

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN MOTION-SENSITIVE
SOUND EFFECTS DEVICES AND
IMAGE DISPLAY DEVICES AND
COMPONENTS AND PRODUCTS
CONTAINING SAME II**

Investigation No. 337-TA-_____

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

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- Exhibit 2: U.S. Patent No. 5,825,427
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- Exhibit 9: Claim chart applying U.S. Patent No. 5,825,427 to accused 3M product
- Exhibit 9-1: 3M WX20 Spec Sheet
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- Exhibit 11: Claim chart applying Claim 1 and 9 of the '947 Patent to the Nintendo Wii
- Exhibit 12: Wii Operations Manual System Setup - Nintendo
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- Exhibit 18-1: Christie LW400 3-LCD WXGA Projector

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Exhibit 20: Claim chart applying Claims 1 and 2 of the U.S. Patent No. 5,825,427 to accused Eiki product

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Exhibit 25: Intentionally Omitted

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Exhibit 34-1: Planar PR 5030

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- Exhibit 36: SuperSonic, Inc. web page printout dated 2009 showing Model SC-1330
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- Exhibit 38: Zina Home Store web page printout dated June 12, 2011 showing SuperSonic SC-1330
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- Exhibit 40: Toshiba 2010 Annual Report – Operational Review
- Exhibit 41: Toshiba's web page printout dated June 12, 2011 showing Toshiba's 10-inch Thrive Tablet™ powered by Android™ us.Toshiba.com
- Exhibit 42: Claim chart applying Claims 1 and 2 of the U.S. Patent No. 5,825,427 to accused Toshiba product

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Exhibit 48: HP TouchSmart tm2 and tm2t series __ HP-Official Store

Exhibit 48-1: HP TouchSmart tm2 and tm2t series

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Exhibit 49-1: HP_TouchSmart_tm2_and_tm2t_series____HP-Official_Store

Exhibit 49-2: HP_TouchSmart_tm2_and_tm2t_series

Exhibit 49-3: Printout_notebookscheck_website

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Exhibit 50-2: Source Audio Press Release

APPENDICES TO COMPLAINT

Appendix A: File history for U.S. Patent No. 6,150,947

Appendix B: Copies of each reference mentioned in the file history for
U.S. Patent No. 6,150,947

Appendix C: File history for U.S. Patent No. 5,825,427

Appendix D: Copies of each references mentioned in the file history for
U.S. Patent No. 5,825,427

I. INTRODUCTION

1. This Complaint is filed by Ogma, LLC (hereinafter, “Ogma”) requesting that the United States International Trade Commission commence an investigation under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), to remedy the unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation, by manufacturers, importers, or consignees (or any agent of the owner, importer or consignee) of certain motion-sensitive sound effects devices and image display devices and components and products containing same (collectively, “Accused Products”) that infringe one or more of United States Letters Patent Nos. 6,150,947 (“the ’947 Patent”) and 5,825,427 (“the ’427 Patent”) (collectively the “Asserted Patents”), Exhibits 1 and 2, respectively.¹

2. On information and belief, the Respondents, 3M Company; Bensussen Deutsch & Associates, Inc. dba Power A; Casio America, Inc.; Casio Computer Co., Ltd.; Christie Digital Systems USA, Inc.; Eiki International, Inc.; Intec, Inc.; Mitsubishi Electric Corporation; Mitsubishi Electric & Electronics USA, Inc.; Optoma Corporation; Optoma Technology, Inc.; Performance Designed Products LLC; Planar Systems, Inc.; Supersonic, Inc.; Toshiba Corporation and Toshiba America Information Systems, Inc. (collectively “Proposed Respondents” or “Respondents”), have engaged in violations of Section 337 through the unlicensed importation into the United States, the sale for importation, and/or the sale within the United States after importation of Accused Products that infringe one or more claims of the

¹ The copies of the Asserted Patents attached as exhibits are not certified, but Ogma will file certified copies of the Asserted Patents within thirty-days.

² Respondents Casio Computer and Casio America are collectively referred to

Asserted Patents to the detriment of Ogma's and its licensees' industry in the United States relating to the Asserted Patents.

3. An industry as required by 19 U.S.C. § 1337(a)(2) and (3) exists in the United States relating to the technology protected by the Asserted Patents.

4. As relief, Ogma seeks an order, pursuant to Section 337(d), to permanently exclude from entry into the United States Respondents' infringing motion-sensitive sound effects devices and image display devices and components and products containing same. Pursuant to Section 337(f), Ogma further seeks a permanent cease and desist order, directing Respondents to immediately discontinue importing, selling, marketing, advertising, distributing, offering for sale, transferring and/or soliciting U.S. agents or distributors for Respondents' motion-sensitive sound effects devices and image display devices and components and products containing same. Finally, Ogma seeks any other relief the ITC deems proper.

II. COMPLAINANT

5. Complainant Ogma is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business at 3301 W. Marshall Ave., Longview, Texas 75604. Ogma focuses its business on acquiring, licensing and enforcing patented technology in the consumer electronics and communications industry, including the Asserted Patents.

6. Ogma acquired all rights in the '947 Patent from Shima LLC, a company created by James Shima, the inventor who researched and developed the motion-based technology that is now protected by the '947 Patent. Ogma is, among other things, in the business of licensing that technology to computer and electronics companies.

7. Ogma acquired all rights in the '427 Patent from Kenneth MacLeod, the inventor who researched and developed the display technology that is now protected by the '427 Patent.

Ogma is, among other things, in the business of licensing that technology to computer and electronics companies.

8. Attached as Exhibit 3 is Ogma, LLC's Certificate of Fact from the State of Texas showing that Ogma, LLC is a going concern.

III. PROPOSED RESPONDENTS

9. On information and belief, Proposed Respondent 3M Company ("3M") is a Delaware corporation with a principal place of business at 3M Center, St. Paul, Minnesota 55144. On information and belief, and as stated more fully in Paragraphs 44-48, Proposed Respondent 3M is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing image display devices, components and products.

10. On information and belief, Proposed Respondent Bensussen Deutsch & Associates, Inc. dba Power A ("Power A") is a Washington corporation with a principal place of business at 15525 Woodinville-Redmond Road NE, Woodinville, Washington 98072. On information and belief, and as stated more fully in Paragraphs 49-55, Proposed Respondent Power A is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing motion-sensitive sound effects devices.

11. On information and belief, Proposed Respondent Casio Computer Co., Ltd. ("Casio Computer"), is a Japanese corporation with a principal place of business at 6-2, Honmachi 1-chome, Shibuya-ku, Tokyo 151-8543, Japan. Proposed Respondent Casio America, Inc. ("Casio America") is a New York corporation with a principal place of business at 570 Mount Pleasant Avenue, Dover, New Jersey 07801. On information and belief, and as stated more fully in Paragraphs 56-60, Proposed Respondent Casio Computer, is engaged in one or more of the manufacture, importation, and sale for importation into the United States of infringing image

display devices, components and products. Proposed Respondent Casio America is engaged in one or more of the importation and sale after importation into the United States of infringing image display devices, components and products.²

12. On information and belief, Proposed Respondent Christie Digital Systems USA, Inc. (“Christie”) is a California corporation with a principal place of business at 10550 Camden Drive, Cypress, California 90630. On information and belief, and as stated more fully in Paragraphs 61-65, Proposed Respondent Christie is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing image display devices, components and products.

