UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of **CERTAIN WIRELESS DEVICES WITH 3G CAPABILITIES AND COMPONENTS THEREOF**	**Investigation No. 337-TA-___**

COMPLAINT OF INTERDIGITAL COMMUNICATIONS, LLC, INTERDIGITAL TECHNOLOGY CORPORATION, AND IPR LICENSING, INC. UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED

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I. INTRODUCTION

1.1. This Complaint is filed by InterDigital Communications, LLC, InterDigital Technology Corporation, and IPR Licensing, Inc. (collectively, "InterDigital") under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on the unlawful importation into the United States, the sale for importation, and the sale within the United States after importation by owners, importers, or consignees of certain wireless devices with 3G capabilities and components thereof that infringe any of U.S. Patent No. 7,349,540 ("the '540 patent"); U.S. Patent No. 7,502,406 ("the '406 patent"); U.S. Patent No. 7,536,013 ("the '013 patent"); U.S. Patent No. 7,616,970 ("the '970 patent"); U.S. Patent No. 7,706,332 ("the '332 patent"); U.S. Patent No. 7,706,830 ("the '830 patent"); and U.S. Patent No. 7,970,127 ("the '127 patent") (collectively, "the Asserted Patents").

1.2. The proposed respondents are: Huawei Technologies Co., Ltd., FutureWei Technologies, Inc. d/b/a Huawei Technologies (USA), Nokia Corporation, Nokia Inc., ZTE Corporation, and ZTE (USA) Inc.

1.3. Certified copies of the '540, '406, '013, '970, '332, '830 and '127 patents are attached as Exhibits 1-7 respectively. The Complainants own all right, title, and interest in the Asserted Patents.

1.4. Patent and Trademark Office certified copies of the recorded assignments for the Asserted Patents are attached to the Complaint as Exhibits 8-14.

1.5. An industry as required by 19 U.S.C. § 1337(a)(2) and (3) exists in the United States relating to InterDigital's exploitation of the Asserted Patents.

1.6. InterDigital seeks, as relief, an exclusion order barring from entry into the United States infringing wireless devices with 3G capabilities and components thereof manufactured by or on behalf of, or imported by or on behalf of, the proposed respondents. InterDigital also seeks

cease and desist orders prohibiting the sale for importation, importation, sale after importation, distribution, offering for sale, promoting, marketing, advertising, testing, demonstrating, warehousing inventory for distribution, solicitation of sales, programming, repairing, maintaining, using, transferring, and other commercial activity relating to infringing wireless devices with 3G capabilities and components thereof.

II. COMPLAINANTS

A. InterDigital Communications, LLC

2.1. Complainant InterDigital Communications, LLC is a Pennsylvania limited liability company with its principal place of business at 781 Third Avenue, King of Prussia, PA 19406-1409.[1]

B. InterDigital Technology Corporation

2.2. Complainant InterDigital Technology Corporation is a Delaware corporation with its principal place of business at Hagley Building, Suite 105, 3411 Silverside Road, Concord Plaza, Wilmington, DE 19810-4812.

C. IPR Licensing, Inc.

2.3. Complainant IPR Licensing, Inc. is a Delaware corporation with its principal place of business at Hagley Building, Suite 105, 3411 Silverside Road, Concord Plaza, Wilmington, DE 19810-4812. InterDigital Communications, LLC, InterDigital Technology Corporation, and IPR Licensing, Inc. are subsidiaries of InterDigital, Inc., a Pennsylvania corporation.

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[1] In connection with an internal corporate reorganization, effective July 3, 2007, InterDigital Communications Corporation (a Pennsylvania corporation) became Complainant InterDigital Communications, LLC (a Pennsylvania limited liability company). When referring to historical events herein, the term "InterDigital" will include the activities of InterDigital Communications Corporation.

D. InterDigital's History

2.4. InterDigital, headquartered in Pennsylvania, is a successful company that develops technology for the wireless telecommunications industry. With facilities in King of Prussia, Pennsylvania; Melville, New York; San Diego, California; Wilmington, Delaware; and Montreal, Canada, InterDigital employs more than 260 people and is engaged in the research, design, engineering and development of advanced digital wireless technologies for use in digital cellular and wireless products. Since its inception in 1972, InterDigital has developed and implemented a wide variety of wireless technologies, systems and products, many of which form the backbone of modern-day digital wireless communication. InterDigital employs over 130 engineers in the United States in the development of advanced wireless technologies and related solutions. In 2010 alone, InterDigital spent over $70 million in research and development efforts.

2.5. InterDigital began researching and developing digital cellular telephone systems in the late 1970s, before digital cellular networks were introduced into the United States. As an early participant and innovator in the digital cellular industry, InterDigital developed pioneering solutions for the two predominant types of cellular networks in use today: Time Division Multiple Access ("TDMA") and Code Division Multiple Access ("CDMA") networks. In fact, since at least 1993, InterDigital has been engaged in the research, development, engineering, and licensing of CDMA technology in the United States. That work laid the foundation for InterDigital's research, development, engineering, and licensing in the field of high-speed cellular networks, commercially known as "3rd Generation," or "3G" cellular networks. The two principal wireless technologies often referred to commercially as 3G are (i) the Wideband CDMA ("WCDMA") technology used in the Universal Mobile Telecommunications System

("UMTS") of the Third Generation Partnership Project ("3GPP"),[2] and (ii) the "CDMA2000" technology promulgated by the Third Generation Partnership Project 2 ("3GPP2").

2.6. At its King of Prussia, Melville, San Diego, and Montreal facilities, among other activities, InterDigital researches, develops, engineers, and licenses technology for 3G wireless devices. InterDigital also files and prosecutes patent applications worldwide covering its innovative 3G wireless technologies and communications protocols used in connection with those technologies.

2.7. InterDigital's research, development, and engineering business has developed proprietary technology that is used in most, if not all, of the world's 3G wireless devices. InterDigital's technology has been licensed to many of the significant 3G wireless device manufacturers throughout the world.

2.8. Technologies to support commercial wireless products and systems are developed and implemented through industry standards which promote the compatibility and interoperability of devices manufactured by different companies. InterDigital has a long and distinguished history of participating in and contributing its proprietary technologies to the organizations responsible for developing and administering 3G and other digital wireless communication standards. As a result, many InterDigital contributions have been incorporated into those standards.

2.9. As noted, InterDigital files and prosecutes patent applications worldwide as part of an ongoing effort to protect its innovative research and development of digital cellular and

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[2] Unless otherwise specified, *e.g.*, by referring to a specific release, this Complaint uses the term "WCDMA" to generally refer to the 3GPP's UMTS air interface work included in at least Releases 99, 4, 5, 6, and/or 7, as well as later releases incorporating the same accused functionality.

wireless communication technologies. InterDigital's patent portfolio, which consists of approximately 19,000 U.S. and foreign issued patents and patent applications, covers key aspects of the system architectures, communication protocols, power control methods, and bandwidth and session management techniques employed in modern digital cellular and wireless communication systems.

2.10. InterDigital has licensed its patent portfolio to many of the world's leading brands and manufacturers of wireless equipment, including Apple, Samsung, Research in Motion, Panasonic, Toshiba, NEC, and Sharp.

III. PROPOSED RESPONDENTS

A. Huawei Technologies Co., Ltd. and FutureWei Technologies, Inc. d/b/a Huawei Technologies (USA)

3.1. Proposed respondent Huawei Technologies Co., Ltd. is, on information and belief, a corporation organized and existing under the laws of the People's Republic of China ("China"), with its principal place of business at Bantian, Longgang District, Shenzhen 518129, China. Upon information and belief, Huawei Technologies is involved in at least the design, development, manufacture, importation, and sale of wireless devices with 3G capabilities.

3.2. Proposed respondent FutureWei Technologies, Inc. d/b/a Huawei Technologies (USA) ("Huawei Technologies (USA)") is, on information and belief, a Texas corporation and a subsidiary of Huawei Technologies Co., Ltd., with its principal place of business at 5700 Tennyson Parkway, Suite #500, Plano, TX 75024. Upon information and belief, Huawei Technologies (USA) is involved in at least the importation, sale, and distribution of Huawei Technologies Co.'s wireless devices with 3G capabilities in the United States. Huawei Technologies Co. and Huawei Technologies (USA) are collectively referred to herein as "Huawei."

