

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON DC**

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In the Matter of )  
)  
)

CERTAIN ELECTRONIC IMAGING DEVICES )  
\_\_\_\_\_)

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

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

**Complainant:**

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3. Certified copy of U.S. Patent No. 6,134,606 Assignment Record
4. Confidential Licensing Agreements Related to Asserted Patents
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5. Certified copy of U.S. Patent No. 6,163,816
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## **APPENDICES**

- A. One certified and three additional copies of the U.S. Patent and Trademark Office prosecution history for U.S. Patent No. 6,134,606 File History
- B. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history for U.S. Patent No. 6,134,606
- C. One certified and three additional copies of the U.S. Patent and Trademark Office prosecution history for U.S. Patent No. 6,163,816 File History
- D. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history for U.S. Patent No. 6,163,816
- E. One certified and three additional copies of the U.S. Patent and Trademark Office prosecution history for U.S. Patent No. 6,262,769 File History
- F. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history for U.S. Patent No. 6,262,769

## **I. INTRODUCTION**

1. Complainant Flashpoint Technology, Inc. (“FlashPoint”) files this complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”). FlashPoint 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 into the United States, and/or the sale within the United States after importation of certain electronic imaging devices.

2. The proposed respondents are Nokia Corp.; Nokia, Inc.; Research In Motion Ltd.; Research In Motion Corp.; HTC Corporation (formerly High Tech Computer Corp.); and HTC America, Inc., LG Electronics, and LG Electronics MobileComm U.S.A., Inc. (collectively, “Respondents”).

3. Respondents have violated and continue to violate Section 337 through the importation, sale for importation, and/or the sale within the United States after importation of certain electronic imaging devices that infringe FlashPoint’s United States Patent No. 6,134,606 (“the ‘606 Patent”), United States Patent No. 6,163,816 (“the ‘816 Patent”), and/or United States Patent No. 6,262,769 (“the ‘769 Patent”) (collectively, the “Asserted Patents”) to the detriment of FlashPoint’s industry in the United States relating to the Asserted Patents that exists and/or is in the process of being established.

4. To remedy Respondents’ continuing and unlawful violation of Section 337, FlashPoint seeks as permanent relief a limited exclusion order pursuant to 19 U.S.C. § 1337(d) barring from entry into the United States all Respondents’ electronic imaging devices that infringe one or more of the claims of the ‘606 Patent, the ‘816 Patent, and/or the ‘769 Patent. FlashPoint also seeks cease and desist orders pursuant to 19 U.S.C. § 1337(f) prohibiting each domestic Respondent from engaging in the importation into the

United States and/or the sale within the United States after importation of electronic imaging devices that infringe one or more claims of the '606 Patent, the '816 Patent, and/or the '769 Patent. Further, FlashPoint requests that the Commission impose a bond upon Respondents' importation of infringing electronic imaging devices during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j) to prevent further injury to FlashPoint's domestic industry relating to the '606 Patent, the '816 Patent, and/or the '769 Patent.

## **II. THE PARTIES**

### **A. Complainant**

5. Complainant FlashPoint is a Delaware corporation with its principal place of business at 20 Depot Street, Peterborough, New Hampshire. FlashPoint also maintains corporate offices at 1130 Situs Court, Suite 216, Raleigh, North Carolina 27606. FlashPoint was founded in 1996, and was one of the pioneers of the digital camera industry in its design and development of innovative, cost-efficient software and other technology that increased the speed of operation and ease of user interaction in digital cameras. Over the past thirteen years, FlashPoint and its predecessor have developed advanced software and system architectures that have revolutionized the way in which digital cameras operate, including the introduction in 1998 of the Digita® operating system.

6. From approximately 1998 through 2001, FlashPoint's operations focused on development and marketing of its Digita OS® product. Thereafter, the company continued with follow-on and new research and development activity, and initiated an effort to license and enforce its patent portfolio and other rights in its digital imaging technology. Research and development ceased in 2007. FlashPoint continues to manage and license its intellectual property, including the '606 Patent, the '816 Patent, and the '769 Patent.



**B. Proposed Respondents**

7. With regard to the proposed Respondents, FlashPoint alleges the following upon information and belief:

Nokia Corp.

8. Respondent Nokia Corp. is a foreign corporation organized and existing under the laws of Finland, with its principal place of business at Keilalahdentie 4, FIN-00045 Espoo, Finland. Nokia is engaged in the manufacturing and sale of electronic imaging devices. Such devices include, but are not limited to, mobile telephones, personal digital assistants, mini laptops, internet tablets, and GPS products.

Nokia, Inc.

9. Respondent Nokia Inc. is a subsidiary of respondent Nokia Corp. Nokia Inc. is a corporation organized and existing under the laws of the state of Delaware, with its principal place of business located at 6000 Connection Drive, Irving, Texas 75039. Nokia Inc. provides a variety of personal and business communications products including cell phones and other electronic imaging devices to customers throughout North America. Respondents Nokia Corp. and Nokia Inc. are referred to collectively as “Nokia.”

Research In Motion Ltd.

10. Respondent Research in Motion (“RIM”) is a foreign company organized and existing under the laws of Canada, with its principal place of business at Waterloo, Ontario, Canada. RIM is engaged in the manufacture and sale of electronic imaging devices. Such devices include, but are not limited to, telecommunications wireless handheld devices.

Research In Motion Corp.

11. Respondent Research In Motion Corp. is a wholly-owned subsidiary of respondent Research In Motion Ltd. Research In Motion Corp. is located at 122 W. John Carpenter Parkway, Suite 430, Irving, Texas 75039. On information and belief, Respondent Research In Motion Corp. markets and distributes electronic imaging devices, including but not limited to, mobile phones and telecommunication devices, in the United States that are manufactured outside of the United States. Research In Motion Ltd. and Research In Motion Corp. are referred to collectively as "RIM."

HTC Corporation

12. Respondent HTC Corporation is a foreign corporation organized and existing under the laws of Taiwan, with its principal place of business at 23 Xinghua Road, Taoyuan, 330, Taiwan. HTC Corporation is in the business of making, offering for sale, selling, and supporting electronic imaging devices including, but not limited to, mobile phones, handheld computers, and other wireless communications devices manufactured outside of the United States. HTC Corporation is the parent corporation of respondent HTC America, Inc.

HTC America Inc.

13. Respondent HTC America, Inc. is a corporation organized and existing under the laws of the state of Texas, with its principal place of business located at 13920 SE Eastgate Way, Suite 400, Bellevue, Washington 98005. On information and belief, HTC America, Inc. is a wholly-owned subsidiary of HTC Corporation. HTC America, Inc. is in the business of making, offering for sale, selling and supporting electronic imaging devices including, but not limited to, mobile phones, handheld computers, and other electronic imaging devices, in the United States, that are manufactured outside of the

United States. HTC Corporation and HTC America, Inc. are referred to collectively as “HTC.”

LG Electronics, Inc.

14. Respondent LG Electronics, Inc. is located at LG Twin Towers, 20 Yeouido-dong, Yeongdeungpo-gu Seoul 150-721, South Korea. LG Electronics, Inc. is in the business of developing, manufacturing, and selling electronic imaging devices. Such devices include, but are not limited to, cellular telephones and other electronic imaging devices. LG Electronics, Inc. is the parent corporation of respondents LG Electronics U.S.A., Inc. and LG Electronics MobileComm U.S.A., Inc.

LG Electronics U.S.A., Inc.

15. Respondent LG Electronics U.S.A., Inc. is a wholly-owned subsidiary of respondent LG Electronics, Inc. LG Electronics U.S.A., Inc. is located at 1000 Sylvan Ave., Englewood Cliffs, NJ 07632. On information and belief, Respondent LG Electronics U.S.A., Inc. manages the North American operations of Respondent LG Electronics MobileComm U.S.A., Inc.

LG Electronics MobileComm U.S.A., Inc.

