

Exhibit 18

Apple's Complaint Under Section 337 of the Tariff Act of 1930, as  
Amended dated January 15, 2010.

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

**In the Matter of**

**CERTAIN MOBILE  
COMMUNICATIONS AND  
COMPUTER DEVICES AND  
COMPONENTS THEREOF**

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

**COMPLAINT OF APPLE INC. UNDER  
SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

**COMPLAINANT**

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**PROPOSED RESPONDENTS**

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## **TABLE OF SUPPORTING MATERIALS**

### **EXHIBITS**

<b><u>Exhibit No.</u></b>	<b><u>Description</u></b>
1.	U.S. Patent No. 5,379,431
2.	U.S. Patent No. 5,455,599
3.	Certified copy of U.S. Patent No. 5,519,867
4.	Certified copy of U.S. Patent No. 5,915,131
5.	U.S. Patent No. 5,920,726
6.	Certified copy of U.S. Patent No. 5,969,705
7.	Certified copy of U.S. Patent No. 6,343,263
8.	Certified copy of U.S. Patent No. 6,424,354
9.	U.S. Patent No. RE 39,486
10.	Assignment records for U.S. Patent No. 5,379,431
11.	Assignment records for U.S. Patent No. 5,455,599
12.	Certified copy of the assignment records for U.S. Patent No. 5,519,867
13.	Certified copy of the assignment records for U.S. Patent No. 5,915,131
14.	Assignment records for U.S. Patent No. 5,920,726
15.	Certified copy of the assignment records for U.S. Patent No. 5,969,705
16.	Assignment records for U.S. Patent No. 6,343,263
17.	Certified copy of the assignment records for U.S. Patent No. 6,424,354
18.	Assignment records for U.S. Patent No. RE 39,486
19.	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
20.	Infringement claim chart for U.S. Patent No. 5,379,431
21.	Infringement claim chart for U.S. Patent No. 5,455,599

22. Infringement claim chart for U.S. Patent No. 5,519,867
23. Infringement claim chart for U.S. Patent No. 5,915,131
24. Infringement claim chart for U.S. Patent No. 5,920,726
25. Infringement claim chart for U.S. Patent No. 5,969,705
26. Infringement claim chart for U.S. Patent No. 6,343,263
27. Infringement claim chart for U.S. Patent No. 6,424,354
28. Infringement claim chart for U.S. Patent No. RE 39,486
29. Documents detailing purchase of the Nokia N97 product, including photographs
30. Documents detailing purchase of the Nokia N900 product, including photographs
31. Documents detailing purchase of the Nokia E71 product, including photographs
32. Documents detailing purchase of the Nokia 7610 Supernova product, including photographs
33. Declaration of Gregory Joswiak (**CONFIDENTIAL**)
34. Domestic Industry claim chart for U.S. Patent No. 5,379,431
35. Domestic Industry claim chart for U.S. Patent No. 5,455,599 (**CONFIDENTIAL**)
36. Domestic Industry claim chart for U.S. Patent No. 5,519,867
37. Domestic Industry claim chart for U.S. Patent No. 5,915,131
38. Domestic Industry claim chart for U.S. Patent No. 5,969,705
39. Domestic Industry claim chart for U.S. Patent No. 6,343,263
40. Domestic Industry claim chart for U.S. Patent No. 6,424,354
41. Domestic Industry claim chart for U.S. Patent No. RE 39,486
42. Domestic Industry claim chart for of U.S. Patent No. 5,920,726 (**CONFIDENTIAL**)
43. Apple Inc. U.S. SEC Form 10-K (2009)

44. List of licensees for the asserted patents (**CONFIDENTIAL**)

## APPENDICES

<u>Appendix Item</u>	<u>Description</u>
A.	Prosecution history for U.S. Patent No. 5,379,431
B.	Prosecution history for U.S. Patent No. 5,455,599
C.	Certified copy of the prosecution history for U.S. Patent No. 5,519,867
D.	Prosecution history for U.S. Patent No. 5,915,131
E.	Prosecution history for U.S. Patent No. 5,920,726
F.	Certified copy of the prosecution history for U.S. Patent No. 5,969,705
G.	Prosecution history for U.S. Patent No. 6,343,263
H.	Certified copy of the prosecution history for U.S. Patent No. 6,424,354
I.	Prosecution history for U.S. Patent No. RE 39,486
J.	Cited references for U.S. Patent No. 5,379,431
K.	Cited references for U.S. Patent No. 5,455,599
L.	Cited references for U.S. Patent No. 5,519,867
M.	Cited references for U.S. Patent No. 5,915,131
N.	Cited references for U.S. Patent No. 5,920,726
O.	Cited references for U.S. Patent No. 5,969,705
P.	Cited references for U.S. Patent No. 6,343,263
Q.	Cited references for U.S. Patent No. 6,424,354
R.	Cited references for U.S. Patent No. RE 39,486

## **PHYSICAL EXHIBITS**

<b><u>Exhibit Item</u></b>	<b><u>Description</u></b>
1.	Apple MacBook Pro running Mac OS X v10.6 Snow Leopard and Apple's iTunes software (in box with packaging)
2.	Apple iPhone 3GS (in box with packaging)
3.	Nokia N97 (in box with packaging)
4.	Nokia N900 (in box with packaging)
5.	Nokia E71 (in box with packaging)
6.	Nokia 7610 Supernova (in box with packaging)



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## **I. INTRODUCTION**

1. Apple Inc. ("Apple" or "Complainant") is a leading designer and manufacturer of personal computers, portable digital media players, and mobile communications devices. Apple's personal digital media and communications products, such as the iPhone and the iPod line of digital media players, are groundbreaking products that revolutionized their respective industries, enjoy enormous commercial success and popular acclaim, and continue to lead their fields in innovation, performance, and ease of use. Apple's product portfolio also includes its industry-leading line of Macintosh (or "Mac") desktop and notebook computers, including the MacBook products such as the ultra-light MacBook Air, and its portfolio of software, such as the Mac OS X operating system that comes pre-installed on every Macintosh computer.

