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DOCKET NUMBER
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Office of the Secretary
Int'l Trade Commission

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CBI 14-275

VIA HAND DELIVERY

June 27, 2014

Honorable Lisa R. Barton
Secretary
United States International Trade Commission
500 E Street, S.W.
Washington, DC 20436

Re: *Certain Devices Containing Non-Volatile Memory and Products Containing The Same Inv. No.* _____

Dear Secretary Barton:

Enclosed for filing on behalf of Macronix International Co., Ltd. and Macronix America, Inc. ("Macronix"), please find the following documents in support of Macronix's request that the Commission commence an Investigation pursuant to Section 337 of the Tariff Act of 1930, as amended. Pursuant to Commission Rules of Practice and Procedures, a request for confidential treatment of Confidential Exhibits 39C , 40C, 41C, 42C, 43C, 44C, 45C, 46C, 47C and 48C is also included with this submission.

Accordingly, Macronix submits the following documents for filing:

1. An original and eight (8) copies of Macronix's verified Complaint pursuant to 19 C.F.R. § 210.8(a) (original and one copy unbound, without tabs pursuant to 19 C.F.R. § 201.8(d));

2. One (1) additional copy of the Complaint and one (1) set of CDs containing both non-confidential and confidential exhibits[1] (separate CDs) for service upon each of the proposed respondents Spansion Inc., Spansion LLC, Spansion (Thailand) Ltd., Aerohive Networks, Inc., Allied Telesis, Inc., Ciena Corporation, Delphi Automotive PLC, Delphi Automotive Systems, LLC, Polycom, Inc., Ruckus Wireless, Inc., ShoreTel Inc., Tellabs, Inc., Tellabs North America, Inc. and TiVo Inc., respectively;

3. One (1) additional copy of the non-confidential version of the Complaint for service upon the Embassy of the United Kingdom and the Embassy of Thailand pursuant 19 C.F.R. § 210.8 (a)(1)(iv);

[1] Once appropriate subscriptions to the protective order have been filed pursuant to 19 C.F.R. §§ 210.8(a)(1)(iii) and 210.11(a)(1).

4. One (1) certified copy and three (3) additional copies, on CD, of U.S. Patent No. 5,998,826 ("the '826 patent") (included in the Complaint as Exhibit1) (210.12(a)(9)(i));

5. One (1) certified copy and three (3) additional copies, on CD, of U.S. Patent No. 6,031,757 ("the '757 patent") (included in the Complaint as Exhibit 2) (210.12(a)(9)(i));

6. One (1) certified copy and three (3) additional copies, on CD, of U.S. Patent No. 8,341,324 ("the '324 patent") (included in the Complaint as Exhibit 3) (210.12(a)(9)(i));

7. One (1) certified copy and three (3) additional copies, on CD, of U.S. Patent No. 8,341,330 ("the '330 patent") (included in the Complaint as Exhibit 4) (210.12(a)(9)(i);

8. One (1) certified copy and three (3) additional copies, on CD, of the assignment record of the '826 patent (included as Exhibit 6) (210.12(c)(1));

9. One (1) certified copy and three (3) additional copies, on CD, of the assignment record of the '757 patent (included as Exhibit 7) (210.12(c)(1));

10. One (1) certified copy and three (3) additional copies, on CD, of the assignment record of the '324 patent (included as Exhibit 8) (210.12(c)(1));

11. One (1) certified copy and three (3) additional copies, on CD, of the assignment record of the '330 patent (included as Exhibit 9) (210.12(c)(1));

12. Five (5) copies (on CDs) of the prosecution histories for the '826, '757, '324 and '330 patents (included as Appendices A-D)[2];

13. Four (4) copies (on CDs) of each patent and applicable pages of each technical referenced mentioned in the prosecution histories for the '826 '757, '324 and '330 patents (included as Appendices E-H);

[2] Macronix has ordered certified copies of the '826, '757, '324 and '330 prosecution histories but has not yet received them. Macronix will submit certified copies of these patents upon receipt.

Honorable Lisa R. Barton
June 27, 2014

14. A letter pursuant to Commission Rule 201.6(b) requesting confidential treatment of Confidential Exhibits 39C , 40C, 41C, 42C, 43C, 4C, 45C, 46C, 47C and 48C;

15. A statement concerning public interest pursuant to Commission Rule 210.8(b); and

16. Physical samples of Spansion's S25FL132KOXBHI030, S25FL512SDPMFI010, S25FL032P0XMFI010, and MB9B506R and Macronix DI chip (included as Physical Exhibit 1-5).

Respectively submitted,

Joseph V. Colaianni
Enclosures

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VIA HAND DELIVERY

June 27, 2014

Honorable Lisa R. Barton
Secretary
United States International Trade Commission
500 E Street, S.W.
Washington, DC 20436

Re: *Certain Devices Containing Non-Volatile Memory and Products Containing the Same Inv. No. _____*

Dear Secretary Barton:

This firm represents Complainants Macronix International Co., Ltd. and Macronix America, Inc. who are concurrently filing a complaint pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337.

In accordance with Commission Rules 210.6, 210.5, 19 C.F.R. §§ 210.6, and 210.5, Complainants request confidential treatment of the confidential business information contained in Confidential Exhibit Nos. 39C through 48C inclusive.

The information for which confidential treatment is sought is proprietary commercial information not otherwise publicly available. Specifically, Confidential Exhibits 39C-48C contain images and information related to Spansion's products that originate from confidential and proprietary technical information, proprietary commercial information concerning Complainants' products, licensing of the asserted patents, and investments in the domestic industry.

The information described above qualifies as confidential business information pursuant to Rule 210.5(a) because:

1. it is not available to the public;

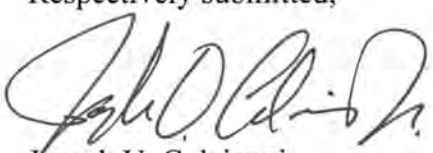
2. unauthorized disclosure of such information could cause substantial harm to the competitive position of Complainants; and

3. the disclosure of which could impair the Commission's ability to obtain information necessary to perform its statutory function.

Honorable Lisa R. Barton
June 27, 2014

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

Respectively submitted,



Joseph V. Colaianni

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

In the Matter of CERTAIN DEVICES CONTAINING NON-VOLATILE MEMORY AND PRODUCTS CONTAINING THE SAME	Investigation No. 337-TA-____

COMPLAINANTS' STATEMENT ON THE PUBLIC INTEREST

Pursuant to U.S. International Trade Commission ("Commission") Rule § 210.8(b), Complainants Macronix International, Ltd. and Macronix America, Inc. (collectively, "Macronix") respectfully submit this Statement on the Public Interest concurrently with the above-captioned Complaint.

The accused devices products at issue in the Complaint are certain devices containing non-volatile memory and products containing the same. Macronix is seeking relief from the Commission against Spansion, Inc., Spansion LLC, and Spansion (Thailand) Ltd. (collectively "Spansion"), as well as Spansion's downstream customers Aerohive Networks, Inc. ("Aerohive"), Allied Telesis, Inc. ("Allied Telesis"), Ciena Corporation ("Ciena"), Delphi Automotive PLC ("Delphi UK") and Delphi Automotive Systems, LLC ("Delphi US") (collectively "Delphi"), Polycom, Inc. ("Polycom"), Ruckus Wireless, Inc. ("Ruckus"), ShoreTel Inc. ("ShoreTel"), Tellabs, Inc. and/or Tellabs North America Inc. ("Tellabs"), and TiVo Inc. ("TiVo") (collectively, "Respondents"). Specifically, Macronix seeks a general exclusion order (or in the alternative a series of limited exclusion orders) and cease-and-desist orders covering the accused devices containing non-volatile memory and products containing the same, as identified in Macronix's Complaint. As set forth in more detail herein, issuance of the relief

requested will not adversely affect the public health, safety, or welfare conditions in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers. Thus, this Investigation does not present an instance where the Commission, the parties, and the public should be required to undergo the time and expense of discovery and trial for a Recommended Determination by the ALJ on the public interest.

Issuance of the requested remedial orders will provide effective relief in the face of ongoing and open patent infringement in the United States by the proposed Respondents. Protecting Macronix's intellectual property rights and associated domestic industry in the United States through the requested remedial orders will accordingly serve the public interest while having little or no adverse effect on the public interest.

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

There is a strong public interest in protecting intellectual property rights. *Certain Baseband Processor Chips and Chipsets, Transmitter and Receiver (Radio) Chip, Power Control Chips*, Inv. No. 337-TA-543, USITC Pub. 4258 (Oct. 2011) ("Baseband Processor Chips"). In this case, the requested remedial orders are in accord with the public interest for at least the following reasons: (1) exclusion of the accused devices and products will not have an adverse effect on the public health or welfare, as those issues are defined by the Commission; (2) Macronix's devices containing non-volatile memory and products containing the same directly compete with, and are substitutes for, Respondents' infringing devices and products in the United States; (3) only a relatively small subset of the industry selling or offering for sale certain devices containing non-volatile memory and products containing the same in the United States would be barred; and (4) Macronix and third parties will be in a position to fill any void in

the market caused by the requested remedial orders within a commercially reasonable amount of time. As such, the public interest in protecting Macronix's intellectual property rights outweighs any potentially adverse impact on the public.

A. **How the articles potentially subject to the remedial orders are used in the United States**

The accused products at issue in this Investigation are certain devices containing non-volatile memory and products containing the same. The accused devices are used in a variety of electronics products to retain information in the absence of a power source for an extended period of time. Devices containing non-volatile memory – such as NOR flash memory devices and microcontroller devices with embedded flash memory – are used in products such as wireless routers, digital video recorders, Ethernet switches, radio receivers, automobiles, and Wi-Fi access points. These devices use non-volatile memory to retain information that can be used in the future, even after the device is turned off.

B. **Identification of any public health, safety, or welfare concerns in the United States relating to the requested remedial orders**

The issuance of the requested remedial orders would not adversely affect the public health, safety, or welfare in the United States. While non-volatile memory is found in a wide variety of devices and products, it is not a technology that is unique to medical products, pharmaceuticals, or other products that are important in the delivery of health care or the maintenance of public safety. To the extent a product used in the provision of health or public safety requires the use of devices containing non-volatile memory, there are other non-infringing alternative devices and suppliers available to the manufacturers of such products. For example, Macronix manufactures competing devices containing non-volatile memory.

C. **Identification of like or directly competitive articles that Macronix, its licensees, or third parties make which could replace the subject articles if they were excluded**

The accused articles in this Investigation are certain devices containing non-volatile memory and products containing the same. Macronix, its licensees, and/or other suppliers manufacture and supply devices containing non-volatile memory that are directly competitive with those of Spansion and that could replace the accused Spansion devices if these accused Spansion devices were excluded from the United States. For example, Macronix is one of the largest manufacturers of non-volatile memory devices in the world. Macronix's non-volatile memory devices are readily available and could replace the accused non-volatile memory devices if they were to be excluded. Spansion also has the capability of producing non-infringing devices containing non-volatile memory by obtaining a license from Macronix. And the non-Spansion downstream Respondents and other consumer electronics manufacturers could easily avoid infringement of the asserted patents by using a Macronix device, a licensed device, or a non-infringing device.

D. **Macronix, its licensees, and/or third parties will be in a position to replace the volume of articles subject to the requested remedial orders in a commercially reasonable time in the United States**

Macronix and/or other manufacturers, some of whom are large companies, have sold and continue to sell competitive devices containing non-volatile memory and products containing the same in the United States similar to the infringing devices and products that are the subject of the Complaint. For example, Macronix currently operates three semiconductor fabrication plants and has access to additional production capacity. Therefore, Macronix and/or other manufacturers will be able to replace the infringing products subject to the requested remedial orders within a commercially reasonable time in the United States.

