

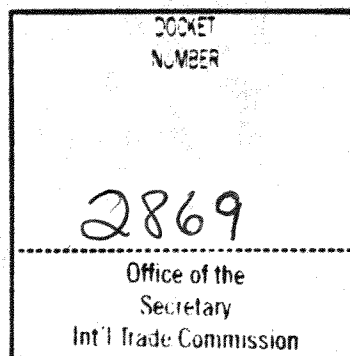
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CBI 12-113

January 10, 2012

VIA HAND DELIVERY

The Honorable James R. Holbein
Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436



**BRINKS
HOFER
GILSON
& LIONE**

A Professional Corporation

Intellectual Property
Law Worldwide

Re: *Certain Electronic Devices For Capturing And Transmitting Images,
And Components Thereof*, Inv. No. 337-TA_____

Dear Secretary Holbein:

Enclosed for filing on behalf of Complainant Eastman Kodak Company ("Kodak" or "Complainant") are the following documents in support of Complainant's request that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended. Please note that Confidential Exhibits 11, 44-46, 48-51, 53 and 55 to the Complaint contain confidential business information. A separate request for confidential treatment of those Confidential Exhibits is included with this filing.

Accordingly, Complainant submits the following documents for filing:

1. An original and eight (8) copies of the verified Complaint (original and one copy unbound) (Rules 201.8(d), 210.4(f)(2)(ii), and 210.8(a));
2. An electronic copy of the non-confidential exhibits to the Complaint (Rules 201.6(c), 210.4(f)(3)(i), and 210.8(a));
3. An electronic copy of the confidential exhibits to the Complaint (Rules 201.6(c), 201.4(f)(3)(i), 210.8(a), and 201.8(d));
4. Four (4) additional copies of the Complaint and the accompanying non-confidential exhibits for service upon proposed respondents; and four (4) additional copies of the confidential exhibit for service upon counsel for the respondents once appropriate subscriptions to a protective order have been filed (Rules 210.4(f)(3)(i), 210.8(a), and 210.11(a)). We understand that the confidential exhibits will be served only upon counsel who have submitted applications pursuant to the protective order issued in the investigation;

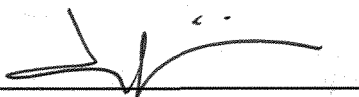
5. One (1) additional copy of the complaint and the accompanying non-confidential exhibits for service upon the Taipei Economic and Cultural Representative Office in Washington, D.C. (Rule 210.8(a) and 210.11(a)(1));
6. Four (4) copies of Appendix A (on CD), which is the non-certified prosecution history for U.S. Patent No. 6,292,218 ("the '218 patent");
7. Four (4) copies of Appendix B (on CD), which is the non-certified prosecution history for U.S. Patent No. 7,210,161 ("the '161 patent");
8. Four (4) copies of Appendix C (on CD), which is the non-certified prosecution history for U.S. Patent No. 7,742,084 ("the '084 patent");
9. Four (4) copies of Appendix D (on CD), which is the non-certified prosecution history for U.S. Patent No. 7,453,605 ("the '605 patent");
10. Four (4) copies of Appendix E (on CD), which is the non-certified prosecution history for U.S. Patent No. 7,936,391 ("the '391 patent");
11. Four (4) copies of Appendix F (on CD), which includes all technical references mentioned in the prosecution history of the '218 patent, pursuant to 19 C.F.R. 210.12(c)(2);
12. Four (4) copies of Appendix G (on CD), which includes all technical references mentioned in the prosecution history of the '161 patent, pursuant to 19 C.F.R. 210.12(c)(2);
13. Four (4) copies of Appendix H (on CD), which includes all technical references mentioned in the prosecution history of the '084 patent, pursuant to 19 C.F.R. 210.12(c)(2);
14. Four (4) copies of Appendix I (on CD), which includes all technical references mentioned in the prosecution history of the '605 patent, pursuant to 19 C.F.R. 210.12(c)(2);
15. Four (4) copies of Appendix J (on CD), which includes all technical references mentioned in the prosecution history of the '391 patent, pursuant to 19 C.F.R. 210.12(c)(2);
16. A Statement on the Public Interest; and
17. A letter and certification pursuant to Commission Rules 201.8(g) and 210.5(d) requesting confidential treatment of Confidential Exhibits 11, 44-46, 48-51, 53 and 55.

Certified copies of the '218 patent, the '161 patent, the '084 patent, the '605 patent, and the '391 patent have been ordered and will be supplied when received.

Likewise, certified assignments and prosecution histories for the '218, '161, '084, '605, and '391 patents have been ordered and will be supplied when received.

Physical exemplars of representative imported articles that are the subject of the Complaint will be submitted pursuant to Rule 210.12(b). Thank you for your attention to this matter.

Respectfully submitted,



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Enclosures

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January 10, 2012

VIA HAND DELIVERY

The Honorable James R. Holbein
Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Re: *Certain Electronic Devices For Capturing And Transmitting Images,
And Components Thereof*, Inv. No. 337-TA____

Dear Secretary Holbein:

I am counsel for Eastman Kodak Company ("Complainant").

In accordance with 19 C.F.R. § 201.6, Complainant requests confidential treatment of the confidential business information contained in Confidential Exhibits 11, 44-46, 48-51, 53 and 55 to Complainants' Complaint Under Section 337 Of The Tariff Act Of 1930. Confidential treatment is sought for these Exhibits because information contained in these Exhibits is proprietary information that is not publicly available. Specifically, these Exhibits contain proprietary information relating to the financial performance, commercial operations of Complainant, including proprietary information relating to sales and marketing information, manufacturing and related processes, and technical and financial information, which information has been acquired at substantial cost to Complainant. Much of this information also is or relates to Complainant's proprietary intellectual property.

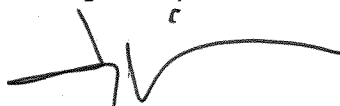
The information described above qualifies as confidential business information pursuant to Rule 201.6(a)(1) in that:

1. it is not available to the public;

2. unauthorized disclosure of such information could cause substantial harm to the competitive position of Complainants; and
3. the disclosure of such information could impair the Commission's ability to obtain information necessary to perform its statutory functions.

Please contact me if you have any questions about this request, or if this request is not granted in full. I appreciate your assistance in this matter.

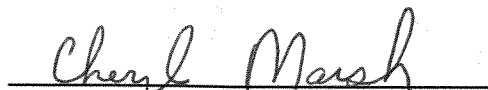
Respectfully submitted,



Jay H. Reiziss

District of Columbia:

Sworn to and subscribed before me this 10 day of January, 2012.



Cheryl Marsh
Notary Public

My Commission expires January 1, 2015

CHERYL MARSH
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires January 1, 2015



UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN ELECTRONIC DEVICES FOR
CAPTURING AND TRANSMITTING
IMAGES, AND COMPONENTS THEREOF**

Inv. No. 337-TA-_____

**COMPLAINANT EASTMAN KODAK CO.'S
STATEMENT ON THE PUBLIC INTEREST**

Pursuant to 19 C.F.R. § 210.8(b), Complainant Eastman Kodak Co. ("Kodak") respectfully submits this Statement on the Public Interest in support of its above-captioned Complaint with respect to remedial orders it seeks against Respondents Apple Inc., High Tech Computer Corp. a/k/a HTC Corp., HTC America, Inc. and Exedea, Inc. (collectively, "Respondents").

Kodak seeks a limited exclusion order specifically directed to each named Respondent, excluding from entry into the United States certain electronic devices for capturing and transmitting images or components thereof and that infringe one or more claims of U.S. Patent No. 7,210,161 ("the '161 patent"), U.S. Patent No. 7,742,084 ("the '084 patent"), U.S. Patent No. 7,453,605 ("the '605 patent"), U.S. Patent No. 7,936,391 ("the '391 patent"), and U.S. Patent No. 6,292,218 ("the '218 patent") (collectively, the "Accused Devices"). Kodak also seeks a cease and desist order prohibiting each domestic Respondent from importing, selling, marketing, advertising, distributing, offering for sale or transferring (except for exportation) any of Respondents' Accused Devices; the soliciting of U.S. agents or distributors for all such Accused Devices; or the aiding or abetting in the importation, sale for importation, sale after importation, transfer or distribution of all such Accused Devices.

As discussed below, exclusion of Respondents' Accused Devices would not have an adverse effect on the public health or welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. Rather, if the Commission grants Kodak's requested relief, the public interest will be served.

I. THE REQUESTED REMEDIAL ORDERS ARE IN ACCORD WITH THE PUBLIC INTEREST

The public interest in protecting intellectual property rights is very strong. *Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chip, Power Control Chips*, Inv. No. 337-TA-543, Comm'n Op. at 150 (Jun. 19, 2007). In the few instances where the Commission has found an adverse impact on the public interest significant enough to deny relief, "the exclusion order was denied because inadequate supply within the United States—by both the patentee and domestic licensees—meant that an exclusion order would deprive the public of products necessary for some important health or welfare need" *Spanion, Inc. v. Int'l Trade Comm'n*, 629 F.3d 1331, 1360 (Fed. Cir. 2010).

The remedial orders requested by Kodak would not be contrary to the public interest because: (1) the Accused Devices are not necessary to some important health or welfare need; (2) Kodak's licensees currently manufacture articles that could easily fill any void in the market created by the requested remedial orders; and (3) Kodak's licensees already sell articles in the United States that directly compete with, and are substitutes for, Respondent's Accused Devices. The strong public interest in protecting Kodak's valid intellectual property rights outweighs any adverse impact on the public interest.

A. How the Articles Potentially Subject to the Requested Remedial Orders are Used in the United States

The Accused Devices at issue in this Investigation are electronic devices for capturing and transmitting images and include certain camera phones, handheld tablets and other handheld communication devices for capturing and transmitting images. The Accused Devices are consumer electronics that are not necessary for the public's health or welfare. The Accused Devices are used by the public for capturing and transmitting images. Respondents' Accused Devices constitute a portion of the market for such devices available to the public in the United States.

B. The Requested Remedial Orders Raise No Public Health, Safety, or Welfare Concerns

The remedial orders requested by Kodak in this Investigation raise no public health, safety, or welfare concerns. The consumer electronics that are at issue are not the type of products that historically have raised concerns about the public health, safety, or welfare. *See, e.g., Certain Personal Data and Mobile Communications Devices and Related Software*, Inv. No. 337-TA-710, Order No. 118 (Jul. 5, 2011) (unreviewed initial determination) (consumer electronics not the type of product that invokes significant public health concerns); *Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same*, Inv. No. 337-TA-617, Comm'n Op. at 15 (Apr. 23, 2009) (digital televisions not the type of products that affect public health and welfare); *Certain Optical Disk Controller Chips and Chipsets and Products Containing Same, Including DVD Players and PC Optical Storage Devices*, Inv. No. 337-TA-506, Comm'n Op. at 61 (Sep. 28, 2005).

