the Accused Toshiba Products. With respect to the Respondents, Rovi alleges the following upon information and belief:

(i) Toshiba Corp. is a corporation organized under the laws of Japan and has its principal place of business at 1-1, Shibaura 1-chome, Minato-ku, Tokyo, 105-8001, Japan. *See* Exhibit 39. Toshiba Corp. is involved in the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of the Accused Toshiba Products.

(ii) Toshiba America, Inc. is a subsidiary of Toshiba Corp. It is incorporated in the state of Delaware and has its principal place of business at 1251 Avenue of the Americas,

Suite 4110, New York, NY 10020. *See* Exhibits 35-37. Toshiba America, Inc. is involved in the sale for importation into the United States, importation, and/or sale within the United States after importation of the Accused Toshiba Products.

(iii) Toshiba America Consumer Products, L.L.C., is a subsidiary of Toshiba America, Inc. It is incorporated in the state of New Jersey and has its principal place of business at 82 Totowa Road, Wayne, NJ 07470. *See* Exhibit 38. Toshiba America Consumer Products, L.L.C., is involved in the sale for importation into the United States, importation, and/or sale within the United States after importation of the Accused Toshiba Products.

(iv) Toshiba America Information Systems, Inc., is a subsidiary of Toshiba America, Inc. It is incorporated in the state of California and has its principal place of business at 9740 Irvine Blvd., Irvine, CA 92618-1697. *See* Exhibits 33-34. Toshiba America Information Systems, Inc. and Toshiba America Consumer Products, L.L.C. announced that Toshiba America Consumer Products, L.L.C. will be integrated as a division of Toshiba America Information Systems, Inc. in a rolling process starting on July 1, 2010. *See* Exhibit 27. As a result of the integration, Toshiba America Information Systems, Inc. will be involved in the sale for importation into the United States, importation, and/or sale within the United States after importation of the Accused Toshiba Products.

13. Examples of the Respondents' products that infringe the Rovi Patents and how they are imported into and sold in the United States are described below in paragraphs 50-70 and 74-101.

14. In addition to the Respondents identified above, the investigation may also reveal other potential respondents. Rovi may request that one or more of these entities be added as additional respondents to the investigation.

C. The Accused Products

15. Generally, the Accused Toshiba Products include Toshiba products with IPG and parental controls technology, including Toshiba televisions and digital video recorders.

16. Toshiba's televisions include hardware for receiving and displaying television programming and software to provide IPG functionality related to the television programming (*e.g.*, displaying program guide data for a television program). All Toshiba televisions are required by law to include a V-Chip to allow parents to block television programming.

Toshiba's televisions also include hardware and software which allows parents to select ratings and content of television programs to block.

17. The 19 accused Toshiba television series include the G300U, RV525R/RV52R, UX600U, XV640U, XV645U, XV648U, ZV650U, SV670U, E200U, AV52R/AV502R, C100U, AV600U, CV100U, LV610U/LV611U/LV612U/LV61K, SL400U, LV505/LV506, UL605, VX700, and WX800 series, each of which contains one or more television models of varying sizes. These Toshiba television series were listed on Toshiba's website in September 2010 and on Toshiba's current website, which was revamped on or around October 1, 2010. *See* Exhibits 44-45.

18. Upon information and belief, all Toshiba television models within a product series (*i.e.*, having product designations with the same suffix, *e.g.*, UX600U) include substantially identical software and functionality with respect to the display of television programming information and setting of parental controls. Televisions in the same series generally share the same product manual. For example, the manual for Toshiba 40UX600U television, where "UX600U" is the suffix, lists the other models in the Toshiba UX600U television series (*i.e.*, the 46UX600U and 55UX600U) on the cover. *See* Exhibit 129. The manuals describe the features

of the covered products in the same manner, thus it is believed that those features are implemented in those products in the same manner.

19. The Accused Toshiba Products also include certain Toshiba digital video recorders. Toshiba's digital video recorders are equipped with a variety of features. Certain digital video recorder models include television tuners, which enables those models to receive television programming and provide IPG functionality related to the television programming (*e.g.*, displaying program guide data for a television program). Certain digital video recorder models also include V-Chip technology, which enables those models to restrict display and/or playback of television programming.

20. The accused Toshiba digital video recorders include the DVR670, DVR620, DR570, DKR40, and DR420 models.

21. The bases for Complainant's conclusions as to infringement are shown in the Claim Charts at Exhibits 46-93.

III. THE TECHNOLOGY AT ISSUE

22. In general, the Rovi Patents relate to IPG and parental controls technology.

23. IPG technology was first developed in the late 1980s and early 1990s and has since continued to evolve to provide users with access to television program information, and in some cases, other features and functionality that facilitate television viewers' use and enjoyment of television programming. For example, an early type of IPG was a full-screen grid guide that displayed television program listings by time and channel in a two-dimensional grid. Using a remote control, a user could interact with the guide to quickly see, for example, what was on television at a later time or on a different channel. While such a grid is one example of an IPG, other formats have been used to provide users with access to program information. For example,

IPGs may take the form of a single channel guide providing access to program information for only a single channel at different times throughout the day. Alternatively, IPGs may be provided in the form of a partial-screen overlay on top of a program that is currently being watched by a user, where such overlays provide information about one program or more than one program at a time. In some instances, additional guide functionalities, such as digital recording and integration of on-demand content, have been added to IPGs. While the particular format, features and functions of an IPG may vary, the focus of IPG development is and has always been on enhancing users' enjoyment of media, whether it be television programming or other related media.

24. The technology of two of the Rovi Patents relate to displaying program guide information over television programming with a perceived partial transparency. This allows a viewer to summon television program information while allowing the viewer to continue to watch the television program “through” the program information display of the program guide.

25. Parental controls technology can be implemented on consumer electronic devices that provide access to content, such as televisions, digital video recorders, and set-top boxes. For television programming, the U.S. Congress mandated the creation of a uniform television ratings system to assist parents in controlling the types of television programming children could watch when it enacted the Telecommunications Act of 1996. The Telecommunications Act gave the broadcasting industry the first opportunity to establish voluntary ratings “of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children.” *See Exhibits 30-31.*

26. The TV Parental Guidelines proposed by the broadcasting industry in January 1997 and revised in September 1997 included six categories of overall program ratings: TV-Y

(All Children), TV-Y7 (Directed to Older Children), TV-G (General Audience), TV-PG (Parental Guidance Suggested), TV-14 (Parents Strongly Cautioned), and TV-M (Mature Audience Only). Each category may include certain types of specific content. For example, TV-14 programs may include “intense violence (V), intense sexual situations (S), strong coarse language (L), or intensely suggestive dialogue (D).” *See* Exhibit 31. The FCC accepted the TV Parental Guidelines in March 1998. *See* Exhibit 32.

