

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON D.C.

_____)	
In the Matter of)	
CERTAIN WIRELESS DEVICES,)	Investigation No.
INCLUDING MOBILE PHONES)	
AND TABLETS)	337-TA-____
_____)	

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

Complainant:

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Proposed Respondents:

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TABLE OF CONTENTS

I.	Introduction.....	1
II.	The Parties	2
A.	Complainant.....	2
B.	Proposed Respondents	2
III.	Non-Technical Description of the Patented Technology.....	3
A.	The ‘124 Patent – Personal Security And Tracking System.....	3
B.	The ‘795 Patent – Personal Security And Tracking System.....	5
IV.	The Asserted ‘124 Patent.....	6
A.	Ownership and Asserted Claims of the ‘124 Patent	6
B.	Licenses Relating to the ‘124 Patent.....	7
C.	Foreign Counterparts to the ‘124 Patent	8
V.	The Asserted ‘795 Patent.....	9
A.	Ownership and Asserted Claims of the ‘795 Patent	9
B.	Licenses Relating to the ‘795 Patent.....	10
C.	Foreign Counterparts to the ‘795 Patent	11
VI.	UNFAIR ACTS OF PROPOSED RESPONDENTS – PATENT INFRINGEMENT	11
1.	Pantech Infringement of ‘124 Patent	11
Indirect Infringement of ‘124 Patent.....		12
1.	Pantech Infringement of ‘795 Patent	14
Indirect Infringement of ‘795 Patent.....		15
VII.	Harmonized Tariff Schedule Information.....	17
VIII.	Related Litigation.....	17
IX.	Domestic Industry Relating to the Asserted Patent	18
A.	Pragmatus Maintains a Domestic Industry Under 19 U.S.C. 1337(a)(3)(C).....	18
B.	Pragmatus Maintains a Domestic Industry Under 19 U.S.C. § 1337 (a)(3)(A), (B), and (C) Based on the Activities of Its Domestic Licensees.....	19
i.	Domestic Licensee HTC Corporation and subsidiary HTC America Inc.....	20
ii.	Domestic Licensee LG Electronics, Inc. and subsidiaries LG Electronics Mobilecomm U.S.A., LG Electronics Mobile Research U.S.A., LLC, and LG Electronics Alabama, Inc....	23
iii.	Domestic Licensee Consumer Electronics Manufacturer.....	25
X.	Request for Relief.....	26

Exhibit List

1. Certified copy of U.S. Patent No. 8,149,124
2. Certified copy of the Prosecution History for U.S. Patent No. 8,149,124
3. Certified copy of the Assignment Record for U.S. Patent No. 8,149,124
4. Uncertified copy of U.S. Patent No. 8,466,795
5. Uncertified copy of the Prosecution History for U.S. Patent No. 8,466,795
6. Uncertified copy of the Assignment Record for U.S. Patent No. 8,466,795
7. Confidential – Declaration of Anthony Grillo
 - A. Sample Written Correspondence and Presentations
 - B. HTC License
 - C. Huawei License
 - D. LG License
 - E. RIM License
 - F. Vidyo License
 - G. Consumer Electronics Manufacturer License
 - H. Hoffman Resources, LLC – Pragmatius Mobile, LLC Patent Purchase Agreement
8. Receipt: Best Buy Pantech Discover
9. Photograph: Pantech Discover
10. Chart comparing the '124 patent and Pantech Discover
11. Chart comparing the '124 patent and HTC DNA
12. Chart comparing the '124 patent and LG Optimus G
13. Chart comparing the '795 patent and Pantech Discover
14. Chart comparing the '795 patent and HTC DNA
15. Chart comparing the '795 patent and LG Optimus G
16. HTC Investor Conference Presentation (1Q13)
17. Gartner Mobile Phone Sales Report (4Q12)
18. LG Earnings Release (1Q13)
19. Confidential - Domestic Industry for Consumer Electronic Manufacturer
 - A. Consumer Electronic Manufacturer 10K (2012)
 - B. Chart comparing the '124 patent and Consumer Electronics Manufacturer Products
 - C. Chart comparing the '795 patent and Consumer Electronics Manufacturer Products

APPENDICES

- A. One certified copy and three additional copies of the U.S. Patent and Trademark Office prosecution history for U.S. Patent No. 8,149,124
- B. Copies of each patent and the applicable pages of each technical reference mentioned in the prosecution history for U.S. Patent No. 8,149,124
- C. One uncertified copy and three additional copies of the U.S. Patent and Trademark Office prosecution history for U.S. Patent No. 8,466,795

D. Copies of each patent and the applicable pages of each technical reference mentioned in the prosecution history for U.S. Patent No. 8,466,795

I. INTRODUCTION

1. Complainant Pragmatus Mobile, LLC. (“Pragmatus”) files this complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”). Pragmatus 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 wireless devices, including mobile phones and tablets.

2. The proposed Respondents are Pantech Co., Ltd. and Pantech Wireless, 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 wireless devices, including mobile phones and tablets, that infringe on Pragmatus’ United States Patent No. 8,149,124 (“the ‘124 Patent”) and United States Patent No. 8,466,795 (“the ‘795 Patent”) (collectively, “the Asserted Patents”). The ‘795 Patent is a direct continuation of the ‘124 Patent and shares a common specification.

