

UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, DC

In the Matter of

CERTAIN ELECTRONIC DIGITAL MEDIA  
DEVICES AND COMPONENTS THEREOF

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

**APPLE INC.'S COMPLAINT UNDER  
SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

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Complainant:

Apple Inc.  
1 Infinite Loop  
Cupertino, California 95014  
Telephone: (408) 996-1010

Proposed Respondents:

Samsung Electronics Co., Ltd.  
416 Maetan-3dong, Yeongtong-gu  
Suwon-City, Gyeonggi-do, Korea 443-742  
Telephone: 011-82-31-200-1114

Samsung Electronics America, Inc.  
85 Challenger Road  
Ridgefield Park, New Jersey 07660  
Telephone: (201) 229-4000

Samsung Telecommunications America, LLC  
1301 East Lookout Drive  
Richardson, Texas 75082  
Telephone: (972) 761-7000

Counsel for Complainant:

Alexander J. Hadjis  
G. Brian Busey  
MORRISON & FOERSTER LLP  
2000 Pennsylvania Ave., NW, Suite 6000  
Washington, DC 20006  
Telephone: (202) 887-1500

Harold J. McElhinny  
Michael A. Jacobs  
MORRISON & FOERSTER LLP  
425 Market St.  
San Francisco, California 94105  
Telephone: (415) 268-7000

## TABLE OF CONTENTS

	Page
I. INTRODUCTION .....	1
II. COMPLAINANT .....	5
III. PROPOSED RESPONDENTS .....	6
A. Samsung Electronics Co., Ltd.....	6
B. Samsung Electronics America, Inc .....	6
C. Samsung Telecommunications America, LLC .....	7
IV. THE PRODUCTS-AT-ISSUE.....	7
V. THE PATENTS-AT-ISSUE .....	8
A. Graphical Interface Patents .....	8
a) The '949 Patent .....	8
b) The '922 Patent .....	10
B. Hardware Interface Patents .....	11
a) The '533 Patent .....	11
b) The '697 Patent .....	11
c) The '501 Patent .....	12
C. Design Patents.....	13
a) The D'757 Patent .....	13
b) The D'678 Patent .....	14
VI. UNFAIR ACTS OF THE PROPOSED RESPONDENTS .....	15
VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE .....	19
VIII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS .....	20
IX. LICENSEES .....	20
X. DOMESTIC INDUSTRY .....	20
A. Apple's Investment in the Domestic Industry .....	20
B. Apple Practices the Patents-at-Issue .....	23
XI. RELATED LITIGATION .....	25
XII. RELIEF REQUESTED.....	25

## TABLE OF EXHIBITS

Exhibit No.	Description
1.	Copy of United States Patent No. 7,479,949 (the '949 patent)
2.	Copy of United States Patent RE 41,922 (the '922 patent)
3.	Copy of United States Patent No. 7,863,533 (the '533 patent)
4.	Copy of United States Patent No. 7,789,697 (the '697 patent)
5.	Copy of United States Patent No. 7,912,501 (the '501 patent)
6.	Copy of United States Patent D558,757 (the D'757 patent)
7.	Copy of United States Patent No. D618,678 (the D'678 patent)
8.	Copy of Assignment Papers for the '949 patent
9.	Copy of Assignment Papers for the '922 patent
10.	Copy of Assignment Papers for the '533 patent
11.	Copy of Assignment Papers for the '697 patent
12.	Copy of Assignment Papers for the '501 patent
13.	Copy of Assignment Papers for the D'757 patent
14.	Copy of Assignment Papers for the D'678 patent
15.	Apple Inc. 2010 Form 10-K
16.	Samsung Electronics Co., Ltd. Fourth Quarter 2010 Earnings Release
17.	Printouts From <a href="http://www.samsung.com/us">www.samsung.com/us</a> and <a href="http://www.samsungmobile.com">www.samsungmobile.com</a>
18.	Printout From <a href="http://www.samsung.com/us/aboutsamsung/ourbusinesses/businessarea/usdivisions.html">http://www.samsung.com/us/aboutsamsung/ourbusinesses/businessarea/usdivisions.html</a>
19.	Samsung Galaxy Tab User Manual
20.	Photographs and Receipt From Purchase of Samsung Fascinate
21.	Photographs and Receipt From Purchase of Samsung Galaxy S 4G
22.	Photographs and Receipt From Purchase of Samsung Transform
23.	Photographs and Receipt From Purchase of Samsung Intercept
24.	Photographs and Receipt From Purchase of Samsung Captivate
25.	Photographs and Receipt From Purchase of Samsung Infuse 4G
26.	Photographs and Receipt From Purchase of Samsung Galaxy Tab
27.	Photographs and Receipt From Purchase of Samsung Galaxy Tab 10.1
28.	Foreign Counterparts to the D'757 Patent

<b>Exhibit No.</b>	<b>Description</b>
29.	Foreign Counterparts to the D'678 Patent
30.	Infringement Claim Chart Comparing the '949 Patent With the Samsung Captivate
31.	Infringement Claim Chart Comparing the '949 Patent With the Samsung Galaxy Tab
32.	Infringement Claim Chart Comparing the '922 Patent With the Samsung Fascinate
33.	Infringement Claim Chart Comparing the '922 Patent With the Samsung Galaxy Tab
34.	Infringement Claim Chart Comparing the '533 Patent With the Samsung Captivate
35.	Infringement Claim Chart Comparing the '533 Patent With the Samsung Galaxy Tab
36.	Infringement Claim Chart Comparing the '697 Patent With the Samsung Fascinate
37.	Infringement Claim Chart Comparing the '697 Patent With the Samsung Galaxy Tab
38.	Infringement Claim Chart Comparing the '501 Patent With the Samsung Fascinate
39.	Infringement Claim Chart Comparing the '501 Patent With the Samsung Galaxy Tab
40.	Infringement Claim Chart Comparing the D'757 Patent With the Samsung Fascinate and Transform
41.	Infringement Claim Chart Comparing the D'678 Patent With the Samsung Galaxy S 4G, Fascinate, Transform, and Infuse 4G
42C.	Confidential Exhibit – Licensees of the Patents-at-Issue
42C-1.	Confidential Exhibit – Patent Licensing Agreement
42C-2.	Confidential Exhibit – Patent Licensing Agreement
42C-3.	Confidential Exhibit – Patent Licensing Agreement
42C-4.	Confidential Exhibit – Patent Licensing Agreement
42C-5.	Confidential Exhibit – Patent Licensing Agreement
43C.	Confidential Exhibit – Apple's Domestic Investment in the Products-at-Issue
44.	Domestic Industry Claim Chart Comparing the '949 Patent With the iPhone 4