Moreover, the public interest favors the protection of intellectual property rights in the United States by excluding infringing products. *Certain Two-Handle Centerset Faucets and Escutcheons, and Components Thereof*, Inv. No. 337-TA-422, Pub. No. 3332, Comm'n Op. at 9

(Jul. 2000); *Certain Hardware Logic Emulation Systems and Components Thereof*, Inv. No. 337-TA-383, Pub. No. 2991, Comm'n Op. at 8-9 (Sep. 1996). Protection of intellectual property rights in the United States "provides foreign and domestic businesses alike with a climate of predictability that fosters investment, innovation, and the exchange of technology and associated intellectual property rights." *Digital Television Products*, Comm'n Op. at 17. In addition, denying remedial relief "would discourage investment in the development of technological innovations, which, in turn, would have a negative effect on competition." *Certain Display Controllers and Products Containing Same*, Inv. No. 337-TA-491/481, Comm'n Op. at 66 (Feb. 4, 2005).

The issuance of the remedial orders Kodak seeks in this Investigation would not implicate significant health, safety or welfare concerns, and would have the beneficial effect of protecting Kodak's intellectual property rights, which would further the public interest.

C. Like or Directly Competitive Articles that Kodak's Licensees or Third Parties Make Could Replace the Subject Articles if They Were to Be Excluded

Kodak has licensed the '161, '084, '605, '391, and '218 patents to multiple companies that design, manufacture and/or sell the consumer electronic devices at issue in the United States. These licensees and third parties manufacture such devices that could replace the Accused Devices if they were to be excluded.

D. Kodak's Licensees and Third Parties Have the Capacity to Replace the Volume of Articles Subject to the Requested Remedial Orders in a Commercially Reasonable Time

Kodak believes that its licensees have the capacity to replace the U.S. volume of Accused Devices in a commercially reasonable time. In addition, Kodak understands that third party manufacturers of non-infringing articles that directly compete with the Accused Devices also have the capacity to replace the volume of Accused Devices potentially excludable from the

United States in a commercially reasonable time. The fact that Kodak's licensees and third parties are able to provide an adequate supply of substitute products is sufficient to override any public interest concerns. *See, e.g., Certain Lens Fitted Film Packages*, Inv. No. 337-TA-406, Pub. No. 3219, Comm'n Op. at 18 (Aug. 1999).

E. The Requested Remedial Orders Would Have Minimal Impact on U.S. Consumers

Any adverse impact on the public interest resulting from the remedial orders that Kodak seeks, such as a price increase, would be minimal and short-lived because numerous companies already manufacture substitute products that could quickly eliminate any apparent temporary shortage. Furthermore, the possibility of a price increase alone does not justify a determination that the public interest in protecting intellectual property rights is outweighed. *Lens Fitted Film Packages*, Comm'n Op. at 18.

If Respondents' Accused Devices were to be excluded, U.S. consumers will still be able to purchase competitively priced products. "In the long run, protection of intellectual property rights (in this case, in the form of a valid U.S. patent) will foster research and development of new technologies and will lead to greater competition in the marketplace." *Display Controllers*, Comm'n Op. at 66.

II. CONCLUSION

If the Commission grants the remedial orders requested by Kodak, the public interest will be served. The Accused Devices are not necessary to any health or welfare need. Moreover, an adequate supply of substitute devices will be available through at least Kodak's current licensees and other third parties. Therefore, the strong public interest in protecting Kodak's valid intellectual property rights outweighs any adverse impact on the public.

Date: January 10, 2012

Respectfully submitted,



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*Counsel for Complainant
Eastman Kodak Company*

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

In the Matter of

**CERTAIN ELECTRONIC DEVICES FOR
CAPTURING AND TRANSMITTING
IMAGES AND COMPONENTS THEREOF**

Inv. No. 337-TA-_____

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

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Taiwan, R.O.C.
Tel: 011-886-3-3753252

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Bellevue, Washington 98005
Tel: (425) 861-9174

Exedea, Inc.
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Houston, Texas 77036
Tel: (425) 679-5318

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EXHIBIT 4	U.S. Patent No. 7,936,391
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I. INTRODUCTION

1. Eastman Kodak Company (“Kodak” or “Complainant”) files this Complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), based on the unlawful importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain electronic devices for capturing and transmitting images and components of such devices.

2. The proposed respondents (“Respondents”) are Apple Inc. (“Apple”) and High Tech Computer Corp. a/k/a HTC Corp., HTC America, Inc., and Exedea, Inc. (collectively, “HTC”).

3. This Complaint is directed to certain electronic devices for capturing and transmitting images and components of such devices, including camera phones, handheld tablets and other handheld communication devices, that infringe one or more of independent claim 5 and dependent claim 7 of United States Patent No. 7,210,161 (“the ’161 patent”); independent claim 1 and dependent claims 7, 8, 9, 10, and 11 of United States Patent No. 7,742,084 (“the ’084 patent”); independent claims 1 and 13 and dependent claims 2, 3, 4, 5, 6, 9, 10, 11, 12, 16, 17, 19, and 20 of United States Patent No. 7,453,605 (“the ’605 patent”); independent claim 11 and dependent claims 12, 15, 16, 17, and 18 of United States Patent No. 7,936,391 (“the ’391 patent”); and independent claim 15 and dependent claims 23, 24, 25, 26 and 27 of United States Patent No. 6,292,218 (“the ’218 patent”). Upon further investigation and discovery, Kodak may identify additional accused products and/or seek to assert additional claims. A copy of each of the ’161, ’084, ’605, ’391, and ’218 patents (“Asserted Patents”) is attached to this Complaint as Exhibits 1-5, respectively. Certified copies of each of the ’161, ’084, ’605, ’391, and ’218 patents will be provided at a later date.

4. The '161, '084, '605, and '391 patents are not the subject of any other U.S. International Trade Commission Investigations. The '218 patent is currently the subject of Inv. No. 337-TA-703. The '218 patent previously was the subject of Inv. No. 337-TA-663.

5. By this Complaint, Kodak seeks as permanent relief an order excluding from entry into the United States all Apple and HTC handheld devices, including camera phones and tablets and other handheld communication devices, and components thereof, that infringe one or more of the asserted claims of the Asserted Patents ("Accused Devices"). Excluded from the definition of Accused Devices are Apple and HTC tablets and other handheld communication devices that do not include digital camera features or components thereof. Kodak also seeks, pursuant to Section 337(f), permanent cease and desist orders, prohibiting the importing, selling, marketing, advertising, distributing, offering for sale or transferring (except for exportation) of Accused Devices or the soliciting of U.S. agents or distributors for Accused Devices; or the aiding or abetting in the importation, sale for importation, sale after importation, transfer or distribution of Accused Devices. Pursuant to Section 337(l), any such relief shall not apply to any articles imported by or for the use of the United States with the authorization or consent of the Government.

II. THE PARTIES

A. Complainant Kodak

6. Complainant Kodak is a New Jersey corporation with its principal place of business at 343 State Street, Rochester, New York 14650. Kodak presently has approximately 18,800 employees. Kodak's 2010 Annual Report, with further information about the company, is attached to this Complaint as Exhibit 6.

7. Founded in 1880, Kodak has a long history of innovation in photography and image processing. Among many other significant inventions, Kodak and its founder, George Eastman, invented photographic plates in 1879, the hand-held camera in 1888, and roll-up film in 1883. Kodak engineers also designed and built the camera that Neil Armstrong used on the first walk on the moon.

8. Kodak's innovations continue into the age of digital photography. Kodak designed and built the first operating digital camera in 1977. Kodak's significant investment in research and development has resulted in a continuing stream of improvements to digital imaging technology—improvements that have led to a long line of consumer-accepted digital imaging products and more than 1,000 Kodak patents in the field of digital imaging, including the Asserted Patents.

9. Kodak invented many of the fundamental innovations used in virtually every digital camera today, including: the Bayer color filter array; the first color megapixel sensor; the first effective color preview for a digital camera; the first color consumer digital camera; and the basic digital architecture utilized by nearly every present-day digital camera. Kodak Fellow Kenneth Parulski, a co-inventor of the '161, '084, '605, '391, and '218 patents, has more than 190 patents to his name and is widely recognized as a pioneer in numerous digital camera technologies.

10. Recognizing the value of Kodak's innovations, many competitors in the consumer digital imaging space have taken licenses to Kodak's digital imaging patents.

B. Respondent Apple

11. Respondent Apple is a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014. Among other things, Apple designs,

manufactures, markets, and sells handheld tablets, camera phones and other handheld communication devices. See Exhibit 7 (Apple 2011 10-K) at 1.

12. The Apple Accused Devices are handheld tablets, camera phones and other handheld communication devices for capturing and transmitting images. See, e.g., Exhibits 15A-15C, 16A-16C, 17A-17C, 18A, 18B, and 19. The Apple Accused Devices include, but are not necessarily limited to, the following model of a handheld tablet device incorporating digital camera functionality: the Apple iPad 2. Net sales of all iPads (including the iPad 2) and related products and services amounted to \$20.358 billion in the fiscal year 2011, with iPad unit sales (including the iPad 2) totaling 32 million. See Exhibit 7 (Apple 2011 10-K) at 30. These figures represented respective increases of 311% and 334% compared to net sales of \$4.958 billion and unit sales of 7.458 million in fiscal year 2010. See *id.* The Apple Accused Devices also include, but are not necessarily limited to, the following models incorporating digital camera functionality: iPhone 4S, iPhone 4, iPhone 3GS, and iPhone 3G. Net sales of all iPhones (including the iPhone 4S) and related products and services amounted to \$47.1 billion in the fiscal year 2011, with iPhone unit sales (including the iPhone 4S) totaling 72.3 million. See Exhibit 7 (Apple 2011 10-K) at 31. These figures represented respective increases of 87% and 81% compared to net sales of \$25.2 billion and unit sales of 40 million in fiscal year 2010. See *id.* The Apple Accused Devices also include, but are not necessarily limited to, the following model of a communication device featuring digital camera functionality: iPod Touch (4th Generation) (hereinafter “iPod Touch”). Net sales of all iPod devices (including the iPod Touch) and related products and services accounted for 7% of the Apple’s total net sales for 2011. *Id.*

13. Substantially all of Apple’s Accused Devices are manufactured at facilities located in Asia. See Exhibit 7 (Apple 2011 10-K) at 70. As set forth in detail in paragraphs

below and the exhibits referenced therein, Apple's Accused Devices infringe the '161, '084, '605 and '391 patents.

C. Respondent HTC

14. High Tech Computer Corp. a/k/a HTC Corp. is a Taiwanese corporation having its principal place of business at 23 Xinghua Road, Taoyuan 330, Taiwan.

15. HTC (BVI) Corp. is a wholly-owned subsidiary of HTC Corp. HTC (BVI) Corp. is not a respondent, but, upon information and belief, is engaged in activities on behalf of HTC Corp., its parent, and is also the parent company of a respondent. See Exhibit 8 (HTC 2010 Annual Report) at 90.