13. On information and belief, Proposed Respondent Eiki International, Inc. (“Eiki”) is a California corporation with a principal place of business at 30251 Esperanza, Rancho Santa Margarita, California 92688. On information and belief, and as stated more fully in Paragraphs 66-70, Proposed Respondent Eiki is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing image display devices, components and products.

14. On information and belief, Proposed Respondent Intec, Inc. (“Intec”) is a Washington corporation with a principal place of business at 7600 Corporate Center Dr., Suite 400, Miami, Florida 33126. On information and belief, and as stated more fully in Paragraphs 71-77, Proposed Respondent Intec is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing motion-sensitive sound effects devices.

² Respondents Casio Computer and Casio America are collectively referred to herein as “Casio.”

15. On information and belief, Proposed Respondent Mitsubishi Electric Corporation (“Mitsubishi Japan”) is a Japanese corporation with a principal place of business at Tokyo Building, 2-7-3, Marunouchi, Chiyoda-ku, Tokyo 100-8310, Japan. Proposed Respondent Mitsubishi Electric & Electronics USA, Inc. (“Mitsubishi USA”) is a Delaware corporation with a principal place of business at 5665 Plaza Drive, Cypress, California 90630. On information and belief, and as stated more fully in Paragraphs 78-82, Proposed Respondent Mitsubishi Japan is engaged in one or more of the manufacture, importation and sale for importation into the United States of infringing image display devices, components and products. Proposed Respondent Mitsubishi USA is engaged in one or more of the importation and sale after importation into the United States of infringing image display devices, components and products.³

16. On information and belief, Proposed Respondent Optoma Corporation is a Taiwanese corporation with a principal place of business at 5F, No. 108, Minchiuan Rd., Shindian City, Taipei, Taiwan. Proposed Respondent Optoma Technology, Inc. (“Optoma Technology”) is a California corporation with a principal place of business at 715 Sycamore Drive, Milpitas, California 95035. On information and belief, and as stated more fully in Paragraphs 83-87, Proposed Respondent Optoma Corporation is engaged in one or more of the manufacture, importation and sale for importation into the United States of infringing image display devices, components and products. Proposed Respondent Optoma Technology is

³ Respondents Mitsubishi Japan and Mitsubishi USA are collectively referred to herein as “Mitsubishi.”

engaged in one or more of the importation and sale after importation into the United States of infringing image display devices, components and products.⁴

17. On information and belief, Proposed Respondent Performance Designed Products LLC (“PDP”) is a California corporation with a principal place of business at 14144 Ventura Blvd., Suite 200, Sherman Oaks, California 91423. On information and belief, and as stated more fully in Paragraphs 88-94, Proposed Respondent PDP is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing motion-sensitive sound effects devices.

18. On information and belief, Proposed Respondent Planar Systems, Inc. (“Planar”) is a Delaware corporation with a principal place of business at 1195 NW Compton Drive, Beaverton, Oregon 97006. On information and belief, and as stated more fully in Paragraphs 95-99, Proposed Respondent Planar is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing image display devices, components and products.

19. On information and belief, Proposed Respondent Supersonic, Inc. (“Supersonic”) is a California corporation with a principal place of business at 6555 Bandini Boulevard, Commerce, California 90040. On information and belief, and as stated more fully in Paragraphs 100-104, Proposed Respondent Supersonic is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing image display devices, components and products.

20. On information and belief, Proposed Respondent Toshiba Corporation is a Japanese corporation with a principal place of business at 1-1, Shibaura 1-chome, Minato-ku,

⁴ Respondents Optoma Corporation and Optoma Technology are collectively referred to herein as “Optoma.”

Tokyo 105-8001, Japan. Proposed Respondent Toshiba America Information Systems, Inc. (“Toshiba America”) is a California corporation with a principal place of business at 9740 Irvine Boulevard, Irvine, California 92618-1697. On information and belief, and as stated more fully in Paragraphs 105-109, Proposed Respondent Toshiba Corporation is engaged in one or more of the manufacture, importation and sale for importation into the United States of infringing image display devices, components and products. Proposed Respondent Toshiba America is engaged in one or more of the importation and sale after importation into the United States of infringing image display devices, components and products.⁵

IV. THE PATENTS, TECHNOLOGY AND PRODUCTS AT ISSUE⁶

A. Overview and Ownership of the Asserted Patents

1. The ’947 Patent

21. United States Patent No. 6,150,947, entitled “Programmable Motion Sensitive Sound Effects Device,” issued on November 21, 2000, to inventor James Shima. Exhibit 1. The ’947 Patent issued from Application No. 09/391791 filed on September 8, 1999. *Id.*

22. The ’947 Patent has four independent claims and sixteen dependent claims. Exhibit 1. Ogma is currently asserting one or more of claims 1, 9 and 19 against certain Respondents, as stated herein. Further investigation and discovery may lead to the assertion of additional claims of the ’947 Patent against one or more Respondents.

23. Ogma owns by assignment the entire right, title and interest in and to the ’947 Patent. The recorded assignments of the ’947 Patent are attached as Exhibit 4.⁷

⁵ Respondents Toshiba Corporation and Toshiba America are collectively referred to herein as “Toshiba.”

⁶ The text in this Complaint, including section B, *infra*, titled “Non-Technical Description of the ‘427 Patented Invention”), does not, and is not intended to, construe either the specification or claims of the patent.

24. This Complaint includes a copy of the prosecution history of the '947 Patent, and four additional copies are attached hereto. *See* Appendix A.⁸ Pursuant to Commission Rule 210.12(c), this Complaint includes four copies of each reference mentioned in the '947 Patent and/or its prosecution history. *See* Appendix B.

25. There are no foreign counterpart patents or patent applications for the '947 Patent, and no foreign counterpart patent applications have been denied, abandoned or withdrawn.

26. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities is attached to this Complaint as Confidential Exhibit 5.

2. The '427 Patent

27. United States Letters Patent No. 5,825,427, entitled "Image Display System" issued on October 20, 1998 to inventor Kenneth J. MacLeod. Exhibit 2. The '427 Patent is based on United States patent application serial No. 08/518,583, filed on August 22, 1995. *Id.*

28. The '427 Patent has four claims, of which claims 1, 3 and 4 are independent. Exhibit 2. Claim 2 is dependent. Ogma, LLC is asserting claims 1 and 2 of the '427 Patent against certain Respondents (collectively, with the asserted claims of the '927 Patent, the "Asserted Claims"). Further investigation and discovery may lead to the assertion of additional claims of the '427 Patent against one or more Respondents.

⁷ Exhibit 4 does not consist of certified copies of the recorded assignments of the '947 Patent, but Ogma will file certified copies of the recorded assignments of the '947 Patent within thirty days.

⁸ The copy of the file history for the '947 Patent attached as Appendix A is not certified, but Ogma will file a certified copy of the file history for the '947 Patent as required by Commission Rule 210.12(c) within thirty-days.