B. Nokia Corporation and Nokia Inc.

3.3. Proposed respondent Nokia Corporation is a Finnish corporation with its principal place of business at Keilalahdentie 2-4, FIN-00045 Nokia Group, Espoo, Finland. Upon information and belief, Nokia Corporation is involved in at least the design, development, manufacture, importation, and sale of wireless devices with 3G capabilities.

3.4. Proposed respondent Nokia Inc. is a Delaware corporation with its principal place of business at 102 Corporate Park Drive, White Plains, NY 10604. Upon information and belief, Nokia Inc. (d/b/a Nokia Mobile Phones) is involved in at least the importation, sale, and distribution of Nokia Corporation's imported wireless devices with 3G capabilities in the United States. Nokia Corporation and Nokia Inc. are collectively referred to herein as "Nokia."

C. ZTE Corporation and ZTE (USA) Inc.

3.5. Proposed respondent ZTE Corporation is a Chinese corporation with its principal place of business at ZTE Plaza, No. 55 Hi-Tech Road South, Hi-Tech Industrial Park, Nanshan District, Shenzhen, Guangdong Province 518057, China. Upon information and belief, ZTE Corporation is involved in at least the design, development, manufacture, importation, and sale of wireless devices with 3G capabilities.

3.6. Proposed respondent ZTE (USA) Inc. is a New Jersey corporation with its principal place of business at 2425 N. Central Expy., Ste. 323, Richardson, TX 75080. Upon information and belief, ZTE (USA) Inc. is involved in at least the importation, sale, and distribution of ZTE Corporation's wireless devices with 3G capabilities in the United States. ZTE Corporation and ZTE (USA) Inc. are collectively referred to herein as "ZTE."

IV. THE TECHNOLOGY AND PRODUCTS-AT-ISSUE

4.1. The products and technology at issue concern wireless devices with 3G capabilities, and components thereof, for use in at least 3rd Generation or "3G" cellular systems.[3] The wireless devices at issue operate as, for example, cellular mobile telephones (including "smart phones"), cellular PC cards, cellular USB dongles or sticks, personal computers such as laptops, notebooks, netbooks, tablets, and other mobile internet devices with cellular capabilities, cellular access points or "hotspots", and cellular modems. These devices allow users to place and receive telephone calls and/or to run data applications, such as web browsing, email, and audio and video streaming.

4.2. The specific products-at-issue in this Complaint are wireless devices, as well as components thereof, with at least 3G UMTS/WCDMA or CDMA2000 cellular capabilities. These systems are discussed below. Some of the accused UMTS/WCDMA products implement one or more of the HSDPA, HSUPA, and HSPA+ technologies, while some of the accused CDMA2000 products implement one or more of the 1xRTT and EV-DO technologies, also discussed below.

4.3. The first generation of cellular systems deployed in the United States in the late 1980s was referred to as Advanced Mobile Phone Service, or "AMPS." A variety of entities proposed improvements in that system, leading to 2nd Generation or "2G" systems. Those 2G

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[3] The term 3G is used throughout this complaint by way of example, because the infringing devices all comply with standards that are generally regarded by the industry as 3G standards. In some cases, infringing devices may also be compatible with 2G standards, and are accused by this complaint to the extent they also contain 3G functionality. In other cases, infringing devices may be compatible with both 3G and 4G standards or may be marketed as "4G" devices. Some of the infringing devices may also be compatible with other standards. However, this complaint does not accuse stand-alone, 2G-only devices that have no 3G capabilities.

systems used either Time Division Multiple Access ("TDMA") or Code Division Multiple Access ("CDMA") technology. The limitations of these systems spurred further improvements, resulting in so-called "3G" systems that were first deployed in Asia and later in Europe and the United States. Industry-developed standards known as UMTS/WCDMA and CDMA2000, collectively referred to as CDMA technologies, govern the operation of nearly all 3G networks. UMTS/WCDMA includes, but is not limited to, technologies known as High Speed Downlink Packet Access ("HSDPA"), High Speed Uplink Packet Access ("HSUPA"), and Evolved High Speed Packet Access ("HSPA+"). CDMA2000 includes technologies known as Radio Transmission Technology ("1xRTT") and Data-Optimized Evolution ("EV-DO").

4.4. While cellular mobile devices have primarily been used in the past to place telephone calls, support for high speed data applications, such as web browsing and audio and video streaming, in these systems has become increasingly important due to the growth of the Internet and multimedia applications. To meet the rising demand for high speed data applications from cellular mobile devices, some 3G systems now support one or more of the HSDPA, HSUPA, HSPA+, 1xRTT, and EV-DO technologies, which use a variety of techniques to make high speed data applications feasible in 3G systems.

4.5. InterDigital's continuing research and development efforts to improve CDMA cellular systems through development of UMTS/WCDMA and CDMA2000 technologies have significantly contributed to the evolution of 3G systems.

V. THE ASSERTED PATENTS AND NON-TECHNICAL DESCRIPTION OF THE INVENTIONS

5.1. There are seven patents asserted in this Complaint: U.S. Patent No. 7,349,540; U.S. Patent No. 7,502,406; U.S. Patent No. 7,536,013; U.S. Patent No. 7,616,970; U.S. Patent No. 7,706,332; U.S. Patent No. 7,706,830; and U.S. Patent No. 7,970,127.

A. U.S. Patent No. 7,349,540

1. Identification of the Patent and Ownership by InterDigital

5.2. The '540 patent, entitled "Generation of User Equipment Identification Specific Scrambling Code for High Speed Shared Control Channel," issued on March 25, 2008, to inventors Stephen Dick, Nader Bolourchi, and Sung-Hyuk Shin. The '540 patent is based on Patent Application No. 10/779,431, filed February 13, 2004, and claims priority to, *inter alia*, two provisional applications filed on May 7, 2002 and May 13, 2002, to which the '013 and '127 patents also claim priority.

5.3. The '540 patent has five independent claims and twenty-five dependent claims. Claims 1-15 are being asserted in this Complaint at this time against proposed respondents Huawei and ZTE.[4]

5.4. Complainant InterDigital Technology Corporation owns by assignment the entire right, title, and interest in and to the '540 patent. *See* Exhibit 8.

5.5. This Complaint is accompanied by a certified copy and three copies of the prosecution history of the '540 patent, and four copies of all cited references. *See* Appendices A and B.

2. Non-Technical Description of the Patent

5.6. The '540 patent generally presents an improvement to the manner by which user equipment (*e.g.*, mobile handsets and other devices) are able to accurately receive transmissions. User equipment receive important control data over certain high speed shared control channels (sometimes referred to as "HS-SCCHs"). Because these control channels are shared, each user equipment must monitor the channels to identify information intended for it.

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[4] The '540 patent is not being asserted against Nokia at this time.

5.7. One challenge in these advanced systems is how to scramble (and descramble) these shared control channels in a way that, after descrambling, each user equipment can accurately and efficiently receive its particular control data. User equipment use this control data to receive payload data on an associated high speed physical downlink shared channel (sometimes referred to as an "HS-PDSCH"). To accomplish this, in some embodiments, the '540 patent allows a user equipment to produce a code for descrambling these shared channels by "1/2 rate convolutionally encoding" the user equipment's "user equipment identification." Additionally, in some embodiments, the '540 patent allows a user equipment to descramble shared control channels that have been scrambled by a scrambling code produced by "1/2 rate convolutionally encoding" the user equipment's "user equipment identification." Through these innovations offered by the '540 patent, the user equipment is able to efficiently and accurately receive the correct control data and associated payload data, thereby increasing performance for the user.

3. Foreign Counterparts to the Patent

5.8. The '540 patent and its related U.S. applications have a number of foreign counterparts. Those foreign patents and applications are identified in Exhibit 15.

B. U.S. Patent No. 7,502,406

1. Identification of the Patent and Ownership by InterDigital

5.9. The '406 patent, entitled "Automatic Power Control System for a Code Division Multiple Access (CDMA) Communications System," issued on March 10, 2009, to inventors John Kowalski, Gary Lomp, and Fatih Ozluturk. The '406 patent is based on Patent Application No. 10/084,007, filed on February 27, 2002, and claims priority to, *inter alia*, the same provisional application filed June 30, 1995, to which the '332 patent claims priority.