27. The Telecommunications Act also required inclusion of a V-Chip in televisions 13 inches and larger to enable viewers to block display of television programs based on the overall program ratings defined in the TV Parental Guidelines (*e.g.*, TV-MA). *See* Exhibit 30. All televisions 13 inches and larger were required to include a V-Chip after January 1, 2000.

28. Parental controls technology provides parents with the ability to manage parental control settings based on overall program ratings and/or specific content specified in the TV Parental Guidelines. Parental controls technology also interacts with the V-Chip installed in almost all televisions sold today to allow or block viewing of television programming. The technology of one of the Rovi Patents relates to providing parents with an intuitive user interface to block viewing of television programs based on program ratings and specific content.

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

A. The '929 Patent

29. United States Patent No. 6,020,929 entitled “Video Mix Program Guide” issued on February 1, 2000. The '929 Patent expires on April 28, 2014 and is based on United States patent application No. 08/974,944, filed on November 20, 1997. The '929 Patent claims priority as a continuation of United States patent application No. 08/599,143, filed Feb. 9, 1996 (now United States Patent No. 5,828,420), which claims priority as a continuation of United States

patent application No. 08/234,060, filed April 28, 1994 (now United States Patent No. 5,502,504). The earliest filing date for the '929 Patent is April 28, 1994. See Exhibits 2-3.

30. The '929 Patent is related to the foreign counterpart patents and patent applications identified below:

| <u>Country</u> | <u>Patent No.</u> | <u>Status</u> |
|----------------------------|-------------------------------|-----------------------------|
| Australia | 688035 | Granted |
| Belgium | 0757873 | Appeal following opposition |
| Brazil | 9507541 | Granted |
| European Patent Convention | 0757873 | Appeal following opposition |
| France | 0757873 | Appeal following opposition |
| Germany | 0757873 | Appeal following opposition |
| Great Britain | 0757873 | Appeal following opposition |
| Italy | 0757873 | Appeal following opposition |
| Japan | 4444080 | Granted |
| Korea | 0336197 | Granted |
| Netherlands | 0757873 | Appeal following opposition |
| Russia | 2154351 | Abandoned |
| Sweden | 95917756.9 | Appeal following opposition |
| <u>Country</u> | <u>Patent Application No.</u> | <u>Status</u> |
| Japan | 7-528422 | Rejected |
| Japan | 2008-182722 | Rejected |
| Japan | 2009-153189 | Pending |
| Japan | 2010-146800 | Pending |

In addition, U.S. Patent Application No. 12/551,502 is related to the '929 Patent and is pending before the U.S. Patent and Trademark Office.

31. United Video Properties, Inc. is the owner of the '929 Patent by way of assignment. The inventors of the '929 Patent, Connie T. Marshall, Thomas R. Lemmons, and

Donald W. Allison, assigned their rights to the '929 Patent to Prevue Networks, Inc. *See* Exhibit 13. Prevue Networks, Inc. changed its name to TV Guide Networks, Inc. and assigned its right to the '929 Patent to United Video Properties, Inc. *See* Exhibit 4.

32. A copy of the '929 Patent has been submitted as Exhibit 2. A copy of the U.S. Patent and Trademark Office file history for the '929 Patent, as well as three (3) copies, as 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 Appendix O.

33. The '929 Patent describes a system and method for displaying interactive program guide data with television programming.¹ At least a portion of the program guide data display has a perceived partial transparency, which allows viewers to partially see television programming through the program guide data display.

34. The '929 Patent has 2 independent claims and 22 dependent claims.

35. The '929 Patent is the subject of certain license agreements. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), a list of the licensees of the '929 Patent is attached as Exhibit 17. In addition, pursuant to 19 C.F.R. § 210.12(a)(9)(iv), copies of each of the license agreements upon which Rovi relies to support a domestic industry are attached as Exhibits 150-198. Rovi maintains a domestic industry with regard to the '929 Patent under 19 U.S.C. § 1337(a)(2) and (3), as described below in paragraphs 102-110 and Exhibit 16.

¹ This non-technical description of the '929 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.

B. The '016 Patent

36. United States Patent No. 6,305,016 entitled “Systems and Methods for Displaying Information with a Perceived Partial Transparency Over a Television Program” issued on October 16, 2001. The '016 Patent expires on April 28, 2014 and is based on United States patent application No. 09/421,953, filed on October 20, 1999. The '016 Patent claims priority as a continuation of the application that led to the issuance of the '929 Patent, the priority claims of which are described above. The earliest filing date for the '016 Patent is April 28, 1994. *See* Exhibits 5-6

37. The '016 Patent is related to the same foreign patents and patent applications identified above in paragraph 30.

38. United Video Properties, Inc. is the owner of the '016 Patent by way of assignment. The inventors of the '016 Patent, Connie T. Marshall, Thomas R. Lemmons, and Donald W. Allison, assigned their rights to the '016 Patent to Prevue Networks, Inc. *See* Exhibit 13. Prevue Networks, Inc. changed its name to TV Guide Networks, Inc. and assigned its right to the '016 Patent to United Video Properties, Inc. *See* Exhibit 7.

39. A copy of the '016 Patent has been submitted as Exhibit 5. A copy of the U.S. Patent and Trademark Office file history for the '016 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 Appendix P.

40. The '016 Patent describes a system for displaying program guide data with a perceived transparency over a selected television channel and methods for simultaneously

presenting information (or alternatively, a computer-generated image using digital data) with a television program, where the information is displayed with a perceived partial transparency.²

41. The '016 Patent has 3 independent claims and 24 dependent claims.

42. The '016 Patent is the subject of certain license agreements. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), a list of the licensees of the '016 Patent is attached as Exhibit 17. In addition, pursuant to 19 C.F.R. § 210.12(a)(9)(iv), copies of each of the license agreements upon which Rovi relies to support a domestic industry are attached as Exhibits 150-198. Rovi maintains a domestic industry with regard to the '016 Patent under 19 U.S.C. § 1337(a)(2) and (3), as described below in paragraphs 102-110 and Exhibit 16.

C. The '523 Patent

43. United States Patent No. 6,701,523 entitled “V-Chip Plus+In-Guide User Interface Apparatus and Method for Programmable Blocking of Television and Other Viewable Programming, such as for Parental Control of a Television Receiver” issued on March 2, 2004. The '523 Patent expires on September 16, 2019 and is based on United States patent application No. 09/398,963, filed on September 16, 1999. The '523 Patent claims priority to United States provisional application No. 60/100,575, filed on September 16, 1998. The earliest filing date for the '523 Patent is September 16, 1998. *See Exhibits 8-9.*

44. The '523 Patent is related to the foreign patents and patent applications identified below:

² This non-technical description of the '016 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.

| <u>Country</u> | <u>Patent No.</u> | <u>Status</u> |
|----------------------------|-------------------------------|---------------|
| China | 99804981 | Granted |
| <u>Country</u> | <u>Patent Application No.</u> | <u>Status</u> |
| Australia | 3064399 | Abandoned |
| Canada | 2321914 | Abandoned |
| European Patent Convention | 1066721 | Withdrawn |
| Japan | 2002-505558 | Rejected |

In addition, U.S. Patent Application No. 10/682,785 is related to the '523 Patent and is pending before the U.S. Patent and Trademark Office.

