

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C. 20436

In the Matter of

CERTAIN BIOMETRIC  
SCANNING DEVICES, COMPONENTS  
THEREOF, ASSOCIATED SOFTWARE,  
AND PRODUCTS CONTAINING THE  
SAME

Complaint

No. 337-TA-\_\_\_\_\_

**COMPLAINT OF CROSS MATCH TECHNOLOGIES, INC.  
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

COMPLAINANT:

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## **TABLE OF CONTENTS**

I.	INTRODUCTION .....	1
II.	COMPLAINANT .....	3
III.	PROPOSED RESPONDENTS .....	3
IV.	THE TECHNOLOGY AND PRODUCTS AT ISSUE .....	4
V.	THE CROSS MATCH PATENTS .....	6
A.	The '993 Patent .....	6
1.	Identification of the Patent and Ownership by Cross Match .....	6
2.	Non-Technical Description of the Patented Invention.....	7
3.	Foreign Counterparts to the '993 Patent .....	8
B.	The '932 Patent .....	8
1.	Identification of the Patent and Ownership by Cross Match .....	8
2.	Non-Technical Description of the Patented Invention.....	9
3.	Foreign Counterparts to the '932 Patent .....	9
C.	The '344 Patent .....	10
1.	Identification of the Patent and Ownership by Cross Match .....	10
2.	Non-Technical Description of the Patented Invention.....	10
3.	Foreign Counterparts to the '344 Patent .....	11
D.	The '562 Patent .....	11
1.	Identification of the Patent and Ownership by Cross Match .....	11
2.	Non-Technical Description of the Patented Invention.....	12
3.	Foreign Counterparts to the '562 Patent .....	13
VI.	UNFAIR ACTS OF PROPOSED RESPONDENTS.....	13
VII.	SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE .....	15
VIII.	HARMONIZED TARIFF SCHEDULE ITEM NUMBER .....	16

IX.	LICENSEES .....	17
X.	DOMESTIC INDUSTRY .....	17
XI.	RELATED LITIGATION .....	19
XII.	REQUESTED RELIEF .....	19

## **LIST OF EXHIBITS AND APPENDICES**

<b>Exhibit No.</b>	<b>Description</b>
Exhibit 1.	Certified Copy of U.S. Patent No. 5,900,993 (the '993 Patent)
Exhibit 2.	Certified Copy of U.S. Patent No. 6,483,932 (the '932 Patent)
Exhibit 3.	Certified Copy of U.S. Patent No. 7,203,344 (the '344 Patent)
Exhibit 4.	Certified Copy of U.S. Patent No. 7,277,562 (the '562 Patent)
Exhibit 5.	Certified Copy of Assignment of the '993 Patent to Cross Match Technologies
Exhibit 6.	Certified Copy of Assignment of the '932 Patent to Cross Match Technologies
Exhibit 7.	Certified Copy of Assignment of the '344 Patent to Cross Match Technologies
Exhibit 8.	Certified Copy of Assignment of the '562 Patent to Cross Match Technologies
Exhibit 9.	Additional Information About Cross Match Technologies
Exhibit 10.	Additional Information About Suprema
Exhibit 11.	Mentalix's Offer for Sale of Accused Suprema RealScan-10 on General Services Administration Website
Exhibit 12.	Suprema Brochure Regarding Accused RealScan-10 Product
Exhibit 13.	Suprema Brochure Regarding Accused RealScan-D Product
Exhibit 14.	Chart Demonstrating Suprema's Infringement of the '993 Patent (RealScan-D)
Exhibit 15.	Chart Demonstrating Suprema's and Mentalix's Infringement of the '993 Patent (RealScan-10)
Exhibit 16.	Chart Demonstrating Suprema's Infringement of the '932 Patent (RealScan-D)
Exhibit 17.	Chart Demonstrating Suprema's and Mentalix's Infringement of the '932 Patent (RealScan-10)

- Exhibit 18. Chart Demonstrating Suprema's Infringement of the '344 Patent (RealScan-D)
- Exhibit 19. Chart Demonstrating Suprema's and Mentalix's Infringement of the '344 Patent (RealScan-10)
- Exhibit 20. Chart Demonstrating Suprema's Infringement of the '562 Patent (RealScan-D)
- Exhibit 21. Chart Demonstrating Suprema's and Mentalix's Infringement of the '562 Patent (RealScan-10)
- Exhibit 22. Materials Cited in Infringement Charts
- Exhibit 23. Photograph of Accused RealScan-D and RealScan-10 with "Made in Korea" Label
- Exhibit 24. Suprema's Announcement of Its Products in the United States Business on Its Website
- Exhibit 25. Suprema's Announcement of FBI Appendix F Certification of Accused Products on Its Website
- Exhibit 26. Suprema's Participation in United States Trade Shows Since 2005
- Exhibit 27. Interview of James Lee, President and C.E.O., Suprema
- Exhibit 28. Correspondence Between Mentalix and United States Customs Regarding HTSUS Numbers for Accused Suprema RealScan-10 and RealScan-D
- Exhibit 29. Domestic Industry Claim Chart Demonstrating Cross Match Technologies' Practice of the '993 Patent (Verifier 300)
- Exhibit 30. Domestic Industry Claim Chart Demonstrating Cross Match Technologies' Practice of the '993 Patent (ID500)
- Exhibit 31. Domestic Industry Claim Chart Demonstrating Cross Match Technologies' Practice of the '932 Patent
- Exhibit 32. Domestic Industry Claim Chart Demonstrating Cross Match Technologies' Practice of the '344 Patent (Guardian with FAST SDK)
- Exhibit 33. Domestic Industry Claim Chart Demonstrating Cross Match Technologies' Practice of the '344 Patent (SEEK with FAST SDK)
- Exhibit 34. Domestic Industry Claim Chart Demonstrating Cross Match Technologies' Practice of the '562 Patent (Guardian with FAST SDK)