16. Respondent LG Electronics MobileComm U.S.A., Inc. is a wholly-owned subsidiary of respondent LG Electronics U.S.A., Inc. LG Electronics MobileComm U.S.A., Inc. is located at 10101 Old Grove Road, San Diego, CA 92131. On information and belief, respondent LG Electronics MobileComm U.S.A., Inc. provides a variety of imaging devices, including cell phones, to customers throughout North America. Respondents LG Electronics, Inc.; LG Electronics U.S.A., Inc.; and LG Electronics MobileComm U.S.A., Inc. are referred to collectively as “LG.”

### **III. THE ASSERTED '606 PATENT**

17. By way of assignment, FlashPoint holds all rights, title, and interest to U.S. Patent No. 6,134,606, System/Method for Controlling Parameters in Hand-Held Digital Camera with Selectable Parameter Scripts, and with Command for Retrieving Camera Capabilities and Associated Permissible Parameter Values. Pursuant to Commission rules 210.12(a)(9)(i)-(ii), a certified copy of the '606 Patent, a copy of the certified '606 Patent prosecution history, and a certified copy of the assignment record for the '606 Patent are attached hereto as Exhibits 1, 2, and 3, respectively. Appendix A, pursuant to Commission rule 210.12(c)(1), contains one certified copy of the U.S. Patent and Trademark Office prosecution history for the '606 Patent plus three additional copies thereof. Appendix B, pursuant to Commission rule 210.12(c)(2), contains four copies of each patent and the applicable pages of each technical reference mentioned in the prosecution history of the '606 Patent.

18. The '606 Patent was filed on July 25, 1997, and issued on October 17, 2000. The 7.5 year maintenance fee for the '606 Patent was paid on March 27, 2008, and there are no fees currently due.

19. The '606 Patent has twenty nine (29) claims, including five independent claims (1, 11, 19, 21, and 22), and twenty four dependent claims; nine of which depend from independent claim 1; seven of which depend from independent claim 11; one of which depends from independent claim 19; and seven of which depend from independent claim 22. Flashpoint is asserting claims 1, 11, and 21 of the '606 Patent.

#### **A. Licenses Relating to the '606 Patent**

20. FlashPoint is the original assignee and is identified on the face of the asserted '606 Patent.

21. FlashPoint licensed the '606 Patent to the following entities:
- a. Apple Inc., a California corporation;
  - b. Casio Computer Company, Ltd., a Japanese corporation;
  - c. Concord Camera Corp., a Japanese corporation;
  - d. Eastman Kodak Company, a New Jersey corporation;
  - e. Fuji Photo Film Co., Ltd., a Japanese corporation;
  - f. Hewlett-Packard Company, a Delaware corporation;
  - g. Konika Corporation, a Japanese corporation;
  - h. Kyocera Corporation, a Japanese corporation;
  - i. Matsushita Electric Industrial Co., Ltd., a Japanese corporation;
  - j. Minolta Co., Ltd., a Japanese corporation;
  - k. Nikon Corporation, a Japanese corporation;
  - l. Nintendo Co., Ltd., a Japanese corporation;
  - m. Olympus Corporation, a Japanese corporation;
  - n. Asahi Optical Co., Ltd, a Japanese corporation;
  - o. Pentax Corporation, a Delaware corporation;
  - p. Pixami Inc., a Delaware corporation;
  - q. Ricoh Company, Ltd., a Japanese corporation;
  - r. Samsung Electronics, a Korean corporation;
  - s. Samsung Techwin Co., Ltd., a Korean corporation;
  - t. Sanyo Electric Co., Ltd., a Japanese corporation;
  - u. Seiko Epson Corporation, a Japanese corporation and Epson America;
  - v. Sharp Corporation, a Japanese corporation;

- w. Sony Corporation, a Japanese corporation;
- x. Tabata USA, Inc., a California corporation;
- y. Toshiba Corporation, a Japanese corporation;
- z. Vivitar Corporation, a California corporation.

*See Confidential Exhibits 4a-b; see also Confidential Exhibit 50, Declaration of Stanley Fry, at ¶ 13.*

22. Pursuant to Commission rule 210.12(a)(9)(iv), FlashPoint has attached as Confidential Exhibits 4a-b a copy of each license agreement relating to the '606 Patent to establish its contention that a domestic industry as defined in Section 337(a)(3) exists as the result of the domestic activities of one or more licensees. *See infra* Section X.

**B. Foreign Counterparts to the '606 Patent**

23. FlashPoint, pursuant to Commission rule 210.12(a)(9)(v), is not aware of any foreign counterpart patents and patent applications relating to the asserted '606 Patent.

**IV. THE ASSERTED '816 PATENT**

24. By way of assignment, FlashPoint holds all rights, title, and interest in U.S. Patent No. 6163,816, System and Method for Retrieving Capability Parameters in an Electronic Imaging Device. Pursuant to Commission rules 210.12(a)(9)(i)-(ii), a certified copy of the '816 Patent, a copy of the certified '816 Patent prosecution history, and a certified copy of the assignment record for the '816 Patent are attached hereto as Exhibits 5, 6, and 7, respectively. Appendix C, pursuant to Commission rule 210.12(c)(1), contains one certified copy of the U.S. Patent and Trademark Office prosecution history for the '816 Patent plus three additional copies thereof. Appendix D, pursuant to Commission rule 210.12(c)(2), contains four copies of each patent and the applicable pages of each technical reference mentioned in the prosecution history of the '816 Patent.

25. The '816 Patent was filed on August 29, 1997, and issued on December 19, 2000. The 7.5 year maintenance fee for the '816 Patent was paid on March 27, 2008, and there are no fees currently due.

26. The '816 Patent has seventeen (17) claims, including four independent claims (1, 9, 15, and 16), and thirteen dependent claims; seven of which depend from independent claim 1; five of which depend from independent claim 9; and one of which depends from independent claim 16. Flashpoint is asserting claims 1 – 14, and 16 of the '816 Patent.

**A. Licenses Relating to the '816 Patent**

27. FlashPoint is the original assignee and is identified on the face of the asserted '816 Patent.

28. FlashPoint licensed the '816 Patent to the following entities:

- a. Apple Inc., a California corporation;
- b. Casio Computer Company, Ltd., a Japanese corporation;
- c. Concord Camera Corp., a Japanese corporation;
- d. Eastman Kodak Company, a New Jersey corporation;
- e. Fuji Photo Film Co., Ltd., a Japanese corporation;
- f. Hewlett-Packard Company, a Delaware corporation;
- g. Konika Corporation, a Japanese corporation;
- h. Kyocera Corporation, a Japanese corporation;
- i. Matsushita Electric Industrial Co., Ltd., a Japanese corporation;
- j. Minolta Co., Ltd., a Japanese corporation;
- k. Nikon Corporation, a Japanese corporation;

- l. Nintendo Co., Ltd., a Japanese corporation;
- m. Olympus Corporation, a Japanese corporation;
- n. Asahi Optical Co., Ltd, a Japanese corporation;
- o. Pentax Corporation, a Delaware corporation;
- p. Pixami Inc., a Delaware corporation;
- q. Ricoh Company, Ltd., a Japanese corporation;
- r. Samsung Electronics, a Korean corporation;
- s. Samsung Techwin Co., Ltd., a Korean corporation;
- t. Sanyo Electric Co., Ltd., a Japanese corporation;
- u. Seiko Epson Corporation, a Japanese corporation and Epson America;
- v. Sharp Corporation, a Japanese corporation;
- w. Sony Corporation, a Japanese corporation;
- x. Tabata USA, Inc., a California corporation;
- y. Toshiba Corporation, a Japanese corporation;
- z. Vivitar Corporation, a California corporation.

*See Confidential Exhibits 4a-b; see also Confidential Exhibit 50 at ¶ 13.*

29. Pursuant to Commission rule 210.12(a)(9)(iv), FlashPoint has attached as Confidential Exhibits 4a-b, a copy of each license agreement relating to the ‘816 Patent to establish its contention that a domestic industry as defined in section 337(a)(3) exists as the result of the domestic activities of one or more licensees. *See infra* Section X.

**B. Foreign Counterparts to the ‘816 Patent**

30. FlashPoint, pursuant to Commission rule 210.12(a)(9)(v), is not aware of any foreign counterpart patents and patent applications relating to the asserted ‘816 Patent.



