

In the Matter of

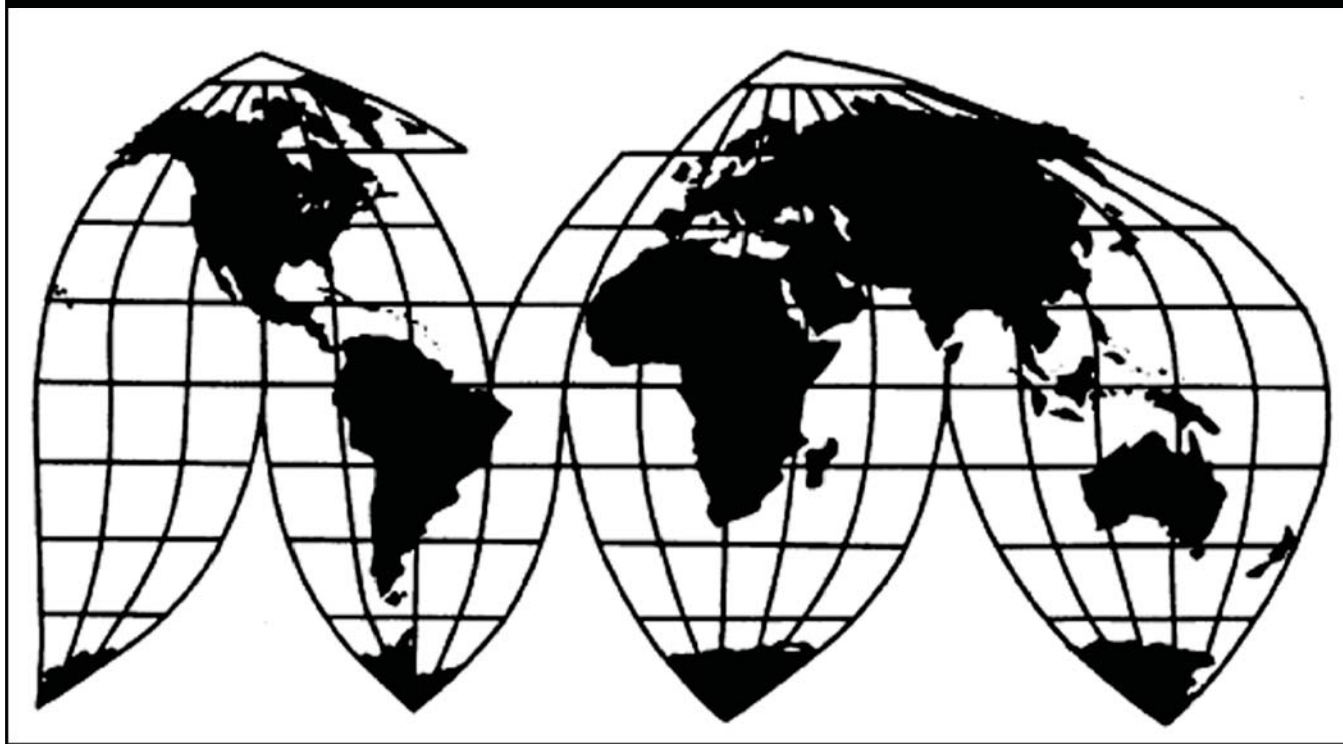
**Certain Flash Memory Controllers, Drivers,
Memory Cards, and Media Players and
Products Containing Same**

Investigation No. 337-TA-619

Publication 4147

April 2010

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Washington, DC 20436**

U.S. International Trade Commission

Washington, DC 20436
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In the Matter of

Certain Flash Memory Controllers, Drivers, Memory Cards, and Media Players and Products Containing Same

Investigation No. 337-TA-619



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

In the Matter of

**CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY
CARDS, AND MEDIA PLAYERS AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-619

**NOTICE OF COMMISSION FINAL DETERMINATION OF NO VIOLATION OF
SECTION 337; TERMINATION OF INVESTIGATION**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined that there has been no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in this investigation, and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 12, 2007, based on a complaint filed by SanDisk Corporation of Milpitas, CA. 72 *Fed. Reg.* 70610 (Dec. 12, 2007). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain flash memory controllers, drives, memory cards, media players and products containing the same by reason of infringement of various claims of United States Patent Nos. 6,426,893; 6,763,424 ("the '424 patent"); 5,719,808; 6,947,332; and 7,137,011 ("the '011 patent"). Three patents and several claims were subsequently terminated from the investigation. Claims 17, 24 and 30 of the '424 patent and claim 8 of the '011 patent remain in the investigation. The complaint named nearly

fifty respondents. Twenty-one respondents were terminated from the investigation based on settlement agreements, consent orders and withdrawal of allegations from the complaint. Five respondents defaulted. The following respondents remain in the investigation: Imation Corporation of Oakdale, MN; Imation Enterprises Corporation of Oakdale, MN; and Memorex Products, Inc. of Cerritos, CA (collectively, "Imation Respondents"); Phison Electronics Corporation of Hsinchu, Taiwan; Silicon Motion Inc. of Taiwan; Silicon Motion, Inc. of Milpitas, CA; Skymedi Corporation of Hsinchu, Taiwan; Power Quotient International Co., Ltd. of Taipei, Taiwan; Power Quotient International (HK) Co., Ltd. of Hong Kong; Syscom Development Co., Ltd. of the British Virgin Islands; PQI Corporation of Fremont, California; Kingston Technology Corporation of Fountain Valley, CA; Kingston Technology Company, Inc. of Fountain Valley, CA ; MemoSun, Inc. of Fountain Valley, CA; Transcend Information Inc. of Taipei, Taiwan; Transcend Information Inc. of Orange, CA; Transcend Information Maryland, Inc. of Linthicum, MD; Apacer Technology Inc. of Taipei Hsien, Taiwan; Apacer Memory America, Inc. of Milpitas, CA; Dane Memory S.A. of Bagnolet, France; Deantusaiocht Dane-Elec TEO of Spiddal, Galway, Ireland; Dane-Elec Corporation USA of Irvine CA; LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey; and LG Electronics, Inc. of Seoul, South Korea.

On April 10, 2009, the ALJ issued his final ID finding no violation of section 337 by Respondents. The ALJ issued a corrected version of his final ID on April 16, 2009. The ID included the ALJ's recommended determination on remedy and bonding. In the subject ID, the ALJ found that the accused products do not infringe asserted claims 17, 24 and 30 of the '424 patent. The ALJ also found that none of the asserted claims of the '424 patent were proven to be invalid as anticipated or obvious in view of the prior art. The ALJ further found the Respondents not liable for contributory or induced infringement of the asserted claims of the '424 patent. Likewise, the ALJ found that SanDisk failed to prove that the Imation Respondents, the only respondents accused of infringing claim 8 of the '011 patent, induced or contributed to infringement of the patent. The ALJ also found that SanDisk's rights in the '011 patent were not exhausted and that claim 8 of the '011 patent satisfies the indefiniteness requirement of 35 U.S.C. § 112, second paragraph. The ALJ, however, concluded that the prior art rendered claim 8 of the '011 patent obvious.

On May 4, 2009, SanDisk and the Commission investigative attorney filed petitions for review of the ID. That same day, Respondents filed a collective contingent petition for review of the ID with respect to the '424 patent. Skymedi Corporation and the Imation Respondents, in addition to joining the collective contingent petition for review, filed individual contingent petitions for review. On May 18, 2009, the parties filed responses to the various petitions and contingent petitions for review.

On August 24, 2009, the Commission determined to review the final ID in part and requested briefing on several issues it determined to review, and on remedy, the public interest and bonding. 74 *Fed. Reg.* 44382 (Aug. 28, 2009). The Commission determined to review the claim construction of claims 17, 24 and 30 of the '424 patent; infringement of the asserted claims

of the '424 patent; validity of the '424 patent; and the ALJ's decision not to consider the Sinclair PCT publication as evidence of prior art to claim 17 of the '424 patent. *Id.*

On September 3, 2009, the parties filed written submissions on the issues on review, remedy, the public interest and bonding. On September 14, 2009, the parties filed response submissions on the issues on review, remedy, the public interest and bonding.

Having examined the record of this investigation, including the ALJ's final ID, the Commission has determined to (1) reverse the ALJ's finding that claim 17 of the '424 patent does not cover single-page updates; (2) reverse the ALJ's finding that the claim term "reading and assembling data from the first and second plurality of pages" as recited in claim 20 of the '424 patent excludes the so-called table method as disclosed in Figure 12; (3) affirm the ALJ's finding that the accused products do not infringe the asserted claims of the '424 patent; and (4) affirm the ALJ's finding that none of the asserted claims of the '424 patent were proven to be invalid as anticipated or obvious in view of the prior art considered by the ALJ. Given the Commission's affirmance of the ALJ's determination that SanDisk failed to establish that the accused controllers infringe claim 17 of the '424 patent, the Commission declines to reach the issue of whether the ALJ should have considered the Sinclair PCT publication as evidence of prior art to claim 17 of the '424 patent.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.42-46 and 210.50 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.42-46 and 210.50).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott", written in a cursive style.

