UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

In the Matter of **CERTAIN COAXIAL CABLE CONNECTORS AND COMPONENTS THEREOF AND PRODUCTS CONTAINING SAME**	**Investigation No. 337-TA-650**

MOTION FOR LEAVE TO FILE A CORRECTED VERSION OF REPLY SUBMISSION OF SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG ELECTRONICS CO., LTD., SAMSUNG SEMICONDUCTOR, INC., SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, HEWLETT-PACKARD COMPANY, DELL INC., ASUS COMPUTER INTERNATIONAL, INC., ASUSTEK COMPUTER, INC. AND TRANSCEND INFORMATION, INC. IN RESPONSE TO THE COMMISSION'S DECEMBER 14, 2009 NOTICE TO REVIEW-IN-PART A FINAL DETERMINATION FINDING A VIOLATION OF SECTION 337

Samsung Electronics America, Inc., Samsung Electronics Co., Ltd., Samsung Semiconductor, Inc., Samsung Telecommunications America, LLC, Hewlett-Packard Company, Dell Inc., ASUS Computer International, Inc., ASUStek Computer, Inc., and Transcend Information, Inc. (hereinafter "Covington Interested Parties") respectfully move for leave to file a corrected version of their Reply in Response to the Commission's December 14, 2009 Notice to Review-in-Part a Final Determination Finding a Violation of Section 337 ("Reply Submission"). The Covington Interested Parties filed and served their reply submission on all parties in the above-titled investigation on Wednesday, January 27, 2010, which was the due date set in the Commission's Notice. The Covington Interested Parties are seeking leave to file a corrected version that will remedy certain clerical errors and add Transcend Information, Inc. to the list of parties supporting the motion. The corrected version makes no substantive change in the arguments presented. The Covington Interested Parties respectfully request that the

Commission substitute the attached corrected papers for those filed January 27, 2010. Transcend, which had joined the Covington Interested Parties initial submission made January 13, 2010, was simply unable to confirm its support for the Reply submission in time for the Reply filing deadline.

The Covington Interested Parties sent notice of this motion to the Office of Unfair Import Investigations, and counsel for Complainant and Respondents, and were advised that no party objects to this motion.

Dated: January 29, 2010

/s/ Sturgis Sobin
Robert T. Haslam
Richard R. Rainey
Sturgis M. Sobin
Roderick R. McKelvie
Michael K. Plimack
Alexander D. Chinoy
Ashley E. Miller
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
Telephone: (202) 662-6000
Fax: (202) 778-6792

Attorneys for Samsung Electronics America, Inc., Samsung Electronics Co., Ltd., Samsung Semiconductor, Inc., Samsung Telecommunications America, LLC , Hewlett-Packard Company, Dell Inc., ASUS Computer International, Inc., ASUStek Computer, Inc., and Transcend Information, Inc.

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, DC

In the Matter of **CERTAIN COAXIAL CABLE CONNECTORS AND COMPONENTS THEREOF AND PRODUCTS CONTAINING SAME**	**Investigation No. 337-TA-650**

REPLY SUBMISSION OF SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG ELECTRONICS CO., LTD., SAMSUNG SEMICONDUCTOR, INC., SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, HEWLETT-PACKARD COMPANY, DELL INC., ASUS COMPUTER INTERNATIONAL, INC., ASUSTEK COMPUTER, INC. AND TRANSCEND INFORMATION, INC. IN RESPONSE TO THE COMMISSION'S DECEMBER 14, 2009 NOTICE TO REVIEW-IN-PART A FINAL DETERMINATION FINDING A VIOLATION OF SECTION 337

[CORRECTED VERSION]

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Samsung Electronics America, Inc., Samsung Electronics Co., Ltd., Samsung Semiconductor, Inc., Samsung Telecommunications America, LLC, Hewlett-Packard Company, Dell Inc., ASUS Computer International, Inc., ASUStek Computer, Inc., and Transcend Information, Inc. (hereinafter "Covington Interested Parties") make the following submission in reply to the Submission of Tessera, Inc. in Response to the Commission's Questions Regarding the Domestic Industry Requirement of Section 337(a)(3)(C) ("Tessera Submission") and Complainant's Brief on the Issues Under Review ("Complainant's Brief"). Tessera's submission and Complainant's Brief conclude that the International Trade Commission ("Commission" or "ITC") must consider all types of investments, even those with no ties to exploitation, in analyzing the domestic industry requirement.

