

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN MOBILE HANDSET
DEVICES AND RELATED TOUCH
KEYBOARD SOFTWARE**

Investigation No. 337-TA-___

**VERIFIED COMPLAINT OF NUANCE COMMUNICATIONS, INC. UNDER
SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

COMPLAINANT

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TABLE OF SUPPORTING MATERIALS

EXHIBITS

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1.	U.S. Patent No. 7,750,891
2.	Assignment records for U.S. Patent No. 7,750,891
3.	U.S. Patent No. 7,453,439
4.	Assignment records for U.S. Patent No. 7,453,439
5.	U.S. Patent No. 7,098,896
6.	Assignment records for U.S. Patent No. 7,098,896
7.	U.S. Patent No. 7,075,520
8.	Assignment records for U.S. Patent No. 7,075,520
9.	U.S. Patent No. 6,286,064
10.	Assignment records for U.S. Patent No. 6,286,064
11.	List of each foreign patent, each foreign patent application (not already issued as a patent), and each foreign patent application that has been denied corresponding to each of the Asserted Patents
12.	List of licenses for the Asserted Patents (CONFIDENTIAL)
13.	Infringement claim charts for U.S. Patent No. 7,750,891
14.	Infringement claim charts for U.S. Patent No. 7,453,439
15.	Infringement claim charts for U.S. Patent No. 7,098,896
16.	Infringement claim charts for U.S. Patent No. 7,075,520
17.	Infringement claim charts for U.S. Patent No. 6,286,064
18.	Declaration of Aaron Sheedy (CONFIDENTIAL)
19.	Nuance Communications' U.S. SEC Form 10-K (2011) and Recent Form 10-Q (3rd Quarter report, 2012)
20.	Domestic Industry claim chart for U.S. Patent No. 7,750,891

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24. Domestic Industry claim chart for U.S. Patent No. 6,286,064
25. Photographs of PCD Venture
26. Receipt for Purchase of PCD Venture
27. Web printout, also available at: <http://www.pcdphones.com/our-devices/products/179-vm2045>.
28. Web printout, also available at: <http://www.walmart.com/ip/Virgin-Mobile-PCD-Venture-Prepaid-Cell-Phone/20450344>
29. Samsung Galaxy S II User Manual
30. Samsung Galaxy S II Specifications
31. PCD Venture User Manual
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G.	Prosecution History for U.S. Patent No. 7,075,520
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PHYSICAL EXHIBITS

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DESCRIPTION

1. PCD Venture (Accused Product)
2. Complainant's Representative Domestic Industry Product

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I. INTRODUCTION

1. Nuance Communications, Inc. (“Nuance”), a leading designer and provider of intuitive communication technologies for businesses and individuals around the world, respectfully requests the United States International Trade Commission (the “Commission”) institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended and codified at 19 U.S.C. § 1337. Nuance’s technologies, applications, services, and solutions have transformed the way millions of people interact with electronic devices and systems, particularly mobile handset devices. Nuance’s intellectual property portfolio, built through both internal development and strategic business acquisitions, includes industry-leading innovations in the field of mobile and consumer solutions and services, such as voice control and text-to-speech solutions, dictation applications, predictive text technologies, and mobile messaging services. Through partnerships with some of the world’s most recognized and respected electronics manufacturers, suppliers, and integrators, Nuance’s sophisticated software technology products have enjoyed enormous commercial success and continue to revolutionize the way people stay connected, informed, and productive.

2. Proposed respondents Shanghai HanXian (CooTek) Information Technology Co., Ltd. (“CooTek”) and Personal Communications Devices, LLC (“PCD”), have engaged in unfair acts in violation of Section 337 of the Tariff Act of 1930, as amended and codified at 19 U.S.C. § 1337, through the unlicensed sale for importation, importation, and/or sale after importation, by or on their behalf, of infringing mobile communications devices and/or associated software (collectively, the “Accused Products”). The Accused Products and associated software manufactured, imported, sold for importation, and/or sold after importation by the proposed respondents incorporate, without license, many of the technologies developed by Nuance and protected by patents owned by Nuance.