Exhibit No.	Description
45.	Domestic Industry Claim Chart Comparing the '922 Patent With the iPad
46.	Domestic Industry Claim Chart Comparing the '533 Patent With the iPhone 3GS
47.	Domestic Industry Claim Chart Comparing the '697 Patent With the iPod Touch
48C.	Confidential Domestic Industry Claim Chart Comparing the '501 Patent With the iPhone 4
49.	Domestic Industry Claim Chart Comparing the D'757 Patent With the iPhone 3GS
50.	Domestic Industry Claim Chart Comparing the D'678 Patent With the iPhone 4

## TABLE OF PHYSICAL EXHIBITS

Physical Exhibit No.	Description
1.	iPhone 4
2.	iPhone 3GS
3.	iPad
4.	iPod Touch
5.	Samsung Galaxy S 4G (model SGH-T959V)
6.	Samsung Fascinate (model SCH-I500)
7.	Samsung Transform (model SPH-M920)
8.	Samsung Intercept (model SPH-M910)
9.	Samsung Captivate (model SGH-I897)
10.	Samsung Infuse 4G (model SGH-I997)
11.	Samsung Galaxy Tab (model SCH-I800)
12.	Samsung Galaxy Tab 10.1 (model SCH-1905)

## APPENDIX OF ADDITIONAL MATERIALS

As required by 19 C.F.R. § 210.12(c), a certified copy of each of the prosecution histories of the patents-at-issue, including the references cited therein, is submitted in the following appendices:

- Appendix A – Prosecution history for U.S. Patent No. 7,479,949
- Appendix B – Technical references cited in the prosecution history of U.S. Patent No. 7,479,949
- Appendix C – Prosecution history for U.S. Patent No. RE 41,922
- Appendix D – Technical references cited in the prosecution history of U.S. Patent No. RE 41,922
- Appendix E – Prosecution history for U.S. Patent No. 7,863,533
- Appendix F – Technical references cited in the prosecution history of U.S. Patent No. 7,863,533
- Appendix G – Prosecution history for U.S. Patent No. 7,789,697
- Appendix H – Technical references cited in the prosecution history of U.S. Patent No. 7,789,697
- Appendix I – Prosecution history for U.S. Patent No. 7,912,501
- Appendix J – Technical references cited in the prosecution history of U.S. Patent No. 7,912,501
- Appendix K – Prosecution history for U.S. Patent No. D558,757
- Appendix L – Technical references cited in the prosecution history of U.S. Patent No. D558,757
- Appendix M – Prosecution history for U.S. Patent No. D618,678

- Appendix N – Technical references cited in the prosecution history of U.S. Patent No. D618,678



## **I. INTRODUCTION**

1. Complainant Apple Inc. (Apple) is a leading designer and manufacturer of mobile communication devices, tablets computers, and portable digital media players. Apple's electronic digital media devices, such as the iPhone, iPad, and the iPod, are groundbreaking products that have revolutionized their respective markets. They have enjoyed enormous commercial success and popular acclaim, and they continue to lead their markets in innovation, performance, and ease of use.
2. Apple's innovative and commercially successful products stem from its on-going commitment to research and development and creative acumen. Throughout its history, Apple has made substantial investments in research and development in a wide variety of technical fields, including personal communication, computer hardware and software, graphical and touch-based user interfaces, and digital media players. Apple is based in the United States, and it conducts substantially all of this research and development in its Cupertino, California headquarters. Apple's commitment to research and development has led to pioneering innovations that have laid the groundwork for, and are used extensively in, each of Apple's product lines, including the iPhone, iPad, and iPod. The United States Patent and Trademark Office has awarded patent protection to Apple for many of its innovations, and Apple continues to apply for patent protection for its recent and ongoing inventions.
3. Many of Apple's innovations have become so popular and so recognized that they have become virtually synonymous with Apple's products and the Apple brand. Indeed, an Apple product can be readily identified, for example, by the way it operates and

interfaces with its user. The unique features and functionality that are found in Apple's innovative products have contributed to their success by attracting consumers.

4. As a result, Apple's innovations and products have been the subject of widespread imitation by Apple's competitors. Others have attempted to capitalize on Apple's success by copying its innovative technology, distinctive user interface, and overall product design instead of independently developing their own technology.
5. One of the principal infringers of Apple's intellectual property is electronics giant Samsung. Samsung has followed each of Apple's groundbreaking products with imitation products that incorporate Apple's technology and distinctive design.
6. For example, to capitalize on the enormous market success of the iPhone, Samsung recently introduced its "Galaxy S" line of mobile phones. The Galaxy S line of mobile phones has been designed to look and operate like the iPhone, and it infringes multiple Apple utility and design patents. The Galaxy S phones use the Android operating system.
7. Then, after Apple introduced its widely acclaimed iPad tablet computer, Samsung continued the pattern of copying Apple's industry-leading technology by following suit with a tablet product called the "Galaxy Tab." Like the Galaxy S mobile phones, the Galaxy Tab electronic tablet has been designed to look and operate like an Apple iPad, and it infringes multiple Apple utility and design patents. The Galaxy Tab also uses the Android operating system.
8. Apple requests that the United States International Trade Commission ("USITC" or "Commission") commence an investigation pursuant to 19 U.S.C. § 1337(a)(1)(B) (alternatively referred to herein as "Section 337") to remedy the unlawful importation into the United States, sale for importation into the United States, sale within the United

States, and/or offer for sale within the United States of certain electronic digital media devices, including mobile phone handsets and tablets computers, and components thereof, including software, touch-pads, and hardware interfaces (collectively, “the Accused Products”).