Marilyn R. Abbott
Secretary to the Commission

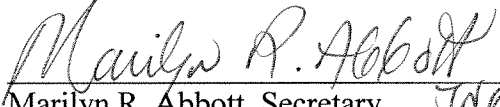
Issued: October 23, 2009

**CERTAIN FLASH MEMORY CONTROLLERS, DRIVES,
MEMORY CARDS, AND MEDIA PLAYERS AND PRODUCTS
CONTAINING SAME**

337-TA-619

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION
FINAL DETERMINATION OF NO VIOLATION OF SECTION 337;
TERMINATION OF INVESTIGATION** has been served by hand upon the
Commission Investigative Attorney, Christopher G. Paulraj, Esq., and the following
parties as indicated, on October 23, 2009.


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PUBLIC VERSION

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C. 20436**

In the Matter of

**CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY
CARDS, AND MEDIA PLAYERS AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-619

COMMISSION OPINION

I. BACKGROUND

A. Procedural History

The Commission instituted this investigation on December 12, 2007, based on a complaint filed by SanDisk Corporation ("SanDisk"). 72 *Fed. Reg.* 70610 (Dec. 12, 2007). The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain flash memory controllers, drives, memory cards, media players and products containing the same by reason of infringement of certain claims of five United States patents: U.S. Patent No. 6,763,424 ("the '424 patent"), U.S. Patent No. 7,137,011 ("the '011 patent"), U.S. Patent No. 5,719,808 ("the '808 patent"), U.S. Patent No. 6,947,332 ("the '332 patent") and U.S. Patent No. 6,426,893 ("the '893 patent"). SanDisk named forty-seven respondents. *See id.* Subsequently, SanDisk filed motions to terminate the investigation with respect to the '808, '332 and '893 patents. Only the '424 and '011 patents remain in the investigation.

During the course of the investigation, several respondents were terminated based on

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settlement agreements, consent orders, and/or withdrawal of allegations from the complaint. Five respondents defaulted. The following groups of respondents remain in the investigation after the various defaults and terminations:

1. Phison Electronics Corporation of Hsinchu, Taiwan (“Phison”);
2. Silicon Motion Inc. of Taiwan; and Silicon Motion, Inc. of Milpitas, CA (collectively “Silicon”);
3. Skymedi Corporation of Hsinchu, Taiwan (“Skymedi”);
4. Power Quotient International Co., Ltd. of Taipei, Taiwan; Power Quotient International (HK) Co., Ltd. of Hong Kong; Syscom Development Co., Ltd. of the British Virgin Islands; and PQI Corporation of Fremont, California (collectively “PQI”);
5. Kingston Technology Corporation of Fountain Valley, CA; Kingston Technology Company, Inc. of Fountain Valley, CA; and MemoSun, Inc. of Fountain Valley, CA (collectively “Kingston”)
6. Transcend Information Inc. of Taipei, Taiwan; Transcend Information Inc. of Orange, CA; and Transcend Information Maryland, Inc. of Linthicum, MD (collectively “Transcend”);
7. Imation Corporation of Oakdale, MN; Imation Enterprises Corporation of Oakdale, MN; and Memorex Products, Inc. of Cerritos, CA (collectively “Imation”);
8. Apacer Technology Inc. of Taipei Hsien, Taiwan; and Apacer Memory America, Inc. of Milpitas, CA (collectively “Apacer”);
9. Dane Memory S.A. of Bagnolet, France; Deantusaiocht Dane-Elec TEO of Spiddal, Galway, Ireland; and Dane-Elec Corporation USA of Irvine CA (collectively “Dane-Elec”); and
10. LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey; and LG Electronics, Inc. of Seoul, South Korea (collectively “LG”).

The ALJ held a *Markman* hearing from May 6-7, 2008, and issued an order construing the terms of the asserted claims of the patents-in-issue on July 15, 2008. *See* Order No. 33. The ALJ further stated that all briefing in this investigation is governed by the claim construction order and “[a]ll other claim terms shall be deemed as undisputed and shall be interpreted by the undersigned in accordance with ‘their ordinary meaning as viewed by one of ordinary skill in the art.’” *Id.* at 9. The ALJ incorporated Order No. 33 into his final ID. ID at 8.

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On April 10, 2009, the ALJ issued his final ID in this investigation, finding no violation of section 337 by Respondents with respect to any of the asserted claims.¹ Specifically, the ALJ found that the accused products do not infringe the asserted claims of the '424 patent. The ALJ also found that none of the references properly before him anticipated the asserted claims or rendered the asserted claims of the '424 patent obvious. The ALJ further found the Respondents not liable for contributory or induced infringement of the asserted claims of the '424 patent. Likewise, the ALJ found that SanDisk failed to prove that Imation, the sole respondent accused of infringing the '011 patent, induced or contributed to infringement of the patent. The ALJ also found that SanDisk's rights in the '011 patent were not exhausted and that claim 8 of the '011 patent satisfied the indefiniteness requirement of 35 U.S.C. § 112, second paragraph. The ALJ further found claim 8 of the '011 patent invalid for obviousness. The ALJ concluded that an industry exists within the United States with respect to SanDisk's products that practice the '424 and '011 patents, as required by 19 U.S.C. § 1337(a)(2) and (3).

The ID includes the ALJ's recommended determination ("RD") on remedy and bonding. The ALJ recommended that in the event the Commission finds a violation of section 337, the Commission should issue a limited exclusion order to exclude the accused products of all the named respondents as well as a cease and desist order directed towards respondents, [] because they maintain significant inventories of accused products in the United States. The ALJ recommended that the Commission set a bond of [] based on a reasonable royalty rate, during the period of

¹ The ALJ issued a corrected version of the ID on April 16, 2009.

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Presidential review.

On May 4, 2009, SanDisk filed a petition requesting review of the ID's finding that the accused products do not infringe the asserted patents. SanDisk also sought review of the ID's finding that the prior art invalidates the asserted claim of the '011 patent. That same day, the Commission investigative attorney ("IA") filed a petition seeking review of the ID's finding that the accused products do not infringe claim 17 of the '424 patent. The IA further asked the Commission to review the ALJ's decision not to consider U.S. Patent No: 6,725,321 ("the '321 patent") to Alan Welsh Sinclair *et al.* and its corresponding Patent Cooperation Treaty ("PCT") publication, WO 00/49488 ("the Sinclair PCT publication") as prior art references to claim 17 of the '424 patent. Also on May 4, 2009, Respondents filed various contingent petitions for review of the ID's findings should the Commission decide to review the subject ID. The contingent petitions sought review of the ID's findings regarding validity of the asserted claims, waiver of non-infringement contentions and patent exhaustion.

On August 24, 2009, the Commission determined to review the final ID in part and requested briefing on several issues it determined to review, and on remedy, the public interest and bonding. 74 *Fed. Reg.* 44382 (Aug. 28, 2009). The Commission determined to review the claim construction of claims 17, 24 and 30 of the '424 patent; infringement of the asserted claims of the '424 patent; validity of the '424 patent; and the ALJ's decision not to consider the Sinclair PCT publication as evidence of prior art to claim 17 of the '424 patent. *Id.* The Commission determined not to review the remaining issues decided in the ID. In its notice of review, the Commission asked the parties the following:

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1. Address whether the accused products would infringe claim 17 of the '424 patent if construction of the claim term "updating pages of original data within any of the metablock component blocks less than all the pages within the block" is construed to cover single-page updates. Please cite record evidence and/or relevant legal precedent to support your position.
2. Address whether the claim term "reading and assembling data from the first and second plurality of pages" as recited in claim 20 of the '424 patent should be construed to cover the so-called "table method," and whether the accused products would infringe claims 24 and 30 of the '424 patent as a result. *See* '424 patent (JX-2) at column 10, lines 44-59; FIG. 12. Please cite record evidence and relevant legal authority to support your position.
3. Address why the Sinclair PCT publication was not listed on any notice of prior art as required by Ground Rule No. 5, and having violated the ground rule, why none of the parties availed itself of its remedy to submit a timely written motion showing good cause why the reference was not listed. *See* Order No. 2 at 9-10.
4. Address under what circumstances, if any, the Commission should consider a reference that was not submitted in accordance with an ALJ's ground rule.
5. Address the similarities and differences, if any, between U.S. Patent No. 6,725,321 to Alan Welsh Sinclair *et al.* (RX-628) and its corresponding Patent Cooperation Treaty publication, WO 00/49488 ("the Sinclair PCT publication") (RX-1038 – rejected by ALJ) and whether the Sinclair PCT publication invalidates claim 17 of the '424 patent. Please cite record evidence and any relevant legal authority to support your position.