5.10. The '406 patent has six independent claims and thirty-four dependent claims. Claims 1-2, 6-9, 13, 15-16, 20-22, 26, 28-30, 34-36, and 40 are being asserted in this Complaint against all proposed respondents.

5.11. Complainant InterDigital Technology Corporation owns by assignment the entire right, title, and interest in and to the '406 patent. *See* Exhibit 9.

5.12. This Complaint is accompanied by a certified copy and three copies of the prosecution history of the '406 patent, and four copies of all cited references. *See* Appendices C and D.

2. Non-Technical Description of the Patent

5.13. The '406 patent is generally directed to improved automatic power control for a CDMA system. Using the improvements of the '406 patent, the output power levels of many different subscriber units (mobile handsets and other devices), each possibly communicating with the base station over multiple channels, can be efficiently controlled in a manner that conserves overall system resources.

5.14. According to the '406 patent, a mobile device receives at least one power control bit on a downlink channel transmitted from the base station. The power control bit indicates whether to increase or decrease the mobile device's transmission power level. In response to the received power control bit, the mobile device adjusts the transmission power levels of its uplink traffic and control channels differently. The mobile device transmits multiple uplink channels, including at least a traffic channel and a control channel, to the base station. A communication system employing the power control of the '406 patent minimizes the overall power requirements of the system.

3. Foreign Counterparts to the Patent

5.15. The '406 patent and its related U.S. applications have a number of foreign counterparts. Those foreign patents and applications are identified in Exhibit 16.

C. U.S. Patent No. 7,536,013

1. Identification of the Patent and Ownership by InterDigital

5.16. The '013 patent, entitled "User Equipment Identification Specific Scrambling," issued on May 19, 2009, to inventors Stephen Dick, Nader Bolourchi, and Sung-Hyuk Shin. The '013 patent is based on Patent Application No. 11/796,534, filed on April 24, 2007, and claims priority to, *inter alia*, two provisional applications filed on May 7, 2002 and May 13, 2002.

5.17. The '013 patent has three independent claims and sixteen dependent claims. Claims 1-19 are being asserted in this Complaint. More specifically, claims 1-19 are being asserted against Huawei and ZTE, and claims 1-7 and 9-15 are being asserted against Nokia at this time.

5.18. Complainant InterDigital Technology Corporation owns by assignment the entire right, title, and interest in and to the '013 patent. *See* Exhibit 10.

5.19. This Complaint is accompanied by a certified copy and three copies of the prosecution history of the '013 patent, and four copies of all cited references. *See* Appendices E and F.

2. Non-Technical Description of the Patent

5.20. The '013 patent generally presents an improvement to the manner by which user equipment are able to accurately receive transmissions. User equipment receive important control data over certain high speed shared control channels (sometimes referred to as "HS-SCCHs"). Because these control channels are shared, each user equipment must monitor the channels to identify information intended for it.

5.21. One challenge in these advanced systems is how to process these shared control channels in a way that each user equipment can accurately and efficiently receive its particular control data. User equipment use this control data to process an associated high speed physical downlink shared channel (sometimes referred to as an "HS-PDSCH"). To accomplish this, in some embodiments, the '013 patent allows a user equipment to process shared control channels that include information processed with a "user specific scrambling sequence" that is a result of a "1/2 rate convolutional encoding" of the user equipment's "user equipment identification." Additionally, in some embodiments, the '013 patent allows a user equipment to use a "1/2 rate convolutional encoder" to produce a code used to determine control information carried over these shared control channels. Through these innovations offered by the '013 patent, the user equipment is able to efficiently and accurately receive the correct control data and process an associated HS-PDSCH, for example, thereby increasing performance for the user.

3. Foreign Counterparts to the Patent

5.22. The '013 patent and its related U.S. applications have a number of foreign counterparts. Those foreign patents and applications are identified in Exhibit 15.

D. U.S. Patent No. 7,616,970

1. Identification of the Patent and Ownership by InterDigital

5.23. The '970 patent, entitled "Dual Mode Unit for Short Range, High Rate and Long Range, Lower Rate Data Communications," issued on November 10, 2009, to inventor Thomas E. Gorsuch. The '970 patent is based on Patent Application No. 11/326,809, filed on January 6, 2006. The '970 patent claims priority to, *inter alia*, Utility Application No. 09/400,136, filed on September 21, 1999, now U.S. Patent No. 6,526,034.

5.24. The '970 patent has two independent claims and sixteen dependent claims. Claims 1-18 are being asserted in this Complaint against all proposed respondents.

5.25. Complainant IPR Licensing, Inc. owns by assignment the entire right, title, and interest in and to the '970 patent. *See* Exhibit 11.

5.26. This Complaint is accompanied by a certified copy and three copies of the prosecution history of the '970 patent and four copies of all cited references. *See* Appendices G and H.

2. Non-Technical Description of the Patent

5.27. The '970 patent generally concerns a technique for communication between user equipment and one or more wireless networks, *e.g.*, a wireless local area network and a cellular network. For example, the user equipment may detect whether a wireless local area network is available. If such a connection is available, the user equipment may establish communications with the available wireless local area network. When, for example, the wireless local area network is not available, the user equipment may establish communications with a second wireless network, such as a cellular network based on CDMA technology. During communication over at least the cellular network, for example, as the amount of data needing to be transmitted by the user equipment varies over time, the user equipment may adjust the rate of its transmission. The rate adjustment can be implemented in a number of ways, such as by adjusting the number of CDMA codes used by the user equipment to transmit, for example, data. In addition, to make more efficient use of system resources, during periods when the user equipment has no information to transmit, the user equipment may release any physical layer resources while maintaining one or more higher layers of the connection.

3. Foreign Counterparts to the Patent

5.28. The '970 patent and its related U.S. applications have a number of foreign counterparts. Those foreign patents and applications are identified in Exhibit 17.

E. U.S. Patent No. 7,706,332

1. Identification of the Patent and Ownership by InterDigital

5.29. The '332 patent, entitled "Method and Subscriber Unit for Performing Power Control," issued on April 27, 2010, to inventors Fatih Ozluturk, Gary Lomp, and John Kowalski. The '332 patent is based on Patent Application No. 11/181,450, filed on July 14, 2005, and claims priority to, *inter alia*, the same provisional application filed June 30, 1995, to which the '406 patent claims priority.

5.30. The '332 patent has four independent claims and twenty-three dependent claims. Claims 1-27 are being asserted in this Complaint against all proposed respondents.

5.31. Complainant InterDigital Technology Corporation owns by assignment the entire right, title, and interest in and to the '332 patent. *See* Exhibit 12.[5]

5.32. This Complaint is accompanied by a certified copy and three copies of the prosecution history of the '332 patent and four copies of all cited references. *See* Appendices I and J.

2. Non-Technical Description of the Patent

5.33. The '332 patent provides improvements to the way subscriber units and base stations communicate to control the power level of transmissions from the base station to a subscriber unit within a cellular CDMA system, thereby increasing the performance of the

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[5] One of the two '332 patent assignment documents provided as Exhibit 12 does not exist in the PTO's image database, and consequently InterDigital is providing an uncertified copy as Exhibit 12.2. (A certified copy of the other assignment is provided as Exhibit 12.1.) As can be seen from the notice of recordation submitted with Exhibit 12.2, the document was indeed filed with the PTO. However, the PTO will only certify documents that continue to exist in its database, and this document appears to have been misfiled by the PTO. InterDigital has been informed that the PTO is currently working on a recreation of the assignment and to restore the image database, but has not provided a timeframe for completion of this process. InterDigital will submit the certified copy when it is obtained.

system. Because each signal transmitted within a CDMA-based system can contribute to the overall interference in the system, the subscriber unit and base station exchange information about the strength of the signals they receive, allowing transmission at more efficient power levels.