16. HTC America Holding, Inc. is a wholly-owned subsidiary of HTC Corp. HTC America Holding, Inc. is not a respondent, but, upon information and belief, is engaged in activities on behalf of HTC Corp., its parent, and is also the parent company of a respondent. See Exhibit 8 (HTC 2010 Annual Report) at 82, 91.

17. HTC America, Inc. is a Washington corporation having its principal place of business at 13920 SE Eastgate Way, Suite 400, Bellevue, Washington 98005. HTC America, Inc. is a wholly owned subsidiary of HTC America Holding, Inc. Exhibit 8 (HTC 2010 Annual Report) at 91.

18. Exedea, Inc. is a Texas corporation having its principal place of business at 5950 Corporate Drive, Houston, Texas 77036. Exedea, Inc. is a wholly-owned subsidiary of HTC (BVI) Corp. Exhibit 8 (HTC 2010 Annual Report) at 91.

19. Among other things, HTC designs, manufactures, markets, and sells camera phones and handheld tablet devices. See Exhibit 8 (HTC 2010 Annual Report) at 85, 92. HTC America, Inc. provides marketing, repair, and after-sales services for HTC products. *Id.* at 93. Exedea, Inc. provides distribution and sales of HTC products. *Id.* at 92. The HTC Accused

Devices are camera phones and handheld tablet devices for capturing and transmitting images. See Exhibits 25A, 25B, 26A, 26B, 27A, 27B, 28A, 28B, 29, 33, 34A-34E, 35, and 36A-36F. The HTC Accused Devices include, but are not necessarily limited to, the following models of handheld tablets incorporating digital camera functionality: HTC EVO View 4G, Flyer, and Jetstream. The HTC Accused Devices include, but are not necessarily limited to, the following models incorporating digital camera functionality: HTC Vivid, Amaze 4G, Desire, Evo Design 4G, Hero S, Rezound, Rhyme, Sensation 4G, Wildfire S, and Inspire.

20. Substantially all or all of HTC's Accused Devices are manufactured at facilities located outside the United States. HTC has admitted in at least one presently ongoing ITC Investigation that its EVO Flyer tablet is manufactured in Taiwan and is imported into the United States. See Exhibit 9 (Response of HTC to Complaint in Investigation No. 337-TA-797) at ¶ 51. As set forth in detail in paragraphs below and the exhibits referenced therein, HTC's Accused Devices infringe the '161, '084, '605, '391, and '218 patents.

III. NON-TECHNICAL DESCRIPTION OF THE PATENTED TECHNOLOGY

A. General Background

21. As required by Commission Rule 210.12(c), four copies of the certified prosecution histories for each of the Asserted Patents have been ordered and will be submitted at a later date. As required by Commission Rule 210.12(c), the cited references for each of the Asserted Patents have also been submitted with this Complaint as Appendices F through J.

22. The '161, '084, '605, and '391 patents are from a collection of Kodak patents that arose, in part, out of Kodak engineers' identification of some of the shortcomings of then-existing devices and their vision of image transmission as a direction for the industry. For example, Kodak engineers recognized that it would be desirable to easily share images with

friends, relatives, or publishing services from their digital cameras—as opposed to first downloading the images to their personal computers—using an improved, highly efficient user interface.

23. The Kodak engineers' insights and solutions over the prior art led to the development of the various technologies embodied in the '161, '084, '605, and '391 patents.

24. As to the '218 patent, unlike traditional cameras (which capture a photographed scene using film) most digital cameras today capture images through the use of an image sensor such as a “charge-coupled device” (“CCD”) or “complementary metal-oxide-semiconductor” (“CMOS”) sensor, which use an array of millions of light-sensitive photosensors (called “pixels”) that generate and collect a charge from light passing through the camera lens. Because a CCD or CMOS sensor is unable to distinguish the quantities of the different colors of the incoming light, each sensor pixel is typically coated with either a green, red, or blue filter (called a “color filter array” or CFA) that allows each pixel to measure the amount of either red, green or blue light at its location on the sensor. That information is used to determine the specific colors appearing in the captured scene. The captured color pixel information (initially stored in the CCD or CMOS sensor as an electrical charge) is then converted and processed to generate the data that represents the color image that eventually is stored as a digital data file in the camera's internal or removable memory.

25. Today's digital cameras also include a display that allows a user to preview a scene, and to subsequently view a captured image. The display has a much lower resolution than the resolution of the CCD and/or CMOS sensor, or the resolution of the image stored in the digital data file. The '218 patent discloses the first effective color preview for a digital camera.

B. The Specification and Claims of the '161 Patent

26. The '161 patent, entitled "Automatically Transmitting Images from an Electronic Camera to a Service Provider Using a Network Configuration File," was issued on April 24, 2007. The '161 patent is a continuation of U.S. Patent No. 6,784,924 and claims priority to provisional application no. 60/037,692, filed February 20, 1997. The '161 patent shares a specification with the '084 patent and the '391 patent.

27. The '161 patent has 11 claims: 3 independent claims and 8 dependent claims.

28. The '161 patent relates generally to methods for transferring images from camera devices to remote network resources. The '161 patent discloses facilitating such transfer with the use of network configuration files. For example, the '161 patent discloses that a network configuration file could incorporate system commands, including passwords, to get into the remote application or destination. The '161 patent discloses that the camera device includes a user interface to enable the selection of an image or images to be transferred, such that upon selection, the camera device uses the information in the network configuration file to deliver the selected image or images to the remote destination. The '161 patent finds particular applicability in today's portable camera devices, which almost ubiquitously include technology to connect to data networks on-the-go. Thus, the '161 patent provides for transmission of images from handheld camera devices that capture images to remote destinations in real-time without the need for connecting to another device, such as a desktop computer.

C. The Specification and Claims of the '084 Patent

29. The '084 patent, entitled "Network Configuration File for Automatically Transmitting Images from an Electronic Still Camera," was issued on June 22, 2010. The '084 patent claims priority to U.S. Patent No. 6,784,924. The '084 patent was issued from U.S. Patent Application Serial No. 11/692,224, filed March 28, 2007, which is a continuation of U.S. Patent

Application Serial No. 09/783,437, filed on February 14, 2001, which is a division of U.S. Patent Application Serial No. 09/004,046, filed on January 7, 1998, which claims priority to provisional application no. 60/037,962, filed on February 20, 1997. It shares a specification with the '161 patent and the '391 patent.

30. The '084 patent has 11 claims: 1 independent claim and 10 dependent claims.

31. The '084 patent relates generally to camera devices including a communication interface, a sensor for capturing images, memory, and a user interface. The '084 patent discloses facilitating the transfer of images by storing information for communicating with a plurality of destinations. For example, the '084 patent discloses that the stored information could incorporate system commands, including passwords to get into the remote application or destination. The '084 patent discloses that the camera device includes a user interface including descriptive icons to enable the selection of an image destination such that the camera device can send images to the selected destination via a communications interface. The '084 patent finds particular applicability in today's portable camera devices, which almost ubiquitously include technology to connect to data networks on-the-go. Thus, the '084 patent provides a handheld camera device that transfers images to selected destinations in real-time with an improved, easy-to-use user interface.

D. The Specification and Claims of the '605 Patent

32. The '605 patent, entitled "Capturing Digital Images to be Transferred to an E-Mail Address," was issued on November 18, 2008. The '605 patent claims priority to U.S. Patent No. 6,573,927. The '605 patent was issued from U.S. Patent Application Serial No. 11/174,370, which is a continuation of U.S. Patent Application Serial No. 09/821,152, filed on March 29, 2001, which is a continuation of application No. 08/977,382, filed on November 24, 1997.

33. The '605 patent has 20 claims: 2 independent claims and 18 dependent claims.

34. The '605 patent relates generally to camera devices and methods for capturing images to be transferred to at least one email address. For example, a method is disclosed for capturing images to be transferred including the acts of storing email addresses in the memory of an electronic camera, capturing images, storing images in memory, providing a user interface for selecting images and email addresses, and transferring selected images to selected email addresses. The '605 patent provides a camera device that includes an image sensor, memory, a processor, a display and a user interface for selecting at least one e-mail address.

E. The Specification and Claims of the '391 Patent

35. The '391 patent, entitled "Digital Camera with Communications Interface for Selectively Transmitting Images over a Cellular Phone Network and a Wireless LAN Network to a Destination," was issued on May 3, 2011. The '391 patent claims priority to provisional application no. 60/037,962. The '391 patent was issued from U.S. Patent Application Serial No. 12/625,692, which is a continuation of U.S. Patent Application Serial No. 11/692,224, filed March 28, 2007, which is a continuation of U.S. Patent Application Serial No. 09/783,437, filed on February 14, 2001, which is a division of U.S. Patent Application Serial No. 09/004,046, filed on January 7, 1998, which claims priority to provisional application no. 60/037,962, filed on February 20, 1997. The '391 patent shares a specification with the '161 patent and the '084 patent.

36. The '391 patent has 18 claims: 2 independent claims and 16 dependent claims.

37. The '391 patent relates generally to devices for capturing images and sending the images over a plurality of wireless networks. The '391 patent discloses, for example, an image sensor for capturing the images, a display for displaying the images, an input for selection of an image, and a communications interface for transmitting the selected image over a network. The

'391 patent also discloses operation of a device to capture images, allowing for selection of those images by a user and then for transmitting an image to one of at least two wireless networks. Thus, the '391 patent provides a handheld camera device that transfers images to selected destinations via a plurality of wireless networks in real-time with an improved user interface.

F. The Specification and Claims of the '218 Patent

38. The '218 patent, entitled "Electronic Camera for Initiating Capture of Still Images While Previewing Motion Images," was issued on September 18, 2001. The '218 patent is a divisional application of U.S. Patent No. 5,828,406 and claims priority thereto. Further, claims 15 and 23-27 were reexamined and were confirmed as patentable.

39. The '218 patent has 28 claims: 2 independent claims and 26 dependent claims.

40. The '218 patent describes and claims an image capture and processing device with certain components for "previewing" a scene. The '218 patent discloses the first effective color preview for a digital camera - a key feature that requires managing the enormous amounts of data present in color images, accounting for the complex manner in which the color pixels of an image interact, and processing image data at speeds sufficient to present moving images on a display that accurately reflects the scene and allow for capture of a scene.

41. The '218 patent describes two functions. A motion preview function permits the device to produce preview images. A still image function enables the device to capture high-quality still images. The motion preview function uses an image processing technique that outputs images at a higher rate and allows moving images to be displayed prior to image capture. The still image function uses a digital image processing technique that outputs images at a slower rate but enables the device to capture high quality still images. In practice, the preview images are displayed to be used to frame and compose a scene. Once capture of a still image is

initiated, the processor processes the digital image data that is stored in a digital memory as a still image.