29. Ogma owns by assignment the entire right, title and interest in and to the '427 Patent. The recorded assignments of the '427 Patent are attached as Exhibit 6.⁹

30. This Complaint includes a copy of the prosecution history of the '427 Patent, and four additional copies are attached hereto. *See* Appendix C.¹⁰ Pursuant to Commission Rule 210.12(c), this Complaint includes four copies of each reference mentioned in the '427 Patent and/or its prosecution history. *See* Appendix D.

31. There are no foreign counterpart patents or patent applications for the '427 Patent, and no foreign counterpart patent applications have been denied, abandoned or withdrawn.

32. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities is attached to this Complaint as Confidential Exhibit 7.

33. Below is a table that summarizes which claims of the Asserted Patents Ogma is asserting against each respondent (or related group of respondents):

		3M	Power A	Casio	Christie Digital	Eiki	Intec	Mitsubishi	Optoma	PDP	Planar	SuperSonic	Toshiba
'947 Patent	1		x				x			x			
	9		x				x			x			
	19		x				x			x			
'427 Patent	1	x		x	x	x		x	x		x	x	x
	2	x		x	x	x		x	x		x	x	x

⁹ Exhibit 6 does not consist of certified copies of the recorded assignments of the '427 Patent, but Ogma will file certified copies of the recorded assignments of the '427 Patent within thirty days.

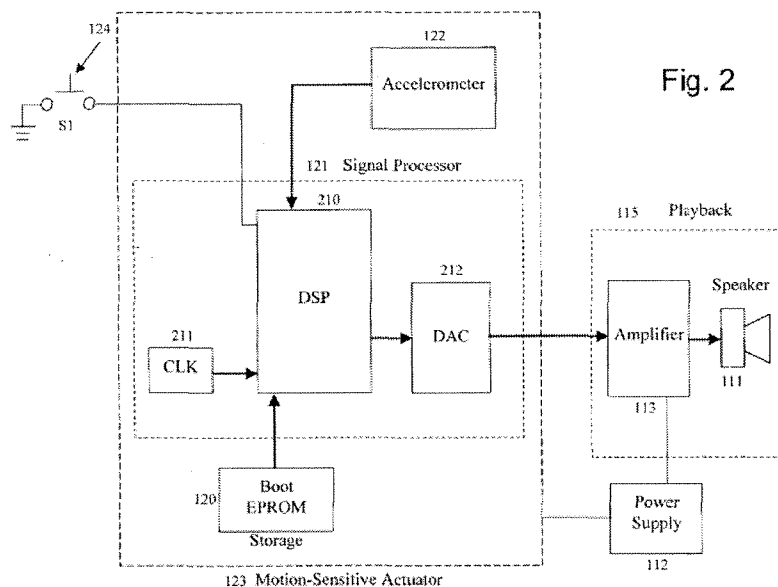
¹⁰ The copy of the file history for the '427 Patent attached as Appendix C is not certified, but, Ogma will file a certified copy of the file history for the '427 Patent as required by Commission Rule 210.12(c) within thirty-days.

B. Nontechnical Description Of The Asserted Patents

1. Nontechnical Description Of The '947 Patent

34. Ogma's '947 Patent discloses a novel sound-effect device that couples a motion-sensitive actuator and a playback component to produce sounds associated with accelerations of the device. Electronic devices that employ the inventions claimed in the '947 Patent, such as cellular phones, tablet computers, toys, video game devices and other electronics devices, employ an accelerometer that detects changes in motion and uses such changes to select the playing of sound effects.

35. The basic layout of a device that practices one or more claims of the '947 Patent is shown in Figure 2 (reproduced below), one embodiment shown in the '947 Patent:



36. At the time of the invention, the '947 Patent presented a unique and novel use for accelerometers. By coupling the accelerometer to a signal processor and playback component, the '947 Patent enabled a new generation of motion-realistic, sound producing devices wherein sounds are selected based on acceleration in at least two coordinate axes. Using the technology disclosed in the '947 Patent, children can, for the first time, wield a toy Star Wars® lightsaber

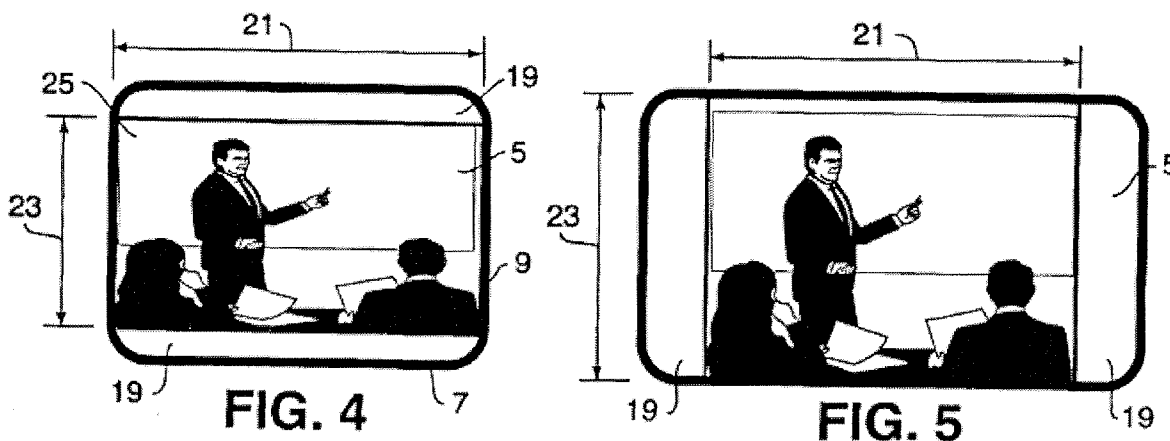
and hear the distinctive “waving” sound of the blade associated with accelerating it toward a pretend target. It was not until recently that the invention has been adopted into virtually every cellular “smart” phone, tablet computer and video game controller available.

2. Nontechnical Description Of The '427 Patent

37. The '427 Patent is directed to an improved image display system that optimally produces video images that have aspect ratios intermediate to those of the traditional 4:3 aspect ratio of standard television (“SDTV”) and the 16:9 ratio of high definition television (“HDTV”). Video images are typically formatted with the same aspect ratio as the display system that will be displaying the video. An aspect ratio is the ratio of the horizontal resolution of the displayed image to the vertical resolution of the displayed image (*i.e.*, horizontal:vertical). The purpose of matching the aspect ratios of a video image to a corresponding display system is to ensure that the system’s full screen is used to display the image.

38. In general, video images are provided in one of two primary formats: a traditional 4:3 aspect ratio for SDTV or a wide-format 16:9 aspect ratio for HDTV. Because the aspect ratios are different for these two systems, problems may arise when video images formatted for one system are displayed on another system. For example, if a video image formatted for HDTV (16:9) is displayed on a standard television system (4:3), then a substantial portion of the screen above and below the image is not used (see figure below on left). Similarly, if a video image formatted for SDTV (4:3) is displayed on a HDTV system (16:9), then a substantial portion of the screen on the left and right sides of the image is unused (see figure below on right). Not only is it inefficient and annoying to the viewer to have an unused screen portion, it can also cause

uneven degradation of some display systems.