## **V. THE ASSERTED '769 PATENT**

31. By way of assignment, FlashPoint holds all rights, title, and interest to U.S. Patent No. 6,262,769, Method and System for Auto Rotating a Graphical User Interface for Managing Portrait and Landscape Images in an Image Capture Unit. Pursuant to Commission rules 210.12(a)(9)(i)-(ii), a certified copy of the '769 Patent, a copy of the certified '769 Patent prosecution history, and a certified copy of the assignment record for the '769 Patent are attached hereto as Exhibits 8, 9, and 10, respectively. Appendix E, pursuant to Commission rule 210.12(c)(1), contains one certified copy of the U.S. Patent and Trademark Office prosecution history for the '769 Patent plus three additional copies thereof. Appendix F, pursuant to Commission rule 210.12(c)(2), contains four copies of each patent and the applicable pages of technical references mentioned in the prosecution history of the '769 Patent.

32. The '769 Patent was filed on July 31, 1997 and issued on July 17, 2001. The 7.5 year maintenance fee for the '769 Patent was paid on January 13, 2009, and there are no fees currently due.

33. The '769 Patent has forty two (42) claims, including six independent claims (1, 18, 33, 40, 41, and 42), and thirty six dependent claims; nineteen of which depend from independent claim 1; fifteen of which depend from independent claim 18; and three one of which depends from independent claim 16. Flashpoint is asserting claims 1 – 7, 11 – 13, 16 – 23, 26, 30 – 32, 40, and 41 of the '769 Patent.

### **A. Licenses Relating to the '769 Patent**

34. FlashPoint is the original assignee and is identified on the face of the asserted '769 Patent.

35. FlashPoint licensed the '769 Patent to the following entities:

- a. Apple Inc., a California corporation;
- b. Casio Computer Company, Ltd., a Japanese corporation;
- c. Concord Camera Corp., a Japanese corporation;
- d. Eastman Kodak Company, a New Jersey corporation;
- e. Fuji Photo Film Co., Ltd., a Japanese corporation;
- f. Hewlett-Packard Company, a Delaware corporation;
- g. Konika Corporation, a Japanese corporation;
- h. Kyocera Corporation, a Japanese corporation;
- i. Matsushita Electric Industrial Co., Ltd., a Japanese corporation;
- j. Minolta Co., Ltd., a Japanese corporation;
- k. Nikon Corporation, a Japanese corporation;
- l. Nintendo Co., Ltd., a Japanese corporation;
- m. Olympus Corporation, a Japanese corporation;
- n. Asahi Optical Co., Ltd, a Japanese corporation;
- o. Pentax Corporation, a Delaware corporation;
- p. Pixami Inc., a Delaware corporation;
- q. Ricoh Company, Ltd., a Japanese corporation;
- r. Samsung Electronics, a Korean corporation;
- s. Samsung Techwin Co., Ltd., a Korean corporation;
- t. Sanyo Electric Co., Ltd., a Japanese corporation;
- u. Seiko Epson Corporation, a Japanese corporation and Epson America;
- v. Sharp Corporation, a Japanese corporation;
- w. Sony Corporation, a Japanese corporation;

- x. Tabata USA, Inc., a California corporation;
- y. Toshiba Corporation, a Japanese corporation;
- z. Vivitar Corporation, a California corporation.

See Confidential Exhibits 4a-b; *see also* Confidential Exhibit 50 at ¶ 13.

36. Pursuant to Commission rule 210.12(a)(9)(iv), FlashPoint has attached as Confidential Exhibits 4a-b, a copy of each license agreement relating to the '769 Patent to establish its contention that a domestic industry as defined in section 337(a)(3) exists as the result of the domestic activities of one or more licensees. *See infra* Section X.

**B. Foreign Counterparts to the '769 Patent**

37. FlashPoint, pursuant to Commission rule 210.12(a)(9)(v), identifies the following foreign counterpart patents and patent applications relating to the asserted '769 Patent:

APPLICATIONS RELATED TO US 6,262,769			
COUNTRY	APPLICATION/PATENT NO.	PUBLICATION NO. & DATE	STATUS
PCT	PCT/US98/15032	WO 1999/07140; 02/11/1999	National Stage
European Patent Convention	98935857.7	EP 0998 816 B1; 06/27/2007	Granted
Japan	JP20000505735T	JP3326426; 09/24/2009	Issued
Germany	DE19986037995T	DE 698 37 995 T2; 02/28/2008	Granted
Australia	AU19980085026D	AU8502698; 02/22/1999	Lapsed

## **VI. NON-TECHNICAL DESCRIPTION OF THE PATENTED TECHNOLOGY**

### **A. The ‘606 Patent – System/Method for Controlling Parameters in Hand-Held Digital Camera with Selectable Parameter Scripts, and with Command for Retrieving Camera Capabilities and Associated Permissible Parameter Values**

38. FlashPoint’s ‘606 Patent discloses a system and technique for efficiently controlling the operating parameters of an electronic imaging device. Electronic imaging devices that employ the inventions claimed in the ‘606 Patent, such as digital cameras and cellular telephones containing digital cameras, allow users to flexibly and effectively capture images using a system for controlling the operating parameters of the electronic imaging device. The system contains a series of parameter storage locations coupled to the imaging device for containing parameter value sets, a set of parameter commands for controlling the parameter value sets, and a parameter manager device for executing the set of parameter commands to control the parameters in the electronic imaging device. Control of system parameters is particularly important in modern electronic imaging systems which often feature a substantial number of system parameters that are adjustable depending upon individual user preferences. Examples of such adjustable camera parameters include selectable focus, flash, and zoom settings.

### **B. The ‘816 Patent – System and Method for Retrieving Capability Parameters in an Electronic Imaging Device**

39. FlashPoint’s ‘816 Patent discloses a system and technique for obtaining a set of capability parameters for an electronic imaging device. Capability parameters are features or functions that control the performance and utility of a given peripheral device, and that may have either several values for selection by the user, or have a fixed value. Because different camera systems vary widely in their capabilities and features, there is no standardized set of capability parameters for digital cameras contained within electronic

imaging devices. In some instances, the applications running in the processor of the electronic imaging device will need to know the capability parameters of the digital camera. The application may either require the capability parameters for setting and controlling the digital camera, or the application may simply need to present the capability parameters to the user of the digital camera on a display screen such as a Liquid Crystal Display (“LCD”) of the electronic imaging device. Prior to the inventions claimed in the ‘816 patent, there was no method for interrogating an unknown digital camera without knowing the number and structure of the capability parameters first. The invention includes a series of capability parameter storage locations for containing capability parameter value sets, a GetCameraCapabilities command for retrieving these capability parameter value sets, and a parameter manager device for executing the GetCameraCapabilities command to retrieve the capability parameter value sets.

**C. The ‘769 Patent – Method and System for Auto Rotating a Graphical User Interface for Managing Portrait and Landscape Images in an Image Capture Unit**

40. FlashPoint’s ‘769 Patent discloses a system and a technique for automatically rotating captured images displayed on a graphical user interface of a hand-held electronic imaging device as the hand-held electronic imaging device is rotated during a display mode, such that the displayed captured image is in the same orientation as the hand-held electronic imaging device. Thus, the captured image orientation automatically adjusts to how a user holds the electronic imaging device. Prior to the inventions claimed in the ‘769 patent, it was a nuisance for a user of a hand-held electronic imaging device to review several captured images when some of the images were in landscape format, while other images were in portrait format. If the user was viewing several captured images one

after another, the user had to rotate the hand-held electronic imaging device every time a landscape image appeared after a portrait image and vice versa.

41. In order to provide a system and method for automatically rotating the images to a consistent format to avoid the user having to frequently rotate the hand-held electronic imaging device, and to allow the display orientation of the captured image to automatically adjust to how a user holds the electronic imaging device, the '769 Patent method and system determines an orientation at the time of capturing the image. Then the image is stored along with the first orientation information. During a later display time, a second orientation associated with the hand-held electronic imaging device is determined. The system and method determine whether the first orientation is different from the second orientation and displays the captured image in the second orientation of the hand-held electronic imaging device. If during a display time, the hand-held electronic imaging device is rotated by the user to a different orientation, the displayed captured image may automatically rotate the captured image to adjust to the new orientation of the hand-held electronic imaging device.