42. It is now common for image capture and processing devices to preview images on a liquid crystal display ("LCD") integrated into the device. On many such devices, particularly those now featured in communication devices, the LCD replaces the traditional optical viewfinder found on older digital or film cameras.

IV. OWNERSHIP AND LICENSING OF THE PATENTS IN SUIT

A. Ownership and Licensing of the '161 Patent

43. On April 24, 2007, the Patent Office duly and legally issued the '161 patent, which is entitled "Automatically Transmitting Images from an Electronic Camera to a Service Provider Using a Network Configuration File" and names Joseph Ward, Kenneth A. Parulski, and James D. Allen as inventors. The '161 patent was issued from U.S. Patent Application Serial No. 09/855,375, filed May 15, 2001, which is a continuation of U.S. Patent Application Serial No. 09/004,046, filed on January 7, 1998 and claims priority to provisional application no. 60/037,962, filed on February 20, 1997. The prosecution history for the '161 patent, copies of each patent, and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. See Appendices A and F. A certified copy of the prosecution history for the '161 patent will be provided at a later date.

44. Kodak is the owner, by valid assignment, of all right, title, and interest in and to the '161 patent. The assignment was recorded with the U.S. Patent Office on January 7, 1998 (Reel/Frame 008927/0007). As stated above, the '161 patent was filed as a continuation of U.S. Patent Application Serial No. 09/004,046, which was issued as U.S. Patent No. 6,784,924. The assignment to Kodak for U.S. Patent No. 6,784,924 acts as an assignment for the '161 patent. A

copy of the assignment document for U.S. Patent No. 6,784,924 is attached to the Complaint as Exhibit 10. A certified copy of the assignment for U.S. Patent No. 6,784,924 will be provided at a later date.

45. There are no foreign patents or patent applications corresponding to the '161 Patent.

46. Kodak has licensed its digital imaging portfolio, which includes the '161 patent, to the companies listed in Confidential Exhibit 11 for limited fields of use. The license agreements are subject to confidentiality requirements. Upon filing of this Complaint, Kodak will notify the licensees of this filing and intends to submit the licenses thereafter.

B. Ownership and Licensing of the '084 Patent

47. On June 22, 2010, the Patent Office duly and legally issued the '084 patent, which is entitled "Network Configuration File for Automatically Transmitting Images from an Electronic Still Camera" and names Joseph Ward, Kenneth A. Parulski, and James D. Allen as inventors. The '084 patent was issued from U.S. Patent Application Serial No. 11/692,224, filed March 28, 2007, which is a continuation of U.S. Patent Application Serial No. 09/783,437, filed on February 14, 2001, which is a division of U.S. Patent Application Serial No. 09/004,046, filed on January 7, 1998, which claims priority to provisional application no. 60/037,962, filed on February 20, 1997. The prosecution history for the '084 patent, copies of each patent, and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. See Appendices B and G. A certified copy of the prosecution history for the '084 patent will be provided at a later date.

48. Kodak is the owner, by valid assignment, of all right, title, and interest in and to the '084 patent. The assignment was recorded with the U.S. Patent Office on January 7, 1998 (Reel/Frame 008927/0007). As stated above, the '084 patent was issued from U.S. Patent

Application Serial No. 11/692,224, filed March 28, 2007, which is a continuation of U.S. Patent Application Serial No. 09/783,437, filed February 14, 2001, which is a division of U.S. Patent Application Serial No. 09/004,046, filed on January 7, 1998. U.S. Patent Application Serial No. 09/004,046 issued as U.S. Patent No. 6,784,924. The assignment for U.S. Patent No. 6,784,924 acts as an assignment for the '084 patent. A copy of the assignment document for U.S. Patent No. 6,784,924 is attached to the Complaint as Exhibit 10. A certified copy of the assignment for U.S. Patent No. 6,784,924 will be provided at a later date.

49. There are no foreign patents or patent applications corresponding to the '084 patent.

50. Kodak has licensed its digital imaging portfolio, which includes the '084 patent, to the companies listed in Confidential Exhibit 11 for limited fields of use. The license agreements are subject to confidentiality requirements. Upon the filing of this Complaint, Kodak will notify the licensees of this filing and intends to submit the licenses thereafter.

C. Ownership and Licensing of the '605 Patent

51. On November 18, 2008, the Patent Office duly and legally issued the '605 patent, which is entitled "Capturing Digital Images To Be Transferred to an E-Mail Address" and names Kenneth A. Parulski, Joseph Ward, and Michael C. Hopwood as inventors. The '605 patent was issued from U.S. Patent Application Serial No. 11/174,370, which is a continuation of U.S. Patent Application Serial No. 09/821,152, filed on March 29, 2001, which is a continuation of application No. 08/977,382, filed on November 24, 1997. The prosecution history for the '605 patent, copies of each patent, and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. See Appendices C and H. A certified copy of the prosecution history for the '084 patent will be provided at a later date.

52. Kodak is the owner, by valid assignment, of all right, title, and interest in and to the '605 patent. The assignment was recorded with the U.S. Patent Office on August 21, 1998 (Reel/Frame 009400/0014). It is noted that the '605 patent was issued from U.S. Patent Application Serial No. 11/174,370, filed July 1, 2005, which is a continuation of U.S. Patent Application Serial No. 09/821,152, filed on March 29, 2001, which is a continuation of U.S. Patent Application Serial No. 08/977,382, filed on November 24, 1997. U.S. Patent Application Serial No. 08/977,382 issued as U.S. Patent No. 6,573,927. Thus, an assignment for U.S. Patent No. 6,573,927 acts as an assignment for the '605 patent. A copy of the assignment document for U.S. Patent No. 6,573,927 is attached to the Complaint as Exhibit 12. A certified copy of the assignment for U.S. Patent No. 6,573,927 will be provided at a later date.

53. A list of all foreign patents corresponding to the '605 patent and their prosecution status is set forth in Exhibit 57. There are granted and withdrawn foreign applications.

54. Kodak has licensed its digital imaging portfolio, which includes the '605 patent, to the companies listed in Confidential Exhibit 11 for limited fields of use. The license agreements are subject to confidentiality requirements. Upon filing of this Complaint, Kodak will notify the licensees of this filing and intends to submit the licenses thereafter.

D. Ownership and Licensing of the '391 Patent

55. On May 3, 2011, the Patent Office duly and legally issued the '391 patent, which is entitled "Digital Camera with Communications Interface for Selectively Transmitting Images over a Cellular Phone Network and a Wireless LAN Network to a Destination" and names Joseph Ward, Kenneth A. Parulski, and James D. Allen as inventors. The '391 issued from U.S. Patent Application Serial No. 12/625,692, which is a continuation of U.S. Patent Application Serial No. 11/692,224, filed March 28, 2007, which is a continuation of U.S. Patent Application Serial No. 09/783,437, filed on February 14, 2001, which is a division of U.S. Patent Application

Serial No. 09/004,046, filed on January 7, 1998, which claims priority to provisional application no. 60/037,962, filed on February 20, 1997. The prosecution history for the '391 patent, copies of each patent, and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. See Appendices D and I. A certified copy of the prosecution history for the '391 patent will be provided at a later date.

56. Kodak is the owner, by valid assignment, of all right, title, and interest in and to the '391 patent. The assignment was recorded with the U.S. Patent Office on January 7, 1998 (Reel/Frame 008927/0007). It is noted that the '391 patent was issued from U.S. Patent Application Serial No. 12/625,692, filed November 25, 2009, which is a continuation of U.S. Patent Application Serial No. 11/692,224, filed March 28, 2007, which is a continuation of U.S. Patent Application Serial No. 09/783,437, filed on February 14, 2001, which is a division of U.S. Patent Application Serial No. 09/004,046, filed on January 7, 1998. U.S. Patent Application Serial No. 09/004,406 issued as U.S. Patent No. 6,784,924. Thus, an assignment for U.S. Patent No. 6,784,924 acts as an assignment for the '391 patent. A copy of the assignment document for U.S. Patent No. 6,784,924 is attached to the Complaint as Exhibit 10. A certified copy of the assignment for U.S. Patent No. 6,784,924 will be provided at a later date.

57. There are no foreign patents or patent applications corresponding to the '391 patent.

58. Kodak has licensed its digital imaging portfolio, which includes the '391 patent, to the companies listed in Confidential Exhibit 11 for limited fields of use. The license agreements are subject to confidentiality requirements. Upon the filing of this Complaint, Kodak will notify the licensees of this filing and intends to submit the licenses thereafter.

E. Ownership and Licensing of the '218 Patent

59. On September 18, 2001, the Patent Office duly and legally issued the '218 patent, which is entitled "Electronic Camera for Initiating Capture of Still Images While Previewing Motion Images," and names Kenneth A. Parulski and Timothy J. Tredwell as inventors. The '218 patent was issued from U.S. Patent Application Serial No. 08/895,094, filed July 16, 1997 ("the '094 application"), which is a division of U.S. Patent Application Serial No. 08/367,399, filed on December 30, 1994. The prosecution history for the '218 patent and copies of each patent and the applicable pages of each technical reference mentioned in that prosecution history are being submitted with this Complaint. See Appendices E and J. A certified copy of the prosecution history for the '218 patent will be provided at a later date.

60. Kodak is the owner, by valid assignment, of all right, title and interest in and to the '218 patent (the inventors assigned all right, title and interest in the '094 application to Kodak). The assignment was recorded with the U.S. Patent Office on March 6, 1995 (Reel/Frame: 007452/0575). As stated above, the '218 patent was filed as a division of U.S. Patent Application 08/367,399, which was issued as U.S. Patent No. 5,828,406. The assignment to Kodak for U.S. Patent No. 5,828,406 acts as an assignment for the '218 patent. A copy of the assignment document for the '406 patent is attached to the Complaint as Exhibit 13. A certified copy of the assignment for the '406 patent will be provided at a later date.

61. A list of all foreign patents corresponding to the '218 patent and their prosecution status is set forth in Exhibit 14. There are no pending, abandoned, rejected or withdrawn foreign applications.

62. Kodak has licensed its digital imaging portfolio, which includes the '218 patent, to the companies listed in Confidential Exhibit 11 for limited fields of use. The license

agreements are subject to confidentiality requirements. Upon filing of this Complaint, Kodak will notify the licensees of this filing and intends to submit the licenses thereafter.

V. UNLAWFUL AND UNFAIR ACTS OF RESPONDENT – PATENT INFRINGEMENT

A. Infringement of the '161, '084, '605, and '391 Patents by Apple

63. Apple directly infringes, contributes to infringement, and induces infringement, either literally or under the doctrine of equivalents, with respect to one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 17, and 18 of the '391 patent. Apple does so by the importation and/or selling after importation into the United States of Apple Accused Devices that directly infringe, contribute to infringement, and induce infringement either literally or under the doctrine of equivalents with respect to one or more of claims 5, and, 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 17, and 18 of the '391 patent. The Apple Accused Devices for the '161 and '084, and '605 patents include at least the iPhones (including the 3G, 3GS, 4 and 4S models), iPad 2, and iPod touch (fourth generation) devices. The Apple Accused Devices for the '391 patent include at least the iPhones (including the 3G, 3GS, 4 and 4S models) and iPad 2 devices that include cellular capability (including the iPad 2 Wi-Fi + 3G models).