3. Accordingly, Nuance files this Complaint under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based upon the unlawful importation into the United States, the sale for importation into the United States, and the sale within the United States after importation by proposed respondents of certain mobile handset devices and related touch keyboard software that infringe certain claims of U.S. Patent Nos. 7,750,891 (“the ’891 patent”), 7,453,439 (“the ’439 patent”), 7,098,896 (“the ’896 patent”), 7,075,520 (“the ’520 patent”), and 6,286,064 (“the ’064 patent”) (collectively, the “Asserted Patents”). The presently asserted claims of these patents are:

Patent Number	Asserted Claims
7,750,891	36, 47, 55-57
7,453,439	1-7, 12-55
7,098,896	1-3, 5-12, 17, 19-51
7,075,520	1, 8, 9, 12-16, 19-21
6,286,064	1, 2-4, 22-24, 26

4. Nuance owns by assignment the entire right, title, and interest in and to each of the Asserted Patents. Certified copies of the Asserted Patents are attached as Exhibits 1, 3, 5, 7, and 9. Certified copies of the assignment records of the Asserted Patents are attached as Exhibits 2, 4, 6, 8, and 10.

5. As explained in Section X, a domestic industry as required by 19 U.S.C. §§ 1337(a)(2) and (3) exists in the United States relating to the technology protected by the Asserted Patents.

6. Nuance seeks as relief a limited exclusion order barring from unlicensed entry into the United States infringing mobile handset devices and related touch keyboard software technology manufactured abroad by or on behalf of, or imported by or on behalf of the proposed respondents. Nuance further seeks a permanent cease and desist order prohibiting proposed respondents from conducting or aiding and abetting any of the following activities in the United

States: importing, selling, marketing, advertising, distributing, making available, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for, mobile handset devices and related touch keyboard software technology that infringe one or more claims of the Asserted Patents, in violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337. Nuance also seeks the imposition of a bond upon the proposed respondents' importation of infringing articles and/or products containing the same into the United States during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

II. COMPLAINANT

7. Nuance Communications, Inc. is a Delaware corporation having its principal place of business at 1 Wayside Road, Burlington, Massachusetts 01803.

8. Nuance designs, develops, markets, sells, and distributes a wide range of intuitive software technologies through mobile and consumer solutions and business services through a technology model that spans the globe. Nuance's success is fueled by its commitment to research and development of innovative technologies, resulting in an extensive, continually growing portfolio of intellectual property assets, including both foreign and United States patents. Nuance maintains business relationships, including licensing and/or partnership agreements with many of the world's leading electronics manufacturers, suppliers, and integrators, such as Apple, Garmin, Samsung, and Amazon. It is through these strategic partnerships that Nuance's innovative software solutions maintain their resounding success.

9. Nuance's commitment to technological development and innovation has led the way to Nuance's establishment of its Predictive Text Group, which has been responsible for significant developments and acquisitions related to touch keyboard technology on mobile handset devices. Particularly, Nuance is the proud innovator of its XT9 software platform, which forms the baseline for a cutting edge touch keypad on mobile devices. Further, Nuance

recently acquired Swype Inc., which provided its own innovative virtual keyboard software solution that is now a part of Nuance's Predictive Text Group. The Predictive Text Group is integrating these two software platforms into its own proprietary Swype software platform. Nuance has made and continues to make significant investments in the United States in facilities, equipment, labor, capital, engineering, research and development, and the integration related to these novel technologies that practice the asserted patents as explained in greater detail below.

III. THE PROPOSED RESPONDENTS

10. On information and belief, PCD is a privately held corporation organized under the laws of the State of Delaware, with its principal place of business at 555 Wireless Boulevard, Hauppauge, New York 11788. On information and belief, PCD is engaged in the design, manufacture, assembly, importation into the United States, sale for importation, and/or sale after importation of infringing mobile handset devices.

11. On information and belief, CooTek is a corporation organized under the laws of the country of China, with its principal place of business at 15-V, Tianlin Road 140, Xuhui District, Shanghai, 200241, China. On information and belief, CooTek is engaged in the design, manufacture, testing, assembly, importation into the United States, sale for importation, and sale in the United States after importation infringing touch keyboard technology, including its "TouchPal" software platform.