## **VII. UNFAIR ACTS OF PROPOSED RESPONDENTS**

42. Upon information and belief, Respondents are engaged in the importation, the sale for importation, and/or the sale within the United States after importation of certain electronic imaging devices that infringe at least one of claims 1, 11, and 21 of the '606 Patent; and/or at least one of claims 1 – 14, and 16 of the '816 Patent; and/or at least one of claims 1 – 7, 11 – 13, 16 – 23, 26, 30 – 32, 40, and 41 of the '769 Patent.

### **A. The '606 Patent**

#### **1. Nokia**

43. Nokia is engaged in the importation, sale for importation, and/or sale within the United States after importation of certain electronic imaging devices that infringe at least claims 1, 11, and 21 of the '606 Patent.

44. FlashPoint has obtained electronic imaging devices that, on information and belief, Nokia imported, sold for importation, and/or sold within the United States after importation, and that infringe at least claims 1, 11, and 21 of the '606 Patent. Pursuant to Commission rule 210.12(a)(9)(x), Exhibit 11 contains photographs of a Nokia 5230 Nuron device. As shown in the photograph contained in Exhibit 12, the physical casing of the Nokia 5230 Nuron device is marked as "made in China."

45. On information and belief, respondents Nokia Corp. and Nokia, Inc. (referred to collectively as "Nokia") import, sell for importation, and/or sell within the United States after importation the Nokia 5230 Nuron device depicted in Exhibits 11 and 12. Pursuant to Commission rule 210.12(a)(3), Exhibit 13 is a receipt from a consumer electronics store showing a sale of the Nokia 5230 Nuron within the United States. Exhibit 14 is a page printed from the Nokia USA website (<http://www.nokiausa.com/>) that shows the Nokia offices in Finland and the United States. Exhibit 15 is also a page from the Nokia USA website and shows the ability to purchase direct from Nokia within the United States. Exhibit 16 from the Nokia USA website lists Nokia offices within the United States. Exhibit 17 is a page from the Nokia Corp. 2009 Form 20-F filed with the United States Securities and Exchange Commission showing that Nokia, Inc. is a United States corporation that is a wholly-owned subsidiary of Nokia Corp.

46. Exhibit 18 is a Hoovers' company profile for Nokia, which states that Nokia sells phones (*e.g.*, 5230 Nuron) within North America.

47. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 11 to the complaint includes a chart comparing independent claims 1, 11, and 21 of the '606 Patent to the Nokia 5230 Nuron device. Exhibit 11 shows that the Nokia 5230 Nuron device is covered by at least independent claims 1, 11, and 21 of the '606 Patent. Thus, Nokia is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the Nokia 5230 Nuron device.

## **2. Research In Motion**

48. Research In Motion is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1, 11, and 21 of the '606 Patent.

49. FlashPoint has obtained electronic imaging devices that, on information and belief, Research in Motion imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1, 11, and 21 of the '606 Patent. Exhibit 19 includes photographs of the Research in Motion Blackberry Storm2 9550. As shown in the photograph contained in Exhibit 20, the physical casing of the Research in Motion Blackberry Storm2 9550 is marked as "made in Mexico."

50. On information and belief, respondents Research In Motion Ltd. and Research In Motion Corp. (referred to collectively as "Research In Motion") import, sell for importation, and/or sell within the United States after importation the Blackberry Storm2 9550 depicted in Exhibits 19 and 20. Pursuant to Commission rule 210.12(a)(3), Exhibit 21 contains a receipt from a consumer electronics store showing a sale of a Research in Motion Blackberry Storm2 9550 within the United States. Exhibit 22 is a page printed from the Research In Motion website (<http://www.rim.com/>) that shows the Research in Motion's offices in Canada and the United States. Exhibit 23 is a Hoovers'



company profile of Research In Motion Ltd. and the profile shows that Research In Motion has significant sales of wireless devices within the United States (\$6,967,600,000.00).

Exhibit 24 is a page printed from the Research In Motion, Ltd. 2009 Annual Report, which shows that phones continue to be sold in the United States and generate significant revenue.

51. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 19 to the complaint includes a chart comparing independent claims 1, 11, and 21 of the '606 Patent to the Research in Motion Blackberry Storm2 9550. Exhibit 19 shows that the Research in Motion Blackberry Storm2 9550 is covered by at least independent claims 1, 11, and 21 of the '606 Patent. Thus, Research In Motion is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the Blackberry Storm2 9550.

### **3. HTC**

52. HTC is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1, 11, and 21 of the '606 Patent.

53. FlashPoint has obtained electronic imaging devices that, on information and belief, HTC imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1, 11, and 21 of the '606 Patent. Exhibit 25 includes photograph of the HTC Droid Incredible. As shown in the photograph contained in Exhibit 26, the physical casing of the HTC Droid Incredible is marked as "made in Taiwan."

54. On information and belief, respondents HTC Corporation and HTC America, Inc. (referred to collectively as "HTC") import, sell for importation, and/or sell within the United States after importation the HTC Droid Incredible depicted in Exhibits 25

and 26. Pursuant to Commission rule 210.12(a)(3), Exhibit 27 contains an offer for sale of the HTC Droid Incredible within the United States. Exhibit 28 from the HTC Corporation 2008 annual report states that the United States is a “principal market” for sales of HTC wireless devices. Exhibit 29 contains a page from the HTC website ([www.htc.com/us](http://www.htc.com/us)), that shows that HTC America, Inc. is the North American Division of HTC Corporation. Exhibit 30 contains a press release from HTC website describing that HTC partners with Best Buy to offer HTC phones for sale in the United States. Exhibit 31 includes a press release from a website ([www.bnet.com](http://www.bnet.com)) announcing HTC’s distribution relationship with Brightpoint North America and stating that HTC America, Inc. is a subsidiary of HTC Corporation and was opened to offer HTC products to North American consumers. Exhibit 32 contains a page from a website ([www.extractable.com](http://www.extractable.com)) stating that HTC Corporation established HTC America, Inc. “with the goal of becoming the partner of choice for mobile communications consumers in North and South America.”

55. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 25 to the complaint includes a chart comparing independent claims 1, 11, and 21 of the ‘606 Patent to the HTC Droid Incredible. Exhibit 25 shows that the HTC Droid Incredible is covered by at least independent claims 1, 11, and 21 of the ‘606 Patent. Thus, HTC is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the HTC Droid Incredible.

## **7. LG**

56. LG is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1, 11, and 21 of the ‘606 Patent.

57. FlashPoint has obtained electronic imaging devices that, on information and belief, LG has imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1, 11, and 21 of the '606 Patent. Exhibit 33 includes photographs of the LG eXpo (GW820) phone. As shown in the photograph contained in Exhibit 34, the physical casing of the LG eXpo (GW820) phone is marked as "made in Korea."

58. On information and belief, respondents LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc. (collectively, "LG") import, sell for importation, and/or sell within the United States after importation the LG eXpo (GW820) phone depicted in Exhibit 33. Pursuant to Commission rule 210.12(a)(3), Exhibit 35 contains a receipt from a consumer electronics website showing a sale of the LG eXpo (GW820) phone depicted in Exhibit 33 within the United States. Exhibit 36, pages printed from the LG USA website (<http://www.us.lge.com>), states that LG Electronics U.S.A., Inc. is the North American subsidiary of LG Electronics, Inc. Exhibit 36 also states that LG Electronics MobileComm U.S.A., Inc is the North American wireless division of LG Electronics, Inc. Exhibit 36 also states that LG Electronics MobileComm U.S.A., Inc. provides marketing support for LG in North America. Exhibit 37 is a Hoovers' company profile for LG Electronics, Inc., that states that LG Electronics, Inc. generates most of its revenue from sales in North America. Exhibit 38 is a page from the LG Electronics, Inc. 2008 annual shareholder report, which shows the percentage of LG Electronics, Inc.'s sales in North America. Exhibit 39, a page from the LG Electronics, Inc. 2009 third quarter financial statement, states that LG Electronics U.S.A., Inc. is a wholly-owned subsidiary of LG Electronics, Inc.

59. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 33 to the complaint includes a chart comparing independent claims 1, 11, and 21 of the '606 Patent to the LG eXpo (GW820) phone. Exhibit 33 shows that the LG eXpo (GW820) phone is covered by at least independent claims 1, 11, and 21 of the '606 Patent. Thus, LG is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the LG eXpo (GW820) phone.

**B. The '816 Patent**

**1. Nokia**

60. Nokia is engaged in the importation, sale for importation, and/or sale within the United States after importation of certain electronic imaging devices that infringe at least claims 1 - 14, and 16 of the '816 Patent.

61. FlashPoint has obtained electronic imaging devices that, on information and belief, Nokia imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1 - 14, and 16 of the '816 Patent. Pursuant to Commission rule 210.12(a)(9)(x), Exhibit 40 contains photographs of a Nokia 5230 Nuron device. As shown in the photograph contained in Exhibit 12, the physical casing of the Nokia 5230 Nuron device is marked as "made in China."

62. On information and belief, Respondents Nokia Corp. and Nokia, Inc. (referred to collectively as "Nokia") import, sell for importation, and/or sell within the United States after importation the Nokia 5230 Nuron device depicted in Exhibit 40. Pursuant to Commission rule 210.12(a)(3), Exhibit 13 is a receipt from a consumer electronics store showing a sale of the Nokia 5230 Nuron within the United States. Exhibit 14 is a page printed from the Nokia USA website (<http://www.nokiausa.com/>) that shows the Nokia offices in Finland and the United States. Exhibit 15 is also a page from the

Nokia USA website and shows the ability to purchase direct from Nokia within the United States. Exhibit 16 from the Nokia USA website lists Nokia offices within the United States. Exhibit 17 is a page from the Nokia Corp. 2009 Form 20-F filed with the United States Securities and Exchange Commission showing that Nokia, Inc. is a United States corporation that is a wholly-owned subsidiary of Nokia Corp.

63. Exhibit 18 is a Hoovers' company profile for Nokia, which states that Nokia sells phones (*e.g.*, 5230 Nuron) within North America.

64. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 40 to the complaint includes a chart comparing independent claims 1 - 14, and 16 of the '816 Patent to the Nokia 5230 Nuron device. Exhibit 40 shows that the Nokia 5230 Nuron device is covered by at least independent claims 1 - 14, and 16 of the '816 Patent. Thus, Nokia is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the Nokia 5230 Nuron device.

## **2. Research In Motion**

65. Research In Motion is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1 – 4, 7 – 12, and 16 of the '816 Patent.

66. FlashPoint has obtained electronic imaging devices that, on information and belief, Research in Motion imported, sold for importation, and/or sold within the United States after importation and that infringe at least 1 – 4, 7 – 12, and 16 of the '816 Patent. Exhibit 41 includes photographs of the Research in Motion Blackberry Storm2 9550. As shown in the photograph contained in Exhibit 20, the physical casing of the Research in Motion Blackberry Storm2 9550 is marked as “made in Mexico.”

67. On information and belief, respondents Research In Motion Ltd. and Research In Motion Corp. (referred to collectively as “Research In Motion”) import, sell for importation, and/or sell within the United States after importation the Blackberry Storm2 9550 depicted in Exhibits 41 and 20. Pursuant to Commission rule 210.12(a)(3), Exhibit 21 contains a receipt from a consumer electronics store showing a sale of a Research in Motion Blackberry Storm2 9550 within the United States. Exhibit 22 is a page printed from the Research In Motion website (<http://www.rim.com/>) that shows the Research in Motion’s offices in Canada and the United States. Exhibit 23 is a Hoovers’ company profile of Research In Motion Ltd. and the profile shows that Research In Motion has significant sales of wireless devices within the United States (\$6,967,600,000.00). Exhibit 24 is a page printed from the Research In Motion, Ltd. 2009 Annual Report, which shows that phones continue to be sold in the United States and generate significant revenue.

68. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 41 to the complaint includes a chart comparing independent claims 1, 9, and 16 of the ‘816 Patent to the Research in Motion Blackberry Storm2 9550. Exhibit 41 shows that the Research in Motion Blackberry Storm2 9550 is covered by at least independent claims 1, 9, and 16 of the ‘816 Patent. Thus, Research In Motion is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the Blackberry Storm2 9550.

### **3. HTC**

69. HTC is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1 – 14, and 16 of the ‘816 Patent.

70. FlashPoint has obtained electronic imaging devices that, on information and belief, HTC imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1 – 14, and 16 of the ‘816 Patent. Exhibit 42 includes photographs of the HTC myTouch 3G. As shown in the photographs contained in Exhibit 43, the physical casing of the HTC myTouch 3G is marked as “made in Taiwan.”

71. On information and belief, respondents HTC Corporation and HTC America, Inc. (referred to collectively as “HTC”) import, sell for importation, and/or sell within the United States after importation the HTC myTouch 3G depicted in Exhibits 42 and 43. Pursuant to Commission rule 210.12(a)(3), Exhibit 13 contains a receipt from a consumer electronics store showing a sale of an HTC myTouch 3G within the United States. Exhibit 28 from the HTC Corporation 2008 annual report states that the United States is a “principal market” for sales of HTC wireless devices. Exhibit 29 contains a page from the HTC website ([www.htc.com/us](http://www.htc.com/us)), that shows that HTC America, Inc. is the North American Division of HTC Corporation. Exhibit 30 contains a press release from HTC website describing that HTC partners with Best Buy to offer HTC phones for sale in the United States. Exhibit 31 includes a press release from a website ([www.bnet.com](http://www.bnet.com)) announcing HTC’s distribution relationship with Brightpoint North America and stating that HTC America, Inc. is a Subsidiary of HTC Corporation and was opened to offer HTC products to North American consumers. Exhibit 32 contains a page from a website ([www.extractable.com](http://www.extractable.com)) stating that HTC Corporation established HTC America, Inc. “with the goal of becoming the partner of choice for mobile communications consumers in North and South America.”

72. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 42 to the complaint includes a chart comparing independent claims 1, 9, and 16 of the '816 Patent to the HTC myTouch 3G. Exhibit 42 shows that the HTC myTouch 3G is covered by at least independent claims 1, 9, and 16 of the '816 Patent. Thus, HTC is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the HTC myTouch 3G.

## **7. LG**

73. LG is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1 – 4, 7 – 12, and 16 of the '816 Patent.

74. FlashPoint has obtained electronic imaging devices that, on information and belief, LG has imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1 – 4, 7 – 12, and 16 of the '816 Patent. Exhibit 44 includes photographs of the LG eXpo (GW820) phone. As shown in the photograph contained in Exhibit 34, the physical casing of the LG eXpo (GW820) phone is marked as “made in Korea.”

75. On information and belief, respondents LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc. (collectively, “LG”) import, sell for importation, and/or sell within the United States after importation the LG eXpo (GW820) phone depicted in Exhibit 44 and 34. Pursuant to Commission rule 210.12(a)(3), Exhibit 35 contains a receipt from a consumer electronics website showing a sale of the LG eXpo (GW820) phone depicted in Exhibit 33 within the United States. Exhibit 36, pages printed from the LG USA website (<http://www.us.lge.com>), states that LG Electronics U.S.A., Inc. is the North American subsidiary of LG Electronics, Inc. Exhibit 36 also states



that LG Electronics MobileComm U.S.A., Inc is the North American wireless division of LG Electronics, Inc. Exhibit 36 also states that LG Electronics MobileComm U.S.A., Inc. provides marketing support for LG in North America. Exhibit 37 is a Hoovers' company profile for LG Electronics, Inc., that states that LG Electronics, Inc. generates most of its revenue from sales in North America. Exhibit 38 is a page from the LG Electronics, Inc. 2008 annual shareholder report, which shows the percentage of LG Electronics, Inc.'s sales in North America. Exhibit 39, a page from the LG Electronics, Inc. 2009 third quarter financial statement, states that LG Electronics U.S.A., Inc. is a wholly-owned subsidiary of LG Electronics, Inc.

76. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 44 to the complaint includes a chart comparing independent claims 1, 9, and 16 of the '816 Patent to the LG eXpo (GW820) phone. Exhibit 44 shows that the LG eXpo (GW820) phone is covered by at least independent claims 1, 9, and 16 of the '816 Patent. Thus, LG is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the LG eXpo (GW820) phone.

### **C. The '769 Patent**

#### **1. Nokia**

77. Nokia is engaged in the importation, sale for importation, and/or sale within the United States after importation of certain electronic imaging devices that infringe at least claims 1 – 7, 11 – 12, 18 – 23, 26, 30 – 31, 40, and 41 of the '769 Patent.

78. FlashPoint has obtained electronic imaging devices that, on information and belief, Nokia imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1 – 7, 11 – 12, 18 – 23, 26, 30 – 31, 40, and 41 of the '769 Patent. Pursuant to Commission rule 210.12(a)(9)(x), Exhibit 45 contains

photographs of a Nokia 5230 Nuron device. As shown in the photographs contained in Exhibit 12, the physical casing of the Nokia 5230 Nuron device is marked as “made in China.”

79. On information and belief, respondents Nokia Corp. and Nokia, Inc. (referred to collectively as “Nokia”) import, sell for importation, and/or sell within the United States after importation the Nokia 5230 Nuron device depicted in Exhibits 45 and 12. Pursuant to Commission rule 210.12(a)(3), Exhibit 13 is a receipt from a consumer electronics store showing a sale of the Nokia 5230 Nuron within the United States. Exhibit 14 is a page printed from the Nokia USA website (<http://www.nokiausa.com/>) that shows the Nokia offices in Finland and the United States. Exhibit 15 is also a page from the Nokia USA website and shows the ability to purchase direct from Nokia within the United States. Exhibit 16 from the Nokia USA website lists Nokia offices within the United States. Exhibit 17 is a page from the Nokia Corp. 2009 Form 20-F filed with the United States Securities and Exchange Commission showing that Nokia, Inc. is a United States corporation that is a wholly-owned subsidiary of Nokia Corp.

80. Exhibit 18 is a Hoovers’ company profile for Nokia, Inc., which states that Nokia, Inc. sells phones (*e.g.*, 5230 Nuron) within the United States.

81. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 45 to the complaint includes a chart comparing independent claims 1, 18, 40, and 41 of the ‘769 Patent to the Nokia 5230 Nuron device. Exhibit 45 shows that the Nokia 5230 Nuron device is covered by at least independent claims 1, 18, 40, and 41 of the ‘769 Patent. Thus, Nokia is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the Nokia 5230 Nuron device.

## **2. Research In Motion**

82. Research In Motion is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1 – 7, 11 – 13, 16 – 23, 26, 30 – 32, 40, and 41 of the ‘769 Patent.

83. FlashPoint has obtained electronic imaging devices that, on information and belief, Research in Motion imported, sold for importation, and/or sold within the United States after importation and that infringe at least claims 1 – 7, 11 – 13, 16 – 23, 26, 30 – 32, 40, and 41 of the ‘769 Patent. Exhibit 46 includes photographs of the Research in Motion Blackberry Storm2 9550. As shown in the photograph contained in Exhibit 20, the physical casing of the Research in Motion Blackberry Storm2 9550 is marked as “made in Mexico.”

84. On information and belief, respondents Research In Motion Ltd. and Research In Motion Corp. (referred to collectively as “Research In Motion”) import, sell for importation, and/or sell within the United States after importation the Blackberry Storm2 9550 depicted in Exhibits 46 and 20. Pursuant to Commission rule 210.12(a)(3), Exhibit 21 contains a receipt from a consumer electronics store showing a sale of a Research in Motion Blackberry Storm2 9550 within the United States. Exhibit 22 is a page printed from the Research In Motion website (<http://www.rim.com/>) that shows the Research in Motion’s offices in Canada and the United States. Exhibit 23 is a Hoovers’ company profile of Research In Motion Ltd. and the profile shows that Research In Motion has significant sales of wireless devices within the United States (\$6,967,600,000.00). Exhibit 24 is a page printed from the Research In Motion, Ltd. 2009 Annual Report, which shows that phones continue to be sold in the United States and generate significant revenue.

85. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 46 to the complaint includes a chart comparing independent claims 1, 18, 40, and 41 of the '769 Patent to the Research in Motion Blackberry Storm2 9550. Exhibit 46 shows that the Research in Motion Blackberry Storm2 9550 is covered by at least independent claims 1, 18, 40, and 41 of the '769 Patent. Thus, Research In Motion is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the Blackberry Storm2 9550.

### **3. HTC**

86. HTC is engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least claims 1 – 7, 11 – 12, 18 – 23, 26, 30 – 31, 40, and 41 of the '769 Patent.

87. FlashPoint has obtained electronic imaging devices that, on information and belief, HTC imports, sells for importation, and/or sells within the United States after importation, that infringe at least claims 1 – 7, 11 – 12, 18 – 23, 26, 30 – 31, 40, and 41 of the '769 Patent. Exhibit 47 includes photographs of the HTC MyTouch 3G. Exhibit 43 is a photograph showing the physical casing of the HTC MyTouch 3G that is marked as “Made in Taiwan.”

88. On information and belief, respondents HTC Corporation and HTC America, Inc. (referred to collectively as “HTC”) import, sell for importation, and/or sell within the United States after importation the HTC MyTouch 3G depicted in Exhibits 47 and 43. Exhibit 28 from the HTC Corporation 2008 annual report states that the United States is a “principal market” for sales of HTC wireless devices. Exhibit 29 contains a page from the HTC website ([www.htc.com/us](http://www.htc.com/us)), that shows that HTC America, Inc. is the North American Division of HTC Corporation. Exhibit 30 contains a press release from

HTC website describing that HTC partners with Best Buy to offer HTC phones for sale in the United States. Exhibit 31 includes a press release from a website ([www.bnet.com](http://www.bnet.com)) announcing HTC's distribution relationship with Brightpoint North America and stating that HTC America, Inc. is a Subsidiary of HTC Corporation and was opened to offer HTC products to North American consumers. Exhibit 32 contains a page from a website ([www.extractable.com](http://www.extractable.com)) stating that HTC Corporation established HTC America, Inc. "with the goal of becoming the partner of choice for mobile communications consumers in North and South America."

89. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 47 to the complaint includes a chart comparing independent claims 1, 18, 40, and 41 of the '769 Patent to the HTC MyTouch 3G. Exhibit 47 shows that the HTC MyTouch 3G is covered by at least independent claims 1, 18, 40, and 41 of the '769 Patent. Thus, HTC is violating Section 337 of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the HTC MyTouch 3G.

## **7. LG**

90. LG will be engaged in the importation, sale for importation, and/or sale within the United States after importation of electronic imaging devices that infringe at least 1 – 7, 11 – 12, 18 – 23, 26, 30 – 31, 40, and 41 of the '769 Patent.

91. FlashPoint has obtained information that LG plans to import, sell for importation, and/or sell within the United States after importation electronic imaging devices that infringe at least claims 1 – 7, 11 – 12, 18 – 23, 26, 30 – 31, 40, and 41 of the '769 Patent. Exhibit 48 is a press release stating that LG Electronics MobileComm U.S.A. Inc., plans to release the LG Ally phone available in the United States by May 2010.

Exhibit 49 includes photographs of the LG Ally. On information and belief, the LG Ally phone will be manufactured in Korea.