5.34. The '332 patent provides an improved manner for a subscriber unit to transmit power control bits (*i.e.*, the bits of data that are received by the CDMA base station and used to regulate the base station's power levels). Under the '332 invention, the power control bits from a subscriber unit are included on one of two channels (either an in-phase (I) channel or quadrature (Q) channel). The subscriber unit outputs a radio frequency signal derived at least in part from these two channels. The subscriber unit sends the radio frequency signal to the base station where it can be used to affect the output power of the base station. Including power control bits on only one of the I and the Q channels makes the transmission more efficient and simplifies hardware and/or software requirements for the system.

3. Foreign Counterparts to the Patent

5.35. The '332 patent and its related U.S. applications have a number of foreign counterparts. Those foreign patents and applications are the same as those identified in connection with the related '406 patent, and are identified in Exhibit 16.

F. U.S. Patent No. 7,706,830

1. Identification of the Patent and Ownership by InterDigital

5.36. The '830 patent, entitled "Method and Subscriber Unit for Performing an Access Procedure," issued on April 27, 2010, to inventors Fatih Ozluturk and Gary Lomp. The '830 patent is based on Patent Application No. 12/116,263, filed on May 7, 2008, and claims priority to, *inter alia*, Utility Application No. 08/670,162, now U.S. Patent No. 5,841,768, filed on June 27, 1996.

5.37. The '830 patent has six independent claims and twenty-four dependent claims. Claims 1-3, 5-8, 10, 16-18, 20-23, and 25 are being asserted in this Complaint against all proposed respondents.

5.38. Complainant InterDigital Technology Corporation owns by assignment the entire right, title, and interest in and to the '830 patent. *See* Exhibit 13.

5.39. This Complaint is accompanied by a certified copy and three copies of the prosecution history of the '830 patent and four copies of all cited references. *See* Appendices K and L.

2. Non-Technical Description of the Patent

5.40. The '830 patent is generally directed to improvements to the way a subscriber unit gains access to a cellular CDMA system. In a CDMA system, the signals transmitted by subscriber units contribute to the overall interference in the system. To minimize interference, it is important for subscriber units to quickly gain access to the system when, for example, users attempt to place calls.

5.41. The improvements of the '830 patent achieve the above and other objectives. When the subscriber unit attempts to gain access to the cellular CDMA system, the subscriber unit starts sending transmissions, where at least two of the successively sent transmissions are produced using different sequences of chips. In particular, the transmissions are produced using sequences of chips that are not used to increase bandwidth. The subscriber unit successively sends the transmissions before receiving from a base station in the system an indication that at least one of the transmissions has been detected by the base station. The subscriber unit then transmits to the base station a message indicating that the subscriber unit wants to establish communications with the base station. The message is longer in duration than each of the successively sent transmissions. Successively sending transmissions that are shorter than the

message during the initial attempt to access the system enables the subscriber unit to gain access to the system in an efficient and rapid manner with minimal contribution to interference in the system.

3. Foreign Counterparts to the Patent

5.42. The '830 patent and its related U.S. applications have a number of foreign counterparts. Those foreign patents and applications are identified in Exhibit 18.

G. U.S. Patent No. 7,970,127

1. Identification of the Patent and Ownership by InterDigital

5.43. The '127 patent, entitled "User Equipment Identification Specific Scrambling," issued on June 28, 2011, to inventors Stephen Dick, Nader Bolourchi, and Sung-Hyuk Shin. The '127 patent is based on Patent Application No. 12/467,694, filed on May 18, 2009, and claims priority to, *inter alia*, two provisional applications filed on May 7, 2002 and May 13, 2002.

5.44. The '127 patent has two independent claims and twelve dependent claims. Claims 1-14 are being asserted in this Complaint. More specifically, claims 1-14 are being asserted against Huawei and ZTE, and claims 1-6 and 8-13 are being asserted against Nokia at this time.[6]

5.45. Complainant InterDigital Technology Corporation owns by assignment the entire right, title, and interest in and to the '127 patent. *See* Exhibit 14.

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[6] During the patent printing process, the Patent and Trademark Office made a typographical error in claim 1 of the '127 patent. The PTO mistakenly printed the term "LTE" instead of "UE" in one instance. InterDigital has requested that the PTO issue a certificate of correction to correct this typographical error. InterDigital will submit a certified copy of the certificate of correction to the Commission when it is obtained.

5.46. This Complaint is accompanied by a certified copy and three copies of the prosecution history of the '127 patent, and four copies of all cited references. *See* Appendices M and N.

2. Non-Technical Description of the Patent

5.47. The '127 patent generally presents an improvement to the manner by which user equipment are able to accurately receive transmissions. User equipment receive important control data over certain high speed shared control channels (sometimes referred to as "HS-SCCHs"). Because these control channels are shared, each user equipment must monitor the channels to identify information intended for it.

5.48. One challenge in these advanced systems is how to process these shared control channels in a way that each user equipment can accurately and efficiently receive its particular control data. User equipment use this control data to process an associated high speed physical downlink shared channel (sometimes referred to as a "HS-PDSCH"). To accomplish this, in some embodiments, the '127 patent allows a user equipment to process shared control channels that include information processed with a "user specific scrambling sequence" that is a result of a "1/2 rate convolutional encoding" of the user equipment's "user equipment identification." Additionally, in some embodiments, the '127 patent allows a user equipment to use a "1/2 rate convolutional encoder" to produce a code used to determine control information carried over these shared control channels. Through these innovations offered by the '127 patent, the user equipment is able to efficiently and accurately receive the correct control data and recover payload data from a HS-PDSCH, thereby increasing performance for the user.

3. Foreign Counterparts to the Patent

5.49. The '127 patent and its related U.S. applications have a number of foreign counterparts. Those foreign patents and applications are identified in Exhibit 15.

VI. LICENSES

6.1. Pursuant to Commission Rule 210.12(a)(9)(iii), the licensed entities for the Asserted Patents are listed in Confidential Exhibit 19 to this Complaint.[7]

VII. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS — PATENT INFRINGEMENT

7.1. The accused products are wireless devices with CDMA wireless capabilities. In particular, the accused products operate with the UMTS/WCDMA technology system (including at least Release 99, Release 4, Release 5 (HSDPA), Release 6 (HSUPA), and/or Release 7 (HSPA+), as well as later releases incorporating the same accused functionality) and/or the CDMA2000 technology system (including at least 1xRTT and/or EV-DO Revision 0 and/or EV-DO Revision A, as well as later releases incorporating the same accused functionality).

[7] License agreements submitted pursuant to Commission Rule 210.12(9)(iv) accompany this Complaint as Confidential Exhibit 104.

7.2. The following table illustrates which claims of the Asserted Patents are infringed by devices that operate in accordance with the various standards:

	UMTS/WCDMA			
Standards		**WCDMA Rel. 99; Rel. 4**	**HSDPA Rel. 5**	**HSUPA/HSPA+ Rel. 6, Rel. 7 (and greater)**
Exemplary Products	**Nokia**	2730, C5-04, C2-01, 3710	6350, 5230, 6790, Booklet 3G, E71, X6,	6700, C3, C5-03, C6, C6-01, E73, N8, Astound C7, E5,E7, X3, E6
	Huawei		Comet U8150, Tap U7519,	USBConnect 900, S7, Ideos X6
	ZTE		Rocket 2.0 4G Laptop Stick	V9, Rocket 3.0 4G Laptop Stick, 4G HotSpot
Applicable Patents/Claims	**'540**		Claims 1-15[8]	Claims 1-15
	'406	Claims 1, 6-8, 13, 15, 20-22, 26, 29, 34-35, and 40	Claims 1, 6-8, 13, 15, 20-22, 26, 29, 34-35, and 40	Claims 1-2, 6-9, 13, 15-16, 20-22, 26, 28-30, 34-36, and 40
	'013		Claims 1-19[9]	Claims 1-19
	'970			Claims 1-18[10]
	'332	Claims 1-27	Claims 1-27	Claims 1-27
	'830	Claims 1-3, 5-8, 10, 16-18, 20-23, and 25	Claims 1-3, 5-8, 10, 16-18, 20-23, and 25	Claims 1-3, 5-8, 10, 16-18, 20-23, and 25
	'127		Claims 1-14[11]	Claims 1-14

[8] The '540 patent is not being asserted against Nokia at this time.

[9] Only claims 1-7 and 9-15 of the '013 patent are being asserted against Nokia at this time.