45. Index Systems, Inc. is the owner of the '523 Patent by way of assignment. The inventors of the '523 Patent, Kenneth Hancock, Thomas Ward, Douglas Macrae, and Jacques Hugon, assigned their rights to the '523 Patent to Index Systems, Inc. *See* Exhibit 10.

46. A copy of the '523 Patent has been submitted as Exhibit 8. A copy of the U.S. Patent and Trademark Office file history for the '523 Patent, as well as three (3) copies, as submitted with this Complaint as Appendix H, and copies of the patents and applicable pages of each technical reference mentioned in the file history are submitted with this Complaint as Appendix Q.

47. The '523 Patent describes a system and method for restricting access to television programs.³ A display depicts a two-dimensional matrix composed of rows and columns of tiles. The rows (or columns) correspond to overall program ratings and the columns (or rows) correspond to specific program content indications. A viewer may use an input (*e.g.*, remote

³ This non-technical description of the '523 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.

control) to highlight and select a tile. Television programs are blocked or allowed for viewing based on the program ratings and specific content indications of the rows and columns corresponding to the highlighted tiles.

48. The '523 Patent includes 2 independent claims and 11 dependent claims.

49. The '523 Patent is the subject of certain license agreements. Pursuant to 19 C.F.R. § 210.12(a)(9)(iii), a list of the licensees of the '523 Patent is attached as Exhibit 17. In addition, pursuant to 19 C.F.R. § 210.12(a)(9)(iv), copies of each of the license agreements upon which Rovi relies to support a domestic industry are attached as Exhibits 150-198. Rovi maintains a domestic industry with regard to the '523 Patent under 19 U.S.C. § 1337(a)(2) and (3), as described below in paragraphs 102-110 and Exhibit 16.

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

50. Upon information and belief, Respondents currently manufacture, sell for importation, import, and/or sell within the United States after importation products containing interactive program guide (IPG) and parental controls technology that infringe the Rovi Patents either literally or under the doctrine of equivalents. These activities by Respondents constitute direct infringement, pursuant to 35 U.S.C. § 271(a).

51. Upon information and belief, the Respondents manufacture, sell for importation, import, and/or sell within the United States after importation products containing interactive program guide (IPG) and parental controls technology that constitute a material part of the inventions claimed in the Rovi Patents, knowing the same to be especially made and/or adapted for use in an infringement of the Rovi Patents, and not staple articles of commerce suitable for substantial non-infringing use. The Respondents, therefore, are contributory infringers, pursuant to 35 U.S.C. § 271(c).

52. The Respondents were made aware of the Rovi Patents at least as early as the filing of this Complaint. In addition, 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 Respondents of the Rovi Patents, should the Respondents contend that they did not previously have knowledge of the Rovi Patents. Upon information and belief, the Respondents actively and knowingly aid, abet, and induce infringement of Rovi Patents by the Respondents' customers, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

A. Infringement of the '929 Patent

53. Upon information and belief, the Respondents infringe the '929 Patent because they manufacture, sell for importation into the United States, import and/or sell within the United States after importation products that infringe the '929 Patent. See Exhibits 46-57 for claim charts showing infringement of the infringing products.

54. The table below identifies the Toshiba products accused of infringing the '929 Patent and the specific claims the products are believed to infringe.

| <u>Accused Product</u> | <u>Asserted '929 Patent Claims</u> |
|-----------------------------|------------------------------------|
| RV525R/RV52R | 1, 13 |
| XV640U | 1, 13 |
| XV645U | 1-7, 13-19 |
| XV648U | 1-7, 13-19 |
| ZV650U | 1-7, 13-19 |
| SV670U | 1-7, 13-19 |
| AV52R/AV502R | 1, 13 |
| AV600U | 1, 13 |
| LV610U/LV611U/LV612U/ LV61K | 1, 13 |

| <u>Accused Product</u> | <u>Asserted '929 Patent Claims</u> |
|------------------------|------------------------------------|
| LV505/LV506 | 1, 13 |
| DVR670 | 1, 13 |
| DR570 | 1, 13 |

55. Upon information and belief, the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of Toshiba products infringe literally or under the doctrine of equivalents claims of the '929 Patent, as identified in the chart above in paragraph 54. Claim charts reading the asserted claims of the '929 Patent on these Toshiba products are attached as Exhibits 46-57.

56. Upon information and belief, the Respondents directly infringe the asserted claims of the '929 Patent by currently 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 '929 Patent, pursuant to 35 U.S.C. § 271(a).

57. Upon information and belief, the Respondents manufacture, sell for importation, import, and/or sell within the United States after importation products that constitute a material part of the inventions claimed in the asserted claims of the '929 Patent, knowing the same to be especially made and/or adapted for use in an infringement of the asserted claims of the '929 Patent, and not staple articles of commerce suitable for substantial non-infringing use. The Respondents, therefore, are contributory infringers, pursuant to 35 U.S.C. § 271(c).

58. The Respondents were made aware of the '929 Patent at least as early as the filing of this Complaint. In addition, 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 Respondents of the '929 Patent, should the Respondents contend that they did not previously have knowledge of the patent.

Upon information and belief, the Respondents actively and knowingly aid, abet, and induce infringement of the asserted claims of the '929 Patent by the Respondents' customers, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

B. Infringement of the '016 Patent

59. Upon information and belief, the Respondents infringe the asserted claims of the '016 Patent because they manufacture, sell for importation into the United States, import and/or sell within the United States after importation a product that infringes the '016 Patent. *See* Exhibits 58-69 for claim charts showing infringement of the infringing products.

60. The table below identifies the Toshiba products accused of infringing the '016 Patent and the specific claims the products are believed to infringe.

| <u>Accused Product</u> | <u>Asserted '016 Patent Claims</u> |
|-----------------------------|------------------------------------|
| RV525R/RV52R | 1-3, 7, 13-16, 20, 26, 27 |
| XV640U | 1-3, 7, 13-16, 20, 26, 27 |
| XV645U | 1-3, 7-11, 13-16, 20-24, 26, 27 |
| XV648U | 1-3, 7-11, 13-16, 20-24, 26, 27 |
| ZV650U | 1-3, 7-11, 13-16, 20-24, 26, 27 |
| SV670U | 1-3, 7-11, 13-16, 20-24, 26, 27 |
| AV52R/AV502R | 1-3, 7, 13-16, 20, 26, 27 |
| AV600U | 1-3, 7, 13-16, 20, 26, 27 |
| LV610U/LV611U/LV612U/ LV61K | 1-3, 7, 13-16, 20, 26, 27 |
| LV505/LV506 | 1-3, 7, 13-16, 20, 26, 27 |
| DVR670 | 1-3, 7, 13-16, 20, 26, 27 |
| DR570 | 1-3, 7, 13-16, 20, 26, 27 |

61. Upon information and belief, the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of Toshiba products infringe literally or under the doctrine of equivalents claims of the '016 Patent, as

identified in the chart above in paragraph 60. Claim charts reading the claims of the '016 Patent on these Toshiba products are attached as Exhibits 58-69.