92. On information and belief, respondents LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc. (collectively, "LG") will import, sell for importation, and/or sell within the United States after importation the LG Ally phone depicted in Exhibit 49. Pursuant to Commission rule 210.12(a)(3), FlashPoint will supplement its complaint with a specific example of importation (*e.g.*, a sales receipt) once the LG Ally becomes available for purchase as indicated by LG's press released shown in Exhibit 48. Exhibit 36, pages printed from the LG USA website (<http://www.us.lge.com>), states that LG Electronics U.S.A., Inc. is the North American subsidiary of LG Electronics, Inc. Exhibit 36 also states that LG Electronics MobileComm U.S.A., Inc is the North American wireless division of LG Electronics, Inc. Exhibit 36 also states that LG Electronics MobileComm U.S.A., Inc. provides marketing support for LG in North America. Exhibit 37 is a Hoovers' company profile for LG Electronics, Inc., that states that LG Electronics, Inc. generates most of its revenue from sales in North America. Exhibit 38 is a page from the LG Electronics, Inc. 2008 annual shareholder report, which shows the percentage of LG Electronics, Inc.'s sales in North America. Exhibit 39, a page from the LG Electronics, Inc. 2009 third quarter financial statement, states that LG Electronics U.S.A., Inc. is a wholly-owned subsidiary of LG Electronics, Inc.

93. Pursuant to Commission rule 210.12(a)(9)(viii), Exhibit 49 to the complaint includes a chart comparing independent claims 1, 18, 40, and 41, of the '769 Patent to the LG Ally phone. Exhibit 49 shows that the LG Ally phone is covered by at least independent claims 1, 18, 40, and 41 of the '769 Patent. Thus, LG is violating Section 337

of the Tariff Act of 1930 by importing, selling for importation, and/or selling within the United States after importation the Ally phone.

#### **VIII. HARMONIZED TARIFF SCHEDULE INFORMATION**

94. The articles subject to this complaint are classifiable under at least the following headings and subheadings of the Harmonized Tariff Schedule (“HTS”) of the United States: 8525.80.40 (Digital still image video cameras); 9006.59.40 (cameras with fixed focus), 8528.72.7210 (Monitors and Projectors of Plasma-type); 8525.80.50 (digital cameras); 8521 (Video Recording or Reproducing Apparatus); and 8528.72.7250 (Monitors and Projectors of LCD-type). These HTS numbers are illustrative only and are not intended to restrict the scope of this investigation.

#### **IX. RELATED LITIGATION**

95. This is no current litigation related to the Asserted Patents.

#### **X. DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENTS**

96. FlashPoint was a pioneer of the digital camera industry. The company developed software and system architectures that revolutionized the way digital cameras operate. This innovation included the Digita® operating system that FlashPoint introduced in 1998. Confidential Exhibit 50, Declaration of Stanley Fry, at ¶ 4. FlashPoint realized significant royalty revenue from the sale of its Digita OS® product. Companies such as Kodak, Hewlett Packard, Pentax, and Minolta have all incorporated FlashPoint’s Digita OS® into products manufactured and/or distributed within the United States. *Id.* at ¶ 8.

97. In 1996, FlashPoint spun out from being a business unit of Apple Inc., and acquired the know-how, software code, and patents relating to the development of the Digita® OS product. *Id.* at ¶ 6. To date, FlashPoint has made significant investments toward the research and development of the Digita® OS product and other products. *Id.*

FlashPoint's extensive research and development efforts resulted in one hundred and six (106) issued United States patents, including the '606 Patent, the '816 Patent, and the '769 Patent. *Id.* at ¶ 5. FlashPoint's development efforts also yielded over one hundred and seventy-two (172) currently pending U.S. patent applications related to digital imaging technology. *Id.*

98. From 1998 through 2001, FlashPoint's operations focused on development and marketing of the Digita OS® product, as well as efforts to license and enforce its patent portfolio. *Id.* at ¶ 7 From 1996 through 2007, Flashpoint was also heavily engaged in research and development activity. FlashPoint operated a research and development facility in San Jose, California, that occupied approximately 25,000 square feet of rented space. *Id.* at ¶ 9. FlashPoint paid a significant amount to rent the San Jose facility. *Id.*

99. Through 2007, FlashPoint made substantial capital investments to support its research and development activity. *Id.* at ¶ 9. FlashPoint also incurred significant personnel expenses including salary, payroll fees, and employee benefits during this time. *Id.* at ¶ 14. These expenses are exclusive of fees or expenses paid to outside counsel. *Id.*

100. Since 2007 FlashPoint's business plan has been to license its extensive patent portfolio and technology rights. *Id.* at ¶¶ 11, 14. To that end FlashPoint employs ten (10) full time employees, including engineers and attorneys, and currently maintains offices in North Carolina and New Hampshire. Exhibit 50 at ¶ 15-17; Exhibit 50D; Exhibit 50E. FlashPoint continues its licensing activity, and is incurring significant personnel expenses including salary, payroll fees, and employee benefits. Exhibit 50 at ¶ 15; Exhibit 50E. FlashPoint also continues to pay significant rents for its facilities in both North Carolina and New Hampshire. Exhibit 50D.



**A. FlashPoint Maintains a Domestic Industry Under 19 U.S.C. 1337(a)(3)(B)**

101. With respect to the Asserted Patents, a domestic industry in the United States exists as defined under Section 337(a)(3)(B). FlashPoint does not license individual patents, but instead offers portfolio wide licenses only. *Id.* at ¶ 13. One hundred percent of FlashPoint's licensing revenue is derived from licensing a patent portfolio that includes the Asserted Patents. Exhibit 50 at ¶ 13. FlashPoint has significant employment of both labor and capital resources to maintain its licensing operations involving this portfolio. *Id.* at ¶ 15.

102. FlashPoint's personnel expenses were significant in 2007-2009, and are anticipated to be significant again in 2010. *Id.* 56 at ¶ 15; Exhibit 50E. FlashPoint employs ten (10) people on a full time basis, including two full-time engineers in its Research Triangle Park facility. These engineers dedicate one hundred percent of their time toward supporting FlashPoint's efforts to license a patent portfolio that includes the Asserted Patents. Exhibit 50 at ¶ 16.

103. FlashPoint's full-time engineers dedicate all their time toward tracking products being sold in the United States, and determining if these products potentially read on FlashPoint's patents, including the Asserted Patents. *Id.* at ¶ 16. These engineers work directly with FlashPoint's in-house attorneys to determine which companies are making, using, selling, or importing products that require a license from FlashPoint. *Id.* FlashPoint expends significant capital to purchase the electronic digital imaging devices its engineers analyze. *Id.*

104. FlashPoint also employs executives and in-house attorneys who support FlashPoint's licensing operations that include licensing the Asserted Patents. *Id.* at ¶¶ 16-17.

**B. FlashPoint Maintains a Domestic Industry Under 19 U.S.C. 1337(a)(3)(C)**

105. With respect to the Asserted Patents, a domestic industry in the United States exists as defined under Section 337(a)(3)(C). The labor investments described in paragraph 103 are also relevant to Saxon's domestic industry under Section 337(a)(3)(C). FlashPoint has invested and continues to invest substantially in the exploitation of the Asserted Patents through its licensing efforts.

106. Flashpoint has made substantial investments in its program to license a portfolio including the Asserted Patents. To date, FlashPoint has generated significant licensing revenue from its patents covering the class of accused digital camera products, including the patents at issue. *Id.* at ¶ 12; Exhibit 50B.

107. The following companies are licensed under the Asserted Patents:

- a. Apple Inc., a California corporation;
- b. Casio Computer Company, Ltd., a Japanese corporation;
- c. Concord Camera Corp., a Japanese corporation;
- d. Eastman Kodak Company, a New Jersey corporation;
- e. Fuji Photo Film Co., Ltd., a Japanese corporation;
- f. Hewlett-Packard Company, a Delaware corporation;
- g. Konika Corporation, a Japanese corporation;
- h. Kyocera Corporation, a Japanese corporation;
- i. Matsushita Electric Industrial Co., Ltd., a Japanese corporation;

- j. Minolta Co., Ltd., a Japanese corporation;
- k. Nikon Corporation, a Japanese corporation;
- l. Nintendo Co., Ltd., a Japanese corporation;
- m. Olympus Corporation, a Japanese corporation;
- n. Asahi Optical Co., Ltd, a Japanese corporation;
- o. Pentax Corporation, a Delaware corporation;
- p. Pixami Inc., a Delaware corporation;
- q. Ricoh Company, Ltd., a Japanese corporation;
- r. Samsung Electronics, a Korean corporation;
- s. Samsung Techwin Co., Ltd., a Korean corporation;
- t. Sanyo Electric Co., Ltd., a Japanese corporation;
- u. Seiko Epson Corporation, a Japanese corporation and Epson America;
- v. Sharp Corporation, a Japanese corporation;
- w. Sony Corporation, a Japanese corporation;
- x. Tabata USA, Inc., a California corporation;
- y. Toshiba Corporation, a Japanese corporation;
- z. Vivitar Corporation, a California corporation.