E. **The requested remedial orders will not adversely impact U.S. consumers**

The issuance of exclusion and cease and desist orders in this Investigation banning the accused devices and products will not adversely impact consumers in the United States.

Macronix and its licensees will be able to adequately supply and meet the demand of the United States market. In addition, there are other third parties that supply competitive products to the United States market. According to the industry trade publication iHS (iHS Mobile and Embedded Memory Tracker 4Q2013), Spansion only supplies about 2% of the global market for non-volatile memory. Given Macronix's and third-parties' respective ability to meet supply demands, it is unlikely that consumers would experience any supply-related impact if the requested remedial orders issue.

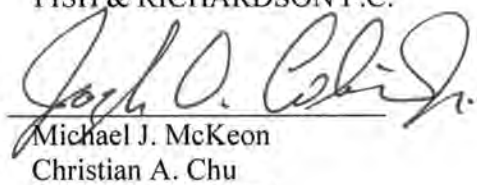
Even if the remedial orders caused a slight increase in the price of certain devices containing non-volatile memory and products containing the same, a price increase alone is insufficient to warrant preclusion of a remedial order. *See Certain Lens-Fitted Film Packages ("LFFPs")*, Inv. No. 337-TA-406, Comm'n. Op., 1999 ITC LEXIS 202 at *40 (June 28, 1999) (finding that some price increase "does not justify a determination that the public interest in protecting intellectual property rights is in any way outweighed"). Given that there would be no unfilled void because there are substitute devices and products, including those made and sold by Macronix and other parties that could replace the volume of the excluded articles, any impact to the public interest by the exclusion of Respondents' infringing products will be minimal.

II. CONCLUSION

If the Commission grants the requested remedial orders, the public interest will be served. Exclusion of the accused devices and products will not adversely affect the public health or welfare, and an adequate supply of substitute devices will be available through at least Macronix and other parties. As such, the strong public interest in protecting Macronix's valid intellectual property rights outweighs any adverse impact on the public.

Respectfully submitted,

FISH & RICHARDSON P.C.

Dated: June 27, 2014 By: 

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Counsel for Complainants Macronix International Co., Ltd., and Macronix America, Inc.

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

In the Matter of

CERTAIN DEVICES CONTAINING NON-VOLATILE MEMORY AND PRODUCTS CONTAINING THE SAME

Inv. No. 337-TA-____

VERIFIED COMPLAINT OF MACRONIX INTERNATIONAL CO. LTD. AND MACRONIX AMERICA, INC. UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED

Complainants:

Macronix International Co., Ltd.
No. 16, Li-Hsin Road, Science Park
Hsin-chu, Taiwan

Macronix America, Inc.
680 North McCarthy Blvd.
Suite 200
Milpitas, CA 95035

Counsel for Complainants:

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David Barkan
FISH & RICHARDSON P.C.

Proposed Respondents:

Spansion Inc.
915 DeGuigne Drive,
Sunnyvale, CA 94085

Spansion LLC
915 DeGuigne Drive
Sunnyvale, CA 94085

Spansion (Thailand) Ltd.
229 Moo 4 Changwattana Road
Pakkred, Nonthaburi 11120
Thailand

Aerohive Networks, Inc.
330 Gibralter Drive
Sunnyvale, California, 94089

Allied Telesis, Inc.
19800 N. Creek Parkway, Suite 100
Bothell, Washington 98011

Ciena Corporation
7035 Ridge Road

500 Arguello St., Suite 500
Redwood City, CA 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

Hanover, Maryland 20176

Delphi Automotive PLC
Courteney Road, Hoath Way,
Gillingham, Kent ME8 ORU
United Kingdom

Delphi Automotive Systems, LLC
5725 Delphi Drive
Troy, Michigan 48098

Polycom, Inc.
6001 America Center Drive
San Jose, California, 95002

Ruckus Wireless, Inc.
350 West Java Drive
Sunnyvale, CA 94089

ShoreTel Inc.
960 Stewart Drive
Sunnyvale, California, 94085

Tellabs, Inc.
1415 West Diehl Road
Naperville, IL 60563

Tellabs North America, Inc.
1415 West Diehl Road
Naperville, IL 60563

TiVo Inc.
2160 Gold Street
San Jose, California, 95002

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Public Exhibits

Ex. 20	Tellabs, Inc. 2013 Form 10-K
Ex. 21	TiVo Inc. 2013 Form 10-K
Ex. 22	Spansion Product Selector Guide January 2014
Ex. 23	Spansion's Website "Where to Buy Spansion Flash Memory"
Ex. 24	Receipts and photographs for Spansion's S25FL132K0XBHI030, S25FL512SDPMFI010, S25FL032P0XMFI010, and MB9B506R
Ex. 25	Receipts and photographs for Aerohive AP320 802.11n Enterprise Wi-Fi Access Point 2.4GHz 5GHz Ceiling Mount
Ex. 26	Receipts and photographs for Allied Telesis AT-9924TL-EMC2-20 Gigabit Ethernet Switch
Ex. 27	Receipts and photographs for Ciena 3930 Service Delivery Switch - 10/100/1000/10G - SFP+, SFP, RJ45
Ex. 28	Receipts and photographs for 2013-2014 GMC Acadia/Traverse/Enclave Navigation Radio Touchscreen
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Ex. 30	Receipts and photographs for Polycom Soundstation2 220-16200-001
Ex. 31	Receipts and photographs for Ruckus ZoneFlex 7352
Ex. 32	Receipts and photographs for Ruckus ZoneFlex 7982
Ex. 33	Receipts and photographs for ShoreTel IP565G IP Phone
Ex. 34	Receipts and photographs for Tellabs 82.71323-NX 7100-OTS TGTM-E WOWUALPFAC 10G Transponder Enhanced
Ex. 35	Receipts and photographs for TiVo Roamio HD Digital Video Recorder and Streaming Media Player
Ex. 36	U.S. Patent No. 6,031,757 – Infringement Claim Charts for Spansion NVM
Ex. 37	U.S. Patent No. 8,321,324 – Infringement Claim Charts for Spansion NVM
Ex. 38	U.S. Patent No. 8,321,330 – Infringement Claim Charts for Spansion NVM

Confidential Exhibits

Ex. 39C	U.S. Patent No. 5,998,826 - Infringement Claim Charts for Spansion NVM
Ex. 40C	Identification of Licensees
Ex. 41C	Domestic Industry Data
Ex. 42C	Confidential License Agreement 1
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Ex. 45C	U.S. Patent No. 5,998,826 – Macronix Claim Chart
Ex. 46C	U.S. Patent No. 6,031,757 – Macronix Claim Chart
Ex. 47C	U.S. Patent No. 8,321,324 – Macronix Claim Chart
Ex. 48C	U.S. Patent No. 8,341,330 – Macronix Claim Chart

Physical Exhibits

Physical Exs. 1 – 4	Spansion's S25FL132KOXBHI030, S25FL512SDPMFI010, S25FL032P0XMFI010, and MB9B506R
Physical Ex. 5	Macronix DI chip

APPENDICES

App. A	Certified copy of the prosecution history of U.S. Patent No. 5,998,826
App. B	Certified copy of the prosecution history of U.S. Patent No. 6,031,757
App. C	Certified copy of the prosecution history of U.S. Patent No. 8,341,324
App. D	Certified copy of the prosecution history of U.S. Patent No. 8,341,330
App. E	Four copies of each technical reference identified in the prosecution history of U.S. Patent No. 5,998,826
App. F	Four copies of each technical reference identified in the prosecution history of U.S. Patent No. 6,031,757
App. G	Four copies of each technical reference identified in the prosecution history of U.S. Patent No. 8,341,324
App. H	Four copies of each technical reference identified in the prosecution history of U.S. Patent No. 8,341,330

I. INTRODUCTION

1. This Complaint is filed by Macronix International Co. Ltd. and Macronix America, Inc. (collectively, "Macronix") pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on the unlawful importation into the United States, the sale for importation, and the sale within the United States after importation, of certain devices containing non-volatile memory ("NVM") and products containing the same, that infringe one or more claims of U.S. Patent Nos. 5,998,826 ("the '826 patent"); 6,031,757 ("the '757 patent"); 8,341,324 ("the '324 patent"); and 8,341,330 ("the '330 patent") (collectively, "the Asserted Patents"). A certified copy of each of the Asserted Patents is attached as Exhibit Nos. 1, 2, 3, and 4, respectively.

2. Macronix International Co., Ltd. owns all right, title, and interest in each of the Asserted Patents. A certified copy of the recorded assignments for each of the Asserted Patents is attached as Exhibit Nos. 5, 6, 7, and 8, respectively. A copy of the prosecution history for each of the Asserted Patents is attached as App. No. A, B, C, and D, respectively (certified copies of the prosecution histories have been ordered and will be submitted upon receipt).

3. The Proposed Respondents are Spansion, Inc., Spansion LLC, and Spansion (Thailand) Ltd. (collectively "Spansion" or the "Spansion Respondents"), as well as Spansion's downstream customers Aerohive Networks, Inc. ("Aerohive"), Allied Telesis, Inc. ("Allied Telesis"), Ciena Corporation ("Ciena"), Delphi Automotive PLC ("Delphi UK") and Delphi Automotive Systems, LLC ("Delphi US") (collectively "Delphi"), Polycom, Inc. ("Polycom"),

Ruckus Wireless, Inc. ("Ruckus"), ShoreTel Inc. ("ShoreTel"), Tellabs, Inc. and/or Tellabs North America, Inc. ("Tellabs"), and TiVo Inc. ("TiVo") (collectively "the Downstream Respondents").

4. As required under Commission Rule 210.12(a)(12), a clear statement in plain English of the category of products accused is as follows. The accused Spansion devices and products are certain devices containing non-volatile memory and products containing the same ("Accused NVM"). Examples of such Accused NVM include, but are not limited to, (i) Spansion's NOR flash memory,[1] and (ii) Spansion's microcontrollers (or MCU) and other devices containing non-volatile memory.[2] The Accused NVM are used by the Downstream Respondents in a variety of products, including but not limited to, automotive components, "infotainment" systems, access points, wireless local area network controllers, and network gateway systems (collectively the "Accused Downstream Products") ("Accused NVM" and "Accused Downstream Products" are collectively "Accused Products"). On information and belief, the Accused Products are manufactured and/or sold for importation into the United States, imported into the United States, or sold within the United States after importation by or on behalf of Spansion, Aerohive, Allied Telesis, Ciena, Delphi, Polycom, Ruckus, ShoreTel, Tellabs, TiVo, and other entities.

5. Macronix asserts that the Accused NVM infringes claims 1, 2, 5, 7, 11, 12, 13, 17, 27, 28, and 29 of the '826 patent; claims 1, 2, 4, 5, 7, 8, 12, and 13 of the '757 patent; claims 1, 2, 7, 8, and 15 of the '324 patent; and claims 1, 2, 3, 8, 9, 10, and 11 of the '330 patent. In summary,

[1] As examples only, Spansion's accused non-volatile memory devices include S25FL032P, S25FL132K, and S25FL512S.

[2] As examples only, Spansion's accused microcontrollers and other devices with non-volatile memory include MB9B506R 32-bit ARM Cortex-M3F Core.

the Proposed Respondents infringe at least the patents and claims listed in the chart below (dependent claims are contained in parentheses).