12. On information and belief, CooTek sells and/or licenses its TouchPal touch keyboard software for incorporation into or download onto mobile handset devices, including the mobile handset devices of proposed respondent PCD, as set forth in greater detail in Section VI of this Complaint.

13. On information and belief, CooTek is engaged in aiding and abetting others, including proposed respondent PCD, in the importation into the United States, sale for

importation into the United States, and/or sale within the United States after importation, of mobile handset devices with CooTek's touch keyboard software, including but not limited to the CooTek TouchPal Suite, loaded thereon.

IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE

14. The technologies at issue relate generally to software and methods used in a variety of electronic devices, including mobile communications devices imported into and sold within the United States by or on behalf of the proposed respondents.

15. The Accused Products are mobile handset devices such as smartphones (including without limitation the Venture mobile handset device) and associated software, including operating systems, user interfaces, and other application software designed for use on, and otherwise loaded onto such devices (including without limitation the CooTek TouchPal Suite touch keyboard software). Upon information and belief, these products are marketed, sold, offered for sale, and/or made available by the proposed respondents in the United States.¹

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

A. Overview and Ownership of the Asserted Patents

16. As set forth above, Nuance owns by assignment the entire right, title, and interest in and to each of the Asserted Patents. (See Exhibits 1, 3, 5, 7, and 9.)

17. As required by Commission Rule 210.12(c), four copies of the certified prosecution histories for each of the Asserted Patents have been submitted with this Complaint as Appendices A, C, E, G, and I. As required by Commission Rule 210.2(c), the cited references

¹ Section IV contains merely a shorthand summary of products currently accused of infringement by Nuance. These descriptions, and the examples given therein, are not intended to exclusively define or otherwise limit the categories of Accused Products. Nuance expects that the proposed respondents will introduce additional products in the future that will infringe the Asserted Patents.

for each of the Asserted Patents have also been submitted with this Complaint as Appendices B, D, F, H, and J.

B. Non-Technical Description of the '891 Patent

18. The '891 patent, entitled "Selective Input System Based on Tracking of Motion Parameters of an Input Device" issued on July 6, 2010, to inventors James Stephanick, Christina James, Ethan R. Bradford, and Michael R. Longé. (Exhibit 1.) The '891 patent issued from U.S. Patent Application No. 10/881,819, filed on June 28, 2004, which was a Continuation-in-Part of U.S. Patent Application No. 10/677,890, filed October 1, 2003, now U.S. Patent No. 7,286,115, which claims priority to U.S. Patent Application No. 10/205,950 filed July 25, 2000, and to U.S. Patent Application No. 60/461,753 filed April 9, 2003. The '891 patent also claims priority to U.S. Patent Application No. 60/504,552, filed September 19, 2003. The '891 patent expires on March 20, 2028. Nuance owns by assignment the entire right, title, and interest to and in the '891 patent. (Exhibit 2.)

19. The '891 patent has one hundred forty-three claims (143): seventeen independent claims and one hundred twenty-six (126) dependent claims. Nuance is asserting dependent claims 36, 47, and 55-57.

20. The '891 patent relates generally to a selective input system and associated method which track the motion of an input device (such as a finger or a stylus) over an area (such as a keyboard) to select and input an item or character. By detecting parameters of motion, such as length of motion, a change in direction, a change in velocity, or a lack of motion, at various locations on a user interface area, the input system is able to identify a selection of items or characters, such as a word or phrase, and can be used to improve the accuracy of a user's inputs.

C. Non-Technical Description of the '439 Patent

20. The '439 patent, entitled "System and Method for Continuous Stroke Word-Based Text Input," issued on November 18, 2008, to inventors Clifford A. Kushler and Randal J. Marsden. (Exhibit 3.) The '439 patent issued from U.S. Patent Application No. 10/710,575, filed on July 21, 2004, which was a Continuation-in-Part Application of co-pending U.S. Application No. 10/346,366, filed on January 16, 2003, now U.S. Patent No. 7,098,896. The '439 patent is subject to a terminal disclaimer and expires April 30, 2024. Nuance owns by assignment the entire right, title, and interest to and in the '439 patent. (Exhibit 4.)

