

to-point network communication devices that are covered by at least claims 1, 11 and 22 of the '704 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Panasonic. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 26 contains photographs of Panasonic's Viera TV device.

b. Specific Instance of Sale and Importation

103. On information and belief, Respondent Panasonic manufactures for importation into the United States, imports into the United States, and/or sells within the United States after importation the Viera TV device depicted in Exhibit 26. Pursuant to Commission Rule 210.12(a)(3), Exhibit 14 is a receipt from Amazon.com showing a sale of Panasonic's Viera TV device within the United States. The Panasonic Viera TV device is marked as "Assembled in Mexico" as shown in the photograph contained in Exhibit 15. Thus, Panasonic is violating Section 337 of the Tariff Act of 1930 by directly infringing the '704 Patent by importing, and/or selling within the United States after importation the Viera TV device.

Sharp

a. Infringement

104. On information and belief, Respondent Sharp is engaged in the manufacture for importation into the United States, the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation into the United States of certain point-to-point network communications devices, including for example but without limitation, smartphone handsets, televisions, computers, tablets, mobile phones, and Blu-ray players that infringe literally or by equivalence at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent.

105. Complainant has obtained smartphone handsets and smart TV devices that, on information and belief, Sharp imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent. On information and belief, at the time of importation of these devices, Sharp is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '704 Patent.

106. On information and belief, Sharp has imported into the United States, and extensively sold within the United States after importation one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '704 Patent. Sharp knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network communications, as evidenced by at least product literature distributed with the imported devices by Sharp. At least as of the filing of this Complaint, Sharp has actual knowledge of the '704 Patent. In addition to actual knowledge of the '704 Patent, at least as of the date of this Complaint, Sharp also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '704 Patent. On information and belief, Sharp continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '704 Patent. Thus, on information and belief, Sharp is inducing infringement of the '704 Patent.

107. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 64 includes a chart comparing independent claims 1, 11 and 22 of the '704 Patent to Sharp's FX Plus smartphone ("FX Plus") device. Exhibit 64 shows that the FX Plus device is covered by at least

claims 1, 11 and 22 of the '704 Patent. Sharp's FX Plus device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '704 Patent in a similar manner as other Sharp devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 1, 11 and 22 of the '704 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Sharp. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 64 contains photographs of Sharp's FX Plus device.

b. Specific Instance of Sale and Importation

108. On information and belief, Respondent Sharp manufactures for importation into the United States, imports into the United States, and/or sells within the United States after importation the FX Plus device depicted in Exhibit 64. Pursuant to Commission Rule 210.12(a)(3), Exhibit 62 is a receipt from Amazon.com showing a sale of Sharp's FX Plus device within the United States. The Sharp FX Plus device is marked as "Made in China" as shown in the photograph contained in Exhibit 65. Thus, Sharp is violating Section 337 of the Tariff Act of 1930 by directly infringing the '704 Patent by importing, and/or selling within the United States after importation the FX Plus device.

Sony

a. Infringement

109. On information and belief, Respondent Sony is engaged in the manufacture for importation into the United States, the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain point-to-point network communications devices, including for example

but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, gaming devices, set-top boxes, and VoIP phone systems that infringe literally or by equivalence at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent.

110. Complainant has obtained smartphone handset devices, tablet devices, smart TV devices, gaming console devices, and Wi-Fi enabled Blu-ray player devices that, on information and belief, Sony imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent. On information and belief, at the time of importation of these devices, Sony is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '704 Patent.

111. On information and belief, Sony has imported into the United States, and extensively sold one or more products after importation into the United States which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '704 Patent. Sony knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network communications, as evidenced by at least product literature distributed with the imported devices by Sony. At least as of the filing of this Complaint, Sony has actual knowledge of the '704 Patent. In addition to actual knowledge of the '704 Patent, at least as of the date of this Complaint, Sony also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '704 Patent. On information and belief, Sony continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes

the '704 Patent. Thus, on information and belief, Sony is inducing the infringement of the '704 Patent.

112. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 27 includes a chart comparing independent claims 1, 11 and 22 of the '704 Patent to Sony's PlayStation3 device. Exhibit 27 shows that the PlayStation3 device is covered by at least claims 1, 11 and 22 of the '704 Patent. Sony's PlayStation3 device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '704 Patent in a similar manner as other Sony devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 1, 11 and 22 of the '704 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Sony. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 27 contains photographs of Sony's PlayStation3 device.

b. Specific Instance of Sale and Importation

113. On information and belief, Respondent Sony manufactures for importation into the United States, imports into the United States, and/or sells within the United States after importation the PlayStation3 device depicted in Exhibit 27. Pursuant to Commission Rule 210.12(a)(3), Exhibit 17 is a receipt from Amazon.com showing a sale of Sony's PlayStation3 device within the United States. The Sony PlayStation3 device is marked as "Made in China" as shown in the photograph contained in Exhibit 28. Thus, Sony is violating Section 337 of the Tariff Act of 1930 by directly infringing the '704 Patent by importing, and/or selling within the United States after importation the PlayStation3 device.

Toshiba

a. Infringement

114. On information and belief, Respondent Toshiba is engaged in the manufacture for importation into the United States, the importation, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, set-top boxes, and VoIP phone systems that infringe literally or by equivalence at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent.

115. Complainant has obtained tablet devices, smart TV devices, and Wi-Fi enabled Blu-ray player devices that, on information and belief, Toshiba imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent. On information and belief, at the time of importation of these devices, Toshiba is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '704 Patent.

116. On information and belief, Toshiba has imported into the United States, and extensively sold in the United States after importation one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '704 Patent. Toshiba knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network communications, as evidenced by at least product literature distributed with the imported devices by Toshiba. At least as of the filing of this Complaint, Toshiba has actual knowledge of the '704 Patent. In addition to actual knowledge of the '704 Patent, at least as of the date of this Complaint, Toshiba also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '704 Patent. On information and belief, Toshiba

continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '704 Patent. Thus, on information and belief, Toshiba is inducing the infringement of the '704 Patent.

117. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 29 includes a chart comparing independent claims 1, 11 and 22 of the '704 Patent to Toshiba's Excite 10 SE Tablet device. Exhibit 29 shows that the Excite 10 SE Tablet device is covered by at least claims 1, 11 and 22 of the '704 Patent. Toshiba's 10 SE Tablet device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '704 Patent in a similar manner as other Toshiba devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 1, 11 and 22 of the '704 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Toshiba. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 29 contains photographs of Toshiba's Excite 10 SE Tablet device.

b. Specific Instance of Sale and Importation

118. On information and belief, Respondent Toshiba imports into and/or sells within the United States after importation the Excite 10 SE Tablet device depicted in Exhibit 29. Pursuant to Commission Rule 210.12(a)(3), Exhibit 20 is a receipt from ToshibaDirect.com showing a sale of Toshiba's Excite 10 SE Tablet device within the United States. The Toshiba Excite 10 SE Tablet device is marked as "Made in China" as shown in the photograph contained in Exhibit 21. Thus, Toshiba is violating Section 337 of the Tariff Act of 1930 by directly

infringing the '704 Patent by importing, and/or selling within the United States after importation the Excite 10 SE Tablet device.

Vizio

a. Infringement

119. On information and belief, Respondent Vizio is engaged in the manufacture for importation into the United States, the importation into the United States, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, and set-top boxes that infringe literally or by equivalence at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent.

120. Complainant has obtained smart TV devices, and streaming set-top box devices that, on information and belief, Vizio imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 1, 11, 12, 19, 22, 23, and 30 of the '704 Patent. On information and belief, at the time of importation of these devices, Vizio is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '704 Patent.

121. On information and belief, Vizio has imported into the United States, and extensively sold within the United States after importation one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '704 Patent. Vizio knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network communications, as evidenced by at least product literature distributed with the imported devices by Vizio. At least as of the filing of this Complaint, Vizio has actual knowledge of the '704

Patent. In addition to actual knowledge of the '704 Patent, at least as of the date of this Complaint, Vizio also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '704 Patent. On information and belief, Vizio continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '704 Patent. Thus, on information and belief, Vizio is inducing the infringement of the '704 Patent.

122. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 30 includes a chart comparing independent claims 1, 11 and 22 of the '704 Patent to Vizio's E-Series Smart TV device. Exhibit 30 shows that the E-Series Smart TV device is covered by at least claims 1, 11 and 22 of the '704 Patent. Vizio's E-Series Smart TV device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '704 Patent in a similar manner as other Vizio devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 1, 11 and 22 of the '704 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Vizio. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 30 contains photographs of Vizio's E-Series Smart TV device.

b. Specific Instance of Sale and Importation

123. On information and belief, Respondent Vizio imports into the United States and/or sells within the United States after importation the E-Series Smart TV device depicted in Exhibit 30. Pursuant to Commission Rule 210.12(a)(3), Exhibit 23 is a receipt from Amazon.com showing a sale of Vizio's LED Smart TV device within the United States. The

Vizio E-Series Smart TV device is marked as “Assembled in Mexico” as shown in the photograph contained in Exhibit 24. Thus, Vizio is violating Section 337 of the Tariff Act of 1930 by directly infringing the ‘704 Patent by importing, and/or selling within the United States after importation the E-Series Smart TV device.

C. Infringement of the ‘121 Patent

LG

a. Infringement

124. On information and belief, Respondent LG is engaged in the manufacture for importation into the United States, the importation into the United States, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, and set-top boxes that infringe literally or by equivalence at least claims 6 and 13 of the ‘121 Patent.

125. Complainant has obtained smartphone handset devices, smart TV devices, and Wi-Fi enabled Blu-ray player devices that, on information and belief, LG imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 6 and 13 of the ‘121 Patent. On information and belief, at the time of importation of these devices, LG is directly infringing, contributorily infringing and/or inducing infringement of these claims of the ‘121 Patent.

126. On information and belief, LG has imported into the United States and extensively sold within the United States after importation one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the ‘121 Patent. LG knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network

communications, as evidenced by at least product literature distributed with the imported devices by LG. At least as of the filing of this Complaint, 2013, LG has actual knowledge of the '121 Patent. In addition to actual knowledge of the '121 Patent, at least as of the date of this Complaint, LG also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '121 Patent. On information and belief, LG continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '121 Patent. Thus, on information and belief, LG is inducing the infringement of the '121 Patent.

127. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 31 includes a chart comparing independent claims 6 and 13 of the '121 Patent to LG's Optimus G device. Exhibit 31 shows that the Optimus G device is covered by at least claims 6 and 13 of the '121 Patent. LG's Optimus G device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '121 Patent in a similar manner as other LG devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 6 and 13 of the '121 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent LG. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 31 contains photographs of LG's Optimus G device.

b. Specific Instance of Sale and Importation

128. On information and belief, Respondent LG imports into and/or sells within the United States after importation the Optimus G device depicted in Exhibit 31. Pursuant to Commission Rule 210.12(a)(3), Exhibit 11 is a receipt from Amazon.com showing a sale of

LG's Optimus G device within the United States. The LG Optimus G device is marked as "Made in Korea" as shown in the photograph contained in Exhibit 12. Thus, LG is violating Section 337 of the Tariff Act of 1930 by directly infringing the '121 Patent by importing, and/or selling within the United States after importation the Optimus G device.

Panasonic

a. Infringement

129. On information and belief, Respondent Panasonic is engaged in the manufacture for importation into the United States, the importation into the United States, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, set-top boxes, and VoIP phone systems that infringe literally or by equivalence at least claims 6 and 13 of the '121 Patent.