U.S. Patent No.	Asserted Claims
'826 patent	1 (2); 5 (7, 11); 12 (13, 17); 27 (28, 29)
'757 patent	1 (2, 4, 5, 7, 8, 12, 13)
'324 patent	1 (2, 7); 8 (15)
'330 patent	1 (2, 3, 8); 9 (10, 11)

6. As required by 19 U.S.C. § 1337(a)(2) and (3), an industry in the United States relating to articles protected by the Asserted Patents exists or is in the process of being established.

7. Macronix seeks, as permanent relief, a general exclusion order barring from entry into the United States all infringing Spansion devices containing NVM and Spansion products containing the same ("Spansion NVM Devices"). Alternatively, Macronix seeks a permanent limited exclusion order, specifically directed to each named Respondent and its subsidiaries and affiliates, barring from entry into the United States all infringing devices containing NVM and products containing the same. Macronix also seeks cease and desist orders directed to each named Respondent prohibiting their sale for importation, importation, sale after importation, use, offer for sale, sale, distribution, advertising, testing, repair, technical support, or any other commercial activity related to infringing devices containing NVM and products containing the same.

II. COMPLAINANTS

8. Macronix was originally established in 1982 in San Jose California to research, design, manufacture, and sell NVM devices. Macronix was later reorganized so that the corporate parent is Macronix International Co. Ltd. and Macronix America, Inc. is a wholly owned subsidiary. Established in 1989, Macronix is a leading innovator of NVM semiconductor solutions. Ex. 9.

9. Macronix International Co., Ltd. ("Macronix Taiwan") is a corporation organized under the laws of The Republic of China, having its principal place of business at No. 16, LiHsin Road, Science Park, Hsin-chu, Taiwan, Republic of China. Macronix Taiwan has been listed on the Taiwan Stock Exchange since March 15, 1995. In 2012, Macronix Taiwan generated over $810 million from sale of its products.

10. Macronix America, Inc. ("Macronix America") is a wholly-owned subsidiary of Macronix International Co., Ltd., existing under the laws of the State of California, and headquartered at 680 North McCarthy Boulevard, Milpitas, California 95035. (Macronix Taiwan and Macronix America are collectively referenced as "Macronix").

11. Led by scientists, engineers, and researchers, Macronix dedicates a substantial portion of its revenue, upwards of $170 million annually, to research and development of NVM and regularly publishes and presents technical papers in major international conferences to help bring the next generation of NVM to consumers around the world.

12. Macronix has made substantial investments in protecting its intellectual property. Macronix has over 5,000 patents issued to it world-wide, including over 2,000 United States patents. According to a 2011 study by the Patent Board™, among the 240 semiconductor companies evaluated, Macronix's patent portfolio was ranked 18th worldwide and was 1st in the Taiwanese semiconductor industry.

13. On information and belief, Macronix's licensees conduct in the United States certain research and development, engineering, manufacturing, and technical support of products based on Macronix technologies.

III. PROPOSED RESPONDENTS

A. The Spansion Respondents

14. On information and belief, Spansion Inc. and its affiliated entities design and manufacture NVM products from facilities located in California, Texas, and Thailand. On information and belief, the Accused NVM are assembled, packaged, and/or tested abroad prior to importation into the United States.

15. On information and belief, Spansion was founded in 1993 as a joint venture between Advanced Micro Devices ("AMD") and Japan's Fujitsu Ltd. Spansion was formerly known as FASL LLC. Once AMD took control of the company in 2003, it was renamed Spansion LLC.

16. On information and belief, in 2005, AMD and Fujitsu spun off the money-losing joint venture into Spansion, Inc.

17. On information and belief, with $2 billion in debt, Spansion, Inc. declared bankruptcy in 2009 and laid off about half of its work force. Spansion emerged from bankruptcy in May of 2010.

18. The "Spansion Respondents" include various Spansion entities that collectively manufacture, sell for importation into the United States, import, and/or sell within the United States after importation Spansion NVM Devices. As explained below, such devices manufactured by or on behalf of the Spansion Respondents, and products containing the same, infringe the Asserted Patents. With respect to the Spansion Respondents, Macronix alleges the following upon information and belief:

1. Spansion, Inc.

19. Spansion, Inc. is a publicly traded holding company. *See* Ex. 10 (Spansion 2013 Form 10-K) at 4-5. Spansion, Inc. is incorporated in Delaware and maintains its headquarters at 915 DeGuigne Drive, Sunnyvale, CA 94085. *See* Ex. 10 at 5. Spansion, Inc. manufactures, sells for importation into the United States, and/or sells within the United States after importation the infringing Spansion NVM Devices. *See id.* at 6.

2. Spansion LLC

20. Spansion LLC is "a wholly owned operating subsidiary" of Spansion, Inc. *See* Ex. 10 at 19; Ex. 11 at ¶ 10. Spansion LLC is organized under the laws of Delaware and maintains its headquarters at 915 DeGuigne Drive, Sunnyvale, CA 94085. *See* Ex. 10 at Ex.21.1 & n.2; Ex. 11 at ¶ 10. As of December 29, 2013, Spansion, Inc. controlled 60% of Spansion LLC's stock and the remaining 40% is controlled by Spansion Technology LLC, another wholly-owned subsidiary of Spansion, Inc. *Id.* Spansion LLC operates a semiconductor wafer fabrication facility in Austin, Texas that produces Spansion NVM Devices. *See* Ex. 10 at 5; Ex. 11 at ¶ 10. On information and belief, semiconductor wafers fabricated at the Austin, Texas facility are exported, such as for packaging and assembly, or for incorporation into downstream devices, and then re-imported into the United States.[3] Spansion LLC manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation the infringing Spansion NVM Devices. *See* Ex. 10 at 5.

[3] Moreover, according to Spansion's 2013 Annual Report (Ex. 10), the Spansion Respondents "own and operate a final manufacturing facility in Bangkok, Thailand. Final manufacturing consists of assembly, test, mark and pack operations. We also own a manufacturing facility in Penang, Malaysia." And the Spansion Respondents "outsource a portion of our manufacturing function to external wafer foundry companies in order to augment our internal wafer fabrication capacity." *Id.*

3. Spansion (Thailand) Ltd.

21. Spansion (Thailand) Ltd. is a wholly owned subsidiary of Spansion LLC. *See* Ex. 10 at Ex.21.1. Spansion (Thailand) Ltd. was formed under the laws of Thailand and has its principal place of business at 229 Moo 4 Changwattana Road, Pakkred, Nonthaburi 11120, Thailand. Spansion (Thailand) Ltd. maintains and operate a final manufacturing, assembly, and testing facility in Bangkok, Thailand. *See id.* at 5. Final manufacturing consists of assembly, test, marking, and packaging operations. *See id.* On information and belief, Spansion (Thailand) Ltd. manufactures, sells for importation into the United States, imports, and/or sells within the United States after importation infringing Spansion NVM Devices. *See id.*

22. On information and belief, the Spansion Respondents are in the business of, among other things, developing, manufacturing, selling for importation, importing, and/or selling in the United States after importation Spansion NVM Devices that infringe the Asserted Patents.

B. The Downstream Respondents

23. The proposed Downstream Respondents are engaged in the importation, the sale for importation, and/or the sale within the United States after importation of certain products containing Spansion's Accused NVM. The proposed Downstream Respondents are as follows.

1. Aerohive

24. Aerohive Networks, Inc. is a corporation incorporated in Delaware with a principal place of business at 330 Gibralter Drive, Sunnyvale, California, 94089. Ex. 12 (Aerohive D&B Report) at 15-16. Aerohive designs and develops cloud-managed mobile network applications and hardware products, including access points, branch routers, and access switches. *Id.* at 16.

25. Aerohive is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

2. Allied Telesis

26. Allied Telesis, Inc. is a corporation incorporated in Delaware with a principal place of business at 19800 N. Creek Parkway, Suite 100, Bothell, Washington 98011. Ex. 13 (Allied Telesis D&B Report) at 16-17. Allied Telesis manufactures and sells a variety of networking products, including switches, gateways, routers, interface cards, and media converters. Ex. 14 (Allied Telesis Products).

27. Allied Telesis is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

3. Ciena

28. Ciena Corporation is a corporation incorporated in Delaware having a principal place of business at 7035 Ridge Road, Hanover, Maryland 20176. Ex. 15 at 1, 4. Ciena manufactures and sells equipment that supports the "management of voice, video, and data traffic on communications networks." *Id.* at 3. This equipment includes "Converged Packet Optical, Packet Networking and Optical Transport products." *Id.* at 8.

29. Ciena is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

4. Delphi

30. Delphi Automotive PLC is a public limited company incorporated in Jersey, United Kingdom with its principal place of business at Courteney Road, Hoath Way, Gillingham, Kent ME8 0RU, United Kingdom. Delphi Automotive Systems, LLC is a limited liability company organized under the laws of Delaware with its principal place of business at 5725 Delphi Drive Troy, Michigan 48098. Ex. 16 (Delphi 2013 Form 10-K) at 1. Delphi is a vehicle components manufacturer. *See id.* at 4. Delphi's Electronics and Safety segment offers so called "infotainment and driver interface" products, including but not limited to receivers, reception

systems, digital receivers, satellite audio receivers, navigation systems, displays, and mechatronics. *See id.* at 7.

31. Delphi is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

5. Polycom

32. Polycom, Inc. is a corporation incorporated in Delaware with a principal place of business at 6001 America Center Drive, San Jose, California, 95002. Ex. 17 (Polycom 2013 Form 10-K) at 1. Polycom manufactures and sells a variety of "video, voice and content-management and content-sharing solutions," including telepresence and conference room systems. *Id.* at 5.

33. Polycom is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

6. Ruckus

34. Ruckus Wireless, Inc. ("Ruckus") is a Delaware corporation with its principal place of business at 350 West Java Drive, Sunnyvale, CA 94089. Ex. 18 (Ruckus 2013 Form 10-K) at 1. On information and belief, Ruckus is engaged in the design, manufacture, and/or sale of products that include but are not limited to access points, wireless local area network controllers, and network gateway systems. *See id.* at 3.

35. Ruckus is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

7. ShoreTel

36. ShoreTel Inc. ("ShoreTel") is a corporation incorporated in Delaware having a principal place of business at 960 Stewart Drive, Sunnyvale, California, 94085. Ex. 19

(ShoreTel 2013 Form 10-K) at 1. ShoreTel manufactures and sells a variety of IP telephony solutions. *Id.* at 5.

37. ShoreTel is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

8. Tellabs

38. Tellabs, Inc. is a Delaware corporation with its principal place of business at 1415 West Diehl Road, Naperville, IL 60563. Ex. 20 (Tellabs 2013 Form 10-K) at 1. On information and belief, Tellabs, Inc. is engaged in the design and/or sale of products that include, but are not limited to, products "used to manage large volumes of telecommunications traffic in metro areas," such as the Tellabs 7100 Optical Transport System (OTS) and Tellabs 82.71323- NX Transponder. *See id.* at 3, 29. Tellabs North America, Inc. is a Delaware corporation with its principal executive offices at One Tellabs Center, 1415 West Diehl Road, Naperville, Illinois 60563. On information and belief, Tellabs North America, Inc. is responsible for the sales of the Accused NVM. Tellabs, Inc. and Tellabs North America, Inc. are referred to as "Tellabs" hereafter.