4. The following tables represent the claims of each patent asserted against the Respondents.

U.S. Pat. No.	Asserted Claims
8,149,124	1-5, 7-17, 19-21
8,466,795	1-33

5. To remedy Respondents' continuing and unlawful violation of Section 337, Pragmatus seeks as permanent relief a limited exclusion order pursuant to 19 U.S.C. § 1337(d) barring from entry into the United States Respondents' wireless devices, including mobile phones and tablets, that infringe one or more of the claims of the '124 Patent and the '795 Patent. Pragmatus 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 as well as the sale within the United States after importation, the offer for sale, the advertising, and the soliciting of the sale of wireless devices, including mobile phones and tablets, that infringe one or more claims of the '124 Patent and the '795 Patent. Further, Pragmatus requests that the Commission impose a bond upon Respondents' importation of infringing wireless devices, including mobile phones and tablets, during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j) to prevent further injury to Pragmatus' domestic industry relating to the '124 Patent and the '795 Patent.

II. THE PARTIES

A. Complainant

6. Complainant Pragmatus is a Virginia corporation with its principal place of business at 601 King Street, Suite 200, Alexandria VA, 22314. Pragmatus is a privately owned company that focuses its efforts on licensing intellectual property, including the '124 and '795 Patents.

B. Proposed Respondents

Pantech Co., Ltd.

7. On information and belief, Respondent Pantech Co., Ltd. is located at 1-2, DMC Sangam-don Mapo-gu, Seoul, Republic of South Korea. Pantech Co., Ltd. is in the business of developing, manufacturing, and selling wireless devices, including mobile phones and tablets.

Pantech Co., Ltd. maintains operations in many countries throughout the world, with production locations in many of those countries. To Complainant Pragmatus' knowledge, Pantech Co., Ltd. has no production plants located in the United States. Pantech Co., Ltd is the parent corporation of Respondent Pantech Wireless Inc.

Pantech Wireless, Inc

8. On information and belief, Respondent Pantech Wireless Inc. is a wholly-owned subsidiary of Respondent Pantech Co., Ltd. Pantech Wireless, Inc. is a corporation organized and existing under the laws of the state of Georgia, with its principal place of business located at 5607 Glenrdige Drive, Suite 500, Atlanta, Georgia 30342, and is managed by its parent Pantech Co., Ltd. On information and belief, Respondent Pantech Wireless Inc. provides a variety of wireless devices, including mobile phones and tablets, to customers throughout North America, including the United States. Pantech Wireless Inc. has imported such goods manufactured by Pantech Co., Ltd. from the Republic of South Korea. Respondents Pantech Co., Ltd. and Pantech Wireless Inc. are referred to collectively as "Pantech."

III. NON-TECHNICAL DESCRIPTION OF THE PATENTED TECHNOLOGY

A. The '124 Patent – Personal Security And Tracking System

9. Pragmatus's '124 Patent discloses a method for tracking a mobile device through GPS (Global Positioning System) signals. A GPS receiver is coupled to a mobile device and used to receive at least one GPS signal. The GPS signal is used to determine a position of the mobile device. Data regarding the position of the mobile device is transmitted over a wireless communication system (e.g., Wi-fi or Cellular Networks) to a computer and is used to determine the location of the mobile device. A map with a symbol identifying the mobile device is displayed on a display remote from the computer, but connected to the computer by a network

(e.g., on the mobile device display or at a separate computer). In some embodiments, the displaying step may include the use of a digital mapping program where the symbol may be superimposed on the map. The display may include detailed geographical maps including street names and addresses, and plotting data at appropriate positions on the map. In some embodiments, the data regarding the position of the mobile device may be used by the computer to determine a location of the mobile device and the data may be used to track the position of the mobile device. In some embodiments, the mobile device may receive voice communication. In some embodiments, the mobile device may include an identifier which may be used to identify the mobile device and the mobile device may transmit the identifier. In some embodiments, the mobile device may be a cellular telephone. In some embodiments, the mobile device may include a transmitter, a first receiver, and/or a second receiver that is separate from the first receiver. In some embodiments, the first receiver may be used for cellular telephone signals and may receive signals containing voice communications and the second receiver may be used to receive non-cellular radio signals (e.g., radio signals such as Bluetooth and/or Wifi). In some embodiments, the mobile device may include a variety of components including: a transmitter, a first receiver, a first antenna, a second antenna, a third antenna, a second receiver, a microcontroller, and/or a speaker. In embodiments with multiple receivers, the first receiver may be used to receive cellular telephone signals, the second receiver may be used to receive non-cellular signals (e.g., radio signals such as Bluetooth and/or Wifi), the first receiver and transmitter may be used to transmit and receive voice communications. In some embodiments the second receiver may receive a data signal and the transmitter may transmit a second signal (e.g., a cellular signal) based on the data received with the second receiver.