[10] The '970 patent is currently only being asserted against products which, alone or when combined as directed with other products, also include WiFi capabilities.

[11] Only claims 1-6 and 8-13 of the '127 patent are being asserted against Nokia at this time.

	CDMA 2000			
Standards		**1xRTT**	**EV-DO Rev. 0**	**EV-DO Rev. A**
Exemplary Products	**Nokia**		Twist 7705	
	Huawei	M228, M750	M735, E1705	Ascend M860, Ascend II M865, T-Mobile Jet 2.0 Laptop Stick, M835, EC5805, Mediapad, Fivespot
	ZTE	Agent E520, Essenze C70, C79, CAPTR II/A210,	Salute, MSGM8 II, TXTM8 3G	A605, Peel
Applicable Patents/Claims	**'406**	Claims 1, 2, 6, 15-16, 20, 29-30, 34	Claims 1, 2, 6, 15-16, 20, 29-30, 34	Claims 1, 2, 6, 15-16, 20, 29-30, 34
	'970			Claims 1-18
	'332	Claims 1-27	Claims 1-27	Claims 1-27

A. Huawei

7.3. On information and belief, Huawei manufactures or has manufactured for it, sells for importation, imports, and/or sells after importation wireless devices with 3G capabilities that infringe one or more of the Asserted Patents. On information and belief, certain Huawei wireless devices operate in at least a 3G system. Some Huawei wireless devices operate in a 3G UMTS/WCDMA system, and some of these operate in conformance with the Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+ standards. Additionally, some Huawei wireless devices operate in conformance with a 3G CDMA2000 system that includes 1xRTT and/or EV-DO features.

7.4. On information and belief, the accused Huawei products include UMTS/WCDMA (including Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+) or CDMA2000 (including 1xRTT and/or EV-DO) capabilities set forth in relevant 3G standards

and operate in a manner covered by the patents asserted against those particular products. Claim charts accompanying this Complaint set forth the analysis of infringement by at least one exemplary accused product of each technology type for each of the applicable Asserted Patents.

7.5. In addition, certain of the Huawei devices operate in IEEE 802-based systems, including IEEE 802.11-based systems. On information and belief, certain of the accused Huawei products include IEEE 802.11 capabilities as those capabilities are set forth in relevant IEEE standards. Claim charts accompanying this Complaint set forth the analysis of infringement by at least one exemplary accused Huawei product having both certain 3G functionality and IEEE 802 capabilities.

7.6. Examples of accused Huawei devices are the Huawei Ascend EC5805, Jet 2.0, M228, M735, M860 (Ascend), M865 (Ascend II), S7, USBConnect 900, USB Connect Force 4G, U8150 (Comet), U7519 (Tap), and other models of wireless devices, all of which infringe one or more of the Asserted Patents. This identification of specific models or types of products is not intended to limit the scope of the investigation, and any remedy should extend to all infringing products.

7.7. A chart that applies independent claims 1 and 8 of the '540 patent to the accused Huawei USBConnect 900 wireless devices is attached to the Complaint as Exhibit 21.

7.8. A chart that applies independent claims 1, 7, 15, 21, 29, and 35 of the '406 patent to the accused Huawei USBConnect 900 wireless device is attached to the Complaint as Exhibit 22. A chart that applies independent claims 1, 15 and 29 of the '406 patent to the accused Huawei M860 (Ascend) wireless device is attached to the Complaint as Exhibit 23.

7.9. A chart that applies independent claims 1, 9, and 16 of the '013 patent to the accused Huawei USBConnect 900 wireless device is attached to the Complaint as Exhibit 24.

7.10. Charts that apply independent claims 1 and 10 of the '970 patent to the accused Huawei S7 and M865 (Ascend II) wireless devices are attached to the Complaint as Exhibits 25 and 26.

7.11. Charts that apply independent claims 1, 8, 15, and 21 of the '332 patent to the accused Huawei USBConnect 900 and M860 (Ascend) wireless devices are attached to the Complaint as Exhibits 27 and 28.

7.12. A chart that applies independent claims 1, 6, 16, and 21 of the '830 patent to the accused Huawei USBConnect 900 wireless device is attached to the Complaint as Exhibit 29.

7.13. A chart that applies independent claims 1 and 8 of the '127 patent to the accused Huawei USBConnect 900 wireless device is attached to the Complaint as Exhibit 30.

7.14. To the extent that any of the asserted claims require products sold by Huawei to be operated in one or more of a 3G WCDMA, CDMA2000 or IEEE 802 system in order to satisfy all claim elements, on information and belief, the accused products infringe directly and/or indirectly.

7.15. On information and belief, Huawei tests or operates the accused products in the United States by using them in one or more of a 3G WCDMA, CDMA2000 or IEEE 802 system and performing the claimed methods, thereby directly infringing any claims requiring such operation.

7.16. The accused Huawei products are specifically designed to be used in a 3G WCDMA or CDMA2000 system and, in some instances, also in an IEEE 802 system. Specifically, the accused Huawei products identified by InterDigital to date that are designed to be used in a UMTS (WCDMA) system are configured to comply with the Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+ standards. The accused products designed to be used in a 3G

CDMA2000 system are configured to comply with the 1xRTT standards, and some are further configured to comply with EV-DO standards. The accused products are further designed to also be used in an IEEE 802 system and are configured to comply with at least IEEE 802.11. Because the accused products are specifically designed to so operate, they have no substantial non-infringing uses. Accordingly, Huawei contributorily infringes the asserted patent claims.

7.17. Huawei induces infringement of the asserted claims by advertising its products as complying with the 3G and IEEE 802 standards and being capable of operating according to those standards, by publishing manuals and promotional literature describing and instructing in the operation of the accused devices in an infringing manner according to the 3G and IEEE 802 standards, and by offering support and technical assistance to its customers that encourage use of the accused products in ways that infringe the asserted claims.

7.18. Huawei has had knowledge of some or all of the Asserted Patents since before this Complaint was filed. In addition, Huawei will receive notice of all of the Asserted Patents upon the service of the Complaint (without confidential exhibits) by InterDigital upon Huawei at the addresses referenced herein, concurrently with this filing.

B. Nokia

7.19. On information and belief, Nokia manufactures or has manufactured for it, sells for importation, imports, and/or sells after importation wireless devices with 3G capabilities that infringe one or more of the Asserted Patents. On information and belief, certain Nokia wireless devices operate in at least a 3G system. Some Nokia wireless devices operate in a 3G WCDMA system, and these also operate in a 3G WCDMA system that includes Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+ features. Additionally, at least one Nokia wireless device operates in conformance with a 3G CDMA2000 system that includes 1xRTT and EV-DO features.

7.20. On information and belief, the accused Nokia products include WCDMA (including Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+) or CDMA2000 (including 1xRTT and EV-DO) capabilities set forth in relevant 3G standards and operate in the manner covered by the patents asserted against those particular products. Claim charts accompanying this Complaint set forth the analysis of infringement by one example of the accused products of each technology type for each of the Asserted Patents.

7.21. In addition, certain of the Nokia devices operate in IEEE 802-based systems, including IEEE 802.11-based systems. On information and belief, certain of the accused Nokia products include IEEE 802.11 capabilities as those capabilities are set forth in relevant IEEE standards. Claim charts accompanying this Complaint set forth the analysis of infringement by at least one exemplary accused Nokia product having both certain 3G functionality and IEEE 802 capabilities for each of the applicable Asserted Patents.

7.22. Examples of the accused Nokia devices are the Nokia N8, Astound C2-01, C3-01 (Touch and Type), C5-03, C6, C6-01, C7 (Astound), E5, E6, E7, E71 (Straight Talk), N8, N9, X6, 2730, 5230, 6350, 6700 (Slide), 6790 (Slide Straight Talk), 7705 (Twist), and other models of wireless devices, all of which infringe one or more of the Asserted Patents.[12] This identification of specific models or types of products is not intended to limit the scope of the investigation, and any remedy should extend to all infringing products.

7.23. A chart that applies independent claims 1, 7, 15, 21, 29, and 35 of the '406 patent to the accused Nokia N8 wireless device is attached to the Complaint as Exhibit 31. A chart that applies independent claims 1, 15, and 29 of the '406 patent to the accused Nokia Twist wireless device is attached to the Complaint as Exhibit 32.