39. Tellabs is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

9. TiVo

40. TiVo Inc. is a corporation incorporated in Delaware having a principal place of business at 2160 Gold Street, San Jose, California, 95002. Ex. 21 (TiVo 2013 Form 10-K) at 1. TiVo manufactures and sells home entertainment solutions, including digital video recorders (DVRs). *Id.* at 5.

41. TiVo is engaged in the design, manufacture, sale for importation, importation, and/or sale after importation of products that are based on the Accused NVM.

III. TECHNOLOGY AND PRODUCTS AT ISSUE

42. The technologies at issue relate generally to various aspects of devices that contain NVM, such as flash memory and microcontrollers. NVM retains information even in the absence of a power source for extended periods of time. For example, in smartphones, personal information such as names and telephone numbers and multimedia, such as music, video, and photos can be stored in the phone's NVM and will remain in that memory even when the phone is turned off. In contrast, other types of memory, such as dynamic random-access memory ("DRAM"), lose data if electrical power is removed.

43. Macronix's U.S. Patent No. 5,998,826 describes a flash memory cell structure and operational bias approach based on the use of a triple well floating gate memory cell, suitable for use with a single low voltage power supply. For example, this technology may allow erase operations using voltages that are not extremely high in absolute value, and may be implemented using a low supply voltage level.

44. Non-volatile memory based on floating gate transistor memory cells provides non-volatile storage, which a user can program and erase while it is mounted in a system. Because such memory is non-volatile, it is suitable for storing computer programs which are executed by the system. However, because it is possible that a user may mistakenly erase or program over the computer program, or that the data in the non-volatile memory may otherwise be mistakenly altered, the use of such non-volatile memory for storing programs is carefully managed.

45. Macronix's U.S. Patent No. 6,031,757 describes a user-programmable write protection scheme for non-volatile memory that provides flexibility and superior write protect features.

46. Macronix's U.S. Patent No. 8,341,324 describes a serial peripheral interface in which many control pins of the serial peripheral interface are utilized to achieve a serial data transmission through multiple input pins and multiple output pins to enhance data transmission.

47. Macronix's U.S. Patent No. 8,341,330 describes a serial peripheral interface that provides enhanced data read performance in an integrated circuit.

IV. THE ASSERTED PATENTS AND NON-TECHNICAL DESCRIPTIONS

A. U.S. Patent No. 5,998,826

1. Identification and Ownership of the '826 Patent

48. United States Patent No. 5,998,826, entitled "Triple Well Floating Gate Memory and Operating Method with Isolated Channel Program, Preprogram and Erase Processes" issued on Dec. 7, 1999 to inventors Chun-hsiung Hung, Tzeng-huei Shiau, Ray-lin Wan, and Fu-chia Shone. Ex. 1. The '826 patent issued from Application No. 08/817,656, which was filed on April 4, 1997. *Id.* On its face, the '826 patent claims priority to PCT No. PCT/US96/14349, which was filed on September 5, 1996. *Id.*

49. The '826 patent has 5 independent claims and 27 dependent claims. *Id.* The claims of the '826 patent are valid, enforceable, and currently in full force and effect.

50. Macronix International Co., Ltd. owns by assignment the entire right, title, and interest in and to the '826 patent. Ex. 5.

51. Pursuant to Commission Rule 210.12(c)(1), this Complaint is accompanied by four copies of the prosecution history of the '826 patent. App. A. A certified copy of the prosecution history of the '826 patent has been ordered and will be submitted upon receipt. Further, pursuant to Commission Rule 210.12(c)(2), this Complaint is accompanied by four copies of each technical reference identified in the prosecution history of the '826 patent. App. E.

2. Non-technical Description of the '826 Patent[4]

52. The '826 patent generally relates to new structures for non-volatile memory cells and their operation. The patent describes memory cells formed in a semiconductor substrate containing certain arrangements of "wells" and other regions of different conductivity types. Such wells and regions are generally formed by adding impurities to the semiconductor substrate. Memory cells with the new structures may be operated with lower power supply voltages and with other advantageous characteristics over previous devices.

53. In more detail, the '826 patent is directed to a non-volatile memory cell structure and operational bias based on the use of a triple well floating gate memory cell that is suitable for use with low voltage power supplies. Ex. 1 at Abstract. For example, a floating gate memory cell is made in a semiconductor substrate having a first conductivity type, such as p-type. *Id.* A first well within the substrate having a second conductivity type different than the first conductivity type (such as n-type) is included. *Id.* A second well within the first well is also included having the first conductivity type (*e.g.*, p-type). *Id.* A drain and a source are formed in the second well having the second conductivity type, and spaced away from one another to define a channel area between the drain and the source. *Id.* A floating gate and control gate structure are included over the channel area. *Id.*

54. The '826 patent describes various embodiments, non-limiting aspects of which are described as follows: The floating gate memory cell is coupled with circuits that induce movement of electrons out of the floating gate into the channel area of the substrate for erasing

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[4] All non-technical descriptions of the patents herein are presented to give a general background of those inventions. Such statements are not intended to be used, nor should be used, for purposes of patent claim interpretation. Complainants present these statements subject to, and without waiver of, their right to argue that claim terms should be construed in a particular way, as contemplated by claim interpretation jurisprudence and the relevant evidence.

by: applying a positive voltage to the second well, such as a voltage higher than the supply voltage; applying a positive voltage to the first well, which is substantially equal to the positive voltage of the second well; and applying a negative voltage to the control gate of the cell, while the substrate is grounded. *Id.* The '826 patent also describes that a block wide pre-program operation may involve inducing movement of electrons into the floating gate from the channel area, using a negative voltage in the second well. *Id.* Additional aspects and options are described in the '826 patent such as having circuits that are coupled with the cell to induce hot electron injection current of electrons into the floating gate for programming or byte by byte preprogramming. *Id.*

3. Foreign Counterparts

55. The foreign patents and patent applications corresponding to the '826 patent are:

- International PCT Application Publication No. WO1998010471A1, published on March 12, 1998
- International PCT Application Publication No. WO1998010424A1, published on March 12, 1998
- European Patent No. EP925586B1, issued on July 9, 2003
- European Patent No. EP1306856B1, issued on June 29, 2005
- Japanese Patent No JP03979673B2, issued on September 19, 2007
- No other foreign patents or patent applications corresponding to the '826 patent have been filed, abandoned, withdrawn, or rejected.

4. Licenses

56. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities is attached to this Complaint. Ex. 40C. There are no other current licenses involving the '826 patent.

B. U.S. Patent No. 6,031,757

1. Identification and Ownership of the '757 Patent

57. United States Patent No. 6,031,757, entitled "Write Protected, Non-Volatile Memory Device with User Programmable Sector Lock Capability" issued on Feb. 29, 2000 to inventors Weitong Chuang, Chun-Hsiung Hung, Kuen-Long Chang, Yin-Shang Liu, and Yao-Wu Cheng. Ex. 2. The '757 patent issued from Application No. 08/825,879, which was a national stage application of International PCT application no. PCT/US96/18674, which was filed on November 22, 1996. *Id.*

58. The '757 patent has 3 independent claims and 30 dependent claims. *Id.* The claims of the '757 patent are valid, enforceable, and currently in full force and effect.

59. Macronix International Co., Ltd. owns by assignment the entire right, title, and interest in and to the '757 patent. Ex. 6.

60. Pursuant to Commission Rule 210.12(c)(1), this Complaint is accompanied by four copies of the prosecution history of the '757 patent. App. B. A certified copy of the prosecution history of the '757 patent has been ordered and will be submitted upon receipt. Further, pursuant to Commission Rule 210.12(c)(2), this Complaint is accompanied by four copies of each technical reference identified in the prosecution history of the '757 patent. App. F.

2. Non-technical Description of the '757 Patent[5]

61. Write-protection features may be provided in non-volatile memory to prevent data stored in the memory from being mistakenly erased or altered. The '757 patent is directed to a

[5] All non-technical descriptions of the patents herein are presented to give a general background of those inventions. Such statements are not intended to be used, nor should be used, for purposes of patent claim interpretation. Complainants present these statements subject to, and without waiver of, their right to argue that claim terms should be construed in a particular way, as contemplated by claim interpretation jurisprudence and the relevant evidence.

user-programmable write protection scheme that provides flexibility and write protection features for an integrated circuit memory. Ex. 2 at Abstract. The memory includes an array of non-volatile erasable and programmable memory cells and multiple sectors. *Id.* Command logic detects command sequences indicating operations for the array, including a program operation, a sector erase operation, a read operation, a sector lock operation, and a sector unlock operation. *Id.*

62. Sector protection logic includes sector lock memory such as non-volatile memory cells that store sector lock signals for at least one sector in the array. *Id.* Among other functions, the sector protection logic: 1) inhibits sector erase and program operations to a particular sector in response to a set sector lock signal corresponding to the particular sector, and to a first state of control signals in the set of control signals; 2) enables sector erase and program operations in response to a reset sector lock signal corresponding to the particular sector, and to the first state of control signals in the set of control signals; 3) inhibits sector erase and program operations to the particular sector independent of the sector lock signal in response to a second state of control signals in the set of control signals; and 4) enables sector erase and program operations independent of the sector lock signal in response to a third state of control signals in the set of control signals. *Id.*

3. Foreign Counterparts

63. The foreign patents and patent applications corresponding to the '757 patent are:

- International PCT Application Publication No. WO1998022950A1, published on May 28, 1998
- No other foreign patents or patent applications corresponding to the '757 patent have been filed, abandoned, withdrawn, or rejected.

4. Licenses

64. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities is attached to this Complaint. Ex. 40C. There are no other current licenses involving the '757 patent.

C. U.S. Patent No. 8,341,324

1. Identification and Ownership of the '324 Patent

65. United States Patent No. 8,341,324, entitled "Serial Peripheral Interface and Method for Data Transmission" issued on December 25, 2012 to inventors Yu-Lan Kuo and Chun-Hsiung Hung. Ex. 3. The '324 patent issued from Application No. 13/362,801, which was a continuation of Application No. 12/851,156, filed on August 5, 2010, which was a continuation of Application No. 11/896,846, filed on September 6, 2007, now U.S. Patent No. 7,788,438. *Id.* The '324 patent claims priority to Provisional Application No. 60/851,312, filed on October 13, 2006, Provisional Application No. 60/855,397, filed on October 31, 2006, and Provisional Application No. 60/856,308, filed on November 3, 2006. *Id.*

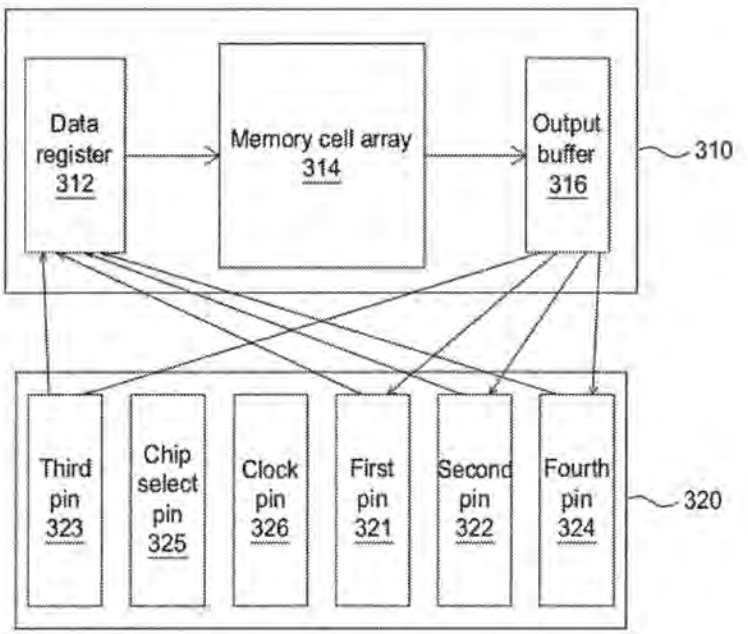
66. The '324 patent has 2 independent claims and 13 dependent claims. *Id.* The claims of the '324 patent are valid, enforceable, and currently in full force and effect.

