

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

In the Matter of

**CERTAIN ELECTRONIC DEVICES
WITH GRAPHICS DATA
PROCESSING SYSTEMS,
COMPONENTS THEREOF, AND
ASSOCIATED SOFTWARE**

Investigation No. 337-TA-_____

**COMPLAINT OF S3 GRAPHICS CO., LTD. AND S3 GRAPHICS, INC.
UNDER SECTION 1337 OF THE TARIFF ACT OF 1930, AS AMENDED**

COMPLAINANT

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Exh. 3	Copy of recorded assignments for U.S. Patent No. 5,945,997
Exh. 4	Copy of recorded assignments for U.S. Patent No. 5,581,279
Exh. 5	Apple Inc., Form 10-K for the Fiscal Year Ended September 25, 2010
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APPENDICES

Appendix	Document
App. A	Copy of the prosecution history of U.S. Patent No. 5,945,997 and three copies thereof
App. B	Copy of the prosecution history of U.S. Patent No. 5,581,279 and three copies thereof
App. C	Four copies of each technical reference identified in the prosecution history of U.S. Patent No. 5,945,997
App. D	Four copies of each technical reference identified in the prosecution history of U.S. Patent No. 5,581,279

Confidential Appendix	Document
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Conf. App.	Three copies of the S3 Graphics, Inc. license involving the Asserted Patents
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I. INTRODUCTION

1. This Complaint is filed by S3 Graphics, Inc. and S3 Graphics Co, Ltd. (collectively, “S3G”) under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on the unlawful importation into the United States, the sale for importation, and the sale within the United States after importation, by proposed Respondent Apple Inc., (“Apple”) of certain electronic devices with graphics data processing systems, and components thereof, and associated software that infringe one or more of claims 1, 3-5, 9, and 16 of United States Patent No. 5,945,997 (“the ‘997 patent”) and one or more of claims 1, 5, and 9 of United States Patent No. 5,581,279 (“the ‘279 patent”) (collectively, the “Asserted Claims” of the “Asserted Patents”).

2. Copies of the Asserted Patents are attached as Exhibit Nos. 1 and 2, respectively.¹ S3 Graphics Co., Ltd., owns all right, title, and interest in each of the Asserted Patents. S3 Graphics, Inc., a wholly owned subsidiary of S3 Graphics Co. Ltd., holds a nonexclusive license, with a right to grant sublicenses, to the Asserted Patents. (Confidential Appendix E). Copies of recorded assignments demonstrating the chain of title of the Asserted Patents are attached as Exhibit Nos. 3 and 4.

3. The proposed respondent is Apple Inc. The Accused Products are certain electronic devices with graphics data processing systems, components thereof, and associated software, including but not limited to Apple iPhone, iPad, and iPod touch mobile devices, Apple Mac desktop and notebook computers, and associated system and application software sold or

¹ At the time of the filing of the Complaint, certified copies of the Asserted Patents and associated prosecution histories and recorded assignments were not available. S3G has ordered the certified copies of those documents and will submit them immediately upon receipt. With the filing of the Complaint, S3G has submitted uncertified copies of each of those documents.

distributed by Apple. The Accused Products are imported into the United States and sold after importation into the United States by Apple.

4. 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.

5. S3G seeks as relief, a permanent exclusion order barring from entry into the United States all infringing Apple electronic devices with graphics data processing systems, components thereof, and associated software sold for importation into the United States, imported, or sold after importation into the United States. S3G also seeks, as relief, a cease and desist order prohibiting Apple's sale for importation into the United States, importation, sale after importation into the United States, offer for sale, testing, and other infringing commercial activity related to Apple electronic devices with graphics data processing systems, components thereof, and associated software that infringe one or more Asserted Claims of the Asserted Patents.

II. COMPLAINANTS

6. S3 Graphics, Inc. is a Delaware corporation with its principal place of business at 940 Mission Court, Fremont, CA 94539. S3 Graphics Co., Ltd. is a Cayman Islands corporation with its principal place of business at 2nd Fl., Zephyr House, Mary St., P.O. Box 709, Grand Cayman, Grand Cayman Islands, British West Indies. S3 Graphics Co., Ltd. holds all right, title, and interest in the Asserted Patents. (Exhibit Nos. 3 and 4). S3G provides innovative graphics visualization technologies and GPU (graphics processing unit) products for mobile devices, desktop computers, and embedded systems.