- Exhibit 35. Domestic Industry Claim Chart Demonstrating Cross Match Technologies' Practice of the '562 Patent (SEEK with FAST SDK)
- Exhibit 36. Public Materials Cited in Domestic Industry Claim Charts
- Confidential Exhibit 37. Non-Public Materials Cited in Domestic Industry Claim Charts
- Confidential Exhibit 38. Cross Match Technologies, Inc.'s Declaration Regarding Domestic Industry

<b>Appendix No.</b>	<b>Description</b>
Appendix A.	Four Copies of the Prosecution History of the '993 Patent
Appendix B.	Four Copies of the Prosecution History of the '932 Patent
Appendix C.	Four Copies of the Prosecution History of the '344 Patent
Appendix D.	Four Copies of the Prosecution History of the '562 Patent
Appendix E.	Four Copies of Each Document Mentioned in the Prosecution History of the '993 Patent
Appendix F.	Four Copies of Each Document Mentioned in the Prosecution History of the '932 Patent
Appendix G.	Four Copies of Each Document Mentioned in the Prosecution History of the '344 Patent
Appendix H.	Four Copies of Each Document Mentioned in the Prosecution History of the '562 Patent

## **I. INTRODUCTION**

1.1 Complainant Cross Match Technologies, Inc. (“Cross Match” or “Complainant”) requests that the United States International Trade Commission commence an Investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“Section 337”), to remedy the unlawful importation into the United States, sale for importation into the United States, and/or sale within the United States after importation by the owner, importer, or consignee, of certain biometric scanning devices, components thereof, associated software, and products containing the same that infringe valid and enforceable United States patents owned by Cross Match.

1.2 The first Proposed Respondent, Suprema, Inc. (“Suprema” or “Respondent”), is incorporated in the Republic of Korea and has executive offices in Korea. Upon information and belief, Suprema has engaged in unfair acts in violation of Section 337 through and in connection with the unlicensed importation into the United States, sale or importation into the United States, and/or sale within the United States after importation of accused products that infringe one or more claims of United States Patents Nos. 5,900,993 (the ’993 Patent), 6,483,932 (the ’932 Patent), 7,203,344 (the ’344 Patent), and 7,277,562 (the ’562 Patent) (collectively, the “Cross Match Patents”).

1.3 The second Proposed Respondent, Mentalix, Inc. (“Mentalix” or “Respondent”), is incorporated in Texas and has its principal place of business at 1255 W. 15<sup>th</sup> Street, Suite 370, Plano, Texas 75075. Upon information and belief, Mentalix has engaged in unfair acts in violation of Section 337 through and in connection with the unlicensed importation into the United States, sale or importation into the United States, and/or sale within the United States



after importation of at least one of the accused products that infringe one or more claims of the Cross Match Patents.

1.4 Upon information and belief, the accused products infringe at least claims 10, 11, 12, 13, 15, 16, and 17 of the '993 Patent; claims 6, 7, 8, 13, 14, 15, 19, 20, and 21 of the '932 Patent; claims 1, 4, 30, 32, 41, 42, 43, and 44 of the '344 Patent; and claims 1, 2, and 7 of the '562 Patent (collectively, the "Asserted Claims"). Cross Match reserves the right to assert additional claims as discovery proceeds and Cross Match information indicating that other claims of the Cross Match Patents are infringed by Suprema or Mentalix.

1.5 Certified copies of the '993, '932, '344, and '562 Patents are attached to this Complaint as **Exhibits 1, 2, 3, and 4**, respectively. Cross Match owns by assignment the entire right, title, and interest in and to these patents. Certified copies of the recorded assignments for the Cross Match Patents accompany this Complaint as **Exhibits 5, 6, 7, and 8**, respectively.

1.6 As required by Section 337(a)(2) and defined by Section 337(a)(3), an industry in the United States exists relating to products covered by the '993, '932, '344, and '562 Patents.