B. The '795 Patent – Personal Security And Tracking System

10. Pragmatus's '795 Patent discloses a cellular device. The cellular device may include a variety of components such as a housing, speaker, microphone, display, microcontroller, battery, battery sensor, charging interface, and user interface. The cellular device may also include a second user interface separate from the first interface. The second user interface may include at least one button. The display may be adapted to display a message received from the cellular network. The cellular device may include circuitry to store a phone number and may dial the phone number in response to an event.
11. The cellular device may include a transmitter and a first receiver adapted to transmit and receive cellular signals. In some embodiments, the transmitter and receiver support two-way voice communications and/or data.
12. The cellular device may include a second receiver for receiving non-cellular signals (e.g., radio signals such as Bluetooth, Wi-fi, GPS, etc...). In some embodiments, the second receiver receives nearby radio signals (e.g., radio signals such as Bluetooth, Wi-fi) and GPS signals are received via a separate receiver. In some embodiments, the non-cellular signal may include first data. In some embodiments, the non-cellular signal may be encoded and the cellular device may have a decoder to decode the encoded signal. The non-cellular signal may be encoded in response to the actuation of a user interface on the device transmitting the non-cellular signal. The cellular device may have circuitry that determines whether the non-cellular signal is being received by the second receiver. The cellular device may also have circuitry determining whether the third signal is within a predetermine range. The second receiver may receive a periodic signal from the device transmitting the non-cellular signal.

13. In some embodiments, the transmitter may transmit second data in response to the receipt of the non-cellular first data. In some embodiments, the transmitter may transmit data representing the location of the device, a unit identifier, and the second data. In some embodiments, the cellular device may include circuitry adapted to dial a telephone number using the transmitter in response to receiving the non-cellular data.

14. The cellular device may include a user interface capable of receiving a security code.

15. The cellular device may include a standby mode to conserve power. In some embodiments, the cellular device may leave the standby mode in response to a signal received by the first (e.g., cellular) or second (e.g., radio signals such as Bluetooth) receiver.

16. The cellular device may include a circuit adapted to store a unit identifier.

IV. THE ASSERTED '124 PATENT

A. Ownership and Asserted Claims of the '124 Patent

17. By way of assignment, Pragmatius holds all rights, title, and interest to U.S. Patent No. 8,149,124, which is entitled Personal Security And Tracking System. Pragmatius Mobile, LLC is the named assignee on the face of the '124 Patent and has held full rights to the patent since it issued on April 3, 2012. Mark Hoffman, Judd Hoffman, Ann Hoffman, and David Doe are listed as inventors on the face of the patent. The '795 Patent is a direct continuation of the '124 Patent.

18. Pursuant to Commission Rules 210.12(a)(9)(i)-(ii), a certified copy of the '124 Patent, a certified copy of the '124 Patent prosecution history, and a certified copy of the assignment record for the '124 Patent are attached hereto as Exhibits 1, 2, and 3, respectively. Appendix A, pursuant to Commission Rule 210.12(c)(1), contains a certified copy of the U.S.

Patent and Trademark Office prosecution history for the '124 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 '124 Patent.¹

19. The '124 Patent was filed on Apr. 14, 2006, and issued on April 3, 2012. All maintenance fees for the '124 Patent have been paid. There are no fees currently due.

20. The '124 Patent has twenty-one (21) claims, including one independent claims (1), and twenty dependent claims all of which depend, either directly or indirectly, from independent claim 1. Pragmatus is asserting the following claims of the '124 Patent:

U.S. Pat. No.	Asserted Claims
8,149,124	1-5, 7-17, 19-21

B. Licenses Relating to the '124 Patent

21. The '124 Patent is licensed to HTC Corporation ("HTC"), a Taiwanese corporation; Huawei Technologies Co, Ltd ("Huawei"), a Chinese corporation; LG Electronics, Inc ("LG"), a corporation of the Republic of South Korea; Research in Motion, Ltd ("RIM"), a Canadian corporation; Vidyo, Inc. ("Vidyo"), a Delaware corporation; and a major consumer electronics manufacturer ("Consumer Electronics Manufacturer"), a US corporation.

¹ For clarification, Appendix B includes all pages of the technical references that are available from the USPTO prosecution history files for the '124 Patent.

22. Pursuant to Commission Rule 210.12(a)(9)(iv), Pragmatus has attached as sub-exhibits to the Grillo Declaration (Confidential Exhibit 7) a copy of each license agreement relating to the '124 Patent. These license agreements establish Pragmatus' contention that a domestic industry, as defined in 19 U.S.C. § 1 337(a)(3), exists as the result of the domestic activities of one or more licensees and Pragmatus's licensing activities. *See infra* Section IX.

23. The licensed parties to the '124 Patent are:

- A. HTC Corporation
- B. Huawei Technologies Co, Ltd
- C. LG Electronics, Inc
- D. Research in Motion, Ltd
- E. Vidyo, Inc.
- F. Consumer Electronics Manufacturer

24. Upon information and belief, other than as described above, there are no other licenses to the '124 Patent.

C. Foreign Counterparts to the '124 Patent

25. In accordance with Commission Rule 210.12(a)(9)(v), on information and belief, there are no foreign counterparts to the '124 Patent.

V. THE ASSERTED '795 PATENT

A. Ownership and Asserted Claims of the '795 Patent

26. By way of assignment, Pragmatius holds all rights, title, and interest to U.S. Patent No. 8,466,795, which is entitled Personal Security And Tracking System. Pragmatius Mobile, LLC is the named assignee on the face of the '795 Patent and has held full rights to the patent since it issued on June 18, 2013. Mark Hoffman, Judd Hoffman, Ann Hoffman, and David Doe are listed as inventors on the face of the patent. The '795 Patent is a direct continuation of the '124 Patent.