2. Apple's history of launching products that are technically innovative and commercially successful stems from its ongoing commitment to research and development. Throughout its history, Apple has made substantial investments in research and development in a wide variety of technical fields, including computer hardware and software, graphical and touch-based user interfaces, digital media players, and personal communications. Substantially all of this research and development has been conducted by employees located in the company's Cupertino, California headquarters. Apple's commitment to research and development has led to pioneering innovations that have laid the groundwork for, and are used extensively in, each of Apple's product lines, including the iPhone, iPod, Macintosh computers, and Mac OS X software. Apple has been awarded patent protection for certain of its innovations by the United States Patent and Trademark Office, and Apple continues to seek and obtain patent protection for its recent and ongoing innovations, including innovations related to its groundbreaking iPhone product.

3. Nokia Corporation and Nokia Inc. (collectively "Nokia" or "Respondents") manufacture, import, sell after importation, service, and repair mobile communications devices (including smartphones, personal digital assistants ("PDAs"), and other handheld communication devices), computer devices including netbooks, software to be loaded into and used on such devices, and components of such devices (collectively, the "Accused Products"). The Accused Products manufactured, imported, and sold by Respondents incorporate, without license, many technologies developed by Apple and protected by patents issued to and owned by Apple and its wholly-owned subsidiaries.

4. Accordingly, Apple 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 the proposed Respondents of certain mobile communication devices and components thereof that infringe certain claims of U.S. Patent Nos. 5,379,431 (the '431 patent); 5,455,599 (the '599 patent); 5,519,867 (the '867 patent); 5,915,131 (the '131 patent); 5,920,726 (the '726 patent); 5,969,705 (the '705 patent); 6,343,263 (the '263 patent); 6,424,354 (the '354 patent); and RE 39,486 (the RE '486 patent) (collectively, the "Asserted Patents"). The presently asserted claims of these patents are as follows:

Patent Number	Asserted Claims
5,379,431	1-2, 4-5, 11-15, 27-31
5,455,599	1-3, 6, 7, 8-10, 12, 14
5,519,867	1-3, 7, 12, 32, 48
5,915,131	1, 3, 4, 6-7, 9-10, 15, 17
5,920,726	1
5,969,705	1
6,343,263	1-6, 24-25, 29-30
6,424,354	1-4, 7-8, 41-42
RE 39,486	1-2, 6, 8-10, 12-15, 20

5. Apple owns all right, title, and interest in and to each of the Asserted Patents. Certified copies of the Asserted Patents are attached as Exhibits 1 through 9. Certified copies of the assignment records of the Asserted Patents are attached as Exhibits 10 through 18.<sup>1</sup>

6. 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.

7. Apple seeks as relief a permanent limited exclusion order prohibiting infringing mobile communication devices, and components thereof, manufactured or sold by or on behalf of Respondents from entry into the United States. Apple further seeks a permanent cease and desist order prohibiting Respondents from marketing, distributing, selling, offering for sale, warehousing inventory for distribution, or otherwise transferring or bringing into the United States infringing mobile communication devices or components thereof.

## **II. COMPLAINANT**

8. Apple Inc. is a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014.

9. As set forth above, Apple designs, develops, markets, and distributes (i) the Mac line of desktop and notebook computers, such as MacBook products, including the ultra-light MacBook Air; (ii) a portfolio of software, such as the Mac OS X operating system that comes pre-installed on every Macintosh computer; (iii) the iPod line of mobile digital devices; (iv) the iPhone (including the iPhone 3G and the iPhone 3GS) and related accessories and services, including a complete software development kit ("SDK") providing tools for programmers to create their own iPhone applications; and (v) a variety of related products, accessories,

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<sup>1</sup> At the time of filing, the U.S. Patent Office has not provided certified copies of the following patents and/or their assignment records to Apple: 5,379,431; 5,455,599; 5,920,726; 6,343,263; and RE39,486. The corresponding exhibits contain non-certified copies. Apple will provide the certified copies as soon as they become available.

peripherals, and services, including warranty and customer support. Apple sells its products worldwide through its online stores, its own retail stores, its direct sales force, and third-party wholesalers, resellers, and value-added resellers. Apple owns by assignment the entire right, title, and interest in and to the '431, '599, '867, '131, '726, '705, '263, '354, and RE '486 patents.

10. Apple researched and developed technology that is protected by the Asserted Patents. Apple has made and continues to make significant investment in the design and development of products protected by the Asserted Patents. These products include the iPhone, iPods, Macintosh computers, and Mac OS X software products, among others.

11. Apple uses the technologies covered by the Asserted Patents in the United States, as described in Section X below. In connection with the use of these technologies, Apple has made significant investments in the United States in facilities, equipment, labor, and capital, also as described in Section X below.

### **III. THE PROPOSED RESPONDENTS**

12. On information and belief, Nokia Corporation is a corporation organized and incorporated under the laws of Finland and has its principal place of business at Keilalahdentie 4, Espoo, Finland. On information and belief, Nokia Corporation is engaged in the design, manufacture, importation into the United States, and sale after importation of the Accused Products.

13. On information and belief, Nokia Inc. is a subsidiary of Respondent Nokia Corporation. Nokia Inc. is located at 102 Corporate Park Drive, White Plains, NY 10604 (and has an additional place of business at 6000 Connection Drive, Irving, Texas 75039). On information and belief, Nokia Inc. markets and distributes Accused Products, including mobile phones and telecommunication devices in the United States that are manufactured outside of the country.

