

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

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| In the Matter of CERTAIN VIDEO DISPLAYS AND PRODUCTS USING AND CONTAINING SAME | Investigation No.: 337-TA-_____ |
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**COMPLAINT OF MONDIS TECHNOLOGY, LTD.
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

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I. INTRODUCTION

1. This Complaint is filed by Mondis Technology, Ltd. ("Mondis") under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

2. The Proposed Respondents are Chimei Innolux Corporation and Innolux Corporation (collectively, "Innolux").

3. Mondis brings this action seeking remedy under Section 337 of the Tariff Act for the unlawful and unauthorized importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain video displays and products containing and using same such as computer monitors and televisions that infringe at least claim 15 of United States Patent No. 6,247,090 ("the '090 Patent") and claim 15 of United States Patent No. 7,089,342 ("the '342 Patent") (together, "the asserted patents"). Certified copies of the '090 and '342 Patents, their prosecution histories, and all patents and publications referenced therein accompany this Complaint as Exhibits 1 and 2, and as Appendices A (Parts 1 & 2), B¹, and C respectively.

4. Mondis owns all substantial rights, title, and interest in the '090 and '342 patents. A certified copy of the recorded assignment for the '090 and '342 patents accompanies this Complaint as Exhibit 3.

5. The '090 and the '342 patents are the subject of a number of licenses (described further in Paragraph 59) to leading companies in the video display, computer monitor and television industries. The '090 and '342 patents were the subject of an action in the United States District Court for the Eastern District of Texas in which claim 15 of the '090 Patent and claim 15 of the '342 Patent were both found by a jury to be valid and infringed by the Proposed

¹ The certified original file history of the '342 Patent (U.S. Application No. 10/772,376) was sent from the U.S. Patent Office on a disc labeled "certified."

Respondents. The '090 and '342 patents are also the subject of a pending appeal to the United States Federal Circuit of the judgment in the United States District Court for the Eastern District of Texas as described further in Paragraphs 95-103 of this Complaint.

6. As required by Section 337(a)(2) and defined in Section 337(a)(3), an industry in the United States exists relating to the technology protected by the '090 and '342 patents.

7. Mondis seeks relief from the United States International Trade Commission ("Commission") in the form of a permanent exclusion order pursuant to Section 337(d) excluding from entry into the United States certain video displays and products using and containing same such as computer monitors and televisions, that infringe either or both of the valid and enforceable asserted patents. Mondis also seeks permanent cease and desist orders pursuant to Section 337(f) directing each of the Proposed Respondents to cease and desist from the importation, marketing, advertising, demonstrating, and warehousing inventory of the accused video displays and video display products for distribution, sale and use in the United States.

II. COMPLAINANT

8. Mondis is a corporation organized under the laws of England with its principal place of business at Suite 3C Lyttelton House, 2 Lyttelton Road, London N2 0EF, England.

9. Mondis and its predecessor in interest in the asserted patents, have conducted an extensive licensing program for the '090 and '342 patents, focusing primarily on the video display industries and products containing or using same such as the computer monitor and television industries. No fewer than 20 licenses that include the '090 and '342 patents have been entered into for video displays and video display products including computer monitors and/or televisions. Licensees of the asserted patents include Samsung Electronics Ltd., LG Electronics, Hitachi Ltd., Wistron, and Top Victory Electronics (TPV).

III. PROPOSED RESPONDENTS

10. The Proposed Respondents are Chimei Innolux Corporation and Innolux Corporation, collectively "Innolux."

11. Chimei Innolux Corporation is a Taiwanese corporation with its principal place of business at No. 160 Kesyue Road, Miaoli County, Taiwan, Republic of China. Chimei Innolux Corporation designs and manufactures the accused video displays overseas in Taiwan and China and is responsible for the importation into the United States, the sale for importation, or the sale within the United States after importation of video displays and video display products including computer monitors and/or televisions that infringe one or more claims of the asserted patents.

12. Innolux Corporation is a company organized under the laws of the State of Texas with its principal place of business at 2525 Brockton Drive, Austin, Texas. Innolux Corporation is the U.S.-based sales, marketing and support subsidiary of Chimei Innolux and is responsible for the importation into the United States, the sale for importation, or the sale within the United States after importation of video displays and video display products including computer monitors and/or televisions that infringe one or more claims of the asserted patents. Upon information and belief, Innolux Corporation has an inventory of infringing video display products in the United States.

IV. THE TECHNOLOGY AT ISSUE

13. The '090 and '342 patents both claim priority to a common grandparent application and share the same figures and written description. These patents are directed to what is commonly known as "Plug-and-Play" technology. Plug-and-Play generally refers to the automatic recognition of particular peripheral computer devices, in this case video displays, which obviates the need for a user to manually configure a video display for use with the user's particular computer or other data source. Rather, with Plug-and-Play, a video source (*e.g.*,

personal computer) can configure itself to send compatible or optimized video signals to a connected video display such as a computer monitor or television. This is made possible by the asserted inventions which store and transmit information about specific video displays, including such things as the display type, an identification number for the display unit, adjustment data, factory preset values, and data corresponding to the frequency range of compatible video signals. This communication is bi-directional, enabling the video display to communicate its information to the video source. The video source can make use of the information from the video display to configure itself to output compatible or optimized signals for the particular display that is connected.

14. The advantages and benefits of the claimed inventions are plain. Plug-and-Play capabilities allow all computer users, especially unsophisticated ones, to buy and connect Plug-and-Play compliant displays to their computers and be assured that the display will receive and display a video signal without having to make any manual adjustments or manipulate the settings of the computer's operating system or video graphics controller.

15. Plug-and-Play technology is so fundamental to the video display industry that the Video Electronic Standards Association ("VESA"), which is the industry's standards setting organization, has promulgated a technical standard for Plug-and-Play. This standard, in turn, relies on two additional standards. The first, the Extended Display Identification Data ("EDID") Standard, describes the format and contents of the video display unit information that is stored in the display's memory. The second, the Display Data Channel ("DDC") Standard, describes the requirements of a bi-directional interface between the video display and the computer to allow the display to communicate the display unit information to the computer.