1.7 Cross Match seeks a permanent exclusion order, pursuant to Section 337(d), excluding from entry into the United States all of the accused biometric scanning devices, components thereof, associated software, and products containing the same that infringe one or more of the asserted claims of Cross Match's '993, '932, '344, and '562 Patents. Cross Match also seeks a permanent cease and desist order, pursuant to Section 337(f), directing Respondents to cease and desist from importation, marketing, advertising, demonstrating, warehousing inventory for distribution, sale, offer for sale, and use of such accused biometric scanning devices, components thereof, associated software, and products containing the same in the United States.

## II. COMPLAINANT

2.1 Cross Match is a Delaware corporation having a principal place of business at 3950 RCA Boulevard, Suite 5001, Palm Beach Gardens, Florida 33410. Founded in 1996, Cross Match is a pioneer and leading global provider in the field of biometric identity management solutions. Cross Match has worked with private and governmental entities for over a decade, assisting with critically important identity management solutions. A further description of some of the uses of Cross Match's patented products appears at ¶¶ 4.1 to 4.3. Additional information concerning Cross Match may be obtained from its website, [www.crossmatch.com](http://www.crossmatch.com), and a brochure about the company is attached as **Exhibit 9**.

## III. PROPOSED RESPONDENTS

3.1 Suprema is incorporated in Korea and has its executive offices in Korea. Additional information concerning Suprema, including various United States business activities, is available on its English-language website, [www.supremainc.com](http://www.supremainc.com). Upon information and belief, and as indicated by Suprema's own marketing materials, interviews, and appearances at U.S. trade shows, Suprema (or others on its behalf) manufactures the accused products in Korea, and then imports them into the United States, sells them for importation into the United States, and/or sells them after importation into the United States (detailed in Section VII). An overview of Suprema found on its website is attached as **Exhibit 10**.

3.2 Mentalix is a Texas corporation having a principal place of business at 1255 W. 15<sup>th</sup> Street, Suite # 370, Plano, Texas 75075. Upon information and belief, Mentalix imports and/or offers or offered for sale, or sells or sold at least one of the accused products in this Complaint. Mentalix has offered for sale Suprema's accused RealScan-10 product on the U.S.

General Services Administration (GSA) website. A print-out of the GSA offer is attached as **Exhibit 11.**

#### **IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE**

4.1 The technology at issue in this Complaint relates to innovative devices used to capture and process the unique physiological characteristics, including fingerprints and palmprints, of individuals to verify their identities. Among other applications, these devices enable private commercial and governmental users to prevent identity fraud and theft in large-scale private and government programs; perform background checks; verify identities at borders and other checkpoints; register individuals for drivers' licenses, national identification programs, and voter programs; and control access to office buildings and secure areas. In addition, the U.S. Military relies on certain of Cross Match's patented products for deployment in combat zones, including Iraq and Afghanistan, to fulfill critical national security requirements.

4.3 Cross Match has developed innovative technology that allows high quality capture of fingerprint and palmprint images. The Cross Match Patents asserted in this Complaint are directed towards various aspects of the print capture process, including: 1) novel lens systems that correct image distortion; 2) advanced systems and methods for the capture of rolled prints; and 3) improved systems and methods for automatically capturing multiple prints.

4.4 Cross Match has developed several products that enable high quality capture of fingerprint images. One product line, the Verifier series, which includes Verifier 300 and Verifier 300 LC single fingerprint capture devices, is built with an innovative lens design that minimizes distortion and produces geometrically correct fingerprint images. A second product, ID 500, is a small, light, and rugged system that can capture fingerprint images automatically using either slap capture (*i.e.*, pressing multiple fingers simultaneously directly on the scanner)

or rolled capture (*i.e.*, pressing one edge of a single finger on the scanner and rolling the finger 180 degrees to the other edge). A third product, Guardian, is a fingerprint scanner that can capture fingerprints automatically, and can also capture multiple fingerprint images simultaneously while providing a visual indicator about the quality of the image to the user. A fourth product, SEEK, is another product that can, among other things, scan and capture fingerprints using Cross Match's patented technology.

4.5 The advantages of Cross Match's patented technologies are recognized in the biometrics industry. For example, the Proposed Respondents are selling, offering for sale, intending to import imminently, and/or importing products that use the inventions disclosed in the Cross Match Patents asserted in this Complaint and used in Cross Match's products. Indeed, in some instances, Cross Match has released a new product only to be competing against a clone of it within less than one year.

4.6 Suprema sells, offers for sale, intends to import imminently, and/or imports at least two products that infringe the asserted claims of the Cross Match Patents. The Suprema products are the RealScan-10 and RealScan-D (collectively, "the Accused Products"). Suprema's brochure for RealScan-10 is attached as **Exhibit 12**, and for RealScan-D as **Exhibit 13**. Suprema's accused RealScan-10 product autocaptures fingerprints and can scan single finger rolls without using a guide. It can also scan multiple finger slaps. Suprema's accused RealScan-10 utilizes a lens system that employs a distortion correcting lens configuration. Suprema's accused RealScan-D product also autocaptures fingerprints and can scan single finger rolls without using a guide. It can also scan dual finger slaps. Suprema's RealScan-D utilizes a lens system that employs a distortion-correcting lens configuration. Suprema's implementation of these features infringes Cross Match's patented technology at issue in this Complaint, as

described in ¶¶ 4.1 to 4.4 above, and set forth in detail in the claim charts attached as **Exhibits 14 to 21**.