#### **IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE**

14. The technologies at issue relate generally to hardware and software used in a variety of devices, including mobile communications equipment imported into and sold within the United States by or on behalf of Respondents. The technologies at issue in the '431, '867, '131, '705, '354, and RE '486 patents relate to software architectures, frameworks, and implementations, including various aspects of software used to implement operating systems. The technologies at issue in the '599 patent relate to a graphic system and corresponding management of graphic processing. The technologies at issue in the '726 and '263 patents relate to hardware interfaces and power management techniques.

15. The Accused Products include computing and mobile communication devices, including but not limited to computers, cellular phones, and PDAs manufactured, marketed, and/or sold by Nokia in the United States. The Accused Products also include software and Nokia devices (such as the Nokia N900 and others) that incorporate such software including operating systems (such as the Symbian OS), user interfaces, as well as other software (such as the Qt software),<sup>2</sup> designed for use on, and intended to be loaded onto, such devices. The Accused Products are imported into and sold within the United States by or on behalf of Respondents. For the purposes of this complaint only Apple has grouped certain accused products into the categories described below. These categories of products are merely exemplary subcategories of some of the Accused Products, are not limiting and are not closed, and are intended to include the exemplary products named below as well as all other past, current, and future variations thereof. Because the information regarding Accused Products in this Complaint

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<sup>2</sup> See <http://qt.nokia.com>

is based on Apple's present knowledge and understanding, Apple expects that additional Accused Products and/or categories of Accused Products may be identified with the benefit of discovery.

16. Certain Nokia products imported into the United States comprise, include, or contain software based on a software platform known as "S60 (Symbian OS)." These are referred to herein as the "Accused Nokia Symbian Products." Exemplary Accused Nokia Symbian Products include the N97 mini, N97, N95, N86, N85, N79, 5800 XpressMusic, 5800 Navigation Edition, E75, E72, E71x, E71, E66 and the E63.<sup>3</sup>

17. Certain Nokia products imported into the United States comprise, include or contain software based on a software platform known as "Series 40." These are referred to herein as the "Accused Nokia S40 Products." Exemplary Accused Nokia S40 Products include the 7610 Supernova, 3600 Slide, and the 2760.

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

**A. Overview and Ownership of the Asserted Patents**

18. As set forth below, Apple owns by assignment the entire right, title, and interest in and to each of the Asserted Patents. *See* Exhibits 10-18.

19. Pursuant to Commission Rule 210.12(c), four copies of the certified prosecution histories of each of the Asserted Patents have been submitted with this Complaint as Appendices

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<sup>3</sup> The categories listed in Section IV are a shorthand summary of products currently accused of infringement by Apple. These descriptions, and the examples given therein, are not intended to exclusively define or otherwise limit the categories of Accused Products. Apple expects that Respondents will introduce additional products in the future that will infringe the Asserted Patents. Apple may, if necessary, amend or modify the above descriptions as discovery progresses.

A through I.<sup>4</sup> Pursuant to Commission Rule 210.12(c), the cited references for each of the Asserted Patents have also been submitted with this Complaint as Appendices J through R<sup>5</sup>.

**B. Non-Technical Description of the '431 Patent**<sup>6</sup>

20. United States Patent No. 5,379,431, entitled "Boot framework architecture for dynamic staged initial program load," issued on January 3, 1995, to inventors Steven P. Lemon and Patrick D. Ross. The '431 patent issued from United States Patent Application No. 08/171,541 filed on December 21, 1993, and expires December 21, 2013. Apple owns by assignment the entire right, title, and interest to and in the '431 patent.

21. The '431 patent has thirty-three claims: four independent claims and twenty-nine dependent claims.

22. The '431 patent relates generally to a method of booting a computer system. When a computer is first powered up, none of the basic services that most software, including the operating system, relies on—such as file system access—are available. Without minimal use of these services, however, the computer's operating system cannot be started. To overcome this problem, many computers use a booting program—a small piece of software that enables basic system functionalities and prepares the system so that the operating system can be loaded. In

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<sup>4</sup> At the time of filing, the U.S. Patent Office has not provided certified file histories for the following patents to Apple: 5,379,431; 5,455,599; 5,915,131; 5,920,726; 6,343,263; and RE39,486. The corresponding exhibits contain non-certified file histories. Apple will provide the certified copies as soon as they become available.

<sup>5</sup> At the time of filing, Apple has been unable to locate two of the cited references for the '354 patent (IBM Programming Guide, Sep. 1989, First Edition, "Operating System/2 Programming Tools and Information" Version 1.2, and Microsoft Corp., "Window Users Guide for Version 3.0" 1990). Apple will provide these documents as they become available.

<sup>6</sup> This description and any other non-technical descriptions within this complaint are for illustrative purposes only. Nothing in any non-technical description contained within this complaint is intended to, either implicitly or explicitly, express any position regarding the proper construction of any claim of the Asserted Patents.



many systems, the booting program is stored in executable memory so that it can be executed in place. This may be impossible or undesirable, for instance, in systems where the main storage does not support in-place execution of code, or where memory limitations make it undesirable to store the booting program in executable storage. The '431 patent overcomes these limitations by describing a sequence in which the booting program may first be loaded from external storage into the main volatile storage, after which the booting program configures the system and loads portions of the operating system into memory. The '431 patent further describes a boot sequence that is useable in a computer with an object-oriented operating system, where the use of objects in the operating system makes the initial boot sequence more complex.