16. The Plug-and-Play technology of the asserted patents is so critical to the computer industry that Microsoft has mandated that any display bearing the Microsoft Windows Logo (e.g., “Designed for Windows” or “Compatible with Windows”) must support Plug-and-Play. Innolux witnesses testified under oath at the trial described in detail in paragraphs 95-103, that all Innolux computer monitors were designed to meet the Windows Logo requirements and, thus, the monitors necessarily possess Plug-and-Play capability.

17. Hitachi Ltd. is the original owner of the asserted patents. Following issuance of the asserted patents, Hitachi notified VESA of its patent rights and said it would be willing to offer a license to VESA member applicants on reasonable terms free of unfair discrimination.

18. All Innolux video display units, including both computer monitors and televisions, support VESA Plug-and-Play functionality. Further, all video display units that support VESA Plug-and-Play necessarily infringe at least claim 15 of the '342 Patent.

19. The asserted patents also describe additional functionality, such as the ability of a video display unit to receive a control instruction from a video source to adjust the displayed image (e.g., size, position, brightness, contrast, color). This functionality increases the user friendliness of the display unit because it permits users to easily adjust image parameters through their computer without having to manually fiddle with small buttons on the display itself and navigate confusing on-screen displays.

20. VESA has also promulgated a video display standard that describes the capability of a display unit to receive control instructions from a computer through a bi-directional communications channel in order to adjust the displayed image. This standard is known as the “Display Data Channel Command Interface Standard” or “DDC/CI.”

21. In addition to implementing Plug-and-Play, all Innolux computer monitors also implement the VESA DDC/CI Standard. Innolux's computer monitors comply with the VESA Plug-and-Play and DDC/CI standards in a manner that necessarily infringes at least claim 15 of the '090 Patent.

V. THE PRODUCTS AT ISSUE

22. The accused video displays and products containing or using same comprise both computer monitors and televisions. The accused video display units include the following basic components: (1) input port(s); (2) one or more EDID electrically erasable read only memory (EEPROM); (3) an LCD controller; and (4) an LCD panel module.

23. Each of the accused products contains at least one input port. The accused computer monitors and televisions generally include a VGA input port. VGA ports receive red, green, and blue video signals and horizontal and vertical synchronization signals. Additionally, the VGA port implements a Philips I2C serial communications channel between the computer and the display unit that is used to exchange display unit information and control signals between the computer and the display unit. Most of the accused computer monitors also include a DVI port. DVI uses a digital interface to convey the video and sync signals in digital form and also implements an I2C communications channel between the display unit and the computer. Some of the accused computer monitors and all of the accused televisions further include one or more HDMI ports, which are typically used to connect a DVD player, Blu-ray player, satellite box, cable box, or personal computer gaming system. HDMI ports receive video and sync signals in the form of digital image data and also implement an I2C data channel.

24. In addition to one or more of the foregoing input ports, computer monitors and televisions typically include one or more EEPROM, wherein one such EEPROM is typically associated with each of the video input ports. These EEPROMs are used to store display unit

information in accordance with the VESA Extended Display Identification Data (EDID) Standard. The stored information includes a product ID code, a manufacturer ID code, a display serial number, display type information, identification of supported power management functions, and timing data (*i.e.*, compatible and optimal video frequencies). The EDID EEPROM's can be queried by an attached video source through the I2C data channel. Thus, the EDID EEPROM's include an I2C communication controller for implementing the communication protocols described in the Philips I2C Bus Specification.

25. Each display also includes an LCD Controller, which is also known as a "scaler" or "system-on-a-chip." The LCD Controller includes a video circuit that receives the video signals received at the VGA, DVI, and/or HDMI ports. The LCD Controller processes the incoming video signals and converts them into an output format compatible with the LCD panel module. The processed image data is conveyed from the LCD Controller to the LCD panel; module using a Low Voltage Differential Signaling (LVDS) bus. The LCD Controller is also connected to the I2C data channels at each of the input ports.

26. Each display also includes an LCD panel module. This module contains the physical liquid-crystal display screen itself. The panel module also includes a backlight (typically florescent or LED) behind the LCD matrix since the display works by selectively blocking the light being transmitted through the liquid crystal matrix.

VI. THE PATENTS-IN-SUIT AND NON-TECHNICAL DESCRIPTION OF THE INVENTIONS

27. Mondis asserts two patents in this investigation: U.S. Patent No. 6,247,090 ("the '090 Patent") and U.S. Patent No. 7,089,342 ("the '342 Patent").

A. U.S. Patent No. 6,247,090

28. Mondis asserts claim 15 of the '090 Patent as being infringed by the Proposed Respondents in this matter.

1. Identification of the Patent and Ownership by Mondis Technology, Ltd.

29. The '090 Patent entitled "Display Apparatus Enabled to Control Communicability with an External Computer Using Identification Information" issued on June 12, 2001 with claims 1 through 4. The '090 Patent issued from U.S. Patent Application No. 09/265,363. This application descended through one or more continuations from U.S. Patent Application No. 08/190,848 filed on February 3, 1994, and claims priority to Japanese Patent Application No. 5-022212, filed February 10, 1993.

30. The '090 Patent was reexamined by the U.S. Patent and Trademark Office (the "PTO"). A Reexamination Certificate for the '090 Patent issued on July 20, 2010, with new claims 5 through 26. A copy of the file history of the reexamination accompanies the Complaint as Appendix D. A certified copy has been ordered and will be provided immediately upon receipt.

31. On November 2, 2010, a first Certificate of Correction issued for the '090 Patent which corrected claims 9, 11, and 14 through 17. In particular, this Certificate replaced original claim 15, which was dependent on claim 14, with corrected claim 15, which is properly dependent on independent claim 3.

32. On December 28, 2010, a second Certificate of Correction issued for the '090 Patent which corrected claims 19 through 26.

33. Mondis is the assignee and owner of all substantial rights, title, and interest in and to the '090 Patent, including the right to assert all causes of action arising under the '090 Patent and the right to any remedies for infringement of the '090 Patent.

34. Dependent claim 15 of the '090 Patent, which is an apparatus claim, is asserted as being infringed by the Proposed Respondents in this matter.

35. Claim 15 of the '090 Patent has a priority date of February 10, 1993, pursuant to 35 U.S.C. § 119 and an effective U.S. filing date of February 3, 1994, pursuant to 35 U.S.C. § 120.