27. An uncertified copy of the '795 Patent, an uncertified copy of the '795 Patent prosecution history, and an uncertified copy of the assignment record for the '795 Patent are attached hereto as Exhibits 4, 5, and 6, respectively. Pursuant to Commission Rules 210.12(a)(9)(i)-(ii), a certified copy of the '795 Patent, a certified copy of the '795 Patent prosecution history, and a certified copy of the assignment record for the '795 Patent will be provided in a supplementary filing once the pending order before the USPTO is fulfilled. Appendix C contains an uncertified copy of the U.S. Patent and Trademark Office prosecution history for the '795 Patent plus three additional copies thereof. Pursuant to Commission Rule 210.12(c)(1), a certified copy of the U.S. Patent and Trademark Office prosecution history for the '795 Patent plus three additional copies thereof will be provided in a supplementary filing once the pending order before the USPTO is fulfilled. 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 '795 Patent.²

28. The '795 Patent was filed on February 24, 2012, and issued on June 18, 2013. All maintenance fees for the '795 Patent have been paid. There are no fees currently due.

29. The '795 Patent has thirty three (33) claims, including four independent claims, and twenty nine dependent claims; twenty one of which depend, either directly or indirectly, from independent claim 1, three of which depend, either directly or indirectly, from independent claim 21, two of which depend, either directly or indirectly, from independent claim 26, and three of which depend, either directly or indirectly, from independent claim 30. Pragmatus is asserting the following claims of the '795 Patent:

U.S. Pat. No.	Asserted Claims
8,466,795	1-33

B. Licenses Relating to the '795 Patent

30. The '795 Patent is licensed to HTC Corporation ("HTC"), a Taiwanese corporation; Huawei Technologies Co, Ltd ("Huawei"), a Chinese corporation; LG Electronics, Inc ("LG"), a corporation of the Republic of South Korea; Research in Motion, Ltd ("RIM"), a Canadian corporation; Vidyo, Inc. ("Vidyo"), a Delaware corporation; and a major consumer electronics manufacturer ("Consumer Electronics Manufacturer"), a US corporation.

² For clarification, Appendix D includes all pages of the technical references that are available from the USPTO prosecution history files for the '795 Patent

31. Pursuant to Commission Rule 210.12(a)(9)(iv), Pragmatus has attached as sub-exhibits to the Grillo Declaration (Confidential Exhibit 7) a copy of each license agreement relating to the '795 Patent. These license agreements establish Pragmatus' contention that a domestic industry, as defined in 19 U.S.C. § 1337(a)(3), exists as the result of the domestic activities of one or more licensees and Pragmatus's licensing activities. *See infra* Section IX.

32. The licensed parties to the '795 Patent are:

- A. HTC Corporation
- B. Huawei Technologies Co, Ltd
- C. LG Electronics, Inc
- D. Research in Motion, Ltd
- E. Vidy, Inc.
- F. A major consumer electronics manufacturer

33. Upon information and belief, other than as described above, there are no other licenses to the '795 Patent.

C. Foreign Counterparts to the '795 Patent

34. In accordance with Commission Rule 210.12(a)(9)(v), on information and belief, there are no foreign counterparts to the '795 Patent.

VI. UNFAIR ACTS OF PROPOSED RESPONDENTS – PATENT INFRINGEMENT

35. The unfair acts of the Respondents involve the importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain wireless devices, including mobile phones and tablets. Pragmatus has attached as exhibits to this complaint, charts comparing claims of the Asserted Patent to representative products and photographs of the representative infringing devices.

A. Infringement of the '124 Patent

1. Pantech Infringement of '124 Patent

36. Respondent Pantech is engaged in the importation, sale for importation, and/or the sale within the United States after importation of certain wireless devices, including mobile phones and tablets that infringe, directly or indirectly, at least claims 1-5, 7-17, and 19-21 of the '124 Patent.

37. Pragmatus has obtained wireless devices, including mobile phones and tablets that, on information and belief, Pantech imported, sold for importation, and/or sold within the United States after importation, and that infringe, directly or indirectly, at least claims 1-5, 7-17, and 19-21 of the '124 Patent.

38. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 10 includes a chart comparing claim 1 of the '124 Patent to Pantech's Discover device. Exhibit 10 shows that the Discover device is covered by at least claim 1 of the '124 Patent. Commission Rule 210.12(a)(9)(viii) only requires the Complainant to chart "a representative involved article" of the Respondent Pantech that violates 19 U.S.C. § 1337. Pragmatus thus believes that numerous other devices that are covered by at least claims 1-5, 7-17, and 19-21 of the '124 Patent have been imported, sold for importation, or sold within the United States after importation by Respondent Pantech. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 10 contains photographs of Pantech's Discover device.

Indirect Infringement of '124 Patent

39. Pantech was made aware of the patents through at least a notice letter dated June 11, 2013, with a courtesy copy of this ITC complaint and corresponding claim chart exhibits attached. (See Confidential Exhibit 7, Sub-Exhibit A, Sample Written Correspondence and Presentations). Through at least the courtesy copy of this complaint and corresponding claim charts, Pantech is aware that its devices, when used in their intended manner by its customers, directly infringe the asserted claims of the '124 Patent.