The expenditures to which Tessera and Complainant point, including investments in enforcing intellectual property rights against existing producers and litigation costs, are not investments in "licensing" contemplated by the statute because such expenditures are not probative of exploitation of the underlying technology. As noted by the Brief of the Office of Unfair Import Investigations on Issues Under Review ("OUII Brief"), they are instead evidence of only an intellectual property owner's desire to exact rents by means of the leverage provided by the right to exclude, not a desire to further the commercialization and/or development of its property. OUII Brief at 27. While it may be exploitation of a legal right to exclude incident to patent ownership, it is surely not exploitation of the underlying innovation, upon which the legal right ultimately rests.

Tessera's and Complainant's position, which would essentially require the Commission to adopt a per se rule to recognize litigation and enforcement expenses in all instances where complainant has made any effort to license, is inconsistent with the statute and the legislative history. The statutory language and legislative history make clear that while Congress intended the 1988 amendments to open the door to a broader array of entities that could avail themselves of the statute's protections, there still had to be some evidence of actual commercial use of the invention. Tessera now seeks to take that law, enacted well before the business of patents trolls became big business, and all but take the door off its hinges. The law was meant to protect and support productive, commercial use of inventions, not hedge funds, contingency law firms, and other speculators in the market for exclusionary rights disconnected from advancement of the underlying technology.

I. TESSERA'S AND COMPLAINANT'S ARGUMENT IN FAVOR OF CONSIDERING *ALL* SPENDING RELATED TO LICENSING AS PART OF THE DOMESTIC INDUSTRY ANALYSIS IS NOT CONSISTENT WITH THE LAW AND IS UNSUPPORTED

Tessera's Submission and Complainant's Brief set forth an overly broad interpretation of Section 337(a)(3)(C) that permits any investment related to licensing — irrespective of its ties to exploitation — to prove a domestic industry. Tessera and Complainant lump litigation fees and expenditures in enforcement activity directed at existing products into investments in "licensing" under the statute. As support for Tessera's argument, it argues that the ordinary meaning of the terms "investment" and "exploitation" in the statute require the Commission to consider *all* investments in "licensing." According to both Tessera and Complainant, "licensing" is broadly construed to include activities such as litigating and enforcing patents against existing producers of a product to exact a royalty. Conspicuously absent in Tessera's brief is citation to any legislative history that explicitly notes that licensing should include litigation and enforcement. Tessera's Submission further argues that any rule limiting the types of expenditures considered would be inconsistent with Commission precedent, as well as the legislative history's focus on innovation. Finally, Tessera contends that such a rule would stifle economic growth and innovation in the United States by "favoring one kind of licensing investment over another." None of these assertions have merit.

A. The Argument Advanced by Complainant Does Not Meet the Standard of a Substantial Investment in "Exploitation"

Complainant incorrectly characterizes the holding in the Initial Determination ("ID") and assumes that a showing of spending related to litigation plus minimal additional evidence of some unrelated research and development is enough to show a "substantial investment in . . . exploitation." Complainant's Brief at 49-50. That argument, however, turns the standard found in the statutory language on its head, and should not be adopted by the Commission.

Complainant argues that "the ALJ concluded that there was sufficient domestic activity undertaken by PPC in connection with exploiting the asserted patent unrelated to litigation" and that that finding somehow justified inclusion of litigation expenses. Id. at 50. However, the ALJ's only explicit finding was that "PPC ha[d] made a substantial investment in <u>*enforcement* of the '539 patent…</u>" Final ID at 113 (emphasis added). As to licensing, research and development he only found "some investment," without clearly identifying exactly what that was or how that evidenced real commercial development of the innovation. Thus, contrary to Complainant's assertion, the ID never found that investments other than litigation were substantial. As discussed extensively in the Covington Interested Parties' initial submission, and agreed upon by OUII, enforcement activity is typically not probative of a substantial investment in the exploitation of the underlying technology, and should not be considered in the domestic industry analysis. Covington Interested Parties' Submission at 11-12; OUII Brief at 29-30.