130. Complainant has obtained smart TV devices, and Wi-Fi enabled Blu-ray player devices that, on information and belief, Panasonic imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 6 and 13 of the '121 Patent. On information and belief, at the time of importation of these devices, Panasonic is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '121 Patent.

131. On information and belief, Panasonic has imported into the United States and extensively sold in the United States after importation one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '121 Patent. Panasonic knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network

communications, as evidenced by at least product literature distributed with the imported devices by Panasonic. At least as of the filing of this Complaint, Panasonic has actual knowledge of the '121 Patent. In addition to actual knowledge of the '121 Patent, at least as of the date of this Complaint, Panasonic also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '121 Patent. On information and belief, Panasonic continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '121 Patent. Thus, on information and belief, Panasonic induces the infringement the '121 Patent.

132. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 32 includes a chart comparing independent claims 6 and 13 of the '121 Patent to Panasonic's 42" Viera TV device. Exhibit 32 shows that the Viera TV device is covered by at least claims 6 and 13 of the '121 Patent. Panasonic's Viera TV device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '121 Patent in a similar manner as other Panasonic devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 6 and 13 of the '121 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Panasonic. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 32 contains photographs of Panasonic's Viera TV device.

b. Specific Instance of Sale and Importation

133. On information and belief, Respondent Panasonic imports into and/or sells within the United States after importation the Viera TV device depicted in Exhibit 32. Pursuant to Commission Rule 210.12(a)(3), Exhibit 14 is a receipt from Amazon.com showing a sale of

Panasonic's Viera TV device within the United States. The Panasonic Viera TV device is marked as "Assembled in Mexico" as shown in the photograph contained in Exhibit 15. Thus, Panasonic is violating Section 337 of the Tariff Act of 1930 by directly infringing the '121 Patent by importing, and/or selling within the United States after importation the Viera TV device.

Sharp

a. Infringement

134. On information and belief, Respondent Sharp is engaged in the manufacture for importation into the United States, the importation into the United States, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, televisions, computers, tablets, mobile phones, and Blu-ray players that infringe literally or by equivalence at least claims 6 and 13 of the '121 Patent.

135. Complainant has obtained smartphone handsets and smart TV devices, that, on information and belief, Sharp imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 6 and 13 of the '121 Patent. On information and belief, at the time of importation of these devices, Sharp is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '121 Patent.

136. On information and belief, Sharp has imported into the United States and extensively sold in the United States after importation into the United States one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '121 Patent. Sharp knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point

network communications, as evidenced by at least product literature distributed with the imported devices by Sharp. At least as of the filing of this Complaint, Sharp has actual knowledge of the '121 Patent. In addition to actual knowledge of the '121 Patent, at least as of the date of this Complaint, Sharp also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '121 Patent. On information and belief, Sharp continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '121 Patent. Thus, on information and belief, Sharp induces the infringement the '121 Patent.

137. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 66 includes a chart comparing independent claims 6 and 13 of the '121 Patent to Sharp's LC-60LE650U Aquos LED TV 42" device ("Aquos LED TV"). Exhibit 66 shows that the Aquos LED TV device is covered by at least claims 6 and 13 of the '121 Patent. Sharp's Aquos LED TV device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '121 Patent in a similar manner as other Sharp devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 6 and 13 of the '121 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Sharp. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 66 contains photographs of Sharp's Aquos LED TV device.

b. Specific Instance of Sale and Importation

138. On information and belief, Respondent Sharp imports into and/or sells within the United States after importation the Aquos LED TV device depicted in Exhibit 66.

Pursuant to Commission Rule 210.12(a)(3), Exhibit 62 is a receipt from Amazon.com showing a sale of Sharp's Aquos LED TV device within the United States. The Sharps Aquos LED TV device is marked as "Made in Mexico" as shown in the photograph contained in Exhibit 63. Thus, Sharp is violating Section 337 of the Tariff Act of 1930 by directly infringing the '121 Patent by importing, and/or selling within the United States after importation the Aquos LED TV device.

Sony

a. Infringement

139. On information and belief, Respondent Sony is engaged in the manufacture for importation into the United States, the importation into the United States, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, gaming devices, set-top boxes, and VoIP phone systems that infringe literally or by equivalence at least claims 6 and 13 of the '121 Patent.

140. Complainant has obtained smartphone handset devices, tablet devices, smart TV devices, gaming console devices, and Wi-Fi enabled Blu-ray player devices that, on information and belief, Sony imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 6 and 13 of the '121 Patent. On information and belief, at the time of importation of these devices, Sony is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '121 Patent.

141. On information and belief, Sony has imported and extensively sold one or more products which, if used for their normal and intended purpose, lead to direct infringement

by end users of the invention claimed in the '121 Patent. Sony knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network communications, as evidenced by at least product literature distributed with the imported devices by Sony. At least as of the filing of this Complaint, Sony has actual knowledge of the '121 Patent. In addition to actual knowledge of the '121 Patent, at least as of the date of this Complaint, Sony also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '121 Patent. On information and belief, Sony continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '121 Patent. Thus, on information and belief, Sony is inducing the infringement of the '121 Patent.

142. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 33 includes a chart comparing independent claims 6 and 13 of the '121 Patent to Sony's Xperia ZL device. Exhibit 33 shows that the Xperia ZL device is covered by at least claims 6 and 13 of the '121 Patent. Sony's Xperia ZL device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '121 Patent in a similar manner as other Sony devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 6 and 13 of the '121 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Sony. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 33 contains photographs of Sony's Xperia ZL device.

b. Specific Instance of Sale and Importation

143. On information and belief, Respondent Sony manufactures for importation into the United States, imports into and/or sells within the United States after importation the Xperia ZL device depicted in Exhibit 33. Pursuant to Commission Rule 210.12(a)(3), Exhibit 17 is a receipt from Amazon.com showing a sale of Sony's Xperia ZL device within the United States. The Sony Xperia ZL device is marked as "Made in China" as shown in the photograph contained in Exhibit 18. Thus, Sony is violating Section 337 of the Tariff Act of 1930 by directly infringing the '121 Patent by importing, and/or selling within the United States after importation the Xperia ZL device.