21. The '439 patent has sixty-three claims: two independent claims and sixty-one dependent claims. Nuance is asserting independent claims 1 and 4 and dependent claims 2-3, 22-24 and 26.

22. The '439 patent relates generally to a text input system, specifically a touch screen text input system and discloses a system comprising (1) recording a stroke, including the first and last contact points, and the intermediate contact point; (2) finding words in a database containing letters that match points on the path of the stroke; and (3) ranking the matched words based on the comparison of the path to the word and the frequency associated with the word. By requiring only a single motion to input text, the system is able to significantly increase entry (e.g., typing) speed.

D. Non-Technical Description of the '896 Patent

23. The '896 patent, entitled "System and Method for Continuous Stroke Word-Based Text Input," issued on August 29, 2006, to inventors Clifford A. Kushler and Randal J. Marsden. (Exhibit 5.) The '896 patent issued from U.S. Patent Application No. 10/346,366, filed on January 16, 2003. The '896 patent expires on April 30, 2024. Nuance owns by assignment the entire right, title, and interest to and in the '896 patent. (Exhibit 6.)

24. The '896 patent has fifty-one claims: two independent claims and forty-nine dependent claims. Nuance is asserting independent claims 1 and 51 and dependent claims 2-3, 5-12, 17, and 19-50.

25. The '896 patent generally relates to a system that allows a user to use continuous contact with a touch screen to trace a pattern for a word, whereby the system of the invention then generates a list of possible words associated with the entered pattern and presents it to the user for final selection. More specifically, the method of the invention generally discloses: (1) recording a stroke, including the first and last contact points, and the intermediate contact point; (2) finding matching words in a database in which the first letter of the word is close to the first contact point, the last letter is close to the last contact point, and intermediate letters are close to the path; and (3) ranking the matched words based on the comparison of the path to the word.

E. Non-Technical Description of the '520 Patent

26. The '520 patent, entitled “Key Press Disambiguation Using a Keypad of Multidirectional Keys,” issued on July 11, 2006, to inventor Roland E. Williams. (Exhibit 7.) The '520 patent issued from U.S. Patent Application No. 10/020,572, filed on December 21, 2001. The '520 patent expires on May 27, 2023. Nuance owns the entire right, title, and interest to and in the '520 patent. (Exhibit 8.)

27. The '520 patent has twenty-one claims: three independent claims and eighteen dependent claims. Nuance is asserting independent claims 1, 8, and 15 and dependent claims 9, 12-14, 16, and 19-21.

28. The '520 patent relates generally to devices and methods of data entry using a keypad to disambiguate between multiple symbols associated with a single key. For example, a user touches a key which causes the display of two or more symbols associated with that key.

By sliding a finger towards the desired letter or symbol, the user is able to complete an unambiguous selection.

F. Non-Technical Description of the '064 Patent

29. The '064 patent, entitled "Reduced Keyboard and Method for Simultaneous Ambiguous and Unambiguous Text Input," issued on September 4, 2001, to inventors Martin T. King, Dale L. Grover, Clifford A. Kushler, and Cheryl A. Grunbock. (Exhibit 9.) The '064 patent issued from U.S. Application No. 09/339,549, filed on June 24, 1999, which was a continuation of Application No. 08/792,969, filed on January 24, 1997, now U.S. Patent No. 5,953,541. The '064 patent expires on January 24, 2017. Nuance owns by assignment the entire right, title, and interest to and in the '064 patent. (Exhibit 10.)

30. The '064 patent has thirty-two claims: two independent claims and thirty dependent claims. Nuance is asserting independent claim 1 and dependent claims 2-4, 22-24, and 26.

31. The '064 patent relates generally to a keyboard disambiguating system that uses word-level disambiguation to increase the accuracy of text input. The system simultaneously interprets both a user's ambiguous and unambiguous keystrokes and matches those keystroke sequences to a plurality of stored words or symbols that are presented to the user for a final, unambiguous selection.