39. The patented invention alleviates these problems by creating a video display system that can produce images of intermediate aspect ratios, which effectively maximizes the portion of screen that is used to display either SDTV or HDTV images. In one embodiment of the invention, the system can display either a 4:3 video image *or* a 16:9 video image by using a video screen with an intermediate aspect ratio that is between the aspect ratio of SDTV and the aspect ratio of HDTV. The system also has first and second image producing means for displaying images originally formatted with 4:3 and 16:9 aspect ratios on the intermediate aspect ratio display so as to minimize unused display area. In the preferred embodiment, the optimum aspect ratio of the patented display system is the geometric mean of 4:3 and 16:9 (or 1.54:1.0), which maximizes display area usage (or minimizes unused display area) when reproducing either 4:3 SDTV or 16:9 HDTV formats.

40. Using the patented invention maximizes the portion of a display system's full screen that can be used with 4:3, 16:9 and other display formats. As a result, the improved display does not detract from the viewer's enjoyment.

**V. UNLAWFUL AND UNFAIR ACTS OF THE PROPOSED RESPONDENTS—
RESPONDENTS' UNFAIR TRADE PRACTICES**

41. Each Respondent has engaged in unfair trade practices, including the manufacture abroad, sale for importation into the United States, importation into the United States, and/or sale in the United States after importation of certain electronic devices that infringe one or more of the Asserted Claims of the Asserted Patents. Exemplary instances of such unfair trade practices and infringing products (the “Accused Products”) are provided below for each Respondent.

42. On information and belief, each of the Respondents had notice of the Asserted Patents since before the filing of this Complaint at least as early as the date that each Respondent was served with a copy of a complaint for patent infringement previously filed in the United States District Court for the Eastern District of Texas, as set forth in more detail in Paragraphs 113-116.

43. Exemplary instances of importation and sale of infringing products are set forth below.

A. 3M

44. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, 3M is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing projectors. On information and belief, the 3M Accused Products include at least the following product: WX20. Exemplary instances of importation and sale of infringing products are set forth below.

45. On information and belief, the 3M Accused Products are assembled in a foreign country and imported into the United States. See Exhibit 8 at 62 (WX20 Operator’s Guide indicating “Litho in China”). The Accused Products are imported into the United States and sold after importation in the United States through retail and online merchants. See Exhibit 8-1.

46. On information and belief, 3M infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the 3M Accused Products in the United States.

47. On information and belief, 3M was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, 3M, on information and belief, has knowingly induced users of 3M's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the 3M Accused Products.

48. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused WX20 product is attached to this Complaint as Exhibit 9.

B. Power A

49. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Power A is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Power A Accused Products include at least the following products: POWER A Pro Pack Mini. Exemplary instances of importation and sale of infringing products are set forth below.

50. On information and belief, Power A imports the POWER A Pro Pack Mini into the United States from China. *See* Exhibit 10. The submitted photograph of the Pro Pack Mini packaging demonstrates that the device sold in the United States is "Made in China." *See* Exhibit 10.

51. On information and belief, the Power A Accused Products directly infringe at least claims 1, 9 and 19 of the '947 Patent when Power A imports and uses the Power A Accused Products for testing with the Nintendo Wii gaming console and a connected television with

speakers. The television to which the gaming system is connected has speakers through which audible sounds are emitted. *See* Exhibit 11 & Exhibit 12 at 4 (depicting AV Multi Out Connector, which “[c]onnects to the AV cable for your television”), 9, 12, 18. The emitted audible sounds result from a sensed motion signal from the motion-sensitive actuator in the controller. *See* Exhibit 11.

52. On information and belief, Power A has known of the '947 Patent since at least March 18, 2011. On information and belief, Power A has indirectly infringed claims 1, 9 and 19 of the '947 Patent at least since March 18, 2011, by importing, offering for sale, selling, using and instructing others to use the Power A controllers with the Nintendo Wii gaming console system and a television.

53. With respect to contributory infringement, the Power A Accused Products are a component, *i.e.*, a controller, of the infringing Nintendo Wii gaming console system and a television. The controllers are a material part of the gaming console system in that the controllers are used to play games on the system. Power A knows, at least as of March 18, 2011, that the controllers are especially made for use in an infringement of the patent. Furthermore, the controllers are not staple articles or commodities of commerce suitable for substantial noninfringing use, because the controllers are used only in game play that infringes claims 1, 9 and 19 of the '947 patent. *See* Exhibit 11.

54. Power A has also actively induced infringement of claims 1, 9 and 19 of the '947 patent since no later than March 18, 2011 by intentionally directing users to infringe by using the accused controllers with gaming consoles such as the Nintendo Wii. *See* Exhibit 13 at 4 (package of Pro Pack Mini with Wii™ logo in upper right hand corner); Exhibit 13 at 2 (“Both Mini controllers offer the same functionality as the original Wii controllers, including

compatibility with Wii™ MotionPlus™, so you don't have to sacrifice performance for comfort.”).

55. An exemplary chart that applies independent claims 1, 9 and 19 of the '947 Patent to the representative accused POWER A Pro Pack Mini product is attached to this Complaint as Exhibit 14.

C. Casio

56. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Casio is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing projectors. On information and belief, the Casio Accused Products include at least the following products: XJ-A255V, XJ-A250, XJ-A245V, XJ-A240, XJ-A235U and XJ-A230. Exemplary instances of importation and sale of infringing products are set forth below.

57. On information and belief, the Casio imports the Accused Products into the United States from Hong Kong. *See* Exhibit 15 (import record documenting specific instances of importation of the Accused Products into the United States by Casio).

58. On information and belief, Casio infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the Casio Accused Products in the United States.

59. On information and belief, Casio was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, Casio, on information and belief, has knowingly induced users of Casio's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the Casio Accused Products.

60. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused XJ-A255V product is attached to this Complaint as Exhibit 16.

D. Christie Digital

61. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Christie Digital is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing projectors. On information and belief, the Christie Digital Accused Products include at least the following products: LW400, LWU420, LWU505, LW555, LW650, DWU670-E, WX7K-M, WX10K-M, WU7K-M, WU12K-M, WU12K-M, WU3, WU7K-M, WU7, WU12K-M, WU12 and WU18. Exemplary instances of importation and sale of infringing products are set forth below.

62. On information and belief, the Christie Digital imports the Accused Products into the United States from Japan. *See* Exhibit 17 (import records documenting specific instances of importation of Christie Digital projectors into the United States from Japan).

63. On information and belief, Christie Digital infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the Christie Digital Accused Products in the United States.

64. On information and belief, Christie Digital was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, Christie Digital, on information and belief, has knowingly induced users of Christie Digital's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the Christie Digital Accused Products.

65. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused LW400 product is attached to this Complaint as Exhibit 18.

E. Eiki

66. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Eiki is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing projectors. On information and belief, the Eiki Accused Products include at least the following products: EIP-WX5000, EIP-WX5000/L, LC-WXL200, LC-WGC500A and LC-WUL100. Exemplary instances of importation and sale of infringing products are set forth below.

67. On information and belief, the Eiki imports the Accused Products into the United States from Japan and/or Hong Kong. *See* Exhibit 19 (import records documenting specific instances of importation of the Eiki projectors into the United States from Japan and Hong Kong).

68. On information and belief, Eiki infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the Eiki Accused Products in the United States.

69. On information and belief, Eiki was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, Eiki, on information and belief, has knowingly induced users of Eiki's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the Eiki Accused Products.

70. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused EIP-WX5000 product is attached to this Complaint as Exhibit 20.

F. Intec

71. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Intec is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the Intec Accused Products include at least the following products: Intec Nintendo Wii Wave Remote. Exemplary instances of importation and sale of infringing products are set forth below.

72. On information and belief, Intec imports the Accused Products into the United States from China. *See* Exhibit 21. The submitted photograph of the Wii Wave Remote packaging demonstrates that the device sold in the United States is “Made in China.” *See* Exhibit 21.

73. On information and belief, the Intec Accused Products directly infringe at least claims 1, 9 and 19 of the ’947 Patent when Intec imports and uses the Intec Accused Products for testing with the Nintendo Wii gaming console and a connected television with speakers. The television to which the gaming system is connected has speakers through which audible sounds are emitted. *See* Exhibits 11 & Exhibit 12 at 4 (depicting AV Multi Out Connector, which “[c]onnects to the AV cable for your television”), 9, 12, 18. The emitted audible sounds result from a sensed motion signal from the motion-sensitive actuator in the controller. *See* Exhibit 11.

74. On information and belief, Intec has known of the ’947 Patent since at least March 24, 2011. On information and belief, Intec has indirectly infringed claims 1, 9 and 19 of the ’947 Patent at least since March 24, 2011, by importing, offering for sale, selling, using and instructing others to use the Intec controllers with the Nintendo Wii gaming console system and a television.

75. With respect to contributory infringement, the Intec Accused Products are a component, *i.e.*, a controller, of the infringing Nintendo Wii gaming console system and a television. The controllers are a material part of the gaming console system in that the controllers are used to play games on the system. Intec knows, at least as of March 24, 2011, that the controllers are especially made for use in an infringement of the patent. Furthermore, the controllers are not staple articles or commodities of commerce suitable for substantial noninfringing use, because the controllers are used only in game play that infringes claims 1, 9 and 19 of the '947 patent. *See* Exhibit 11.

76. Intec has also actively induced infringement of claims 1, 9 and 19 of the '947 patent since no later than March 24, 2011 by intentionally directing users to infringe by using the accused controllers with gaming consoles such as the Nintendo Wii. *See* Exhibit 22 [Intec - Wii Wave Remote - G5700] at 1 ("This Wii Wave Remote is compatible with the Nintendo Wii and features intuitive motion controls that let you feel like you're a part of the game.").

77. An exemplary chart that applies independent claims 1, 9 and 19 of the '947 Patent to the representative accused Intec Nintendo Wii Wave Remote product is attached to this Complaint as Exhibit 23.

G. Mitsubishi

78. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Mitsubishi is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing projectors. On information and belief, the Mitsubishi Accused Products include at least the following products: EW270U, EW230U-ST, WD620U-G, WD620U, WD3300U, WD8200U and WL2650U. Exemplary instances of importation and sale of infringing products are set forth below.

79. On information and belief, Mitsubishi imports the Accused Products into the United States from the People's Republic of China. *See* Exhibit 26 (import record documenting specific instances of importation of Mitsubishi Accused projectors into the United States from the PRC).

80. On information and belief, Mitsubishi infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the Mitsubishi Accused Products in the United States.

81. On information and belief, Mitsubishi was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, Mitsubishi, on information and belief, has knowingly induced users of Mitsubishi's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the Mitsubishi Accused Products.

82. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused EW270U product is attached to this Complaint as Exhibit 27.

H. Optoma

83. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Optoma is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing projectors. On information and belief, the Optoma Accused Products include at least the following: EP1691, EW330, EW536, EW1610, GT700, GT720, PRO350W, PRO360W, TW330, TW536, TW610ST, TW675UTi-3D, TW675UTiM-3D, TW762, TW766W, TW775W, TW1692, TW6000 and TWR1693. Exemplary instances of importation and sale of infringing products are set forth below.

84. On information and belief, the Optoma imports the Accused Products into the United States from the People's Republic of China. *See* Exhibit 28 (import records documenting specific instances of importation of Optoma projectors into the United States from China).

85. On information and belief, Optoma infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the Optoma Accused Products in the United States.

86. On information and belief, Optoma was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, Optoma, on information and belief, has knowingly induced users of Optoma's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the Optoma Accused Products.

87. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused EW330 product is attached to this Complaint as Exhibit 29.

I. PDP

88. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, PDP is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing electronic devices. On information and belief, the PDP Accused Products include at least the following products: AFTERGLOW® AW.1 for Wii and NERF Remote - Motion Sensing Controller for Wii. Exemplary instances of importation and sale of infringing products are set forth below.

89. On information and belief, PDP imports the Accused Products into the United States from China. *See* Exhibit 30. The submitted photograph of the AFTERGLOW® AW.1 Remote packaging demonstrates that the device sold in the United States is "Made in China." *See* Exhibit 30.

90. On information and belief, the PDP Accused Products directly infringe at least claims 1, 9 and 19 of the '947 Patent when PDP imports and uses the PDP Accused Products for testing with the Nintendo Wii gaming console and a connected television with speakers. The television to which the gaming system is connected has speakers through which audible sounds are emitted. *See* Exhibits 11 & Exhibit 12 at 4 (depicting AV Multi Out Connector, which “[c]onnects to the AV cable for your television”), 9, 12, 18. The emitted audible sounds result from a sensed motion signal from the motion-sensitive actuator in the controller. *See* Exhibit 11.

91. On information and belief, PDP has known of the '947 Patent since at least March 7, 2011. On information and belief, PDP has indirectly infringed claims 1, 9 and 19 of the '947 Patent at least since March 7, 2011, by importing, offering for sale, selling, using and instructing others to use the PDP controllers with the Nintendo Wii gaming console system and a television.

92. With respect to contributory infringement, the PDP Accused Products are a component, *i.e.*, a controller, of the infringing Nintendo Wii gaming console system and a television. The controllers are a material part of the gaming console system in that the controllers are used to play games on the system. PDP knows, at least as of March 7, 2011, that the controllers are especially made for use in an infringement of the patent. Furthermore, the controllers are not staple articles or commodities of commerce suitable for substantial noninfringing use, because the controllers are used only in game play that infringes claims 1, 9 and 19 of the '947 patent. *See* Exhibit 11.

93. PDP has also actively induced infringement of claims 1, 9 and 19 of the '947 patent since no later than March 7, 2011 by intentionally directing users to infringe by using the accused controllers with gaming consoles such as the Nintendo Wii. *See* Exhibit 31 at 1 (“The AFTERGLOW® AW.1 for the Wii features a refined design and ergonomically modeled grip built for comfort and competition.”).

94. An exemplary chart that applies independent claims 1, 9 and 19 of the '947 Patent to the representative accused AFTERGLOW[®] AW.1 for Wii product is attached to this Complaint as Exhibit 32.

J. Planar

95. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Planar is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing projectors. On information and belief, the Planar Accused Products include at least the following products: PR5030. Exemplary instances of importation and sale of infringing products are set forth below.

96. On information and belief, the Planar imports the Accused Products into the United States from the People's Republic of China. *See* Exhibit 33 (import records documenting specific instances of importation of Planar projectors into the United States from China).

97. On information and belief, Planar infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the Planar Accused Products in the United States.