36. Pursuant to Commission Rule 210.12(c), this Complaint is accompanied by a certified file history of the '090 Patent (Appendix A) and three additional copies thereof, as well as a copy of each patent and technical reference mentioned in the prosecution history of the '090 Patent (Appendix C) and four additional copies thereof.

2. Description of the Patent Claim

37. Asserted claim 15 of the '090 Patent and Claim 3 from which it depends, is set forth below:

3. A display unit comprising:

a video circuit adapted to display video signals sent by a video source;

a memory in which at least display unit information includes an identification number for uniquely identifying the display unit;

and a communication controller capable of bi-directionally communicating with the video source;

wherein said communication controller communicates the display unit information from the display unit to the video source and said display unit receives a signal from said video source that is generated based on the display unit information.

15. The display unit according to claim 3, wherein the display unit is capable of receiving control instructions from the video source to adjust the displayed image.

38. Claim 15 of the '090 Patent relates to storing and communicating display unit information to a video source using a bi-directional communications channel. The video source

can then use the display unit information to generate compatible signals for the video display unit. Additionally, the '090 Patent describes using the communication channel to send control instructions from the computer to the video display in order to adjust the displayed image. The foregoing is reflected by the invention claimed in claim 15.

39. Proposed Respondents' accused video displays and products containing and using same all include an LCD Controller that possesses a video circuit adapted to display video signals sent by a video source.

40. The accused displays all include an EEPROM or other memory, storing display unit information in the form of display data described in the VESA EDID Standard. This information includes: a product ID code, manufacturer ID code, display serial number, display type, supported power management functions, and timing data. The stored serial number comprises an "identification number for uniquely identifying the display unit."

41. The accused video displays also include at least one I2C communication controller embedded in the EDID EEPROM to facilitate data communications with an attached video source in accordance with the bi-directional communications protocols defined in the Philips I2C Bus Specification and the VESA DDC Standard. The accused video displays also include at least one I2C communication controller in the LCD Controller so that the LCD Controller may also communicate with an attached video source via the I2C communications channel.

42. The accused video displays are configured to communicate the display unit information stored in their EDID EEPROM's to a video source across the I2C communications channel upon receipt of a query for the display unit information from the video source. The accused video displays are then capable of subsequently receiving a signal from the video

source, such as a video signal, that has been generated by the video source based upon the display unit information.

43. The accused computer monitors are further capable of receiving DDC/CI control instructions from the video source across the I2C communications channel in order to adjust the displayed image (e.g., brightness, contrast, position, color). These control instructions are received and applied by the LCD Controller to adjust the image.

44. Each and every limitation of claim 15 is present in each of the accused computer monitors. Hence, all the accused computer monitors infringe the '090 Patent.

B. U.S. Patent No. 7,089,342

45. Mondis asserts claim 15 of the '342 Patent as being infringed by the Proposed Respondents in this matter.

1. Identification of the Patent and Ownership by Mondis Technology, Ltd.

46. U.S. Patent No. 7,089,342 ("the '342 Patent") entitled "Method Enabling Display Unit to Bi-Directionally Communicate with Video Source" issued on August 8, 2006 with claims 1 through 18. The '342 Patent issued from U.S. Application No. 10/772,376 which was filed on February 6, 2004. This application descended through one or more continuations from U.S. Patent Application No. 08/190,848 which was filed on February 3, 1994, and claims priority to Japanese Patent Application No. 5-022212, filed February 10, 1993.

47. A Certificate of Correction for the '342 Patent issued on April 1, 2008 that corrected errors in the related U.S. application data. A superseding Certificate of Correction was issued on May 6, 2008 that simply corrected a PTO typographical error in the original Certificate.

48. Mondis is the assignee and owner of all substantial rights, title, and interest in and to the '342 Patent, including the right to assert all causes of action arising under the '342 Patent and the right to any remedies for infringement of the '342 Patent.

49. Dependent claim 15 of the '342 Patent, which is a method claim, is asserted as being infringed by the Proposed Respondents in this matter.

50. Claim 15 of the '342 Patent depends from independent claim 14 of the '342 Patent.

51. Pursuant to Commission Rule 210.12(c), this Complaint is accompanied by a certified file history of the '342 Patent (Appendix B) and three additional copies thereof, as well as a copy of each patent and technical reference mentioned in the prosecution history of the '342 Patent (Appendix C) and four additional copies thereof.

2. Description of the Patent Claim

52. Asserted claim 15 of the '342 Patent is set forth below:

14. A method for a display unit displaying video signals sent by a video source, the method comprising the step of:

communicating display unit information stored in a memory of the display unit to the video source via a bi-directional communication link;

wherein the display unit information which is stored in the memory and is communicated to the video source includes an identification number for identifying the display unit.

15. A method according to claim 14, wherein the display unit information which is stored in the memory further includes information other than the identification number.

53. Claim 15 of the '342 Patent relates to storing and communicating display unit information to a video source using a bi-directional communications channel, wherein the

display unit information includes an identification number for identifying the display unit together with other information.

54. Claim 15 of the '342 Patent is performed by the accused displays whenever a connected computer running a major operating system (e.g., Microsoft Windows, Apple Macintosh) is turned on. Upon boot-up the computer will send an EDID query to the display over the bi-directional I2C communications channel. The display unit will respond by reading the EDID data out of the EEPROM memory and communicating the EDID data to the computer. The EDID data contains an identification number for identifying the display unit in the form of a product ID code and/or a serial number. The EDID data also contains other information such as timing data and the supported power management modes.

55. Because the method of claim 15 is performed by the accused video display units every time a connected computer is powered on, there are many direct infringements.

56. There is no substantial non-infringing use for the accused computer monitors other than to connect them to a computer. Thus, the importation and sale of the accused computer monitors constitutes contributory infringement and inducement of infringement.

57. The Proposed Respondents contribute to and induce infringement of claim 15 of the '342 Patent by, among other things: (1) providing computer input ports on their video display devices; (2) designing the video displays to be compliant with the VESA Plug-and-Play and/or EDID standards; (3) providing instructions to end users on how to connect the video displays to computers, including computers running Microsoft Windows; (4) designing the video display to meet Microsoft Windows Logo Program requirements; (5) advertising or marking the products with the Windows Logo or as being VESA Plug-and-Play compliant; and (6) providing Windows drivers and software with the display.

