

EXHIBIT D

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ATTORNEYS AT LAW

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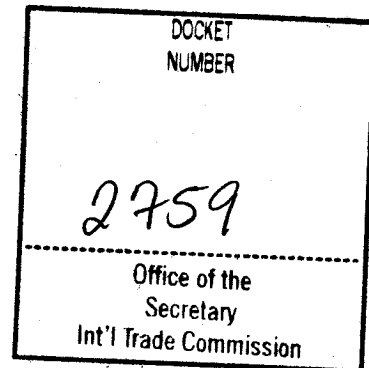
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CBI 11-007

October 6, 2010

VIA HAND DELIVERY

The Honorable Marilyn R. Abbott
Secretary
U. S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436



Re: Inv. No. 337-TA-___, In the Matter of Certain Wireless Communication Devices, Portable Music and Data Processing Devices, Computers and Components Thereof

Dear Secretary Abbott:

Pursuant to U.S. International Trade Commission ("Commission") Rule 210.8 (19 C.F.R. § 210.08) and in accordance with Commission Rule 210.12 (19 C.F.R. § 210.12), enclosed for filing on behalf of Motorola Mobility, Inc. ("Complainant") please find the following documents in support of Complainant's request that the Commission commence an investigation under Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337):

1. An original and twelve (12) copies of Complainant's Confidential Verified Complaint (original and one (1) copy unbound, without tabs) (Rules 201.6(c), 210.4(f)(3)(i), and 210.08(a));
2. Twelve (12) copies of Complainant's Non-Confidential Verified Complaint (original and one (1) copy unbound, without tabs) (Rules 201.6(c), 210.4(f)(3)(i), and 210.08(a));
3. An original and six (6) copies of the exhibits to the Complaint with Confidential Exhibits (A-PP) (and public versions thereof) segregated from Non-Confidential Exhibits (1-53) (original and one (1) copy unbound, without tabs) (Rules 201.6(c), 210.4(f)(3)(i), and 210.08(a));

The Honorable Marilyn Abbott
 October 6, 2010
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4. One (1) additional copy of the Confidential Verified Complaint, Non-Confidential Verified Complaint, and accompanying Confidential and Non-Confidential Exhibits, for service upon the Proposed Respondent (Rules 210.4(f)(3)(i), 210.8(a)(1)(iii), and 210.11(a));
5. One (1) Certified Copy of U.S. Patent No. 6,272,333 (“the ’333 patent”)¹ and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 1 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(i));
6. One (1) Original Certified Copy of U.S. Patent No. 6,246,862 (“the ’862 patent”) and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 2 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(i));
7. One (1) Original Certified Copy of U.S. Patent No. 6,246,697 (“the ’697 patent”) and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 3 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(i));
8. One (1) Original Certified Copy of U.S. Patent No. 5,359,317 (“the ’317 patent”) and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 4 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(i));
9. One (1) Original Certified Copy of U.S. Patent No. 5,636,223 (“the ’223 patent”) and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 5 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(i));

¹ Complainant has requested, but has not yet received an original certified copy of the patent, file history, and assignment record for the ’333 patent. However, certified copies of these documents have been submitted. Complainant will submit original certified copies as soon as such copies are received from the United States Patent and Trademark Office.

The Honorable Marilyn Abbott
October 6, 2010
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10. One (1) Original Certified Copy of U.S. Patent No. 7,751,826 (“the ’826 patent”) and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 6 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(i));
11. One (1) Certified Copy of Assignment Documents for the ’333 patent and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 7 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(ii));
12. One (1) Original Certified Copy of Assignment Documents for the ’862 patent and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 8 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(ii));
13. One (1) Original Certified Copy of Assignment Documents for the ’697 patent and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 9 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(ii));
14. One (1) Original Certified Copy of Assignment Documents for the ’317 patent and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 10 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(ii));
15. One (1) Original Certified Copy of Assignment Documents for the ’223 patent and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 11 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(ii));
16. One (1) Original Certified Copy of Assignment Documents for the ’826 patent and twelve (12) additional copies thereof corresponding to each required copy of the Complaint, with a copy also being provided at Non-Confidential Exhibit 12 (certified copy and one additional copy unbound) (Rule 210.12(a)(9)(ii));

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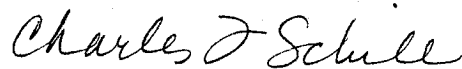
17. Identification of each licensee under each involved U.S. Patent included at Confidential Exhibit A and copies of each license agreement for each involved U.S. patent at Confidential Exhibits G-NN and PP (Rules 210.12(a)(9)(iii) & (iv));
18. One (1) Certified Copy of the Prosecution History for the '333 patent and three (3) additional copies thereof are included at Appendix A (Rule 210.12(c)(1));
19. One (1) Original Certified Copy of the Prosecution History for the '862 patent and three (3) additional copies thereof are included at Appendix B (Rule 210.12(c)(1));
20. One (1) Original Certified Copy of the Prosecution History for the '697 patent and three (3) additional copies thereof are included at Appendix C (Rule 210.12(c)(1));
21. One (1) Original Certified Copy (on CD-ROM) of the Prosecution History for the '317 patent and three (3) additional copies thereof are included at Appendices D, M and N (the latter two of which contain Prosecution Histories for related Reexamination Request Nos. 90/010,332 and 90/010,455, respectively) (Rule 210.12(c)(1));
22. One (1) Original Certified Copy (on CD-ROM) of the Prosecution History for the '223 patent and three (3) additional copies thereof are included at Appendices E and O (the latter of which contains the Prosecution History for related Reexamination Request No. 90/010,802) (Rule 210.12(c)(1));
23. One (1) Original Certified Copy (on CD-ROM) of the Prosecution History for the '826 patent and three (3) additional copies thereof are included at Appendix F (Rule 210.12(c)(1));
24. Four (4) copies of the '333 patent and the applicable pages of each technical reference mentioned in the prosecution history are included at Appendix G (Rule 210.12(c)(2));
25. Four (4) copies of the '862 patent and the applicable pages of each technical reference mentioned in the prosecution history are included at Appendix H (Rule 210.12(c)(2));

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26. Four (4) copies of the '697 patent and the applicable pages of each technical reference mentioned in the prosecution history are included at Appendix I (Rule 210.12(c)(2));
27. Four (4) copies of the '317 patent and the applicable pages of each technical reference mentioned in the prosecution history are included at Appendix J (Rule 210.12(c)(2));
28. Four (4) copies of the '223 patent and the applicable pages of each technical reference mentioned in the prosecution history are included at Appendix K (Rule 210.12(c)(2));
29. Four (4) copies of the '826 patent and the applicable pages of each technical reference mentioned in the prosecution history are included at Appendix L (Rule 210.12(c)(2));
30. A letter and certification pursuant to Commission Rules 201.6(b) and 210.5(d) requesting confidential treatment of the bracketed information in the Confidential Verified Complaint and Confidential Exhibits A-PP.

Please contact the undersigned if you have any questions relating to this filing. Thank you for your kind attention to this matter.

Respectfully submitted,



Charles F. Schill
Jamie B. Beaber
Counsel for Motorola Mobility, Inc.

Enclosures

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

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October 6, 2010

VIA HAND DELIVERY

The Honorable Marilyn R. Abbott
Secretary
U. S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436

**Re: Inv. No. 337-TA-___, In the Matter of Certain Wireless
Communication Devices, Portable Music and Data Processing
Devices, Computers and Components Thereof**

Dear Secretary Abbott:

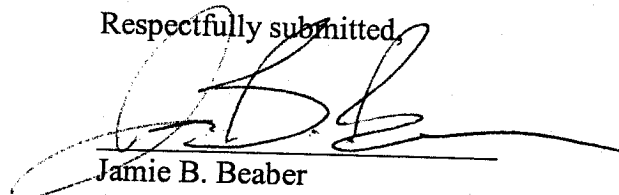
In accordance with U.S. International Trade Commission ("Commission") Rules 201.6 and 210.5, Motorola Mobility, Inc. ("Complainant") requests that the Commission grant confidential treatment to the confidential business information within brackets in the Confidential Verified Complaint, as well as the confidential business information contained in Confidential Exhibits A-PP filed concurrently herewith in the above-referenced matter. Accordingly, Complainant requests that the bracketed information contained in the Confidential Verified Complaint, as well as the information contained in Confidential Exhibits A-PP not be disclosed to persons outside the Commission (or other necessary government personnel), except pursuant to a protective order.