Toshiba

a. Infringement

144. On information and belief, Respondent Toshiba is engaged in the manufacture for importation into the United States, the importation into the United States, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, set-top boxes, and VoIP phone systems that infringe literally or by equivalence at least claims 6 and 13 of the '121 Patent.

145. Complainant has obtained tablet devices, smart TV devices, and Wi-Fi enabled Blu-ray player devices that, on information and belief, Toshiba imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 6 and 13 of the '121 Patent. On information and belief, at the time of importation of these devices, Toshiba is directly infringing, contributorily infringing and/or inducing infringement of these claims of the '121 Patent.

146. On information and belief, Toshiba has imported into the United States and extensively sold in the United States after importation one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '121 Patent. Toshiba knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network communications, as evidenced by at least product literature distributed with the imported devices by Toshiba. At least as of the filing of this Complaint, Toshiba has actual knowledge of the '121 Patent. In addition to actual knowledge of the '121 Patent, at least as of the date of this Complaint, Toshiba also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '121 Patent. On information and belief, Toshiba continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '121 Patent. Thus, on information and belief, Toshiba is inducing infringement of the '121 Patent.

147. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 34 includes a chart comparing independent claims 6 and 13 of the '121 Patent to Toshiba's Excite 10 SE Tablet device. Exhibit 34 shows that the Excite 10 SE Tablet device is covered by at least claims 6 and 13 of the '121 Patent. Toshiba's Excite 10 SE Tablet device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '121 Patent in a similar manner as other Toshiba devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 6 and 13 of the '121 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Toshiba. Pursuant to

Commission Rule 210.12(a)(9)(x), Exhibit 34 contains photographs of Toshiba's Excite 10 SE Tablet device.

b. Specific Instance of Sale and Importation

148. On information and belief, Respondent Toshiba imports into and/or sells within the United States after importation the Excite 10 SE Tablet device depicted in Exhibit 34. Pursuant to Commission Rule 210.12(a)(3), Exhibit 20 is a receipt from ToshibaDirect.com showing a sale of Toshiba's Excite 10 SE Tablet device within the United States. The Toshiba Excite 10 SE Tablet device is marked as "Made in China" as shown in the photograph contained in Exhibit 21. Thus, Toshiba is violating Section 337 of the Tariff Act of 1930 by directly infringing the '121 Patent by importing, and/or selling within the United States after importation the Excite 10 SE Tablet device.

Vizio

a. Infringement

149. On information and belief, Respondent Vizio is engaged in the manufacture for importation into the United States, the importation into the United States, and/or the sale within the United States after importation, of certain point-to-point network communications devices and products containing same, including for example but without limitation, smartphone handsets, tablet computers, computers, smart TVs, Blu-ray players, and set-top boxes that infringe literally or by equivalence at least claims 6 and 13 of the '121 Patent.

150. Complainant has obtained smart TV devices, and streaming set-top box devices that, on information and belief, Vizio imported into and/or sold within the United States after importation, and that directly and/or indirectly infringe at least claims 6 and 13 of the '121 Patent. On information and belief, at the time of importation of these devices, Vizio is directly

infringing, contributorily infringing and/or inducing infringement of these claims of the '121 Patent.

151. On information and belief, Vizio has imported into the United States and extensively sold in the United States after importation one or more products which, if used for their normal and intended purpose, lead to direct infringement by end users of the invention claimed in the '121 Patent. Vizio knows and intends that the products will be used in their ordinary and customary manner for their intended purpose, namely point-to-point network communications, as evidenced by at least product literature distributed with the imported devices by Vizio. At least as of the filing of this Complaint Vizio has actual knowledge of the '121 Patent. In addition to actual knowledge of the '121 Patent, at least as of the date of this Complaint, Vizio also has knowledge that use of its devices by consumers in the customary and intended manner is likely to infringe the '121 Patent. On information and belief, Vizio continues to import products into the United States and distribute product literature and website materials inducing consumers to use its products in the customary and intended manner which infringes the '121 Patent. Thus, on information and belief, Vizio is inducing infringement of the '121 Patent.

152. Pursuant to Commission Rule 210.12(a)(9)(viii), Exhibit 35 includes a chart comparing independent claims 6 and 13 of the '121 Patent to Vizio's E-Series Smart TV device. Exhibit 35 shows that the E-Series Smart TV device is covered by at least claims 6 and 13 of the '121 Patent. Vizio's E-Series Smart TV device is a representative involved article under Commission Rule 210.12(a)(9)(viii) because it practices the invention claimed in the '121 Patent in a similar manner as other Vizio devices. Complainant believes that numerous other point-to-point network communication devices that are covered by at least claims 6 and 13 of the

'121 Patent have been imported into the United States, sold for importation into the United States, or sold within the United States after importation by Respondent Vizio. Pursuant to Commission Rule 210.12(a)(9)(x), Exhibit 35 contains photographs of Vizio's E-Series Smart TV device.

b. Specific Instance of Sale and Importation

153. On information and belief, Respondent Vizio imports into and/or sells within the United States after importation the E-Series Smart TV device depicted in Exhibit 35. Pursuant to Commission Rule 210.12(a)(3), Exhibit 23 is a receipt from Amazon.com showing a sale of Vizio's LED Smart TV device within the United States. The Vizio E-Series Smart TV device is marked as "Assembled in Mexico" as shown in the photograph contained in Exhibit 24. Thus, Vizio is violating Section 337 of the Tariff Act of 1930 by directly infringing the '121 Patent by importing into the United States, and/or selling within the United States after importation the E-Series Smart TV device.