9. On information and belief, the proposed Respondents, Samsung Electronics Co., Ltd, Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, “Samsung”), have engaged in unfair acts in violation of Section 337 through the unlicensed importation, sale for importation, and/or sale within the United States after importation of Accused Products that directly and indirectly infringe one or more claims of U.S. Patent Nos. 7,479,949 (the '949 patent); RE 41,922 (the '922 patent); 7,863,533 (the '533 patent); 7,789,697 (the '697 patent); 7,912,501 (the '501 patent); D558,757 (the D'757 patent); and D618,678 (the D'678 patent) (collectively, “the patents-at-issue”).
10. On information and belief, Samsung Accused Products infringe at least the following claims of the patents-at-issue:

Patent Number	Asserted Claims
7,479,949	1, 3-6, and 9-20
RE 41,922	29-35
7,863,533	1, 4, 7, 9, 11, 12, 15-17, 19, and 20
7,789,697	1-3, 11-16, and 21-27
7,912,501	1-4 and 8
D558,757	Only Claim in Patent
D618,678	Only Claim in Patent

11. A copy of the '949 patent accompanies this complaint as **Exhibit 1**. Apple owns by assignment the entire right, title, and interest in this patent.

12. A copy of the '922 patent accompanies this complaint as **Exhibit 2**. Apple owns by assignment the entire right, title, and interest in this patent.
13. A copy of the '533 patent accompanies this complaint as **Exhibit 3**. Apple owns by assignment the entire right, title, and interest in this patent.
14. A copy of the '697 patent accompanies this complaint as **Exhibit 4**. Apple owns by assignment the entire right, title, and interest in this patent.
15. A copy of the '501 patent accompanies this complaint as **Exhibit 5**. Apple owns by assignment the entire right, title, and interest in this patent.
16. A copy of the D'757 patent accompanies this complaint as **Exhibit 6**. Apple owns by assignment the entire right, title, and interest in this patent.
17. A copy of the D'678 patent accompanies this complaint as **Exhibit 7**. Apple owns by assignment the entire right, title, and interest in this patent.
18. As required by Section 337(a)(2) and defined by Section 337(a)(3), an industry in the United States relating to the patents-at-issue exists by virtue of at least Apple's investment in plant and equipment, employment of labor and capital, and/or investment in the exploitation with respect to the patents-at-issue.
19. Apple seeks a limited exclusion order pursuant to Section 337(d) excluding the importation of Samsung Accused Products manufactured by or for Samsung. Apple also seeks a cease-and-desist order pursuant to Section 337(f) directing Samsung to immediately cease the importation into the United States, sale for importation into the United States, and sale in the United States after importation of the Accused Products. Apple also requests that the cease-and-desist order direct Samsung to cease the

demonstration, sale, offer for sale, use, and movement or shipment of United States inventory of the Accused Products immediately.

## II. COMPLAINANT

20. Apple is a U.S. company organized and existing as a corporation under the laws of California. Apple maintains its principal place of business at 1 Infinite Loop, Cupertino, California 95014.
21. Apple is the owner by assignment of all right, title, and interest in and to the '949 patent; the '922 patent; the '533 patent; the '697 patent; the '501 patent; the D'757 patent; and the D'678 patent. (See **Exhibits 8-14.**)
22. Apple designs, develops, markets, and sells: (i) the iPhone, including the iPhone 3GS and the iPhone 4, and related accessories and services; (ii) the iPad; (iii) the iPod line of digital media devices; (iv) a portfolio of software, such as the iOS operating system installed on iPhones, iPads, and iPod touches; (v) a variety of related products, accessories, peripherals, services including warranty and customer support; and (vi) a complete software development kit (SDK) providing tools for programmers to create their own applications. Apple sells its products worldwide through its online stores, its own retail stores, its direct sales force, and third-party wholesalers, resellers, and value-added resellers. (See **Exhibit 15**, Apple Inc. 2010 Form 10-K, at 27.)
23. Apple researched and developed the technology that is protected by the patents-at-issue. Apple has made and continues to make significant investment in the design and development of products protected by the patents-at-issue, including the iPhone, iPad, iPods, and iOS software products, among others, in the United States. (See id. at 39.)

### III. PROPOSED RESPONDENTS

#### A. Samsung Electronics Co., Ltd.

24. On information and belief, Samsung Electronics Co., Ltd. (Samsung Electronics) is a corporation organized and existing under the laws of the Republic of Korea and has its principal place of business at 416 Maetan-3dong, Yeongtong-gu, Suwon-City, Gyeonggi-do, Korea 443-742.
25. On information and belief, Samsung Electronics develops, manufactures or has manufactured, markets, and sells Accused Products. (See **Exhibit 16**, Samsung Electronics Fourth Quarter 2010 Earnings Release, at 9-10.) On information and belief, Accused Products are manufactured overseas, and Samsung Electronics and others then import Accused Products into the United States, sell Accused Products for importation into the United States, and/or sell Accused Products after they have been imported into the United States. Accused Products are sold in the United States under various brand names. (See **Exhibit 17**, Printouts from [www.samsung.com/us](http://www.samsung.com/us) and [www.samsungmobile.com](http://www.samsungmobile.com).)