C. Foreign Counterparts to the Patents

58. The '090 and '342 patents claim priority to Japanese Application No. 5-022212 which was filed on February 10, 1993. There are Japanese counterparts to the '090 and '342 patents. In particular, Japanese Patent Nos. 3334211 and 3749879. There are also German counterparts to the '090 and '342 patents. More particularly German Pat. Nos. 4404104 and 4447944. These two German counterpart patents have been asserted against Chimei Innolux Corporation by Mondis in Germany. That litigation is currently pending. A list of all foreign counterparts to the '090 and '342 patents accompanies this Complaint as Exhibit 4. There are no other foreign counterparts to the asserted patents.

D. Licenses

59. Pursuant to Commission Rule 210.12(a)(9)(iii), a confidential list of entities who have licensed the asserted patents accompanies this Complaint as Confidential Exhibit 5. At the time of this filing, there are no other licenses under the asserted patents.

VII. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS: PATENT INFRINGEMENT

60. The Proposed Respondents' accused products are video displays and products containing or using same such as computer monitors and televisions that utilize Mondis's patented technology.

61. Innolux sells for importation, imports, and/or sells after importation certain video displays and products containing or using same such as computer monitors and televisions that infringe at least claim 15 of the '090 Patent and/or claim 15 of the '342 Patent.

62. A list of the computer monitors manufactured by Innolux that are accused of infringing at least claim 15 of the '090 Patent accompanies this Complaint as Exhibit 6.

63. A list of the computer monitors and televisions manufactured by Innolux that are accused of infringing at least claim 15 of the '342 Patent accompanies this Complaint as Exhibit 7.

64. The accused products manufactured by Innolux have been fully and finally adjudicated as infringing claim 15 of the '090 Patent and/or claim 15 of the '342 Patent. These findings are reflected in the August 30, 2011 final judgment of the United States District Court for the Eastern District of Texas in the matter of *Mondis Tech., Ltd. v. LG Elecs., Inc., et al.*, Civil Action No. 2:07-cv-565 ("*Mondis Tech.*"). A copy of that judgment accompanies this Complaint as Exhibit 8.

65. Pursuant to Commission Rule 210.12(a)(9)(viii), a chart that applies claim 15 of the '090 Patent to the accused computer monitors accompanies this Complaint as Exhibit 9. As demonstrated by this claim chart, the accused products infringe claim 15 of the '090 Patent.

66. Pursuant to Commission Rule 210.12(a)(9)(viii), a chart that applies claim 15 of the '342 Patent to the accused computer monitors and televisions accompanies the Complaint as Exhibit 10. As demonstrated by this claim chart, the accused products infringe claim 15 of the '342 Patent.

67. The accused video displays and products containing and using same are designed, manufactured, assembled, packaged, and/or tested overseas, specifically in Taiwan and China by Innolux. These same video display products are then imported into the United States, sold for importation, and/or sold within the United States after importation by Innolux. Innolux's acts constitute direct, contributory, and/or induced infringement of the asserted claims of the asserted patents. The importation into the United States, sale for importation, and/or sale after importation within the United States of the accused products directly infringes the asserted

claims of the asserted patents by, for example, providing infringing products to customers who use, assemble, or sell the accused products in an infringing manner. Innolux actively induces others to infringe by, for example, selling the accused products with directions, guides, manuals, training, and other materials that encourage infringement use, assembly, or sale of the accused products. Similarly, by importing and selling the accused video displays which have no non-infringing use, Innolux is contributing to the infringement of claim 15 of the '342 Patent.

68. Innolux received notice of the '342 Patent pursuant to 35 U.S.C. § 287(a) on May 7, 2008, and received notice of the '090 Patent on April 1, 2005. In addition to receiving notice letters from Mondis, Innolux received actual notice from Mondis due to the patent infringement lawsuit filed against Innolux by Mondis in the Eastern District of Texas as further described in paragraphs 80 and 95-103.

VIII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

69. On August 5, 2010, agents of Mondis purchased a Lenovo Thinkvision L2251X computer monitor. During the Mondis Tech. case, Mondis' expert Joseph D. Lamm opined that the Lenovo-branded L2251X monitor, manufactured by Innolux, infringes claim 15 of the '090 Patent and claim 15 of the '342 Patent. Mr. Lamm's infringement charts for the Lenovo L2251X monitors accompany this Complaint as Exhibits 11 and 12 respectively. Mr. Lamm's Declaration regarding these Lenovo claim charts accompanies this Complaint as Exhibit 13². Technical documents supporting these claim charts accompany this Complaint as Exhibit 14 (parts A-O). As of December 19, 2011, the Lenovo L2251XW computer monitor was available for purchase in the United States. On January 11, 2012, agents of Mondis placed orders for two additional Lenovo-branded L2251X monitors to be delivered in Texas. The details surrounding these

² Mr. Lamm's Declaration also addresses the Hitachi, Samsung, and LGE claim charts in the following paragraphs of this Complaint.

specific instances of unfair importation and sale are set forth in the Declaration of Jeffrey B. Plies which accompanies this Complaint as Exhibit 15.

IX. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

70. The Harmonized Tariff Schedule of the United States item numbers under which the infringing products may have been imported into the United States include at least: 8471 (automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included), 8517.12.00, 8517.18.00, 8525, 8528 (monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus), 8528.72.28, 8528.72.32, 8528.72.62, 8528.72.68, 8528.72.72, 8529 (parts suitable for use solely or principally with the apparatus of headings 8525 to 8528), 8542.31.00 (processors and controllers), 8542.32.00 (memories), 8542.32.50 (EEPROMs), and 8542.60 (EPROMs). These classifications are intended for illustrative purposes only and are not intended to restrict the scope or type of accused product.

X. THE DOMESTIC INDUSTRY

A. Mondis' Licensing and Litigation Investments Related to Exploitation of the '090 and '342 Patents

71. Mondis' activities in the United States constitute a domestic industry pursuant to 19 U.S.C. § 1337(a)(2) and (a)(3). Mondis' activities constitute significant investment in the exploitation of the '090 and '342 patents through enforcement and licensing.