98. On information and belief, Planar was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, Planar, on information and belief, has knowingly induced users of Planar's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the Planar Accused Products.

99. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused PR5030 product is attached to this Complaint as Exhibit 34.

K. SuperSonic

100. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, SuperSonic is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing image display devices. On information and belief, the SuperSonic Accused Products include at least the following products: SC-1311, SC-1331, SC-192i, SC-1308, SC-1330, SC-1556, SC-191, SC-125AD-BK, SC-222, SC-322, SC-194, SC-192, SC-1910, SC-1568D, SC-1558 and SC-1550. Exemplary instances of importation and sale of infringing products are set forth below.

101. On information and belief, the SuperSonic imports the Accused Products into the United States from the Hong Kong. *See* Exhibit 35 (import record documenting specific instances of importation of SuperSonic televisions into the United States from Hong Kong).

102. On information and belief, SuperSonic infringes directly at least claims 1 and 2 of the '427 Patent directly by importing, offering for sale, selling, testing and/or using the SuperSonic Accused Products in the United States.

103. On information and belief, SuperSonic was aware of the '427 Patent at least as of March 24, 2011. Since at least that date, SuperSonic, on information and belief, has knowingly induced users of SuperSonic's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the SuperSonic Accused Products. Indeed, as evidence of SuperSonic's knowledge and intent to infringe claims 1 and 2 of the '427 Patent, SuperSonic altered its website with respect to the SuperSonic Accused Products to change the aspect ratio from 16:10 to 16:9. *Compare* Exhibit 36 (SuperSonic, Inc. web page dated 2009 showing Model SC-1330 with aspect ratio of 16:10 and resolution of 1280 × 800) *with* Exhibit 37 (SuperSonic, Inc. web page dated June 12, 2011 showing SC-1330 with aspect ratio of 16:9 and resolution of 1280 × 800); *see also* Exhibit 38 (third party web page dated June

12, 2011 showing SuperSonic SC-1330 with aspect ratio of 16:10 and resolution of 1280×800). At the same time, the listed resolution of the SuperSonic Accused Products, *e.g.*, “Resolution: 1280×800 ,” continues to evidence SuperSonic’s knowing and intentional infringement (*i.e.*, $1280 \div 800 = 1.6$). Exhibit 37.

104. An exemplary chart that applies independent claim 1 and dependent claim 2 of the ’427 Patent to the representative accused SC-1331 product is attached to this Complaint as Exhibit 39.

L. Toshiba

105. On information and belief, either by itself, through its subsidiaries, or through third parties acting on its behalf, Toshiba is engaged in one or more of the manufacture, importation, sale for importation, or sale after importation into the United States of infringing tablet and laptop computers. On information and belief, the Toshiba Accused Products include at least the following products: THRiVE tablet and L355 laptop. Exemplary instances of importation and sale of infringing products are set forth below.

106. On information and belief, the Toshiba Accused Products are assembled in a foreign country and imported into the United States. *See* Exhibit 40 (Toshiba annual financial review identifying Japan as location for electronics production) at 10. The Accused Products are imported into the United States and sold after importation in the United States by Toshiba through its Online store, us.Toshiba.com. *See* Exhibit 41.

107. On information and belief, Toshiba infringes directly at least claims 1 and 2 of the ’427 Patent directly by importing, offering for sale, selling, testing and/or using the Toshiba Accused Products in the United States.

108. On information and belief, Toshiba was aware of the ’427 Patent at least as of March 24, 2011. Since at least that date, Toshiba, on information and belief, has knowingly

induced users of Toshiba's Accused Products to infringe at least claims 1 and 2 of the '427 Patent by instructing users to use the infringing features of the Toshiba Accused Products.

109. An exemplary chart that applies independent claim 1 and dependent claim 2 of the '427 Patent to the representative accused THRiVE product is attached to this Complaint as Exhibit 42.

110. For the Commission's convenience, Ogma reproduces the following table, which summarizes the patent claims infringed by each Respondent as set forth in the preceding paragraphs:

		3M	Power A	Casio	Christie Digital	Eiki	Intec	Mitsubishi	Optoma	PDP	Planar	SuperSonic	Toshiba
'947 Patent	1		x				x			x			
	9		x				x			x			
	19		x				x			x			
'427 Patent	1	x		x	x	x		x	x		x	x	x
	2	x		x	x	x		x	x		x	x	x

VI. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

111. On information and belief, the Harmonized Tariff Schedule of the United States ("HTSUS") item numbers under which the infringing electronic products, components thereof, and products containing same have been imported into the United States may be classified under at least 8528 and 9504.10. These HTSUS classifications are intended for illustration only and are not intended to be restrictive of the accused devices and products.

VII. RELATED LITIGATION

112. On April 1, 2011, Ogma LLC filed a complaint in the United States International Trade Commission seeking commencement of an investigation under Section 337 to remedy the

unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation, by Activision Blizzard, Inc.; Apple, Inc.; Canon, Inc.; Canon USA Inc.; Seiko Epson Corporation; Epson America, Inc.; HTC America Inc.; HTC Corp.; InFocus Corp.; Jakks Pacific, Inc.; Kyocera Communications, Inc.; LEGO A/S dba LEGO Group; Lego Systems, Inc.; Lenovo (United States) Inc.; Lenovo Group Ltd.; Lenovo (Singapore) Pte. Ltd.; Mad Catz, Inc.; Motorola Mobility, Inc.; Nintendo Co., Ltd.; Nintendo Of America, Inc.; Nyko Technologies, Inc.; Sanyo North America Corp.; Sanyo Electric Co. Ltd.; Sanyo Electronic Device (U.S.A.) Corporation.; Sharp Corporation; Sharp Electronics Corporation; Sony Computer Entertainment America, LLC; Sony Corporation; Sony Corporation of America; Sony Electronics Inc.; Sony Ericsson Mobile Communications USA, Inc.; Sony Ericsson Mobile Communications AB; Vivitek Corp.; Vtech Electronics North America, LLC; VTech Holdings, Ltd.; ViewSonic Corp.; WowWee Group Ltd.; and WowWee USA, Inc. On April 26, 2011, Ogma LLC filed an amended complaint, as a result of settlement, now naming Activision Blizzard, Inc.; Canon, Inc.; Canon USA Inc.; Jakks Pacific, Inc.; Kyocera Communications, Inc.; LEGO A/S dba LEGO Group; Lego Systems, Inc.; Lenovo (United States) Inc.; Lenovo Group Ltd.; Lenovo (Singapore) Pte. Ltd.; Mad Catz, Inc.; Nintendo Co., Ltd.; Nintendo Of America, Inc.; Nyko Technologies, Inc.; Sony Ericsson Mobile Communications USA, Inc.; Sony Ericsson Mobile Communications AB; Vivitek Corp.; Vtech Electronics North America, LLC; VTech Holdings, Ltd.; ViewSonic Corp.; WowWee Group Ltd.; and WowWee USA, Inc. as Respondents. The Commission issued a notice instituting an investigation based on Ogma's Amended Complaint on May 13, 2011. The Investigation is No. 337-TA-773, *In the Matter of Certain Motion-Sensitive Sound Effects Devices and Image Display Devices and Components and Products Containing Same*, pending before Administrative Law Judge E. James Gildea.