#### B. Samsung Electronics America, Inc.

26. On information and belief, Samsung Electronics America, Inc. (SEA) is a subsidiary of Samsung Electronics, and is organized and existing under the laws of New York with its principal place of business at 85 Challenger Rd., Ridgefield Park, NJ 07660.
27. On information and belief, SEA distributes and markets Accused Products manufactured by or for Samsung Electronics or its affiliates. (See **Exhibit 18**, Printout from <http://www.samsung.com/us/aboutsamsung/ourbusinesses/businessarea/usdivisions.html>.) On information and belief, SEA imports such Accused Products into the United

States, sells such Accused Products for importation into the United States, operates such Accused Products in the United States, and/or sells such Accused Products after they have been imported into the United States. (See **Exhibit 17**.)

**C. Samsung Telecommunications America, LLC**

28. On information and belief, Samsung Telecommunications America, LLC (Samsung Telecom) is a subsidiary of SEA, and is incorporated in Delaware with its principal place of business at 1301 E. Lookout Dr., Richardson, Texas 75082.
29. On information and belief, Samsung Telecom distributes and markets Accused Products manufactured by or for Samsung Electronics or its affiliates. (See **Exhibit 17**.) On information and belief, Samsung Telecom imports such Accused Products into the United States, sells such Accused Products for importation into the United States, operates such Accused Products in the United States, and/or sells such Accused Products after they have been imported into the United States. On information and belief, Samsung Telecom also provides warranty repair service and support for the Accused Samsung Products. (See **Exhibit 19**, Samsung Galaxy Tab User Manual, at 1, 4, and 135-138.)

**IV. THE PRODUCTS-AT-ISSUE**

30. The Samsung Accused Products include electronic digital media devices, including mobile phone handsets and tablet computers, designed, operated, distributed, sold, or offered for sale by or for Samsung. The Samsung Accused Products also include infringing components incorporated in the Samsung Accused Products, such as software, touch-pads, and hardware interfaces. Examples of the Samsung Accused Products are listed below and described in the attached claim charts. Photographs of certain examples of the Samsung Accused Products are attached as **Exhibits 20-27**.

**V. THE PATENTS-AT-ISSUE**

**A. Graphical Interface Patents**

**a) The '949 Patent**

**(1) Identification and ownership of the '949 patent**

31. U.S. Patent No. 7,479,949, entitled “Touch Screen Device, Method, and Graphical User Interface for Determining Commands by Applying Heuristics,” issued on January 20, 2009, to inventors Steven P. Jobs, Scott Forstall, Greg Christie, Stephen O. Lemay, Scott Herz, Marcel van Os, Bas Ording, Gregory Novick, Wayne C. Westerman, Imran Chaudhri, Patrick Lee Coffman, Kenneth Kocienda, Nitin K. Ganatra, Freddy Allen Anzures, Jeremy A. Wyld, Jeffrey Bush, Michael Matas, Paul D. Marcos, Charles J. Pisula, Virgil Scott King, Chris Blumenberg, Francisco Ryan Tolmasky, Richard Williamson, Andre M. J. Boule, and Henri C. Lamiroux. The '949 patent remains in full force and effect, and Apple is the owner of all right, title, and interest in and to the '949 patent. (See Exhibit 8.)

**(2) Non-technical description of the invention of the '949 patent<sup>1</sup>**

32. The '949 patent is directed to a touchscreen-based device that applies heuristics to inputs, or gestures, made on its touchscreen, to determine the command that the gesture corresponds to and the resulting device behavior. For instance, the '949 patent discloses a vertical-scrolling heuristic that determines that a screen contact corresponds to a one-dimensional vertical screen scrolling command, a two-dimensional screen translation heuristic that determines that a screen contact corresponds to a command to translate the

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<sup>1</sup> The text of this Complaint and the sections providing non-technical descriptions of the patents-at-issue are not intended to construe either the specification or the claims of the patents-at-issue.



screen in two dimensions, and a next item heuristic that determines that a screen contact corresponds to a command to transition between displaying items in a set.

**(3) Foreign counterparts**

33. The following is a list of foreign counterparts to the '949 patent:

Jurisdiction	Patent/App. No.	Filing Date	Status
AU	2007286532	9/6/2007	Issued
AU	2008100179	9/6/2007	Issued
AU	2009200372	9/6/2007	Issued
AU	2009233675	9/6/2007	Pending
CA	2658413	9/6/2007	Pending
CA	2735309.00	9/6/2007	Pending
CN	200780001219.1	9/6/2007	Pending
DE	202007018413.1	9/6/2007	Issued
EP	07841984.3	9/6/2007	Pending
HK	8111516.40	9/6/2007	Pending
HK	11103414.90	9/6/2007	Pending
JP	2009-527567	9/6/2007	Pending
JP	N/A	9/6/2007	Pending
JP	2010-227806	9/6/2007	Pending
KR	2009-7003948	9/6/2007	Pending
KR	2009-7006231	9/6/2007	Pending
WO/PCT	PCT/US2007/077777	9/6/2007	Pending

34. To the best of Apple's knowledge, information, and belief, there are no other foreign patents or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the '949 patent.

**b) The '922 Patent**

**(1) Identification and ownership of the '922 patent**

35. U.S. Patent No. Re 41,922, entitled “Method and Apparatus for Providing Translucent Images on a Computer Display,” issued on November 9, 2010, to inventors Michael Gough, Joseph MacDougald, Gina Venolia, Thomas Gilley, Greg Robbins, Daniel Hansen, and Abhay Oswal. The '922 patent is a reissue of U.S. Patent No. 6,072,489, which issued on June 6, 2000. The '922 patent remains in full force and effect, and Apple owns by assignment the entire right, title, and interest in the '922 patent. (See Exhibit 9.)

**(2) Non-technical description of the invention of the '922 patent**

36. The '922 patent is directed to the simultaneous presentation of opaque images and translucent images on a display screen.
37. In the patented system, a first opaque image is presented to the user on a touch screen. A second translucent image is then presented to the user over the opaque image so that portions of the opaque image are visible through the translucent image. When both the opaque and translucent images are presented, the user may input data and perform image operations on either the opaque or translucent image.

**(3) Foreign counterparts**

38. To the best of Apple’s knowledge, information, and belief, there are no foreign patents or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the '922 patent.