62. Upon information and belief, the Respondents directly infringe the asserted claims of the '016 Patent by currently 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 '016 Patent, pursuant to 35 U.S.C. § 271(a).

63. Upon information and belief, the Respondents manufacture, sell for importation, import, and/or sell within the United States after importation products that constitute a material part of the inventions claimed in the asserted claims of the '016 Patent, knowing the same to be especially made and/or adapted for use in an infringement of the '016 Patent, and not staple articles of commerce suitable for substantial non-infringing use. The Respondents, therefore, are contributory infringers, pursuant to 35 U.S.C. § 271(c).

64. The Respondents were made aware of the '016 Patent at least as early as the filing of this Complaint. In addition, 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 Respondents of the '016 Patent, should the Respondents contend that they did not previously have knowledge of the patent. Upon information and belief, the Respondents actively and knowingly aid, abet, and induce infringement of the '016 Patent by the Respondents' customers, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

C. Infringement of the '523 Patent

65. Upon information and belief, the Respondents infringe the asserted claims of the '523 Patent because they manufacture, sell for importation into the United States, import and/or

sell within the United States after importation a product that infringes the '523 Patent. [See Exhibits 70-93 for claim charts showing infringement of the infringing products.]

66. The table below identifies the Toshiba products accused of infringing the '523 Patent and the specific claims the products are believed to infringe.

| <u>Accused Product</u> | <u>Asserted '523 Patent Claims</u> |
|-----------------------------|------------------------------------|
| G300U | 1-4, 7, 8, 10-12 |
| RV525R/RV52R | 1-4, 7, 8, 10-12 |
| UX600U | 1-4, 7, 8, 10-12 |
| XV640U | 1-4, 7, 8, 10-12 |
| XV645U | 1-4, 7, 8, 10-12 |
| XV648U | 1-4, 7, 8, 10-12 |
| ZV650U | 1-4, 7, 8, 10-12 |
| SV670U | 1-4, 7, 8, 10-12 |
| E200U | 1-4, 7, 8, 10-12 |
| AV52R/AV502R | 1-4, 7, 8, 10-12 |
| C100U | 1-4, 7, 8, 10-12 |
| AV600U | 1-4, 7, 8, 10-12 |
| CV100U | 1-4, 7, 8, 10-12 |
| LV610U/LV611U/LV612U/ LV61K | 1-4, 7, 8, 10-12 |
| SL400U | 1-4, 7, 8, 10-12 |
| LV505/LV506 | 1-4, 7, 8, 10-12 |
| UL605 | 1-4, 7, 8, 10-12 |
| WX800 | 1-4, 7, 8, 10-12 |
| VX700 | 1-4, 7, 8, 10-12 |
| DVR670 | 1-4, 7, 8, 10-12 |
| DVR620 | 1-4, 7, 8, 10-12 |
| DKR40 | 1-4, 7, 8, 10-12 |
| DR570 | 1-4, 7, 8, 10-12 |
| DR420 | 1-4, 7, 8, 10-12 |

67. Upon information and belief, the manufacture, sale for importation into the United States, importation, and/or sale within the United States after importation of Toshiba products infringe literally or under the doctrine of equivalents claims of the '523 Patent, as identified in the chart above in paragraph 66. Claim charts applying claims of the '523 Patent to these Toshiba products are attached as Exhibits 70-93.

68. Upon information and belief, the Respondents directly infringe the asserted claims of the '523 Patent by currently 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 '523 Patent, pursuant to 35 U.S.C. § 271(a).

69. Upon information and belief, the Respondents manufacture, sell for importation, import, and/or sell within the United States after importation products that constitute a material part of the inventions claimed in the asserted claims of the '523 Patent, knowing the same to be especially made and/or adapted for use in an infringement of the '523 Patent, and not staple articles of commerce suitable for substantial non-infringing use. The Respondents, therefore, are contributory infringers, pursuant to 35 U.S.C. § 271(c).

70. The Respondents were made aware of the '523 Patent at least as early as the filing of this Complaint. In addition, 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 Respondents of the '523 Patent, should the Respondents contend that they did not previously have knowledge of the patent. Upon information and belief, the Respondents actively and knowingly aid, abet, and induce infringement of the '523 Patent by the Respondents' customers, which activities constitute active inducement to infringe under 35 U.S.C. § 271(b).

VI. RELATED LITIGATIONS AND REEXAMINATION REQUESTS

A. Related Litigation

71. While the Rovi Patents have not been the subject of any other U.S. litigation, the counterpart European Patent (EP0757873) has successfully been litigated in Europe, resulting in a judgment of infringement and several Europe-wide licenses.⁴ In particular, in *Starsight Telecast, Inc. & United Video Properties, Inc. v. Sharp Electronics GmbH*, Mannheim District Court, Case No. 7 O 313/07 (2007), Rovi received a judgment of infringement, which led to a settlement with Sharp Electronics GmbH. In *Starsight Telecast, Inc. & United Video Properties, Inc. v. Toshiba Europe GmbH*, Mannheim District Court, Case No. 7 O 347/08 (2008), Toshiba Europe GmbH agreed to take a Europe-wide license to settle the matter. In *Starsight Telecast, Inc. & United Video Properties, Inc. v. TechniSat Digital GmbH*, Mannheim District Court, Case No. 7 O 9/09 (2009), TechniSat agreed to take a Europe-wide license to settle the matter.

B. Related Reexaminations

72. A request for *ex parte* reexamination of the '929 Patent was filed on September 15, 2010 by a third party requester, a copy of the request and supporting documents are submitted as Exhibit 42. A request for *ex parte* reexamination of the '016 Patent was filed on September 16, 2010 by a third party requester, a copy of the request and supporting documents are submitted as Exhibit 43. To date, the U.S. Patent and Trademark Office has not ruled on either of the reexamination requests.

73. In addition, a request for *ex parte* reexamination of U.S. Patent No. 5,828,420 was filed on September 14, 2010 by a third party requester. The '420 Patent, while not asserted in

⁴ EP0757873 has since been revoked by the European Patent Office following opposition proceedings, the decision of which is currently on appeal.

this action, is a parent of the '929 and '016 Patents. To date, the U.S. Patent and Trademark Office has not ruled on the reexamination request.

VII. INSTANCES OF UNFAIR IMPORTATION AND SALE AND HARMONIZED TARIFF SCHEDULE INFORMATION

74. Upon information and belief, the Respondents are engaged in the design, manufacture, test and assembly of the Accused Toshiba Products at their foreign facilities. The Respondents then sell for importation into the United States, import, and/or sell within the United States after importation those products. Respondents' imported products are widely available for purchase in the United States.