4.7 Suprema has imported, intends to import imminently, has offered for sale, and/or has sold the accused RealScan-10 and RealScan-D products within the United States, including at least at the Federal Office Systems Exposition trade show in Washington, D.C. from March 22-25, 2010. Suprema operated a booth where it displayed, advertised, and/or offered for sale products accused in this Complaint, including the accused RealScan-10 and RealScan-D. Suprema representatives distributed promotional materials for the RealScan-10 and RealScan-D, and were served with a complaint in the related Texas litigation, discussed herein. **See Exhibits 12 and 13**, respectively.

4.8 Mentalix has offered for sale and/or sold at least Suprema's RealScan-10 within the United States through at least the website, *www.gsaadvantage.gov*. **See Exhibit 11**.

## **V. THE CROSS MATCH PATENTS**

### **A. The '993 Patent**

#### **1. Identification of the Patent and Ownership by Cross Match**

5.1 U.S. Patent No. 5,900,993 ("the '993 Patent") is entitled "Lens Systems For Use In Fingerprint Detection" and issued on May 4, 1999. The '993 Patent issued from U.S. Patent Application Serial No. 08/854,157, which was filed on May 9, 1997. The inventor of the '933 Patent is Ellis Betensky.

5.2 Cross Match is the owner, by valid assignment, of the entire right, title, and interest in and to the '993 Patent. **Exhibit 5**. The '993 Patent is valid, enforceable, and is currently in full force and effect. **Exhibit 1**.

5.3 Pursuant to Rule 210.12(c) of the Commission's Rules or Practice and Procedure, this Complaint is accompanied by a certified copy and three additional copies of the prosecution history of the '993 Patent (**Appendix A**), and four copies of each reference mentioned in the '993 Patent's prosecution history (**Appendix E**).

## **2. Non-Technical Description of the Patented Invention<sup>1</sup>**

5.4 The '993 Patent relates to lens systems for use in fingerprint detection. The ability to produce distortion-free images of fingerprints is necessary for any electronic fingerprinting device. Prior art systems for correcting optical distortion in an electronic fingerprint device used techniques and components that were complex, often heavy, and expensive to manufacture. Examples of such prior art techniques include use of distortion correcting prisms, holographic optical elements, and off-axis optics.

5.5 The '993 Patent discloses lens systems that eliminate the need for such complex elements, and provide essentially distortion-free images using simple and economical lens elements. The '993 Patent describes two primary embodiments. The first embodiment combines three lens units, with one of the units having a cylindrical optical power (the degree to which a lens converges or diverges light). The purpose of the cylindrical power of this lens is to address image foreshortening, which is a problem in these devices. Specifically, the cylindrical power of this lens unit reduces the size of the print image in the direction that is perpendicular to the direction in which the image has been foreshortened, thereby compensating for the foreshortening. The second embodiment also employs three lens units, with one of the lens units used to correct the field curvature (another type of problematic distortion) introduced by the

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<sup>1</sup> The text in this "Non-Technical Description of the Patented Invention" section does not, and is not intended to, construe either the specification or claims of the '993 Patent.

other two elements. In the second embodiment, correction of foreshortening occurs by other means, including processing the image with either hardware or software.

### **3. Foreign Counterparts to the '993 Patent**

5.6 WO 9850812A1 was filed on May 8, 1998 and published on November 12, 1998. JP 2001527658T2 was filed on May 8, 1998 and published on December 25, 2001. EP 09832527A1 was filed on May 8, 1998 and published on March 8, 2000. No other foreign patents or patent applications corresponding to the '993 Patent have been filed, abandoned, withdrawn, or rejected.

#### **B. The '932 Patent**

##### **1. Identification of the Patent and Ownership by Cross Match**

5.7 U.S. Patent No. 6,483,932 ("the '932 Patent") is entitled "Method And Apparatus For Rolled Fingerprint Capture" and issued on November 19, 2002 . The '932 Patent issued from U.S. Patent Application Serial No. 09/377,597, which was filed on August 19, 1999. The inventors of the '932 Patent are Chris J. Martinez and Walter Guy Scott.

5.8 Cross Match is the owner, by valid assignment, of the entire right, title, and interest in and to the '932 Patent. **Exhibit 6.** The '932 Patent is valid, enforceable, and is currently in full force and effect. **Exhibit 2.**

5.9 Pursuant to Rule 210.12(c) of the Commission's Rules or Practice and Procedure, this Complaint is accompanied by a certified copy and three additional copies of the prosecution history of the '932 Patent (**Appendix B**), and four copies of each reference mentioned in the '932 Patent's prosecution history (**Appendix F**).