40. Respondent Pantech induces infringement of the '124 Patent since, as described above, it is aware of the '124 Patent and offers for sale to their customers devices with infringing features with the intent that customers will use those devices in an infringing manner. As set forth in the claim charts provided to Pantech in the notice letter and those claim charts attached as exhibits to this complaint, when the Pantech customers use the Pantech devices in their intended manner, the Pantech customers directly infringe the asserted claims of the '124 Patent. By providing at least the infringing features in the devices sold to customers, advertisements describing the infringing features, and various customer oriented documentation describing the infringing features and instructing Pantech customers on their use, while being on notice of the Pragmatus infringement theories through at least the notice letter and courtesy copy of this complaint and corresponding claim charts, Pantech has shown an intent to induce customers to directly infringe the '124 Patent. Because Pantech's customers directly infringe the asserted claims of the '124 Patent, Pantech has knowledge of the patent and the Pragmatus infringement theories, and Pantech has shown specific intent that its customers perform the infringing acts as set forth in Pragmatus' infringement theories, Pantech is inducing infringement of the asserted claims of the '124 Patent.

41. Respondent Pantech contributorily infringes the asserted claims of the '124 Patent since it is aware of the '124 Patent, as described above, and offers for sale to their customers devices that embody a material part of the claimed inventions, that are known by Pantech to be specially made or specially adapted for use in an infringing manner and are not staple articles or commodities suitable for substantial, non-infringing use. As set forth in the claim charts provided to Pantech in the notice letter and those claim charts attached as exhibits to this complaint, when Pantech customers use the Pantech devices in their intended manner, the Pantech customers

directly infringe the asserted claims of the '124 Patent. Furthermore, the infringing devices are mobile phones and tablets that are specially programmed and designed to infringe the '124 Patent and there are no substantial non-infringing uses of the relevant functionality. Because Pantech is aware of the patent, provides devices to their customers that embody a material part of the claimed inventions, and are known by Pantech to be specially made or specially adapted for use in an infringing manner and are not staple articles or commodities suitable for substantial, non-infringing use, Pantech contributorily infringes the asserted claims of the '124 Patent.

B. Infringement of the '795 Patent

1. Pantech Infringement of '795 Patent

42. Respondent Pantech is engaged in the importation, sale for importation, and/or the sale within the United States after importation of certain wireless devices, including mobile phones and tablets that infringe, directly or indirectly, at least claims 1-33 of the '795 Patent.

43. Pragmatus has obtained wireless devices, including mobile phones and tablets that, on information and belief, Pantech imported, sold for importation, and/or sold within the United States after importation, and that infringe, directly or indirectly, at least claims 1-33 of the '795 Patent.

44. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 13 includes a chart comparing claims 1, 23, 27, and 30 of the '795 Patent to Pantech's Discover device. Exhibit 13 shows that the Discover device is covered by at least claims 1, 23, 27, and 30 of the '795 Patent. Commission Rule 210.12(a)(9)(viii) only requires the Complainant to chart "a representative involved article" of the Respondent Pantech that violates 19 U.S.C. § 1337. Pragmatus thus believes that numerous other devices that are covered by at least claims 1-33 of the '795 Patent have been imported, sold for importation, or sold within the United States after importation by

Respondent Pantech. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 13 contains photographs of Pantech's Discover device.

Indirect Infringement of '795 Patent

45. Pantech was made aware of the patents through at least a notice letter dated June 11, 2013, with a courtesy copy of this ITC complaint and corresponding claim chart exhibits attached. (See Confidential Exhibit 7, Sub-Exhibit A, Sample Written Correspondence and Presentations). Through at least the courtesy copy of this complaint and corresponding claim charts, Pantech is aware that its devices, when used in their intended manner by its customers, directly infringe the asserted claims of the '795 Patent.

46. Respondent Pantech induces infringement of the '795 Patent since, as described above, it is aware of the '795 Patent and offers for sale to their customers devices with infringing features with the intent that customers will use those devices in an infringing manner. As set forth in the claim charts provided to Pantech in the notice letter and those claim charts attached as exhibits to this complaint, when the Pantech customers use the Pantech devices in their intended manner, the Pantech customers directly infringe the asserted claims of the '795 Patent. By providing at least the infringing features in the devices sold to customers, advertisements describing the infringing features, and various customer oriented documentation describing the infringing features and instructing Pantech customers on their use, while being on notice of the Pragmatus infringement theories through at least the notice letter and courtesy copy of this complaint and corresponding claim charts, Pantech has shown an intent to induce customers to directly infringe the '795 Patent. Because Pantech's customers directly infringe the asserted claims of the '795 Patent, Pantech has knowledge of the patent and the Pragmatus infringement theories, and Pantech has shown specific intent that its customers perform the infringing acts as

set forth in Pragmatus' infringement theories, Pantech is inducing infringement of the asserted claims of the '795 Patent.

47. Respondent Pantech contributorily infringes the asserted claims of the '795 Patent since it is aware of the '795 Patent, as described above, and offers for sale to their customers devices that embody a material part of the claimed inventions, that are known by Pantech to be specially made or specially adapted for use in an infringing manner and are not staple articles or commodities suitable for substantial, non-infringing use. As set forth in the claim charts provided to Pantech in the notice letter and those claim charts attached as exhibits to this complaint, when Pantech customers use the Pantech devices in their intended manner, the Pantech customers directly infringe the asserted claims of the '795 Patent. Furthermore, the infringing devices are mobile phones and tablets that are specially programmed and designed to infringe the '795 Patent and there are no substantial non-infringing uses of the relevant functionality. Because Pantech is aware of the patent, provides devices to their customers that embody a material part of the claimed inventions, and are known by Pantech to be specially made or specially adapted for use in an infringing manner and are not staple articles or commodities suitable for substantial, non-infringing use, Pantech contributorily infringes the asserted claims of the '795 Patent.