G. Foreign Counterparts

32. A list of all foreign counterparts to the Asserted Patents is included with this Complaint as Exhibit 11. Nuance owns all right, title, and interest to each of these foreign counterparts. No other foreign patents or patent applications corresponding to any of the Asserted Patents have been filed, abandoned, withdrawn, or rejected.

H. Licenses

33. Confidential Exhibit 12 includes a list of licensed entities for the Asserted Patents, including broad cross-license agreements that may include one or more of the asserted patents.

VI. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS—PATENT INFRINGEMENT

34. On information and belief, PCD develops, manufactures abroad, sells for importation into the United States, imports into the United States, and/or sells within the United States after importation, mobile handset devices with touch keyboard software technology that infringe one or more of the Asserted Claims.

35. PCD directly and/or indirectly infringes the Asserted Patents by making, using, selling, offering for sale, and/or importing the articles claimed by, or practicing the claimed methods of, the Asserted Patents and/or by inducing or contributing to the infringement of others. PCD is aware of the Asserted Patents, at least because before the filing of this Section 337 Complaint, PCD was provided with a copy of a Delaware patent infringement complaint filed by Nuance on the Asserted Patents against PCD, District of Delaware, Civil Case No. 1:12-cv-01722-UNA, dated 12/17/2012.

36. On information and belief, CooTek designs, develops, manufactures abroad, sells for importation into the United States, imports into the United States, sells and/or makes available within the United States after importation including through available international download, touch keyboard software that, when loaded onto a mobile handset device, infringes one or more of the Asserted Claims.

37. CooTek, through the above described activities, at least indirectly infringes the Asserted Patents by contributing to and/or inducing the infringement of others, including but not limited to PCD. CooTek is aware of the Asserted Patents, at least because before the filing of

this Section 337 Complaint, Cootek was provided with a copy of a Delaware patent infringement complaint filed by Nuance on the Asserted Patents against CooTek, Civil Case No. 1:12-cv-01722-UNA, dated 12/17/2012.

38. An accused Venture mobile handset device, with CooTek TouchPal software, is included herewith as Physical Exhibit 1. Additionally, CooTek TouchPal touch keyboard software is openly available for download and use on mobile handset devices in the United States through third party markets, including the Android market. For example, Exhibit 33 includes a screenshot of the TouchPal touch keyboard software available on the Android market for download onto a mobile handset device as it appeared to United States consumers on October 2, 2012, in Washington, DC.

A. The '891 Patent

39. On information and belief, PCD's mobile handset devices using CooTek software, including the Venture mobile handset infringe at least claims 36, 47, and 55-57 of the '891 patent. Additionally, on information and belief, CooTek and PCD have knowledge of the '891 patent and knowingly induce users of such mobile handset devices as the Venture to infringe at least claims 36, 47, and 55-57 of the '891 patent. (*See* Exhibit 31, Venture User Manual at pp. 16-19). Further, on information and belief, CooTek and PCD contribute to the infringement of at least claims 36, 47, and 55-57 of the '891 patent because CooTek and PCD know that PCD mobile handset devices, including the Venture device, with CooTek software are made for use in infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use.

40. An exemplary claim chart comparing asserted dependent claim 36 of the '891 patent to the accused Venture device is attached as Exhibit 13.

B. The '439 Patent

41. On information and belief, PCD's mobile handset devices using CooTek software, including the Venture mobile handset infringe at least claims 1-7, and 12-55 of the '439 patent. Additionally, on information and belief, CooTek and PCD have knowledge of the '439 patent and knowingly induce users of such mobile handset devices as the Venture to infringe at least claims 1-7, and 12-55 of the '439 patent. (*See* Exhibit 31, Venture User Manual at pp. 16-19). Further, on information and belief, CooTek and PCD contribute to the infringement of at least claims 1-7, and 12-55 of the '439 patent because CooTek and PCD know that PCD mobile handset devices, including the Venture device, with CooTek software are made for use in infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use.

42. Exemplary claim charts comparing asserted independent claims 1 and 4 of the '439 patent to the accused Venture device are attached as Exhibit 14.