The information for which confidential treatment is requested is proprietary commercial information not otherwise publicly available. Specifically, the information within brackets in the Confidential Verified Complaint, as well as the information contained in Confidential Exhibits A-PP, relates to detailed confidential business records, employee data, revenue, sales and/or other financial information and data, licenses, expenditures and other information of commercial value to Complainant that has been submitted to support, among other things, Complainant's domestic industry allegations.

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The information described above qualifies as confidential information pursuant to 19 C.F.R. § 201.6 in that the information concerns or relates to, or would otherwise disclose, confidential commercial information, the disclosure of which would result in substantial harm to the competitive position of Complainant and would also impair the Commission's ability in the future to obtain these types of information in performance of its statutory function. I certify that substantially identical information is not reasonably available to the public.

Respectfully submitted,



Jamie B. Beaber
Counsel for Motorola Mobility, Inc.

District of Columbia:

SUBSCRIBED and sworn to before me this 6th day of October 2010.



Jada Chaconas
Notary Public

My Commission Expires:

My Commission Expires: August 14, 2011

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of

**CERTAIN WIRELESS
COMMUNICATION DEVICES,
PORTABLE MUSIC and DATA
PROCESSING DEVICES, COMPUTERS
AND COMPONENTS THEREOF**

Investigation No. 337-TA- _____

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

Complainant

Motorola Mobility, Inc.
600 North US Highway 45
Libertyville, Illinois 60048
Phone No. (847) 523-5000

Respondent

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Exhibit 2	Certified Copy of United States Patent No. 6,246,862
Exhibit 3	Certified Copy of United States Patent No. 6,246,697
Exhibit 4	Certified Copy of United States Patent No. 5,359,317
Exhibit 5	Certified Copy of United States Patent No. 5,636,223
Exhibit 6	Certified Copy of United States Patent No. 7,751,826
Exhibit 7	Certified Copy of the Assignment of United States Patent No. 6,272,333
Exhibit 8	Certified Copy of the Assignment of United States Patent No. 6,246,862
Exhibit 9	Certified Copy of the Assignment of United States Patent No. 6,246,697
Exhibit 10	Certified Copy of the Assignment of United States Patent No. 5,359,317
Exhibit 11	Certified Copy of the Assignment of United States Patent No. 5,636,223
Exhibit 12	Certified Copy of the Assignment of United States Patent No. 7,751,826
Exhibit 13	Relevant Pages of Motorola's Form 10-Q for the Period Ended July 3, 2010
Exhibit 14	Relevant Pages of Motorola's 2009 Annual Report
Exhibit 15	"Making History: Developing the Portable Cellular System," <i>available at</i> http://www.motorola.com/staticfiles/Business/Corporate/US-EN/history/feature-cell-phone-development.html
Exhibit 16	"Motorola Timeline," <i>available at</i> http://www.motorola.com/staticfiles/Business/Corporate/US-EN/history/timeline.html
Exhibit 17	Apple Facility Information, <i>available at</i> http://www.apple.com/retail/storelist/
Exhibit 18	Foreign Counterparts to the Asserted Patents
Exhibit 19	Claim Chart for Representative Independent Claim of United States Patent No. 6,272,333
Exhibit 20	Claim Chart for Representative Independent Claim of United States Patent No. 6,246,862
Exhibit 21	Claim Chart for Representative Independent Claim of United States Patent No. 6,246,697
Exhibit 22	Claim Chart for Representative Independent Claim of United States Patent No. 5,359,317
Exhibit 23	Claim Chart for Representative Independent Claim of United States Patent No. 5,636,223
Exhibit 24	Claim Chart for Representative Independent Claim of United States Patent No. 7,751,826
Exhibit 25	iPhone User Guide for iPhone OS 3.1 Software
Exhibit 26	UIKit Framework Reference
Exhibit 27	Excerpt from Apple website
Exhibit 28	Excerpt from FCC website
Exhibit 29	iPhone Application Programming Guide
Exhibit 30	iPhone 3G Main Circuit Board

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Exhibits	Description
Exhibit 31	iPhone 4 Technical Specifications
Exhibit 32	iPhone 4 Teardown from www.tgdaily.com
Exhibit 33	Infineon X-GOLD 616 Technical Specification
Exhibit 34	3GPP Technical Specification 25.213 V3.8.0 (2002-06) "Spreading and modulation (FDD)" Release 1999 (selected portions)
Exhibit 35	Motorola Droid 2 User Guide
Exhibit 36	iPhone 4 Wi-Fi Certified Interoperability Certificate
Exhibit 37	IEEE Standard 802.11 TM 2007 (Revision of IEEE Std 802.11-1999) - Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications (selected portions)
Exhibit 38	Excerpt from Motorola website regarding Droid 2 technical specifications
Exhibit 39	Excerpt from Motorola customer help website
Exhibit 40	Excerpt from Motorola website regarding android development
Exhibit 41	Domestic Industry Claim Chart for Representative Claim of United States Patent No. 5,359,317
Exhibit 42	Domestic Industry Claim Chart for Representative Claim of United States Patent No. 5,636,223
Exhibit 43	CLIQ XT Technical Specs
Exhibit 44	Motorola Droid 2 Wi-Fi Certified Interoperability Certificate
Exhibit 45	Excerpt from Motorola website regarding Droid 2 GPS
Exhibit 46	Declaration of Andrew Curran
Exhibit 47	Form 10 General Form for Registration of Securities filed on July 1, 2010 by Motorola Spincor Holdings Corporation
Exhibit 48	Excerpts from Apple's 10-K
Exhibit 49	"Motorola Limited Warranty for the United States and Canada," <i>available at</i> http://www.motorola.com/staticfiles/Support/US-EN/_Static%20Files/Motorola%20Limited%20Warranty%20for%20the%20United%20States%20and%20Canada_04_15_08.pdf
Exhibit 50	Domestic Industry Claim Chart for Representative Claim of United States Patent No. 7,751,826
Exhibit 51	Domestic Industry Claim Chart for Representative Claim of United States Patent No. 6,272,333
Exhibit 52	Domestic Industry Claim Chart for Representative Claim of United States Patent No. 6,246,862
Exhibit 53	Domestic Industry Claim Chart for Representative Claim of United States Patent No. 6,246,697

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Confidential Exhibits	Description
Confidential Exhibit A	Identification of Licenses Relating to the Asserted Patents
Confidential Exhibit B	Motorola Licensing Group Data
Confidential Exhibit C	Amended and Restated Intellectual Property Assignment Agreement between Motorola, Inc. and Motorola Mobility, Inc.
Confidential Exhibit D	United States Personnel Data for Motorola's Mobile Devices Segment
Confidential Exhibit E	United States Facilities Data for Motorola's Mobile Devices Segment
Confidential Exhibit F	United States Sales Data for Representative Domestic Industry Products and Mobile Devices Segment
Confidential Exhibit G	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit H	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit I	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit J	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit K	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit L	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit M	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit N	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit O	License Between Motorola, Inc., and Licensee Confidential []
Confidential Exhibit P	First Amendment to License Between Motorola, Inc. and Licensees Confidential []
Confidential Exhibit Q	Second Amendment to License Between Motorola, Inc. and Licensees Confidential []
Confidential Exhibit R	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit S	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit T	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit U	License Between Motorola, Inc. and Licensee Confidential []