64. Kodak analyzed, as representative Apple Accused devices, the iPad 2, iPod touch, iPhone 4, and iPhone 4S devices to ascertain whether they infringe the '161, '084, '605 and '391 patents. Claim charts applying independent claim 5 of the '161 patent, independent claim 1 of the '084 patent, independent claims 1 and 13 of the '605 patent and independent claim 11 of the

'391 patent to Apple devices are attached to this Complaint as Exhibits 15A, 15B, 15C, 16A, 16B, 16C, 17A, 17B, 17C, 18A, and 18B. Materials supporting the claim chart analyses are attached to this Complaint as Exhibit 19.

1. Direct Infringement

65. Apple sells and offers for sale Apple Accused Devices within the United States, for example, through its own retail and online stores. See Exhibit 7 (Apple 2011 10-K) at 1. As of September 25, 2010, Apple had 357 retail stores in the United States. See Exhibit 7 (Apple 2011 10-K) at 34. A listing of its U.S. retail stores that Apple advertises as selling at least the iPad 2 is attached as Exhibit 20 to the Complaint (Apple Retail Store web page). Kodak has purchased an Apple Accused Device in the United States directly from Apple Store No. 240, 7979 Pittsford-Victor Road in Victor, NY, located about 12 miles southeast of Kodak's headquarters in Rochester, NY. A copy of a printout from the Apple website showing the location of the Apple store in Victor, NY, is attached as Exhibit 21.

66. Apple also sells and offers for sale Apple Accused Devices to cellular network carriers' distribution channels and third-party resellers in the United States. See Exhibit 7 (Apple 2011 10-K) at 6. These carriers, distributors and resellers include, among others, AT&T, Verizon, Best Buy, Target, and Radio Shack. See Exhibit 22 (Where to Buy web page from Apple website). Apple maintains on its website a store locator that allows potential buyers to search by zip code or city and generate a list of Apple stores, carriers and other third parties who sell iPad products. See Exhibit 23 (<http://www.apple.com/buy/locator/>). An example search for stores selling Apple Accused Devices in Rochester, NY, the home of Kodak, shows two AT&T retail store locations. See Exhibit 24 (Apple Store Locator web page for Rochester, NY and iPad 2).

67. Apple imports into the United States Apple Accused Devices.

68. Apple, therefore, directly infringes one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 17, and 18 of the '391 patent through its importation for sale and/or sale after importation of Apple Accused Devices.

2. Contributory Infringement

69. Apple also contributes to infringement of (and thereby infringes) one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 17, and 18 of the '391 patent in violation of 35 U.S.C. § 271 by selling within the United States, offering for sale within the United States, and/or importing components, including at least Apple Accused Devices and the non-staple constituent parts of those devices, that embody a material part of the inventions described in the '161, '084, '605, and '391 patents, that are known by Apple to be especially made or especially adapted for use in infringement of the '161, '084, '605, and '391 patents. The Apple Accused Devices are not staple articles or commodities suitable for substantial, non-infringing use.

70. Among other things, Apple sells Apple Accused Devices, with knowledge that the devices infringe, through a distribution network to network carriers, third-party resellers and consumers. Consumers of Apple Accused Device directly infringe the '161, '084, '605, and '391 patents.

71. Upon information and belief, Apple is well aware of Kodak's patent portfolio in this area, which has been the subject of extensive publicity and press coverage. Upon information and belief, from this and other activities, Apple had actual knowledge of the '161, '084, '605, and '391 patents in advance of the filing of this Complaint. Moreover, this

Complaint and an action simultaneously filed against Apple before the U.S. District Court for the Western District of New York, provide Apple with further notice of the '161, '084, '605, and '391 patents.

3. Inducement of Infringement

72. Apple also has induced, and continues to induce, others to infringe the '161, '084, '605, and '391 patents in violation of 35 U.S.C § 271, by taking active steps to encourage and facilitate others to perform actions with knowledge or willful blindness that such acts infringe one or more claims of the '161, '084, '605, and '391 patents. Upon information and belief, among other things, Apple contracts for the distribution of Apple Accused Devices for sale by retail sales outlets, cellular network carriers' distribution channels and third-party resellers; markets Apple Accused Device; creates and distributes user manuals for Apple Accused Devices; and supplies warranty coverage for Apple Accused Device sold in the United States. See Exhibit 7 (Apple 2011 10-K) at 6; Exhibit 22 (Where to Buy web page from Apple website); Exhibit 24 (Apple Store Locator web page for Rochester, NY); Exhibit 58 (iPad 2 Important Product Information Guide).

73. Upon information and belief, Apple is well aware of Kodak's patent portfolio in this area, which has been the subject of extensive publicity and press coverage. Upon information and belief, from this and other activities, Apple had actual knowledge of the '161, '084, '605, and '391 patents in advance of the filing of this Complaint. Moreover, this Complaint and an action simultaneously filed against Apple before the U.S. District Court for the Western District of New York, provide Apple with further notice of the '161, '084, '605, and '391 patents.

B. Infringement of the '161, '084, '605, and '391 Patents by HTC

74. HTC directly infringes, contributes to infringement, and induces infringement literally and under the doctrine of equivalents with respect to one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 16, 17, and 18 of the '391 patent. HTC does so by the importation and/or selling after importation into the United States HTC Accused Devices that directly infringe, contribute to infringement, and induce infringement either literally or under the doctrine of equivalents with respect to one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, and one or more of claims 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 16, 17, and 18 of the '391 patent. The HTC Accused Devices include at least the HTC EVO View 4G, Flyer, Jetstream, Vivid, Amaze 4G, Desire, Evo Design 4G, Hero S, Rezound, Rhyme, Sensation 4G, Wildfire S devices.

75. Kodak analyzed, as representative HTC Accused Devices, the EVO View handheld tablet and the Vivid camera phone to ascertain whether they infringe the '161, '084, '605, and '391 patents. Claim charts applying independent claim 5 of the '161 patent, independent claim 1 of the '084 patent, independent claims 1 and 13 of the '605 patent, and independent claim 11 of the '391 patent to the EVO View handheld tablet device are attached to this Complaint as Exhibits 25A, 25B, 26A, 26B, 27A, 27B, 28A, and 28B. Materials supporting the claim chart analyses are attached to this Complaint as Exhibit 29.

1. Direct Infringement

76. HTC sells and offers for sale HTC Accused Devices within the United States, for example, through its own online store. See Exhibit 30.

77. HTC also sells and offers for sale HTC Accused Devices to cellular network carriers' distribution channels and third-party resellers in the United States. See Exhibit 31. These carriers, distributors and resellers include, among others, Best Buy, AT&T, Sprint, US Cellular, and T-Mobile. See Exhibit 32 (<http://www.htc.com/us/where-to-buy-tablets>).

78. HTC imports into the United States HTC Accused Devices.

79. HTC, therefore, directly infringes one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 16, 17, and 18 of the '391 patent through its importation for sale and/or sale after importation of HTC Accused Devices.

2. Contributory Infringement

80. HTC also contributes to infringement of (and thereby infringes) one or more claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more of claims 11, 12, 15, 16, 17, and 18 of the '391 patent in violation of 35 U.S.C. § 271 by selling within the United States, offering for sale within the United States, and/or importing components, including at least HTC Accused Devices and the non-staple constituent parts of those devices, that embody a material part of the inventions described in the '161, '084, '605 and '391 patents, that are known by HTC to be especially made or especially adapted for use in infringement of the '161, '084, '605 and '391 patents. The HTC Accused Devices are not staple articles or commodities suitable for substantial, non-infringing use.

81. Among other things, HTC sells HTC Accused Devices, with knowledge that the devices infringe, through a distribution network to network carriers, third-party resellers and

consumers. Consumers of HTC Accused Devices directly infringe the '161, '084, '605 and '391 patents.

82. Upon information and belief, HTC is well-aware of Kodak's patent portfolio in this area, which has been the subject of extensive publicity and press coverage. Upon information and belief, from this and other activities, HTC had actual knowledge of the '161, '084, '605, and '391 patents in advance of the filing of this Complaint. Moreover, this Complaint and an action simultaneously filed against HTC before the U.S. District Court for the Western District of New York, provide HTC with further notice of the '161, '084, '605, and '391 patents.

3. Inducement of Infringement

83. HTC also has induced, and continues to induce, others to infringe the '161, '084, '605, and '391 patents in violation of 35 U.S.C § 271, by taking active steps to encourage and facilitate others to perform actions with knowledge or willful blindness that such acts infringe one or more claims of the '161, '084, '605, and '391 patents. HTC contracts for the distribution of HTC Accused Devices for sale by retail sales outlets, cellular network carriers' distribution channels and third-party resellers; markets HTC Accused Devices; creates and distributes user manuals for HTC Accused Devices; and supplies warranty coverage for HTC Accused Devices sold in the United States. See Exhibit 59 (EVO View User Guide).

84. Upon information and belief, HTC is well aware of Kodak's patent portfolio in this area, which has been the subject of extensive publicity and press coverage. Upon information and belief, from this and other activities, HTC had actual knowledge of the '161, '084, '605, and '391 patents in advance of the filing of this Complaint. Moreover, this Complaint and an action simultaneously filed against HTC before the U.S. District Court for the

Western District of New York, provide Apple with further notice of the '161, '084, '605, and '391 patents.

C. Infringement of the '218 Patent by HTC

85. HTC directly infringes, contributes to infringement, and induces infringement literally and under the doctrine of equivalents with respect to one or more of claims 15, 23, 24, 25, 26 and 27 of the '218 patent. HTC does so by the importation and/or selling after importation into the United States HTC Accused Devices that directly infringe, contribute to infringement, and induce infringement either literally or under the doctrine of equivalents with respect to claims 15, 23, 24, 25, 26 and 27 of the '218 patent. The HTC Accused Devices include at least the HTC EVO View 4G, Flyer, Jetstream, Vivid, Amaze 4G, Desire, Evo Design 4G, Hero S, Rezound, Rhyme, Sensation 4G, Wildfire S devices.

86. Kodak analyzed, as representative HTC Accused Devices, the EVO View 4G handheld tablet and HTC Vivid camera phone to ascertain whether they infringe the '218 patent. Claim charts applying independent claim 15 of the '218 patent to the HTC Vivid camera phone and the EVO View 4G handheld tablet are attached to this Complaint as Exhibits 33 and 35. Materials supporting the claim chart analyses are attached to this Complaint as Exhibits 34A-E and 36A-36F.