[12] The '540 patent is not being asserted against Nokia at this time.

7.24. A chart that applies independent claims 1 and 9 of the '013 patent to the accused Nokia E7 wireless device is attached to the Complaint as Exhibit 33.

7.25. Charts that apply independent claims 1 and 10 of the '970 patent to the accused Nokia N8 and Nokia Astound C7 wireless devices are attached to the Complaint as Exhibits 34 and Exhibit 35.

7.26. Charts that apply independent claims 1, 8, 15, and 21 of the '332 patent to the accused Nokia E7 and Twist wireless devices are attached to the Complaint as Exhibits 36 and 37.

7.27. A chart that applies independent claims 1, 6, 16, and 21 of the '830 patent to the accused Nokia N8 wireless device is attached to the Complaint as Exhibit 38.

7.28. A chart that applies independent claims 1 and 8 of the '127 patent to the accused Nokia E7 wireless device is attached to the Complaint as Exhibit 39.

7.29. To the extent that any of the asserted claims require products sold by Nokia to be operated in one or more of a 3G WCDMA, CDMA2000 or IEEE 802 system in order to satisfy all claim elements, on information and belief, the accused products infringe directly and/or indirectly.

7.30. On information and belief, Nokia tests or operates the accused products in the United States by using them in one or more of a 3G WCDMA, CDMA2000 or IEEE 802 system and performing the claimed methods, thereby directly infringing any claim requiring such operation.

7.31. The accused Nokia products are specifically designed to be used in a 3G WCDMA or CDMA2000 system and, in some instances, also in an IEEE 802 system. Specifically, the accused Nokia products identified by InterDigital to date that are designed to be

used in UMTS (WCDMA) are configured to comply with the Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+ standards. The accused Nokia products designed to be used in a 3G CDMA2000 system are configured to comply with the 1xRTT and EV-DO standards. The accused products further designed to also be used in an IEEE 802 system are configured to comply with at least IEEE 802.11. Because the accused products are specifically designed to so operate, they have no substantial non-infringing uses. Accordingly, Nokia contributorily infringes the asserted patent claims.

7.32. Nokia induces infringement of the asserted claims by advertising its products as complying with the 3G and IEEE 802 standards and being capable of operating according to those standards, by publishing manuals and promotional literature describing and instructing in the operation of the accused devices in an infringing manner according to the 3G and IEEE 802 standards, and by offering support and technical assistance to their customers that encourage use of the accused products in ways that infringe the asserted claims.

7.33. Nokia has had knowledge of the Asserted Patents since before this Complaint was filed, or at a minimum will receive notice of them upon the filing of the Complaint, which InterDigital is concurrently serving upon Nokia (without confidential exhibits) at the addresses referenced herein.

C. ZTE

7.34. On information and belief, ZTE manufactures or has manufactured for it, sells for importation, imports, and/or sells after importation wireless devices with 3G capabilities that infringe one or more of the Asserted Patents. On information and belief, certain ZTE wireless devices operate in at least a 3G system. Some ZTE wireless devices operate in a 3G WCDMA system, and some also operate in a 3G WCDMA system that includes Release 99, Release 4,

HSDPA, HSUPA, and/or HSPA+ features. Additionally, some operate in conformance with a 3G CDMA2000 system that includes 1xRTT and/or EV-DO features.

7.35. On information and belief, the accused ZTE products include WCDMA (including Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+) and/or CDMA2000 (including 1xRTT and/or EV-DO) capabilities set forth in relevant 3G standards and operate in the manner covered by the patents asserted against ZTE. Claim charts accompanying this Complaint set forth the analysis of infringement by one example of the accused products of each technology type for each of the Asserted Patents.

7.36. In addition, certain of the ZTE devices operate in IEEE 802-based systems, including IEEE 802.11-based systems. On information and belief, certain of the accused ZTE products include IEEE 802.11 capabilities as those capabilities are set forth in relevant IEEE standards. Claim charts accompanying this Complaint set forth the analysis of infringement by at least one exemplary accused ZTE product having both certain 3G functionality and IEEE 802 capabilities for each of the applicable Asserted Patents.

7.37. Examples of the accused ZTE devices include the A605, AC30 (Fivespot), CAPTR II/A210, E520 (Agent), F160, MF61 (4G Hotspot), MF683 (Rocket 3.0), MSGM8 II, Peel, Salute, TXTM8 3G, V9, and other models of wireless devices, all of which infringe one or more of the Asserted Patents. This identification of specific models or types of products is not intended to limit the scope of the investigation, and any remedy should extend to all infringing products.

7.38. A chart that applies independent claims 1 and 8 of the '540 patent to the accused ZTE WebConnect Rocket 2.0 wireless device is attached to the Complaint as Exhibit 40.

7.39. A chart that applies independent claims 1, 7, 15, 21, 29, and 35 of the '406 patent to the accused ZTE WebConnect Rocket 2.0 wireless device is attached to the Complaint as Exhibit 41. A chart that applies independent claims 1, 15, and 29 of the '406 patent to the accused ZTE Salute wireless device is attached to the Complaint as Exhibit 42.

7.40. A chart that applies independent claims 1, 9, and 16 of the '013 patent to the accused ZTE WebConnect Rocket 2.0 wireless device is attached to the Complaint as Exhibit 43.

7.41. Charts that apply independent claims 1 and 10 of the '970 patent to the accused ZTE WebConnect Rocket 3.0 MF683 and A605 wireless devices are attached to the Complaint as Exhibits 44 and 45.

7.42. Charts that apply independent claims 1, 8, 15, and 21 of the '332 patent to the accused ZTE WebConnect Rocket 2.0 and Salute wireless devices are attached to the Complaint as Exhibit 46 and 47.

7.43. A chart that applies independent claims 1, 6, 16, and 21 of the '830 patent to the accused ZTE WebConnect Rocket 2.0 wireless device is attached to the Complaint as Exhibit 48.

7.44. A chart that applies independent claims 1 and 8 of the '127 patent to the accused ZTE WebConnect Rocket 2.0 wireless device is attached to the Complaint as Exhibit 49.

7.45. To the extent that any of the asserted claims require products sold by ZTE to be operated in one or more of a 3G WCDMA, CDMA2000 or IEEE 802 system in order to satisfy all claim elements, on information and belief, the accused products infringe directly and/or indirectly.

7.46. On information and belief, ZTE tests or operates the accused products in the United States by using them in one or more of a 3G WCDMA, CDMA2000 or IEEE 802 system

and performing the claimed methods, thereby directly infringing any claim requiring such operation.

7.47. The accused ZTE products are specifically designed to be used in a 3G WCDMA or CDMA2000 system and, in some instances, also in an IEEE 802 system. Specifically, the accused ZTE products identified by InterDigital to date that are designed to be used in UMTS (WCDMA) are configured to comply with the Release 99, Release 4, HSDPA, HSUPA, and/or HSPA+ standards. The accused products designed to be used in a 3G CDMA2000 system are configured to comply with the 1xRTT standards, and some are further configured to comply with the EV-DO standards. The accused products are further designed to also be used in an IEEE 802 system and are configured to comply with at least IEEE 802.11. Because the accused products are specifically designed to so operate, they have no substantial non-infringing uses. Accordingly, ZTE contributorily infringes the asserted patent claims.

7.48. ZTE induces infringement of the asserted claims by advertising its products as complying with the 3G and IEEE 802 standards and being capable of operating according to those standards, by publishing manuals and promotional literature describing and instructing in the operation of the accused devices in an infringing manner according to the 3G and IEEE 802 standards, and by offering support and technical assistance to its customers that encourage use of the accused products in ways that infringe the asserted claims.

7.49. ZTE has had knowledge of the Asserted Patents since before this Complaint was filed, or at a minimum will receive notice of them upon the filing of the Complaint, which InterDigital is concurrently serving upon ZTE (without confidential exhibits) at the addresses referenced herein.

VIII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

A. Huawei

8.1. Prior to filing this complaint, representatives for InterDigital purchased several imported Huawei wireless devices in the United States. Exhibit 91 includes a copy of the receipt for the purchase of a representative Huawei Ascend M860 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Furino Declaration, which is Exhibit 77 to this Complaint. The label on the box discloses a Huawei logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in China.