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Confidential Exhibit V	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit W	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit X	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit Y	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit Z	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit AA	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit BB	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit CC	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit DD	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit EE	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit FF	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit GG	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit HH	License and Amendment Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit II	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit JJ	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit KK	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit LL	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit MM	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit NN	License Between Motorola, Inc. and Licensee Confidential []
Confidential Exhibit OO	Contribution, Assignment and Assumption Agreement dated July 31, 2010
Confidential Exhibit PP	License Between Motorola, Inc. and Licensee Confidential []

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Appendices	Description
Appendix A	Certified File History of United States Patent No. 6,272,333
Appendix B	Certified File History of United States Patent No. 6,246,862
Appendix C	Certified File History of United States Patent No. 6,246,697
Appendix D	Certified File History of United States Patent No. 5,537,317
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Appendix K	Technical References Cited in U.S. Patent No. 5,636,223
Appendix L	Technical References Cited in U.S. Patent No. 7,751,826
Appendix M	File History of Reexamination No. 90/010,332 for U.S. Patent No. 5,359,317
Appendix N	File History of Reexamination No. 90/010,445 for U.S. Patent No. 5,359,317
Appendix O	File History of Reexamination No. 90/010,802 for U.S. Patent No. 5,636,223

I. INTRODUCTION

1. Motorola Mobility, Inc. (“Mobility”) respectfully requests that the United States International Trade Commission (“Commission”) institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”).¹

2. Apple Inc. (“Apple” or “Respondent”) has engaged in unfair acts in violation of Section 337 through unlawful and unauthorized importation and/or sale for importation into the United States, and/or the sale within the United States after importation, of certain wireless communications devices, portable music and data processing devices, computers and components thereof (hereinafter collectively “Accused Products”). The Accused Products infringe one or more claims of United States Patent Nos. 6,272,333 (“the ’333 Patent”), 6,246,862 (“the ’862 Patent”), 6,246,697 (“the ’697 Patent”), 5,359,317 (“the ’317 Patent”), 5,636,223 (“the ’223 Patent”), and 7,751,826 (“the ’826 Patent”) (collectively the “Asserted Patents”) through their importation, sale for importation, use after importation, and sale after importation. *See* Exhs. 19-24.

3. As of the filing of this Complaint, Mobility owns by assignment the entire right, title and interest in and to the Asserted Patents. *See* Exhs. 7-12 (assignments of each Asserted Patent from the named inventors to Motorola), Conf. Exh. C (July 31, 2010 assignment of the Asserted Patents from Motorola to Mobility).² Pursuant to a Form 10 filed with the Securities

¹ As discussed below, Motorola, Inc. (“Motorola”) assigned the Asserted Patents to Mobility on July 31, 2010. Motorola also has transferred the relevant mobile devices business to Mobility. Prior to July 31, 2010, Motorola owned the Asserted Patents and the relevant mobile device business. As a result, where appropriate this Complaint will refer to the past and present business activities of Complainant and Motorola.

² At the earliest practicable time following recordation by the USPTO of the assignments of the Asserted Patents from Motorola to Mobility and the issuance of certified copies thereof, Complainant will provide the Commission with certified copies of the relevant assignments.

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and Exchange Commission on July 1, 2010, Motorola transferred its mobile devices and home business units to Mobility and assigned the Asserted Patents to Mobility. In the first quarter of 2011, Mobility will be acquired by Motorola SpinCo Holdings Corp. ("SpinCo"). Complainant will provide the Commission with appropriate documentation as soon as practicable following the transfer of Mobility to SpinCo.

4. Motorola's and Mobility's historic and current operations in the United States qualify as a domestic industry relating to the Asserted Patents and articles protected by the Asserted Patents, within the meaning of 19 U.S.C. § 1337(a)(2) & (3).

5. Mobility's current business operations, previously owned by Motorola, include the Mobile Devices segment ("MDS"), which conducts research and development to develop new technology related to wireless handsets with integrated software and accessory products, and designs, manufactures, sells and services wireless handsets with integrated software and accessory products. Motorola and Mobility also have licensed and continue to actively license the intellectual property relating to the MDS segment, including the Asserted Patents.³

6. MDS designs, develops, markets, sells and services in the United States products that practice one or more claims of the Asserted Patents. Research and development of intellectual property relating to MDS was and is an integral part of Motorola's extensive domestic licensing program and is an integral part of Mobility's extensive domestic licensing program which includes licenses to the Asserted Patents. Indeed, research and development of intellectual property relating to MDS resulted in each of the Asserted Patents.

³ Pursuant to a Contribution, Assignment and Assumption Agreement dated July 31, 2010 ("the Contribution Agreement"), Mobility acquired the right, title, and interest in certain licenses related to the Asserted Patents, which are identified in Schedule 1.1(a) of the Contribution Agreement. *See* Conf. Exh. OO. Other licenses related to the Asserted Patents identified in Schedule 1.1(e)(ii) of the Contribution Agreement were retained by Motorola.

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7. Complainant seeks relief from the Commission in the form of a permanent exclusion order prohibiting entry into the United States of the Accused Products that infringe one or more claims of the Asserted Patents. Complainant further seeks a cease and desist order prohibiting Respondent, its subsidiaries, related companies and agents from engaging in the importation, sale for importation, marketing and/or advertising, distribution, offering for sale, sale, sale after importation or other transfers within the United States after importation of the Accused Products that infringe one or more claims of the Asserted Patents.

II. PARTIES

A. Complainant

8. Mobility is a corporation organized and existing under the laws of the State of Delaware and having a principal place of business at 600 North US Highway 45, Libertyville, Illinois 60048. Mobility is a wholly-owned subsidiary of Motorola. Relevant excerpts of Motorola's Form 10-Q's for the period ended July 3, 2010 and its 2009 Annual Report, which describe MDS now operated by Mobility, are attached as Exhibits 13 and 14, respectively.

9. On July 1, 2010, SpinCo filed a Form 10 (General Form for the Registration of Securities), which is attached as Exhibit 47. As noted in the Form 10, Motorola intends to transfer its mobile devices and home businesses to SpinCo in the first quarter of 2011. In furtherance of the planned transfer, Motorola assigned all its right, title, and interest in the Asserted Patents to Mobility on July 31, 2010, and also transferred MDS to Mobility. Mobility also acquired all licensing operations related to the Asserted Patents. Moreover, Mobility acquired several licenses related to the Asserted Patents, while other licenses related to the Asserted Patents were retained by Motorola. *See* Conf. Exh. OO, Schedule 1.1(a) (licenses transferred to Mobility), Schedule 1.1(e)(ii) (licenses retained by Motorola). In the first quarter

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of 2011, Mobility will be acquired by SpinCo, and Mobility will continue to operate MDS and own the Asserted Patents.

10. As a result of long-term domestic activities, including those undertaken by the MDS, Motorola and Mobility are leading innovators in the communications and electronics industry. From the introduction of its first commercially successful car radio in 1930 to the inception of the world's first commercial portable cellular phone in 1983, Motorola and Mobility have developed substantial proprietary and leading technology relating to wireless communications and electronics. *See* Exh. 15 (excerpt from Motorola's website). Motorola was also the first to bring push-to-talk over cellular to market. More recently, Motorola demonstrated the world's first WiMAX 802.16e mobile handoff and the industry's first over-the-air data sessions in the 700 MHz spectrum using the Long Term Evolution standard, which is the next evolution of mobile broadband. *See* Exh. 16 (excerpt from Motorola's website).

11. Among other things, MDS designs, manufactures, sells, and services wireless handsets with integrated software and accessory products. In 2009, MDS's net sales were \$7.1 billion, representing approximately 32% of the company's consolidated net sales for 2009. The net sales for MDS were \$12.1 billion in 2008. *See* Exh. 14 at 36.