72. Mondis is the assignee and owner of all substantial rights, title, and interest in and to the '090 and '342 patents, including the right to assert all causes of action arising under the

'090 and '342 patents and the right to any remedies for infringement of the '090 and '342 patents.

1. ***Substantial Domestic Investments Related to Licensing of the '090 and '342 Patents***

73. Since acquiring the patents in 2007 from original patentee, Hitachi Ltd. ("Hitachi"), Mondis has engaged in an extensive licensing program relating to the '090 and '342 patents and their U.S. and foreign counterparts. As noted above, the asserted patents are required for video display makers and makers of products containing and using same, in order to comply with the VESA DDC and Plug-and-Play Standards.

74. Since 2007, Mondis has employed counsel and other professionals in the United States to work together on projects relating to licensing and enforcement of the '090, '342 and other DDC patents. This activity includes analyzing the patents and potential accused products of target companies, preparing and litigating patent infringement litigation, and meeting with potential licensees during license negotiations. Mondis has invested in personnel and resources to monitor the video display market, identify manufacturers of infringing monitors and televisions, establish contacts with those manufacturers, provide pre-licensing technical analyses, and assist with licensing negotiations. Mondis' activities relating to the licensing of the '090 and '342 patents are detailed in the confidential declaration of Michael Spiro which accompanies this Complaint as Confidential Exhibit 16.

75. Mondis continues to engage in licensing activities and has continued to make significant expenditures relating to these activities, including employment of intellectual property counsel and their communications and/or negotiations with potential licensees.

76. To date, Mondis has in its own right entered into five licenses encompassing the '090 and '342 patents, with major computer monitor and television manufacturers and sellers

Hitachi, LG Electronics Inc. (computer monitors), Wistron, BOE, Hon Hai (televisions) and TPV (televisions).

77. Moreover, as early as 2003, before Mondis' purchase of the '090 and '342 patents in 2007, an affiliate of Mondis, Inpro II Licensing SARL ("Inpro"), acted as Hitachi's licensing agent for those patents with companies in the United States, Europe, Taiwan and Korea that were selling and/or importing infringing video display products or products containing or using same into the United States. Together, Mondis and Hitachi have secured 24 licenses covering manufacturers of computer monitors and televisions which license one or both of the '090 and '342 patents. Confidential Exhibit 5, which accompanies this Complaint, identifies all licensees of the '090 and '342 patents. Hitachi and Mondis have received substantial royalties as a result of the licensing program for the '090 and '342 patents.

78. When Mondis purchased the '090 and '342 patents in 2007 from Hitachi, it granted Hitachi a license to use the patents in relation to its own products and to continue to perform under Hitachi's prior licenses. A confidential copy of the Hitachi license accompanies the Complaint as Confidential Exhibit 17.

2. *Substantial Domestic Investments Relating to Enforcement of the '090 and '342 Patents*

79. As part of its licensing program, Mondis' licensee Hitachi, and Mondis itself, have vigorously enforced their rights with regard to the '090 and '342 patents. Mondis' activities relating to the enforcement of the '090 and '342 patents are detailed in the confidential declaration of Michael Spiro which accompanies this Complaint as Confidential Exhibit 16.

80. In 2007, Mondis filed litigation in the Eastern District of Texas alleging infringement of the '090 and '342 patents against several of the largest manufacturers of monitors and televisions, including LG Electronics, Inc., LG Electronics USA, Inc., Hon Hai

Precision Industry Co., Ltd., and the predecessors of the Proposed Respondents, Innolux Display Corp. and Innolux Corp. Mondis filed a second infringement lawsuit in 2008 against Top Victory Electronics (Taiwan) Co. Ltd., TPV Int'l (USA), Inc., Envision Peripherals, Inc., Top Victory Electronics (Fujian) Co. Ltd., TPV Electronics (Fujian) Co. Ltd., and TPV Technology, Ltd. These lawsuits constitute a substantial investment in enforcing Mondis' patents and furthering its licensing program. *See Confidential Exhibit 16. See also John Mezzalingua Assocs., Inc. v. ITC*, No. 2010-1536, 2011 WL 4552462, * ___ (Fed. Cir. Oct. 4, 2011) (holding that patent litigation expenditures can evidence a substantial investment in exploitation of a patent sufficient to establish a domestic licensing industry under 19 U.S.C. § 1337, although affirming ITC's conclusion that the complainant's expenditures did not qualify); *Certain Short-Wavelength Light Emitting Diodes, Laser Diodes and Products Containing Same*, Inv. No. 337-TA-640, 2009 WL 1640140 (May 8, 2009)(granting summary determination that complainant's licensing and litigation activities satisfied the domestic industry requirement); *Certain Digital Satellite System (DSS) Receivers and Components Thereof*, Inv. No. 337-TA-392, Initial Determination (Oct. 20, 1997), at 10-11 (hereinafter "DSS") (recognizing as cognizable factors showing domestic industry that the complainant had incurred substantial expenses in litigating its patent rights as an extension of its licensing program).

81. Mondis entered into license agreements with the LGE, Hon Hai and TPV defendants as a result of and in settlement of the Texas litigation.

B. Hitachi's Aftermarket Customer Support Investments

82. Hitachi is the original patentee and owner of the '090 and '342 patents. On information and belief, Hitachi currently sells digital televisions in the United States that practice at least claim 15 of the '342 Patent. Hitachi's practice of claim 15 of the '342 Patent is shown in

a claim chart accompanying this Complaint as Exhibit 18³. On information and belief, as part of its support program for its digital televisions sold in the United States, Hitachi employs individuals in the United States dedicated to repair and other support services.

83. On information and belief, Hitachi has product servicing investments in the United States, including both warranty and customer support programs.

84. On information and belief, Hitachi provides support, and repair and replacement services for its digital televisions through a network of authorized service centers located throughout the United States.

C. Hitachi's Substantial Investment in Licensing and Enforcement of the '090 and '342 Patents

85. Until 2007, Hitachi was the assignee and owner of all substantial rights, title, and interest in and to the '090 and '342 patents. As part of Hitachi's exploitation of the '090 and '342 patents Hitachi engaged in an extensive licensing program relating to the '090 and '342 patents and their U.S. and foreign counterparts.