**B. Hardware Interface Patents**

**a) The '533 Patent**

**(1) Identification and ownership of the '533 patent**

39. U.S. Patent No. 7,863,533, entitled “Cantilevered Push Button Having Multiple Contacts and Fulcrums,” issued on January 4, 2011, to inventors Bradley J. Hamel, Tang Yew Tan, and Erik Wang. The '533 patent remains in full force and effect, and Apple owns by assignment the entire right, title, and interest in the '533 patent. (See Exhibit 10.)

**(2) Non-technical description of the invention of the '533 patent**

40. The '533 patent is directed to a cantilevered push button on an electronic device. Electronic devices are typically configured to receive multiple user inputs. The '533 patent describes a push button system with two distinct ends to accept user inputs corresponding to different electrical contacts. When one end of the button is pressed, the button pivots on a fulcrum located away from that particular end. The same is true when the other end of the button is pushed. In addition, both ends of the push button can be pressed simultaneously.

**(3) Foreign counterparts**

41. To the best of Apple’s knowledge, information, and belief, there are no foreign patents or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the '533 patent.

**b) The '697 Patent**

**(1) Identification and ownership of the '697 patent**

42. U.S. Patent No. 7,789,697, entitled “Plug Detection Mechanisms,” issued on September 7, 2010, to inventor Hugo Fiennes. The '697 patent remains in full force and effect, and

Apple owns by assignment the entire right, title, and interest in the '697 patent. (See **Exhibit 11.**)

**(2) Non-technical description of the invention of the '697 patent**

43. The '697 patent is directed to a headphone interface that detects the presence of a headphone or headset plug, and alters certain functions in the device in which the assembly resides.
44. Electronic digital media devices are typically configured to operate with headphones and headsets. In these devices, the patented headphone interface can detect whether a headphone or headset is inserted into the device. The functionality of the device can be altered depending on whether a headphone or headset is present.

**(3) Foreign counterparts**

45. To the best of Apple's knowledge, information, and belief, there are no foreign patents or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the '697 patent.

**c) The '501 Patent**

**(1) Identification and ownership of the '501 patent**

46. U.S. Patent No. 7,912,501, entitled "Audio I/O Headset Plug and Plug Detection Circuitry," issued on March 22, 2011, to inventors Timothy Johnson and Achim Pantfoerder. The '501 patent remains in full force and effect, and Apple owns by assignment the entire right, title, and interest in the '501 patent. (See **Exhibit 12.**)

**(2) Non-technical description of the invention of the '501 patent**

47. The '501 patent is directed to a headphone interface that is configured to accept and operate with a headphone or headset, which contains a microphone, and to detect whether the component inserted into the jack is a headphone or headset.
48. Electronic digital media devices are typically configured to operate with headphones or headsets. In these devices, the patented headphone interface can detect whether a component inserted into the device is a headphone or headset. The functionality of the device can be altered depending on whether the inserted component is a headphone or headset.

**(3) Foreign counterparts**

49. The following is a list of foreign counterparts to the '501 patent:

Jurisdiction	Patent/App. No.	Filing Date	Status
WO/PCT	PCT/US2008/0000177	1/4/2008	Expired
CN	CN2008020002203.4	1/4/2008	Issued
TW	097100427	1/4/2008	Issued

50. To the best of Apple's knowledge, information, and belief, there are no other foreign patents or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the '501 patent.

**C. Design Patents**

**a) The D'757 Patent**

**(1) Identification and ownership of the D'757 patent**

51. U.S. Patent No. D558,757, entitled "Electronic Device," issued on January 1, 2008, to inventors Bartley Andre, Daniel Coster, Daniele De Iuliis, Richard Howarth, Jonathan Ive, Steve Jobs, Duncan Kerr, Shin Nishibori, Matthew Rohrbach, Douglas Satzger,

Calvin Seid, Christopher Stringer, Eugene Whang, and Rico Zorkendorfer. The D'757 patent remains in full force and effect, and Apple is the owner of all right, title, and interest in and to the D'757 patent. (See **Exhibit 13**.)

**(2) Non-technical description of the invention of the D'757 patent**

52. The D'757 patent is directed to specific ornamental design features for an electronic device, such as a communication device. These ornamental features are shown in the D'757 design patent's figures.

**(3) Foreign counterparts**

53. A list of foreign counterparts to the D'757 patent is attached as **Exhibit 28**.

54. To the best of Apple's knowledge, information, and belief, there are no other foreign patents or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the D'757 patent.

**b) The D'678 Patent**

**(1) Identification and ownership of the D'678 patent**

55. U.S. Patent No. D618,678, entitled "Electronic Device," issued on June 29, 2010, to inventors Bartley K. Andre, Daniel J. Coster, Daniele De Iuliis, Richard P. Howarth, Jonathan P. Ive, Steve Jobs, Duncan Robert Kerr, Shin Nishibori, Matthew Dean Rohrbach, Douglas B. Satzger, Calvin Q. Seid, Christopher J. Stringer, Eugene Antony Whang, and Rico Zorkendorfer. Apple owns by assignment all right, title, and interest in the D'678 design patent. (See **Exhibit 14**.)

**(2) Non-technical description of the invention of the D'678 Patent**

56. The D'678 patent is directed to specific ornamental design features for an electronic device, such as a communication device. These ornamental features are shown in the D'678 design patent's figures.

**(3) Foreign counterparts**

57. A list of foreign counterparts to the D'678 patent is attached as **Exhibit 29**.
58. To the best of Apple's knowledge, information, and belief, there are no other foreign patents or foreign patent applications pending, filed, abandoned, withdrawn, or rejected corresponding to the D'678 patent.