113. On February 3, 2011, Ogma, LLC filed a lawsuit in the United States District Court for the Eastern District of Texas, Case No.: 11-cv-00075-TJW, against the following defendants, accusing each of them of patent infringement by virtue of their infringement of the '947 Patent: Activision Blizzard, Inc.; Bensussen Deutsch & Associates, Inc. D/B/A Power A; Griffin International Companies, Inc. D/B/A Psyclone; Harmonix Music Systems, Inc.; Intec, Inc.; Jakks Pacific, Inc.; Lego Systems, Inc.; Mad Catz, Inc.; Nintendo Of America, Inc.; Nyko Technologies, Inc.; Parrot, Inc.; Performance Designed Products LLC; Playhut, Inc. D/B/A Golive2 ("Playhut"); Rocky Mountain Radar, Inc. ("Rocky Mountain"); Sony Computer Entertainment America, Inc.; Source Audio, LLC; Vtech Electronics North America, LLC; WowWee Group Ltd.; and WowWee USA, Inc. To date, defendants Rocky Mountain and Playhut have answered the complaint.

114. On March 11, 2011, Ogma, LLC filed a lawsuit in the United States District Court for the Eastern District of Texas, Case No.: 2:11-cv-00166-DF-CE, against the following defendants, accusing each of them of patent infringement by virtue of their infringement of the '947 Patent: Apple, Inc.; Dell, Inc.; Hewlett-Packard Company; HTC America, Inc.; Kyocera Communications, Inc. ("Kyocera"); LG Electronics MobileComm U.S.A., Inc.; Motorola Mobility, Inc.; Nokia, Inc.; Palm, Inc.; Pantech Wireless, Inc.; Pharos Science and Applications, Inc.; Research In Motion Corporation; Sony Ericsson Mobile Communications (USA), Inc. ("Sony Ericsson"); and T-Mobile USA, Inc. To date, defendants Sony Ericsson and Kyocera have answered the complaint.

115. On March 14, 2011, Ogma, LLC filed a lawsuit in the United States District Court for the Eastern District Texas, Case No.: 2:11-cv-00168-TJW, against the following defendants, accusing each of them of patent infringement by virtue of their infringement of the '427 Patent: Apple, Inc.; HTC America, Inc.; HTC Corporation; LG Electronics MobileComm U.S.A., Inc.;

Motorola Mobility, Inc.; Sony Ericsson Mobile Communications AB; Sony Ericsson Mobile Communications (USA), Inc. (“Sony USA”); and T-Mobile USA, Inc. To date, only Sony USA has answered the district court complaint.

116. On March 16, 2011, Ogma, LLC filed a lawsuit in the United States District Court for the Eastern District of Texas, Case No.: 2:11-cv-00178 (“the Ogma/3M Suit”), against the following defendants, accusing each of them of patent infringement by virtue of their infringement of the ’427 Patent: 3M Company; ASUSTeK Computer, Inc.; ASUS Computer International; Canon, Inc.; Canon U.S.A., Inc.; Casio Computer Co., Ltd.; Casio America, Inc.; Christie Digital Systems USA (“Christie Digital”), Inc.; Coby Electronics Corp.; Dukane Corporation; Eiki International, Inc.; Seiko Epson Corporation; Epson America, Inc.; Haier Group Company; Haier America Trading, L.L.C. (“Haier America”); InFocus Corporation; Lenovo Group, Ltd.; Lenovo Holding Company, Inc.; Lenovo (United States), Inc.; LG Electronics, Inc.; LG Electronics U.S.A., Inc.; Micro-Star International Co., Ltd.; MSI Computer Corp.; Mitsubishi Electric Corporation; Mitsubishi Electric & Electronics USA, Inc.; NEC Corporation; NEC Corporation of America; Optoma Corporation; Optoma Technology, Inc.; Panasonic Corporation; Panasonic Corporation of North America; Planar Systems, Inc. (“Planar”); Runco International, L.L.C. (“Runco”); Sanyo Electric Co., Ltd.; Sanyo North America Corporation; Sharp Corporation; Sharp Electronics Corporation; Sony Corporation; Sony Electronics, Inc.; Supersonic, Inc.; Systemax, Inc.; Toshiba Corporation; Toshiba America Information Systems, Inc.; ViewSonic Corporation; and Vivitek Corporation. To date, defendants Christie Digital, Haier America, Planar and Runco have answered the complaint.

117. In addition, Ogma’s claims against certain of the defendants in the Ogma/3M Suit have been severed and stayed pending resolution of all International Trade Commission proceedings between Ogma and those defendants. The defendants to the Ogma/3M Suit who

have had their claims severed and stayed are as follows: Canon Inc. and Canon U.S.A., Inc. (claims severed and now pending as Case No. 2:11-cv-275); ViewSonic Corporation (claims severed and now pending as Case No. 2:11-cv-277); and Vivitek Corporation (claims severed and now pending as Case No. 2:11-cv-278).

118. On December 18, 2006, James MacLeod filed a lawsuit in the United States District Court for the Central District of California against Hewlett Packard, Inc. and Dell, Inc. alleging infringement of the '427 Patent. The case was settled after Hewlett Packard and Dell took licenses to the '427 Patent.

119. There have not been any other court or agency actions, domestic or foreign, involving the Asserted Patents.

VIII. THE DOMESTIC INDUSTRY

120. As required by Section 337(a)(2) and defined by Section 337(a)(3), a domestic industry exists in the United States in connection with the Asserted Patents. Ogma and the predecessors-in-interest of the Asserted Patents have made substantial investments in the exploitation of the Asserted Patents in the United States. Further, Ogma's licensees have made substantial investments in plant, equipment, labor and capital in the exploitation of the '947 and '427 Patents.

A. A Domestic Industry for the Asserted Patents Exists as a Result of the Domestic Activities of Licensees of the Asserted Patents, as well as the Activities of the Previous Owners of the Asserted Patents.

1. A Domestic Industry Exists for the '947 Patent.

121. As required by Section 337(a)(2) and defined by Section 337(a)(3), an industry in the United States exists in connection with articles protected by the '947 Patent. Ogma has licensed the '947 Patent to Source Audio, Inc., a Massachusetts-based company with its principal place of business at 120 Cummings Park, Woburn, Massachusetts 01801. Confidential Exhibit

43 – Source Audio License. Source Audio designs and sells products for use with electric guitar and bass instruments.

122. Meeting the economic prong of the domestic industry requirement, Ogma's licensee, Source Audio, Inc., conducts significant domestic industry activities in the United States relating to its "Hot Hands" products, which practice the Asserted Patents. These activities include significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the subject patents, including engineering, research and development. Source Audio, Inc. continues to conduct many activities in the United States that relate to products that practice the '947 Patent. Confidential Exhibit 44.

123. Ogma also satisfies the technical prong of the domestic industry requirement regarding the '947 Patent. Ogma's licensee, Source Audio, Inc., currently engages in design, research, testing, engineering and development activities for products that practice valid claims of the '947 Patent. These products include, but are not limited to, the Hot Hands Motion Controlled Phaser Flanger. Confidential Exhibit 44 – Source Audio Declaration.