On September 3, 2009, the parties filed written submissions on the issues under review, remedy, the public interest and bonding. On September 14, 2009, the parties filed response submissions on the same issues.

For the reasons discussed below, the Commission affirms the ID's determination of no violation of section 337. Specifically, we affirm the ID's finding that Complainant has failed to prove that Respondents indirectly infringe asserted claims 17, 24 and 30 of the '424 patent. In

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other words, Complainant's proffered evidence falls short of establishing that Respondents either contribute to, or induce infringement of, the asserted claims of the '424 patent. The Commission affirms the ID's construction of the claim term "updating pages of original data within any of the metablock component blocks less than all the pages within the block" in claim 17 of the '424 patent to mean "updating fewer than all the pages of a block within the metablock," but reverses the ID's application of the claim construction to exclude single-page updates. The Commission also finds that the "reading and assembling" claim term recited in independent claim 20, from which asserted claims 24 and 30 depend, is not limited to the so-called reverse-read method, but rather construes the term to cover the so-called table method as described in Figure 12 of the '424 patent. Finally, because the Commission finds no section 337 violation due to Complainant's failure to prove that Respondents indirectly infringe the asserted claims of the '424 patent, the Commission does not decide the issue of whether the ALJ should have considered the Sinclair PCT publication as evidence of prior art to claim 17 of the '424 patent.

B. Patents and Technology at Issue

This investigation pertains to flash memory controllers, drives, memory cards, and media players and products containing same. Flash memory signifies a non-volatile memory system, for example, a USB flash drive. The term "non-volatile" refers to the fact that flash memory retains the information stored on it, even in the absence of electrical power, making flash memory useful as a portable storage device. In contrast, most personal computers utilize a memory drive (Random Access Memory or RAM) that loses the information stored on it in the absence of electrical power.

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The '424 patent, entitled "Partial Block Data Programming and Reading Operations in a Non-Volatile Memory," issued on July 13, 2004, to Kevin M. Conley. SanDisk owns the '424 patent and has asserted independent claim 17 as well as dependent claims 24 and 30, depending from independent claim 20, in this investigation. The asserted claims cover two categories of inventions. Claim 17 discloses an allegedly novel technique for updating data stored in the component blocks of a metablock, while claims 24 and 30 disclose an allegedly novel method for performing partial block updates to data stored in a non-volatile memory system.

The '011 patent, entitled "Removable Mother/Daughter Peripheral Card," issued on November 14, 2006, to Eliyahou Harari, Daniel C. Guterman and Robert F. Wallace. SanDisk owns the patent and has asserted only independent claim 8 in this investigation. Claim 8 discloses an allegedly novel non-volatile memory card that incorporates a flash memory array in an enclosure and that is removably attached to a host system. The memory card is allegedly designed to provide "security with portability." Unlike prior art systems, SanDisk asserts that the memory card recited in claim 8 stores both a decryption algorithm and encrypted user data in the flash memory array so that they can be read out for use together.

C. Products at Issue

The accused products fall into two general categories: (1) Flash memory controllers, and (2) products or systems containing Flash memory controllers, generally referred to as Flash memory systems. Specifically, SanDisk asserted the '424 patent against particular controllers manufactured by certain respondents, as well as against Flash memory systems imported and sold

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by certain respondents that incorporate the accused controllers.² With respect to the '011 patent, SanDisk accused various products manufactured by Imation of infringement.³

II. STANDARD OF REVIEW

Under the Administrative Procedure Act, upon review of the initial determination of the ALJ, “the agency has all of the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.” 5 U.S.C. § 557(b) (*quoted in Certain Acid-Washed Garments and Accessories*, Inv. No. 337-TA-324 (U.S.I.T.C. Aug. 6, 1992)); 19 C.F.R. § 210.45(c). In other words, once the Commission decides to review the decision of the ALJ, the Commission may conduct a review of the findings of fact and conclusions of law presented by the record under a *de novo* standard.

III. CLAIM CONSTRUCTION

A. Legal Standard

Claim construction “begin[s] with and remain[s] centered on the language of the claims themselves.” *Storage Tech. Corp. V. Cisco Sys., Inc.*, 329 F.3d 823, 830 (Fed. Cir. 2003). That is, the words of the claims “define the scope of the patented invention.” *Vitronics Corp. v. Conceptoronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). Claims should be given their ordinary and customary meaning as understood by a person of ordinary skill in the art, viewing the claim

² For a detailed list of accused controllers, representative controllers and system products, see ID at pages 19-21.

³ For a detailed list of Imation products accused of infringing claim 8 of the '011 patent, see the ID at page 20.

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terms in the context of the entire patent. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312-13 (Fed. Cir. 2005) (*en banc*). In construing claims, a court looks first to the intrinsic evidence, which consists of the language of the claims, the patent's specification, and the prosecution history, as such evidence "is the most significant source of the legally operative meaning of disputed claim language." *Vitronics*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). The claims themselves, however, "provide substantial guidance as to the meaning of particular claim terms." *Phillips*, 415 F.3d 1303, 1314 (Fed. Cir. 2005). In addition, it is essential to consider a claim as a whole when construing each term, because the context in which a term is used in a claim "can be highly instructive." *Id.*

When the meaning of a claim term remains uncertain, the specification is usually the first and best place to look, aside from the claim itself, in order to find that meaning. *Phillips*, 415 F.3d at 1315. The specification of a patent "acts as a dictionary" both "when it expressly defines terms used in the claims" and "when it defines terms by implication." *Vitronics*, 90 F.3d at 1582; *Phillips*, 415 F.3d at 1323. "The construction that stays true to the claim language and most naturally aligns with the patent's description of the invention will be, in the end, the correct construction." *Phillips*, 415 F.3d at 1316. However, a court may not read particular examples or embodiments discussed in the specification into the claims as limitations. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995).

Differences between claims may be helpful in understanding the meaning of claim terms. *Phillips*, 415 F.3d at 1314. A claim construction that gives meaning to all the terms of a claim is preferred over one that does not do so. *Merck & Co. v. Teva Pharms. USA, Inc.*, 395 F.3d 1364,

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1372 (Fed. Cir. 2005). In addition, the presence of a specific limitation in a dependent claim raises a presumption that the limitation is not present in the independent claim. *Phillips*, 415 F.3d at 1315. This presumption of claim differentiation is especially strong when the only difference between the independent and dependent claim is the limitation in dispute. *SunRace Roots Enter. Co., v. SRAMCorp.*, 336 F.3d 1298, 1303 (Fed. Cir. 2003).

“[I]n context, the plural can describe a universe ranging from one to some higher number, rather than requiring more than one item.” *Versa Corp. v. Ag-Bag Int’l Ltd.*, 392 F.3d 1325, 1330 (Fed. Cir. 2004) (stating that “the use of ‘channels’ in the plural does not imply that multiple channels are required by the claim.”); *Dayco Prods. v. Total Containment, Inc.*, 258 F.3d 1317, 1328 (Fed. Cir. 2001) (noting that “[i]n the phrase ‘projections with recesses therebetween,’ the use of ‘recesses’ can be understood to mean a single recess where there are only two projections and more than one recess where there are three or more projections” and that “in the present context, if the patentees had wanted to require an insert means with more than one recess, it would have been natural to limit the claimed invention to an insert means with a ‘plurality of recesses.’”)

B. Claim Construction of the ’424 Patent

The Commission determined to review the claim construction of claims 17, 24 and 30 of the ’424 patent. Specifically, the Commission determined to review whether the claim term “updating pages of original data within any of the metablock component blocks less than all the pages within the block” recited in claim 17 should be construed to cover single-page updates. The Commission also decided to review whether the claim term “reading and assembling data from

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the first and second plurality of pages” as recited in claim 20 of the ’424 patent should be construed to cover the so-called table method as described in Figure 12 of the ’424 patent.

1. Construction of the claim term “updating pages of original data within any of the metablock component blocks less than all the pages within the block” recited in asserted claim 17

Claim 17 of the ’424 patent with emphasis on the claim term at issue is set forth below:

17. A method of operating a non-volatile memory system having an array of memory storage elements organized into at least two sub-arrays, wherein the individual sub-arrays are divided into a plurality of non-overlapping blocks of storage elements wherein a block contains the smallest group of memory storage elements that are erasable together, and the individual blocks are divided into a plurality of pages of storage elements wherein a page is the smallest group of memory storage elements that are programmable together, comprising:

linking at least one block from individual ones of said at least two sub-arrays to form a metablock wherein its component blocks are erased together as a unit, and

updating pages of original data within any of the metablock component blocks less than all the pages within the block by programming replacement data into pages within another at least one block in only a designated one of the sub-arrays regardless of which sub-array the data being updated is stored.