67. Macronix International Co., Ltd. owns by assignment the entire right, title, and interest in and to the '324 patent. Ex. 7.

68. Pursuant to Commission Rule 210.12(c)(l), this Complaint is accompanied by four copies of the prosecution history of the '324 patent. App. C. A certified copy of the prosecution history of the '324 patent has been ordered and will be submitted upon receipt. Further, pursuant to Commission Rule 210.12(c)(2), this Complaint is accompanied by four copies of each technical reference identified in the prosecution history of the '324 patent. App. G.

2. Non-technical Description of the '324 Patent[6]

69. A serial peripheral interface bus is a synchronous serial data link that can be used for short distance communication, for example within microcontrollers, embedded systems, sensors, and memory cards. The '324 patent is directed to a serial peripheral interface having improved data transmission behavior. Ex. 3 at 1:11-14.



'324 patent, FIG. 3

70. FIG. 3 shows an exemplary data transmission system 300 including an integrated circuit 310 and a serial peripheral interface 320. *Id.* at 2:40-44. For example, the integrated circuit 310 may be a memory device that includes a data register 312, a memory cell array 314 and an output buffer 316. *Id.* at 2:47-50.

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[6] All non-technical descriptions of the patents herein are presented to give a general background of those inventions. Such statements are not intended to be used, nor should be used, for purposes of patent claim interpretation. Complainants present these statements subject to, and without waiver of, their right to argue that claim terms should be construed in a particular way, as contemplated by claim interpretation jurisprudence and the relevant evidence.

71. The serial peripheral interface of the integrated circuit includes multiple pins. *Id.* at Abstract. The pins are coupled to the integrated circuit. *Id.* at Abstract. The integrated circuit receives an instruction through one of the plurality of pins. *Id.* The integrated circuit receives an address through a plurality of pins. *Id.* The integrated circuit sends data through a plurality of pins. *Id.*

3. Foreign Counterparts

72. The foreign patents and patent applications corresponding to the '324 patent are:

- Taiwanese Patent No. TW200819986A, issued on May 1, 2008
- Chinese Patent No. CN101162452B, issued on November 3, 2010
- No other foreign patents or patent applications corresponding to the '324 patent have been filed, abandoned, withdrawn, or rejected.

4. Licenses

73. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities is attached to this Complaint. Ex. 40C. There are no other current licenses involving the '324 patent.

D. U.S. Patent No. 8,341,330

1. Identification and Ownership of the '330 Patent

74. United States Patent No. 8,341,330, entitled "Method and System for Enhanced Read Performance in Serial Peripheral Interface" issued on December 25, 2012 to inventors Chun-Hsiung Hung, Kuen-Long Chang, and Chia-He Liu. Ex. 4. The '330 patent issued from Application No. 11/970,468, which filed on January 7, 2008.

75. The '330 patent has 2 independent claims and 10 dependent claims. *Id.* The claims of the '330 patent are valid, enforceable, and currently in full force and effect.

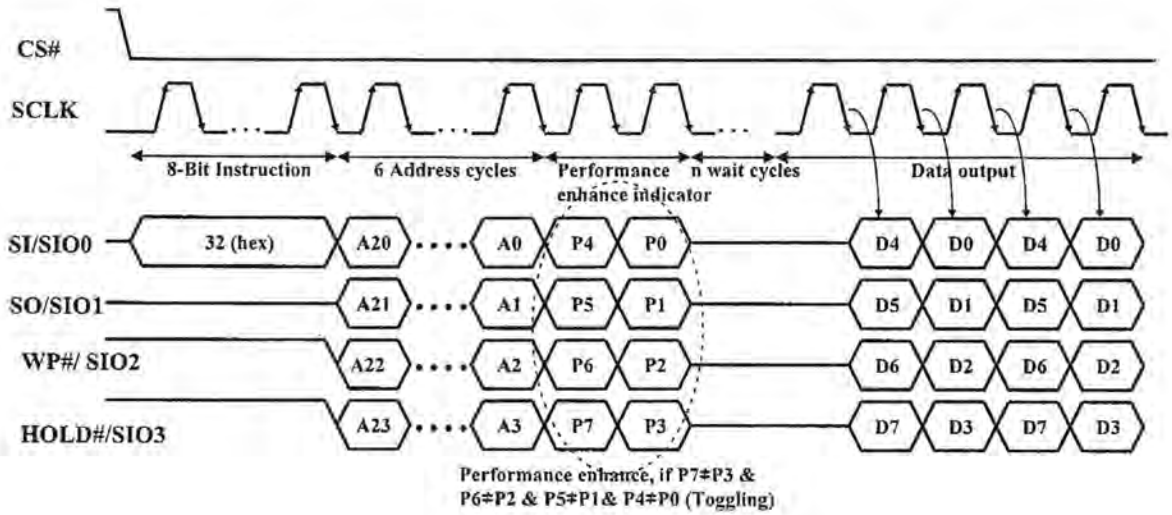
76. Macronix International Co., Ltd. owns by assignment the entire right, title, and interest in and to the '330 patent. Ex. 8.

77. Pursuant to Commission Rule 210.12(c)(l), this Complaint is accompanied by four copies of the prosecution history of the '330 patent. App. D. A certified copy of the prosecution history of the '330 patent has been ordered and will be submitted upon receipt. Further, pursuant to Commission Rule 210.12(c)(2), this Complaint is accompanied by four copies of each technical reference identified in the prosecution history of the '330 patent. App. H.

2. Non-technical Description of the '330 Patent[7]

78. Integrated circuits may read out data in response to instructions received from other circuits or portions of circuits. The '330 patent is directed to providing enhanced data read performance in an integrated circuit. Ex. 4 at 1:8-10. As an example, the '330 patent describes serial memory devices incorporating a serial peripheral interface protocol for a fast data transfer rate. *Id.* at 1:10-12. The technology of the '330 patent can also be applied to integrated circuits including other stand-alone or embedded memory devices such as DRAM, SRAM, parallel flash, or other non-volatile memories. *Id.* at 1:15-17.

[7] All non-technical descriptions of the patents herein are presented to give a general background of those inventions. Such statements are not intended to be used, nor should be used, for purposes of patent claim interpretation. Complainants present these statements subject to, and without waiver of, their right to argue that claim terms should be construed in a particular way, as contemplated by claim interpretation jurisprudence and the relevant evidence.



'330 patent, FIG. 4A

79. FIG. 4A above is a timing diagram that illustrates exemplary enhanced data read operations. *Id.* at 9:13-17. In this example, in the instruction cycles of the clock ("SCLK"), an 8-bit instruction designated as 32 (hex) is transferred using the SI/SIO0 pin. *Id.* at 9:24-25. At the first address clock cycle, address bit A20 is received at pin SI/SIO0, address bit A21 is received at pin SO/SIO1, address bit A22 is received at pin WP#/SIO2, and address bit A23 is received at pin HOLD#/SIO3. *Id.* at 9:49-52. Subsequently, address bits A16, A17, A18, and A19 are received concurrently in the second address clock cycle, address bits A12, A13, A14, and A15 are received concurrently in the third address clock cycle, address bits A8, A9, A10, and A11 are received concurrently in the fourth address clock cycle, address bits A4, A5, A6, and A7 are received concurrently in the fifth address clock cycle, and address bits A0, A1, A2, and A3 are received concurrently in the sixth address clock cycle. *Id.* at 9:52-60.

80. In the next two clock cycles of SCLK, a performance enhancement indicator is transferred. *Id.* at 10:10-12. In the example shown in FIG. 4A, the performance enhancement indicator includes eight bits, *i.e.* P0-P7, which are received using the four I/O pins. *Id.* at 10:12-

14. For example, four indicator bits P4, P5, P6, and P7 are received in a first enhance indicator clock cycle, and four indicator bits P0, P1, P2, and P3 are received in a second enhance indicator clock cycle. *Id.* at 10:14-18. The system processes the performance enhancement indicator to determine whether an enhanced read operation is to be performed. *Id.* at 10:18-20.

3. Foreign Counterparts

81. The foreign patents and patent applications corresponding to the '330 patent are:

- Taiwanese Patent No. TWI376606B, issued on November 11, 2012
- Chinese Published Application No. CN103034611A, published on April 10, 2013
- Chinese Patent No. CN101697283B, issued on September 4, 2013
- No other foreign patents or patent applications corresponding to the '330 patent have been filed, abandoned, withdrawn, or rejected.

4. Licenses

82. As required under Commission Rule 210.12(a)(9)(iii), a list of licensed entities is attached to this Complaint. Ex. 40C. There are no other current licenses involving the '330 patent.

V. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

83. On information and belief, Spansion manufactures, assembles, packages, and tests the Spansion NVM Devices at foreign facilities. Spansion then sells for importation into the United States, imports, and/or sells within the United States after importation such Spansion NVM Devices.

84. Spansion's Product Selector Guide shows a large number of models of NVM devices available for purchase in the United States. Ex. 22. Further, as shown on the Spansion website, many models of Spansion NVM Devices are available for purchase in the United States. Ex. 23. According to Spansion's website, Arrow Electronics is an authorized U.S. distributor of Spansion NVM Devices in the United States. *Id.*

85. Samples of certain of the Accused Products, including Spansion's S25FL132KOXBHI030, S25FL512SDPMFI010, and S25FL032P0XMFI010, were purchased in the United States from Arrow Electronics. A copy of the purchase receipts and photographs of the samples of the accused devices are attached to the Complaint. Ex. 24.

86. The Spansion S25FL132KOXBHI030 is marked "Thailand" on it its face. Id. On information and belief, the "Thailand" designation indicates that the Spansion S25FL132KOXBHI030 was assembled and marked in Bangkok, Thailand. See also Ex. 10 (Spansion, 2013 Form 10-K) at 5. On information and belief, the S25FL512SDPMFI010 and S25FL032P0XMFI010 were also assembled and packaged outside of the United States. *See* Ex. 10 (Spansion, 2013 Form 10-K) at 5. Spansion NVM Devices have therefore been imported into the United States, and will likely continue to be imported into the United States.

87. On information and belief, the Spansion NVM Device models purchased in the United States and analyzed for infringement below are representative of a large number of different Spansion NVM Device models sold in the United States. On information and belief, Spansion develops architectures and fabrication process platforms that are the building blocks and that are used to produce families of many different models of commercial NVM devices. These models incorporate the same architecture and/or are fabricated by the same process, but differ by memory capacity, voltage, speed, packaging, or other implementation details. On information and belief, this practice of developing an architecture and process platform for generating families of many different models of NVM allows for cost-effective operation. On information and belief, the Asserted Patents are directed to features of Spansion architecture and process platforms that are common to many models of Spansion NVM Devices. As Spansion does not appear to publicly identify its products that incorporate the features and fabrication

processes at issue, discovery will be necessary to confirm the entire range of Spansion NVM Device models that are infringing.

88. Physical samples of Spansion Accused Products purchased as described above, are submitted as Physical Exs. 1-4 to this Complaint.