C. The '896 Patent

43. On information and belief, PCD's mobile handset devices using CooTek software, including the Venture mobile handset infringe at least claims 1-3, 5-12, 17, and 19-51 of the '896 patent. Additionally, on information and belief, CooTek and PCD have knowledge of the '896 patent and knowingly induce users of such mobile handset devices as the Venture to infringe at least claims 1-3, 5-12, 17, and 19-51 of the '896 patent. (*See* Exhibit 31, Venture User Manual at pp. 16-19). Further, on information and belief, CooTek and PCD contribute to the infringement of at least claims 1-3, 5-12, 17, and 19-51 of the '896 patent because CooTek and PCD know that PCD mobile handset devices, including the Venture device, with CooTek software are made for use in infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use.

44. Exemplary claim charts comparing asserted independent claims 1 and 51 of the '896 patent to the accused Venture device are attached as Exhibit 15.

D. The '520 Patent

45. On information and belief, PCD's mobile handset devices using CooTek software, including the Venture mobile handset infringe at least claims 1, 8, 9, 12-16, and 19-21 of the '520 patent. Additionally, on information and belief, CooTek and PCD have knowledge of the '520 patent and knowingly induce users of such mobile handset devices as the Venture to infringe at least claims 1, 8, 9, 12-16, and 19-21 of the '520 patent. (*See* Exhibit 31, Venture User Manual at pp. 16-19). Further, on information and belief, CooTek and PCD contribute to the infringement of at least claims 1, 8, 9, 12-16, and 19-21 of the '520 patent because CooTek and PCD know that PCD mobile handset devices, including the Venture device, with CooTek software are made for use in infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use.

46. Exemplary claim charts comparing asserted independent claims 1, 8, and 15 of the '520 patent to the accused Venture device are attached as Exhibit 16.

E. The '064 Patent

47. On information and belief, PCD's mobile handset devices using CooTek software, including the Venture mobile handset infringe at least claims 1, 2-4, 22-24, and 26 of the '064 patent. Additionally, on information and belief, CooTek and PCD have knowledge of the '064 patent and knowingly induce users of such mobile handset devices as the Venture to infringe at least claims 1, 2-4, 22-24, and 26 of the '064 patent. (*See* Exhibit 31, Venture User Manual at pp. 16-19). Further, on information and belief, CooTek and PCD contribute to the infringement of at least claims 1, 2-4, 22-24, and 26 of the '064 patent because CooTek and PCD know that PCD mobile handset devices, including the Venture device, with CooTek software are made for

use in infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use.

48. Exemplary claim charts comparing asserted independent claim 1 of the '064 patent to the accused Venture device are attached as Exhibit 17.

VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

49. On September 12, 2012, Nuance purchased a Venture mobile device, which had CooTek's TouchPal touch keyboard software preloaded on the device, in the United States. (*See* Exhibit 26.) Labels on the Venture indicate that it was made in China. (*See* Exhibit 25.) On information and belief, the Venture device was imported by PCD. *See, e.g.*, Exhibit 32. PCD advertises that it is a U.S. distributor of the Venture. (*See* Exhibit 27; web printout available at: <http://www.pcdphones.com/our-devices/products/179-vm2045>.) The Venture is on sale as a PCD device. (*See, e.g.*, Exhibit 28; web printout available at: <http://www.walmart.com/ip/Virgin-Mobile-PCD-Venture-Prepaid-Cell-Phone/20450344>.) Moreover, the manufacturer's warranty on the Venture is granted by PCD. (*See* Exhibit 31; Venture User Manual at pp. 102-103.) Importation records further confirm that PCD is the importer of record for many mobile devices – such as the Venture. (Exhibit 32.) The Venture includes CooTek TouchPal software, *i.e.*, the Venture device is preloaded with the TouchPal software prior to and at the time of importation into the United States. (*See* Exhibits 31 and 34.) As set forth above, the Venture device with CooTek TouchPal software infringes each Asserted Claim of each Asserted Patent.

50. CooTek TouchPal software is developed and designed in China. CooTek TouchPal software is included in mobile handset devices, including but not limited to the accused Venture device, which are imported into the United States, sold for importation into the United States, and/or sold in the United States after importation. (*See* Exhibits 31 and 34.)