**C. Non-Technical Description of the '599 Patent**

23. United States Patent No. 5,455,599, entitled "Object-Oriented Graphic System," issued on October 3, 1995, to inventors Arthur W. Cabral, Rajiv Jain, Maire L. Howard, John Peterson, Richard D. Webb and Robert Seidl. The '599 patent issued from United States Patent Application No. 08/416,949 filed on April 4, 1995, and expires on November 2, 2013. Apple owns by assignment the entire right, title, and interest to and in the '599 patent.

24. The '599 patent has twenty-six claims: three independent claims and twenty-three dependent claims.

25. The '599 patent relates generally to an object-oriented graphic system architecture. The graphics architecture provides for several layers of objects representing graphics objects, graphic port (or "grafport") objects, and graphic device objects. Within this architecture, graphics objects are rendered on graphic devices by use of appropriate calls on graphic port object(s). In turn, the graphic port objects are associated with graphic device objects representing graphic devices such as monitors, frame buffers, printers, etc. The graphic port object(s) facilitate the appropriate render call(s) on the appropriate graphic device object(s).

**D. Non-Technical Description of the '867 Patent**

26. United States Patent No. 5,519,867, entitled "Object-Oriented Multitasking System," issued on May 21, 1996, to inventors Christopher P. Moeller, Eugenie L. Bolton, Daniel F. Chernikoff, and Russell T. Nakano. The '867 patent issued from United States Patent Application No. 08/094,673, filed on July 19, 1993. The '867 patent is terminally disclaimed to United States Patent No. 5,379,432, and expires on July 19, 2013. Apple owns by assignment the entire right, title, and interest in and to the '867 patent.

27. The '867 patent has fifty-three claims: seven independent claims and forty-six dependent claims.

28. The '867 patent relates generally to the execution of object-oriented programs on a computer running a procedural operating system. Object-oriented programming is a programming approach organized around "objects." Objects are generally constructs capable of storing data and defining the methods that must be used to access and interact with that data. Procedural programming is a different programming approach, generally one in which code is programmed in a procedural order, and in which access to data is not organized using an object framework. Object-oriented programming is widely used for computer applications because, among other things, it allows for code to be reused and extended more easily. But many operating systems (which provide basic, low-level computer services that applications depend on) are written in a procedural manner. Because of the differences between object-oriented programming and procedural programming, object-oriented programs cannot directly access the services provided by a procedural operating system.

29. The '867 patent further relates generally to a way for an object-oriented program to access services provided by a procedural operating system that allows for the control of

multiple simultaneous "threads" of program execution and multiple "tasks" within the operating system that contain threads of program execution.

**E. Non-Technical Description of the '131 Patent**

30. United States Patent No. 5,915,131, entitled "Method and Apparatus for Handling I/O Requests Utilizing Separate Programming Interfaces to Access Separate I/O Service," issued on June 22, 1999 to inventors Holly N. Knight, Carl D. Sutton, Wayne N. Meretsky, and Alan B. Mimms. The '131 patent expires on June 22, 2016. Apple owns by assignment the entire right, title, and interest in and to the '131 patent.

31. The '131 patent has twenty claims: five independent claims and fifteen dependent claims.

32. The '131 patent relates generally to the use of application programming interfaces (APIs) to access system services. Generally speaking, APIs provide an abstract interface by which one piece of software can access functionalities provided by other software, or by the system itself, without knowing any of the details of how the functionality in question is implemented. The APIs may, for instance, define a series of functions that can be called to access particular services. The '131 patent describes a way in which a system can efficiently provide access to different kinds of system services by using multiple distinct APIs, each of which is tailored to provide an interface customized for a particular set of services. The '131 patent also describes efficient ways in which the system can deal with calls to different APIs, and in which the system can customize the way it responds to API calls according to the type of services being requested.

**F. Non-Technical Description of the '726 Patent**

33. United States Patent No. 5,920,726, entitled "System and Method for Managing Power Conditions Within a Digital Camera Device," issued on July 6, 1999, to inventor Eric C.

Anderson. The '726 patent issued from United States Patent Application No. 08/973,412, filed on June 12, 1997, and expires on June 12, 2017. Apple owns by assignment the entire right, title, and interest to and in the '726 patent.

34. The '726 patent has eighteen claims: four independent claims and fourteen dependent claims.

35. The '726 patent relates generally to a technology for controlling power to a digital camera device. For example, the '726 patent discloses a power manager for detecting and handling power interruption and a processor for providing notification of a power interruption to service routines which may then assist the digital camera to recover from the power interruption.

**G. Non-Technical Description of the '705 Patent**

36. United States Patent No. 5,969,705, entitled "Message Protocol for Controlling a User Interface From an Inactive Application Program," issued on October 19, 1999, to inventors Stephen Fisher and Eric Matthew Trehus. The '705 patent issued from United States Patent Application No. 08/816,492, filed on March 13, 1997, and expires on June 28, 2013. Apple owns by assignment the entire right, title, and interest to and in the '705 patent.

37. The '705 patent has one independent claim and no dependent claims.

38. The '705 patent relates generally to a software architecture in which an application can make use of an invisible "background process" to perform useful operations, and can periodically update the user interface based on the work done by the background process. In particular, the '705 patent recognizes that, in some cases, it may be beneficial for a foreground process – one that can control the user interface – to use a separate, background process to perform services on behalf of the foreground process. For instance, an application may wish to utilize a specialized background application to perform tasks relating to data retrieval or transfer. Prior art systems could not make updates to the display based on the work done by the

background process, unless the background process was brought to the foreground and allowed to control the user interface. The '705 patent allows the background process to send events to the foreground process, and the foreground process is equipped with an event handler that receives the events from the background process and uses them to update the user interface, without the background process ever controlling the user interface.