## **2. Non-Technical Description of the Patented Invention<sup>2</sup>**

5.10 The '932 Patent relates to the field of rolled fingerprint capture. A rolled fingerprint scanner captures rolled fingerprint images by obtaining multiple images of a user's fingerprint as the user rolls one finger edge to another across an image capturing surface, such as the platen on a fingerprint capture device. Computer software subsequently combines the multiple images to form a composite rolled fingerprint image. Prior art fingerprint scanners employed a guide, such as a series of lights, that required the user to roll her finger at the same speed as the lights. Use of a guide, however, would often result in poor quality images, as the user often rolled her finger too quickly or too slowly.

5.11 The '932 invention allows for the capture of rolled fingerprints without a guide. In one embodiment, the invention automatically detects the start of a fingerprint roll. The '932 Patent discloses a method to determine the start of a roll by observing the point at which the number of pixels with different intensities (*i.e.*, dark versus light) in subsequent captures of the image of the platen exceeds a roll sensitivity threshold. The method detects the start of a roll when the difference in intensity of the image "seen" by the device at two different points in time crosses a threshold amount. The invention thus allows the unguided, high quality capture of a rolled fingerprint.

## **3. Foreign Counterparts to the '932 Patent**

5.12 WO 0115065A1 was filed on October 18, 1999 and published on March 1, 2001. JP 2003507822T2 was filed on October 18, 1999 and published on February 25, 2003. EP 1210687A1 was filed on October 18, 1999 and published on June 5, 2002. AU 6430299A1 was filed on October 18, 1999 and published on March 19, 2001. No other foreign patents or patent

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<sup>2</sup> The text in this "Non-Technical Description of the Patented Invention" section does not, and is not intended to, construe either the specification or claims of the '932 Patent.



applications corresponding to the '932 Patent have been filed, abandoned, withdrawn, or rejected.

### **C. The '344 Patent**

#### **1. Identification of the Patent and Ownership by Cross Match**

5.13 U.S. Patent No. 7,203,344 (“the '344 Patent”) is entitled “Biometric Imaging System And Method” and issued on April 10, 2007. The '344 Patent issued from U.S. Patent Application Serial No. 10/345,420, which was filed on January 16, 2003. The inventors of the '344 Patent are George W. McClurg, John F. Carver, Walter G. Scott, and Gregory Zyzdryn.

5.14 Cross Match is the owner, by valid assignment, of the entire right, title, and interest in and to the '344 Patent. **Exhibit 7.** The '344 Patent is valid, enforceable, and is currently in full force and effect. **Exhibit 3.**

5.15 Pursuant to Rule 210.12(c) of the Commission’s Rules or Practice and Procedure, this Complaint is accompanied by a certified copy and three additional copies of the prosecution history of the '344 Patent (**Appendix C**), and four copies of each reference mentioned in the '344 Patent’s prosecution history (**Appendix G**).

#### **2. Non-Technical Description of the Patented Invention<sup>3</sup>**

5.16 The '344 Patent is also directed to the automatic capture of fingerprints. In one embodiment, the invention captures four fingerprints simultaneously, while providing feedback to the operator about the quality of each of the fingerprints. One embodiment of the invention achieves this by scanning the fingers simultaneously (*i.e.*, by placing four fingers on a plate) and analyzing the combined image to resolve the individual fingerprints present in the combined

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<sup>3</sup> The text in this “Non-Technical Description of the Patented Invention” section does not, and is not intended to, construe either the specification or claims of the '344 Patent.

image. Each individual fingerprint in the combined image is then compared against a previously captured image of acceptable quality, and the individual print is classified as acceptable, possibly acceptable, or unacceptable. The quality classification of the individual fingerprints may then be indicated to the user. Another embodiment of the invention includes the ability to automatically determine whether a fingerprint image comes from the left or right hand. The invention thus allows an efficient alternative to rolled fingerprint capture, while providing feedback about the quality of the captured fingerprints.

### **3. Foreign Counterparts to the '344 Patent**

5.17 WO 03063054A3 was filed on January 16, 2003 and published on May 13, 2004. WO 03063054A2 was filed on January 16, 2003 and published on July 31, 2003. JP 2005516290T2 was filed on January 16, 2003 and published on June 2, 2005. EP 1476841B1 was filed on January 16, 2003 and published on August 27, 2008. EP 1476841A2 was filed on January 16, 2003 and published on November 17, 2004. EP 1476841A4 was filed on January 16, 2003 and published on July 5, 2006. DE 60323208C0 was filed on January 16, 2003 and published on October 9, 2008. CN 10437624C was filed on January 16, 2003 and published on November 26, 2008. CN 1633671A was filed on January 16, 2003 and published on June 26, 2005. AU 3207563AA was filed on January 16, 2003 and published on September 2, 2003. No other foreign patents or patent applications corresponding to the '344 Patent have been filed, abandoned, withdrawn, or rejected.

### **D. The '562 Patent**

#### **1. Identification of the Patent and Ownership by Cross Match**

5.18 U.S. Patent No. 7,277,562 ("the '562 Patent") is entitled "Method and Apparatus For Rolled Fingerprint Capture" and issued on April 10, 2007. The '562 Patent issued from U.S.