The ALJ adopted the claim construction agreed to by the parties, including the IA, and construed the claim term “updating pages of original data within any of the metablock component blocks less than all the pages within the block” to mean “updating fewer than all the pages of a block within the metablock” in his *Markman* Order. Order No. 33 at 57. We find that the ALJ improperly applied his *Markman* claim construction to exclude single-page updates, and thus, despite affirming the ALJ’s claim construction, we reverse his application of the construction to exclude single page updates.

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Although claim construction issues normally present some uncertainty, the parties in this investigation agreed to a construction of the claim term during the *Markman* hearing, and the ALJ adopted that construction. The parties agreed to construe the claim term “updating pages of original data within any of the metablock component blocks less than all the pages within the block” to mean “updating fewer than all the pages of a block within the metablock.” This claim construction on its face includes single-page updates because updating a single-page necessarily updates “fewer than all the pages.” *See* Rhyne, Tr. 409:2-4 (noting that “one page is fewer than all the pages”). Nothing from case law or the patent disclosure dictates deviating from this understanding.

Federal Circuit precedent makes clear that “in context, the plural can describe a universe ranging from one to some higher number, rather than requiring more than one item.” *Versa*, 392 F.3d at 1330.⁴ Consequently, the use of the word “pages” does not necessarily compel construing

⁴ Respondents cite *Electro Scientific Indus., Inc. v. Dynamic Details, Inc.*, 307 F.3d 1343, 1349-50 (Fed. Cir. 2002), and *Superior Fireplace Co. v. Majestic Products Co.*, 92 F.Supp.2d 1001, 1010 (Cal. 2002), for the proposition that the general rule in claim construction is that the plural form requires more than one. In our view, Respondents mis-describe the courts’ holdings. In *Electro Scientific*, the Federal Circuit explained its rationale behind construing the claim term “circuit boards” to require multiple circuit boards as follows:

To determine the meaning of “circuit boards,” this court begins with the claim language. The preamble defines “circuit boards” as “at least first and second substantially identical boards” References throughout the rest of the claim to “circuit boards” rely upon and derive antecedent basis from this preamble language. Therefore, this preamble definition limits the term “circuit boards” throughout the claim.

Id. at 1348. In other words, the context of the claim, reciting “*at least first and second substantially identical boards*”(emphasis added) dictated that the claimed “circuit boards”

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the claim term to exclude single-page updates. The context in which the word “pages” is employed should dictate its scope. The ALJ acknowledged Federal Circuit law but concluded that the context of claim 17 did not warrant construing “pages” to encompass single-page updates. ID at 46. The ALJ reasoned that “[t]he plain meaning of the term ‘pages’ clearly indicates more than one page” and found “no indication within the specification that the patentees intended the word ‘pages’ to indicate anything other than the plain and ordinary meaning of the term ‘pages.’” *Id.* The ALJ noted that “[w]hile there may be a reference in the ‘Summary of the invention’ that the metablock is ‘particularly useful when the memory system frequently updates single pages from a metablock,’ the claim specifically refers to pages” and that “the example in the preferred embodiment refers to multiple pages.” *Id.*

We find that the ALJ impermissibly allowed an embodiment disclosed in the specification to limit the claim term. *See Markman*, 52 F.3d at 979. While the ’424 patent includes an embodiment that recites multiple-page updates, the ’424 patent’s disclosure specifically states that “this technique is particularly useful when the memory system frequently updates *single* pages from a metablock.” ’424 patent, col. 3, ll. 19-26 (emphasis added). In other words, the patent contemplates single-page updates. Moreover, claim 17 as a whole compels the understanding that

included at least two boards. Thus, the Federal Circuit construed the claim term to require multiple circuit boards.

In *Superior Fireplace*, the claim at issue specifically recited “. . . a housing having a top wall, bottom wall, side walls and a rear wall . . .” (Emphasis added). The claim also recited “a firebox within the housing comprising the top wall, rear walls and side walls . . .” (Emphasis added). The court stated that the claim term “rear walls” required at least two walls because of the context in which in the claim term was used. That is, the patentee used the singular (a rear wall) when he intended the singular, and used the plural (rear walls) when he intended the plural.

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“pages” as used in that context should encompass single pages. For example, in its preamble, claim 17 states that “the individual sub-arrays are divided into *a plurality of* non-overlapping blocks of storage elements” and that “the individual blocks are divided into *a plurality of* pages of storage elements” (emphasis added). That is, when the patentee wanted to limit the scope of the invention to “plurals,” he used the qualifier “plurality of.” As the Federal Circuit has noted, such use of the qualifier “plurality of” indicates that when the qualifier is not used, the claim term should not be limited to the plural. *Dayco Prods. v. Total Containment, Inc.*, 258 F.3d 1317, 1328 (Fed. Cir. 2001) (stating that “indeed, in the present context, if the patentee had wanted to require an insert means with more than one recess, it would have been natural to limit the claimed invention to an insert means with a ‘plurality of recesses.’”).

In sum, the claim language as a whole, the specification, and Federal Circuit precedent compel construing the claim term “updating pages of original data within any of the metablock component blocks less than all the pages within the block” to mean “updating fewer than all the pages of a block within the metablock” and specifically including single-page updates. Accordingly, although we affirm the ALJ’s claim construction, we reverse his application of the claim construction to exclude single-page updates.

2. Construction of claim term “reading and assembling” recited in independent claim 20 from which asserted claims 24 and 30 depend

Claims 24 and 30 depend from independent claim 20, which was not asserted in the investigation. The disputed claim term the Commission determined to review, however, resides within claim 20. Thus, claim 20 of the ’424 patent with emphasis on the claim term at issue is set forth below:

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20. In a re-programmable non-volatile memory system having a plurality of blocks of memory storage elements that are erasable together as a unit, the plurality of blocks individually being divided into a plurality of a given number of pages of memory storage elements that are programmable together, a method of operating the memory system, comprising:

programming individual ones of a first plurality of said given number of pages in each of at least a first block with original data and a logical page address associated with the original data,

thereafter programming individual ones of a second plurality of a total number of pages less than said given number in a second block with updated data and a logical page address associated with the updated data, wherein the logical page addresses associated with the updated data programmed into the second plurality of pages are the same as those associated with the original data programmed into the first plurality of pages, and

thereafter **reading and assembling** data from the first and second plurality of pages including, for pages having the same logical addresses, selecting the updated data from the pages most recently programmed and omitting use of the original data from the pages earlier programmed.

We find that the ALJ's claim construction improperly limits the scope of the claim term "reading and assembling" to one embodiment (reverse-read method) disclosed in the '424 patent while ignoring a second embodiment (table method) disclosed in the patent. Accordingly, we reverse the ALJ's claim construction and find that the claim term "reading and assembling" encompasses both the reverse-read and table methods.

Even though reliance may be placed on the written specification to provide guidance as to the meaning of claim terms when construing patent claims, a court may not read particular examples or embodiments discussed in the specification into the claims as limitations. *Markman*, 52 F.3d 967, 979 (Fed. Cir. 1995). The '424 patent describes two distinct embodiments, a reverse-read method and a table method. *See* '424 patent, col. 9, l. 54 - col. 10, l. 43; col. 10, ll.

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44-59. As SanDisk notes, the reverse-read method “enables a controller to distinguish new data (stored in an update block) from old data (stored in an original block) by reading the pages of memory in the two blocks in the reverse of the order in which they were programmed.” SanDisk Petition for Review at 47 (citing ’424 patent, col. 9, l. 54 - col. 10, l. 43). The patent also describes a second embodiment, the table method, which “can be used . . . when the reverse page reading technique is not used.” ’424 patent, col. 10, ll. 54-55. SanDisk explains that under this method “the controller maintains a table that maps the correspondence between a given logical address and the physical address in the memory where the associated data is stored” and “when the host provides the controller with a particular logical address . . . the controller checks the table so (sic) see whether that logical address is associated with an update block, or only an original block.” SanDisk Petition for Review at 48. If an updated block exists “then the controller will select the updated page and omit the original page.” *Id.* In other words, under this technique, the controller does not read logical page address information from both the first and second plurality of pages.⁵

The claim term at issue specifically recites, “thereafter reading and assembling *data* from the first and second plurality of pages including, for pages having the same logical addresses, selecting the updated data from the pages most recently programmed and omitting use of the

⁵ We note that while the controller does not read logical page address information from both the first and second plurality of pages, the table is “constructed by reading the overhead data from each of the pages in blocks to which data of a common LBN [logical block number] has been written.” ’424 Patent, col. 10, ll. 51-53. The ALJ construed the claim term “logical page address” as requiring “a logical block number and a logical page offset.” *See* Order No. 33 at 63-64.