7. S3G engages in research, development, engineering, and product design activities at S3 Graphics, Inc.'s principal place of business in Fremont, California including research,

development, and product design for products utilizing S3G graphics data processing technology, including the S3G Chrome[®] series graphics processing products.

8. On information and belief, S3G's licensees conduct in the United States certain research, development, engineering, manufacturing, and technical support of products with S3G graphics data processing technology.

III. PROPOSED RESPONDENT

9. On information and belief, respondent Apple Inc. is a corporation organized under the laws of the State of California with its principal place of business at 1 Infinite Loop, Cupertino, CA 95014. (Exhibit No. 5).

10. On information and belief, Apple is involved in the design, development, manufacture, sale for importation, importation, and sale after importation of the Accused Products. Further, on information and belief, Apple performs several services to support the importation and sale of Accused Products into and within the United States, including marketing of the Accused Products, sale of software designed for use with the Accused Products, as well as interfacing with U.S.-based customers and distributors to conform the Accused Products to purchaser requests.

IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE

11. The technologies at issue relate generally to apparatuses and methods for graphical data processing, including retrieval, manipulation, and storage of graphical data.

12. The technology at issue with respect to the '997 patent generally relates to methods and systems for tile based pixel data processing.

13. The technology at issue with respect to the '279 patent generally relates to controller methods and systems for selectively moving and converting digital video data into analog video signals.

14. On information and belief, Apple's Accused Products include graphics data processing systems covered by the Asserted patents, Apple and its customers practice the methods covered by the Asserted Patents, and Apple provides associated software involved in the infringement of the Asserted Patents.

15. On information and belief, Apple imports and sells after importation a variety of products, including the Apple iPhone, iPad, and iPod touch mobile devices, Apple Mac desktop and notebook computers, and system and application software, that directly or indirectly infringes the apparatus claims of the Asserted Patents. Those products are also indirectly involved in the infringement by Apple and its customers of the method claims of the Asserted Patents.

16. The identification of a specific model, trade name, or type of electronic device with graphics data processing systems and/or the identification of specific software or components is not intended to limit the scope of this Investigation. The remedy sought in this Complaint should extend to all infringing electronic devices with graphics data processing systems, components thereof, and associated software.

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

A. U.S. Patent No. 5,945,997

1. Identification and Ownership of the '997 Patent

17. United States Patent No. 5,945,997 (the "'997 patent"), entitled "Block- and Band-Oriented Traversal in Three-Dimensional Triangle Rendering," issued on August 31, 1999 to inventors Randy X. Zhao and Dong-Ying Kuo. (Exhibit No. 3). The '997 patent issued from Application No. 08/883,536, filed on June 26, 1997. *Id.*

18. The '997 patent has 3 independent claims and 18 dependent claims. S3G is asserting claims 1, 3-5, 9, and 16 of the '997 patent in this Investigation.

19. The Asserted Claims of the '997 patent are valid, enforceable, and currently in full force and effect until its expiration on June 26, 2017.

20. S3 Graphics Co., Ltd., owns by assignment the entire right, title, and interest in and to the '997 patent. (Exhibit No. 3).

21. Pursuant to Commission Rule 210.12(c), this Complaint is accompanied by a copy of the prosecution history of the '997 patent and three copies thereof. (Appendix A). Further, this Complaint is accompanied by four copies of each technical reference identified in the prosecution history of the '997 patent (Appendix C).

2. Non-Technical Description of the Invention of the '997 Patent

22. The '997 patent generally relates to methods and systems for tile based pixel data processing. Electronic devices implementing this technology typically include central processing units, graphic processors, and a display system. For example, these methods and systems can be implemented in personal computers or mobile computing devices.

23. The technology of the '997 patent is useful in the mapping of textures in graphics systems. In three dimensional graphical depictions, textures can provide a sense of depth, motion, or perspective. Texture maps are collections of texels that can be mapped or applied to surfaces. Portions of textures identified by their coordinates can be assigned to a portion of a surface defined by coordinates in order to map a progression of textures over the surface that generates a desired graphical image.

24. The '997 patent discloses systems and methods for block- and band-oriented traversing of triangle components of graphic images in order to minimize memory demands and

thereby maximize performance of the graphics processor. This nontechnical description does not define the disclosure or claims of the '279 patent.