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

59. On information and belief, the proposed Samsung Respondents import into the United States, sell for importation into the United States, and/or sell in the United States after importation certain electronic digital media devices that infringe one or more of the patents-at-issue in violation of 35 U.S.C. § 271(a). (See **Exhibits 20-27**.)
60. On information and belief, Samsung Accused Products infringe the patents-at-issue, including without limitation the following: (1) the Samsung Fascinate smartphone infringes at least claims 1, 3-6, and 9-20 of the '949 patent, at least claims 29-35 of the '922 patent, at least claims 1-3, 11-16, and 21-27 of the '697 patent, at least claims 1-4 and 8 of the '501 patent, the D'757 patent, and the D'678 patent; (2) the Samsung Galaxy S 4G smartphone infringes at least the D'678 patent; (3) the Samsung Transform smartphone infringes at least the D'757 patent and the D'678 patent; (4) the Samsung Captivate smartphone infringes at least claims 1, 3-6, and 9-20 of the '949 patent and at least claims 1, 4, 9, 11, 12, 15, 17, 19, and 20 of the '533 patent; (5) the Samsung

Intercept smartphone infringes at least claims 29-35 of the '922 patent; (6) the Samsung Infuse 4G smartphone infringes at least claims 1, 3-6, and 9-20 of the '949 patent, at least claims 29-35 of the '922 patent, and the D'678 patent; (7) the Samsung Galaxy Tab tablet computer infringes at least claims 1, 3-6, and 9-20 of the '949 patent, at least claims 29-35 of the '922 patent, at least claims 1, 4, 7, 9, 11, 12, 15-17, 19, and 20 of the '533 patent, at least claims 1-3, 11-16, and 21-27 of the '697 patent, and at least claims 1, 3-4, and 8 of the '501 patent; and (8) the Samsung Galaxy Tab 10.1 tablet computer infringes at least claims 1, 3-6, and 9-20 of the '949 patent, at least claims 29-35 of the '922 patent, at least claims 1, 4, 7, 9, 11, 12, 15-17, 19, and 20 of the '533 patent, at least claims 1-3, 11-16, and 21-27 of the '697 patent, and at least claims 1, 3-4, and 8 of the '501 patent.

61. Infringing Samsung Accused Products are being manufactured, assembled, and/or packaged and tested overseas, specifically, at least in Korea. (See Exhibits 20-27.) These same Accused Products are then being imported into the United States, operated and tested in the United States, sold for importation into the United States, and/or sold after importation in the United States. (See Exhibits 20-27.) The aforesaid acts of Samsung constitute direct infringement of at least claims 1, 3-6, and 9-20 of the '949 patent; at least claims 29-35 of the '922 patent; at least claims 1, 4, 7, 9, 11, 12, 15-17, 19, and 20 of the '533 patent; at least claims 1-3, 11-16, and 21-27 of the '697 patent; at least claims 1-4 and 8 of the '501 patent; the D'757 patent; and the D'678 patent.
62. On information and belief, Samsung has notice and knowledge of the patents-at-issue and its infringement of those patents at least by the date of receipt of this complaint.
63. On information and belief, Samsung knowingly contributes to the infringement of at least claims 11-20 of the '949 patent; at least claims 29-35 of the '922 patent; and at least



claims 1, 4, 9, 11, 12, 15, 17, 19, and 20 of the '533 patent by offering to sell within the United States, selling within the United States, or importing into the United States Accused Products used to perform the claimed methods and knowing that the Accused Products are especially made or adapted for infringing use and are not staple articles or commodities of commerce suitable for substantial non-infringing use.

64. On information and belief, Samsung actively and knowingly induces the infringement, with the intent to cause infringement, of at least claims 11-20 of the '949 patent; at least claims 29-35 of the '922 patent; and at least claims 1, 4, 9, 11, 12, 15, 17, 19, and 20 of the '533 patent by providing the Accused Products along with directions, demonstrations, guides, manuals, training for use, and other materials that encourage and facilitate the infringing use by another.
65. A claim chart demonstrating how claims 1, 11, and 17 of the '949 patent read onto the Samsung Captivate smartphone is attached as **Exhibit 30**. This claim chart references documentation attached as part of **Exhibit 30**.
66. A claim chart demonstrating how claims 1, 11, and 17 of the '949 patent read onto the Samsung Galaxy Tab tablet computer is attached as **Exhibit 31**. This claim chart references documentation attached as part of **Exhibit 31**.
67. A claim chart demonstrating how claims 29, 31, and 33 of the '922 patent read onto the Samsung Fascinate smartphone is attached as **Exhibit 32**. This claim chart references documentation attached as part of **Exhibit 32**.
68. A claim chart demonstrating how claims 29, 31, and 33 of the '922 patent read onto the Samsung Galaxy Tab tablet computer is attached as **Exhibit 33**. This claim chart references documentation attached as part of **Exhibit 33**.

69. A claim chart demonstrating how claims 1, 11, and 19 of the '533 patent read onto the Samsung Captivate smartphone is attached as **Exhibit 34**. This claim chart references documentation attached as part of **Exhibit 34**.
70. A claim chart demonstrating how claims 1, 11, and 19 of the '533 patent read onto the Samsung Galaxy Tab tablet computer is attached as **Exhibit 35**. This claim chart references documentation attached as part of **Exhibit 35**.
71. A claim chart demonstrating how claims 1 and 12 of the '697 patent read onto the Samsung Fascinate smartphone is attached as **Exhibit 36**. This claim chart references documentation attached as part of **Exhibit 36**.
72. A claim chart demonstrating how claims 1 and 12 of the '697 patent read onto the Samsung Galaxy Tab tablet computer is attached as **Exhibit 37**. This claim chart references documentation attached as part of **Exhibit 37**.
73. A claim chart demonstrating how claim 1 of the '501 patent reads onto the Samsung Fascinate smartphone is attached as **Exhibit 38**. This claim chart references documentation attached as part of **Exhibit 38**.
74. A claim chart demonstrating how claim 1 of the '501 patent reads onto the Samsung Galaxy Tab tablet computer is attached as **Exhibit 39**. This claim chart references documentation attached as part of **Exhibit 39**.
75. A claim chart demonstrating how the D'757 patent reads onto the Samsung Fascinate and Transform smartphones is attached as **Exhibit 40**. This claim chart references documentation attached as part of **Exhibit 40**.