C. Specific Instance of Sale and Importation

48. Respondent Pantech imports, sells for importation, and/or sells within the United States after importation the Discover device depicted in Exhibits 10 & 13. Pursuant to Commission Rule 210.12(a)(3), Exhibit 8 is a receipt from Best Buy showing a sale of Pantech's Discover device within the United States. As shown in the photograph contained in Exhibit 9,

the Discover device and/or its packaging is marked as “Made in Korea.” Pantech’s sales, inducement, and importation activity is continuing.³ Thus, Pantech is violating 19 U.S.C. § 1337 of the Tariff Act of 1930 by directly infringing the ‘124 Patent and the ‘795 Patent by importing, selling for importation, and/or selling within the United States after importation the Discover device.

VII. HARMONIZED TARIFF SCHEDULE INFORMATION

49. The articles subject to this complaint are classifiable under at least the following headings and subheadings of Chapter 85 of the 2008 Harmonized Tariff Schedule (“HTS”) of the United States: 8517.11.0000 (Telephone sets, including telephones for cellular networks or for other wireless networks); 8517.12.0050 (Other Radio Telephones Designed for the Public Cellular Radio Telecommunication Service); and 8471.30.0100, 8471.41.0150, (Automatic data processing machines). These HTS numbers are illustrative only and are not intended to restrict the accused products and/or the scope of this investigation.

VIII. RELATED LITIGATION

50. On information and belief, there has been no other litigation or administrative hearings addressing the Asserted Patents.

³ See e.g., AT&T Website, <http://www.att.com/shop/wireless/devices/pantech/discover-gray.html#fbid=SeDunqDqIvB>;

See also Best Buy Website, http://www.bestbuy.com/site/Discover+4G+Mobile+Phone/7578063.p?id=1218851720278&skuld=7578063&st=pantech%20discover&cp=1&lp=1&contract_desc=

IX. DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENT

51. Pragmatus is a privately owned company that focuses its efforts on licensing intellectual property, including the '124 and '795 Patents.

A. Pragmatus Maintains a Domestic Industry Under 19 U.S.C. 1337(a)(3)(C)

52. A domestic industry for the purposes of 19 U.S.C. § 1337(a)(2), as defined in 19 U.S.C. § 1337(a)(3)(C), exists with respect to the Asserted Patents because Pragmatus has an extensive domestic licensing program focused on these patents. This program is responsible for the active licensing of the Asserted Patents. Pragmatus invests heavily in the exploitation of its technologies and patents, including the Asserted Patents, through its extensive licensing activities.

53. Pragmatus has invested substantial resources in its licensing program. Pragmatus employs a management team that includes licensing professionals and intellectual property counsel in the United States to evaluate its patent holdings. (Confidential Exhibit 7, Grillo Decl. at 6)

54. Pragmatus has repeatedly identified the '124 Patent and the application resulting in the '795 Patent as being the core patents in its mobile portfolio, and has identified them as such during several licensing negotiations. (Confidential Exhibit 7, Grillo Decl. at 7 & 12.). The '795 patent is a direct continuation of the '124 Patent.

55. The Pragmatus management team includes licensing professionals and intellectual property counsel and has been involved in activities directly related to the Asserted Patents. Their efforts have included analyzing Pragmatus' mobile portfolio, analyzing mobile devices of potential licensees, and meeting with potential licensees during license negotiations. (Confidential Exhibit 7, Grillo Decl. at 6 & 7.) These negotiations have focused on the '124

Patent and the application resulting in the '795 Patent. (Confidential Exhibit 7, Grillo Decl. at 12.)

56. Pragmatius continues to engage in licensing, and has continued to make significant expenditures for purchases of potential licensee's products and other materials, employment of licensing professionals and outside counsel, and communications and/or negotiations with potential licensees. (Confidential Exhibit 7, Grillo Decl. at 16). Pragmatius' domestic investments in intellectual property and technology licensing operations attributable to domestic industry activities exploiting the Asserted Patents are set forth in more detail in Confidential Exhibit 7. All of the known licensees of the Asserted Patents are listed in Confidential Exhibit 7.

B. Pragmatius Maintains a Domestic Industry Under 19 U.S.C. § 1337 (a)(3)(A), (B), and (C) Based on the Activities of Its Domestic Licensees

57. With respect to the Asserted Patents, a domestic industry in the United States exists under 19 U.S.C. § 1337 (a)(3)(A) due to Pragmatius' domestic licensees' significant investment in plant and equipment; under 19 U.S.C. § 1337 (a)(3)(B) due to Pragmatius' domestic licensees' significant employment of capital and labor; and under Section 19 U.S.C. § 1337 (a)(3)(C) due to Pragmatius' domestic licensees' substantial investment in research and development with respect to the Asserted Patent.

58. Pragmatius' licensees to the Asserted Patent include multiple domestic companies such as HTC Corporation, a Taiwanese corporation, and its subsidiary HTC America Inc., a Washington corporation, (collectively, "HTC"), LG Electronics, Inc. ("LGE"), a corporation of the Republic of South Korea, and its subsidiaries LG Electronics Mobilecomm U.S.A., LG Electronics Mobile Research U.S.A., LLC, and LG Electronics Alabama, Inc. (collectively, "LG"), and a major consumer electronics manufacturer, a US corporation ("Consumer Electronics Manufacturer"). (Grillo Declaration and exhibits, Confidential Exhibit 7.) On

information and belief, HTC, LG, and Consumer Electronics Manufacturer continue to make use of the Pragmatus Mobile patented technology, including the Asserted Patents.