Exhibit 50 at ¶ 13; Exhibits 4a-b.

108. Since 2007, all of FlashPoint's personnel expenses have been dedicated exclusively toward licensing activity. Exhibit 50 at ¶ 14. FlashPoint also expends significant capital and labor in negotiating license agreements concerning its patent portfolio that includes the Asserted Patents. *Id.*

**C. FlashPoint Maintains a Domestic Industry Based on the Activities of Its Domestic Licensees**

109. With respect to the Asserted Patents, a domestic industry in the United States exists under Section 337(a)(3)(A) due to FlashPoint's domestic licensees' significant investment in plant and equipment; under 337(a)(3)(B) due to FlashPoint's domestic licensees' significant employment of capital and labor; and under Section 337(a)(3)(C) due to FlashPoint's domestic licensees' substantial investment in research and development with respect to the Asserted Patents.

110. FlashPoint licenses the Asserted Patents to multiple domestic companies including Apple Inc, a California corporation and Eastman Kodak Company, a New Jersey corporation. Exhibits 4a-b. On information and belief, both Apple Inc. and Eastman Kodak Company continue to make use of patented technology, including the Asserted Patents, that FlashPoint developed in connection with the Digita OS® product platform.

**Domestic Licensee Apple Inc.**

111. Apple incorporates the technology protected by the '769 Patent into its iPhone product. Exhibit 51 is a chart comparing independent claims 1, 18, 40, and 41 of the '769 Patent to the Apple iPhone. Exhibit 51 shows that the iPhone practices claims 1, 18, 40, and 41. The iPhone is one Apple's most significant products, and was second only to the iPod in terms of units sold in 2009. Exhibit 52 at 41. iPhone revenue and net sales of related products and services amounted to \$6.8 billion in 2009. Exhibit 52 at 41-42. iPhone is Apples' fastest growing market. Exhibit 52 at 41.

112. Pursuant to Commission rule 210.12(a)(6)(i)(A), the relevant operations of Apple are as follows:

- a. Apple's headquarters are in Cupertino, California. Exhibit 52 at 24.

b. As of September 26, 2009, Apple Inc. owned and leased approximately 19.7 million square feet of space, primarily in the United States. Exhibit 52 at 24.

c. At the end of 2009, Apple had \$2.9 billion in property, plant, and equipment, and total assets of \$53.85 billion. *Id.* at 55

d. Based on the relative importance of the iPhone to Apple, a conservative estimate is over five percent of these properties and other assets are apportioned to the iPhone.

113. Pursuant to Commission rule 210.12(a)(6)(i)(B), the relevant operations of Apple are as follows:

a. Apple had 34,300 full time employees and 2,500 temporary full time equivalent employees and contractors. Exhibit 52 at 24. On information and belief a significant number of these employees are in the United States, and based on the relative importance of the iPhone to Apple, a conservative estimate is that over five percent of these employees are allocated to the iPhone technology.

b. Apple had \$34.0 billion in cash, cash equivalents and marketable securities its fiscal year ending September 26, 2009. Exhibit 52 at 49. A conservative estimate is that over five percent of this is allocated to the iPhone.

114. Pursuant to Commission rule 210.12(a)(6)(i)(C), the relevant operations of Apple are as follows:

a. Apple invested \$1.33 billion in research and development and \$4.15 billion in selling and general administration. Exhibit 52 at 46.

b. Apple capitalized \$75 million of costs specifically associated with the development of iPhone software along with development of one other operating system. *Id.* at 47. A conservative estimate is that about half of these costs are allocated to the iPhone.

### **Domestic Licensee Eastman Kodak Company**

115. Kodak incorporates the technology claimed in '606 Patent into its Z981 camera, and the technology claimed in the '816 Patent into its M580 camera. Exhibit 53 is a chart comparing independent claims 1, 11, and 21 of the '606 Patent to the Kodak Z981 camera. Exhibit 54 is a chart comparing independent claims 1, 9 and 16 of the '816 Patent to the Kodak M580 camera. Exhibits 53 and 54 show that FlashPoint's domestic licensee Kodak practices the '606 and '816 patents.

116. Kodak has several operating groups, including its Consumer Digital Imaging Group ("CDG"). It is the CDG that relates to digital imaging devices such as the M580 camera. Exhibit 55 at 5.

117. Pursuant to Commission rule 210.12(a)(6)(i)(A), the relevant operations of Kodak are as follows:

- a. Kodak is currently incorporated in the state of New Jersey with its headquarters located in Rochester, New York. Exhibit 55 at 4.
- b. At the end of 2009 Kodak had property, plant and equipment valued at \$1.25 billion, and total assets of \$7.69 billion. Exhibit 55 at 56. At the end of 2009, Kodak had \$895 million in property, plant, and equipment located in the United States. Exhibit 55 at 109. A conservative estimate is that about two percent of these assets are allocated to the M580 and Z981 cameras.

118. Pursuant to Commission rule 210.12(a)(6)(i)(B), the relevant operations of Kodak are as follows:

- a. In 2009 Kodak had 10,630 employees in the United States. Exhibit 55 at 121. It paid its employees \$1.7 billion in wages, salaries, and employee benefits. *Id.*

b. In the year ending 2009, Kodak has \$2.02 billion in cash and cash equivalents, an total assets of \$7.7 billion. Exhibit 55 at 56. \$1.2 billion of those assets are attributable to the CDG. Exhibit 55 at 108. On information and belief a significant amount of Kodak's assets are in the United States.

c. A conservative estimate is that over two percent of these wages, benefits and cash can be apportioned to the M580 and Z981 cameras.

119. Pursuant to Commission rule 210.12(a)(6)(i)(C), the relevant operations of Kodak are as follows:

a. Kodak's CDG segment invested \$146 million in research and development in 2009. Exhibit 55 at 8. This research and development included research and development on cameras. Exhibit 55 at 5.

b. A conservative estimate is that over two percent of this research and developments was related to the M580 and Z981 cameras.

## **XI. RELIEF**


WHEREFORE, by reason of the foregoing, FlashPoint requests that the Commission:

a. Institute an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to Respondents' violations of Section 337 based on the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of electronic imaging devices that infringe the '606 Patent, the '816 Patent, and the '769 Patent.

b. Schedule and conduct a hearing on permanent relief pursuant to 19 U.S.C. § 1337(d) and (f) of the Tariff Act of 1930, as amended;

- c. Issue a Limited Exclusion Order specifically directed to each named Respondent, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States articles that infringe the '606 Patent, the '816 Patent, and/or the '769 Patent;
- d. Issue a cease and desist order pursuant to 19 U.S.C. § 1337(f) prohibiting each domestic Respondent from engaging in the unlawful importation and/or sale within the United States after importation of certain electronic imaging devices that infringe the '606 Patent, the '816 Patent, and/or the '769 Patent;
- e. 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 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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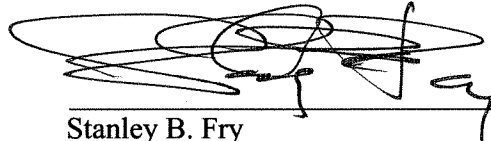
**Counsel for Complainant  
FlashPoint Technology, Inc.**

### **VERIFICATION OF COMPLAINT**

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

1. I am Chief Executive Officer for FlashPoint Technology, Inc., 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 non-frivolous 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.

A handwritten signature in black ink, appearing to read 'Stanley B. Fry', is written over a horizontal line.

Stanley B. Fry  
Chief Executive Officer  
FlashPoint Technology, Inc.