#### **H. Non-Technical Description of the '263 Patent**

39. United States Patent No. 6,343,263, entitled "Real-Time Signal Processing System for Serially-Transmitted Data," issued on January 29, 2002, to James B. Nichols and John Lynch. The '263 patent issued from United States Patent Application No. 08/284,061, filed on August 2, 1994, and expires on January 29, 2019. Apple owns by assignment the entire right, title, and interest to and in the '263 patent.

40. The '263 patent has forty-one claims: four independent claims and thirty-seven dependent claims.

41. The '263 patent relates generally to providing programming abstraction layers for real-time processing applications. The '263 patent discloses the use of real-time application programming interfaces (APIs) interposed between application software and the real-time processing subsystem. These APIs provide an abstraction for the real-time processing subsystem (e.g., a digital signal processor) from the higher-level software that utilizes the real-time processing subsystem, allowing changes to the real-time processing subsystem without requiring changes to the higher-level software.

#### **I. Non-Technical Description of the '354 Patent**

42. United States Patent No. 6,424,354, entitled "Object-Oriented Event Notification System with Listener Registration of Both Interests and Methods," issued on July 23, 2002, to inventors John R. Matheny, Christopher White, David R. Anderson, and Arn J. Schaeffer. The

'354 patent issued from United States Patent Application No. 09/287,172, filed on April 1, 1999, and expires on December 23, 2012. Apple owns by assignment all right, title, and interest in and to the '354 patent.

43. The '354 patent has fifty-nine claims: eight independent claims and fifty-one dependent claims.

44. The '354 patent relates generally to the selective distribution of event notifications in an object-oriented software environment. In modern computer systems, many complex pieces of software may be executing simultaneously. A given software module may need or want to be informed when changes occur in other parts of the software. Prior art systems for providing such notifications frequently required that an object receive all notifications broadcast in the system, and did not allow the receiver to customize how it was notified in response to a given event. The '354 patent describes a notification system that overcomes these limitations by allowing an event receiver to specify which notifications it wishes to receive, and also to control the mechanism by which it receives notifications of these events.

**J. Non-Technical Description of the RE '486 Patent**

45. United States Patent No. RE 39,486, entitled "Extensible, Replaceable Network Component System," reissued on February 26, 2007, to inventors Michael A. Cleron, Stephen Fisher and Timo Bruck. The RE '486 patent issued from United States Patent Application No. 10/408,789, filed on April 3, 2003. The RE '486 patent is a reissue of United States Patent No. 6,212,575, which issued from United States Patent Application No. 08/435,377, filed on May 5, 1995. The RE '486 patent expires on May 5, 2015. Apple owns by assignment the entire right, title, and interest to and in the RE '486 patent.

46. The RE '486 patent has twenty claims: three independent claims and seventeen dependent claims.

47. The RE '486 patent relates generally to a computer system that operates using "component layers." Generally speaking, "components" include pieces of software that can be replaced with other software with relatively little effort. The use of components allows a software user to easily replace parts of a software program with new or preferred elements, or to extend its functionality by adding new parts. The RE '486 patent describes a computing arrangement in which software components are used to form a network "layer," which provides access to network-related resources and services. This arrangement extends the flexibility and extensibility of component-based computing to network functionalities. In such cases, the user must frequently make use of one or more different software components, each of which is associated with a particular data type, in order to correctly view the desired network resource. The RE '486 patent simplifies the user's access to this type of data by providing a layered component arrangement such that a software layer has access to a network layer through an application programming interface.

**K. Foreign Counterparts**

48. A list of the foreign counterparts to the Asserted Patents is included with this Complaint as Exhibit 19. Apple owns all right, title, and interest to each of these foreign counterparts. Apple is aware of no other foreign counterparts or foreign counterpart applications corresponding to the Asserted Patents that have been issued, abandoned, denied, or which remain pending.

**L. Licenses**

49. Confidential Exhibit 44 includes a list of licensed entities for the Asserted Patents.

**VI. UNLAWFUL AND UNFAIR ACTS OF  
RESPONDENTS—PATENT INFRINGEMENT**

50. On information and belief, the proposed Respondents manufacture abroad, sell for importation into the United States, import into the United States, and/or sell within the United States after importation, mobile communications devices and components thereof that infringe one or more of the Asserted Patents.

51. Respondents directly infringe and/or will infringe the Asserted Patents by making, using, selling, offering for sale, and importing the articles claimed by, or practicing the claimed methods of, the Asserted Patents. Moreover, Respondents are aware of the Asserted Patents, at least because Respondents were provided with a copy of this Complaint via registered mail as of the date of its filing. Respondents indirectly infringe the Asserted Patents by contributing to and/or inducing the infringement of these patents by end users of their products.

**A. The '431 Patent**

52. On information and belief, the Accused Nokia Symbian Products infringe at least claims 1-2, 4-5, 11-15 and 27-31 of the '431 patent. Additionally, on information and belief, users making routine use of the Accused Nokia Symbian Products infringe at least claims 11-15 and 27-31 of the '431 patent. On information and belief, Respondents are aware of the '431 patent. Further, on information and belief, Respondents knowingly induce users of the Accused Nokia Symbian Products to infringe at least claims 11-15 and 27-31 of the '431 patent. Further, on information and belief, Respondents contribute to the infringement of at least claims 11-15 and 27-31 of the '431 patent because Respondents know that the Accused Nokia Symbian Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each



asserted independent claim of the '431 patent to the Accused Nokia Symbian Products is attached as Exhibit 20.