86. Following the issuance of the '090 and '342 patents and until the time that these patents were sold and assigned to Mondis, Hitachi employed counsel and other professionals in the United States to work on projects related to the licensing and enforcement of the '090 and '342 patents. This activity included analyzing the patents and potential accused products of target companies, preparing and prosecuting patent infringement litigation, and meeting with potential licensees during settlement negotiations. Hitachi invested in personnel and resources to monitor the video display market, identify manufacturers of infringing monitors and televisions, establish contacts with those manufacturers, provide pre-licensing technical analyses, and assist with licensing negotiations.

³ See also Exhibits 13 &14.

87. In addition to its licensing activities, Hitachi also filed and litigated a number of patent infringement suits against infringing companies. The following cases involved enforcement by Hitachi of its rights in and to the '090 and '342 patents: *Hitachi Ltd. v. Amtran Ltd.*, Case No. 3:05-cv-02301 CRB (N.D.Cal. 2005); *Hitachi Ltd. v. Tatung Company, et al.*, Case No. 3:05-cv-02302 CRB (N.D.Cal. 2005); *Hitachi Ltd. v. Proview Int'l Holdings, Inc., et al.*, Case No. 3:05-cv-02305 CRB (N.D.Cal. 2005), and *Top Victory Electronics (Taiwan) Company Ltd., et al. v. Hitachi Ltd., et al.*, 3:03-cv-05792 WHA (N.D.Cal. 2003). Each of these litigation matters resulted in licenses being granted to the '090 and '342 patents. On information and belief, Hitachi invested substantial sums on these litigation matters employing counsel and other personnel in the United States.

D. Practice of the Asserted Patents in the United States by Mondis' Licensees

88. Mondis and Hitachi have licensed the asserted patents to major manufacturers of video displays and products containing and using same such as computer monitors and digital televisions, including LGE (computer monitors) and Samsung (computer monitors and televisions). Confidential copies of the LGE and Samsung licenses accompany the Complaint as Confidential Exhibits 19 and 20.

89. Samsung and LGE are worldwide leaders in the manufacture and distribution into the United States of video displays and products containing and using same such as computer monitors and digital televisions. As noted above, the inventions covered by the asserted claims of the '090 and '342 patents are necessarily implemented in every current computer monitor sold by Mondis' licensees and the asserted claim of the '342 Patent is necessarily implemented in every digital television sold in the United States by Mondis' licensees by virtue of their mandatory compliance with the various VESA standards.

E. Licensee Samsung's Investments in a Domestic Industry

90. Samsung, licensed by Mondis (via Hitachi) to practice the asserted claims of the '090 and '342 patents for both computer monitors and digital televisions, conducts significant activities in the United States relating to products that practice at least one claim of the '090 and '342 patents. Samsung's practice of the asserted claims of the '090 and '342 patents is shown in claim charts⁴ accompanying this Complaint as Exhibits 21 A & B. In particular, Mondis is informed and believes that Samsung provides customer support in the United States for customers of its LCD displays, LCD monitors and LCD televisions, all of which practice at least one claim of the '090 and '342 patents. In *Certain Liquid Crystal Display Devices and Products Containing the Same*, Inv. No. 337-TA-631, Order No. 18: Initial Determination Granting Complainant's Motion for Summary Determination on Domestic Industry (Sep. 23, 2008), unreviewed, the Initial Determination ("ID") found that Samsung's U.S. investments in customer support constitutes significant employment of labor and capital with respect to LCD display products, including televisions and monitors. A copy of the ID accompanies this Complaint as Exhibit 22. All of Samsung's televisions and monitors are covered by at least one claim of the '090 and '342 patents, which are directed to mandatory VESA DDC standards that enable "Plug-and-Play" functionality. As noted by the ID, Samsung's domestic expenditures include payments to field engineers who perform technical service, support, and repair of Samsung's licensed computer monitors and digital televisions.

91. On information and belief, Samsung continues to employ a significant amount of labor and capital in the United States with respect to its product support efforts for its licensed computer monitors and digital televisions that practice the '090 and '342 patents. According to a

⁴ See also Exhibits 13 & 14.

verified ITC complaint filed by Samsung in June 2011, it currently “employs a significant number of employees in its Greenville, South Carolina; Ridgefield Park, New Jersey; Fort Lee, New Jersey; and Riverdale, New Jersey facilities.” *Certain Liquid Crystal Display Devices and Products Containing the Same*, 337-TA-782, Complaint ¶ 103 (June 1, 2011). A copy of the Samsung 337-TA-782 Complaint accompanies this Complaint as Exhibit 23. Further, according to Samsung, “[a]ll of these locations devote substantial time toward the quality control, product testing, validation, repair, and technical service support for repair of Samsung-branded consumer digital display products, including Samsung’s LCD televisions, LCD monitors, and laptops with LCD screens . . .” *Id.*

F. Licensee LGE’s Investments in a Domestic Industry

92. LGE, licensed by Mondis to practice the asserted claims of the ’090 and ’342 patents for computer monitors, conducts significant activities in the United States relating to products that practice at least one claim of the ’090 and ’342 patents. LGE’s practice of the asserted claims of the ’090 and ’342 patents is shown in claim charts⁵ accompanying this Complaint as Exhibits 24 A & B. In particular, Mondis is informed and believes that LGE provides domestic support for LCD displays and plasma displays, all of which practice at least one claim of the ’090 and ’342 patents. In *Certain Video Displays, Components Thereof, and Products Containing the Same*, Inv. No. 337-TA-687, Order No. 20: Initial Determination Granting LG Electronics, Inc.’s Motion For Summary Determination That It Has Satisfied The Economic Prong Of The Domestic Industry Requirement (May 20, 2010), un-reviewed, the Administrative Law Judge (“ALJ”) found that LGE’s significant U.S. investments in customer support, service, field service, call centers and repair/refurbishment activities, constitute

⁵ See also Exhibits 13 & 14.

significant employment of labor and capital with respect to display products, including televisions. A copy of the ID accompanies this Complaint as Exhibit 25. All of LGE's televisions are covered by at least claim 15 of the '342 patents, which are directed to mandatory VESA standards. On information and belief, LGE continues to employ a significant amount of labor and capital in the United States with respect to its product support efforts for its video displays and products containing and using same that practice the '090 and '342 patents.