3. Foreign Counterparts

25. The foreign patents and patent applications reported as related to the '997 patent are identified in Exhibit No. 6. On information and belief, no other foreign applications or patents corresponding to the '997 patent have been filed, abandoned, or rejected.

4. Licenses

26. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities known to S3G is attached to this Complaint as Confidential Exhibit No. 11C.

B. U.S. Patent No. 5,581,279

1. Identification and Ownership of the '279 Patent

27. United States Patent No. 5,581,279 (the "'279 patent"), entitled "VGA Controller Circuitry," issued on December 3, 1996 to inventors Chieh Chang, Man S. Lee, and Alex Lushtak. (Exhibit No. 2). The '279 patent issued from Application No. 147,456, filed on November 5, 1993, which claims priority to Application 811,944 filed on December 23, 1991.
Id.

28. The '279 patent has 3 independent claims and 8 dependent claims. S3G is asserting claims 1, 5, and 9 of the '279 patent in this Investigation.

29. The Asserted Claims of the '279 patent are valid, enforceable, and currently in full force and effect until its expiration on December 3, 2013.

30. S3 Graphics Co., Ltd., owns by assignment the entire right, title, and interest in and to the '279 patent. (Exhibit No. 4).

31. Pursuant to Commission Rule 210.12(c), this Complaint is accompanied by a copy of the prosecution history of the '279 patent and three copies thereof. (Appendix B).

Further, this Complaint is accompanied by four copies of each technical reference identified in the prosecution history of the '279 patent (Appendix D).

2. Non-Technical Description of the Invention of the '279 Patent

32. The '279 patent generally relates to apparatus for processing video digital graphics data and converting that digital data into analog data for display.

33. The technology of the '279 patent can be implemented in graphics display controllers and programmable clock signal generators contained in computer systems that generate graphical displays.

34. One implementation of the '279 patent includes a programmable clock controller, for producing a video memory clock signal and a video clock signal, a digital graphics controller responsive to the video memory clock signal and the video clock signal to produce a digital video data stream. The digital video data stream is then converted into an analog graphics signal for generating a graphical display. This nontechnical description does not define the disclosure or claims of the '279 patent.

3. Foreign Counterparts

35. The foreign patents and patent applications reported as related to the '279 patent are identified in Exhibit No. 6. On information and belief, no other foreign applications or patents corresponding to the '279 patent have been filed, abandoned, or rejected.

4. Licenses

36. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities known to S3G is attached to this Complaint as Confidential Exhibit No. 11C.

VI. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS—PATENT INFRINGEMENT

37. Apple has engaged in unfair trade practices, including the sale for importation, importation, and sale after importation of certain electronic devices with graphics data processing systems, components thereof, and associated software that infringe the Asserted Claims of the Asserted Patents.

38. Apple directly infringes the Asserted Patents by importing, testing, using, and/or selling the Accused Products within the United States and/or indirectly by inducing and contributing to the infringement by others, including its commercial partners and customers, who use the Accused Products within the United States. On information and belief, Apple has had notice of the Asserted Patents at least as early as S3G's filing in the United States District Court of a complaint for patent infringement asserting these same patents.

A. Infringement of the '997 Patent

39. On information and belief, the Accused Products infringe at least claims 1, 3-5, 9, and 16 of the '997 patent. A chart that applies all asserted independent claims of the '997 patent to the Accused Products is attached to this Complaint as Exhibit No. 7.

1. Direct Infringement of the '997 Patent

40. On information and belief, Apple sells for importation into the United States, imports, and/or sells after importation in the United States the Accused Products, including the Apple iPhone, iPad, iPod Touch, and Apple desktop and notebook computers.

41. On information and belief, Apple also tests or operates the Accused Products in the United States, including the Apple iPhone, iPad, iPod Touch, and Apple desktop and notebook computers, thereby directly infringing claims 1, 3-5, 9, and 16 of the '997 patent.