51. CooTek's TouchPal touch keyboard software is openly available for download and use on mobile devices in the United States directly from CooTek's website. (See Exhibit 33.) Further, CooTek TouchPal software is openly available for download and use on mobile devices in the United States through third parties, such as the Android market. For example, Exhibit 33 includes a screenshot of the TouchPal software available on the Android market for download onto a mobile device as it appeared to United States consumers on October 2, 2012, in Washington, DC. As with the accused Venture device, any mobile device onto which a user has downloaded the CooTek TouchPal software infringes each Asserted Claim of each Asserted Patent.

VIII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

52. On information and belief, the Accused Products fall within at least the following classifications of the Harmonized Tariff Schedule ("HTS") of the United States: 8517 and 8571.12.00. The HTS number is intended to be for illustration only and is not exclusive of the products accused of infringement by Nuance. The HTS number is not intended to limit the scope of the investigation.

IX. RELATED LITIGATION

53. On December 17, 2012, Nuance filed a patent infringement action in the U.S. District Court for the District of Delaware accusing CooTek and PCD of infringing the Asserted Patents, captioned Nuance Communications, Inc., v. Personal Communication Devices, et al., Civil Case No. 1:12-CV-01722-UNA (D. Del.).

54. On information and belief, the Asserted Patents have not been the subject of any other court or agency litigation, domestic or foreign.

X. THE DOMESTIC INDUSTRY

55. A domestic industry exists and/or is in the process of being established, as defined under 19 U.S.C. § 1337(a)(3)(A), (B), and (C), comprising significant investments in plant and equipment, significant employment of labor and capital, and substantial investments in the exploitation of the Asserted Patents.

A. United States Investments in the Domestic Industry

56. Nuance makes extensive use of the inventions claimed in the Asserted Patents by virtue of its research, design, manufacture, and testing in the United States of products covered by the Asserted Patents. Nuance's Predictive Text Group currently designs and sells its Swype touch keyboard technology software that is incorporated into and runs on millions of mobile devices across the United States, including mobile phones sold by Samsung, LG Electronics, Nokia, HTC and others. Swype is the subject of substantial research and development in the United States. These Nuance software platforms are written in the United States and sold from the United States. When installed on a mobile handset device or other computer based electronic device, Nuance's touch keyboard software practices the Asserted Patents. Such practicing of the asserted patents happens at Nuance's facilities, where significant operability, reliability, and other testing of Nuance touch keyboard software technology takes place. Likewise, Nuance's software runs on the millions of devices across the United States which are properly authorized to run Nuance touch keyboard software. Greater details regarding how Nuance touch keyboard software running on a mobile handset device practices the Asserted Patents are found below.

57. Nuance is headquartered in Burlington, Massachusetts. (Exhibit 19, Nuance 2011 Form 10-K at 17.) As of September 30, 2011², Nuance headquarters occupied approximately

² Nuance's fiscal year ended September 30. Unless otherwise stated, all information presented is based on Nuance's fiscal calendar. (See Exhibit 19, Nuance 2011 Form 10-K at p. 1.)

201,000 square feet of space and was dedicated to corporate and administrative support functions as well as to significant research and development operations. (*Id.*) In addition to the Burlington facility, Nuance leased multiple other facilities in the United States with at least facilities in Sunnyvale, California, and Seattle, Washington, that included research and development operations. (*Id.*) A significant portion of this plant and equipment is devoted to Nuance's Predictive Text Group. (*See Confidential* Exhibit 18, Sheedy Decl. ¶¶ 8-12.)

58. In connection with developing and maintaining its technological edge and market-leading position, Nuance has made significant investments in research and development at the aforementioned United States facilities. As of September 30, 2011, Nuance had incurred approximately \$179.4 million in research and development expenses. (Exhibit 19, Nuance 2011 Form 10-K at 4.) A substantial portion of these expenses were dedicated to the research, design, development, engineering, implementation, and testing by the Predictive Text Group of the Swype Platforms in the United States. (*See Confidential* Exhibit 18, Sheedy Decl. ¶ 10.)