Further, even if Complainant had been correct in its characterization of the ID's holding, the mere fact that the ALJ found that the Complainant was engaged in "some" additional activities does not transform enforcement expenses into spending directed at commercializing and or developing the underlying technology. In essence, this seeks to create a presumption where there is no basis in law or legislative history to do so. Absent a showing of direct linkages to a licensing program aimed at actual commercialization or development of the underlying technology, legal fees and enforcement activities are not relevant. Here, the complainant did not meet that burden and the ID simply gave controlling weight to the litigation expenses without either a basis in law or evidence.

B. Requiring Investments Probative of "Exploitation" Is a Clarification of Commission Precedent, Not a Departure

Contrary to the arguments in Tessera's and Complainant's submissions, requiring investments probative of "exploitation" is not a complete departure from prior Commission decisions. *See* Complainant's Brief at 49-50; Tessera's Submission at 11-16. As such, Tessera's argument that the Commission's decision on this issue would be entitled to less deference from the Federal Circuit is not a legitimate concern.

Further, contrary to Complainant's and Tessera's arguments, prior Commission decisions have fallen on both sides of the debate and have not articulated a clear standard that should be applied to litigation expenses and enforcement activities. While Tessera highlights some investigations in which litigation costs and enforcement activities were included in the domestic industry analysis, additional investigations illustrate that the Commission's practice has not been "unwavering" on this issue. Some ALJs have questioned whether litigation costs should be relevant. *See, e.g., Certain Digital Processors and Digital Processing Systems, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-559, Order 24 at 99 (June 21, 2007); *Certain Male Prophylactic Devices*, Inv. No. 337-TA-546, Order No. 22 at 17-18 (May 15, 2006)("It is inconsistent with the purpose of Section 337 to allow legal fees, standing alone, to establish the economic prong of the domestic industry requirement."). Other ALJs have excluded certain types of licenses as “not the sort of ‘exploitation of [ ] intellectual property’ that Congress was seeking to protect.” Together, the Commission’s licensing decisions demonstrate only that the Commission has been wrestling with the issue and believes that a clearer articulation of how the standard should be applied may now be necessary.

Similarly unpersuasive is Complainant’s argument that the Commission’s practice of examining the facts of each case dictates a rule that would require any and all investments to be considered in the domestic industry analysis. Complainant’s Brief at 49-50. The rule proposed by the Covington Interested Parties asks the Commission to look at the particular facts of a complainant’s licensing business to determine whether such activities can be tied to the development and/or commercialization of an intellectual property right. It is not an absolute rule that excludes certain expenses categorically, and therefore, is consistent with the Commission’s case-by-case approach to the domestic industry analysis.

C. Limiting the Domestic Industry Analysis to Investments Probative of “Exploitation” Does <u>Not</u> Add A New Requirement to Section 337(a)(3)(C)

Tessera’s interpretation of the statutory language unnecessarily isolates each word in the Section 337(a)(3)(C), and disregards the meaning of that section as a whole. Section 337(a)(3)(C)’s language states in its entirety:

> For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent ... concerned —
>
> ***
>
> (C) <u>substantial investment in its exploitation</u>, including engineering, research and development, or licensing.

19 U.S.C. § 1337(a)(3)(emphasis added). The term “investment” cannot be defined without looking at the statute’s immediately subsequent language and considering that phrase as a whole.

Thus, the statute requires not *any* investment but a "substantial investment in . . . exploitation." *Id.* (emphasis added). Unable to support its position either by reference to statutory context or legislative history, Tessera resorts to a dictionary definition of "exploitation." Again, Tessera opts to look at the term in isolation rather than consider it as part of Section 337(a)(3)(C)'s entire requirement. The statute requires "investment in its exploitation." *Id.* In this setting, the meaning of "exploitation" is to develop or use the *technology covered* by the patent. *See e.g.*, *Ethicon, Inc. v. U.S. Surgical Corp.*, 135 F.3d 1456, 1468 (Fed. Cir. 1998) (using phrase in that way). *See also* Covington Interested Parties' Submission at 9; Cisco Submission at 5.