VIII. SPECIFIC INSTANCES OF SALE AND IMPORTATION

154. As set forth above, each of the Respondents have manufactured for importation into the United States, imported into the United States, and/or sold within the United States after importation, certain point-to-point network communications devices and products containing same that infringe literally or by equivalence each of the Asserted Patents.

155. Specifically, as to the '469 Patent, specific instances of sale and importation are set forth above in paragraph 68 (LG), paragraph 73 (Panasonic), paragraph 78 (Sharp), paragraph 83 (Sony), paragraph 88 (Toshiba), and paragraph 93 (Vizio) above. *See* Exhibits 11, 12 (LG), 14, 15, (Panasonic) 17, 18, (Sony) 20, 21, (Toshiba) 23, 24 (Vizio), 62, 63 (Sharp).

156. As to the '704 Patent, specific instances of sale and importation are set forth above in paragraph 98 (LG), paragraph 103 (Panasonic), paragraph 108 (Sharp), paragraph 113 (Sony), paragraph 118 (Toshiba), and paragraph 123 (Vizio). *See* Exhibits 11, 12 (LG), 14, 15, (Panasonic) 17, 28 (Sony) 20, 21, (Toshiba) 23, 24 (Vizio), 62, 65 (Sharp).

157. Specifically, as to the '121 Patent, specific instances of sale and importation are set forth above in paragraph 128 (LG), paragraph 133 (Panasonic), paragraph 138 (Sharp), paragraph 143 (Sony), paragraph 148 (Toshiba), and paragraph 153 (Vizio). *See* Exhibits 11, 12 (LG), 14, 15, (Panasonic) 18, 17 (Sony) 20, 21, (Toshiba) 23, 24 (Vizio), 62, 63 (Sharp).

IX. HARMONIZED TARIFF SCHEDULE INFORMATION

158. On information and belief, the articles subject to this Complaint are classifiable under at least the following headings and subheadings of the Harmonized Tariff Schedule ("HTS") of the United States: (A) 8517.12.0050 (Other Radio Telephones Designed for the Public Cellular Radio Telecommunication Service); (B) 8471.30.01 (portable automatic data processing machines, weighing not more than 10 kg, consisting of at least a central processing unit, a keyboard and a display); (C) 8471.41.01 (other automatic data processing machines comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined); (D) 8471.49.00 (other automatic data processing machines, entered in the form of systems); (E) 8471.50.01 (processing units other than those of subheading 8471.41 or 8471.49, whether or not containing in the same housing one or two of the following types of unit: storage units, input units, output units); (F) 8528.72.7250 (Monitors and Projectors of LCD-type); and (G) 8528.51.00, 8528.41, 8528.61 (Display Units).

159. These HTS identifications are for illustrative purposes only and are not intended to restrict the scope of the investigation.

X. RELATED LITIGATION

160. Concurrent with filing this Complaint, Complainant is also asserting each of the '469 Patent, the '704 Patent, the '121 Patent against the Respondents in co-pending actions in the United States District Courts.

161. The Asserted Patents were previously asserted in *Net2Phone, Inc. v. eBay Inc., Skype Inc., et al.*, Civil Action No. 06-2469 (D. N. J.) (the "Skype litigation") This litigation has concluded, and did not involve any of the named Respondents.

162. The Asserted Patents were also asserted in *Innovative Communications Technologies, Inc. v. Stalker Software, Inc.*, Civil Action No. 2:12-cv-00009-RGD-TEM (E.D. Va.); *Innovative Communications Technologies, Inc. v. ooVoo, LLC*, Civil Action No. 2:12-cv-00008-RGD-DEM (E.D. Va.); and *Innovative Communications Technologies, Inc. v. Vivox, Inc.*, Civil Action No. 2:12-cv-00007-RGD-LRL (E. D. Va.) (collectively the "Stalker Litigation"). This litigation has concluded, and did not involve any of the named Respondents.

163. In 2009, Skype Inc. ("Skype"), one of the defendants in the Skype Litigation, requested that certain claims of the Asserted Patents be reexamined by the United States Patent and Trademark Office. During the reexamination, the Examiner considered over one thousand cited references, as well as Skype's submissions, including its brief in support of its request for *ex parte* reexamination, a supporting declaration, claim charts, its comments on the opinion of Net2Phone's validity expert, and the parties' claim construction briefing from the prior Skype litigation. The Examiner confirmed the validity of numerous claims of the Asserted Patents, many without any amendments, over all of the cited references and over all of Skype's submissions

164. Also, Sipnet EU S.R.O. filed a petition for *inter partes* review of the '704 Patent with the Patent Trial and Appeal Board on April 11, 2013 (Case No. IPR2013-00246). As of today, the PTO has not granted Sipnet's request to institute *inter partes* review proceedings.

165. Other than the litigations specified above, to Complainant's knowledge the Asserted Patents are not and have not been the subject of any current or prior litigation or PTO proceedings.

XI. DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENTS

A. Technical Prong

i. Domestic Licensee IDT's VoiceLine SoftPhone

166. There are several domestic licensees to the Asserted Patents. Exhibit 1, Confidential Declaration of Davidi Jonas at ¶6 sets forth details regarding the Asserted Patents' licensees, including domestic industry licensees IDT Corporation and Microsoft Corporation/Skype.

167. Pursuant to Commission Rule 210.12(a)(9)(iv), Complainant has attached as Confidential Exhibits 1A-C, copies of each license agreement relating to the Asserted Patents to establish its contention that a domestic industry as defined in Section 337(a)(3) exists, and/or is in the process of being established as the result of the domestic activities of one or more licensees.

168. Exhibit 36 is a chart comparing claims of the '469 Patent to IDT's VoiceLine SoftPhone point-to-point network communication system ("VoiceLine") technology. Exhibit 36 shows that the VoiceLine technology practices at least one claim of the '469 Patent.

169. Exhibit 37 is a chart comparing claims of the '704 Patent to the IDT's VoiceLine technology. Exhibit 37 shows that the VoiceLine technology practices at least one claim of the '704 Patent.