1. Direct Infringement

87. HTC sells and offers for sale HTC Accused Devices within the United States, for example, through its own online store. See Exhibit 30.

88. HTC also sells and offers for sale HTC Accused Devices to cellular network carriers' distribution channels and third-party resellers in the United States. See Exhibit 31. These carriers, distributors and resellers include, among others, Best Buy, AT&T, Sprint, US Cellular, and T-Mobile. See Exhibit 32 (<http://www.htc.com/us/where-to-buy-tablets>).

89. HTC imports into the United States HTC Accused Devices.

90. HTC, therefore, directly infringes claims 15, 23, 24, 25, 26 and 27 of the '218 patent through its importation for sale and/or sale after importation of HTC Accused Devices.

2. Contributory Infringement

91. HTC also contributes to infringement of (and thereby infringes) claims 15, 23, 24, 25, 26 and 27 of the '218 patent in violation of 35 U.S.C. § 271 by selling within the United States, offering for sale within the United States, and/or importing components, including at least HTC Accused Devices and the non-staple constituent parts of those devices, that embody a material part of the inventions described in the '218 patent, that are known by HTC to be especially made or especially adapted for use in infringement of the '218 patent. The HTC Accused Devices are not staple articles or commodities suitable for substantial, non-infringing use.

92. Among other things, HTC sells HTC Accused Devices, with knowledge that the devices infringe, through a distribution network to network carriers, third-party resellers and consumers. Consumers of HTC Accused Devices directly infringe the '218 patent.

93. Upon information and belief, HTC is well-aware of Kodak's patent portfolio in this area, which has been the subject of extensive publicity and press coverage. Upon information and belief, from this and other activities, HTC had actual knowledge of the '218 patent in advance of the filing of this Complaint. Moreover, this Complaint and an action simultaneously filed against HTC before the U.S. District Court for the Western District of New York, provide HTC with further notice of the '218 patent.

3. Inducement of Infringement

94. HTC also has induced, and continues to induce, others to infringe the '218 patent in violation of 35 U.S.C § 271, by taking active steps to encourage and facilitate others to

perform actions with knowledge or willful blindness that such acts infringe one or more claims of the '218 patent. Upon information and belief, among other things, HTC contracts for the distribution of HTC Accused Devices for sale by retail sales outlets, cellular network carriers' distribution channels and third-party resellers; markets HTC Accused Devices; creates and distributes user manuals for HTC Accused Devices; and supplies warranty coverage for HTC Accused Devices sold in the United States. See Exhibit 59 (EVO View User Guide).

95. Among other things, HTC sells HTC Accused Devices, with knowledge that the devices infringe, through a distribution network to network carriers, third-party resellers and consumers. Consumers of HTC Accused Devices directly infringe the '218 patent.

96. Upon information and belief, HTC is well aware of Kodak's patent portfolio in this area, which has been the subject of extensive publicity and press coverage. Upon information and belief, from this and other activities, HTC had actual knowledge of the '218 patent in advance of the filing of this Complaint. Moreover, this Complaint and an action simultaneously filed against HTC before the U.S. District Court for the Western District of New York, provide HTC with further notice of the '218 patent.

VI. IMPORTATION

A. Importation of Apple Accused Products into the United States

97. Apple imports, sells for importation, and/or sells within the United States after importation Apple Accused Devices that infringe one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of claims 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, and one or more claims 11, 12, 15, 16, 17, and 18 of the '391 patent.

98. On information and belief, the Apple Accused Devices are manufactured abroad and sold for importation and/or imported and sold after importation in the United States by Apple. For example, Apple's 10-K form for the fiscal year ending in September 2011 indicates that third party vendors abroad perform final assembly of all of Apple's products. Exhibit 7 at 8. On information and belief, Apple also offers Apple Accused Device for sale to cellular network carriers' distribution channels and third-party resellers with the knowledge and expectation that they intend to sell such Apple Accused Device within the United States.

99. Kodak has obtained in the United States Apple Accused Devices that have been imported. For example, Kodak has obtained the Apple iPad 2 handheld tablet device, the Apple iPod Touch, and the Apple iPhone 4S. A copy of the sales receipt for the Apple iPad 2 handheld tablet device, the Apple iPod Touch, and the Apple iPhone 4S is attached to this Complaint as Exhibit 37.

100. As shown in the photograph included in Exhibit 38, the physical casing of the Apple iPad 2 is marked as "Assembled in China." As shown in the photograph included in Exhibit 39, the physical casing of the Apple iPod Touch is marked as "Assembled in China." As shown in the photograph included in Exhibit 40, the physical casing of the Apple iPhone 4S is marked as "Assembled in China."

B. Importation of HTC Accused Products into the United States

101. HTC imports, sells for importation, and/or sells within the United States after importation HTC Accused Devices that infringe one or more of claims 5 and 7 of the '161 patent, one or more of claims 1, 7, 8, 9, 10, and 11 of the '084 patent, one or more of 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 16, 17, 19, and 20 of the '605 patent, one or more of claims 11, 12, 15, 16, 17, and 18 of the '391 patent, and one or more of claims 15, 23, 24, 25, 26 and 27 of the '218 patent.

102. On information and belief, HTC also offers HTC Accused Devices for sale to cellular network carriers' distribution channels and third-party resellers with the knowledge and expectation that they intend to sell such HTC Accused Devices within the United States.

103. Kodak has obtained in the United States HTC Accused Devices that have been imported. For example, Kodak has obtained the HTC EVO View handheld tablet and the HTC Vivid 4G camera phone. A copy of the sales receipt for the HTC EVO View and HTC Vivid 4G camera phone is attached to this Complaint as Exhibits 37 and 41.

104. As shown in the photograph included in Exhibit 42, the physical casing of the HTC EVO View 4G handheld tablet device is marked as "Made in Taiwan." As shown in the photograph included in Exhibit 43, the physical casing of the HTC Vivid 4G camera phone is marked as "made in Taiwan."

C. HTSUS Classification

105. Upon information and belief, the Apple Accused Devices and HTC Accused Devices may be classified under at least the following subheadings of the Harmonized Tariff Schedule of the United States: 8471.30.0100, 8517.12.00.¹

VII. RELATED LITIGATION INVOLVING THE '161, '084, '605, '391, AND '218 PATENTS

106. On or about March 8, 2004, Kodak filed a complaint for patent infringement against Sony Corporation; Sony Corporation of America; and Sony Electronics Inc. in Civil Action No. 6:04-cv-6095-MAT-JWP in the United States District Court for the Western District of New York, asserting infringement of the '218 patent, Patent No. 6,784,924 (which is the parent to the '161, '084 and '391 patents), Patent No. 6,573,927 (which is the parent to the '605

¹ These HTSUS numbers are based on Kodak's current knowledge and are not intended to restrict the devices and products accused.

patent), and other patents. Kodak added Sony Ericsson Mobile Communications AB and Sony Ericsson Mobile Communications (USA) Inc. as defendants by an amended complaint, dated July 16, 2004. The parties later entered into separate settlement and license agreements that included a royalty bearing license to Kodak. The district court dismissed all claims and counterclaims in the case with prejudice on January 3, 2007.

107. On or about July 25, 2007, Kodak filed a complaint for patent infringement against Matsushita Electric Industrial Company, Ltd.; Panasonic Corporation of North America; Victor Company of Japan, Ltd. (JVC), and JVC Americas Corporation in Civil Action No. 6:07-CV00352-LED in the United States District Court for the Eastern District of Texas, asserting infringement of the '218 patent, among others. Before an answer was filed, Kodak entered into separate settlement and license agreements with the defendants. The license agreements were royalty bearing to Kodak. The district court dismissed all claims with prejudice on January 8, 2008.

108. On or about November 17, 2008, Kodak filed a complaint for patent infringement against Samsung Electronics Company, Ltd.; Samsung Electronics America, Inc.; Samsung Telecommunications America, LLC; LG Electronics, Inc.; LG Electronics USA, Inc.; and LG Electronics MobileComm USA in Civil Action No. 08-CV -6511 T in the United States District Court for the Western District of New York, asserting infringement of two patents, including the '218 patent. The action was stayed at the request of defendants. On December 4, 2009, Kodak announced that it had entered into a royalty bearing license agreement with LG Electronics, Inc., and that the parties agreed to conclude their patent litigation. On or about December 22, 2009, the claims pending against the LG defendants were dismissed in Civil Action No. 08-CV-6511 T. On December 23, 2009, Kodak announced that it had agreed to negotiate settlement and

license agreements with Samsung Electronics Co., Ltd., and that Samsung had agreed to make a non-refundable payment to Kodak in 2009 to be credited toward future royalty payments to Kodak. On January 11, 2010, Kodak announced that it had entered into a royalty-bearing license agreement with Samsung Electronics Co. Ltd. and a separate settlement agreement that included settlement of the patent litigation between the parties. The district court dismissed all claims with prejudice on February 4, 2010.

109. On November 17, 2008, Kodak filed a complaint for violation of Section 337 against Samsung Electronics Company, Ltd.; Samsung Electronics America, Inc.; Samsung Telecommunications America, LLC; LG Electronics, Inc.; LG Electronics USA, Inc.; and LG Electronics MobileComm USA in the United States International Trade Commission, asserting infringement of claims 15, 23, 24, 25, 26 and 27 of the '218 patent, among others. On December 12, 2008, the Commission instituted an investigation based on the Complaint captioned Certain Mobile Telephones and Wireless Communication Devices Featuring Digital Cameras, and Components Thereof, USITC Investigation No. 337-TA-663. A hearing on that matter was held before Administrative Law Judge Carl C. Charneski commencing on October 5, 2009, and ending on October 16, 2009. On December 4, 2009, Kodak announced that it had entered into a royalty bearing license agreement with LG Electronics, Inc., and that the parties agreed to conclude their patent litigation. On or about December 16, 2009, Kodak and the LG respondents submitted a motion to terminate the Investigation as to the LG respondents. On or about December 17, 2009, ALJ Charneski issued an Initial Determination finding, among other things, that the asserted claims of the '218 patent (including claims 15, 23, 24, 25, 26, and 27) were not invalid or unenforceable, and that the Samsung respondents' accused products infringed the asserted claims. ALJ Charneski further found the domestic industry requirement was satisfied

for the '218 patent. ALJ Charneski concluded a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, had occurred. On or about December 23, 2009, ALJ Charneski issued a Recommended Determination on Remedy and Bonding. On December 23, 2009, Kodak announced it had agreed to negotiate settlement and license agreements with Samsung Electronics Co., Ltd., and that Samsung had agreed to make a non-refundable payment to Kodak in 2009 to be credited toward future royalty payments to Kodak. On or about January 8, 2010, Kodak and the Samsung respondents submitted a confidential motion to terminate the Investigation as to the Samsung respondents based on a settlement agreement. On January 11, 2010, Kodak announced that it had entered into a royalty bearing license agreement with Samsung Electronics Co. Ltd. Kodak further announced that the license and settlement became effective upon termination of the ITC action on February 2, 2010.