**B. The '599 Patent**

53. On information and belief, the Accused Nokia Symbian Products and the Qt software (as well as any Nokia products that incorporate the Qt software) infringe at least claims 1-3, 6, 7, 8-10, 12, and 14 of the '599 patent. Additionally, on information and belief, users making routine use of the Accused Nokia Symbian Products and the Qt software (as well as any Nokia products that incorporate the Qt software) infringe at least claims 12 and 14 of the '599 patent. On information and belief, Respondents are aware of the '599 patent. Further, on information and belief, Respondents knowingly induce users of the Accused Nokia Symbian Products and the Qt software (as well as any Nokia products that incorporate the Qt software) to infringe at least claims 12 and 14 of the '599 patent. Further, on information and belief, Respondents contribute to the infringement of at least claims 12 and 14 of the '599 patent because Respondents know that the Accused Nokia Symbian Products and the Qt software (as well as any Nokia products that incorporate the Qt software) are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the '599 patent to the Accused Nokia Symbian Products and the Qt software (and the products that incorporate the Qt software) is attached as Exhibit 21.

**C. The '867 Patent**

54. On information and belief, the Accused Nokia S40 Products infringe at least claims 1-3, 7, 12, 32, and 48 of the '867 patent. An exemplary claim chart comparing each asserted independent claim of the '867 patent to the Accused Nokia S40 Products is attached as Exhibit 22.

**D. The '131 Patent**

55. On information and belief, the Accused Nokia Symbian Products infringe at least claims 1, 3, 4, 6, 7, 9-10, 15, and 17 of the '131 patent. An exemplary claim chart comparing each asserted independent claim of the '131 patent to the Accused Nokia Symbian Products is attached as Exhibit 23.

**E. The '726 Patent**

56. On information and belief, Nokia's accused N900 product infringes at least claim 1 of the '726 patent. An exemplary claim chart comparing each asserted independent claim of the '726 patent to the accused Nokia N900 product is attached as Exhibit 24.

**F. The '705 Patent**

57. On information and belief, the Accused Nokia Symbian Products infringe at least claim 1 of the '705 patent. Additionally, on information and belief, users making routine use of the Accused Nokia Symbian Products infringe at least claim 1 of the '705 patent. On information and belief, Respondents are aware of the '705 patent. Further, on information and belief, Respondents knowingly induce users of the Accused Nokia Symbian Products to infringe at least claim 1 of the '705 patent. Further, on information and belief, Respondents contribute to the infringement of at least claim 1 of the '705 patent because Respondents know that the Accused Nokia Symbian Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the '705 patent to the Accused Nokia Symbian Products is attached as Exhibit 25.

**G. The '263 Patent**

58. On information and belief, the Accused Nokia Symbian Products infringe at least claims 1-6, 24-25 and 29-30 of the '263 patent. An exemplary claim chart comparing each

asserted independent claim of the '263 patent to the Accused Nokia Symbian Products is attached as Exhibit 26.

**H. The '354 Patent**

59. On information and belief, the Accused Nokia Symbian Products infringe at least claims 1-4, 7-8, and 41-42 of the '354 patent. Additionally, on information and belief, users making routine use of the Accused Nokia Symbian Products infringe at least claims 1-4, 7-8, and 41-42 of the '354 patent. On information and belief, Respondents are aware of the '354 patent. Further, on information and belief, Respondents knowingly induce users of the Accused Nokia Symbian Products to infringe at least claims 1-4, 7-8, and 41-42 of the '354 patent. Further, on information and belief, Respondents contribute to the infringement of at least claims 1-4, 7-8, and 41-42 of the '354 patent because Respondents know that the Accused Nokia Symbian Products are made for use in an infringement of these claims and are not staple articles of commerce suitable for substantial noninfringing use. An exemplary claim chart comparing each asserted independent claim of the '354 patent to the Accused Nokia Symbian Products is attached as Exhibit 27.

**I. The RE '486 Patent**

60. On information and belief, the Accused Nokia Symbian Products infringe at least claims 1-2, 6, 8-10, 12-15, and 20 of the RE '486 patent. An exemplary claim chart comparing each asserted independent claim of the RE '486 patent to the Accused Nokia Symbian Products is attached as Exhibit 28.

**VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

61. Respondents, either themselves or through subsidiaries or third parties acting on behalf of Respondents, are engaged in the manufacture, importation, sale for importation, offer for sale after importation, sale and/or use after importation into the United States of infringing

software and infringing computing and mobile communication devices, including but not limited to computers, cellular phones, and PDAs manufactured, marketed, and/or sold by Nokia in the United States.

62. The Nokia N97 is manufactured in China. (See Exhibit 29, photograph of a Nokia N97 (indicating that device is "Made in China").) The Nokia N97 is imported into the United States. For example, the photographed Nokia N97 was purchased from the Nokia Store in Chicago, Illinois on December 21, 2009. The receipt for this purchase is attached as Exhibit 29. The photographed Nokia N97 device, in its packaging, is submitted as Physical Exhibit 3.

63. The Nokia N900 is manufactured in Korea. (See Exhibit 30, photograph of a Nokia N900 (indicating that device is "Made in Korea").) The Nokia N900 is imported into the United States. For example, the photographed Nokia N900 was purchased from the Nokia Store in Chicago, Illinois on December 21, 2009. The receipt for this purchase is attached as Exhibit 30. The photographed Nokia N900 device, in its packaging, is submitted as Physical Exhibit 4.

64. The Nokia E71 is manufactured in Finland. (See Exhibit 31, photograph of a Nokia E71 (indicating that device is "Made in Finland").) The Nokia E71 is imported into the United States. For example, the photographed Nokia E71 was purchased from the Nokia Store in Chicago, Illinois on December 31, 2009. The receipt for this purchase is attached as Exhibit 31. The photographed Nokia E71 device, in its packaging, is submitted as Physical Exhibit 5.