8.2. Exhibit 92 includes a copy of the receipt for the purchase of a representative Huawei Ascend II M865 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Furino Declaration, which is Exhibit 77 to this Complaint. The label on the box discloses a Huawei logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in China.

8.3. Exhibit 93 includes a copy of the receipt for the purchase of a representative Huawei S7 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Furino Declaration, which is Exhibit 77 to this Complaint. The label on the box discloses a Huawei logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in China.

8.4. Exhibit 94 includes a copy of the receipt for the purchase of a representative Huawei USBConnect 900 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration).

The label on the box discloses a Huawei logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in China.

8.5. Exhibit 95 includes a copy of the receipt for the purchase of a representative Huawei M735 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a Huawei logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in China.

B. Nokia

8.6. Prior to filing this complaint, representatives for InterDigital purchased several imported Nokia wireless devices in the United States. Exhibit 96 includes a copy of the receipt for the purchase of a representative Nokia N8 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a Nokia logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in China.

8.7. Exhibit 97 includes a copy of the receipt for the purchase of a representative Nokia Astound C7 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a Nokia logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in Mexico.

8.8. Exhibit 98 includes a copy of the receipt for the purchase of a representative Nokia E7 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a Nokia logo, as does a label on the device itself. A label on the outside of the box states that the wireless device was made in China.

8.9. Exhibit 99 includes a copy of the receipt for the purchase of a representative Nokia Twist wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box contains the name Nokia, as does a label on the device itself. A label on the device and a label on the outside of the box state that the wireless device was made in China.

C. ZTE

8.10. Prior to filing this complaint, representatives for InterDigital purchased several imported ZTE wireless devices in the United States. Exhibit 100 includes a copy of the receipt for the purchase of a representative ZTE Salute wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a ZTE logo, as does a label on the device itself. A label on the outside of the wireless device states that the wireless device was made in China.

8.11. Exhibit 101 includes a copy of the receipt for the purchase of a representative ZTE WebConnect Rocket 2.0 MF691 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a ZTE logo, as does a label on the device itself. A label on the outside of the wireless device states that the wireless device was made in China.

8.12. Exhibit 102 includes a copy of the receipt for the purchase of a representative ZTE A605 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a ZTE logo, as does a label on the device itself. A label on the outside of the wireless device states that the wireless device was made in China.

8.13. Exhibit 103 includes a copy of the receipt for the purchase of a representative ZTE Rocket 3.0 MF683 wireless device, and a series of photographs of the wireless device and of the box in which the wireless device was delivered. *See also* Exhibit 77 (Furino Declaration). The label on the box discloses a ZTE logo, as does a label on the device itself. A label on the outside of the wireless device states that the wireless device was made in China.

IX. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

9.1. On information and belief, the Harmonized Tariff Schedule of the United States item numbers under which the infringing wireless devices or components thereof may be imported into the United States may be at least HTSUS 8517.12 (telephones for cellular or other wireless networks); HTSUS 8517.62 (machines for the reception, conversion, and transmission of voice, images or other data, including modems); HTSUS 8517.70 (parts for articles under heading 8517, including telephones for cellular or other wireless networks); and HTSUS 8471.30 to 8471.80 (automatic data processing machines, including laptop and desktop computers, and components thereof).

X. THE DOMESTIC INDUSTRY

10.1. In accordance with Section 337(a)(2) and (a)(3), a domestic industry exists or is in the process of being established in the United States in connection with each of the Asserted Patents.

10.2. A domestic industry exists with respect to InterDigital's activities in the United States that exploit the Asserted Patents by reason of InterDigital's substantial investment in licensing of the technology protected by the patents, and including past and present research and development, engineering, and testing of the technology protected by the patents. InterDigital's U.S.-based research and development, engineering, and licensing activities with respect to CDMA and related technologies date back to at least 1993 and continue today.

10.3. InterDigital has made substantial investments in licensing the Asserted Patents through investments in personnel and resources to monitor the market, identify potential manufacturers and users of its wireless communications technology, establish contacts with those potential manufacturers and users, provide pre-licensing technical services, negotiate licenses, monitor licensee compliance with the licensing program, and enforce and litigate InterDigital's rights when necessary.

10.4. InterDigital's wireless technology licensing efforts include the Asserted Patents. The Asserted Patents are important components of InterDigital's patent licensing efforts. InterDigital's investments in licensing activities relating to the Asserted Patents are set forth in greater detail in Confidential Exhibit 20.

10.5. InterDigital's licensing program was previously considered by the Commission in Investigation No. 337-TA-601 and Investigation No. 337-TA-613. In both of those proceedings the Administrative Law Judge found, on summary determination, the existence of a domestic industry based on InterDigital's patent licensing activities relating to its wireless communications technology. In both investigations InterDigital was found to have made a substantial investment in licensing related to the patents asserted in those investigations, which are related to the patents asserted in this Complaint, save the '970 patent. The Administrative Law Judge found that InterDigital had licensed numerous companies to practice its wireless communications technology and that these licensees included "significant handset and device manufacturers throughout the world." *Certain 3G Wideband Code Division Multiple Access (WCDMA) Handsets and Components Thereof*, Inv. No. 337-TA-601, Order No. 20 at 5-6 (June 24, 2008); *Certain 3G Mobile Handsets and Components Thereof*, Inv. No. 337-TA-613, Order No. 42 at 6-7 (March 10, 2009). In each case, the Commission determined not to review the

Initial Determination granting summary determination, which thus became the Commission's determination.

10.6. Since the summary determination decisions issued in the 601 and 613 Investigations in 2008 and 2009, respectively, InterDigital has continued to invest in its licensing activities. InterDigital has executed numerous additional licenses that include the Asserted Patents, including licenses with some of the largest computer and telecommunications companies in the world. InterDigital's revenue from its licensing efforts has also increased since 2009. Further details are provided in Confidential Exhibit 20.

XI. RELATED LITIGATION

11.1. Concurrently with the filing of this Complaint, InterDigital also filed a complaint in the District of Delaware alleging infringement of each of the patents asserted in this Complaint by Huawei Technologies Co., Ltd., FutureWei Technologies, Inc. d/b/a Huawei Technologies (USA), Nokia Corporation, Nokia Inc., ZTE Corporation, and ZTE (USA) Inc. Other than the district court action filed concurrently herein, there has been no court or agency litigation, domestic or foreign, involving the unfair acts or alleging infringement of the patents asserted in this Complaint. However, as described further below, there have been several proceedings that have involved one or more patents that are related to one or more of the Asserted Patents.

11.2. In 2003, a dispute arose between InterDigital and Nokia concerning Nokia's royalty obligations under a Patent License Agreement. This matter was submitted to arbitration and in mid-2005 the Arbitral Tribunal issued its award finding, among other things, that Nokia's obligation to pay certain royalties had been triggered. There was a subsequent action in the Southern District of New York confirming the award. In April 2006, the parties settled these disputes in a manner whereby, upon payment of $253 million to InterDigital, Nokia was

provided with a 2G license for certain products and a release for certain 3G-related activities occurring before the effective date of the settlement. There is no ongoing 3G license between InterDigital and Nokia relating to any UMTS/WCDMA or CDMA2000 products.

11.3. Nokia Corporation and Nokia Inc. filed a suit in January 2005 against InterDigital Communications Corp. and InterDigital Technology Corporation in the U.S. District Court for the District of Delaware seeking a declaratory judgment that a number of InterDigital patents relating to cellular wireless technology were invalid and/or not infringed. *See Nokia Corp. v. InterDigital Communications Corp.*, Civ. Action No. 05-16 (D. Del. 2005). The Asserted Patents were not the subject of Nokia's declaratory judgment claims. The complaint also alleged that statements made by InterDigital regarding the essentiality of its 3G patents were false and misleading in violation of the Lanham Act. On December 21, 2005, the declaratory judgment claims were dismissed by the Court, leaving the Lanham Act claims. Several of the patents at issue in the Lanham Act claims are related to some of the Asserted Patents. On December 4, 2007, Nokia and InterDigital jointly filed a proposed order that would stay that litigation through completion of Investigation No. 337-TA-613, including any appeals. On December 5, 2007, the Court issued an order entering the proposed stay. On August 6, 2009, the district judge ordered that the case be "administratively closed."