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original data from the pages earlier programmed” (emphasis added). The plain meaning of the claim indicates that “reading and assembling” pertains primarily to data, not to logical page addresses, and the specification provides two techniques that may be used to “read and assemble” the data. Nothing in the claim language or specification indicates or even suggests that “reading and assembling” should be limited to the reverse-read method, and Respondents do not point to any disclosure in the intrinsic evidence as supporting such a proposition. They merely rely on their proposed findings of fact, rebutted by SanDisk, for support. *See* Respondents Reply to Petitions for Review at 27 (citing RFF 4230-4233); *but see* CRRFF 4230A-E.

The doctrine of claim differentiation lends further support. Claim 22, which depends from claim 20, specifically recites “reading the first and second plurality of pages in an order that is reverse to an order in which they were programmed.” That is, dependent claim 22 is drawn to the reverse-read method. As the Federal Circuit has explained, the presence of a specific limitation in a dependent claim raises a presumption that the limitation is not present in the independent claim. *Phillips*, 415 F.3d at 1315. We therefore find that the ALJ should not have limited the scope of claim 20 to the reverse-read method.

Finally, we find unpersuasive Respondents’ contention that SanDisk did not raise the argument that the ALJ’s claim construction fails to cover the table method until its petition for review. *See* Respondents’ Submission in Response to the Commission’s Notice of Review at 23. In discussing SanDisk’s arguments, the ALJ stated that “SanDisk also counters Phison’s attempt to limit claim 24 to a system that reads the logical page addresses stored in the superseded pages of an original block as an attempt to improperly limit the scope of the claim to a ‘reverse read.’”

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ID at 78. The ALJ noted that “SanDisk argues that claims 20, 24 and 30 are not limited to the “reverse read” technique, based on the doctrine of claim differentiation.” *Id.* In other words, the ALJ clearly considered this argument prior to issuing his ID. Because the ALJ’s claim construction impermissibly excludes the table method as described in Figure 12 of the ’424 patent from the scope of the claim, we reverse the ALJ’s claim construction.

IV. INFRINGEMENT ANALYSIS

A. Legal Standard

1. Direct Infringement

After construing the claims of the patent, a factual determination must be made as to whether the properly construed claims read on the accused devices. *Markman*, 52 F.3d at 976. Direct infringement of a method claim requires a party to perform each and every step of a claimed method. *Joy Techs., Inc. v. Flakt, Inc.*, 6 F.3d 770, 773 (Fed. Cir. 1993). In a section 337 investigation, the complainant bears the burden of proving infringement of the asserted patent claims by a “preponderance of the evidence.” *Enercon GmbH v. Int’l Trade Comm’n*, 151 F.3d 1376 (Fed. Cir. 1998).

2. Indirect Infringement

Accused infringers may be liable for indirect infringement if they induce or contribute to infringement. “Indirect infringement, whether inducement to infringe or contributory infringement, can only arise in the presence of direct infringement.” *Dynacore Holdings Corp. v. U.S. Philips Corp.*, 363 F.3d 1263, 1272 (Fed. Cir. 2004).

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Section 271(b) of the Patent Act states that “[w]hoever actively induces infringement of a patent shall be liable as an infringer,” and the Federal Circuit has explained that

[t]o establish liability under section 271(b), a patent holder must prove that once the defendants knew of the patent, they “actively and knowingly aid [ed] and abett[ed] another’s direct infringement.” However, “knowledge of the acts alleged to constitute infringement” is not enough. The “mere knowledge of possible infringement by others does not amount to inducement; specific intent and action to induce infringement must be proven.”

DSU Med. Corp. v. JMS Co., 471 F.3d 1293, 1305 (Fed. Cir. 2006) (*en banc*) (citations omitted).

Under 35 U.S.C. § 271(c), a seller of a component of an infringing product can be held liable for contributory infringement if: (1) there has been an act of direct infringement by a third party; (2) the accused contributory infringer knows that the combination for which its component was made was both patented and infringing; and (3) there are no substantial non-infringing uses for the component part, *i.e.*, the component is not a “staple article” of commerce. *Cross Med. Prods., Inc. v. Medtronic Sofamor Danek, Inc.*, 424 F.3d 1293, 1312 (Fed. Cir. 2005); *Certain Flash Memory Circuits and Products Containing Same*, Inv. No. 337-TA-382, Commission Opinion at 9-10 (July 1997).

B. Infringement Analysis of Asserted Independent Claim 17

After construing the claim term “updating pages of original data within any of the metablock component blocks less than all the pages within the block” to mean “updating fewer than all the pages of a block within the metablock,” the ALJ found that the accused Phison controllers did not infringe claim 17 exclusively because [

] ID at 47 (stating that “[t]here is no

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disagreement among the parties that if the claim is interpreted in this manner [

] that Phison’s controllers do not infringe.”). As we discussed *supra* at III.B.1., the ALJ erred in his application of his construction of the claim term. The plain meaning of the claim term, in conjunction with the specification and case law, establishes that the claim covers single-page updates.

We find that the accused Phison controllers can be used to infringe method claim 17.⁶

Experts for both SanDisk and Respondents testified that [

] Subramanian, Tr. 1208:18–1209:5 [

] Rhyne, Tr. 416:2–417:2 [

]

SanDisk, however, does not argue that the accused Phison controllers directly infringe claim 17. Complainant SanDisk Corporation’s Written Submission On The Issues Under Review at 6. Instead, SanDisk accuses Phison of indirectly infringing claim 17 because, allegedly, “Phison intends for its products to be used in a manner that includes single-page updates” and that “there is no substantial non-infringing use for those parts.” *Id.* We disagree with SanDisk and affirm the ALJ’s determination that SanDisk failed to prove by a preponderance of the evidence

⁶ Because we affirm the ALJ’s finding of non-infringement on other grounds, we terminate the investigation without considering Respondents’ [] (see, e.g., Respondents Reply to SanDisk and Staff’s Petition for Review at 14). See *Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984) (acknowledging that “[t]he Commission . . . is at perfect liberty to reach a “no violation” determination on a single dispositive issue.”).

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that the accused Phison controllers either contribute to or induce infringement of claim 17 of the '424 patent.

SanDisk asserted in its petition for review that upon finding that the accused products did not directly infringe the '424 patent, the ALJ “dismissed summarily the allegations of indirect infringement” and by so doing committed “fundamental errors of law and fact with respect to both contributory infringement and inducement to infringe.” SanDisk Petition for Review at 56, 63. We find SanDisk’s assertion unpersuasive. Rather, even after concluding that the accused products did not directly infringe, the ALJ considered the other factors necessary to prove indirect infringement and found that SanDisk had failed to present enough evidence to sustain its allegations. *See* ID at 90-95.

With respect to contributory infringement, the record evidence supports the ALJ’s finding that the accused Phison controllers do not contribute to infringement of the '424 patent. In particular, the undisputed evidence of record shows that the ALJ did not err in finding that the accused products have substantial non-infringing uses. ID at 94. Indeed, experts for both SanDisk and Respondents acknowledged the existence of substantial non-infringing uses. Subramanian, Tr. 1206: 18-1207:6 (testifying that “there are some usages of flash systems where we don’t rewrite to them, for example, for handing out books on flash. . . . And it turns out that’s getting more common because there are many examples today of flash being used as a distribution-only medium.”); Rhyne, Tr. 427:14-22 (stating that the only non-infringing use of the accused products “would be if you used them as essentially a memory that once you had stored

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data in it, you never did an update . . .”).⁷ We find no error in the ALJ’s conclusion that the record evidence established the presence of substantial non-infringing uses, and hence we affirm his determination that SanDisk failed to establish, by a preponderance of the evidence, contributory infringement.

Concerning inducement to infringe, the ALJ correctly found that “SanDisk failed to establish that Respondents knowingly induced infringement or possessed specific intent to encourage another’s infringement, and thus the evidence falls short of the necessary intent required for induced infringement.” ID at 92-93. “Inducement requires evidence of culpable conduct, directed to encouraging another’s infringement, not merely that the inducer had knowledge of the direct infringer’s activities.” *DSU*, 471 F.3d at 1306. We find that the ALJ correctly found SanDisk’s circumstantial evidence of inducement insufficient. ID at 92-93. The circumstantial evidence presented by SanDisk was the fact that Respondents [

] *Id.* The Federal

Circuit found such evidence to be insufficient in *Kyocera Wireless Corp. v. International Trade Commission*, 545 F.3d 1340,1353 (Fed. Cir. Oct. 14, 2008). There, the Federal Circuit stated that

the ITC’s conclusion that “Qualcomm [the accused infringer] intends to induce infringement because it provides its customers with the system determination code” evinces, at most, a finding that Qualcomm generally intended to cause acts that produced infringement. Thus, the current record falls short of the necessary

⁷ Dr. Rhyne’s testimony specifically concerns asserted claims 24 and 30 of the ’424 patent. The testimony, however, is also relevant to asserted claim 17 of the ’424 patent.

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intent showing for inducement – that Qualcomm possessed a specific intent to cause infringement of Broadcom’s patent.