89. Additionally, upon information and belief, the Spansion Respondents sell Spansion NVM Devices to Downstream Respondents and other third parties for assembly into downstream products, including but not limited to automotive components, "infotainment" systems, access points, wireless local area network controllers, and network gateway systems, as well as many other devices. Such devices are sold for importation into the United States, imported, and/or sold within the United States after importation, and on information and belief, the Spansion Respondents and the Downstream Respondents are aware of such activities.

90. An Aerohive AP320 802.11n Enterprise Wi-Fi Access Point 2.4GHz 5GHz Ceiling Mount ("Aerohive Access Point") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Aerohive Access Point indicating that the device was "Made in Taiwan" are attached to the Complaint. Ex. 25. A Spansion S29GL512P11TFI01 was found inside the Aerohive Access Point. Thus, Aerohive has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

91. An Allied Telesis AT-9924TL-EMC2-20 Gigabit Ethernet Switch ("Allied Telesis Switch") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Allied Telesis Switch indicating that the device was "Made in Singapore" are attached to the Complaint. Ex. 26. A Spansion S29GL128P90TFCR2 was found inside the Allied Telesis Switch. Thus, Allied

Telesis has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

92. A Ciena 3930 Service Delivery Switch - 10/100/1000/10G - SFP+, SFP, RJ45 ("Ciena Switch") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Ciena Switch indicating that the device was "Made in China" are attached to the Complaint. Ex. 27. A Spansion S29GL512P11TFI02 was found inside the Ciena Switch. Thus, Ciena has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

93. A Delphi 2013-2014 GMC Acadia/Traverse/Enclave Navigation Radio Touchscreen ("Delphi GMC Radio") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Delphi GMC Radio indicating that the device was "Assembled in Mexico" are attached to the Complaint. Ex. 28. A Spansion S29GL512S10DHI02 was found inside the Delphi GMC Radio.

94. A Delphi VW Touchscreen Radio RCD-510 Jetta Golf Tiguan RCD510 ("Delphi VW Radio") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Delphi VW Radio indicating that the device was "Assembled in Mexico" are attached to the Complaint. Ex. 29. A Spansion S29AL016J70BFI02 was found inside the Delphi VW Radio. Thus, Delphi has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

95. A Polycom Soundstation2 220-16200-001 ("Polycom Soundstation") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and

photographs of the packaging and sample of the Polycom Soundstation indicating that the device was "Made in China" are attached to the Complaint. Ex. 30. A Spansion S29AL008J70TFI02 was found inside the Polycom Soundstation. Thus, Polycom has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

96. A Ruckus ZoneFlex 7352 ("Ruckus 7352") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Ruckus ZoneFlex indicating that the device was "Made in China" are attached to the Complaint. Ex. 31. A Spansion FL256SAIFRO was found inside the Ruckus 7352.

97. A Ruckus ZoneFlex 7982 ("Ruckus 7982") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Ruckus 7982 indicating that the device was "Made in China" are attached to the Complaint. Ex. 32. A Spansion FL256SAIFRO was found inside the Ruckus 7982. Thus, Ruckus has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

98. A ShoreTel IP565G IP Phone ("ShoreTel IP Phone") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the ShoreTel IP Phone indicating that the device was "Made in China" are attached to the Complaint. Ex. 33. A Spansion S29GL064N90TFI03 was found inside the ShoreTel IP Phone. Thus, ShoreTel has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

99. A Tellabs 82.71323-NX 7100-OTS TGTM-E WOWUALPFAC 10G Transponder Enhanced ("Tellabs Transponder") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the Tellabs Transponder are attached to the Complaint. Ex. 34. A Spansion S29GL064N90TF107 was found inside the Tellabs Transponder. Tellabs relies on contract manufacturers located in "Malaysia, Mexico, China, and the United States" (Ex. 20 at 7), and therefore on information and belief, at least some of the Tellabs Transponder products are manufactured outside the United States. Thus, Tellabs has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

100. A TiVo Roamio HD Digital Video Recorder and Streaming Media Player ("TiVo DVR") containing a Spansion NVM Device was purchased in the United States. A copy of the purchase receipt and photographs of the packaging and sample of the TiVo DVR indicating that the device was "Made in Mexico" are attached to the Complaint. Ex. 35. A Spansion S25FL208K was found inside the TiVo DVR. Thus, TiVo has sold for importation, imported, and/or sold after importation into the United States products containing one or more of the Accused NVM.

101. It is not practical for Macronix to identify all devices sold for importation into the United States, imported, and/or sold within the United States after importation that contain infringing Spansion NVM Devices. Spansion continues to market its infringing NVM worldwide via the Internet to prospective importers of infringing downstream products. *See* Exs. 22-23. Macronix reserves its right to supplement its allegations, to amend the Compliant, and to add respondents in the future.

VI. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS – PATENT INFRINGEMENT

102. The Proposed Respondents have engaged in unfair trade practices, including the sale for importation, importation, and sale after importation of certain devices containing NVM and products containing the same that infringe the Asserted Claims of the Asserted Patents. These activities by Respondents constitute a violation of Section 337. Below is a summary chart that identifies for each Downstream Respondent: (i) exemplary products having Accused NVM; (ii) Accused NVM found in these exemplary products; and (iii) exemplary claim charts showing infringement by the Accused NVM.

Downstream Respondent	**Exemplary Product(s) [*Ex. No.*]**	**Accused NVM found in Exemplary Prods.**	**Exemplary Claim Chart Exs. and Pages**
Aerohive	Aerohive AP320 802.11n Enterprise Wi-Fi Access Point 2.4GHz 5GHz Ceiling Mount [*Ex. 25*]	S29GL512P11TFI01	Ex. 36 at 19-31
Allied Telesis	Allied Telesis AT-9924TL-EMC2-20 Gigabit Ethernet Switch [*Ex. 26*]	S29GL128P90TFCR2	Ex. 36 at 19-31
Ciena	Ciena 3930 Service Delivery Switch - 10/100/1000/10G - SFP+, SFP, RJ45 [*Ex. 27*]	S29GL512P11TFI02	Ex. 36 at 19-31
Delphi	2013-2014 GMC Acadia/Traverse/Enclave Navigation Radio Touchscreen [*Ex. 28*] VW Touchscreen Radio RCD-510 Jetta Golf Tiguan RCD510 [*Ex. 29*]	S29GL512S10DHI02 S29AL016J70BFI02	Ex. 36 at 1-18 Ex. 39C at 1-33
Polycom	Polycom Soundstation2 220-16200-001 [*Ex. 30*]	S29AL008J70TFI02	Ex. 39C at 1-33

Ruckus	Ruckus ZoneFlex 7352 [*Ex. 31*] Ruckus ZoneFlex 7982 [*Ex. 32*]	S25FL256SAIFRO S25FL256SAIFRO	Ex. 36 at 47-60; Ex. 37 at 15-29; Ex. 38 at 20-33 Ex. 36 at 47-60; Ex. 37 at 15-29; Ex. 38 at 20-33
ShoreTel	Shoretel IP565G IP Phone [*Ex. 33*]	S29GL064N90TFI03	Ex. 36 at 32-46
Tellabs	Tellabs 82.71323-NX 7100-OTS TGTM-E WOWUALPFAC 10G Transponder Enhanced [*Ex. 34*]	S29GL064N90TF107	Ex. 36 at 32-46
TiVo	TiVo Roamio HD Digital Video Recorder and Streaming Media Player [*Ex. 35*]	S25FL208K	Ex. 39C at 1-33

A. Infringement of the '826 Patent

103. The Accused Products that are sold for importation, imported, and/or sold after importation by Spansion and/or the Downstream Respondents infringe claims 1, 2, 5, 7, 11, 12, 13, 17, 27, 28, and 29 of the '826 patent, either literally or under the doctrine of equivalents. For example, a chart that applies asserted independent claims 1, 5, 12 and 27 of the '826 patent to the Accused Products is attached to this Complaint. Ex. 39C.

104. At present, Macronix has identified the Spansion Respondents and the Polycom, Delphi, and TiVo Respondents as respondents that have violated Section 337 by directly and/or indirectly infringing one or more asserted claims of the '826 patent. However, because it is difficult to identify all sources of infringing Spansion NVM Devices, and discovery may reveal that additional Downstream Respondents also have violated Section 337 with respect to the '826

patent, Macronix reserves all rights to supplement its allegations to identify additional respondents that have violated Section 337 with respect to the '826 patent.

105. Spansion induces infringement of the asserted claims of the '826 patent because it had knowledge of the '826 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM with the intent that its customers, including the Downstream Respondents, will use the Accused NVM in an infringing manner constitutes inducing infringement. As set forth in Exhibit 39C, when Spansion's customers use the Accused NVM in their intended manner, the Spansion customers directly infringe the asserted claims of the '826 patent. By providing the Accused NVM to its customers and instructions to use the Accused NVM in an infringing manner while being on notice of the '826 patent and Macronix's infringement theories, Spansion has demonstrated specific intent that its customers infringe the '826 patent.

106. On information and belief, the Polycom, Delphi, and TiVo Respondents were aware of the '826 patent and the Accused Products' infringement thereof. On information and belief, the Polycom, Delphi, and TiVo Respondents knew or should have known about this patent on or after the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679), becoming aware through various channels about such a lawsuit affecting one of their suppliers and implicating one or more devices used in their products. For example, Macronix issued a press release about the district court action on October 3, 2013, identifying the general subject

matter of the patents asserted in that action. As another example, Spansion specifically mentioned the complaint in the Eastern District of Virginia in its publicly available 2013 10-K filing. Ex. 10 at 19, 84. Moreover, the Polycom, Delphi, and TiVo Respondents will be aware about this patent on or about the filing of this Complaint. At a minimum, the Notice of Investigation that will be published by the Commission in the Federal Register, should the Commission initiate an investigation, will serve as notice to the Polycom, Delphi, and TiVo Respondents of the '826 patent and their infringing activities. Upon information and belief, despite such knowledge, the Polycom, Delphi, and TiVo Respondents continue to sell, offer for sale, import, and/or sell for importation Accused Products with the intent that their customers will use the Accused Products in an infringing manner. As set forth in Exhibit 39C, when the Polycom, Delphi, and TiVo Respondents' customers use the Accused Products in their intended manner, these customers directly infringe the asserted claims of the '826 patent. By providing the Accused Products to their customers and instructions to use the Accused Products in an infringing manner while being on notice of the '826 patent and Macronix's infringement theories, the Polycom, Delphi, and TiVo Respondents have demonstrated specific intent that their customers infringe the '826 patent.

107. Spansion contributorily infringes the asserted claims of the '826 patent because it had knowledge of the '826 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM that embody a material part of the claimed invention of the '826 patent, that are known by Spansion to be specially made or adapted

for use in an infringing manner, and are not staple articles with substantial non-infringing uses constitutes contributory infringement. As set forth in Exhibit 39C, when Spansion's customers use Accused NVM in their intended manner, the Spansion customers directly infringe the asserted claims of the '826 patent. The Spansion NVM Devices are specially designed to infringe the asserted claims of the '826 patent and have no substantial non-infringing uses.

B. Infringement of the '757 Patent

108. The Accused Products that are sold for importation, imported, and/or sold after importation by Spansion and/or the Downstream Respondents infringe claims 1, 2, 4, 5, 7, 8, 12, and 13 of the '757 patent, either literally or under the doctrine of equivalents. For example, a chart that applies asserted independent claim 1 of the '757 patent to the Accused Products is attached to this Complaint. Ex. 36.