Asserted Patent	Domestic Licensee(s)	Exemplary Product
'124 Patent	HTC LG Consumer Electronics Manufacturer	DNA smartphone Optimus G smartphone Consumer Electronic Device
'795 Patent	HTC LG Consumer Electronics Manufacturer	DNA smartphone Optimus G smartphone Consumer Electronic Device

i. Domestic Licensee HTC Corporation and subsidiary HTC America Inc.

59. On information and belief HTC's smartphone product line, including the HTC DNA smartphone, incorporates the technology protected by the '124 Patent. Exhibit 11 is an exemplary chart comparing claims of the '124 Patent to the HTC DNA smartphone. Exhibit 11 shows that the HTC DNA smartphone practices at least one claim of the '124 Patent. Upon information and belief, the HTC smartphone product line practices the claims of the '124 Patent in a similar manner to the HTC DNA.

60. On information and belief HTC's smartphone product line, including the HTC DNA smartphone, incorporates the technology protected by the '795 Patent. Exhibit 14 is a chart comparing claims of the '795 Patent to the HTC DNA smartphone. Exhibit 14 shows that the HTC DNA smartphone practices at least one claim of the '795 Patent. Upon information and belief, the HTC smartphone product line practices the claims of the '795 Patent in a similar manner to the HTC DNA.

61. The HTC smartphone line, including the HTC DNA, are HTC's primary products.. For example, HTC produced over 32 million smartphones in 2012. (See Gartner Report, Table 2, Exhibit 17). HTC realized over \$11 billion USD in revenue in 2012. (See HTC 1Q13 Investor Conference, pg. 5, Exhibit 16). HTC realized over \$1.3 billion USD in the first quarter of 2013. (*Id.*)

62. Pursuant to Commission rule 210.12(a)(6)(i)(A), (B), and (C), the relevant operations of HTC are as follows:

a. HTC, through its subsidiary HTC America, has previously established a domestic industry relating to their smartphone devices. Upon information and belief, the relevant facts previously asserted by HTC in relation to HTC's domestic industry relating to their smartphone devices are substantially similar and would apply equally to HTC's current smartphone product line, including the HTC DNA smartphone. In *Certain Portable Electronic Devices and Related Software*, an ID was issued granting summary determination of the existence of a domestic industry for HTC relating to several models of their smartphones. (See Inv. No. 337-TA-721, Order No. 40, Initial determination granting complainant HTC's motion for summary determination that it satisfies the economic prong of domestic industry). The ID was not reviewed by the Commission.

b. HTC referenced the summary determination from Inv. No. 337-TA-721 in their complaint for Inv. No. 337-TA-808 using it as evidence that an HTC based domestic industry existed relating to smartphones. In addition to referencing the prior decision, HTC provided updated information regarding their domestic activities relating to their smartphone product line. (See *Certain Electronic*

Devices with Communication Capabilities, Components Thereof, and Related Software, 337-TA-808, Complaint, paragraphs 75-76 and supporting confidential exhibits)

c. HTC, through its subsidiary HTC America, has made significant investments in plant and equipment within the United States with respect to the HTC smartphones. HTC has made significant investments in plant and equipment dedicated to repair, product support, and other customer support services for HTC's smartphones. (See *Certain Portable Electronic Devices and Related Software*, 377-TA-721, Complaint, paragraph 67 and supporting confidential exhibits; Order No. 40. See also *Certain Electronic Devices with Communication Capabilities, Components Thereof, and Related Software*, 337-TA-808, Complaint, Paragraph 70 and supporting confidential exhibits).

d. HTC, through its subsidiary HTC America, has made significant investment in labor and capital within the United States with respect to the HTC Smartphones. (See *Certain Portable Electronic Devices and Related Software*, 377-TA-721, Complaint, paragraph 68 and supporting confidential exhibits; See also *Certain Electronic Devices with Communication Capabilities, Components Thereof, and Related Software*, 337-TA-808, Complaint, paragraph 71 and supporting confidential exhibits). HTC has made significant investments in labor and capital dedicated to the repair, product support, and other customer support services for HTC's smartphones.

e. HTC, through its subsidiary HTC America, has made substantial investments within the United States in the exploitation of the Asserted Patent

through research and development and engineering for HTC' s smartphones. (See *Certain Portable Electronic Devices and Related Software*, 377-TA-721, Complaint, paragraph 69 and supporting confidential exhibits).

ii. Domestic Licensee LG Electronics, Inc. and subsidiaries LG Electronics Mobilecomm U.S.A., LG Electronics Mobile Research U.S.A., LLC, and LG Electronics Alabama, Inc.

63. On information and belief LG's smartphone product line, including the LG Optimus G smartphone, incorporates the technology protected by the '124 Patent. Exhibit 12 is a chart comparing claims of the '124 Patent to the LG Optimus G smartphone. Exhibit 12 shows that the LG Optimus G smartphone practices claims of the '124 Patent. Upon information and belief, the LG smartphone product line practices the claims of the '124 Patent in a similar manner to the LG Optimus G.