2. Contributory Infringement of the '997 Patent

42. On information and belief, Apple contributes to the infringement of claims 1, 3-5, 9, and 16 of the '997 patent. On information and belief, the Apple iPhone, iPad, iPod Touch, and Apple desktop and notebook computers are specially adapted for an infringing use of one or more of claims 1, 3-5, 9, and 16 of the '997 patent; embody a material part of the inventions claimed in the '997 patent; and are not staple articles of commerce suitable for substantial non-infringing use. Apple sells for importation into the United States, imports, and/or sells after importation in the United States the Apple iPhone, iPad, iPod Touch, Apple desktop and notebook computers, and associated software that its commercial partners and customers use to practice the methods of claims 1, 3-5, 9, and 16 of the '997 patent.

43. On information and belief, software application developers and consumers make and use the claimed inventions by using the Apple iPhone, iPad, iPod Touch, and Apple desktop and notebook computers, in combination with associated software, thereby directly infringing claims 1, 3-5, 9, and 16 of the '997 patent.

3. Inducement of Infringement of the '997 Patent

44. On information and belief, Apple induces others to infringe claims 1, 3-5, 9, and 16 of the '997 patent by encouraging and facilitating others to perform actions known by Apple to infringe.

45. On information and belief, Apple encourages software application developers to use the claimed inventions by providing Apple iPhone, iPad, iPod Touch, and Apple desktop and notebook computers, in combination with associated software, providing instructions and support for developing applications, and providing a distribution channel for applications for those Apple devices that are used to infringe claims 1, 3-5, 9, and 16 of the '997 patent.

46. On information and belief, Apple induces consumers to use the claimed inventions by providing the Apple iPhone, iPad, iPod Touch, and Apple desktop and notebook computers, in combination with associated software, that consumers use to infringe claims 1, 3-5, 9, and 16 of the '997 patent. Further, Apple actively encourages, promotes, distributes, provides instruction for, and supports the use of software for its iPod Touch, iPhone, and iPad products that are used to infringe claims 1, 3-5, 9, and 16 of the '997 patent.

47. On information and belief, software application developers and consumers make and use the claimed inventions by using the Apple iPod Touch, iPhone, and iPad, in combination with associated software thereby directly infringing claims 1, 3-5, 9, and 16 of the '997 patent.

B. Infringement of the '279 Patent

48. On information and belief, the Accused Products infringe at least claims 1, 5, and 9 of the '279 patent. A chart that applies all asserted independent claims of the '279 patent to the Accused Products is attached to this Complaint as Exhibit No. 8.

49. On information and belief, Apple sells for importation into the United States, imports, and/or sells after importation in the United States the Accused Products, including the Apple iPhone, iPad, iPod Touch, and Apple desktop and notebook computers that directly infringe the claimed systems of claims 1, 5, and 9 of the '279 patent

VII. UNFAIR IMPORTATION AND SALE

50. Apple, directly and/or through third-party manufacturers, manufactures and/or assembles Accused Apple Products that are and have been offered for sale, sold, purchased, and used within the United States. In addition, Apple, directly and/or through its wholly owned Apple Stores and/or through independent commercial retailers located in the United States, regularly sells Accused Apple Products in the United States, and Apple provides related services

to residents of the United States. Photographs of an exemplary Accused Product, the iPhone 4, are shown in Exh. 9.

51. Commission Rule 210.12 (b) reads in relevant part, “[a]t the time the complaint is filed, if practicable, the complainant shall submit both the domestic article and all imported articles that are the subject of the complaint.” S3G believes that it is impractical to show through physical inspection that the Accused Products practice the Asserted Patents. For example, the ’997 patent relates to methods and systems, including software, for tile based pixel data processing that are imbedded within semiconductor devices of the Accused Products and domestic industry products and therefore not discernable by physical inspection; and the ’279 patent relates to controller systems, including software, for selectively moving digital video data and converting it into analog video signals that are imbedded within semiconductor devices of the Accused Products and domestic industry products and therefore not discernable by physical inspection. Thus, S3G has not included physical samples of the Accused Products and domestic industry products with this Complaint. Photographs of exemplary Accused Products and domestic industry products are shown in Exhs. 9 and 10, respectively.

VIII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

52. On information and belief, the Harmonized Tariff Schedule of the United States item numbers under which the infringing image processing systems, and products containing same have been imported into the United States may include at least the following HTS numbers: 8517.12.00 (mobile phones), 8519.81.40, 8519.89.30, or 8521.90.00 (portable media players), 8471.30.01, 8471.41.01, or 8471.49.00 (portable computers), and 9504.10.0000 (software).