G. Other Mondis Licensee' Investments in a Domestic Industry

93. On information and belief, other Mondis licensees of the asserted patents conduct significant economic activities in the United States that practice at least one claim of the asserted patents.

XI. RELATED LITIGATION

94. The following cases involved enforcement by Hitachi of its rights in and to the '090 and '342 patents: *Hitachi Ltd. v. Amtran Ltd.*, Case No. 3:05-cv-02301 CRB (N.D.Cal. 2005); *Hitachi Ltd. v. Tatung Company, et al.*, Case No. 3:05-cv-02302 CRB (N.D.Cal. 2005); *Hitachi Ltd. v. Proview Int'l Holdings, Inc., et al.*, Case No. 3:05-cv-02305 CRB (N.D.Cal. 2005), and *Top Victory Electronics (Taiwan) Company Ltd., et al. v. Hitachi Ltd., et al.*, 3:03-cv-05792 WHA (N.D.Cal. 2003). These litigation matters were resolved by settlement between 2004 and 2007 and licenses were taken by all defendants under the '090 and '342 patents.

95. On December 31, 2007, Mondis filed an action against Innolux, Hon Hai Precision Industry Co. Ltd. a/k/a Foxconn, LG Electronics Inc., and LG Electronics USA Inc. in the United States District Court for the Eastern District of Texas, Marshall Division, alleging infringement of, *inter alia*, the '090 and '342 patents. The case was titled *Mondis Tech., Ltd. v. LG Elecs., Inc., et al.*, Civil Action No. 2:07-cv-565 ("*Mondis Tech.*").

96. Mondis amended the Complaint in *Mondis Tech.* three times to add additional parties and new claims due to claims that were added to certain of the asserted patents during reexamination proceedings. Both claim 15 of the '090 Patent and claim 15 of the '342 Patent were asserted in *Mondis Tech.* With the exception of Innolux, all of the parties to that action settled, taking licenses under the '090 and '342 patents.

97. On April 25, 2011, Innolux filed, *inter alia*, a Motion for Partial Summary Judgment on Issues Related to Non-Infringement, a Motion for Summary Judgment of No Willful Infringement, and a Motion for Summary Judgment of Non-Infringement Regarding Hewlett Packard Licensed Products. Innolux also joined its co-defendants' Motion for Summary Judgment that the Asserted Claims of the '090 Patent Family Are Not Valid.

98. Trial in *Mondis Tech.* commenced on June 17, 2011, before a jury. At trial, Mondis put forth a full case regarding direct and indirect infringement, including proof of infringement of claim 15 of the '090 Patent and claim 15 of the '342 Patent. Innolux put forth no evidence in support of its allegation of non-infringement.

99. On June 27, 2011, the jury determined, *inter alia*, that the '090 and '342 patents are valid, that Innolux infringes, *inter alia*, claim 15 of the '090 Patent and claim 15 of the '342 Patent, and that Innolux's infringement of the '090 Patent and '342 Patent was willful. As there was no allegation that Innolux itself practiced the method of claim 15 of the '342 Patent in the United States, the jury necessarily found that Innolux indirectly infringed this claim based upon evidence presented on inducement and contributory infringement. The jury awarded Mondis monetary damages for infringement.

100. On August 30, 2011, the Court entered its Final Judgment, awarding damages in the amount of \$15,560,847.00 to Mondis and *sua sponte* severing Mondis' motion for ongoing

royalties and supplemental damages. A copy of the Final Judgment accompanies this Complaint as Exhibit 8.

101. On August 29, 2011, the Court entered its Memorandum Opinion and Order⁶, ruling on the parties' various motions for judgment as a matter of law ("JMOL"). Among other rulings, the Judge denied InnoLux's JMOL motions of invalidity and non-infringement and granted Mondis' motion for JMOL that all claims are infringed. A copy of this Memorandum and Order accompanies this Complaint as Exhibit 26.

102. On September 30, 2011, the Court issued its Memorandum Opinion and Order, awarding to Mondis supplemental damages in the amount of \$1,971,810.00 for sales of the infringing Innolux products that occurred in the first and second quarter of 2011, and which were not considered by the jury. A copy of this Memorandum Opinion and Order accompanies this Complaint as Exhibit 27. The Court also established ongoing royalty rates for infringing computer monitors and televisions for the remaining life of the infringed (*i.e.*, asserted) patents.

103. On September 28, 2011, the Proposed Respondents filed a Notice of Appeal to the United States Court of Appeals for the Federal Circuit notifying Mondis that Innolux was appealing, *inter alia*, the court's post-judgment Memorandum Opinion and Order denying Innolux's motion for judgment as a matter of law of invalidity and Innolux's motion for judgment as a matter of law of non-infringement. The appeal is currently pending before the Federal Circuit.

⁶ Mondis filed two cases in this Court - the 478 case (against LGE *et al.*) and the 565 case (against Top Victory Electronics) (these are the assigned civil action case numbers). The 478 case was consolidated with the 565 case. The 378 case was created *sua sponte* by the Court in the 565 case - the language can be found on page 4 of the Amended Final Judgment (Exhibit 8) - for the sole purpose of adjudicating the supplemental damages and ongoing royalty issues between Mondis and the InnoLux defendants (the Proposed Respondents).

104. Except as described in the preceding paragraphs, there has been no other litigation regarding the asserted patents.

105. Innolux filed an application for *ex parte* reexamination the '090 Patent at the United States Patent and Trademark Office on March 24, 2009. The PTO granted the application and instituted reexamination proceedings. On July 20, 2010 a reexamination certificate was issued by the PTO confirming the patentability of all original claims 1-4. The PTO also allowed new reexamination claims 5-26. Complainant asserts claim 15 in the instant proceedings.