170. Exhibit 38 is a chart comparing claims of the '121 Patent to the IDT's VoiceLine technology. Exhibit 38 shows that the VoiceLine technology practices at least one claim of the '121 Patent.

ii. Domestic Licensee Microsoft's use of Skype in the Xbox One

171. On information and belief, Microsoft's Xbox One Gaming Console, which will be commercially released later this year, will incorporate technology that is protected by one or more of the Asserted Patents. Specifically, on information and belief, the Xbox One device will incorporate Skype technology that is protected by at least the '469 Patent, the '704 Patent and the '121 Patents.

172. Exhibit 42 are charts comparing claims of the '469 Patent to Skype. Exhibit 42 shows that Microsoft's Skype practices at least one claim of the '469 Patent.

173. Exhibit 43 are charts comparing claims of the '704 Patent to Skype. Exhibit 44 shows that Microsoft's Skype practices at least one claim of the '704 Patent.

174. Exhibit 45 are charts comparing claims of the '121 Patent to Skype. Exhibit 45 shows that Microsoft's Skype practices at least one claim of the '121 Patent.

B. Economic Prong

i. Domestic Licensee IDT Corporation

175. On information and belief, Complainant's domestic licensee IDT Corporation ("IDT") has expended substantial sums within the United States in connection with protected articles that practice the Asserted Patents. With respect to the Asserted Patents, a domestic industry in the United States exists as defined under Section 337(a)(3) by virtue of IDT's (1) significant investments in plant and equipment, (2) significant investment in labor and capital, and (3) substantial investments in engineering and research and development, in the United States devoted to developing, manufacturing, testing, and providing support for the IDT

VoiceLine technology. (See Declaration of Ashish Parikh and Exhibits thereto, (attached as Exhibit 46) (“Parikh Decl.”).)

176. Specifically, IDT conducts a substantial portion of its domestic research, development, testing, configuration, and technical support in connection with VoiceLine at IDT’s New Jersey facilities. (See Exhibit 46, Parikh Decl. at ¶¶ 7, 8 and 11.)

177. IDT incurs significant costs in connection with these domestic activities. For example, IDT employs numerous full time, or full time equivalent, personnel involved in such activities, and incurs significant personnel costs in the form of, among other expenses, employee salary and benefits. In addition, IDT makes capital improvements to the telecommunications networks relevant to VoiceLine, and also rents and maintains four commercial facilities in New Jersey, comprising approximately 28,433 square feet, where the vast majority of its relevant domestic activities occur. (See Exhibit 46, Parikh Decl. at ¶¶ 7, 8, 12-40.)

Plant & Equipment

178. More specifically, IDT has made significant investments in its facilities and equipment in the United States. Much of IDT’s domestic activities allocable to VoiceLine, such as product development and implementation, and planning, design, and installation of network infrastructure to support the same, occur at IDT’s New Jersey facilities. Further details regarding the expenses incurred by IDT in connection with such facilities, and of the activities undertaken there, are set forth in Exhibit 46, Parikh Decl. at ¶¶ 8-18.

179. IDT has expended, and continues to expend, significant and substantial resources in connection with these facilities, including expenses for rent, utilities, maintenance, and other operational costs. IDT expects to occupy this space, and incur similar expenses in connection with such space, for the foreseeable future. (See Exhibit 46, Parikh Decl. at ¶¶ 8-18.)

Labor & Capital

180. IDT also employs significant labor and capital in connection with VoiceLine within the United States. For example, IDT employs a number of full-time, or full-time equivalent, employees who perform various tasks relating to VoiceLine. For example, IDT currently employs personnel involved in product development and implementation, and network maintenance, upgrade, technical support and monitoring. These activities occur at IDT's facilities in New Jersey. IDT expends substantial sums in salary, benefits and related labor expenses for these employees. In addition, IDT makes substantial capital outlays in connection with VoiceLine, including, for example, expenses for connectivity, licenses, maintenance, documentation, and other related operational costs. Further details regarding the nature and scope of IDT's personnel and capital expenditures are set forth in Exhibit 46, Parikh Decl. at ¶¶ 19-35.

Research & Development

181. IDT currently makes, and has made, substantial investments in research and development in the United States related to VoiceLine. For example, IDT currently employs a number of engineers, designers and other technical personnel dedicated to development, testing and implementation related to VoiceLine, and IDT incurs substantial expense in connection with these personnel allocable to VoiceLine. Further details regarding the nature and scope of IDT's investments related to research and development are set forth in Exhibit 46, Parikh Decl. at ¶¶ 20, 23-25, 27-29, 31-33, 36-40.

ii. Domestic Licensee Microsoft Corporation/Skype

182. On information and belief, Complainant's domestic licensee Microsoft Corporation ("Microsoft") has made substantial investments within the United States sufficient to establish a domestic industry under Section 337(a)(3)(A), Section 337(a)(3)(B), and Section 337(a)(3)(C). On information and belief, Microsoft's Xbox One incorporates Microsoft's Skype

technology, and allows users to, among other things, make and receive voice and video calls through an internet connection. Microsoft recently noted that in the third quarter of fiscal year 2013 alone, Skype users made 161 billion minutes of calls. (See Slide Deck, *Microsoft Third Quarter Fiscal Year 2013 Results*, at slide 11, attached as Exhibit 47.)

a. Microsoft Corporation's Xbox One Gaming Console

183. Microsoft acquired Skype Global S.a.r.l. in 2011 for \$8.5 billion, and announced that Skype's VOIP product, also called Skype, would be deployed on, among other products, Microsoft's Xbox 360 gaming console. (See Microsoft Press Release "Microsoft to Acquire Skype," dated May 10, 2011, attached as Exhibit 51.)