11.4. On March 23, 2007, InterDigital filed a Section 337 complaint with the U.S. International Trade Commission identifying as proposed respondents Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America LLC, and alleging infringement of three patents not at issue in the current Complaint.[13] The complaint

[13] On March 23, 2007, the same day InterDigital filed its Section 337 complaint against Samsung, InterDigital initiated a parallel district court action against Samsung in the District of

resulted in Investigation No. 337-TA-601, entitled *Certain 3G Wideband Code Division Multiple Access (WCDMA) Handsets and Components Thereof.* By an amended complaint, two more patents were asserted against Samsung in the 601 Investigation. Neither of these patents is at issue in the current Complaint.[14] The 601 Investigation ultimately settled after trial and was thereafter terminated, *see* 74 FED. REG. 9105–06 (March 2, 2009).

11.5. On August 7, 2007, InterDigital filed another Section 337 complaint with the Commission identifying as proposed respondents Nokia Corporation and Nokia Inc., and alleging infringement of two patents not at issue in the current Complaint.[15] The complaint requested that the Commission institute an investigation and, after the investigation, issue remedial orders against Nokia's 3G products. An investigation was instituted on September 11,

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Delaware, asserting the same patents at issue in the ITC investigation. The parallel Delaware action was stayed at Samsung's request pursuant to 28 U.S.C. § 1659, pending the conclusion of the ITC investigation (including appeals). InterDigital's Delaware district court action was dismissed with prejudice in February 2009, following a settlement between the parties.

Also on March 23, 2007, Samsung commenced a separate action in the District of Delaware, alleging, *inter alia*, breach of contract in connection with InterDigital's alleged refusal to comply with its alleged obligations to be prepared to license its patents on fair reasonable and non-discriminatory ("FRAND") terms. The original complaint also sought a declaratory judgment of noninfringement and invalidity with respect to nine InterDigital patents not asserted in this Complaint, but several of which are related to one or more of the Asserted Patents. On September 14, 2007, Samsung amended its complaint to drop the claims for declaratory relief. On November 19, 2007, InterDigital filed counterclaims asserting infringement by Samsung of two of the nine patents at issue in Samsung's March 23, 2007 complaint, neither of which is asserted in this Complaint, but both of which are related to several of the Asserted Patents. Samsung's Delaware district court action was also dismissed with prejudice in February 2009, following the parties' settlement.

[14] While none of the patents asserted in Investigation No. 337-TA-601 is asserted in the current complaint, six of the seven patents at issue in the current Complaint are related through one or more common parent applications to the five patents at issue in Investigation No. 337-TA-601.

[15] At the same time as it filed its Section 337 complaint, InterDigital initiated a parallel district court action against Nokia in the District of Delaware, asserting the same patents at issue in the ITC investigation. The parallel Delaware action was stayed at Nokia's request pursuant to 28 U.S.C. § 1659, pending the conclusion of the ITC investigation (including appeals).

2007, as Investigation No. 337-TA-613, entitled *Certain 3G Mobile Handsets and Components Thereof.* InterDigital later added two other patents to the case in an amended complaint, neither of which is asserted herein.[16]

11.6. On December 4, 2007, Nokia moved for an order terminating or staying the Consolidated Proceedings as to Nokia on the ground that, pursuant to agreements entered by Nokia and InterDigital in 1999 (the "1999 Agreements"), the parties were required first to arbitrate whether Nokia possessed a license to the patents at issue in the 613 Investigation. On January 8, 2008, the Chief Administrative Law Judge denied Nokia's motion, finding that Nokia's conduct in the 613 Investigation, and also in the Delaware litigation between the parties, had conclusively demonstrated Nokia's desire to litigate (rather than arbitrate) the issues, and that Nokia had thereby waived its right to arbitrate the issue. On February 13, 2008, Nokia initiated an action in the U.S. District Court for the Southern District of New York, seeking an order enjoining InterDigital from litigating in the ITC its claims of patent infringement, and requiring InterDigital to arbitrate Nokia's alleged license defense. On March 20, 2008, the District Court granted Nokia's motion for a preliminary injunction. On March 21, 2008, InterDigital appealed the preliminary injunction order. On April 1, 2008, Nokia initiated an arbitration against InterDigital in the International Chamber of Commerce (the "ICC Arbitration"). On April 11, 2008, as required by the District Court, InterDigital moved to stay the 613 Investigation with respect to Nokia. On April 17, 2008, InterDigital moved to deconsolidate the Consolidated Proceedings so that InterDigital's infringement claims as against

[16] While none of the patents asserted in Investigation No. 337-TA-613 are asserted in the current complaint, four of the seven patents at issue in the current Complaint are related through one or more common parent applications to the four patents at issue in Investigation No. 337-TA-613.

Samsung – which claims were not subject to the preliminary injunction – could proceed. On May 16, 2008, the Chief Administrative Law Judge entered an order granting deconsolidation and staying the Nokia-only proceeding. The evidentiary hearing in the Samsung-only proceeding was held in July 2008. The Samsung-only proceeding settled in November 2008. On July 31, 2008, the U.S. Court of Appeals for the Second Circuit reversed the preliminary injunction, concluding that Nokia had waived any contractual rights to arbitration that it might have possessed "through its repeated, intentional invocation of judicial process to resolve questions about the scope of the patents at issue and the applicability of the license established by" the 1999 Agreements. *Nokia Corp. v. InterDigital, Inc.*, No. 08-1642-cv, 2008 WL 2951912, at *3 (2d Cir. July 31, 2008). In so holding, the Second Circuit observed that "[a]llowing Nokia to prevail and force InterDigital into yet another forum (*i.e.*, arbitration) would cause InterDigital to suffer prejudice in the form of an ever-increasing delay in the resolution of the multiple disputes between the parties in [federal court] and at the ITC." *Id.*

11.7. Following the Second Circuit's decision vacating the preliminary injunction, the 613 Investigation continued. Ultimately, the Chief Administrative Law Judge and the Commission found no violation of Section 337. *See* Notice of Commission Determination to Review in Part a Final Determination Finding No Violation of Section 337 and on Review to Affirm the Administrative Law Judge's Determination of No Violation; Termination of Investigation (October 16, 2009); see 74 FED. REG. 55068–69 (October 26, 2009). This determination is currently on appeal at the U.S. Court of Appeals for the Federal Circuit, and oral argument was held on January 13, 2011.

XII. RELIEF REQUESTED

12.1. WHEREFORE, by reason of the foregoing, Complainant InterDigital respectfully requests that the U.S. International Trade Commission:

(a) Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (b)(1) with respect to violations of Section 337 based upon the importation, sale for importation, and sale after importation into the United States by the proposed respondents of infringing wireless devices with 3G capabilities and components thereof that infringe one or more of the asserted claims of InterDigital's U.S. Patent Nos. 7,349,540; 7,502,406; 7,536,013; 7,616,970; 7,706,332; 7,706,830; and 7,970,127.

(b) Find a violation of Section 337 based on said unlawful acts;

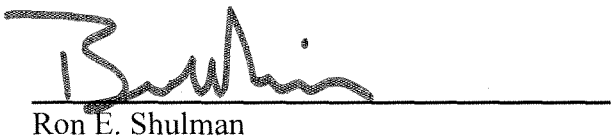
(c) Issue a permanent exclusion order under 19 U.S.C. § 1337(d)(1) barring from entry into the United States all infringing wireless devices with 3G capabilities and components thereof manufactured by or on behalf of, or imported by or on behalf of, each of the respondents or their affiliates;

(d) Issue permanent cease and desist orders, under 19 U.S.C. § 1337(f), directing each respondent to cease and desist from the sale for importation, importation, sale after importation, distribution, offering for sale, promoting, marketing, advertising, testing, demonstrating, warehousing inventory for distribution, solicitation of sales, programming, repairing, maintaining, using, transferring, and other commercial activity relating to infringing wireless devices with 3G capabilities and components thereof; and

(e) Grant such other and further relief as the Commission deems just and proper based on the facts determined by the investigation and the authority of the Commission.

Dated: July 26, 2011

Respectfully Submitted,



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