Patent Application Serial No. 10/631,890, which was filed on August 1, 2003. The inventor of the '562 Patent is Gregory Zyzdryn.

5.19 Cross Match is the owner, by valid assignment, of the entire right, title, and interest in and to the '562 Patent. **Exhibit 8.** The '562 Patent is valid, enforceable, and is currently in full force and effect. **Exhibit 4.**

5.20 Pursuant to Rule 210.12(c) of the Commission's Rules or Practice and Procedure, this Complaint is accompanied by a certified copy and three additional copies of the prosecution history of the '562 Patent (**Appendix D**), and four copies of each reference mentioned in the '562 Patent's prosecution history (**Appendix H**).

## **2. Non-Technical Description of the Patented Invention<sup>4</sup>**

5.21 The '562 Patent is directed to the automatic capture of fingerprint images. In one embodiment, the invention automatically determines when a scanned image is ready for capture. More specifically, in a "flat print" or "slap print" technique, a user places one or more fingers on the fingerprint scanner for scanning. It is, however, sometimes challenging to obtain prints of acceptable quality. For example, the scanner may begin the capture process before the fingers are fully in place, or the fingers may move while the scanner is capturing the print image. Thus, an operator may need to repeat the scanning process to obtain an image of acceptable quality.

5.22 The '562 invention solves the image quality problem by determining whether a scanned image will be of acceptable quality before finally capturing the scanned image. In one embodiment, determination of the quality and number of expected prints occurs before image capture. In another embodiment, the scanner determines that the scanned prints are ready for

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<sup>4</sup> The text in this "Non-Technical Description of the Patented Invention" section does not, and is not intended to, construe either the specification or claims of the '562 Patent.

capture when the detected prints exhibit satisfactory quality for a certain period of time. The invention ensures that the captured prints are of acceptable quality, thereby eliminating the need to repeat the capture process.

### **3. Foreign Counterparts to the '562 Patent**

5.23 WO 05013184A1 was filed on July 30, 2004 and published on February 10, 2005. JP 2007501465T2 was filed on July 30, 2004 and published on January 25, 2007. EP 1661060A1 was filed on July 30, 2004 and published on May 31, 2006. EP 1661060B1 was filed on July 30, 2004 and published on July 16, 2008. DE 602004015121C0 was filed on July 30, 2004 and published on August 28, 2008. CA 2534705AA was filed on July 30, 2004 and published on February 10, 2005. AT 0401621E was filed on July 30, 2004 and published on August 15, 2008. No other foreign patents or patent applications corresponding to the '562 Patent have been filed, abandoned, withdrawn, or rejected.

## **VI. UNFAIR ACTS OF PROPOSED RESPONDENTS**

6.1 Upon information and belief, the accused products infringe at least claims 10, 11, 12, 13, 15, 16, and 17 of the '993 Patent; claims 6, 7, 8, 13, 14, 15, 19, 20, and 21 of the '932 Patent; claims 1, 4, 30, 32, 41, 42, 43, and 44 of the '344 Patent; and claims 1, 2, and 7 of the '562 Patent (collectively, the "Asserted Claims"). Cross Match reserves the right to assert additional claims as discovery proceeds and Cross Match information indicating that other claims of the Cross Match Patents are infringed by Suprema or Mentalix.

6.2 Upon information and belief, Suprema (or others on its behalf) manufactures, assembles, and/or packages the accused products in Korea and then imports them into the United States, sells them for importation into the United States, and/or sells them after importation into the United States.

6.3 Upon information and belief, Mentalix has imported, will imminently import, and/or sold or offered for sale after importation into the United States Suprema's accused products.

6.4 The infringement allegations contained in this Complaint include the Proposed Respondents' (i) direct infringement of the asserted claims (literally or by equivalence); (ii) contributory infringement by knowingly selling products or components thereof without substantial noninfringing uses that are the same or especially made or especially adapted for use in an infringement of the claims of the Cross Match Patents asserted in this Complaint; and/or (iii) infringement by inducement by, on information and belief, exhibiting an affirmative intent to cause direct infringement of the asserted claims of the Cross Match Patents in this Complaint.

6.5 The Proposed Respondents have been given notice of their asserted infringement by, among other things, the filing of a related patent infringement action in Texas, discussed below, and service of this Complaint, which at the time of filing, is being served on Suprema and Mentalix.

6.6 Attached to this Complaint are exemplary claim charts demonstrating how representative independent claim 10 of the '993 Patent reads onto the representative Suprema RealScan-D (**Exhibit 14**) and RealScan-10 (**Exhibit 15**); independent claims 6, 13, and 19 of the '932 Patent read onto the representative Suprema RealScan-D (**Exhibit 16**); independent claim 6 of the '932 Patent reads onto the representative Suprema RealScan-10 (**Exhibit 17**); independent claims 1, 30, and 41 of the '344 Patent read onto the representative Suprema RealScan-D (**Exhibit 18**) and RealScan-10 (**Exhibit 19**); and independent claim 1 of the '562 Patent reads onto the representative Suprema RealScan-D (**Exhibit 20**) and RealScan-10 (**Exhibit 21**). Materials regarding the accused Suprema products cited in Exhibits 14 to 21 are attached in

**Exhibit 22.** Cross Match reserves the right to assert additional claims of the Cross Match Patents as discovery proceeds.