109. At present, Macronix has identified the Spansion Respondents and the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents as respondents that have violated Section 337 by directly and/or indirectly infringing one or more asserted claims of the '757 patent. However, because it is difficult to identify all sources of infringing Spansion NVM Devices, and discovery may reveal that additional Downstream Respondents also have violated Section 337 with respect to the '757 patent, Macronix reserves all rights to supplement its allegations to identify additional respondents that have violated Section 337 with respect to the '757 patent.

110. Spansion induces infringement of the asserted claims of the '757 patent because it had knowledge of the '757 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt

of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM with the intent that its customers, including the Downstream Respondents, will use the Accused NVM in an infringing manner constitutes inducing infringement. As set forth in Exhibit 36, when Spansion's customers use the Accused NVM in their intended manner, the Spansion customers directly infringe the asserted claims of the '757 patent. By providing the Accused NVM to its customers and instructions to use the Accused NVM in an infringing manner while being on notice of the '757 patent and Macronix's infringement theories, Spansion has demonstrated specific intent that its customers infringe the '757 patent.

111. On information and belief, the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents were aware of the '757 patent and the Accused Products' infringement thereof. On information and belief, the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents knew or should have known about this patent on or after the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679), becoming aware through various channels about such a lawsuit affecting one of their suppliers and implicating one or more devices used in their products. For example, Macronix issued a press release about the district court action on October 3, 2013, identifying the general subject matter of the patents asserted in that action. As another example, Spansion specifically mentioned the complaint in the Eastern District of Virginia in its publicly available 2013 10-K filing. Ex. 10 at 19, 84. Moreover, the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents will be aware about this patent on or about the filing of this Complaint. At a minimum, the Notice of Investigation that will be published by the Commission in the Federal

Register, should the Commission initiate an investigation, will serve as notice to the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents of the '757 patent and their infringing activities. Upon information and belief, despite such knowledge, the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents continue to sell, offer for sale, import, and/or sell for importation Accused Products with the intent that their customers will use the Accused Products in an infringing manner. As set forth in Exhibit 36, when the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents' customers use the Accused Products in their intended manner, these customers directly infringe the asserted claims of the '757 patent. By providing the Accused Products to their customers and instructions to use the Accused Products in an infringing manner while being on notice of the '757 patent and Macronix's infringement theories, the Ciena, Aerohive, ShoreTel, Delphi, Ruckus, Tellabs, and Allied Telesis Respondents have demonstrated specific intent that their customers infringe the '757 patent.

112. Spansion contributorily infringes the asserted claims of the '757 patent because it had knowledge of the '757 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM that embody a material part of the claimed invention of the '757 patent, that are known by Spansion to be specially made or adapted for use in an infringing manner, and are not staple articles with substantial non-infringing uses constitutes contributory infringement. As set forth in Exhibit 36, when Spansion's customers use Accused NVM in their intended manner, the Spansion customers directly infringe the asserted

claims of the '757 patent. The Spansion NMV Devices are specially designed to infringe the asserted claims of the '757 patent and have no substantial non-infringing uses.

C. Infringement of the '324 Patent

113. The Accused Products that are sold for importation, imported, and/or sold after importation by Spansion and/or the Downstream Respondents infringe claims 1, 2, 7, 8, and 15 of the '324 patent, either literally or under the doctrine of equivalents. For example, a chart that applies asserted independent claims 1 and 8 of the '324 patent to the Accused Products is attached to this Complaint. Ex. 37.

114. At present, Macronix has identified the Spansion Respondents and the Ruckus Respondent as respondents that have violated Section 337 by directly and/or indirectly infringing one or more asserted claims of the '324 patent. However, because it is difficult to identify all sources of infringing Spansion NVM Devices, and discovery may reveal that additional Downstream Respondents also have violated Section 337 with respect to the '324 patent, Macronix reserves all rights to supplement its allegations to identify additional respondents that have violated Section 337 with respect to the '324 patent.

115. Spansion induces infringement of the asserted claims of the '324 patent because it had knowledge of the '324 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM with the intent that its customers, including the Downstream Respondents, will use the Accused NVM in an infringing manner constitutes inducing infringement. As set forth in Exhibit 37, when Spansion's customers use the

Accused NVM in their intended manner, the Spansion customers directly infringe the asserted claims of the '324 patent. By providing the Accused NVM to its customers and instructions to use the Accused NVM in an infringing manner while being on notice of the '324 patent and Macronix's infringement theories, Spansion has demonstrated specific intent that its customers infringe the '324 patent.

116. On information and belief, the Ruckus Respondents were aware of the '324 patent and the Accused Products' infringement thereof. On information and belief, the Ruckus Respondents knew or should have known about this patent on or after the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679), becoming aware through various channels about such a lawsuit affecting one of their suppliers and implicating one or more devices used in their products. For example, Macronix issued a press release about the district court action on October 3, 2013, identifying the general subject matter of the patents asserted in that action. As another example, Spansion specifically mentioned the complaint in the Eastern District of Virginia in its publicly available 2013 10-K filing. Ex. 10 at 19, 84. Moreover, the Ruckus Respondents will be aware about this patent on or about the filing of this Complaint. At a minimum, the Notice of Investigation that will be published by the Commission in the Federal Register, should the Commission initiate an investigation, will serve as notice to the Ruckus Respondents of the '324 patent and their infringing activities. Upon information and belief, despite such knowledge, the Ruckus Respondents continue to sell, offer for sale, import, and/or sell for importation Accused Products with the intent that their customers will use the Accused Products in an infringing manner. As set forth in Exhibit 37, when the Ruckus Respondents' customers use the Accused Products in their intended manner, these customers directly infringe

the asserted claims of the '324 patent. By providing the Accused Products to their customers and instructions to use the Accused Products in an infringing manner while being on notice of the '324 patent and Macronix's infringement theories, the Ruckus Respondents have demonstrated specific intent that their customers infringe the '324 patent.

117. Spansion contributorily infringes the asserted claims of the '324 patent because it had knowledge of the '324 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM that embody a material part of the claimed invention of the '324 patent, that are known by Spansion to be specially made or adapted for use in an infringing manner, and are not staple articles with substantial non-infringing uses constitutes contributory infringement. As set forth in Exhibit 37, when Spansion's customers use Accused NVM in their intended manner, the Spansion customers directly infringe the asserted claims of the '324 patent. The Spansion NMV devices are specially designed to infringe the asserted claims of the '324 patent and have no substantial non-infringing uses.

D. Infringement of the '330 patent

118. The Accused Products that are sold for importation, imported, and/or sold after importation by Spansion and/or the Downstream Respondents infringe claims 1, 2, 3, 8, 9, 10, and 11 of the '330 patent, either literally or under the doctrine of equivalents. For example, a chart that applies asserted independent claims 1 and 9 of the '330 patent to the Accused Products is attached to this Complaint. Ex. 38.

119. At present, Macronix has identified the Spansion Respondents and the Ruckus Respondent as respondents that have violated Section 337 by directly and/or indirectly infringing one or more asserted claims of the '330 patent. However, because it is difficult to identify all sources of infringing Spansion NVM Devices, and discovery may reveal that additional Downstream Respondents also have violated Section 337 with respect to the '330 patent, Macronix reserves all rights to supplement its allegations to identify additional respondents that have violated Section 337 with respect to the '330 patent.

120. Spansion induces infringement of the asserted claims of the '330 patent because it had knowledge of the '330 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM with the intent that its customers, including the Downstream Respondents, will use the Accused NVM in an infringing manner constitutes inducing infringement. As set forth in Exhibit 38, when Spansion's customers use the Accused NVM in their intended manner, the Spansion customers directly infringe the asserted claims of the '330 patent. By providing the Accused NVM to its customers and instructions to use the Accused NVM in an infringing manner while being on notice of the '330 patent and Macronix's infringement theories, Spansion has demonstrated specific intent that its customers infringe the '330 patent.

121. On information and belief, the Ruckus Respondents were aware of the '330 patent and the Accused Products' infringement thereof. On information and belief, the Ruckus Respondents knew or should have known about this patent on or after the October 2, 2013 filing

of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679), becoming aware through various channels about such a lawsuit affecting one of their suppliers and implicating one or more devices used in their products. For example, Macronix issued a press release about the district court action on October 3, 2013, identifying the general subject matter of the patents asserted in that action. As another example, Spansion specifically mentioned the complaint in the Eastern District of Virginia in its publicly available 2013 10-K filing. Ex. 10 at 19, 84. Moreover, the Ruckus Respondents will be aware about this patent on or about the filing of this Complaint. At a minimum, the Notice of Investigation that will be published by the Commission in the Federal Register, should the Commission initiate an investigation, will serve as notice to the Ruckus Respondents of the '330 patent and their infringing activities. Upon information and belief, despite such knowledge, the Ruckus Respondents continue to sell, offer for sale, import, and/or sell for importation Accused Products with the intent that their customers will use the Accused Products in an infringing manner. As set forth in Exhibit 38, when the Ruckus Respondents' customers use the Accused Products in their intended manner, these customers directly infringe the asserted claims of the '330 patent. By providing the Accused Products to their customers and instructions to use the Accused Products in an infringing manner while being on notice of the '330 patent and Macronix's infringement theories, the Ruckus Respondents have demonstrated specific intent that their customers infringe the '330 patent.

122. Spansion contributorily infringes the asserted claims of the '330 patent because it had knowledge of the '330 patent and the Accused NVM's infringement thereof since at least the October 2, 2013 filing of a patent infringement complaint against Spansion in the United States District Court for the Eastern District of Virginia (Case No. 3:13-cv-00679). Spansion's receipt

of the Virginia complaint and participation in that suit, and Spansion's continuing to sell, offer for sale, import, and/or sell for importation Accused NVM that embody a material part of the claimed invention of the '330 patent, that are known by Spansion to be specially made or adapted for use in an infringing manner, and are not staple articles with substantial non-infringing uses constitutes contributory infringement. As set forth in Exhibit 38, when Spansion's customers use Accused NVM in their intended manner, the Spansion customers directly infringe the asserted claims of the '330 patent. The Spansion NVM Devices are specially designed to infringe the asserted claims of the '330 patent and have no substantial non-infringing uses.

VII. HARMONIZED TARIFF SCHEDULE ITEM NUMBERS

123. The Accused Products are believed to fall within, at least, Heading Nos. 8523.51.00 (Discs, tapes, solid-state non-volatile storage devices, "smart cards" and other media for the recording of sound or of other phenomena, whether or not recorded, including matrices and masters for the production of discs: Semiconductor media – solid-state non-volatile storage devices); 8517.62.00 (Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Modems); 8525.80.40 (Digital still image video cameras); 8527.29.40 (Radiobroadcast receivers not capable of operating without an external source of power, of a kind used in motor vehicles: FM only or AM/FM only); and 8517.62.00 (Machines for the reception, conversion and transmission or regeneration of voice, images or other data, including switching and routing apparatus: Other). These HTS numbers are intended for illustration only and are not intended to be restrictive of the devices or products accused.

VIII. RELATED LITIGATION

124. Macronix asserted the Asserted Patents against the Spansion Respondents on October 2, 2013 by filing a complaint in the Eastern District of Virginia (*Macronix Int'l Co., Ltd.*

v. Spansion Inc. et al., Case No. 3:13-cv-00679 (E.D. Va.)), which was subsequently transferred to the Northern District of California as *Macronix Int'l Co., Ltd. v. Spansion Inc., et al.*, Case No. C 5:14-cv-01890-BLF (N.D. Cal.). A case management conference is scheduled for late July. No procedural schedule has been issued and no dispositive motions have been decided in this case.