75. As described in paragraphs 77-100, at least the following infringing products 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. Toshiba G300U Series of Televisions (*see* paragraph 77 and Exhibit 103);
- b. Toshiba RV525R/RV52R Series of Televisions (*see* paragraph 78 and Exhibit 104);
- c. Toshiba UX600U Series of Televisions (*see* paragraph 79 and Exhibit 106);
- d. Toshiba XV640U Series of Televisions (*see* paragraph 80 and Exhibit 111);
- e. Toshiba UV645U Series of Televisions (*see* paragraph 81 and Exhibit 107);
- f. Toshiba XV648U Series of Televisions (*see* paragraph 82 and Exhibit 108);
- g. Toshiba ZV650U Series of Televisions (*see* paragraph 83 and Exhibit 113);
- h. Toshiba SV670U Series of Televisions (*see* paragraph 84 and Exhibit 109);
- i. Toshiba E200U Series of Televisions (*see* paragraph 85 and Exhibit 102);

- j. Toshiba AV52R/AV502R Series of Televisions (*see* paragraph 86 and Exhibit 101);
- k. Toshiba C100U Series of Televisions (*see* paragraph 87 and Exhibit 97);
- l. Toshiba AV600U Series of Televisions (*see* paragraph 88 and Exhibit 96);
- m. Toshiba CV100U Series of Televisions (*see* paragraph 89 and Exhibit 98);
- n. Toshiba LV610U/LV611U/LV612U/LV61K Series of Televisions (*see* paragraph 90 and Exhibit 100);
- o. Toshiba SL400U Series of Televisions (*see* paragraph 91 and Exhibit 99);
- p. Toshiba LV505/LV506 Series of Televisions (*see* paragraph 92 and Exhibits 94-95);
- q. Toshiba UL605 Series of Televisions (*see* paragraph 93 and Exhibit 105);
- r. Toshiba WX800 Series of Televisions (*see* paragraph 94 and Exhibit 112);
- s. Toshiba VX700 Series of Televisions (*see* paragraph 95 and Exhibit 110);
- t. Toshiba DKR40 Series of Digital Video Recorders (*see* paragraph 96 and Exhibit 114);
- u. Toshiba DR570 Series of Digital Video Recorders (*see* paragraph 97 and Exhibit 116); and
- v. Toshiba DVR620 Series of Digital Video Recorders (*see* paragraph 98 and Exhibit 117);
- w. Toshiba DVR670 Series of Digital Video Recorders (*see* paragraph 99 and Exhibit 118);
- x. Toshiba DR420 Series of Digital Video Recorders (*see* paragraph 100 and Exhibit 115).

76. Rovi cannot at this time identify all devices sold for importation into the United States, imported, and/or sold within the United States after importation that infringe the Rovi Patents and may supplement this information and may need to add respondents in the future.

77. On information and belief, the Toshiba G300U series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31,

2010, Rovi purchased in the United States a Toshiba 40G300U television that was imported into the United States. *See* Exhibit 103. The Toshiba 40G300U television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 103 includes a copy of a receipt showing the purchase of the Toshiba 40G300U television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 40G300U television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 79. On information and belief, all of the Toshiba G300U series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 128. Thus, on information and belief, all of the Toshiba G300U series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 79.

78. On information and belief, the Toshiba RV525R/RV52R series of televisions are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 40RV525R television that was imported into the United States. *See* Exhibit 104. The Toshiba 40RV525R television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 104 includes a copy of a receipt showing the purchase of the Toshiba 40RV525R television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 40RV525R television was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 50, 62 and 78. On

information and belief, all of the Toshiba RV525R/RV52R series of televisions use the inventions described and claimed in claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 127. Thus, on information and belief, all of the Toshiba RV525R/RV52R series of televisions infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 50, 62 and 78.

79. On information and belief, the Toshiba UX600U series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 40UX600U television that was imported into the United States. *See* Exhibit 106. On information and belief, the Toshiba 40UX600U television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 106 includes a copy of a receipt showing the purchase of the Toshiba 40UX600U television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 40UX600U television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 80. On information and belief, all of the Toshiba UX600U series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 129. Thus, on information and belief, all of the Toshiba UX600U series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 80.

80. On information and belief, the Toshiba XV640U series of televisions are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20,

26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 46XV640U television that was imported into the United States. *See* Exhibit 111. On information and belief, the Toshiba 46XV640U television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 111 includes a copy of a receipt showing the purchase of the Toshiba 46XV640U television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 46XV640U television was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 51, 63 and 81. On information and belief, all of the Toshiba XV640U series of televisions use the inventions described and claimed in claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 130. Thus, on information and belief, all of the Toshiba XV640U series of televisions infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 51, 63 and 81.

81. On information and belief, the Toshiba XV645U series of televisions are imported into the United States and infringe claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 40XV645U television that was imported into the United States. *See* Exhibit 107. On information and belief, the Toshiba 40XV645U television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 107 includes a copy of a receipt showing the purchase of the Toshiba 40XV645U

television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 40XV645U television was evaluated and found to infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 52, 64 and 82. On information and belief, all of the Toshiba XV645U series of televisions use the inventions described and claimed in claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 131. Thus, on information and belief, all of the Toshiba XV645U series of televisions infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 52, 64 and 82.

82. On information and belief, the Toshiba XV648U series of televisions are imported into the United States and infringe claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 40XV648U television that was imported into the United States. *See* Exhibit 108. On information and belief, the Toshiba 40XV648U television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 108 includes a copy of a receipt showing the purchase of the Toshiba 40XV648U television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 40XV648U television was evaluated and found to infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to

the Complaint. *See* Exhibits 53,65 and 83. On information and belief, all of the Toshiba XV648U series of televisions use the inventions described and claimed in claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 132. Thus, on information and belief, all of the Toshiba XV648U series of televisions infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 53,65 and 83.

83. On information and belief, the Toshiba ZV650U series of televisions are imported into the United States and infringe claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 47ZV650U television that was imported into the United States. *See* Exhibit 113. On information and belief, the Toshiba 47ZV650U television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 113 includes a copy of a receipt showing the purchase of the Toshiba 47ZV650U television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 47ZV650U television was evaluated and found to infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 54, 66 and 84. On information and belief, all of the Toshiba ZV650U series of televisions use the inventions described and claimed in claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 133. Thus, on information and belief, all of the

Toshiba ZV650U series of televisions infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 54, 66 and 84.

84. On information and belief, the Toshiba SV670U series of televisions are imported into the United States and infringe claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 46SV670U television that was imported into the United States. *See* Exhibit 109. On information and belief, the Toshiba 46SV670U television was manufactured in Mexico and imported into the United States. *Id.* Exhibit 109 includes a copy of a receipt showing the purchase of the Toshiba 46SV670U television and a picture of the back of the product indicating that it was made in Mexico. The Toshiba 46SV670U television was evaluated and found to infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 55, 67 and 85. On information and belief, all of the Toshiba SV670U series of televisions use the inventions described and claimed in claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 134. Thus, on information and belief, all of the Toshiba SV670U series of televisions infringe, either directly or indirectly, claims 1-7 and 13-19 of the '929 Patent, claims 1-3, 7-11, 13-16, 20-24, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 55, 67 and 85.