12. Motorola and Mobility have commercialized and continue to actively commercialize the patented technologies and license these patents, including the Asserted Patents, to other major manufacturers and retailers of wireless handheld devices and other communications products. *See* Conf. Exh. A (listing licenses involving the Asserted Patents).

13. Motorola's research and development expenditures in the United States relating to technology advancement, new product development, and product improvement, which include domestic research and development expenditures by MDS, were \$3.2 billion in 2009,

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\$4.1 billion in 2008 and \$4.4 billion in 2007. *See* Exh. 14 at 15. Motorola and Mobility continue to believe that a strong domestic commitment to research and development is required to drive long-term growth of the companies. Approximately 22,000 professional employees were engaged in research and development activities during 2009. *See id.* As of December 31, 2009, Motorola and its wholly-owned subsidiaries owned approximately 10,000 patents in the United States and over 13,000 patents in foreign countries. *See id.* Many of the patents owned by Motorola and Mobility are used in their operations or licensed for use by others. *See id.*

14. Motorola has granted licenses of varying scope under many of its patents, including the Asserted Patents, to various companies. *See* Conf. Exh. A. Motorola's licensing activities have yielded substantial revenue to the company and its shareholders. Confidential Exhibit B sets forth the royalty income from certain of MDS's patent licenses in the past three fiscal years. Mobility actively continues Motorola's extensive domestic licensing activities.

B. The Respondent

15. Respondent Apple Inc. is a corporation organized under the laws of California and has its principal place of business at 1 Infinite Loop, Cupertino, California 95014.

16. Respondent imports and/or sells for importation into the United States, and/or sells within the United States after importation certain wireless communications devices, portable music and data processing devices, computers, and components thereof without the authorization of Motorola or Mobility. Respondent has facilities around the world, including retail stores in the United States to directly sell the Accused Products to end users. *See* Exh. 17.

III. ACCUSED PRODUCTS AT ISSUE

17. Respondent designs, imports, sells for importation into the United States, and/or sells within the United States after importation, certain wireless communication devices, portable music and data processing devices, computers, and components thereof.

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18. The accused wireless communication devices include, but are not limited to, the Apple iPhone 3G, the Apple iPhone 3GS and the Apple iPhone 4. These devices utilize various wireless technologies that, for example, establish data connections with wireless networks, transmit voice and data signals to wireless networks, receive voice and data signals from a wireless network, download and execute user applications and process and encrypt data during a wireless communication session.

19. The accused portable music and data processing devices include, but are not limited to, the iPod touch, which utilizes wireless communication technologies to communicate with wireless network access points and other wireless devices.

20. The accused computers include, but are not limited to, the AppleTV, Mac Pro, iMac, Mac mini, MacBook Pro, MacBook, MacBook Air, iPad and iPad 3G, which utilize wireless communication technologies to communicate with wireless network access points and other wireless devices. The iPad 3G also uses authentication protocols, encryption techniques and other wireless transmission technologies to communicate with third generation wireless communication networks.

21. Each of the Accused Products meets each and every limitation of at least one claim of one or more of the Asserted Patents. The Accused Products include, but are not limited to, all versions of the above-referenced products, as well as certain software and services that are distributed as components of these devices. These products, however, are merely illustrative of the types and classes of infringing products that Respondent manufactures and imports into the United States, sells for importation into the United States, and/or sells within the United States after importation in violation of Section 337.

IV. THE ASSERTED PATENTS AND NON-TECHNICAL DESCRIPTION OF THE ASSERTED PATENTS

A. The '333 Patent

1. Identification of the '333 Patent and Ownership

22. Mobility owns by assignment the entire right, title and interest in United States Patent No. 6,272,333, titled "Method and Apparatus in a Wireless Communication System for Controlling a Delivery of Data," which issued on August 7, 2001, naming Dwight Randall Smith as inventor. A certified copy of the '333 Patent is attached as Exhibit 1; a certified copy of the recorded assignment from the named inventors to Motorola is attached as Exhibit 7. A copy of the July 31, 2010 assignment of the '333 Patent from Motorola to Mobility is attached as Confidential Exhibit C, and Complainant will submit a certified copy of this assignment once it is recorded at the United States Patent and Trademark Office.

23. Pursuant to Commission Rule 210.12, a certified copy and three additional copies of the prosecution history of the '333 Patent, as well as four copies of the '333 Patent and each technical reference mentioned in the prosecution history of the '333 Patent, are submitted concurrently herewith as Appendices A and G, respectively.

2. Foreign Counterparts to the '333 Patent

24. Pursuant to Commission Rule 210.12(a)(9)(v), and as indicated in Exhibit 18, no foreign patents or patent applications corresponding to the '333 Patent have been issued, abandoned, rejected, or remain pending.

3. Non-Technical Description of the '333 Patent⁴

25. The '333 Patent generally relates to controlling applications and the transmission of data in wireless communication systems. Particularly, in a wireless device, such as a smartphone, the invention allows the device to maintain a list of applications accessible to the device. When the accessibility of a particular application is changed, such as when a user deletes an application from the smartphone, the list of applications accessible to the device is updated, and the change is communicated from the mobile device to the fixed portion of the wireless communication system. By maintaining a list of applications presently available to a user on the user's mobile device, data and software updates relevant to the user can be more efficiently provided to the user. The invention of the '333 Patent provides an efficient means to update the applications available to a user of a wireless communication device, while minimizing unnecessary data transfers in a wireless communication network.

4. Prior Litigation Involving the '333 Patent

26. On January 22, 2010, Motorola filed a Complaint with the U.S. International Trade Commission to commence an investigation based on, *inter alia*, the alleged infringement of the '333 Patent by Respondents Research In Motion Limited and Research In Motion Corporation. Pursuant to the Complaint, an investigation was instituted styled as *Certain Wireless Communications System Server Software, Wireless Handheld Devices and Battery Packs*, Inv. No. 337-TA-706. On June 29, 2010, the presiding Administrative Law Judge granted a joint motion to terminate the investigation pursuant to a settlement agreement between the parties. The '333 Patent has not been the subject of any other previous litigation in any

⁴ The non-technical descriptions of the inventions claimed in the Asserted Patents as set forth in this Complaint are not intended to construe either the specification or the claims of the Asserted Patents.

domestic court or agency. In addition, there has been no foreign court or agency litigation involving the '333 Patent.

27. The '333 Patent, however, is the subject of a complaint filed concurrently herewith by Mobility against Apple in the United States District Court for the Northern District of Illinois that alleges infringement of, among others, the '333 Patent.

B. The '862 Patent

1. Identification of the '862 Patent and Ownership

28. Mobility owns by assignment the entire right, title and interest in United States Patent No. 6,246,862, titled "Sensor Controlled User Interface for Portable Communication Device," which issued on June 12, 2001, naming Chris J. Grivas, Rachid M. Alameh, and Fan He as inventors. A certified copy of the '862 Patent is attached as Exhibit 2; a certified copy of the recorded assignment from the named inventors to Motorola is attached as Exhibit 8. A copy of the July 31, 2010 assignment of the '862 Patent from Motorola to Mobility is attached as Confidential Exhibit C, and Complainant will submit a certified copy of this assignment once it is recorded at the United States Patent and Trademark Office.

29. Pursuant to Commission Rule 210.12, a certified copy and three additional copies of the prosecution history of the '862 Patent, as well as four copies of the '862 Patent and each technical reference mentioned in the prosecution history of the '862 Patent, are submitted concurrently herewith as Appendices B and H, respectively.

2. Foreign Counterparts to the '862 Patent

30. Pursuant to Commission Rule 210.12(a)(9)(v), Exhibit 18 identifies the foreign patents or patent applications corresponding to the '862 Patent that have been issued, abandoned, rejected, or remain pending.