## **VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

7.1 On information and belief, Suprema (or others on its behalf) manufactures the accused products in Korea. A photograph of Suprema's RealScan-10 and RealScan-D products on which the label "Made in Korea" is visible is attached as **Exhibit 23**. Suprema imports or imminently will import the accused products into the United States, sells and/or offers to sell them for importation into the United States, and/or sells and/or offers to sell them after importation into the United States.

7.2 Various Suprema activities provide further support for the allegation that Suprema has imported, sold for importation, and/or sold after importation the accused products. For example, as of May 10, 2010, Suprema's own website, *www.supremainc.com*, declared that certain of its products are used in the United States. **See Exhibit 24**. Suprema's website also touts that the accused RealScan-10 and RealScan-D products received certification under the United States Federal Bureau of Investigation's ("FBI") Appendix F standard, a certification procedure that occurs in the United States. **See Exhibit 25**. It also states on its website that it has consistently exhibited at trade shows in the United States since at least 2005. **See Exhibit 26**. Most recently, Suprema participated in the Federal Office Systems Exposition trade show in Washington, D.C. from March 22-25, 2010 (**Exhibit 26**, final two pages), where Suprema representatives David Byun, Manager, Global Business Sector, and John Lee, Deputy General Manager, Global Business Sector, exhibited, sold, and/or offered for sale at least the accused RealScan-10 and RealScan-D products, and distributed corresponding promotional brochures. **See Exhibits 12 and 13**. Further, James Lee, Ph.D., Chief Executive Officer of Suprema,

confirmed in a September 19, 2008 interview available on Suprema's website that Suprema plans "to launch the RealScan live-scanner in the US market through Biometric Consortium Conference in September [2008] and [Suprema] will pursue aggressive marketing campaigns to expand [its] business to the international government projects." **See Exhibit 27** (pp. 2-3).

7.3 Upon information and belief, Mentalix imports, and/or sells, or offers for sale after importation within the United States Suprema's accused products.

7.4 In further support of the allegation that Mentalix has imported, and/or sold and/or offered for sale after importation the accused products, Mentalix has offered for sale the accused representative Suprema RealScan-10 on the U.S. General Services Administration (GSA) website, [www.gsaadvantage.gov](http://www.gsaadvantage.gov). **See Exhibit 11**. Also, in September 2009, Mentalix formally requested, and received in October 2009, guidance from the U.S. Customs Bureau regarding the tariff classification of at least Suprema's accused RealScan-10 and RealScan-D products. This correspondence is attached as **Exhibit 28**.

## **VIII. HARMONIZED TARIFF SCHEDULE ITEM NUMBER**

8.1 Cross Match is not a seller or importer of the accused products and is therefore unaware of precisely what products or components are being imported. Cross Match is also uncertain as to which the Harmonized Tariff Schedules of the United States ("HTSUS") numbers are used to cover the imports associated with the accused products. At a minimum, Suprema's accused products and/or downstream products that incorporate the accused products are believed to fall within at least the following classifications of the HTSUS: 8471.60; 8471.60.2000; 8471.60.8000; 8471.60.9050, and/or 8471.90.0000. A publicly available letter from the U.S. Customs Bureau to Mentalix classifies the Suprema RealScan-10 and RealScan-D in tariff class

84761.60.0800. *See Exhibit 28.* These classifications are intended for illustration only and are not intended to be restrictive of the accused products.

## **IX. LICENSEES**

9.1 Cross Match has not licensed the asserted Cross Match Patents.

## **X. DOMESTIC INDUSTRY**

10.1 As required by Section 337(a)(2) and defined by Section 337 (a)(3), an industry in the United States exists in connection with the '993, '932, '344, and '562 Patents based on the activities of Cross Match.

10.2 Attached to this Complaint are exemplary claim charts applying representative: independent claim 1 of the '993 Patent to Cross Match's Verifier 300 (**Exhibit 29**); independent claim 10 of the '993 Patent to Cross Match's ID500 (**Exhibit 30**); independent claim 1 of the '932 Patent to various Cross Match Products and the L Scan Essentials and Fast SDK (**Exhibit 31**); independent claim 1 of the '344 Patent to Cross Match's Guardian with FAST SDK (**Exhibit 32**) and SEEK with FAST SDK (**Exhibit 33**); and independent claim 1 of '562 Patent to the Cross Match Guardian with Fast SDK (**Exhibit 34**) and SEEK with FAST SDK (**Exhibit 35**). Public materials cited in Exhibits 29 to 35 are attached as **Exhibit 36**. Non-public materials cited in Exhibits 29 to 35 are attached as **Confidential Exhibit 37**.