85. On information and belief, the Toshiba E200U series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 32E200U television that was imported into the United States. *See* Exhibit 102. The Toshiba 32E200U television was manufactured in China and imported into the United States. *Id.* Exhibit 102 includes a copy of a receipt showing the purchase of the Toshiba 32E200U television and a picture of the back of the product indicating that it was made in China. The Toshiba 32E200U television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 77. On information and belief, all of the Toshiba E200U series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 126. Thus, on information and belief, all of the Toshiba E200U series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 77.

86. On information and belief, the Toshiba AV52R/AV502R series of televisions are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On September 1, 2010, Rovi purchased in the United States a Toshiba 26AV52R television that was imported into the United States. *See* Exhibit 101. On information and belief, the Toshiba 26AV52R television was manufactured in China and imported into the United States. *Id.* Exhibit 101 includes a copy of a receipt showing the purchase of the Toshiba 26AV52R television and a picture of the back of the product indicating that it was made in China. The Toshiba 26AV52R television was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and

claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 49, 61 and 76. On information and belief, all of the Toshiba AV52R/AV502R series of televisions use the inventions described and claimed in claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 125. Thus, on information and belief, all of the Toshiba AV52R/AV502R series of televisions infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 49, 61 and 76.

87. On information and belief, the Toshiba C100U series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 19C100U television that was imported into the United States. *See* Exhibit 97. The Toshiba 19C100U television was manufactured in China and imported into the United States. *Id.* Exhibit 97 includes a copy of a receipt showing the purchase of the Toshiba 19C100U television and a picture of the back of the product indicating that it was made in China. The Toshiba 19C100U television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 72. On information and belief, all of the Toshiba C100U series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 121. Thus, on information and belief, all of the Toshiba C100U series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 72.

88. On information and belief, the Toshiba AV600U series of televisions are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 19AV600U television that was imported into the United States. *See* Exhibit 96. On information and belief, the Toshiba 19AV600U television was manufactured in China and imported into the United States. *Id.* Exhibit 96 includes a copy of a receipt showing the purchase of the Toshiba 19AV600U television and a picture of the back of the product indicating that it was made in China. The Toshiba 19AV600U television was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 47, 59 and 71. On information and belief, all of the Toshiba AV600U series of televisions use the inventions described and claimed in claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 120. Thus, on information and belief, all of the Toshiba AV600U series of televisions infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 47, 59 and 71.

89. On information and belief, the Toshiba CV100U series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 19CV100U television that was imported into the United States. *See* Exhibit 98. The Toshiba 19CV100U television was manufactured in China and imported into the United States. *Id.* Exhibit 98 includes a copy of a receipt showing

the purchase of the Toshiba 19CV100U television and a picture of the back of the product indicating that it was made in China. The Toshiba 19CV100U television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 73. On information and belief, all of the Toshiba CV100U series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 122. Thus, on information and belief, all of the Toshiba CV100U series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 73.

90. On information and belief, the Toshiba LV610U/ LV611U/ LV612U/ LV61K series of televisions are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On September 3, 2010, Rovi purchased in the United States a Toshiba 22LV610U television that was imported into the United States. *See* Exhibit 100. On information and belief, the Toshiba 22LV610U television was manufactured in China and imported into the United States. *Id.* Exhibit 100 includes a copy of a receipt showing the purchase of the Toshiba 22LV610U television and a picture of the back of the product indicating that it was made in China. The Toshiba 22LV610U television was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 48, 60 and 74. On information and belief, all of the Toshiba LV610U/ LV611U/ LV612U/ LV61K series of televisions use the inventions described and claimed in claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27

of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 123. Thus, on information and belief, all of the Toshiba LV610U/ LV611U/ LV612U/ LV61K series of televisions infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 48, 60 and 74.

91. On information and belief, the Toshiba SL400U series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On August 31, 2010, Rovi purchased in the United States a Toshiba 19SL400U television that was imported into the United States. *See* Exhibit 99. The Toshiba 19SL400U television was manufactured in China and imported into the United States. *Id.* Exhibit 99 includes a copy of a receipt showing the purchase of the Toshiba 19SL400U television and a picture of the back of the product indicating that it was made in China. The Toshiba 19SL400U television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 75. On information and belief, all of the Toshiba SL400U series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 124. Thus, on information and belief, all of the Toshiba SL400U series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 75.

92. On information and belief, the Toshiba LV505/LV506 series of televisions are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. On September 8, 2010, Rovi purchased in the United States a Toshiba 15LV506 television that was

imported into the United States. *See* Exhibit 95. On information and belief, the Toshiba 15LV506 television was manufactured in China and imported into the United States. *Id.* Exhibit 95 includes a copy of a receipt showing the purchase of the Toshiba 15LV506 television and a picture of the back of the product indicating that it was made in China. The Toshiba 15LV506 television was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 46, 58 and 70. On September 14, 2010, Rovi purchased in the United States a Toshiba 15LV505 television that was imported into the United States. *See* Exhibit 94. On information and belief, the Toshiba 15LV505 television was manufactured in China and imported into the United States. *Id.* Exhibit 94 includes a copy of a receipt showing the purchase of the Toshiba 15LV505 television and a picture of the back of the product indicating that it was made in China. The Toshiba 15LV505 television was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 46, 58 and 70. On information and belief, all of the Toshiba LV505/LV506 series of televisions use the inventions described and claimed in claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 119. Thus, on information and belief, all of the Toshiba LV505/LV506 series of televisions infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26 and 27 of the '016 Patent and claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 46, 58 and 70.

93. On information and belief, the Toshiba UL605 series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On September 22, 2010, Rovi purchased in the United States a Toshiba 40UL605 television that was imported into the United States. *See* Exhibit 105. On information and belief, the Toshiba 40UL605 television was manufactured in China and imported into the United States. *Id.* Exhibit 105 includes a copy of a receipt showing the purchase of the Toshiba 40UL605 television and a picture of the back of the product indicating that it was made in China. The Toshiba 40UL605 television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 86. On information and belief, all of the Toshiba UL605 series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 135. Thus, on information and belief, all of the Toshiba UL605 series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 86.

94. On information and belief, the Toshiba WX800 series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On September 29, 2010, Rovi purchased in the United States a Toshiba WX800 television that was imported into the United States. *See* Exhibit 112. On information and belief, the Toshiba WX800 television was manufactured in China and imported into the United States. *Id.* Exhibit 112 includes a copy of a receipt showing the purchase of the Toshiba WX800 television and a picture of the back of the product indicating that it was made in China. The Toshiba WX800 television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 87. On

information and belief, all of the Toshiba WX800 series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 136. Thus, on information and belief, all of the Toshiba WX800 series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 87.