3. Non-Technical Description of the '862 Patent⁵

31. The '862 Patent generally relates to a system for controlling the operation of a user interface (such as a touch screen) in a wireless device, such as a smartphone. The invention provides a sensor in the wireless device that senses the proximity of the device to a large solid object (like a user's head). When the sensor determines the wireless device is in close proximity to such an object, the system inhibits the operation of the touch screen so that the user does not inadvertently make undesired inputs to the device, like hanging up the call or dialing unwanted numbers. So, for example, if the user is on a call and the touch screen is near the user's head, the phone will not accept unwanted inputs made as a result of the user's unintended contact with certain inputs on the touch screen during the call.

4. Prior Litigation Involving the '862 Patent

32. The '862 Patent has not been the subject of previous litigation in any domestic court or agency. In addition, there has been no foreign court or agency litigation involving the '862 Patent or any of its counterparts.

33. The '862 Patent, however, is the subject of a complaint filed concurrently herewith by Mobility against Apple in the United States District Court for the Northern District of Illinois that alleges infringement of, among others, the '862 Patent.

C. The '697 Patent

1. Identification of the '697 Patent and Ownership

34. Mobility owns by assignment the entire right, title and interest in United States Patent No. 6,246,697, titled "Method and System for Generating a Complex Pseudonoise Sequence for Processing a Code Division Multiple Access Signal," which issued on June 12,

⁵ The non-technical descriptions of the inventions claimed in the Asserted Patents as set forth in this Complaint are not intended to construe either the specification or the claims of the Asserted Patents.

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2001, naming Nicholas William Whinnett and Kevin Michael Laird as inventors. A certified copy of the '697 Patent is attached as Exhibit 3; a certified copy of the recorded assignment from the named inventors to Motorola is attached as Exhibit 9. A copy of the July 31, 2010 assignment of the '697 Patent from Motorola to Mobility is attached as Confidential Exhibit C, and Complainant will submit a certified copy of this assignment once it is recorded at the United States Patent and Trademark Office.

35. Pursuant to Commission Rule 210.12, a certified copy and three additional copies of the prosecution history of the '697 Patent, as well as four copies of the '697 Patent and each technical reference mentioned in the prosecution history of the '697 Patent, are submitted concurrently herewith as Appendices C and I, respectively.

2. Foreign Counterparts to the '697 Patent

36. Pursuant to Commission Rule 210.12(a)(9)(v), Exhibit 18 identifies the foreign patents or patent applications corresponding to the '697 Patent that have been issued, abandoned, rejected, or remain pending.

3. Non-Technical Description of the '697 Patent⁶

37. The '697 Patent generally relates to transmitting voice and data signals in wireless communication systems. Particularly, in a wireless device, such as a smartphone, the invention allows the device to transmit voice and data signals to the fixed portion of a wireless communication system in a way that reduces noise in the signal (thus enhancing the ability of the signal to be received), while minimizing interference with signals from other user's mobile devices.

⁶ The non-technical descriptions of the inventions claimed in the Asserted Patents as set forth in this Complaint are not intended to construe either the specification or the claims of the Asserted Patents.

4. Prior Litigation Involving the '697 Patent

38. The '697 Patent has not been the subject of previous litigation in any domestic court or agency. In addition, there has been no foreign court or agency litigation involving the '697 Patent or any of its counterparts.

39. The '697 Patent, however, is the subject of a complaint filed concurrently herewith by Mobility against Apple in the United States District Court for the Northern District of Illinois that alleges infringement of, among others, the '697 Patent.

D. The '317 Patent

1. Identification of the '317 Patent and Ownership

40. Mobility owns by assignment the entire right, title and interest in United States Patent No. 5,359,317, titled "Method and Apparatus for Selectively Storing a Portion of a Received Message in a Selective Call Receiver," which issued on October 25, 1994, naming Fernando Gomez and Mark Stair as inventors.

41. On November 7, 2008, a third party filed a request for ex parte reexamination of the '317 Patent, which was assigned Control No. 90/010,332. On February 3, 2009, the Patent Office denied the request for ex parte reexamination because it found the references cited in the request did not raise a substantial new question of patentability regarding the '317 Patent. The third party then filed a petition seeking review of the denial of the reexamination request. On March 22, 2010, the Patent Office denied the petition because it found the references cited in the request did not raise a substantial new question of patentability regarding the '317 Patent.

42. On March 17, 2009, a third party filed a second request for ex parte reexamination of the '317 Patent, which was assigned Control No. 90/010,455. On June 8, 2010, the Patent Office issued an ex parte reexamination certificate, which confirmed the

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patentability of claims 1-6, 9-11, 13-19, 21, and 22. Claims 7, 8, 12 and 20 were not reexamined.

43. A certified copy of the '317 Patent is attached as Exhibit 4; a certified copy of the recorded assignment from the named inventors to Motorola is attached as Exhibit 10. A copy of the July 31, 2010 assignment of the '317 Patent from Motorola to Mobility is attached as Confidential Exhibit C, and Complainant will submit a certified copy of this assignment once it is recorded at the United States Patent and Trademark Office.

44. Pursuant to Commission Rule 210.12, a certified copy and three additional copies of the prosecution history of the '317 Patent, as well as four copies of the '317 Patent and each technical reference mentioned in the prosecution history of the '317 Patent, are submitted concurrently herewith as Appendices D and J, respectively. A copy and three additional copies of the prosecution histories for Reexamination Request Nos. 90/010,332 and 90/010,455 and each technical reference mentioned therein, are submitted concurrently herewith as Appendices M and N, respectively.⁷

2. Foreign Counterparts to the '317 Patent

45. Pursuant to Commission Rule 210.12(a)(9)(v), Exhibit 18 identifies the foreign patents or patent applications corresponding to the '317 Patent that have been issued, abandoned, rejected, or remain pending.

⁷ Complainant has ordered a certified copy of the prosecution histories of Reexamination Request Nos. 90/010,332 and 90/010,455, and will submit them as soon as possible.

3. Non-Technical Description of the '317 Patent⁸

46. The '317 Patent invention generally relates to selective call receivers. The patent discloses, *inter alia*, a method and apparatus for selectively storing a portion of a received message by a user in one of the many memory partitions that corresponds to a particular file type.

4. Prior Litigation Involving the '317 Patent

47. On January 22, 2010, Motorola filed a Complaint with the U.S. International Trade Commission to commence an investigation based on, *inter alia*, the alleged infringement of the '317 Patent by Respondents Research In Motion Limited and Research In Motion Corporation. Pursuant to the Complaint, an investigation was instituted styled as *Certain Wireless Communications System Server Software, Wireless Handheld Devices and Battery Packs*, Inv. No. 337-TA-706. On June 29, 2010, the presiding Administrative Law Judge granted a joint motion to terminate the investigation pursuant to a settlement agreement between the parties.

48. On February 20, 2008, Motorola filed an Amended Complaint in the United States District Court for the Northern District of Texas, which was assigned Civil Action No. 3:09-cv-0072-K. In the Complaint, Motorola alleged, *inter alia*, infringement of the '317 Patent by Research In Motion Limited and Research In Motion Corporation. On June 25, 2010, the District Court granted a joint motion to dismiss the action pursuant to a settlement agreement between the parties.

⁸ The non-technical descriptions of the inventions claimed in the Asserted Patents as set forth in this Complaint are not intended to construe either the specification or the claims of the Asserted Patents.

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49. The '317 Patent has not been the subject of any other previous litigation in any domestic court or agency. In addition, there has been no foreign court or agency litigation involving the '317 Patent or any of its counterparts.

50. The '317 Patent, however, is the subject of a complaint filed concurrently herewith by Mobility against Apple in the United States District Court for the Northern District of Illinois that alleges infringement of, among others, the '317 Patent.

E. The '223 Patent

1. Identification of the '223 Patent and Ownership

51. Mobility owns by assignment the entire right, title and interest in United States Patent No. 5,636,223, titled "Methods of Adaptive Channel Access Attempts," which issued on June 3, 1997, naming Karl Reardon and Bud Fraser as inventors.