65. The Nokia 7610 Supernova is manufactured in China. (See Exhibit 32, photograph of a Nokia 7610 Supernova (indicating that device is "Made in China").) The Nokia 7610 Supernova is imported into the United States. For example, the photographed Nokia 7610 Supernova was purchased from the Nokia Store in Chicago, Illinois on December 30, 2009. The

receipt for this purchase is attached as Exhibit 32. The photographed Nokia 7610 Supernova device, in its packaging, is submitted as Physical Exhibit 6.

### **VIII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS**

66. On information and belief, the accused products fall within at least the following classification of the Harmonized Tariff Schedule ("HTS") of the United States: 8517.12.00. The HTS number is intended to be for illustration only and is not exhaustive of the products accused of infringement in this Complaint. The HTS number is not intended to limit the scope of the Investigation.

### **IX. RELATED LITIGATION**

67. At present, the '131, '431, RE '486, and '263 patents are the subject of counterclaims by Apple (filed on December 11, 2009) to a patent infringement complaint brought by Respondent Nokia in *Nokia Corporation v. Apple Inc.* (on October 22, 2009), Civil Action 09-791-GMS, currently pending in the District of Delaware. Also the subject of counterclaims in that action is U.S. Pat. No. 5,315,703, which is related to the '354 Asserted Patent. None of the other Asserted Patents have been the subject of any other foreign or domestic court or agency litigation.

### **X. THE DOMESTIC INDUSTRY**

68. There is a domestic industry, as defined under 19 U.S.C. § 1337(a)(3)(A), (B), and (C), comprising significant investments in physical operations, employment of labor and capital, and exploitation of the Asserted Patents.

#### **A. United States Investments In The Domestic Industry**

69. Apple makes extensive use of the inventions claimed in the Asserted Patents in numerous products. Apple currently makes and sells Macintosh computers with pre-installed software including Mac OS X v10.6 Snow Leopard, iTunes, and other software. Apple also

currently makes and sells the iPhone and iPod touch devices. The iPhone, iPod touch, and Macintosh computers are developed in the United States, manufactured abroad, and sold within the United States. As set forth in greater detail below, these products collectively practice each of the Asserted Patents.

70. Apple has made significant investment in plant and equipment with respect to the Apple products that practice the Asserted Patents. Apple's headquarters are located in Cupertino, California. (*See* Exhibit 43, Apple 2009 Form 10-K at 24.) As of September 26, 2009,<sup>7</sup> Apple owned facilities for research and development and corporate functions in Cupertino, California, including land for the future development of its second corporate campus in Cupertino, California. (*See id.* at 24.) Apple also owned a data center in Newark, California and, during 2009, purchased additional land in North Carolina for a future data center facility. (*See id.*) Substantially all of the research, development, design, engineering, and testing of the Apple products that practice the Asserted Patents was done by Apple employees using or working within these Apple facilities in the United States.

71. Moreover, at the end of calendar year 2009, Apple had opened a total of 273 retail stores, including 217 stores in the United States. (*See id.* at 2.) Apple has made substantial investments in its 217 United States retail stores which, in addition to sales, provide product advice, service, and training for Apple hardware and software, including the Apple products that practice the Asserted Patents. (*See id.*) In fiscal year 2009, Apple's cash payments for capital asset purchases for its retail store facilities were \$369 million. (*See id.* at 50.)

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<sup>7</sup> Apple's fiscal year is the 52 or 53-week period that ends on the last Saturday of September. Unless otherwise stated, all information presented is based on Apple's fiscal calendar. (*See* Exhibit 43, Apple 2009 Form 10-K at 1.)

72. Apple has been and is engaged in a significant employment of labor with respect to the Apple products that practice the Asserted Patents. As of September 26, 2009, Apple had approximately 34,300 full-time equivalent employees and an additional 2,500 temporary equivalent employees and contractors. (*See id.* at 13.) Most of Apple's key employees are located in Silicon Valley, California. (*See id.* at 20.) Substantially all of the research, development, design, engineering, and testing of the Apple products that practice the Asserted Patents was done by Apple employees working within the United States. (*See Confidential Exhibit 33, Joswiak Decl.* ¶ 5.)

73. Apple has made substantial investments in the Apple products that practice the Asserted Patents, including by way of example, investments in engineering, research, and development. Detailed information regarding Apple's research and development expenditures may be found in the accompanying Confidential Declaration of Gregory Joswiak. (*See Confidential Exhibit 33, Joswiak Decl.* ¶ 5.) Substantially all of the research and development covered by these investments took place in the United States. (*See id.*) In particular, the Apple products that practice the Asserted Patents were conceived, researched, and developed in the United States. (*Id.*)

74. Apple has established a network of authorized service centers in the United States to provide repair and replacement services for Apple products, including the Apple products that practice the Asserted Patents. For instance, Apple has developed a training and certification program for Apple-certified technicians to ensure that Apple's customers receive industry-leading support for its Mac, iPhone, and iPod products and related software and services. Apple has also established an extensive support program for developers to create applications for the iPhone and iPod touch. (*See Confidential Exhibit 33, Joswiak Decl.* at ¶ 9.)

75. For the 2009 fiscal year, Apple's net revenues were \$36.54 billion, including \$13.78 billion from Macintosh product sales, \$2.41 billion from software licensing and services, \$8.09 billion from iPod product sales, and \$6.75 billion from iPhone and related products and services. (*See* Exhibit 43 at 41.) During the 2009 fiscal year, Apple sold 10.4 million Macintosh units, 54.1 million iPod units, and 20.7 million iPhone units. (*See id.* at 41.) The United States represents Apple's largest geographic marketplace. (*See id.* at 12.) Approximately 54% of Apple's net sales in fiscal year 2009 came from sales to customers inside the United States. (*See id.*)

76. Additional confidential business information regarding Apple's investments in plant, equipment, labor, and research and development related to products that incorporate the technology of the Asserted Patents is set forth in the Declaration of Greg Joswiak, Apple's Vice President of Worldwide Product Marketing for iPod and iPhone, attached as Confidential Exhibit 33.