110. On January 14, 2010, Kodak filed a complaint for violation of Section 337 against Apple; Research in Motion, Ltd., of Ontario, Canada; and Research in Motion Corp., of Irving, Texas (collectively, "RIM"). The complaint alleged, inter alia, the infringement of claim 15 of the '218 patent. On February 23, 2010, the United States International Trade Commission instituted an investigation captioned Certain Mobile Telephones and Wireless Communication Devices Featuring Digital Cameras, and Components Thereof. In the Matter of January 14, 2010. 75 Fed Reg. 8112. A hearing was held before Chief Administrative Law Judge Paul J. Luckern on September 1-3 and 7-9, 2010. On January 24, 2011, ALJ Luckern issued a final Initial Determination finding no violation of section 337. On June 30, 2011, the Commission, after review, affirmed-in-part and reversed-in-part the determination of no violation, and remanded the investigation for further proceedings. Certain issues remain to be determined based on the Commission's claim construction. The matter has been reassigned to ALJ Thomas

B. Pender, who has issued an Initial Determination setting an extended Target Date of September 21, 2012.

111. On or about November 20, 2008, RIM Ltd., and RIM Corp. filed a declaratory judgment action against Kodak in Civil Action No. 3:08-cv-02075-K in the United States District Court for the Northern District of Texas seeking a determination that they did not infringe the '218 patent, among others, and that the '218 patent, among others, was invalid and unenforceable. On or about February 17, 2009, Kodak filed a counterclaim against RIM Ltd. and RIM Corp. alleging infringement of the '218 patent, among others. The case is pending.

112. On or about January 14, 2010, Kodak filed a complaint for patent infringement against Apple in the United States District Court for the Western District of New York in Civil Action No. 6:10-CV-6021 asserting infringement of the '218 patent, among others. The case is stayed.

113. On or about July 31, 2009, an application for ex-parte re-examination of the '218 patent was filed with the United States Patent and Trademark Office ("USPTO"). On or about September 25, 2009, a re-examination of the '218 patent was ordered. On or about March 9, 2010, a second application for ex-parte re-examination of the '218 patent was filed with the USPTO. On or about April 23, 2010, a re-examination of the '218 patent was ordered. On or about August 4, 2010, the USPTO determined to merge the two re-examination proceedings. On or about September 6, 2011, the USPTO issued the Ex Parte Reexamination Certificate for the '218 patent confirming (1) all of the claims under reexamination as patentable, and (2) that no amendments have been made to the '218 patent during reexamination.

114. Concurrent with the filing of this Complaint, Kodak is filing a complaint for patent infringement against Apple Inc., in the United States District Court for the Western

District of New York. The complaint includes an assertion of infringement of the '161, '084, '605 and '391 patents.

115. Concurrent with the filing of this Complaint, Kodak is filing a complaint for patent infringement against High Tech Computer Corp. a/k/a HTC Corp., HTC America, Inc., and Exedea, Inc. in the United States District Court for the Western District of New York. The complaint includes an assertion of infringement of the '161, '084, '605, '391, and '218 patents.

VIII. DOMESTIC INDUSTRY

116. As required by Section 337(a)(2) and defined by Section (a)(3), a domestic industry exists in the United States or is in the process of being established in connection with the Asserted Patents.

A. A Domestic Industry Exists or is in the Process of Being Established for the '161 Patent

1. Kodak Has Made and Continues to Make Substantial Investments in the Exploitation of the '161 Patent Through Engineering and Development

117. Kodak has made substantial investments in the United States in continuously developing advanced technologies to support digital cameras that incorporate the inventions claimed in the '161 patent. Confidential Exhibit 44 attached to this Complaint shows the amounts invested by Kodak in engineering and development in support of its digital cameras that incorporate the inventions claimed in the '161 patent. Confidential Exhibit 45 attached to this Complaint shows the number of Kodak employees engaged in engineering and development activities in support of digital cameras that incorporate the inventions claimed in the '161 patent.

118. Kodak has also made substantial investments in technical support activities related to its digital cameras that incorporate the inventions claimed in the '161 patent, including, but not limited to, providing service, warranty and repair services to digital cameras that practice

the '161 patent. Confidential Exhibit 46 attached to this Complaint shows the amounts invested by Kodak in manufacturing related support for digital cameras that incorporate the inventions claimed in the '161 patent.

119. The Kodak EasyShare One digital camera embodies the inventions of the '161 patent. Exhibit 47 attached to this Complaint is a claim chart showing how the Kodak EasyShare One digital camera practices, among other claims, at least claim 5 of the '161 patent. Exhibit 56 contains materials in support of this claim chart.

120. Soon-to-be-released models of Kodak Wi-Fi digital cameras also embody the inventions of the '161 patent. Confidential Exhibit 48 attached to this Complaint is a claim chart showing how these models of Wi-Fi digital cameras meet, among other claims, at least all limitations of claim 5 of the '161 patent.

121. Kodak is in the process of establishing a domestic industry in its new models of digital cameras and is taking tangible steps to commercialize these digital cameras. For example, Kodak has built working preproduction Wi-Fi digital cameras that practice the '161 patent. Kodak also plans to promote and sell the products in 2012.

2. Kodak Has Made and Continues to Make Substantial Investments in Licensing Activities in the United States Related to the '161 Patent

122. Kodak has made substantial investments in licensing its digital imaging portfolio, which includes the '161 patent, and its parent, U.S. Patent No. 6,784,924 ("the '924 patent").

123. Kodak has made substantial investments employing outside consultants to assist in licensing and asserting patents in its digital imaging portfolio, which includes the '161 patent. Kodak has also incurred substantial external licensing expenses in connection with licensing its digital imaging portfolio, including the '161 patent. In licensing its digital imaging portfolio,

including the '161 patent, Kodak has invested in the United States at least the amounts shown in Confidential Exhibit 49 attached to this Complaint.

124. Kodak has made substantial investments in operating and maintaining its licensing program for its digital imaging portfolio, which includes the '161 patent. Kodak employs patent attorneys, engineers, executives and assistants to identify potential licensees, to analyze potential licensee's products, to negotiate licenses, and to monitor licenses. Confidential Exhibit 50 attached to this Complaint shows the salary costs and full time equivalent employees and contractors engaged in Kodak's licensing activities for its digital imaging portfolio, which includes the '161 patent.

125. To date, Kodak has generated significant licensing revenue from its digital imaging portfolio, including the '161 patent. See Confidential Exhibit 51.

126. The '161 patent is an important part of Kodak's digital imaging portfolio. The '161 patent has been specifically highlighted in a license agreement with a major wireless communication device manufacturer. In addition, the '924 patent, parent of the '161 patent, was the subject of litigation that resulted in a license to Kodak's digital imaging portfolio. *Eastman Kodak Co. v. Sony Corp.*, No. 6:04-cv-6095, (W.D.N.Y.).

127. Kodak licenses its digital imaging portfolio to multiple companies with substantial operations in the United States.

128. The fact that many Kodak licensees practice the inventions claimed in the '161 patent further demonstrates that there is a strong nexus between Kodak's licensing activities related to its digital imaging portfolio and exploitation of the '161 patent.

B. A Domestic Industry Exists or is in the Process of Being Established for the '084 Patent

1. Kodak Has Made and Continues to Make Substantial Investments in the Exploitation of the '084 Patent Through Engineering and Development

129. Kodak has made substantial investments in the United States in continuously developing advanced technologies to support the digital cameras that incorporate the inventions claimed in the '084 patent. Confidential Exhibit 44 attached to this Complaint shows the amounts invested by Kodak in engineering development in support of its digital cameras that incorporate the inventions claimed in the '084 patent. Confidential Exhibit 45 attached to this Complaint shows the number of Kodak employees engaged in engineering and development activities in support of digital cameras that incorporate the inventions claimed in the '084 patent.

130. Kodak has also made substantial investments technical support activities related to its digital cameras that incorporate the inventions claimed in the '084 patent, including, but not limited to, providing service, warranty and repair services to digital cameras that practice the '084 patent. Confidential Exhibit 46 attached to this Complaint shows the amounts invested by Kodak in such manufacturing related support for digital cameras that incorporate the inventions claimed in the '084 patent.

131. Among other products, the Kodak EasyShare One digital camera embodies the inventions of the '084 patent. Exhibit 52 attached to this Complaint is a claim chart showing how the Kodak EasyShare One digital camera meets, among other claims, all limitations of claim 1 of the '084 patent. Exhibit 56 contains materials in support of this claim chart.

132. Soon-to-be-released models of Kodak Wi-Fi digital cameras also embody the invention of the '084 patent. Confidential Exhibit 53 attached to this Complaint is a claim chart

showing how these models of Wi-Fi digital cameras meet, among other claims, at least all limitations of claim 1 of the '084 patent.

133. Kodak is in the process of establishing a domestic industry in its new models of digital cameras and is taking tangible steps to commercialize these digital cameras. For example, Kodak has built working preproduction Wi-Fi digital cameras that practice the '084 patent. Kodak also plans to promote and sell the products in 2012.

2. Kodak Has Made and Continues to Make Substantial Investments in Licensing Activities in the United States Related to the '084 Patent

134. Kodak has made substantial investments in licensing its digital imaging portfolio, which includes the '084 patent, and its parent, the '924 patent.

135. Kodak has made substantial investments employing outside consultants to assist in licensing and asserting patents in its digital imaging portfolio, which includes the '084 patent. Kodak has also incurred substantial external licensing expenses in connection with licensing its digital imaging portfolio, including the '084 patent. In licensing its digital imaging portfolio, including the '084 patent, Kodak has invested in the United States at least the amounts shown in Confidential Exhibit 49 attached to this Complaint.

136. Kodak has made substantial investments in operating and maintaining its licensing program for its digital imaging portfolio, which includes the '084 patent. Kodak employs patent attorneys, engineers, executives and assistants to identify potential licensees, to analyze potential licensee's products, to negotiate licenses, and to monitor licenses. Confidential Exhibit 50 attached to this Complaint shows the salary costs and full time equivalent employees and contractors engaged in Kodak's licensing activities for its digital imaging portfolio, which includes the '084 patent.

137. To date, Kodak has generated significant licensing revenue from its digital imaging portfolio, including the '084 patent. See Confidential Exhibit 51.

138. The '084 patent is an important part of Kodak's digital imaging portfolio. In addition, the '924 patent, parent of the '084 patent, was the subject of litigation that resulted in a license to Kodak's digital imaging portfolio. *Eastman Kodak Co. v. Sony Corp.*, No. 6:04-cv-6095, (W.D.N.Y.).

139. Kodak licenses its digital imaging portfolio to multiple companies with substantial operations in the United States. The fact that many Kodak licensees practice the inventions claimed in the '084 patent further demonstrates that there is a strong nexus between Kodak's licensing activities related to its digital imaging portfolio and exploitation of the '084 patent.