124. An exemplary claim chart, attached to this Complaint as **Exhibit 53**, applies exemplary claim 1 of the '947 Patent to Source Audio's Hot Hands Motion Controlled Phaser Flanger player. This claim chart demonstrates that Source Audio products practice the invention claimed in the '947 Patent.

125. The domestic industry requirement of Section 337(a)(2) in connection with articles protected by the '947 Patent is also evidenced by the development and production of products in the United States that practice the '947 Patent by Mr. James Shima, the inventor of the '947 Patent, who assigned the patent to Ogma. Confidential **Exhibit 54** details Mr. Shima's domestic industry activities. For example, in 2010, Mr. Shima formed Shima LLC for the purpose of development and licensing of the claimed invention. *Id.*

2. A Domestic Industry Exists for the '427 Patent.

126. As required by Section 337(a)(2) and defined by Section 337(a)(3), an industry in the United States also exists in connection with articles protected by the '427 Patent. Ogma's predecessor licensed the '427 Patent to Hewlett-Packard Company ("HP"). *See* Confidential Exhibit 45 (Declaration of Michael Connelly) ¶¶ 9-10; Confidential Exhibit 46 (Supplemental Declaration of Michael Connelly). HP is a California-based company with its principal place of business at 3000 Hanover Street, Palo Alto, California, 94304-1105. *See* Exhibit 47 (HP ITC complaint) at caption. HP is a global manufacturer and market leader in desktop, notebook, server and handheld computers and related peripherals, including LCD displays. *See id.* ¶¶ 3, 100-102.

127. Meeting the economic prong of the domestic industry requirement, current '427 Patent licensee HP has conducted significant domestic industry activities in the United States relating to its LCD monitor products, which practice the Asserted Patents. These activities include significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the subject patents, including engineering, research and development. HP has sold billions of dollars of products and services, including LCD monitors in the United States. Exhibit 47 (HP ITC complaint) ¶¶ 4, 41-43. As of 2006, HP's annual research and development budget, a portion of which was devoted to LCD monitors, was almost \$4 billion. *Id.* ¶ 4. Ogma can obtain further evidence of HP's domestic industry through discovery after institution, as necessary.

128. An analysis of HP's products also demonstrates satisfaction of the technical prong of the domestic industry requirement for the '427 Patent. Current '427 licensee HP continues to engage in design, research, testing, engineering and development activities for products that practice valid claims of the '427 Patent. These products include, but are not limited to, the HP

TouchSmart tm2t series notebook computer. Exhibit 48 – (HP TouchSmart tm2 and tm2t series HP-Official Store) and Exhibit 48-1 HP TouchSmart tm2 and tm2t series.

129. An exemplary claim chart attached to this Complaint as Exhibit 49 applies exemplary claims 1 and 2 of the '427 Patent to the HP TouchSmart tm2t series notebook computer. This claim chart demonstrates that HP products practice the invention claimed in the '427 Patent. Ogma can obtain further evidence that HP's products practice the '427 Patent through discovery after institution, if necessary.

B. A Domestic Industry for the Asserted Patent Exists as a Result of the Licensing Efforts of Ogma and its Predecessors

130. Ogma focuses its business on acquiring, licensing, and enforcing patented technology in the consumer electronics and communications industry. In 2011, Ogma acquired patents relating to consumer electronics and communications devices. The amount of Ogma's investment in this portfolio is provided in Confidential Exhibit 45, Declaration of Michael Connelly.

131. Ogma and its predecessors have made substantial investments in the research and evaluation of its patent portfolio to identify licensing opportunities in the consumer electronics and communications industry. This due diligence process has included market research, purchase, and analysis of consumer electronics and communications products. Ogma's analysis has identified infringement of the '947 and '427 Patents. Confidential Exhibit 45 includes Ogma's research and evaluation expenditures relating to infringement of the '947 and '427 Patents by various consumer electronics and communications products.

132. Ogma has two persons who pursue licensing of the Asserted Patents. These personnel are responsible for managing the day-to-day operations associated with the acquisition,

licensing, and enforcement of Ogma's patented technology for consumer electronics and communications devices, including the '947 and '427 Patents.

133. Ogma and its predecessors-in-interest have incurred significant costs to enforce the Asserted Patents through the litigation described in Paragraphs 112-118 of the Complaint. Confidential Exhibit 45 includes Ogma's legal fees and out-of-pocket expenses relating to the litigation described in those paragraphs.

134. Aside from Ogma's enforcement efforts, Ogma routinely engages in licensing discussions with companies that manufacture and sell consumer electronics and communications devices. For example, Ogma has sent letters to almost 60 entities to invite them to license one or both of the Asserted Patents. The identities of those entities are set forth in Confidential Exhibit 45. Ogma's predecessors have also incurred significant expenditures in conjunction with their efforts to license the Asserted Patents. In addition to the identities of the third parties with which Ogma and its predecessors have discussed licensing one or more of the Asserted Patents, Confidential Exhibit 54 also identifies certain costs incurred to pursue those licensing opportunities.

135. As noted above, Ogma and its predecessors have been successful in their efforts to license the Asserted Patents. In addition, Ogma is currently in active licensing negotiations regarding the Asserted Patents with several other entities. Confidential Exhibit 45 provides further details of Ogma and its predecessors' ongoing licensing efforts.

IX. RELIEF REQUESTED

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

- (a) Institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (b)(1), with respect to

violations of Section 337 based upon the importation, sale for importation, and sale after importation, into the United States of Respondents' motion-sensitive sound effects devices and image display devices and components and products containing same that infringe one or more of the Asserted Claims of the Asserted Patents;

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

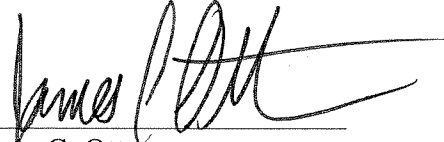
(c) Issue a permanent exclusion order pursuant to 19 U.S.C. § 1337(d)(1) barring from entry into the United States all of Respondents' motion-sensitive sound effects devices and image display devices and components and products containing same that infringe one or more of the asserted claims of the Asserted Patents;

(d) Issue permanent cease and desist orders, pursuant to 19 U.S.C. § 1337(f), directing each Respondent to cease and desist from importing, marketing, advertising, demonstrating, warehousing inventory for distribution, offering for sale, selling, distributing, licensing, or using Respondents' imported motion-sensitive sound effects devices and image display devices and components and products containing same that infringe one or more of the asserted claims of the Asserted Patents; and

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

Dated: June 13, 2011

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James C. Otteson", written over a horizontal line.

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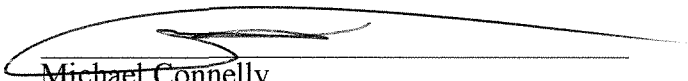
Counsel for Complainant
OGMA, LLC

VERIFICATION OF COMPLAINT

I, Michael Connelly, am President of Ogma, LLC ("Ogma"), and am duly authorized to execute this complaint on behalf of Ogma. I have read the Complaint and am aware of its contents. To the best of my knowledge, information and belief, formed after an inquiry that is reasonable under the circumstances, I hereby certify as follows:

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

I declare under penalty of perjury on this 13th day of June, 2011 that the foregoing is true and correct.


Michael Connelly
President
Ogma, LLC