64. On information and belief LG's smartphone product line, including the LG Optimus G smartphone, incorporates the technology protected by the '795 Patent. Exhibit 15 is a chart comparing claims of the '795 Patent to the LG Optimus G smartphone. Exhibit 15 shows that the LG Optimus G smartphone practices claims of the '795 Patent. Upon information and belief, the LG smartphone product line practices the claims of the '795 Patent in a similar manner to the LG Optimus G.

65. LG's Optimus G is part of LG's smartphone product line. The LG smartphone is one of LG's top product lines. LG dedicates an entire business unit, the LG Mobile Communications business unit, to developing and marketing the LG smartphones and related products. (See LG 1Q 2013 Earnings Report, Exhibit 18, pg. 16.). LG's Mobile Communications business unit recognized approximately \$8.9 billion in revenue in FY 2012 and

over \$2.845 billion in revenue in 1Q13. (*Id.*). Of that revenue, over \$8.8 billion and \$2.84 billion, respectively, was driven by handset sales. (*Id.*).

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

a. LG, through its subsidiaries LG Electronics Mobilecomm U.S.A., LG Electronics Mobile Research U.S.A., LLC, and LG Electronics Alabama, Inc., has previously pled a domestic industry relating to their smartphone devices in at least two investigations. (See *Certain Light-Emitting Diodes and Products Containing Same*, Inv. No. 337-TA-802, Complaint, paragraphs 94-110; See also, *Certain Electronic Devices Having Image Capture And Display Functionality And Components Thereof*, Inv. No. 337-TA-672, Complaint, paragraphs 8.1-8.11).

Both of the investigations were instituted by the Commission. (See *Certain Light Emitting Diodes*, Notice of Institution, issued August 25, 2011; See also *Certain Electronic Devices*, Notice of Institution, issued March 25, 2009). Upon information and belief, the relevant facts previously asserted by LG in relation to LG's domestic industry relating to their smartphone devices are substantially similar and would apply equally to LG's current smartphone product line, including the LG Optimus G smartphone.

b. On information and belief, LG, through its LG Alabama subsidiary, has invested in plant and equipment and employed labor and capital related to its smartphones for product support, testing, quality management, warranty and repair service, and engineering. In addition to the Huntsville and Rancho Cucamonga facilities, LG Alabama also has a facility in Dallas/Ft. Worth, Texas

devoted to service, repair, and engineering of mobile devices. (See *Certain Light-Emitting Diodes*, Inv. No. 337-TA-802, Complaint, paragraph 109 and supporting confidential exhibits; See also *Certain Electronic Devices*, Inv. No. 337-TA-672, Complaint paragraphs 8.8, 8.9, and 8.10 and supporting confidential exhibits)

c. On information and belief, in addition to LG Alabama's activities with respect to product support, service, repair and engineering, LG's subsidiaries LG Mobilecomm U.S.A. and LG Mobile Research U.S.A., LLC have also made and continue to make significant investment in plant and equipment, employment of labor and capital, and substantial investment in the exploitation of the Asserted Patent through research and development and engineering in the United States. Specifically, LG Mobilecomm and LG Mobile Research have facilities in San Diego, California, Morristown, New Jersey, Overland Park, Kansas, Atlanta, Georgia, and Bolingbrook, Illinois, dedicated to the research, development, design, product support, testing and development of specifications for LGE's smartphones. (See *Certain Light-Emitting Diodes*, Inv. No. 337-TA-802, Complaint, paragraph 110 and related confidential exhibits; See also *Certain Electronic Devices*, Inv. No. 337-TA-672, Complaint paragraphs 8.11 and supporting confidential exhibits)

iii. Domestic Licensee Consumer Electronics Manufacturer

67. The identity and relevant facts regarding the confidential domestic licensee referred to as "Consumer Electronics Manufacturer" above are disclosed in the Confidential Exhibit 19 and its accompanying sub-exhibits.

X. REQUEST FOR RELIEF

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

a. Institute an investigation with an 12 month target date 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 wireless devices, including mobile phones and tablets that infringe the '124 Patent and the '795 Patent;

b. Schedule and conduct an expedited hearing on permanent relief pursuant to 19 U.S.C. § 1337(d) and (f) of the Tariff Act of 1930, as amended, for the purpose of receiving evidence and hearing argument concerning whether there has been a violation of Section 337, and following the hearing, to determine that there has been a violation of Section 337;

c. Issue a permanent Limited Exclusion Order , pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States wireless devices, including mobile phones and tablets, that infringe the '124 Patent and the '795 Patent.

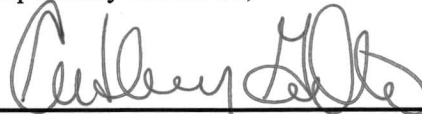
d. Issue a cease and desist order pursuant to 19 U.S.C. § 1337(f) prohibiting each domestic Respondent and their successors and assigns from engaging in the unlawful importation, sale for importation, marketing (including via the Internet or electronic mail), offering for sale (including via the Internet or electronic mail), distribution the sale after importation (or otherwise transferring within the United States), and providing or offering marketing, sales, or any engineering or technical support services related to all unlicensed

wireless devices, including mobile phones and tablets that are covered by or infringe one or more claims of the '124 Patent and the '795 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/or fail to comply with the issued cease and desist order; and

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ashley H. De" or similar, written over a horizontal line.

**Counsel for Complainant
Pragmatus Mobile, LLC**