125. Other than the pending litigation based on Macronix's Complaint, there are no current or past litigations involving the Asserted Patents. Macronix and Spansion are currently involved in additional patent infringement litigation in the U.S. International Trade Commission (Inv. Nos. 337-TA-893, 337-TA-909, and 337-TA-916), and the U.S. District Court for the Northern District of California (case Nos.5:14-cv-01946 and 3:13-cv-03566). Investigation No. 337-TA-893 has a target date of May 22, 2015 and discovery has closed. Investigation No. 337-TA-909 has a target date of May 4, 2015 and discovery is ongoing. Investigation No. 337-TA-916 has not yet had a target date assigned and discovery is ongoing. A motion to stay under 28 U.S.C. § 1659 has been granted in the Northern District of California case No. 5:14-cv-01946. A motion to stay under 28 U.S.C. § 1659 has been granted in the Northern District of California case No. 3:13-cv-03566.

IX. DOMESTIC INDUSTRY

A. Technical Prong

126. A claim chart showing how an exemplary Macronix product practices an exemplary independent claim of the '826 patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '826 patent, is attached hereto as Exhibit 45C.

127. A claim chart showing how an exemplary Macronix product practices an exemplary independent claim of the '757 patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '757 patent, is attached hereto as Exhibit 46C.

128. A claim chart showing how an exemplary Macronix product practices an exemplary independent claim of the '324 patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '324 patent, is attached hereto as Exhibit 47C.

129. A claim chart showing how an exemplary Macronix product practices an exemplary independent claim of the '330 patent, thereby providing the basis for the domestic industry relating to the asserted claims of the '330 patent, is attached hereto as Exhibit 48C.

B. Economic Prong

130. A domestic industry in the United States exists under 19 U.S.C. § 1337(a)(2) and (3) due to Macronix's licensee's significant investment in: (i) plant and equipment per 19 U.S.C. § 1337(a)(3)(A); (ii) labor and capital per 19 U.S.C. § 1337(a)(3)(B); and/or (iii) substantial investment in the exploitation of the Asserted Patents, including engineering and research and development with respect to articles protected by those patents per 19 U.S.C. § 1337(a)(3)(C). In addition, a domestic industry in the United States also exists under 19 U.S.C. § 1337(a)(2) and (3) due to Macronix's own significant investment in the United States in: (i) plant and equipment per 19 U.S.C. § 1337(a)(3)(A); (ii) significant employment of labor and capital per 19 U.S.C. § 1337(a)(3)(B); and (iii) substantial investment in the exploitation of the Asserted Patents through engineering and technical support for products covered by those patents per 19 U.S.C. § 1337(a)(3)(C).

1. Macronix's Engineering Investments

131. A domestic industry exists in the United States based on Macronix's significant investment in plant and equipment, significant employment of labor and capital, and substantial investment in the exploitation of the Asserted Patents through engineering and technical support for products covered by those patents. *See* Exs. 41C and 42C.

132. Macronix employs a team of engineers at its Milpitas, California facility. *See* Ex. 41C. These engineers design and develop reference designs, design-in Macronix NVM into customer products, and provide technical support for Macronix's products that practice the Asserted Patents. Macronix's engineers based in the United States work with chipset vendors, are field application engineers, and/or work in the quality assurance field.

133. Macronix's Milpitas engineers spend approximately almost 100% of their engineering work time working on NVM projects that practice some or all of the Asserted Patents.

134. Exs. 45C – 48C are exemplary claim charts comparing representative products to a representative claim of the Asserted Patents.

135. Macronix incurs labor and consulting expenses for the engineering work that is directly attributable to its exploitation of the one or more of the Asserted Patents. *See* Ex. 41C. In addition to the compensation it pays its engineers, Macronix incurs travel-related expenses directly related to its engineering work. *See id.*

136. Macronix also employs personnel in Milpitas to support its engineering work, including a management and administrative department. These expenses, too, are directly attributable to Macronix's exploitation and/or efforts to exploit the inventions covered by the Asserted Patents. *See id.*

137. In further support of its exploitation of the Asserted Patents in the United States, Macronix has made investments in plant and equipment. Specifically, Macronix has made investments in rental property and equipment to support its engineering work. *See id.* Both of these investments are directly attributable to Macronix's exploitation and/or efforts to exploit the inventions covered by the Asserted Patents in the United States.

138. In sum, Macronix has made significant investments in the United States in furtherance of its exploitation of the Asserted Patents. *See id.*

2. Confidential Licensee's Investments in Products Containing Macronix NVM devices

139. Because the identity of Macronix's licensee identified in Exhibit 43C is confidential, Macronix presents the facts related to the licensee's investments in products containing Macronix NVM devices in confidential Exhibit 44C.

X. REQUESTED EXCLUSION ORDERS

A. General Exclusion Order

140. Pursuant to 19 U.S.C. § 1337(d)(2)(A) and (B), Macronix seeks a general exclusion order to exclude all infringing Spansion NVM Devices and downstream products containing such devices. Issuance of a general exclusion order ("GEO") is appropriate because such an order is necessary to prevent circumvention of an exclusion order limited to products of the named Respondents.[8] In addition, a GEO is warranted because there is a pattern of violation of Section 337, and it is difficult to identify the source of all of the infringing products.

141. On information and belief, both the infringing Spansion NVM Devices and a wide range of consumer products containing infringing Spansion NVM Devices are widely offered for sale and sold via stores and web sites of various distributors and retailers in the United States, including as yet-to-be identified distributors and retailers. Generally speaking, these distributors and retailers or manufacturers of consumer products do not identify the source of the NVM contained in their products. Moreover, the manufacturers and sellers of consumer products containing devices with NVM typically obtain such NVM from multiple sources, making it

[8] Macronix notes that Spansion has requested a GEO in the Complaint for the 337-TA-916 Investigation. To the extent, and in the unlikely event, that a GEO is available in the 916 Investigation, such a remedy should also be available in this Investigation.

possible that a given consumer product purchased from one particular seller may include NVM from anyone of multiple overseas manufacturers. Therefore, due to the complex nature of the supply chains for NVM, a GEO is necessary to prevent circumvention of a limited exclusion order limited to the Accused Products of the Proposed Respondents.

142. Macronix's investigation into the importation of infringing Spansion NVM Devices has uncovered at least eleven entities which, on information and belief, are engaged in the manufacture, and/or sale for importation, importation, and sale within the United States after importation of infringing Spansion NVM Devices or products containing the same. Macronix has named as Proposed Respondents those entities for which it has evidence of importation of infringing Accused Products. Thus, there is already some evidence of unauthorized importation into the United States of infringing articles by numerous entities. However, given the wide range of products into which NVM are incorporated, many more entities that are importing or are capable of importing infringing products into the United States likely exist and cannot be identified without discovery. Because determining the identity of numerous, unnamed infringers is difficult, if not impossible, a general exclusion order is necessary in order to fully protect Macronix.

143. At least for the foregoing reasons, the issuance of a general exclusion order excluding all infringing devices containing NVM and products containing the same is appropriate in this matter.

B. Limited Exclusion Order

144. At a minimum, pursuant to Section 337(d), if a general exclusion order is not issued in this matter, Macronix respectfully requests that a limited exclusion order be entered

against each named Respondent and its subsidiaries and affiliates in order to remedy the Respondents' violation of Section 337 and to prevent such future violations by Respondents.

C. Cease and Desist Order

145. Cease and desist orders against all named Respondents are appropriate under Section 337(f), which provides that the Commission may issue a cease and desist order against any person violating Section 337 in addition to exclusion orders issued under Section 337(d). On information and belief, the Spansion Respondents and the Downstream Respondents maintain commercially significant domestic inventory of Accused NVM and/or downstream products containing Accused NVM. Moreover, where, as here, the infringing devices are easily concealed, and it is difficult to identify the source of infringing products, a cease and desist order is necessary to ensure compliance with the requested exclusion orders. At least for the foregoing reasons, cease and desist orders are appropriate to remedy, and prevent, the widespread violation of Macronix's patent rights.

XI. RELIEF REQUESTED

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

(a) Institute an immediate investigation, pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (b)(1), with respect to violation of Section 337 by Respondents based upon their sale for importation, importation, and/or sale after importation into the United States of certain devices containing NVM and products containing the same that infringe one or more of the Asserted Claims of Macronix's United States Patent Nos. 5,998,826; 6,031,757; 8,341,324; and 8,341,330;

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

(c) Issue a permanent general exclusion order, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States all Spansion devices containing NVM and downstream products containing the same that infringe one or more of the Asserted Claims of Macronix's United States Patent Nos. 5,998,826; 6,031,757; 8,341,324; and 8,341,330; or, in the alternative, issue a permanent limited exclusion order specifically directed to each named Respondent and each of their respective subsidiaries and affiliates, barring from entry into the United States all Accused Products, that infringe one or more of the Asserted Claims of Macronix's United States Patent Nos. 5,998,826; 6,031,757; 8,341,324; and 8,341,330;

(d) Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), directing Respondents to cease and desist from selling for importation into the United States, importing, selling after importation into the United States, offering for sale, marketing, advertising, demonstrating, sampling, warehousing inventory for distribution, selling, distributing, licensing, testing, providing technical support, use, or other related commercial activity involving imported Accused Products that infringe one or more of the Asserted Claims of Macronix's United States Patent Nos. 5,998,826; 6,031,757; 8,341,324; and 8,341,330; and

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

(c) Issue a permanent general exclusion order, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States all Spansion devices containing NVM and downstream products containing the same that infringe one or more of the Asserted Claims of Macronix's United States Patent Nos. 5,998,826; 6,031,757; 8,341,324; and 8,341,330; or, in the alternative, issue a permanent limited exclusion order specifically directed to each named Respondent and each of their respective subsidiaries and affiliates, barring from entry into the United States all Accused Products, that infringe one or more of the Asserted Claims of Macronix's United States Patent Nos. 5,998,826; 6,031,757; 8,341,324; and 8,341,330;

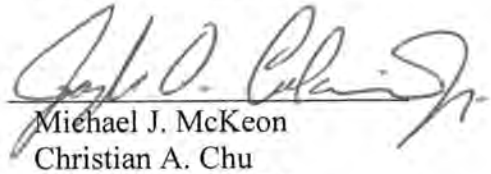
(d) Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), directing Respondents to cease and desist from selling for importation into the United States, importing, selling after importation into the United States, offering for sale, marketing, advertising, demonstrating, sampling, warehousing inventory for distribution, selling, distributing, licensing, testing, providing technical support, use, or other related commercial activity involving imported Accused Products that infringe one or more of the Asserted Claims of Macronix's United States Patent Nos. 5,998,826; 6,031,757; 8,341,324; and 8,341,330; and

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

Respectfully submitted,

FISH & RICHARDSON P.C.

Dated: June 27, 2014

By: 

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Counsel for Complainants
Macronix International Co., Ltd., and
Macronix America, Inc.

VERIFICATION OF COMPLAINT

I, Ful-Long Ni, 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 the Vice President of Macronix International Co., Ltd.;

2. I am duly authorized to sign this Complaint on behalf of Macronix International Co., Ltd. and Macronix America, Inc.;

3. I have read the foregoing Complaint;

4. To the best of my knowledge, information, and belief, based on a 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.

5. The allegations and other factual contentions in the foregoing Complaint have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

6. The foregoing Complaint is not being filed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

By: Ful-Long Ni

Ful-Long Ni

Executed this 27th of June, 2014