D. The Amendments to Section 337's Domestic Industry Requirement Never Intended to Give "Mere Patent Owners" Access to the ITC

Although Tessera is correct that Congress intended to foster innovation in amending Section 337's domestic industry requirement, nothing about that goal requires a consideration of any and all investments in licensing. Congress envisioned clear limits to the types of complainants granted entry to the ITC. First, Congress intended the amended requirement to exclude "mere ownership" of a patent from satisfying the test. S. Rep. 100-71 at 129 (1987); H. Rep. 100-40 at 157 (1987). And further, the purpose of the amendment was to provide an avenue of relief at the ITC for intellectual property holders who, because they lacked "capital to actually make the goods," relied on licensees to bring their invention to market. 132 Cong. Rec. H1782 (Apr. 10, 1986) (statement by Rep. Kastenmeier). These limits reinforce an interpretation of the statutory language that requires "investments in . . . *exploitation*" and indicate that Congress's understanding of "exploitation" encompassed engineering, research and development, and licensing *for the purposes of commercial implementation*. As argued by the Covington Interested Parties, and agreed upon by OUII, the statutory amendment was never intended to permit *any and all* spending related to "licensing" to satisfy the domestic industry requirement. OUII Brief at 29-30.

That interpretation of Section 337(a)(3)(C) is further strengthened by Congress's motivation to reverse the domestic industry decisions of certain investigations. *See* Covington Interested Parties' Brief at 4-5; OUII Brief at 31-32. In *Gremlins*, *Culture Microcarriers* and *Toy Vehicles* — all cases cited by Congress as decisions it intended to overturn in amending Section 337 — complainants or their licensees were actively engaged in developing and commercializing their intellectual property. *See* Covington Interested Parties' Brief at 4-5; OUII Brief at 31. Thus, in amending Section 337, Congress intended to extend the statute's protection to intellectual property holders engaged in activity related to the development and commercialization of their property — like those in *Gremlins*, *Culture Microcarriers* and *Toy Vehicles*. Permitting *any and all* spending related to "licensing" to satisfy the requirement was never Congress's intention.

E. Requiring Investments that Tend to Show "Exploitation" to Satisfy the Domestic Industry Requirement Is Consistent with Fostering Innovation in the United States

Tessera's final argument that any limit on the types of expenditures considered in the domestic industry analysis would close the door on the "innovation community" in the United States does not stand up to serious scrutiny. By requiring patent owners to take domestic steps to commercialize, the Commission will incentivize domestic creative activities, not restrict them. Limiting the relevant expenditures to those probative of commercial exploitation only forecloses Tessera's so-called "late-stage licensing" as an independent justification for access the ITC. And even in the case of "late stage licensing" activities, such investments are not categorically excluded under the proposed rule. Where a complainant could show real linkages to a traditional licensing program directed to development or use of the technology, legal fees and enforcement activity may have some relevance. *See* Covington Interested Parties' Submission at 14.

Much of Tessera's policy argument, moreover, is based on an overexpansion of the proposed interpretation of the statute. The rule advanced by the Covington Interested Parties is not one that would require inventors to invest in domestic manufacturing to qualify for ITC protection. Nothing about the rule suggests that licensing activity alone would be unable to satisfy the domestic industry requirement. All that is required is evidence that expenditures are ancillary to and supportive of a robust commercialization-focused licensing program. It is only enforcement activity and litigation fees aimed at *existing* products with no ties to commercializing or developing the intellectual property that would not suffice.

Tessera's fear that the "innovation community" would suffer fails to distinguish between innovators who license their creations for the purpose of commercialization and intellectual property owners who merely seek rents based on the leverage of their legal right to exclude. According to Tessera, "innovators must be able to market their own innovations to others who in turn see value in licensing . . . *and practicing* them." Tessera Submission at 24 (emphasis added). Neither the Covington Interested Parties nor OUII dispute that this proposition, and corresponding proposed rule — which limits the relevant investments to those that tend to show exploitation — would continue to encourage innovators to license to others to put their innovations into practice. *See* OUII Brief at 29. Only a complainant who did no research and did not develop its intellectual property rights for use by others, and who wishes to assert its intellectual property against existing manufacturers rather than engaging others to practice and commercialize, would be excluded by a standard that requires investments probative of exploitation.