545 F.3d at 1354. We note that the evidence SanDisk relies on in this investigation is no more probative of inducement than the evidence that was found insufficient in *Kyocera*. As in *Kyocera*, SanDisk failed to show that Respondents possessed a specific intent to cause infringement of the ’424 patent. Accordingly, we affirm the ALJ’s determination that SanDisk failed to prove indirect infringement.

C. Infringement Analysis of Asserted Dependent Claims 24 and 30

As discussed above, we have construed the claim term “reading and assembling” to include the so-called “table method.” However, we affirm the ALJ’s construction and application of the other terms in the claim. *See generally* Order No. 33 at 61-65. Consequently, the only accused product that would be implicated by our decision to modify the ALJ’s construction of “reading and assembling” to cover the table method is [] because the ALJ’s construction of the claim term provided the only basis for his finding of no direct infringement with respect to that controller. *See* ID at 49-50, 56-57, 69-73, 80. *See also* Complainant SanDisk Corporation’s Written Submission On The Issues Under Review at 9-10. Specifically, the ALJ found that [

] ID at 80. We note that the ALJ properly found that the other accused controllers did not infringe due in part to his construction of other terms in the asserted claims and his finding that the other accused products did not practice those other claim terms. *See* ID at 57-60, 67-73, 80-85.

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Although we construe the claim term “reading and assembling” to encompass the table method, SanDisk must still prove that [] infringes the claim term when construed to cover the table method.⁸ SanDisk has failed to do so. SanDisk argues that “under the table method, the controller does not read logical page address information from the pages at all. Rather, it relies on the logical page address information in the table during the reading and assembling step.” SanDisk’s Petition for Review at 48 (emphasis omitted). Nothing in the record evidence, however, [

[] Indeed SanDisk’s own theory of infringement [] involves [

[] SanDisk’s Initial Post-Hearing Brief at 88. SanDisk argues that [

[] (CFF 32.14)” and that [

[] (CFF 32.15).” *Id.*; *see also*, Respondents’ Submission In Response To The Commission’s Notice Of Review. That is, SanDisk’s theory of infringement requires [

[] which SanDisk has admitted does not occur under the table method. Thus, SanDisk has failed to prove that the [] practices the claim.

⁸ The ALJ did not consider whether the accused products practiced the table method because of his finding that the table method was outside the scope of the claim term.

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In addition, we affirm the ALJ's finding of no infringement because SanDisk failed to prove that the accused products, including the Phison CF/SSD controller, indirectly infringe claims 24 and 30 of the '424 patent. ID at 90-94. The ALJ correctly noted that the

asserted claims [of the '424 patent] are all "method of use" claims where the accused flash memory system and controllers themselves do not infringe. Because the accused systems must be operated in a particular manner in order to infringe these claims, liability as to the Respondents can only be based on induced or contributory infringement.

ID at 95. Our discussion of no indirect infringement, *supra* at IV.B.2, applies here as well.

V. Sinclair PCT Publication

During the investigation, Respondents argued that U.S. Patent No. 6,725,321 ("the '321 patent") to Alan Welsh Sinclair *et al.* and its corresponding Patent Cooperation Treaty ("PCT") publication, WO 00/49488 ("the Sinclair PCT publication") invalidated claim 17 of the '424 patent. *See* ID at 106. The Sinclair '321 patent, which issued on April 20, 2004, has an effective filing date under 35 U.S.C. § 102(e)⁹ of March 5, 2001. *Id.* at 108. This date is after the January 19, 2001, filing date of the '424 patent and therefore the ALJ correctly found that the '321 patent does not qualify as prior art to the '424 patent. *Id.* The '321 patent, however, includes a reference to the Sinclair PCT publication on its cover page. The Sinclair PCT publication was published on

⁹ 35 U.S.C. § 102(e) states that a person shall not be entitled to a patent unless the invention was described in — (1) an application for patent published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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August 4, 2000, and therefore is prior art to the '424 patent under § 102(a).¹⁰ ID at 108. Although respondents listed the '321 patent on their notices of prior art, they failed to list the Sinclair PCT publication, and none of the other parties listed the Sinclair PCT publication. *Id.* The ALJ ruled that because the Sinclair PCT publication was not listed in any notice of prior art, pursuant to Ground Rule 5,¹¹ it was excluded from the investigation. *Id. See also* Pre-Hearing Tr. 26:6-8. The ALJ acknowledged that “[h]ad one of the parties listed the Sinclair PCT application on the notice of prior art, there would be no dispute that the Sinclair PCT application would be considered prior art to the '424 patent.” *Id.*

In our notice of review we stated that we would review the ALJ’s decision not to consider the Sinclair PCT publication as evidence of prior art to claim 17 of the '424 patent and asked the parties to submit written responses to several questions. 74 *Fed. Reg.* 44382 (Aug. 28, 2009). Generally, an ALJ has discretion to establish and enforce ground rules for the proper administration of an investigation. *See* Administrative Procedure Act, 5 U.S.C. § 556(c). We acknowledge that the publication was not submitted in accordance with Judge Bullock’s ground rules in that Respondents failed to list it in their notices of prior art, and we find no abuse of discretion in his ruling to exclude it from the investigation. However, because we find no

¹⁰ 35 U.S.C. § 102(a) states that “a person shall be entitled to a patent unless . . . the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent.”

¹¹ Ground Rule No. 5 states that the parties “must file on or before the date set in the procedural schedule, notices of any prior art consisting of the following information: country, number, date, and name of the patentee of any patent; the title, date and page numbers of any publication to be relied upon as anticipation of the patent in suit; or as showing the state of the art . . .” Order No. 2 at 9. The ground rule adds that “in the absence of such notice, proof of the said matters may not be introduced into evidence at the trial except upon a timely written motion showing good cause.” *Id.* at 10.

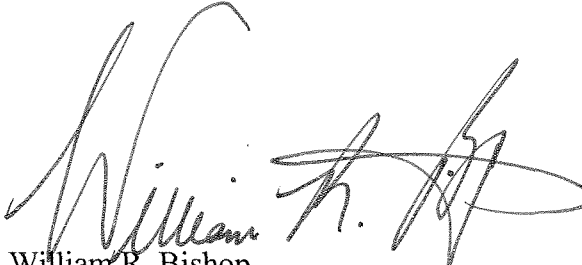
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infringement of the '424 patent, we decline to reach the issue of invalidity. See *Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984) (acknowledging that “[t]he Commission . . . is at perfect liberty to reach a “no violation” determination on a single dispositive issue.”).

VI. CONCLUSION

For the reasons discussed herein, the Commission affirms the ID’s determination of no violation of section 337. Specifically, we affirm the ID’s finding that Complainant has failed to prove that Respondents indirectly infringe asserted claims 17, 24 and 30 of the '424 patent. The Commission affirms the ID’s construction of the claim term “updating pages of original data within any of the metablock component blocks less than all the pages within the block” in claim 17 of the '424 patent to mean “updating fewer than all the pages of a block within the metablock,” but reverses the ID’s application of the claim construction to exclude single-page updates. The Commission also finds that the ID impermissibly limited the “reading and assembling” claim term of independent claim 20, from which asserted claims 24 and 30 depend, to the so-called “reverse-read method.” The ID should have construed the claim term to cover the so-called table method as well. Finally, because we find no section 337 violation due to SanDisk’s failure to prove that Respondents indirectly infringe the asserted claims of the '424 patent, we do not reach the issue of whether the ALJ should have considered the Sinclair PCT publication as evidence of prior art to claim 17 of the '424 patent.

By order of the Commission.


William R. Bishop
Acting Secretary to the Commission

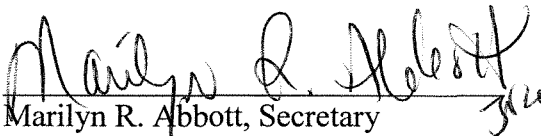
Issued: November 24, 2009

**CERTAIN FLASH MEMORY CONTROLLERS, DRIVES,
MEMORY CARDS, AND MEDIA PLAYERS AND PRODUCTS
CONTAINING SAME**

337-TA-619

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **COMMISSION OPINION** has been served by hand upon the Commission Investigative Attorney, Christopher G. Paulraj, Esq., and the following parties as indicated, on
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PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN FLASH MEMORY CONTROLLERS,
DRIVES, MEMORY CARDS AND MEDIA
PLAYERS, AND PRODUCTS CONTAINING SAME**

Inv. No. 337-TA-619

**INITIAL DETERMINATION ON VIOLATION OF SECTION 337 AND
RECOMMENDED DETERMINATION ON REMEDY AND BOND**

Administrative Law Judge Charles E. Bullock

(April 10, 2009)