IX. RELATED LITIGATION

53. The Asserted Patents are also the subject of an action for patent infringement filed in the United States District Court for the District of Delaware, S3 Graphics, Inc. and S3 Graphics Co, Ltd. v. Apple, Inc., Civ. Action No. _____.

X. THE DOMESTIC INDUSTRY

54. An industry in the United States, relating to the image processing systems protected by the Asserted Patents, exists under 19 U.S.C. § 1337(a)(3)(a)-(c), comprising significant investments in physical operations, employment of labor and capital, and exploitation of the Asserted Patents.

A. S3G's Investments in the Domestic Industry

55. S3 Graphics, Inc., employs a work force the United States that conducts research, development, engineering, product design, support, and repair in the United States for S3 Graphics, Inc.'s products that practice the Asserted Patents, including at least the S3 Graphics, Inc. Chrome series of graphics products (Chrome S25, S27, 2300E; Chrome 430, 435ULP, 440GTX; Chrome 4300E, 4400E; Chrome 535 ULP, and 540GTX). S3 Graphics, Inc., makes significant investments in plant, equipment, labor, engineering, and research and development in the United States in connection with its research, development, design, technical support, and repair of products that practice the Asserted Patents. *See* Confidential Exhibit Nos. 14C through 16C.

56. In *Electronic Devices With Image Processing Systems, Components Thereof, and Associated Software*, Inv. 337-TA-724, Order No. 29 (April 1, 2011), Judge Gildea found that “the engineering, research and development, design, and support and repair expenditures for S3G’s Chrome S25, S27, 2300E 430 ULP, 435 ULP, 440GTX, 4300E, 4400E, 535ULP, 540GTX, and 5400E products demonstrate a sufficiently focused and concentrated effort to lend

support to a findings of a ‘substantial investment’ in the exploitation of the asserted patents.” *Id.* at 21. On April 12, the Commission the Commission denied Apple’s petition for review and determined not to review the subject ID. *Notice of Commission Not To Review An Initial Determination Granting Complainants’ Motion for Summary Determination That It Satisfies The Economic Prong of the Domestic Industry Requirement* (April 12, 2011).

B. S3G’s Practice of the Asserted Patents

57. S3G makes extensive use of the Asserted Patents in several of its own products. As noted above, S3G has a variety of graphics products including the Chrome S25, S27, 2300E, 430, 435ULP, 440GTX, 4300E, 4400E, 535 ULP, 540GTX, and 5400E. Each of these products practices the Asserted Patents. Commission Rule 210.12 (b) reads in relevant part, “[a]t the time the complaint is filed, if practicable, the complainant shall submit both the domestic article and all imported articles that are the subject of the complaint.” S3G believes that it is impractical to discern by physical inspection that the S3G products listed above practice the Asserted Patents. *See para. 51* Thus, S3G has not included examples of the domestic product with this Complaint.

58. An exemplary claim chart comparing the Chrome 400 series to a representative claim of the ’997 patent is attached as Confidential Exhibit No. 12C.

59. An exemplary claim chart comparing the Chrome 400 series to a representative claim of the ’279 patent is attached as Confidential Exhibit No. 13C.

XI. RELIEF REQUESTED

60. WHEREFORE, by reason of the foregoing, S3G 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 by the Apple Inc. based upon its sale for importation, importation, and/or sale after

importation into the United States of certain electronic devices with graphics data processing systems, components thereof, and associated software, that infringe one or more of the Asserted Claims of S3G's United States Patent Nos. 5,945,997 and 5,581,279.

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

(c) Issue a limited exclusion order pursuant to 19 U.S.C. § 1337(d)(1), barring from entry into the United States all Accused Products, that infringe one or more of the Asserted Claims of S3G's United States Patent Nos. 5,945,997 and 5,581,279, including but not limited to the Apple iPhone, iPad, iPod touch, and Apple desktop and notebook computers, and software for those products;

(d) Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), directing Apple Inc., to cease and desist from selling for importation into the United States, importing, selling after importation into the United States, offering for sale, testing, using, and other infringing commercial activity involving imported Accused Products that infringe one or more of the Asserted Claims of S3G's United States Patent Nos. 5,945,997 and 5,581,279; including but not limited to the Apple iPhone, iPad, iPod touch, and Apple desktop and notebook computers, and software for those products; 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.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T.L. Jarvis", is written over a horizontal line.

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