Contrary to Tessera's argument, opening the Section 337 door more widely to non-practicing entities is only likely to serve to retard innovation and harm consumers in the U.S. The Commission must be mindful that the potential for adverse effects on innovation is greater in the case of Section 337 compared to analogous cases in the district courts, in part, because the statute and decisional law provide no alternative to a particularly draconian remedy — an injunction barring importation of all infringing imports, including in many cases downstream products in which the infringing article is a component.[1] The problem is succinctly captured in the academic literature:

> These threats [of injunction] can greatly affect licensing negotiations, especially in cases where the injunction is based on a patent covering one small component of a complex, profitable, and popular product. Injunction threats often involve a strong element of *holdup* in the common circumstance in which the defendant has already invested heavily

---

[1] Generally speaking, non-innovative Non-Practicing Entities ("NPEs") do not directly compete with the companies that they accuse of infringement. The term NPE, as used here, refers to those entities that take no action to either develop and or commercialize their intellectual property rights. Their business model is simply to acquire intellectual property innovated and developed by *others* and use that intellectual property to generate royalty revenue either through consensual licensing or litigation.

In recent years, the U.S. Supreme Court and the Court of Appeals for the Federal Circuit (CAFC) have issued decisions that have had the effect of cutting back on the rights of or benefits provided to NPEs when they bring patent infringement claims in the district courts. Most significantly, in its *EBay Inc. v. MercExchange LLC*, 547 U.S. 388 (2006), decision, the Supreme Court held that a patent owner can no longer automatically expect an injunction when there is a finding of infringement. Rather, courts must undertake a four-factor test and weigh a number of issues before any injunction may be issued. Several of the factors are directed to analysis of the competitive conditions between patent owner and accused infringer. In the nearly 3 years since *EBay* was issued, district courts have determined in most cases that NPEs are not entitled to an injunction. *See, e.g.*, Ernest Grumbles, III, Rachel C. Hughey, Susan Perera, "The Three Year Anniversary of eBay v. MercExchange: A Statistical Analysis of Permanent Injunctions, "available at http://www.iptoday.com/issues/2009/11/articles/three-year-anniversary-eBay-MercExcha... 11/18/2009. Since an NPE's business model is simply to collect royalty revenue, it is hard to conclude that awarding it such revenue, as opposed to an injunction, results in a balance of hardships in its favor. Most courts have therefore awarded NPEs a compulsory license for sales of infringing products moving forward. *See, e.g.*, Chad S.C. Stover, *When Courts Deny Injunctive Relief Post-EBay: Winning the Injunction Battle but Losing the Ongoing Royalty War*, 79 Patent, Trademark & Copyright J. 18 (2009).

> to design, manufacture, market, and sell the product with the allegedly infringing feature. As we show below, the threat of an injunction can enable a patent holder to negotiate royalties far in excess of the patent holder's true economic contribution. Such royalty overcharges act as a tax on new products incorporating the patented technology, thereby impeding rather than promoting innovation.

Mark A. Lemley & Carl Shapiro, *Patent Holdup and Royalty Stacking*, 85 TEXAS L. REV. 1991, at 1993 (2007).

In cases where an NPE with no ties to innovation, commercialization and/or development of its intellectual property — the "non-innovative NPE" — either obtains an exclusion order or uses its leverage to obtain an excessive tax through settlement, the patent owner has no business promoting an alternative technology that benefits. In most instances, the tax is merely passed along in higher costs to consumers or leads to the respondent *eliminating* use of the patented invention. Further, in a perverse way, the Commission's lack of alternatives to a powerful injunction only serve to incentivize abandonment of commercial exploitation — as long as the non-innovative NPE can reap the entire economic windfall of the exclusion order (especially where it involves both *holdup* and covers the full value of downstream products), whether it has real R&D, etc. or not, the rational decision may be to avoid all of that additional effort and expense and just litigate. Consistent with this scenario, it is no surprise that non-innovative NPEs are increasingly resorting to section 337 in the wake of *EBay*.