52. On March 15, 2010, the United States Patent and Trademark Office granted a request for ex parte reexamination of claims 1–12 of the '223 patent. The art cited by the ex parte requester is cumulative of that already considered by the Patent and Trademark Office during initial examination of the '223 patent. Thus, no new issues regarding the viability of the patent claims have been raised. A final determination has not yet been reached in these proceedings.

53. A certified copy of the '223 Patent is attached as Exhibit 5; a certified copy of the recorded assignment from the named inventors to Motorola is attached as Exhibit 11. A copy of the July 31, 2010 assignment of the '223 Patent from Motorola to Mobility is attached as Confidential Exhibit C, and Complainant will submit a certified copy of this assignment once it is recorded at the United States Patent and Trademark Office.

54. Pursuant to Commission Rule 210.12, a certified copy and three additional copies of the prosecution history of the '223 Patent, as well as four copies of the '223 Patent

and each technical reference mentioned in the prosecution history of the '223 Patent, are submitted concurrently herewith as Appendices E and K, respectively. A copy and three additional copies of the prosecution history for Reexamination Request No. 90/010,802 and each technical reference mentioned therein, is submitted concurrently herewith as Appendix O.⁹

2. Foreign Counterparts to the '223 Patent

55. Pursuant to Commission Rule 210.12(a)(9)(v), Exhibit 18 identifies the foreign patents or patent applications corresponding to the '223 Patent that have been issued, abandoned, rejected, or remain pending.

3. Non-Technical Description of the '223 Patent¹⁰

56. The '223 Patent generally relates to communication systems and methods of adaptable channel access in data communications systems. For example, the '223 Patent discloses a method of adaptable channel access that is practiced at a terminal, where, if a channel is busy, the terminal will wait a priority-based random amount of time before trying again. In this manner, the '223 Patent enabled the efficient utilization of communication resources.

4. Prior Litigation Involving the '223 Patent

57. On October 14, 2009, Motorola filed First Amended Counterclaims in the United States District Court for the Northern District of Texas, in Civil Action No. 3:08-cv-0284-G. In the Amended Counterclaims, Motorola alleged, *inter alia*, infringement of the '223 Patent by Research In Motion Limited and Research In Motion Corporation. On June 25, 2010, the

⁹ Complainant has ordered a certified copy of the prosecution history of Reexamination Request No. 90/010,802, and will submit it as soon as possible.

¹⁰ The non-technical descriptions of the inventions claimed in the Asserted Patents as set forth in this Complaint are not intended to construe either the specification or the claims of the Asserted Patents.

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District Court granted a joint motion to dismiss the action pursuant to a settlement agreement between the parties.

58. The '223 Patent has not been the subject of any other previous litigation in any domestic court or agency. In addition, there has been no foreign court or agency litigation involving the '223 Patent or any of its counterparts.

59. The '223 Patent, however, is the subject of a complaint filed concurrently herewith by Mobility against Apple in the United States District Court for the Northern District of Illinois that alleges infringement of, among others, the '223 Patent.

F. The '826 Patent

1. Identification of the '826 Patent and Ownership

60. Motorola owns by assignment the entire right, title and interest in United States Patent No. 7,751,826, titled "System and Method for E911 Location Privacy Protection," which issued on July 6, 2010, naming Michael Gardner, Wayne Ballantyne, and Zaffer Merchant as inventors. A certified copy of the '826 Patent is attached as Exhibit 6; a certified copy of the recorded assignment from the named inventors to Motorola is attached as Exhibit 12. A copy of the July 31, 2010 assignment of the '826 Patent from Motorola to Mobility is attached as Confidential Exhibit C, and Complainant will submit a certified copy of this assignment once it is recorded at the United States Patent and Trademark Office.

61. Pursuant to Commission Rule 210.12, a certified copy and three additional copies of the prosecution history of the '826 Patent, as well as four copies of the '826 Patent and each technical reference mentioned in the prosecution history of the '826 Patent, are submitted concurrently herewith as Appendices F and L, respectively.

2. Foreign Counterparts to the '826 Patent

62. Pursuant to Commission Rule 210.12(a)(9)(v), Exhibit 18 identifies the foreign patents or patent applications corresponding to the '826 Patent that have been issued, abandoned, rejected, or remain pending.

3. Non-Technical Description of the '826 Patent¹¹

63. The '826 Patent generally relates to a system that enables the user of a wireless device, such as a smartphone, to control when the Global Positioning System (GPS) of the smartphone is able to send location data over the wireless network. For example, the user may turn off the GPS system during normal use, in order to conserve battery power and protect a user's privacy. But, even when the GPS system is disabled by the user, the invention of the '826 patent provides a way to automatically enable the GPS system when an emergency call (e.g., "911") is placed, thereby enabling the GPS system to provide emergency personnel with the specific location of the caller.

4. Prior Litigation Involving the '826 Patent

64. The '826 Patent has not been the subject of previous litigation in any domestic court or agency. In addition, there has been no foreign court or agency litigation involving the '826 Patent or any of its counterparts.

65. The '826 Patent, however, is the subject of a complaint filed concurrently herewith by Mobility against Apple in the United States District Court for the Northern District of Illinois that alleges infringement of, among others, the '826 Patent.

¹¹ The non-technical descriptions of the inventions claimed in the Asserted Patents as set forth in this Complaint are not intended to construe either the specification or the claims of the Asserted Patents.

V. UNLAWFUL AND UNFAIR ACTS OF RESPONDENT – PATENT INFRINGEMENT

66. Respondent unlawfully sells for importation, imports, and/or sells within the United States after importation the Accused Products, thereby infringing claim 12 of the '333 Patent; claim 1 of the '862 Patent; claims 1-4 of the '697 Patent, claims 1 and 17 of the '317 Patent, claim 1 of the '223 Patent, and claim 1 of the '826 Patent (collectively the "Asserted Claims").

67. Respondent has directly infringed and continues to directly infringe at least the Asserted Claims of the Asserted Patents by, *inter alia*, its importation, sale for importation, and/or its sale in the United States after importation of the Accused Products. Respondent also directly infringes the Asserted Claims of the Asserted Patents by having its employees or agents operate, test, and/or demonstrate the Accused Products in the United States, and through those activities infringes the Asserted Claims of the Asserted Patents.

68. Respondent indirectly infringes at least the Asserted Claims of the Asserted Patents by inducing and/or contributing to infringement of the Asserted Patents. For example, Respondent induces infringement and/or contributorily infringes when consumers and/or Respondent's employees operate the Accused Products in the United States.

69. Upon information and belief, Respondent induces infringement because: (i) Respondent has knowledge of the Asserted Patents through, at a minimum, discussions with Motorola; (ii) Respondent intends to induce direct infringement of the Asserted Patents; (iii) Respondent actively induces direct infringement by knowingly aiding and abetting that infringement; and/or (iv) Respondent has actual or constructive knowledge that its actions would induce infringement. For example, Respondent induces infringement by, among other things, providing and selling the Accused Products, creating and distributing user manuals and

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marketing materials, and by other acts and communications that instruct users how to operate the Accused Products and otherwise cause others to use the Accused Products, and thereby practice the claimed inventions of the Asserted Patents.

70. Upon information and belief, Respondent further contributes to infringement because there is a lack of substantial non-infringing uses for the Accused Products. Upon information and belief, Respondent knows the Accused Products are especially made or especially adapted for use in the infringement of the Asserted Patents and that the infringing portions of these products are not staple articles or commodities of commerce suitable for substantial non-infringing use.

71. The Accused Products that infringe the '333 Patent include at least the iPhone 3G, the iPhone 3GS, the iPhone 4, iPad 3G, Apple App Store. Exhibit 19 is a claim chart that compares representative asserted independent claim 12 of the '333 Patent to these Accused Products. Documents referenced in this claim chart are attached as Exhibits 25, 29, and 30.