184. On May 21, 2013, Microsoft announced the successor to the Xbox 360 product, the next generation Xbox One gaming console. As a major part of this new product announcement, Microsoft emphasized the seamless integration of Skype with the Xbox One console. (See Xbox One: Meet Xbox One, <http://www.xbox.com/en-US/xboxone/meet-xbox-one>, attached as Exhibit 52; Xbox One: What It Does, <http://www.xbox.com/en-US/xboxone/what-it-does>, attached as Exhibit 53.)

185. Microsoft has expended substantial sums within the United States in connection with the Xbox One gaming console, which took four years to develop. (See Article, Microsoft unveils Xbox One home entertainment system, attached as Exhibit 60.)

186. As already noted, Microsoft makes significant investments in research and development of its existing products as well as future products. (See Exhibit 48, Microsoft 2012 10-K, at 8-9 and 18.) On information and belief, this includes the Xbox One console, and research and development focusing on the integration of the Skype technology into the console.

187. Microsoft dedicates an entire business division, the Entertainment & Devices Division (“ED Division”), to its Xbox products and related products, namely the Entertainment & Devices Division (“ED Division”), which include, among others, the Xbox gaming consoles and Skype. (See Exhibit 48, Microsoft 2012 10-K, at 7-8.) On information and belief, Microsoft has also invested substantial sums in plant and equipment, and in labor and capital, in connection with the Xbox products and related products. (See Exhibit 48, Microsoft 2012 10-K, at 18, 25-26.)

188. As already noted, in fiscal year 2012, Microsoft’s domestic revenues (\$38.8 billion) constituted 52.6% of the company’s total revenues (\$73.7 billion); in fiscal year 2011, this domestic percentage was 54.3% (\$38.0 billion of \$69.9 billion worldwide); and in fiscal year 2010, this domestic percentage was 57.9% (\$36.2 billion of \$62.5 billion). (See Exhibit 48, Microsoft 2012 10-K at 81.)

189. Through the first three quarters of fiscal year 2013, Microsoft posted total revenues of \$57.9 billion. Applying the average domestic percentage of total revenues from the fiscal years 2010-2012 to this amount (54.9%), approximately \$31.78 billion of Microsoft’s Q1 through Q3 2013 revenues were domestic revenues. (See Microsoft Segment Revenue and Operating Income, Q1-Q3 2013, attached as Exhibit 54.)

190. Applying these domestic percentages to Microsoft’s reported global revenues for its ED Division, in the first three quarters of fiscal year 2013 domestic ED Division revenues were approximately \$4.53 billion (of \$8.25 billion worldwide), or approximately 14.3% of the company’s approximate domestic revenue during that time period. (See Microsoft Segment Revenue and Operating Income, Q1-Q3 2013, attached as Exhibit 54.)

191. The ED Division is of great importance to Microsoft's business and, on information and belief, the Xbox gaming console devices are of central importance to the ED Division. (See Exhibit 48, Microsoft 2012 10-K at 29, 80-81.) The current iteration of the Xbox, the Xbox 360 device, has sold over 72 million units since its launch in 2005. (See Microsoft Q3 2013 Key Performance Indicators, attached as Exhibit 55.) On information and belief, the Xbox 360 device is a driving force behind Microsoft ED Division's revenues which constitute a substantial portion of the company's total business.

192. Microsoft recently announced the successor to the Xbox 360 gaming console, Microsoft's next generation Xbox One gaming console. On information and belief, the Xbox One development effort is four years in the making, and will be launched commercially later this year. (See Article, *Will Consumers Want One? New Xbox is elegant but questions remain*, attached as Exhibit 56.)

193. Notably, Microsoft's announcement of the new Xbox One gaming console emphasized the fact that Skype functionality will be closely integrated into the new iteration of company's important Xbox product line. (See Xbox One: Meet Xbox One, <http://www.xbox.com/en-US/xboxone/meet-xbox-one>, attached as Exhibit 52; Xbox One: What It Does, <http://www.xbox.com/en-US/xboxone/what-it-does>, attached as Exhibit 53.) Industry commentators also focused on the integration of Skype into the Xbox One. (See, e.g., Article, *After Months of Speculation, Microsoft Officially Reveals Skype For the Xbox One*, techcrunch.com/2013/05/21/after-months-of-speculation-microsoft-officially-reveals-skype-for-the-xbox-one/, attached as Exhibit 57; Article, *Microsoft announces Skype integration for Xbox One*, <http://www.engadget.com/2013/05/21/microsoft-announces-skype-integration-for-xbox-one-leverages-ki/>, attached as Exhibit 58.)

194. On information and belief, Microsoft has made significant and substantial domestic investment in connection with its Xbox One development effort, including the incorporation of the Skype technology into the Xbox:

Plant and Equipment

195. Pursuant to Commission Rule 210.12(a)(6)(i)(A), on information and belief the relevant operations of Microsoft are as follows:

196. Microsoft invests substantial sums in domestic plant and equipment. As already stated, in fiscal year 2012 Microsoft expended \$2.30 billion in “Additions to property and equipment.” And in each of fiscal years 2011 and 2010, Microsoft expended \$2.35 billion and \$1.97 billion, respectively, in property and equipment. (See Exhibit 48, Microsoft 2012 10-K at 46.) Moreover, Microsoft maintains approximately 37 million square feet of commercial space within the United States. (See Exhibit 48, Microsoft 2012 10-K at 20.) As of June 30, 2012, Microsoft had total assets of over \$121 billion. Of these assets, \$8.3 billion were attributed by Microsoft to property and equipment. (See Exhibit 48, Microsoft 2012 10-K at 45.)

197. Based on the relative importance of the Xbox One to Microsoft as the next generation of the backbone of the Xbox platform, and due to the fact that the ED Division has recognized a rough average of 11.4% percent of Microsoft’s domestic revenue over the last several years, a conservative estimate is that at least two percent (5%) of Microsoft’s investment in property and equipment, in the square footage of these properties and in these assets can be apportioned to the Xbox One device.

198. Thus, it is estimated that Microsoft has dedicated at least \$166 million in additions to property and equipment, and at least 740,000 square feet of commercial space, to the Xbox One gaming console.