76. A claim chart demonstrating how the D'678 patent reads onto the Samsung Galaxy S 4G, Fascinate, Transform, and Infuse 4G smartphones is attached as **Exhibit 41**. This claim chart references documentation attached as part of **Exhibit 41**.

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

77. On information and belief, the Samsung Accused Products are imported into the United States, sold for importation into the United States, and/or sold after they are imported into the United States.
78. On information and belief, the Samsung Accused Products are manufactured, assembled, and/or packaged and tested in Korea. (See Exhibits 20-27.) Samsung Accused Products are then imported into the United States, operated and tested in the United States, sold for importation into the United States, and/or sold after importation into the United States by Samsung and others. (See Exhibits 20-27.)
79. Attached as **Exhibits 20-25** are receipts and photographs of the following Samsung cell phone handsets bearing “Phone Made in Korea” or “Made in Korea” designations:  
Samsung Fascinate, Galaxy S 4G, Intercept, Transform, Captivate, and Infuse 4G.  
Distributors in the United States sell such Samsung Accused Products. (See Exhibits 20-25.) The aforesaid Samsung Accused Products bearing “Phone Made in Korea” or “Made in Korea” designations have been imported and can be purchased in the United States. (See Exhibits 20-25.)
80. Attached as **Exhibits 26 and 27** are receipts and photographs of the following Samsung tablet computers bearing “Phone made in Korea” or “Made in Korea by Samsung” designations: Samsung Galaxy Tab and Samsung Galaxy Tab 10.1. Distributors in the United States sell such Samsung Accused Products. (See Exhibits 26-27.) The aforesaid

Samsung Accused Products bearing “Phone made in Korea” or “Made in Korea by Samsung” designations have been imported and can be purchased in the United States.

(See Exhibits 26-27.)

#### VIII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

81. On information and belief, the Samsung Accused Products are believed to fall within at least the following classification of the Harmonized Tariff Schedule of the United States: item number 8517.12.00 and 8471.30.01. The Harmonized Tariff Schedule numbers are for illustrative purposes only, and are not intended to be restrictive of the scope of the Accused Products.

#### IX. LICENSEES

82. Apple has licensed the patents-at-issue. A list of licensees of the patents-at-issue is attached to this complaint as **Confidential Exhibit 42C** and the licensing agreements covering the patents-at-issue are attached as **Confidential Exhibits 42-1C-5C**.

#### X. DOMESTIC INDUSTRY

83. There is a domestic industry, as defined under 19 U.S.C. § 1337(a)(3)(A), (B), and (C), comprising significant investments in physical operations, employment of labor and capital, and exploitation of the patents-at-issue.

##### A. Apple’s Investment in the Domestic Industry

84. Apple uses the inventions claimed in the patents-at-issue in numerous products. For example, Apple makes the iPhone, which practices at least the ’949, ’922, ’533, ’697, and ’501 utility patents and the D’757 and D’678 design patents; the iPad, which practices at least the ’949, ’922, ’533, ’697, and ’501 utility patents; and the iPod Touch, which practices at least the ’949, ’922, ’533, ’697, and ’501 utility patents. Apple sells

these products with iOS pre-installed. Apple researched, designed, and developed its products that practice the patents-at-issue (the Domestic Industry Products) in the United States and sells them and provides customer support within the United States through its retail stores and other channels. (**Confidential Exhibit 43C** at ¶¶ 1-5.)

85. Apple has invested substantial amounts in the Domestic Industry Products, including investments in engineering, research, and development. Overall, Apple spent more than \$2.9 billion on research and development from fiscal year 2010 through the first half of 2011,<sup>2</sup> of which a substantial amount is allocable to the Domestic Industry Products. (Id. at ¶¶ 2, 5.) **Confidential Exhibit 43C** contains detailed information regarding Apple's research and development expenditures within the United States. (Id.) Apple conducted substantially all of the research and development covered by these expenditures, including those related to researching and developing the Domestic Industry Products, in the United States. (Id.)
86. Apple has also invested substantial amounts on customer support and service for its products, including the Domestic Industry Products. (Id. at ¶¶ 3-4.) These investments include investments in establishing a network of authorized service centers in the United States and developing a training and certification program for Apple-certified technicians to ensure that Apple's customers receive industry-leading customer support for the Domestic Industry Products and other Apple products. (Id. at ¶ 3.) From 2007 through the first half of 2011, Apple spent a substantial amount on its training and certification program. (Id.) **Confidential Exhibit 43C** contains additional information concerning

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<sup>2</sup> Apple's fiscal year is the period that begins on the last Sunday of September and ends on the last Saturday of September of the following calendar year. All information presented here is based on Apple's fiscal calendar.

Apple's investment in customer support and service for the Domestic Industry Products.  
(Id.)

87. Apple also supports its products through its retail stores. Apple has opened more than 300 retail stores, more than 230 of which are located in the United States. (Id.) In addition to using these stores to sell its products, Apple provides customer support for the Domestic Industry Products and other products at in-store customer service centers called "Genius Bars." (Id.) Apple uses Genius Bars to provide support services for the Domestic Industry Products and other products, including troubleshooting technical problems, identifying needed repairs, and training customers to use products such as the Domestic Industry Products. (Id.) Apple has invested substantial amounts in its domestic retail stores. Overall, Apple spent more than \$6.8 billion on sales, marketing, and distribution from fiscal year 2010 through the first half of 2011, of which a substantial amount is allocable to the Domestic Industry Products. (Id. at ¶ 4.) **Confidential Exhibit 43C** contains additional information concerning Apple's investment in its United States retail segment. (Id. at ¶¶ 3-4.)