72. The Accused Products that infringe the '862 Patent include at least the iPhone 3G, the iPhone 3GS and the iPhone 4. Exhibit 20 is a claim chart that compares representative asserted independent claim 1 of the '862 Patent to these Accused Products. Documents referenced in this claim chart are attached as Exhibits 25, 26, and 27.

73. The Accused Products that infringe the '697 Patent include at least the iPhone 3G, the iPhone 3GS, the iPhone 4 and the iPad 3G. Exhibit 21 is a claim chart that compares representative asserted independent claim 1 of the '697 Patent to these Accused Products. This chart relies primarily on portions of the WCDMA standard, with which the devices listed above are compliant. Documents referenced in this claim chart are attached as Exhibits 31, 32, 33, and 34.

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74. The Accused Products that infringe the '317 Patent include at least the iPod Touch 4, iPad, iPad 3G, iPhone 3G S, iPhone 3G, and iPhone 4. Exhibit 22 is a claim chart that compares representative asserted independent claims 1 and 17 of the '317 Patent to these Accused Products. Documents referenced in this claim chart are attached as Exhibit 30.

75. The Accused Products that infringe the '223 Patent include at least the iPhone 4, iPad, iPad with 3G, iPod Touch 4, AppleTV, MacBook, MacBook Pro, MacBook Air, iMac, Mac mini, and Mac Pro. Exhibit 23 is a claim chart that compares representative asserted independent claim 1 of the '223 Patent to these Accused Products. Documents referenced in this claim chart are attached as Exhibits 31, 36, and 37.

76. The Accused Products that infringe the '826 Patent include at least the iPhone 3G, the iPhone 3GS, and the iPhone 4. Exhibit 24 is a claim chart that compares representative asserted independent claim 1 of the '826 Patent to these Accused Products. Documents referenced in this claim chart are attached as Exhibits 25, 28, and 29.

VI. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

77. Significant portions of Respondent's products, including Respondent's Accused Products, are manufactured outside the United States, primarily in Asia (*see* Exh. 48 (Apple 2009 Annual Report at 10)), and sold within the United States. Thus, as of the filing of this Complaint, the Accused Products are being imported into the United States, sold for importation into the United States, and/or being sold within the United States after importation by Respondent.

78. The specific instances of importation of infringing Accused Products set forth below are representative examples of Respondent's unlawful importation, sale for importation, and/or sales within the United States after importation of infringing products.

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79. Several of the Accused Products, including the iPhone 4, iPad 3G, Mac Pro, and iPod Touch, were purchased in the United States, either in stores or over the Internet.¹²

80. The purchase receipts of a representative iPhone 4, iPad 3G, Mac Pro, and iPod Touch are attached as Exhibits to the Declaration of Andrew Curran (“Curran Decl.”), which is attached as Exhibit 46.

81. The iPhone 4 is manufactured in China. *See* Curran Decl. ¶ 7. The photographed iPhone 4, in its packaging, is submitted as an Exhibit to the Curran Decl., and is representative of the other accused wireless communication devices.

82. The iPad 3G and Mac Pro are manufactured in China. *See* Curran Decl. ¶ 7. The photographed iPad 3G and Mac Pro in their packaging, are submitted as Exhibits to the Curran Decl., and are representative of the other accused computers.

83. The iPod Touch is manufactured in China. *See* Curran Decl. ¶ 7. The photographed iPod Touch, in its packaging, is submitted as an Exhibit to the Curran Decl., and is representative of the other accused portable music and data processing devices.

VII. CLASSIFICATION OF THE INFRINGING PRODUCTS UNDER THE HARMONIZED TARIFF SCHEDULE

84. Upon information and belief, the infringing Accused Products of Respondent may be classified under at least the following heading and subheading of the Harmonized Tariff Schedule of the United States (“HTSUS”): 8517.11.0000; 8517.12.0050, and 8443.31.0000, *et seq.* The exact 10-digit HTSUS Codes (headings/subheadings and suffixes) are dependent upon the specific capabilities and features of the products.

¹² At the request of the Commission, Complainant will provide physical samples of the Accused Products.

85. These classifications are exemplary in nature and are not intended to restrict the scope of any exclusion order or other remedy ordered by the Commission.

VIII. THE DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENTS

A. Overview

86. A domestic industry for the purposes of 19 U.S.C. § 1337(a)(2), as defined in 19 U.S.C. § 1337(a)(3)(A), (B) and (C), exists or is in the process of being established with respect to Complainant's and Motorola's significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in exploitation, including engineering, research and development, and licensing of the Asserted Patents and articles protected by the Asserted Patents.

87. The domestic industry affected by Respondent's unfair acts and unfair methods of competition includes the investments, activities, facilities, employees, third-party contractors and other resources of Complainant and Motorola devoted to the research and development, improvement, product technical support and service, quality assurance, reliability testing and inspection, customer service, distribution, warranty, and licensing efforts, with respect to the Asserted Patents and articles protected by the Asserted Patents.

B. Significant Investment in Plant and Equipment, Significant Employment of Labor and Capital, and Substantial Investment in Exploitation, Including Engineering, Research and Development, and Licensing of the Asserted Patents and Articles Protected by the Asserted Patents

1. Economic Prong

88. MDS employs [] individuals in several facilities throughout the United States. *See* Conf. Exh. D. These facilities comprise approximately [] square feet of offices, warehouses and work spaces. *See* Conf. Exh. E. The activities of MDS employees located in these facilities include engineering and science, marketing and sales,

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project management, business operations and planning, administrative services, quality assurance, reliability testing and inspection, product support, information technology, supply chain, customer service, material and distribution, and other functions related to, among others, the Asserted Patents and articles protected by the Asserted Patents. *See* Conf. Exh. D.

89. [

] *See* Conf. Exh. E.

90. Complainant's and Motorola's total investment in recent years in personnel, plant and equipment represented by their domestic MDS facilities is substantial. *See* Conf. Exh. D.

91. Through their engineering, research and development, marketing, licensing, and service activities, Complainant and Motorola have invested billions of dollars in their MDS technology, including the technology covered by the Asserted Patents. [

] Indeed, a significant portion of Complainant's and Motorola's expenditures can be attributed to their research and development efforts in the United States. Confidential Exhibit D sets out the domestic MDS employment breakdown in this category.

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92. For example, Complainant's and Motorola's [] facilities are primarily responsible for researching and developing mobile devices in the U.S. market. Across their facilities, Complainant and Motorola have integrated their engineering and science operations (*e.g.*, mechanical, electrical, electronics science; system, production, hardware, and software engineering; package and IC design), technical support operations (*e.g.*, field and software engineering; material and process laboratories; quality reliability and assurance support), warranty and service operations, parts support operations, inspection and customer service operations. Complainant employs and Motorola has employed, both directly and through contracting with third parties, scientific, technical, administrative and support personnel in research, product development and engineering related to the Asserted Patents and articles protected by the Asserted Patents. *See* Conf. Exh. D.

93. Complainant's and Motorola's domestic investments in researching and developing mobile devices also resulted in the inventions claimed in the Asserted Patents. In this regard, the inventors of each of the Asserted Patents were employees of Motorola, undertaking research and development activities out of domestic, state-of-the-art Motorola facilities.

94. In addition to their research and product development activities, Complainant and Motorola provide significant engineering support services and after-market customer support services. For example, as a part of their research and development investment, Complainant and Motorola have employed, and presently employ, approximately [] individuals in their U.S. facilities specifically for quality assurance and inspection of their mobile devices, including articles protected by the Asserted Patents. *See* Conf. Exh. D. The responsibilities of individuals involved in quality assurance include, but are not limited to,

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predicting field failure rates, reviewing factory quality metrics, monitoring field quality, participating in solutions findings, tracking software defects, reviewing prototype certification compliance, and comparing battery life performance to specification. Aesthetic suitability of samples is also part of the inspection and partly reviewed by quality and management teams from Complainant's and Motorola's distribution center in the United States.