95. On information and belief, the Toshiba VX700 series of televisions are imported into the United States and infringe claims 1-4, 7, 8 and 10-12 of the '523 Patent. On September 29, 2010, Rovi purchased in the United States a Toshiba VX700 television that was imported into the United States. *See* Exhibit 110. On information and belief, the Toshiba VX700 television was manufactured in China and imported into the United States. *Id.* Exhibit 110 includes a copy of a receipt showing the purchase of the Toshiba VX700 television and a picture of the back of the product indicating that it was made in China. The Toshiba VX700 television was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 88. On information and belief, all of the Toshiba VX700 series of televisions use the inventions described and claimed in claims 1-4, 7, 8 and 10-12 of the '523 Patent. *See* Exhibit 137. Thus, on information and belief, all of the Toshiba VX700 series of televisions infringe, either directly or indirectly, claims 1-4, 7, 8 and 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 88.

96. On information and belief, the Toshiba DKR40 series of digital video recorder devices are imported into the United States and infringe claims 1-4, 7, 8, 10-12 of the '523 Patent. On September 17, 2010, Rovi purchased in the United States a Toshiba DKR40 digital video recorder that was imported into the United States. *See* Exhibit 114. The Toshiba DKR40

digital video recorder was manufactured in China and imported into the United States. *Id.* Exhibit 114 includes a copy of a receipt showing the purchase of the Toshiba DKR40 digital video recorder and a picture of the back of the product indicating that it was made in China. The Toshiba DKR40 digital video recorder was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 92. On information and belief, all of the Toshiba DKR40 series of digital video recorder devices use the inventions described and claimed in claims 1-4, 7, 8, 10-12 of the '523 Patent. *See* Exhibit 141. Thus, on information and belief, all of the Toshiba DKR40 series of digital video recorder devices infringe, either directly or indirectly, claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 92.

97. On information and belief, the Toshiba DR570 series of digital video recorder devices are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent. On September 15, 2010, Rovi purchased in the United States a Toshiba DR570 digital video recorder that was imported into the United States. *See* Exhibit 116. The Toshiba DR570 digital video recorder was manufactured in China and imported into the United States. *Id.* Exhibit 116 includes a copy of a receipt showing the purchase of the Toshiba DR570 digital video recorder and a picture of the back of the product indicating that it was made in China. The Toshiba DR570 digital video recorder was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 57, 69 and 90. On information and belief, all of the Toshiba DR570 series of digital video recorder devices use the inventions described and claimed in claims 1 and 13 of the '929

Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent. *See* Exhibit 139. Thus, on information and belief, all of the Toshiba DR570 series of digital video recorder devices infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 57, 69 and 90.

98. On information and belief, the Toshiba DVR620 series of digital video recorder devices are imported into the United States and infringe claims 1-4, 7, 8, 10-12 of the '523 Patent. On September 17, 2010, Rovi purchased in the United States a Toshiba DVR620 digital video recorder that was imported into the United States. *See* Exhibit 117. The Toshiba DVR620 digital video recorder was manufactured in China and imported into the United States. *Id.* Exhibit 117 includes a copy of a receipt showing the purchase of the Toshiba DVR620 digital video recorder and a picture of the back of the product indicating that it was made in China. The Toshiba DVR620 digital video recorder was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 91. On information and belief, all of the Toshiba DVR620 series of digital video recorder devices use the inventions described and claimed in claims 1-4, 7, 8, 10-12 of the '523 Patent. *See* Exhibit 140. Thus, on information and belief, all of the Toshiba DVR620 series of digital video recorder devices infringe, either directly or indirectly, claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 91.

99. On information and belief, the Toshiba DVR670 series of digital video recorder devices are imported into the United States and infringe claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent.

On September 17, 2010, Rovi purchased in the United States a Toshiba DVR670 digital video recorder that was imported into the United States. *See* Exhibit 118. The Toshiba DVR670 digital video recorder was manufactured in China and imported into the United States. *Id.* Exhibit 118 includes a copy of a receipt showing the purchase of the Toshiba DVR670 digital video recorder and a picture of the back of the product indicating that it was made in China. The Toshiba DVR670 digital video recorder was evaluated and found to infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 56, 68 and 89. On information and belief, all of the Toshiba DVR670 series of digital video recorder devices use the inventions described and claimed in claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent. *See* Exhibit 138. Thus, on information and belief, all of the Toshiba DVR670 series of digital video recorder devices infringe, either directly or indirectly, claims 1 and 13 of the '929 Patent, claims 1-3, 7, 13-16, 20, 26, 27 of the '016 Patent, and claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Charts attached to the Complaint. *See* Exhibits 56, 68 and 89.

100. On information and belief, the Toshiba DR420 series of digital video recorder devices are imported into the United States and infringe claims 1-4, 7, 8, 10-12 of the '523 Patent. On September 17, 2010, Rovi purchased in the United States a Toshiba DR420 digital video recorder that was imported into the United States. *See* Exhibit 115. The Toshiba DR420 digital video recorder was manufactured in China and imported into the United States. *Id.* Exhibit 115 includes a copy of a receipt showing the purchase of the Toshiba DR420 digital video recorder and a picture of the back of the product indicating that it was made in China. The

Toshiba DR420 digital video recorder was evaluated and found to infringe, either directly or indirectly, claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 93. On information and belief, all of the Toshiba DR420 series of digital video recorder devices use the inventions described and claimed in claims 1-4, 7, 8, 10-12 of the '523 Patent. *See* Exhibit 142. Thus, on information and belief, all of the Toshiba DR420 series of digital video recorder devices infringe, either directly or indirectly, claims 1-4, 7, 8, 10-12 of the '523 Patent as shown in the Claim Chart attached to the Complaint. *See* Exhibit 93.

101. The Respondents' televisions and digital video recorders are believed to fall within, at least, Heading Nos. 8525 and 8528 of the Harmonized Tariff Schedule of the United States ("HTS"). More specifically, the televisions and digital video recorders may be classified under Subheading Nos. 8525.50.10, 8525.50.30, 8528.12.92, 8528.49.70, 8528.59, 8528.71, 8528.72 and/or 8529.90.13. These HTS numbers are intended for illustration only and are not intended to be restrictive of the devices or products accused.

VIII. LICENSING AND DOMESTIC INDUSTRY

102. Rovi maintains a domestic industry under 19 U.S.C. § 1337(a)(3). In particular, a domestic industry is present for the Rovi Patents as a result of Rovi's substantial investment in its exploitation of the Rovi Patents, including licensing efforts. Section 1337(a)(3)(C). In addition, several licensees of the Rovi Patents practice the inventions claimed in the Rovi Patents, and have made and/or are making significant investment in labor or capital in the United States. Section 1337(a)(3)(A)-(C).