88. Apple has made significant investments in plant and equipment with respect to the Domestic Industry Products. Apple's headquarters are located in Cupertino, California. (**Exhibit 15** at 21.) Apple owns facilities for research and development and corporate functions in Cupertino, California, and owns a warehousing and distribution operation and customer support call center in Elk Grove, California and a data center in Newark, California. (Id.) Through the end of fiscal year 2010, Apple owned or leased approximately 10.6 million square feet of building space, most of which is located in the United States. (Id.)

89. Pursuant to 19 U.S.C. § 1337(a)(3)(C), Apple has also made substantial investments in exploiting its patent portfolio through patent licensing activities, such that a domestic industry exists or, alternatively, is in the process of being established. Apple has entered into cross-licenses that include patents-at-issue, and thus has leveraged its patents to obtain access to other firms' valuable intellectual property. (See **Confidential Exhibit 42C**; see also **Confidential Exhibits 42-1C-5C**.) **Confidential Exhibit 43C** contains additional information concerning Apple's investment in licensing the patents-at-issue. (Id. at ¶ 6.)
90. In 2010, Apple's net sales surpassed \$65 billion, including more than \$25 billion from iPhones and related products and services, more than \$4.9 billion from iPad products, and more than \$8 billion from iPod products. (**Exhibit 15** at 33.) During 2010, Apple sold nearly 40 million iPhone units, more than 7.4 million iPad units, and more than 50 million iPod units. (Id.) The United States represents Apple's largest geographic marketplace. (Id. at 9.) More than 44% of Apple's net sales in 2010 came from sales to customers within the United States. (Id. at 33.)
91. Apple's domestic industry investments and expenditures with respect to the patents-at-issue are continuous and ongoing. (**Confidential Exhibit 43C** at ¶¶ 1-5.)

**B. Apple Practices the Patents-at-Issue**

92. As noted above, Apple makes numerous products that practice the patents-at-issue. The features and operations described and claimed in the patents-at-issue are present throughout Apple's product portfolio. The allocation of revenue and cost items for each of these product lines is shown in the tables contained in **Confidential Exhibit 43C**.

Specific examples of use are described below and compared to the above-referenced claims of the patents-at-issue in associated exhibits.

93. A sample iPhone 4 is provided concurrently with this Complaint as **Physical Exhibit 1**.
94. A sample iPhone 3GS is provided concurrently with this Complaint as **Physical Exhibit 2**.
95. A sample iPad is provided concurrently with this Complaint as **Physical Exhibit 3**.
96. A sample iPod Touch is provided concurrently with this Complaint as **Physical Exhibit 4**.
97. The '949 patent is practiced by Apple products including, without limitation, iPhone, iPad, and iPod products. A claim chart comparing an iPhone 4 to exemplary claim 1 of the '949 patent is attached as **Exhibit 44**.
98. The '922 patent is practiced by Apple products including, without limitation, iPhone, iPad, and iPod products. A claim chart comparing an iPad to exemplary claim 31 of the '922 patent is attached as **Exhibit 45**.
99. The '533 patent is practiced by Apple products including, without limitation, iPhone, iPad, and iPod products. A claim chart comparing an iPhone 3GS to exemplary claim 1 of the '533 patent is attached as **Exhibit 46**.
100. The '697 patent is practiced by Apple products including, without limitation, iPhone, iPad, and iPod products. A claim chart comparing an iPod Touch to exemplary claim 1 of the '697 patent is attached as **Exhibit 47**.
101. The '501 patent is practiced by Apple products including, without limitation, iPhone, iPad, and iPod products. A claim chart comparing an iPhone 4 to exemplary claim 1 of the '501 patent is attached as **Confidential Exhibit 48C**.
102. A claim chart comparing an iPhone 3GS to the D'757 patent is attached as **Exhibit 49**.



103. A claim chart comparing an iPhone 4 to the D'678 patent is attached as **Exhibit 50**.

## **XI. RELATED LITIGATION**

104. The '949 Patent is currently being litigated in Apple Inc. v. High Tech Computer Corp., et al., 1:10-cv-00167-GMS (D. Del.). That action was filed by Apple on March 2, 2010.

## **XII. RELIEF REQUESTED**

105. WHEREFORE, by reason of the foregoing, Apple respectfully requests that the United States International Trade Commission:

- a. institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, into the unlawful importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation by Samsung of certain electronic digital media devices, including mobile phone handsets and tablet computers, and components thereof, including software, touch-pads, and hardware interfaces used in electronic digital media devices that infringe one or more claims of the United States patents-at-issue;
- b. determine that there has been a violation of Section 337;
- c. issue a limited exclusion order pursuant to Section 337(d) excluding from entry into the United States all Accused Products manufactured, imported, sold, or sold for importation by or on behalf of the named Samsung entities or any of their affiliates, subsidiaries, other related business entities, or their successors or assigns that infringe one or more claims of the United States patents-at-issue;
- d. issue a permanent cease-and-desist order pursuant to Section 337(f) prohibiting the named Samsung entities and their affiliates, subsidiaries, successors, or

assigns from importing, selling, servicing, marketing, advertising, demonstrating, distributing, offering for sale, transferring, including moving or shipping inventory, in the United States, and soliciting U.S. agents or distributors for any imported Accused Products that infringe one or more claims of the United States patents-at-issue; and

- e. issue such other and further relief as the Commission deems appropriate.

Respectfully submitted,



Alexander J. Hadjis  
AHadjis@mofocom

G. Brian Busey  
GBusey@mofocom

MORRISON & FOERSTER LLP  
2000 Pennsylvania Ave., NW, Suite 6000  
Washington, DC 20006

Telephone: (202) 887-1500

Facsimile: (202) 887-0763

Harold J. McElhinny  
HMcElhinny@mofocom

Michael A. Jacobs  
MJacobs@mofocom

MORRISON & FOERSTER LLP  
425 Market St.

San Francisco, California 94105

Telephone: (415) 268-7000

Facsimile: (415) 268-7522

Counsel for Complainant Apple Inc.