C. A Domestic Industry Exists or is in the Process of Being Established for the '605 Patent

1. Kodak Has Made and Continues to Make Substantial Investments in the Exploitation of the '605 Patent Through Engineering and Development

140. Kodak has made substantial investments in the United States in continuously developing advanced technologies to support the digital cameras that incorporate the inventions claimed in the '605 patent. Confidential Exhibit 44 attached to this Complaint shows the amounts invested by Kodak in engineering and development in support of its digital cameras that incorporate the inventions claimed in the '605 patent. Confidential Exhibit 45 attached to this Complaint shows the number of Kodak employees engaged in engineering and development in support of digital cameras that incorporate the inventions claimed in the '605 patent.

141. Kodak has also made substantial investments technical support activities related to its digital cameras that incorporate the inventions claimed in the '605 patent, including, but

not limited to, providing service, warranty and repair services to digital cameras that practice the '605 patent. Confidential Exhibit 46 attached to this Complaint shows the amounts invested by Kodak in such manufacturing related support for digital cameras that incorporate the inventions claimed in the '605 patent.

142. The Kodak EasyShare One digital camera embodies the inventions of the '605 patent. Exhibit 54 attached to this Complaint is a claim chart showing how the Kodak EasyShare One digital camera meets, among other claims, all limitations of claim 13 of the '605 patent. Exhibit 56 contains materials in support of this claim chart.

143. Soon-to-be-released models of Kodak Wi-Fi digital cameras embody the inventions of the '605 patent. Confidential Exhibit 55 attached to this Complaint is a claim chart showing how these models of Wi-Fi digital cameras meet, among other claims, at least all limitations of claim 13 of the '605 patent.

144. Kodak is in the process of establishing a domestic industry in its new models of digital cameras and is taking tangible steps to commercialize these digital cameras. For example, Kodak has built working preproduction Wi-Fi digital cameras that practice the '605 patent. Kodak also plans to promote and sell the products in 2012.

2. Kodak Has Made and Continues to Make Substantial Investments in Licensing Activities in the United States Related to the '605 Patent

145. Kodak has made substantial investments in licensing its digital imaging portfolio, which includes the '605 patent, and its parent, U.S. Patent No. 6,573,927 ("the '927 patent").

146. Kodak has made substantial investments employing outside consultants to assist in licensing and asserting patents in its digital imaging portfolio, which includes the '605 patent. Kodak has also incurred substantial external licensing expenses in connection with licensing its digital imaging portfolio, including the '605 patent. In licensing its digital imaging portfolio,

including the '605 patent, Kodak has invested in the United States at least the amounts shown in Confidential Exhibit 49 attached to this Complaint .

147. Kodak has made substantial investments in operating and maintaining its licensing program for its digital imaging portfolio, which includes the '605 patent. Kodak employs patent attorneys, engineers, executives and assistants to identify potential licensees, to analyze potential licensee's products, to negotiate licenses, and to monitor licenses. Confidential Exhibit 50 attached to this Complaint shows the salary costs and full time equivalent employees and contractors engaged in Kodak's licensing activities for its digital imaging portfolio, which includes the '605 patent.

148. To date, Kodak has generated significant licensing revenue from its digital imaging portfolio, including the '605 patent. See Confidential Exhibit 51.

149. The '605 patent is an important part of Kodak's digital imaging portfolio. In addition, the '927 patent, parent of the '605 patent, has been specifically highlighted during negotiations with potential and existing licensees.

150. Kodak licenses its digital imaging portfolio to multiple companies with substantial operations in the United States.

151. The fact that many Kodak licensees practice the inventions claimed in the '605 patent further demonstrates that there is a strong nexus between Kodak's licensing activities related to its digital imaging portfolio and exploitation of the '605 patent.

D. A Domestic Industry Exists in the United States for the '391 Patent

1. Kodak Has Made and Continues to Make Substantial Investments in Licensing Activities in the United States Related to the '391 Patent

152. Kodak has made substantial investments in licensing its digital imaging portfolio, which includes the '391 patent, and its parent, the '924 patent.

153. Kodak has made substantial investments employing outside consultants to assist in licensing and asserting patents in its digital imaging portfolio, which includes the '391 patent. Kodak has also incurred substantial external licensing expenses in connection with licensing its digital imaging portfolio, including the '391 patent. In licensing its digital imaging portfolio, including the '391 patent, Kodak has invested in the United States at least the amounts shown in Confidential Exhibit 49 attached to this Complaint .

154. Kodak has made substantial investments in operating and maintaining its licensing program for its digital imaging portfolio, which includes the '391 patent. Kodak employs patent attorneys, engineers, executives and assistants to identify potential licensees, to analyze potential licensee's products, to negotiate licenses, and to monitor licenses. Confidential Exhibit 50 attached to this Complaint shows the salary costs and full time equivalent employees and contractors engaged in Kodak's licensing activities for its digital imaging portfolio, which includes the '391 patent.

155. To date, Kodak has generated significant licensing revenue from its digital imaging portfolio, including the '391 patent. See Confidential Exhibit 51.

156. The '391 patent is an important part of Kodak's digital imaging portfolio. In addition, the '924 patent, parent of the '391 patent, was the subject of litigation that resulted in a license to Kodak's digital imaging portfolio. *Eastman Kodak Co. v. Sony Corp.*, No. 6:04-cv-6095 (W.D.N.Y.).

157. Kodak licenses its digital imaging portfolio to multiple companies with substantial operations in the United States.

158. The fact that many Kodak licensees practice the inventions claimed in the '391 patent further demonstrates that there is a strong nexus between Kodak's licensing activities related to its digital imaging portfolio and exploitation of the '391 patent.

E. A Domestic Industry Exists in the United States for the '218 Patent

1. Kodak Has Made and Continues to Make Substantial Investments in Licensing Activities in the United States Related to the '218 Patent

159. Kodak's domestic industry was previously considered by the Commission in Investigation No. 337-TA-663 and Investigation No. 337-TA-703. The Commission found that Kodak satisfies the domestic industry requirement for the '218 patent in Inv. No. 337-TA-703. *Certain Mobile Telephones and Wireless Communication Devices Featuring Digital Cameras, and Components Thereof*, Inv. No. 337-TA-703, Comm'n Op. (Jul. 22, 2011). In Inv. No. 337-TA-663, the presiding administrative law judge determined that Kodak satisfied the domestic industry requirement for the '218 patent. *Certain Mobile Telephones and Wireless Communications Devices Featuring Digital Cameras, and Components Thereof*, Inv. No. 337-TA-663, Initial Determination (Dec. 17, 2009) (unreviewed).

160. Kodak has made and continues to make substantial investments in employing outside consultants to assist in licensing and asserting patents in its digital imaging portfolio, which includes the '218 patent. Kodak also has incurred substantial external licensing expenses in connection with licensing its digital imaging portfolio, including the '218 patent. In licensing its digital imaging portfolio, including the '218 patent, Kodak has invested in the United States at least the amounts shown in Confidential Exhibit 49 attached to this Complaint .

161. Kodak has made and continues to make substantial investments in operating and maintaining its digital imaging licensing program, which includes the '218 patent. Kodak employs patent attorneys, engineers, executives and assistants to identify potential licensees, to

analyze potential licensee's products, to negotiate licenses, and to monitor licenses. Confidential Exhibit 50 attached to this Complaint shows the salary costs and full time equivalent employees and contractors engaged in Kodak's licensing activities for its digital imaging portfolio, which includes the '218 patent.

162. To date, Kodak has generated significant licensing revenue from its digital imaging portfolio, including the '218 patent. See Confidential Exhibit 51.

163. The '218 patent is an important part of Kodak's digital imaging portfolio. The '218 patent has been specifically asserted during licensing negotiations in which licensees have agreed to take a license under Kodak's digital imaging portfolio, and is specifically highlighted in license agreements. As stated above, the license agreements are subject to confidentiality requirements. As a result, Kodak will notify the licensees upon the filing of this Complaint and intends to submit the licenses thereafter.

164. Kodak licenses the '218 patent to multiple companies with substantial operations in the United States.

165. The fact that many Kodak licensees practice the inventions claimed in the '218 patent further demonstrates that there is a strong nexus between Kodak's licensing activities related to its digital imaging portfolio and exploitation of the '218 patent.

IX. RELIEF

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

a. Institute an immediate investigation pursuant to Section 337(b)(1) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violations of that section based upon the unlawful importation into the United States, the sale for importation, and/or the sale within

the United States after importation of Respondents' devices or components thereof that infringe one or more claims of the '161, '084, '605, '391, and '218 patents;

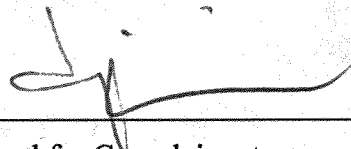
b. Render a determination that the importation, sale for importation, and/or sale after importation of Respondents' infringing devices or components thereof constitute one or more violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337;

c. Issue a permanent exclusion order pursuant to Section 337(d) of the Tariff Act of 1930, as amended, excluding from entry into the United States all of Respondents' devices or components thereof that infringe one or more claims of the '161, '084, '605, '391, and/or '218 patents. Pursuant to Section 337(l), any such relief shall not apply to any articles imported by or for the use of the United States with the authorization or consent of the Government; and

d. Issue permanent cease and desist orders pursuant to Section 337(f) of the Tariff Act of 1930, as amended, prohibiting the importing, selling, marketing, advertising, distributing, offering for sale or transferring (except for exportation) of any of Respondents' devices or components thereof and that infringe one or more claims of the '161, '084, '605, '391, and/or '218 patents or the soliciting of U.S. agents or distributors for all such devices; or the aiding or abetting in the importation, sale for importation, sale after importation, transfer or distribution of all such devices. Pursuant to Section 337(l), any such relief shall not apply to any articles imported by or for the use of the United States with the authorization or consent of the Government.

Dated: January 10, 2012

Respectfully submitted,



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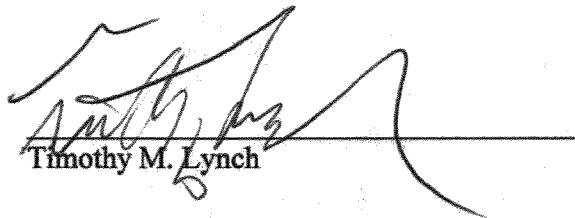
VERIFICATION

I, Timothy M. Lynch, am Deputy General Counsel and Vice President of Eastman Kodak Company and am duly authorized to execute this Complaint on behalf of Eastman Kodak Company. I have read the Complaint and am aware of its contents. To the best of my knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, I hereby certify as follows:

1. The Complaint is not being presented 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 nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and
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 the penalty of perjury that the foregoing is true and correct.

Executed on January 10, 2012.


Timothy M. Lynch