A. Rovi's Substantial Investment in Exploitation, Enforcement and Licensing Satisfies the Domestic Industry Requirement

103. Rovi, directly and through its subsidiaries, is actively engaged and makes substantial investments in licensing and enforcing the U.S. patents contained in its patent

portfolio, including the Rovi patents. In fact, Rovi has a long a successful history of patent licensing, including licenses to some of the world's leading consumer electronics manufacturers and video service providers. As a result, a domestic industry exists as a result of Rovi's substantial investment in the exploitation of the Rovi Patents through its licensing and enforcement operations. *See Exhibit 16.*

104. Rovi licenses its patent portfolio to many of the leading consumer electronics and television service provider companies in the United States, including numerous competitors of Respondents. *See Exhibit 16.* The licensing revenues received by Rovi represent a substantial return on Rovi's investment in the enforcement and licensing of its patent rights.

105. Rovi employs full-time legal and technical staff in the United States to perform market analysis, identify potential licensing activities, and engage in licensing and enforcement activities. *See Exhibit 16.* Rovi also employs several staff members outside of the United States, who are also involved in licensing activities. Rovi maintains ten offices across the United States and the U.S. based employees described above are located in Rovi's offices in Santa Clara and Burbank, California. Rovi's salary expenses for these employees is substantial. *See Exhibit 16.* Through the expenditure of compensation and benefits for its personnel responsible for licensing activities, Rovi invests a significant amount of money in support of its licensing activities. *See Exhibit 16.*

106. The Rovi Patents play an important role in Rovi's licensing efforts. The Rovi Patents are specifically identified in numerous license agreements. *See Exhibit 16.* In several instances, Rovi emphasized the importance of the Rovi Patents in presentations sent to potential licensees in connection with licensing negotiations, which resulted in several licenses. *See Exhibit 16.* Rovi has also issued cease and desist letters that specifically mentioned the Rovi

Patents, further establishing that the Rovi Patents play a fundamental role in Rovi's patent portfolio. *See* Exhibit 16

107. In relying on licensing activities to establish domestic industry under Subsection 1337(a)(3)(C), Rovi does not need to satisfy the technical prong. *See Certain Semiconductor Chips with Minimized Chip Package Size and Products Containing Same*, Inv. No. 337-TA-432, Order No. 13, Initial Determination (Jan. 24, 2001).

B. The Activities of Rovi's Licensees Are Also Sufficient to Satisfy the Domestic Industry Requirement

108. While Rovi can establish domestic industry based on its licensing activities alone, Rovi can also establish domestic industry based on the activities of two illustrative licensees, both of whom invest in labor and capital in the United States and sell products that practice at least one claim of the Asserted Patents.

109. One of Rovi's licensees is a major U.S.-based consumer electronic manufacturer and distributor. *See* Exhibit 16. This licensee has made significant investments in labor and capital, a substantial portion of which relates to the products that practice the claims of the Rovi Patents. *Id.* This licensee sells products that practice at least one claim of each of the Rovi Patents, as shown in the claim charts at Exhibits 18-20. This licensee has been successful in selling its licensed products – the volume of sales and amount of revenue has exceeded market expectations over the past few years. *See* Exhibit 16.

110. Another licensee is a major international electronics manufacturer with a large U.S. presence. *Id.* This licensee has made a significant investment in labor and capital, a substantial portion of which relates to the products that practice the claims of the Rovi Patents. *Id.* This licensee sells products that practice at least one claim of each of the Rovi Patents, as

shown in the claim charts at Exhibits 21-26. This licensee has a large U.S. market share based on sales of its licensed products. *See* Exhibit 16.

IX. GENERAL EXCLUSION ORDER

111. Sales of Toshiba's infringing products containing IPG and parental controls technology create a pattern of violation of 19 U.S.C. § 1337. It is difficult to identify all the sources of infringing products, which may include more than just televisions and digital video recorders.

112. Upon information of belief, there is a pattern of unauthorized use of the inventions described and claimed in the Rovi Patents. A substantial number of entities worldwide utilize the inventions claimed in the Rovi Patents. These entities cause such goods to be sold for importation into the United States, imported, and/or sold after importation into the United States. Rovi has identified in this Complaint the Toshiba entities for which it has substantial evidence of sale for importation, importation, or sale after importation into the United States of such products. Upon information and belief, other entities are capable of manufacturing products as described and claimed in the Rovi Patents and then selling them for importation, importing them, or selling them after importation into the United States.

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

114. Upon information and belief, there is a worldwide supply of infringing products. As a result, such products can be made anywhere in the world.

115. Labor costs are a significant part of the overall cost of production of products that infringe the Rovi Patents. Labor costs in the markets from which the infringing products are largely derived (*e.g.*, China, Mexico) 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.

116. Marketing and distribution networks for infringing products are available to foreign manufacturers. Many large distributors in the United States can and already do handle such products.

117. In addition, infringing products, including those of Respondents, are regularly offered for sale and sold online through Internet sources. In addition to Respondents' websites, such products are offered for sale and sold via the websites of distributors and retailers.

118. The manufacturers of infringing products identified in this Complaint, as well as other existing and potential manufacturers of infringing products, 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.

119. For the foregoing reasons, a General Exclusion Order is necessary to protect Rovi's intellectual property rights under the Rovi 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 certain products containing IPG and parental controls technology that infringe one or more claims of Rovi'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 products containing IPG and parental controls technology as described and claimed in Rovi's Patents;

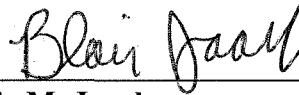
D. Issue a permanent Limited Exclusion Order specifically directed to each named Respondent, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States products containing IPG and parental controls technology that infringe the Rovi Patents, including but not limited to the products described in paragraphs 50-70 and 74-101;

E. Issue 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, products containing IPG and parental controls technology;

F. Impose a bond upon Respondents who continue to import infringing articles during the 60-day Presidential review period per 19 U.S.C. §1337(j); and

G. 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,



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Rovi Corporation, Rovi Guides, Inc.,

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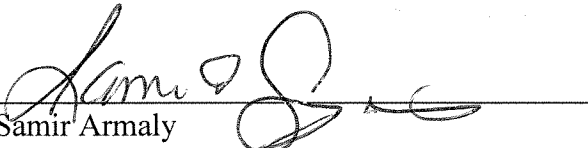
Systems, Inc.

VERIFICATION OF COMPLAINT

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

1. I am Senior Vice President, Intellectual Property & Licensing for Rovi Corporation, 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.



Samir Armaly
Senior Vice President, Intellectual Property &
Licensing
Rovi Corporation

**United States International Trade Commission
Investigation No. 337-TA-_____
In the Matter of Certain Products Containing
Interactive Program Guide and Parental Controls
Technology**

CERTIFICATE OF SERVICE

The undersigned certifies that on October 20, 2010, she 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: October 20, 2010



Celia Asinor
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