95. To further ensure quality and performance of Complainant's and Motorola's devices, including articles protected by the Asserted Patents, Complainant's and Motorola's employees also have performed, and perform, a variety of tests in the United States. Examples of these tests include assessments of reliability, performance, compatibility, perceived quality, safety and field performance. Components, subsystems, complete products, and accessories are all tested individually and in combination. Finally, packaging activities for U.S. shipments are carried out at a distribution center in Texas on behalf of Complainant and Motorola by a third party contractor.

96. MDS's service organizations authorize certain outside companies or third parties to service MDS products, including articles protected by the Asserted Patents. In order to ensure adequate support is given to its customers, MDS provides technical training for the technicians employed by these authorized service centers in the United States. MDS also provides warranty repair work for Motorola devices, including articles protected by the Asserted Patents. There is a toll-free customer service number in the United States: 800-331-6456. Technical assistance is provided both by MDS employees and by third-party contractors located, among other places, in Florida and Illinois. *See* Exh. 49 (Motorola's standard limited warranty); Exh. 35 (Droid 2 support and warranty information).

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97. Finally, Complainant and Motorola have substantial investments in the sale and distribution of articles protected by the Asserted Patents. Motorola's U.S. sales of just the articles protected by the Asserted Patents totaled [] in 2009, which account for approximately [] of total MDS sales in the United States over the same periods. *See* Conf. Exh. F.

98. Complainant and Motorola also have substantial investments in the exploitation of the Asserted Patents through their extensive domestic licensing program. This program is responsible for the licensing of each of the Asserted Patents. Complainant and Motorola invest heavily in the exploitation of their technologies and patents, including the Asserted Patents, through their extensive licensing activities.

99. Complainant's and Motorola's Intellectual Property Licensing Department presently employs [] individuals within the United States primarily in their [] facility. These employees are dedicated to the evaluation of Complainant's and Motorola's patent portfolio, the identification of potential licensees, the assertion of Complainant's and Motorola's patents, the negotiation of patent licenses, and the monitoring of compliance with the terms of those licenses. They also perform important licensing-related functions, including patent enforcement, patent management, legal analysis, technical analysis, business planning, and various administrative tasks. All of these employees contribute to the licensing of Complainant's and Motorola's technology, including the Asserted Patents. Confidential Exhibit B sets forth details regarding the significant expenditures Complainant and Motorola incur related to their licensing activities.

100. Complainant's and Motorola's licensing activities have produced licenses to many patents, including the Asserted Patents, to numerous major cellular phone manufacturers.

Pursuant to Commission Rule 210.12(a)(9)(iii), a list of entities licensed under each of the Asserted Patents is attached as Confidential Exhibit A. Pursuant to Commission Rule 210.12(a)(9)(iv), copies of the relevant licenses are attached as Confidential Exhibits G-NN, and PP. Confidential Exhibit B sets forth royalty revenue Motorola has generated from its licenses that include the Asserted Patents.

2. Technical Prong

101. For those domestic activities discussed above which relate to articles protected by the Asserted Patents, Complainant and Motorola domestically design and develop wireless handheld devices, wireless communication devices and communication system components that integrate both cellular telephone and data communication functionality and practice the technology covered by certain of the Asserted Patents. These representative domestic industry devices, which Mobility currently manufactures abroad, include, but are not limited to, the Motorola CLIQ, CLIQ XT, the Motorola Droid, Droid 2, and Droid X.¹³

102. Exhibit 51 is a claim chart demonstrating that each and every limitation of exemplary claim 12 of the '333 Patent is met by a Representative Domestic Industry Product, the CLIQ XT. Documents referenced in this claim chart are attached as Exhibit 43.

103. Exhibit 52 is a claim chart demonstrating that each and every limitation of exemplary claim 1 of the '862 Patent is met by a Representative Domestic Industry Product, the Droid 2. Documents referenced in this claim chart are attached as Exhibits 35, 38, 39, and 40.

104. Exhibit 53 is a claim chart demonstrating that each and every limitation of exemplary claim 1 of the '697 Patent is met by a Representative Domestic Industry Product, the CLIQ XT. Documents referenced in this claim chart are attached as Exhibits 43 and 34.

¹³ At the request of the Commission, Complainant will provide physical samples of the Motorola CLIQ, CLIQ XT, the Motorola Droid, Droid 2, and/or Droid X.

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105. Exhibit 41 is a claim chart demonstrating that each and every limitation of exemplary claims 1 and 17 of the '317 Patent is met by a Representative Domestic Industry Product, the Droid 2. Documents referenced in this claim chart are attached as Exhibits 30, 35, and 38.

106. Exhibit 42 is a claim chart demonstrating that each and every limitation of exemplary claim 1 of the '223 Patent is met by a Representative Domestic Industry Product, the Droid 2. Documents referenced in this claim chart are attached as Exhibits 37, 38, and 44.

107. Exhibit 50 is a claim chart demonstrating that each and every limitation of exemplary claim 1 of the '826 Patent is met by a Representative Domestic Industry Product, the Droid 2. Documents referenced in this claim chart are attached as Exhibits 35 and 45.

C. A Domestic Industry Exists

108. All of the domestic investments and activities of Complainant and Motorola, their employees, contractors, and inventors, constitute a domestic industry devoted to the Asserted Patents and articles protected by the Asserted Patents.

IX. RELIEF REQUESTED

109. Complainant respectfully requests that the Commission:

(a) Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to Respondent's violations of that section arising from the importation into the United States, sale for importation, and/or the sale within the United States after importation of wireless communications devices, portable music and data processing devices, computers, and components thereof that infringe one or more claims of United States Patent Nos. 6,272,333; 6,246,862; 6,246,697, 5,359,317, 5,636,223, and 7,751,826;

(b) Set a target date of no more than 15 months;

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(c) Schedule and conduct a hearing pursuant to Section 337(c) for the purposes of (i) receiving evidence and hearing argument concerning whether there has been a violation of Section 337, and (ii) following the hearing, determining that there has been a violation of Section 337;

(d) Issue a permanent exclusion order directed to products manufactured by Respondent, its subsidiaries, related companies and agents pursuant to 19 U.S.C. § 1337(d) excluding entry into the United States of wireless communications devices, portable music and data processing devices, computers, and components thereof that infringe one or more claims of United States Patent Nos. 6,272,333; 6,246,862; 6,246,697, 5,359,317, 5,636,223, and 7,751,826;

(e) Issue a permanent cease and desist order pursuant to 19 U.S.C. § 1337(f) prohibiting Respondent, its subsidiaries, related companies and agents from engaging in the importation, sale for importation, marketing and/or advertising, distribution, offering for sale, sale, sale after importation, or other transfer within the United States of wireless communications devices, portable music and data processing devices, computers, and components thereof that infringe one or more claims of United States Patent Nos. 6,272,333; 6,246,862; 6,246,697, 5,359,317, 5,636,223, and 7,751,826;

(f) Impose a bond upon importation of infringing wireless communication devices, portable music and data processing devices, computers, and components thereof during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j); and

(g) Issue such other and further relief as the Commission deems just and proper under the law, based on the facts determined by the Investigation and the authority of the Commission.

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DATED: October 6, 2010

Respectfully submitted

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VERIFICATION

I, Kirk Dailey, am Corporate Vice President, Intellectual Property at Motorola Mobility, Inc. and am duly authorized to execute this verification on behalf of Motorola Mobility, Inc. I have read its Complaint and am aware of its contents. To the best of my knowledge, information and belief, based upon an inquiry reasonable under the circumstances, I hereby certify as follows:

1. The Complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the investigation or related proceeding.
2. The claims and other legal contentions in the Complaint are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and
3. The allegations and other factual contentions in the Complaint have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 28th day of September, 2010 in Libertyville, Illinois.



Kirk Dailey
Corporate Vice President
Intellectual Property