10.3 Cross Match conducts significant domestic industry activities in the United States relating to the Cross Match Products covered by the Cross Match Patents. For example, Cross Match sells products covered by the asserted patents in the United States to private financial institutions, local law enforcement, schools, and the U.S. federal government.

10.4 Cross Match's research, design, manufacturing, and business operations relating to the asserted patents and related Cross Match products are located primarily in Florida. These



activities include Cross Match's significant investment in plant and equipment, significant employment of labor and capital, and substantial exploitation of the '993, '932, '344, and '562 Patents. **Confidential Exhibit 38.**

10.5 Cross Match maintains its principal manufacturing plant and equipment in Palm Beach Gardens, Florida. Cross Match has made and continues to make significant investment in its Florida operations, which are dedicated to the research, development, engineering, and design of the Cross Match Products. Cross Match's investment in plant and equipment relating to the Cross Match Products is set forth in **Confidential Exhibit 38.**

10.6 Cross Match has employed and continues to employ a significant number of personnel in its Florida facilities. These employees devote substantial person-hours to the research, development, engineering, and design of the Cross Match Products. **Confidential Exhibit 38** sets forth Cross Match's labor investment toward this end.

10.7 Cross Match has invested and continues to invest significant capital in its Florida facilities for the research, development, engineering, and design of the Cross Match Products covered by the Cross Match Patents asserted in this Complaint. **Confidential Exhibit 38** sets forth Cross Match's capital investment toward this end.

10.8 Cross Match has made and continues to make substantial investment in the exploitation of its rights in the '993, '932, '344, and '562 Patents, and has invested and continues to invest in the research, development and support of the Cross Match Products that practice the inventions disclosed therein. **Confidential Exhibit 38** sets forth Cross Match's significant investment associated with the exploitation of its rights in the '993, '932, '344, and '562 Patents.

## **XI. RELATED LITIGATION**

11.1 Respondent's unfair acts regarding the infringement of the Cross Match Patents at issue in this Complaint are subject to a companion district court action that was filed on February 10, 2010, and is currently pending in the Eastern District of Texas, Civil Action No. 6:10-cv-00028. Proposed Respondents Suprema and Mentalix are co-defendants in the Texas litigation. That litigation involves the same Cross Match Patents asserted in this Complaint. A counterpart to U.S. Patent No. 7,277,562 was the subject of an opposition proceeding in Europe. That opposition resulted in all claims being affirmed. The movant recently filed an appeal. There has been no other foreign or domestic court or agency litigation involving any of the asserted patents, or subject matter thereof.

## **XII. REQUESTED RELIEF**

12.1 WHEREFORE, by reason of the foregoing, Cross Match requests that the United States International Trade Commission:

12.2 (a) Institute an immediate Complaint, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to violation of Section 337 based on Respondents' unlawful importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of certain biometric scanning devices, components thereof, associated software, and products containing the same that infringe one or more of the asserted claims of United States Patents Nos. 5,900,993; 6,483,932; 7,203,344; and 7,277,562;

12.3 (b) Schedule and conduct a hearing on the unlawful acts and, following the hearing, determine that there has been a violation of Section 337;

12.4 (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 Respondents' certain biometric scanning devices, components thereof, associated software, and products containing the same that infringe one or more of the asserted claims of United States Patents Nos. 5,900,993; 6,483,932; 7,203,344; and 7,277,562;

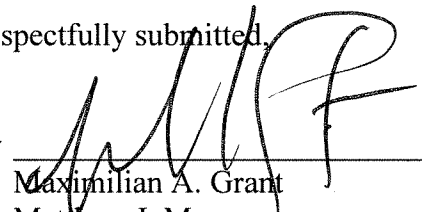
12.5 (d) Issue a permanent cease and desist order, pursuant to Section 337(f) of the Tariff Act of 1930, as amended, directing Respondents to cease and desist from importation, marketing, advertising, demonstrating, warehousing inventory for distribution, sale and use of certain biometric scanning devices, components thereof, associated software, and products containing the same that infringe one or more of the asserted claims of United States Patents Nos. 5,900,993; 6,483,932; 7,203,344; and 7,277,562; and

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

Dated: May 11, 2010

Respectfully submitted,

By

  
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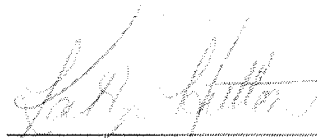
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## VERIFICATION OF COMPLAINT

I, Kathryn Hutton, declare in accordance with 19 C.F.R. §§ 210.4 and 210.12(a), under penalty of perjury, that the following statements are true:

1. I am General Counsel of Complainant Cross Match Technologies, Inc., and I am duly authorized to sign this Complaint on behalf of Complainant;
2. I have read the foregoing Complaint;
3. To the best of my knowledge, information, and belief, based upon reasonable inquiry, the foregoing Complaint is well-founded in fact and is warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
4. The allegations or other factual contentions have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further Complaint or discovery; and
5. The foregoing Complaint is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Executed this 11<sup>th</sup> day of May, 2010.



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Kathryn Hutton  
General Counsel  
Cross Match Technologies, Inc.