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LIST OF ABBREVIATIONS

CDX	Complainant's demonstrative exhibit
CFF	Complainant's proposed findings of fact
CIB	Complainant's initial post-hearing brief
CORFF	Complainant's objections to Respondents' proposed findings of fact
COSFF	Complainant's objections to Staff's proposed findings of fact
CPX	Complainant's physical exhibit
CRB	Complainant's reply post-hearing brief
CX	Complainant's exhibit
Dep	Deposition
IIB	Imation's initial post-hearing brief
IRB	Imation's reply post-hearing brief
JX	Joint Exhibit
RDX	Respondents' demonstrative exhibit
RFF	Respondents' proposed findings of fact
RIB	Respondents' initial post-hearing brief
ROCF	Respondents' objections to Complainant's proposed findings of fact
ROSFF	Respondents' objections to Staff's proposed findings of fact
RPX	Respondents' physical exhibit
RRB	Respondents' reply post-hearing brief
RX	Respondents' exhibit
SFF	Staff's proposed findings of fact
SIB	Staff's initial post-hearing brief
SOCFF	Staff's objections to Complainant's proposed findings of fact
SORFF	Staff's objections to Respondents' proposed findings of fact
SRB	Staff's reply post-hearing brief
Tr.	Transcript

PUBLIC VERSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN FLASH MEMORY CONTROLLERS,
DRIVES, MEMORY CARDS AND MEDIA
PLAYERS, AND PRODUCTS CONTAINING SAME**

Inv. No. 337-TA-619

**INITIAL DETERMINATION ON VIOLATION OF SECTION 337 AND
RECOMMENDED DETERMINATION ON REMEDY AND BOND**

Administrative Law Judge Charles E. Bullock

(April 10, 2009)

Pursuant to the Notice of Investigation and Rule 210.42(a) of the Rules of Practice and Procedure of the United States International Trade Commission, this is the Administrative Law Judge's Initial Determination in the matter of certain flash memory controllers, drives, memory cards and media players, and products containing same, Investigation No. 337-TA-619.

The Administrative Law Judge hereby determines that a violation of Section 337 of the Tariff Act of 1930, as amended, has not been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain flash memory controllers, drives, memory cards, and media players and products containing same, in connection with claims 17, 24, and 30 of U.S. Patent No. 6,763,424 and claim 8 of U.S. Patent No. 7,137,011. Furthermore, the Administrative Law Judge hereby determines that a domestic industry in the United States exists that practices U.S. Patent Nos. 6,763,424 and 7,137,011.

DISCUSSION

I. Introduction

A. Procedural History

This investigation was instituted by the Commission on December 6, 2007 and the notice of investigation was published in the Federal Register on December 12, 2007.¹ The Administrative Law Judge set a fifteen-month target date of March 12, 2009 for completion of this investigation by the Commission in Order No. 2.²

On January 4, 2008 certain Respondents filed a motion for a modification of the target date from fifteen months to eighteen months based on a request for a *Markman* hearing. The undersigned determined that a *Markman* hearing would be beneficial to this investigation and the motion was granted by initial determination in Order No. 6, extending the target date to eighteen months or June 12, 2009.³ The Commission issued a notice of determination not to review this initial determination on February 8, 2008.

On February 1, 2008, the undersigned issued the procedural schedule in this investigation.⁴ This procedural schedule was modified on July 15, 2008⁵ and September 22, 2008.⁶

On January 7, 2008, SanDisk and Respondent Kaser Corporation, filed a joint motion to terminate the investigation as to Kaser based upon a settlement agreement and consent order. On February 13, 2008, the undersigned issued an initial determination granting the joint motion and

¹ See 72 Fed. Reg. 70,610.

² See Order No. 2 (December 13, 2007).

³ See Order No. 6 (January 23, 2008).

⁴ See Order No. 8 (February 1, 2008).

⁵ See Order No. 34 (July 15, 2008).

⁶ See Order No. 41 (September 22, 2008).

terminated Kaser from the investigation.⁷ On March 5, 2008, the Commission issued a notice of determination not to review this initial determination.

On January 10, 2008, SanDisk and Respondent PNY Technologies, Inc. filed a joint motion to terminate the investigation as to PNY based upon a settlement agreement and consent order. On February 13, 2008, the undersigned issued an initial determination granting the joint motion and terminated PNY from the investigation.⁸ On March 5, 2008, the Commission issued a notice of determination not to review this initial determination.

On January 7, 2008, SanDisk and Respondent TSR Silicon Resources Inc. filed a joint motion to terminate the investigation as to TSR based upon a settlement agreement and consent order. On February 13, 2008, the undersigned issued an initial determination granting the joint motion and terminated TSR from the investigation.⁹ On March 5, 2008, the Commission issued a notice of determination not to review this initial determination.

On January 22, 2008, SanDisk and Respondent Infotech Logistic, LLC filed a joint motion to terminate the investigation as to Infotech based upon a settlement agreement. On February 13, 2008, the undersigned issued an initial determination granting the joint motion and terminated Infotech from the investigation.¹⁰ On March 7, 2008, the Commission issued a notice of determination not to review this initial determination.

On January 22, 2008, SanDisk and Respondent Interactive Media Corporation filed a joint motion to terminate the investigation as to Interactive based upon a settlement agreement. On

⁷ See Order No. 9 (February 13, 2008).

⁸ See Order No. 10 (February 13, 2008).

⁹ See Order No. 11 (February 13, 2008).

¹⁰ See Order No. 12 (February 13, 2008).

February 13, 2008, the undersigned issued an initial determination granting the joint motion and terminated Interactive from the investigation.¹¹ On March 7, 2008, the Commission issued a notice of determination not to review this initial determination.

On January 22, 2008, SanDisk and Respondent Edge Tech Corporation filed a joint motion to terminate the investigation as to Edge Tech based upon a settlement agreement. On February 13, 2008, the undersigned issued an initial determination granting the joint motion and terminated Edge Tech from the investigation.¹² On March 7, 2008, the Commission issued a notice of determination not to review this initial determination.

On January 30, 2008, SanDisk and Respondents Add-On Computer Peripherals, Inc. and Add-On Computer Peripherals, LLC filed a joint motion to terminate the investigation as to Add-On based upon a settlement agreement. On February 13, 2008, the undersigned issued an initial determination granting the joint motion and terminated Add-On from the investigation.¹³ On March 7, 2008, the Commission issued a notice of determination not to review this initial determination.

On February 4, 2008, SanDisk and Respondent Welldone Company filed a joint motion to terminate the investigation as to Welldone based upon a settlement agreement. On February 19, 2008, the undersigned issued an initial determination granting the joint motion and terminated Welldone from the investigation.¹⁴ On March 7, 2008, the Commission issued a notice of determination not to review this initial determination.

On February 6, 2008, Respondent USBest Technology Inc. filed a motion to amend the notice

¹¹ See Order No. 13 (February 13, 2008).

¹² See Order No. 14 (February 13, 2008).

¹³ See Order No. 15 (February 13, 2008).

¹⁴ See Order No. 16 (February 19, 2008).

of investigation to reflect a corporate name change from USBest Technology Inc to AFA Technologies, Inc.. On February 27, 2008, the undersigned issued an initial determination granting the motion.¹⁵ On March 14, 2008, the Commission issued a notice of determination not to review this initial determination.

On February 5, 2008, SanDisk and Respondents Melco Holdings, Inc., Buffalo Inc., and Buffalo Technology (USA) Inc. filed a joint motion to terminate the investigation as to these respondents based upon a consent order. On February 27, 2008, the undersigned issued an initial determination granting the joint motion and terminated these three respondents from the investigation.¹⁶ On March 25, 2008, the Commission issued a notice of determination not to review this initial determination.

On February 19, 2008, Respondents Imation Corporation, Imation Enterprises Corporation, and Memorex Products, Inc. filed a motion to stay the investigation based upon the pending Supreme Court decision in *Quanta Computer, Inc. et al. v. LG Electronics, Inc.*¹⁷ The undersigned denied this motion on March 12, 2008.¹⁸

On February 15, 2008, Respondents Phison Electronics Corp., Kingston Technology Co., Kingston Technology Corp., MemoSun, Inc., and Payton Technology Corp. filed a motion to terminate this investigation as to U.S. Patent No. 5.719,808 for good cause, or alternatively, to stay the investigation as to this patent. On March 12, 2008, the undersigned issued an order denying the motion to terminate, but granting the motion to stay the investigation as to the '808 patent. In

¹⁵ See Order No. 18 (February 27, 2008).

¹⁶ See Order No. 19 (February 27, 2008).

¹⁷ *Quanta Computer, Inc. et al. v. LG Electronics, Inc.*, – U.S. – , 128 S.Ct. 2109 (2008) (“*Quanta*”).