59. As part of its innovative business model, Nuance employs over 6,000 people across 35 regional offices that span the globe, including in North America, South America, Europe, and Asia. Much of Nuance's work force is made up of top tier engineers dedicated to perfecting Nuance's already elite and successful software platforms and to developing new cutting edge technologies. Specifically, as of September 30, 2011, Nuance had approximately 7,300 full-time employees, approximately 57% of which were employed in the United States. (Exhibit 19, Nuance 2011 Form 10-K at 5.) A significant portion of these domestic employees make up the Predictive Text Group and are devoted to the research, design, development, engineering, implementation, and testing associated with Nuance's touch keyboard software. (*See Confidential* Exhibit 18, Sheedy Decl. ¶ 10.)

60. Further details regarding Nuance's investments into the Predictive Text Group can be found in *Confidential* Exhibit 18, declaration of Aaron Sheedy.

B. Nuance's Practice of the Asserted Patents

61. An exemplary claim chart comparing Nuance's touch keyboard software running on a Samsung Galaxy S2 mobile handset device to a representative claim of the '891 patent is attached as Exhibit 20.

62. An exemplary claim chart comparing Nuance's touch keyboard software running on a Samsung Galaxy S2 mobile handset device to a representative claim of the '439 patent is attached as Exhibit 21.

63. An exemplary claim chart comparing Nuance's touch keyboard software running on a Samsung Galaxy S2 mobile handset device to a representative claim of the '896 patent is attached as Exhibit 22.

64. An exemplary claim chart comparing Nuance's touch keyboard software running on a Samsung Galaxy S2 mobile handset device to a representative claim of the '520 patent is attached as Exhibit 23.

65. An exemplary claim chart comparing Nuance's touch keyboard software running on a Samsung Galaxy S2 mobile handset device to a representative claim of the '064 patent is attached as Exhibit 24.

66. The foregoing are merely examples of Nuance's touch keyboard software running on mobile phones in the United States. For example, Nuance licenses its software for use on numerous mobile devices, including on devices sold by Samsung, LG Electronics, Nokia, and HTC. Moreover, Nuance tests its software domestically on its own hardware devices.

XI. RELIEF REQUESTED

67. WHEREFORE, by reason of the foregoing, Nuance respectfully requests that the U.S. International Trade Commission:

a. Institute an investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (b)(1), with respect to violations of Section 337 based on the importation, sale for importation, and/or sale after importation, into the United States of proposed respondents' mobile handset devices and related touch keyboard software, that infringe one or more claims of Nuance's '891, '439, '896, '520, and '064 patents;

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

c. Render a determination that the importation, sale for importation, and/or sale after importation of proposed respondents' infringing mobile handset devices and related touch keyboard software constitute one or more violations of Section 337 of the Tariff Act of 1930, as amended 19 U.S.C. § 1337;

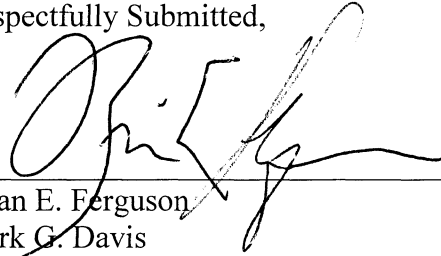
d. Issue a permanent exclusion order, pursuant to 19 U.S.C. § 1337(d)(1), barring from entry into the United States all mobile handset devices and related touch keyboard software made by or on behalf of the proposed respondents that infringe one or more asserted claims of Nuance's '891, '439, '896, '520 and '064 patents;

e. Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), prohibiting the proposed respondents and others acting on its behalf from importing, selling, marketing, advertising, distributing, offering for sale, transporting (except for exportation), and soliciting U.S. agents or distributors for, infringing mobile handset devices and related touch keyboard software that infringe one or more asserted claims of Nuance's '891, '439, '896, '520 and '064 patents;

- f. Impose a bond upon proposed respondents' importation of infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j); and
- g. Grant such other and further relief as the Commission deems just and proper based on the facts determined by the investigation and the authority of the Commission.

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Respectfully Submitted,



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