77. Apple's investments in the relevant domestic industry are continuing and ongoing.

**B. Apple's Practice of the Asserted Patents**

78. Apple makes extensive use of the Asserted Patents in numerous different products. As noted above, Apple currently makes and sells Macintosh computers with pre-installed software including Mac OS X v10.6 Snow Leopard, iTunes, and other software. These products practice at least the '431, '599, '867, '131, '705, '263, '354, and RE '486 patents. The allocations of R&D expenses and related items for these products are captured by the sum of the "Mac hardware" and "Mac OS X" categories in the accompanying Joswiak Declaration (Confidential Exhibit 33). Apple also presently makes and sells the iPhone device. This product practices at least the '726 patent. The allocation of R&D expenses and related items for this product is captured by the "iPhone" category, and prior to its introduction, by other categories



including portions of the "iPod" category, in the accompanying Joswiak Declaration. Specific examples of use are described in this section, below, and charted in associated exhibits.

79. A sample iPhone 3GS is provided concurrently with this Complaint as Physical Exhibit 2.

80. A sample of Mac OS X v10.6 Snow Leopard and Apple's iTunes software, in this case running on an Apple MacBook Pro laptop computer, are provided concurrently with this Complaint as Physical Exhibit 1.

81. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '431 patent is attached as Exhibit 34.

82. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '599 patent is attached as Exhibit 35.

83. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '867 patent is attached as Exhibit 36.

84. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '131 patent is attached as Exhibit 37.

85. An exemplary claim chart comparing Apple's iTunes software, running on a MacBook Pro, to a representative claim of the '705 patent is attached as Exhibit 38.

86. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '263 patent is attached as Exhibit 39.

87. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the '354 patent is attached as Exhibit 40.

88. An exemplary claim chart comparing Mac OS X v10.6 Snow Leopard, running on a MacBook Pro, to a representative claim of the RE '486 patent is attached as Exhibit 41.

89. An exemplary claim chart comparing the iPhone 3GS to a representative claim of the '726 patent is attached as Exhibit 42.

**XI. RELIEF REQUESTED**

90. WHEREFORE, by reason of the foregoing, Apple respectfully requests that the United States International Trade Commission:

(a) Institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (b)(1), with respect to violations of Section 337 based upon the importation, sale for importation, and sale after importation, into the United States of Respondents' mobile communications devices and components thereof, and products and components thereof made on behalf of Respondents, that infringe one or more asserted claims of Apple's '431, '599, '867, '131, '726, '705, '263, '354, and RE '486 patents;

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

(c) Issue a permanent exclusion order, pursuant to 19 U.S.C. § 1337(d)(1), barring from entry into the United States all mobile communication devices and components thereof made by or on behalf of Respondents, and products containing same, that infringe one or more asserted claims of Apple's '431, '599, '867, '131, '726, '705, '263, '354, and RE '486 patents;

(d) Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), prohibiting Respondents, and others acting on their behalf, from importing, marketing, advertising, demonstrating, warehousing inventory for distribution, distributing, offering for sale, selling, licensing, using, or transferring outside the United States for sale in the United States any mobile communication devices, components thereof, and products containing same, that infringe one or more asserted claims of Apple's '431, '599, '867, '131, '726, '705, '263, '354, and RE '486 patents; and

(e) 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.

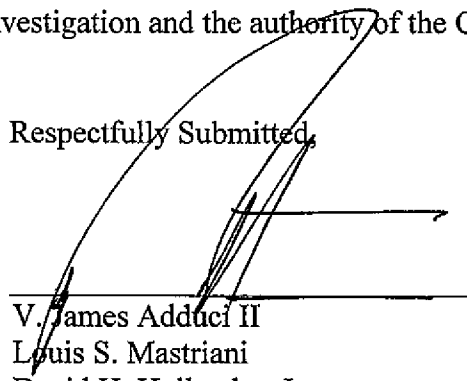
Dated: January 15, 2010

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Respectfully Submitted,



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APPLE700210-5

## VERIFICATION OF COMPLAINT

I, Gregory Joswiak, declare, in accordance with 19 C.F.R. §§ 210.4 and 210.12(a), under penalty of perjury, that the following statements are true:

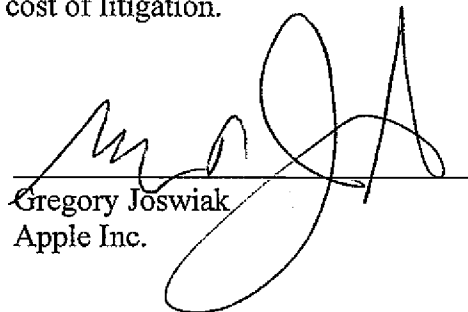
1. I am currently Apple's Vice President of Worldwide Product Marketing for iPod and iPhone. I am duly authorized by Apple to verify the foregoing Complaint.

2. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the allegations of the Complaint are well grounded in fact and have evidentiary support, or, where specifically identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

3. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the claims and other legal contentions set forth in the Complaint are warranted by existing law or by a good faith, non-frivolous argument for extension, modification, or reversal of existing law, or by the establishment of new law; and

4. The Complaint is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Executed this 14th day of January, 2010

  
Gregory Joswiak  
Apple Inc.