II. AS LONG AS TESSERA INVESTS IN ACTIVITIES THAT SUPPORT COMMERCIALIZATION OF ITS PATENTS AS PART OF ITS LICENSING PROGRAM, THE STANDARD PROPOSED BY COVINGTON INTERESTED PARTIES WILL LIKELY MEET ITS NEEDS

It is in no small part ironic that Tessera urges a looser standard at the very time it concedes that it has been able to meet the Commission's domestic industry test in past investigations. In those past investigations, Tessera offered evidence of its: research and development of technology, resources devoted to research and licensing; licenses to business that would use the technology to develop products, and technical services to support those licensees. *See, e.g.*, *Certain Semiconductor Chips with Minimized Chip Package Size and Products Containing Same*, Inv. No. 337-TA-432, Order No. 13 at 13-14 (Jan. 24, 2001).[2]

To the extent Tessera intends to continue its focus on a licensing program that includes activities indicative of real commercialization of the inventions, it has nothing to fear of the standard proposed by the Covington Interested Parties. Innovators, who choose to not manufacture their own products, but who wish to develop and license their technology to others to commercialize and practice, will continue to have access to the protections of the ITC.

Dated: January 29, 2010

/s/ Sturgis Sobin
Robert T. Haslam
Richard R. Rainey
Sturgis M. Sobin
Roderick R. McKelvie
Michael K. Plimack
Alexander D. Chinoy
Ashley E. Miller
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401
Telephone: (202) 662-6000
Fax: (202) 778-6792

Attorneys for Samsung Electronics America, Inc., Samsung Electronics Co., Ltd., Samsung Semiconductor, Inc., Samsung Telecommunications America, LLC , Hewlett-Packard Company, Dell Inc., ASUS Computer International, Inc., ASUStek Computer, Inc., and Transcend Information, Inc.

[2] Tessera, too, has demonstrated its ability and willingness to sue in a wide range of alternative fora — at times choosing to file in the district court rather than pursue an ITC investigation.

CERTIFICATE OF SERVICE

I, Melissa Sackin, certify that on January 29, 2010, copies of the foregoing **MOTION FOR LEAVE TO FILE A CORRECTED VERSION OF REPLY SUBMISSION AND CORRECTED REPLY SUBMISSION OF SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG ELECTRONICS CO., LTD., SAMSUNG SEMICONDUCTOR, INC., SAMSUNG TELECOMMUNICATIONS AMERICA, LLC, HEWLETT-PACKARD COMPANY, DELL INC., ASUS COMPUTER INTERNATIONAL, INC., ASUSTEK COMPUTER, INC. AND TRANSCEND INFORMATION, INC. IN RESPONSE TO THE COMMISSION'S DECEMBER 14, 2009 NOTICE TO REVIEW-IN-PART A FINAL DETERMINATION FINDING A VIOLATION OF SECTION 337** were delivered, pursuant to Commission regulations, to the following interested parties as indicated:

The Honorable Marilyn R. Abbott Secretary to the Commission U.S. INTERNATIONAL TRADE COMMISSION 500 E. Street, SW Washington, DC 20436	Via EDIS
The Honorable E. James Gildea Administrative Law Judge U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, SW, Room 317-K Washington, DC 20436 (202) 205-2692	Via hand delivery (2 copies)
Lynn I. Levine T. Spence Chubb Kevin Baer Office of Unfair Imports Investigations U.S. INTERNATIONAL TRADE COMMISSION 500 E Street, S.W. Washington, D.C. 20436	Via hand delivery
Patrick D. Gill R. Brian Burke RODE & QUALEY 55 West 39th Street, Suite 600 New York, NY 10018 *For Complainant John Mezzalingua Associates, Inc. d/b/a PPC, Inc.*	Via overnight mail and email: patrickdgill@rode-qualey.com

John R. Horvack, Jr. Sherwin M. Yoder CARMODY & TORRENCE, LLP 195 Church Street New Haven, CT 06509 *For Respondent Gem Electronics and Fu Ching Technical Industrial Co., Ltd.*	Via overnight mail and email: JHorvack@carmodylaw.com

/s/ Melissa Sackin
Melissa Sackin
Senior IP Litigation Specialist
COVINGTON & BURLING LLP
1201 Pennsylvania Ave., NW
Washington, DC 20004-2401
msackin@cov.com
202.662.6677