106. Innolux also filed an application for *inter partes* reexamination of the '342 Patent at the United States Patent and Trademark Office on March 24, 2009. The PTO granted the application and instituted reexamination proceedings. On March 19, 2010, the PTO issued an Office Action that entered a non-final rejection of all 18 original claims. On May 19, 2010, Complainant filed a response to the Examiner's claim rejections presenting evidence and argument as to why claim 1-18 should be deemed patentable. To date, the PTO has issued no determinations subsequent to the filing of the Complainant's response to the pending claim rejections. A copy of the file history of the '342 Patent *inter partes* reexamination accompanies this Complaint as Appendix E. A certified copy of the file history has been ordered and will be provided immediately upon receipt. Complainant asserts claim 15 in the instant proceedings.

XII. PRECLUSIVE EFFECT OF FINAL DISTRICT COURT JUDGMENT AGAINST INNOLUX

107. The infringement, validity, and enforceability issues normally part of investigations before the Commission have been fully and finally litigated against Innolux in the Eastern District of Texas and accordingly should form no part of this investigation. Issue preclusion prevents Innolux from challenging the infringement, validity, and enforceability of

the '090 and '342 patents because the identical issues were litigated in and necessary to the judgment of liability in *Mondis Tech., Ltd. v. LG Elecs., Inc., et al.*, Civil Action No. 2:07-cv-565 (“*Mondis Tech.*”). Furthermore, Innolux is also precluded by principles of issue preclusion from challenging the validity and enforceability of the '090 and '342 patents because the parties are the same and the products at issue in the present Complaint are essentially the same as those products at issue in *Mondis Tech.* Any differences are merely colorable or unrelated to the limitations of the asserted claims.

108. “[C]ollateral estoppel, or issue preclusion, prevents a party from litigating an issue if: (1) the issue sought to be precluded is the same as that involved in an earlier action; (2) the issue was actually litigated; (3) determination of the issue was essential to a final judgment; and (4) the party against whom estoppel is invoked was represented in the prior action.” *Vardon Golf Co. v. Karsten Mfg. Corp.*, 294 F.3d 1330, 1333 (Fed. Cir. 2002). Issue preclusion based upon a prior district court judgment is equally applicable in a later action before the International Trade Commission. *Certain Hybrid Electric Vehicles and Components Thereof*, Inv. No. 337-TA-688, Order No. 11, p. 3, (May 21, 2010)(affirmed U.S.I.T.C. June 22, 2010)(granting summary determination of no invalidity based upon earlier district court judgment: “That is, if the issue was addressed and decided in the district court between the parties, that decision shall bind the parties before the Commission.”). Furthermore, a district court’s final judgment remains final for purposes of collateral estoppel despite a pending appeal. *See Pharmacia & Upjohn Co. v. Mylan Pharm., Inc.*, 170 F.3d 1373, 1381-82 (Fed. Cir. 1999).

109. Innolux is collaterally estopped from re-litigating the issue of infringement. Proving infringement by collateral estoppel is generally appropriate, “where it is shown that a close identity exists between the relevant features of the accused device and the device

previously determined to be infringing.” See *Youngbin-Nature (Guangdong) Wood Indus. Co. v. Int’l Trade Comm’n*, 535 F.3d 1322, 1333 (Fed. Cir. 2009). That standard is met here. The accused products in this Complaint are structurally and functionally the same to the accused products at issue in *Mondis Tech.* with respect to the asserted patents, so proof of infringement by collateral estoppel is appropriate. Mondis successfully asserted infringement of, *inter alia*, claim 15 of the ’090 Patent and claim 15 of the ’342 Patent against Innolux with respect to the same products that are at issue in this Complaint. Innolux asserted the affirmative defense of non-infringement. Mondis put forth detailed proofs of direct and indirect infringement at trial, but Innolux failed to put forth any evidence in support of its defense at trial. The issue of infringement of claim 15 of the ’090 patent and claim 15 of the ’342 patent was actually litigated, and a finding of infringement was made in the final judgment in *Mondis Tech.* The Proposed Respondents in this Complaint (Innolux) are identical to the defendants in *Mondis Tech.* Therefore, collateral estoppel applies, and Innolux cannot now challenge its infringement of the asserted patents by its accused products again.

110. Innolux is also collaterally estopped from re-litigating the issue of validity and enforceability. Innolux asserted affirmative defenses relating to the invalidity and unenforceability of, *inter alia*, the ’090 and ’342 patents in *Mondis Tech.* Innolux also asserted a counterclaim for a declaration of invalidity and unenforceability of, *inter alia*, the ’090 and ’342 patents. The issues of the validity and enforceability of the ’090 and ’342 patents were actually litigated, and a determination of the validity and enforceability of the ’090 and ’342 patents was necessary to the final judgment in *Mondis Tech.* Moreover, Innolux filed summary judgment motions relating to the invalidity of the asserted patents, presented evidence and expert testimony at trial relating to the alleged invalidity of, *inter alia*, the ’090 and ’342 patents, and filed post-

trial motions for judgment as a matter of law of invalidity. Therefore, collateral estoppel applies, and Innolux cannot now challenge the validity and enforceability of the '090 and '342 patents again.

111. Hitachi offered to negotiate a license with Innolux. Innolux rejected it, and decided to litigate instead. Innolux cannot avoid the burden of its misappropriation any longer.

XIII. RELIEF REQUESTED

112. WHEREFORE, by reason of the foregoing, Complainant Mondis Technology, Ltd. 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 video displays and products containing and using same such as computer monitors and televisions that infringe one or more of the asserted claims of United States Patent Nos. 6,247,090 and 7,089,342;

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

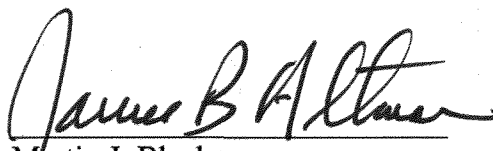
(c) Issue a permanent exclusion order pursuant to 19 U.S.C. § 1337(d)(1) barring from entry into the United States all infringing video displays and products containing and using same such as computer monitors and televisions manufactured by or on behalf of, imported by or on behalf of, or sold for importation by or on behalf of any of the Proposed Respondents;

(d) Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), directing each the Proposed Respondents to cease and desist from importing, marketing, advertising, demonstrating, warehousing inventory for distribution, distributing, offering for sale, selling, licensing, or using video displays and products containing and using same such as computer monitors and televisions that infringe one or more 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.

January 13, 2012

Respectfully submitted,



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