Labor and Capital

199. Pursuant to Commission Rule 210.12(a)(6)(i)(B), on information and belief the relevant operations of Microsoft are as follows:

200. As of June 2012, Microsoft employed approximately 94,000 people on a full-time basis, 59,000 of which were employed within the United States. (*See* Exhibit 48, Microsoft 2012 10-K at 12.) Of these employees, over 36,000 are dedicated to research and development. (*See id.*) On information and belief, based on the relative importance of the development of the Xbox One device to Microsoft, a conservative estimate is that approximately five percent (5%) of these employees, or 2,950 total personnel and 1,800 research and development personnel, are dedicated to the Xbox One device.

Research & Development

201. Pursuant to Commission Rule 210.12(a)(6)(i)(C), on information and belief the relevant operations of Microsoft are as follows:

202. In each of the last three fiscal years, 2012, 2011 and 2010, Microsoft has invested \$9.81 billion, \$9.04 billion, and \$8.71 billion, respectively, in research and development. And in the first three quarters of fiscal year 2013, Microsoft expended \$8.25 billion in research and development. These sums represent 13% of Microsoft's total revenue for each of fiscal years 2012 and 2011; 14% of its total revenue for fiscal 2010; and 14% of Microsoft's total revenue for Q1 through Q3 of fiscal 2013. (*See* Exhibit 48, Microsoft 2012 10-K at 8 and 30; Exhibit 54, Microsoft Segment Revenue and Operating Income, Q1-Q3 2013.) Given the importance of the development of the Xbox One device to the company, on information and belief a very conservative estimate of the percentage of total research and

development dollars invested in the Xbox One by Microsoft has equaled at least five to seven percent (5%) of Microsoft's total research and development expense over the last several years.

203. As an example of the research and development outlays necessary to bring a product like the Xbox One to market, a CNN Money video, (<http://money.cnn.com/video/technology/innovation/2013/05/21/t-microsoft-xbox-behind-the-scenes.cnnmoney/index.html>), depicts some portions of the research labs where Microsoft has developed the Xbox One. As depicted in this video, Microsoft has, among other things, complex robotic testing devices, three dimensional printers, dedicated lab technicians and development project managers, and related research and development infrastructure dedicated to the Xbox One project.

204. If just 5% of Microsoft's overall investment in research and development in fiscal 2012 were dedicated to the Xbox One device, such investment would equal approximately \$490 million dollars. If just 5% of Microsoft's research and development expenditures in fiscal 2011 and 2010 were likewise dedicated to the Xbox One project, such investment would equal approximately \$452 million in 2011 and \$435 million in 2010. Using the same percentage of total expenditures, Microsoft dedicated \$412 million to the Xbox One project in the first three quarters of 2013 alone.

205. Also, because Xbox One is scheduled to be released later this year, Microsoft's investments in labor and capital, plant and equipment, and research and development constitute a domestic industry under 337(a)(3)(A), (B), and (C) that is in the process of being established. Microsoft has demonstrated that it is taking the necessary tangible steps to establish an industry in the United States in the Xbox One, and there is a significant likelihood that the domestic industry requirement will be satisfied in the future by the Xbox One.

206. Also, Microsoft's investment in labor and capital, plant and equipment, and research and development that are related to integrating Skype into the Xbox One constitutes an existing domestic industry under 337(a)(3). The Skype product has already been released, and investments relating to the existing Skype product's integration into the Xbox One constitute an existing domestic industry under 337(a)(3)(A), (B), and (C).

207. Finally, Microsoft's domestic investment in research and development in the Xbox One constitutes an existing domestic industry in the Asserted Patents under 337(a)(3)(C), because the research and development relates to the Asserted Patents inasmuch as the Xbox One will practice the Asserted Patents when it has been completed. The Xbox One research and development project is devoted to the exploitation of the asserted patents through its anticipated use of Skype.

XII. REQUESTED RELIEF

WHEREFORE, by reason of the foregoing, Complainant requests that the United States International Trade Commission:

a. Institute an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to the Respondents' violations of Section 337 based on the manufacture for importation into the United States, importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of any articles that infringe one or more claims of one or more of the '469 Patent, the '704 Patent, and the '121 Patent;

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

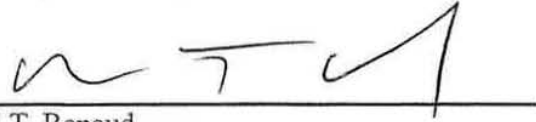
c. Issue a Limited Exclusion Order specifically directed to each named Respondent, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States any articles that infringe one or more of the '469 Patent, the '704 Patent, and the '121 Patent;

d. Issue a permanent cease and desist order pursuant to 19 U.S.C. § 1337(f) prohibiting domestic Respondents from importing, selling, offering for sale (including via the Internet or electronic mail), advertising (including via the Internet or electronic mail), distributing, or soliciting any articles that infringe one or more claims of one or more of the '469 Patent, the '704 Patent, and the '121 Patent;

e. Impose a bond upon Respondents who continue to import infringing articles during the 60-day-Presidential review period per 19 U.S.C. § 1337(j); and issue such other and further relief as the Commission deems just and proper under the law, based upon the facts determined by the investigation and the authority of the Commission.

Dated: August 1, 2013

Respectfully submitted,



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VERIFICATION OF COMPLAINT

I, David Jonas declare, in accordance with 19 C.F.R. § 210.12(a)(1), as follows:

1. I am CEO of Straight Path and I am duly authorized to sign this Complaint;
2. I have read the Complaint and I am aware of its contents;
3. The Complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of the investigation or related proceeding;
4. To the best of my knowledge, information and belief founded upon reasonable inquiry, claims, defenses, and other legal contentions therein 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;
5. The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

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



David Jonas

REVIEWED BY LEGAL DEPT.	
Date	Initials
7/24/13	VK