¹⁸ See Order No. 21 (March 12, 2008).

addition, the undersigned issued an initial determination that bifurcated the investigation and extended the target date as to the '808 patent.¹⁹ On April 11, 2008, the Commission issued a notice of determination to review this initial determination. On April 24, 2008, SanDisk filed a motion to terminate the investigation as to the '808 patent. On May 6, 2008, the undersigned issued an initial determination granting the motion to terminate the '808 patent from the investigation.²⁰ On May 30, 2008, the Commission issued a notice of determination not to review the initial determination granting the motion to terminate the '808 patent, and vacated Order No. 22.

On February 27, 2008, SanDisk filed a motion for an order to show cause and default judgment against Respondents Zotek Electronic Co. (d/b/a Zodata Technology Limited) ("Zotek"); Add-On Technology Co. ("Add-On"); Behavior Tech Computer Corp. ("BTC"); Behavior Tech Computer (USA) Corp. (d/b/a BTC USA); and Emprex Technologies Corp. ("Emprex"), based on the respondents' failure to respond to the Complaint and Notice of Investigation. On March 12, 2008, the undersigned issued an order granting the motion for an order to show cause.²¹ Upon failure of these respondents to answer the show cause order, the undersigned issued an initial determination granting the motion for an entry of default against these five respondents.²² On May 14, 2008, the Commission issued a notice of determination not to review this initial determination.

On March 6, 2008, SanDisk filed a motion to amend the notice of investigation to correct the names of certain respondents. Specifically, SanDisk moved to change the name of "Chipsbank Technology (Shenzhen) Co., Ltd." to "Chipsbank Technologies (Shenzhen) Co., Ltd.;" "Chipsbank

¹⁹ See Order No. 22 (March 12, 2008).

²⁰ See Order No. 31 (May 6, 2008).

²¹ See Order No. 24 (March 12, 2008).

²² See Order No. 28 (April 25, 2008).

Microelectronics Co., Ltd.” to “Shenzhen Chipsbank Microelectronics Co., Ltd.”; and “Dane-Elec Memory S.A.” to “Dane Memory S.A., d/b/a Dane-Elec Memory S.A.” On March 12, 2008, the undersigned issued an initial determination granting the motion.²³ On March 28, 2008, the Commission issued a notice of determination not to review this initial determination.

On April 10, 2008, SanDisk filed a motion to terminate Respondent Acer, Inc. from the investigation based upon a withdrawal of allegations from the Complaint. On April 28, 2008, the undersigned issued an initial determination granting the motion to terminate Acer from the investigation.²⁴ On May 20, 2008, the Commission issued a notice of determination not to review this initial determination.

On April 10, 2008, SanDisk filed a motion to amend the Complaint to correct several inadvertent omissions, including: amending Confidential Exhibit 110 and Appendix L to add three confidential third-party license agreements, as required by 19 C.F.R. § 210.12(c)(1), as well as a fourth confidential third-party license agreement that was executed on December 5, 2007, the day before the investigation was instituted; and to amend Section IX to add references to three additional related litigations. On April 28, 2008, the undersigned issued an order granting the motion.²⁵

A *Markman* hearing was held on May 6-7, 2008. On July 15, 2008, the undersigned issued Order No. 33: Order Construing the Terms of the Asserted Claims of the Patents at Issue.²⁶ As stated in that order, all briefing in this investigation is governed by the claim construction order and “[a]ll other claim terms shall be deemed as undisputed and shall be interpreted by the undersigned in

²³ See Order No. 25 (March 12, 2008).

²⁴ See Order No. 29 (April 28, 2008).

²⁵ See Order No. 30 (April 28, 2008).

²⁶ See Order No. 33 (July 15, 2008).

accordance with ‘their ordinary meaning as viewed by one of ordinary skill in the art.’”²⁷ On August 26, 2008, the undersigned issued a notice of errata regarding Order No. 33, replacing pages 61 and 63. Order No. 33, and the errata thereto, is hereby incorporated by reference into this Initial Determination.

On July 14, 2008, SanDisk filed a motion to terminate Respondent Payton Technology Corporation from the investigation based upon a withdrawal of allegations from the Complaint. On July 29, 2008, the undersigned issued an initial determination granting the motion to terminate Payton from the investigation.²⁸ On August 20, 2008, the Commission issued a notice of determination not to review this initial determination.

On August 7, 2008, SanDisk filed a motion for partial termination of the investigation with respect to U.S. Patent No. 6,947,332. On August 27, 2008, the undersigned issued an initial determination granting the motion and terminated the ‘332 patent from the investigation. See Order No. 37 (August 27, 2008). On September 15, 2008, the Commission issued a notice of determination not to review this initial determination.

On July 31, 2008, SanDisk filed a motion for leave to amend its complaint to: (1) add Verbatim Americas, LLC (“Verbatim Americas”) as a respondent to reflect existing Respondent Verbatim Corporation’s corporate restructuring; (2) add Zhubai Chipsbank Microelectronics Co., Ltd. and Chipsbrand Technologies (HK) Co., Ltd., both of whom are wholly-owned subsidiaries of existing Respondent Chipsbank Technologies (Shenzhen) Co., Ltd., as respondents; (3) clarify that claims 12, 14, 17 and 58 of U.S. Patent No. 6,426,893 are being asserted against existing Respondent

²⁷ See Order No. 33, p. 9 (July 15, 2008) (emphasis in original).

²⁸ See Order No. 35 (July 29, 2008).

Afa Technologies, Inc.; (4) assert claim 8 of U.S. Patent No. 7,137,011 against existing Respondents Transcend Information, Inc. (Taiwan), Transcend Information, Inc. (California), and Transcend Information Maryland, Inc.; and (5) assert claims 24 and 30 of U.S. Patent No. 6,763,424 against existing Respondent Chipsbank Technologies (Shenzhen) Co., Ltd. and proposed respondents Zhubai Chipsbank Microelectronics Co., Ltd. and Chipsbrand Technologies (HK) Co. On September 12, 2008, the undersigned issued an initial determination granting in part and denying in part SanDisk's motion. Specifically, the undersigned granted SanDisk's motion to amend with respect to (1) and (2) above; found that the motion was moot with respect to (3) and (5) above; and denied the motion with respect to (4) above.²⁹ On October 6, 2008, the Commission issued a notice of determination not to review this initial determination.

On September 4, 2008, Respondent Corsair Memory, Inc. filed a motion to terminate the investigation as to Corsair based upon a consent order. On September 22, 2008, the undersigned issued an initial determination granting the motion and terminated Corsair from the investigation.³⁰ On October 20, 2008, the Commission issued a notice of determination not to review this initial determination.

On September 4, 2008, SanDisk filed a motion for summary determination that it has satisfied the economic prong of the domestic industry requirement with respect to U.S. Patent Nos. 6,426,893; 6,763,424; and 7,137,011. On October 2, 2008, the undersigned issued an initial determination granting the motion.³¹ On October 23, 2008, the Commission issued a notice of determination not to review this initial determination.

²⁹ See Order No. 40 (September 12, 2008).

³⁰ See Order No. 42 (September 22, 2008).

³¹ See Order No. 46 (October 2, 2008).

On September 18, 2008, SanDisk filed a motion to terminate Respondents Silicon Motion Technology Corp. and Silicon Motion International, Inc.³² from the investigation based upon a withdrawal of allegations from the Complaint. On October 2, 2008, the undersigned issued an initial determination granting the motion to terminate these two respondents from the investigation.³³ On October 24, 2008, the Commission issued a notice of determination not to review this initial determination.

On September 23, 2008, SanDisk filed a motion to terminate certain claims of U.S. Patent No. 6.425,893. On October 7, 2008, the undersigned issued an initial determination granting the motion.³⁴ On October 24, 2008, the Commission issued a notice of determination not to review this initial determination.

On October 6, 2008, SanDisk and Respondents A-DATA Technology Co., Ltd. and A-DATA Technology (USA) Co., Ltd. filed a motion to terminate the investigation as to A-DATA based upon a consent order. On October 21, 2008, the undersigned issued an initial determination granting the motion and terminated A-DATA from the investigation.³⁵ On November 12, 2008, the Commission issued a notice of determination not to review this initial determination.

On October 14, 2008, SanDisk filed a motion to: (1) terminate the investigation as to Respondent AFA Technologies, Inc. (“AFA”) and Respondents Chipsbrand Microelectronics (HK) Co., Ltd., Chipsbank Technologies (Shenzhen) Co., Ltd., Shenzhen Chipsbank Microelectronics Co., Ltd., Zhuhai Chipsbank Microelectronics Co., Ltd. and Chipsbrand Technologies (HK) Co., Ltd.

³² The motion makes clear, however, that SanDisk is not withdrawing any allegations against Silicon Motion, Inc. (a Taiwan corporation), and Silicon Motion, Inc.

³³ See Order No. 47 (October 2, 2008).

³⁴ See Order No. 48 (October 7, 2008).

³⁵ See Order No. 52 (October 21, 2008).

based on settlement agreements; (2) terminate the investigation as to U.S. Patent No. 6,426,893 in light of the certain respondents' decision to stop importing the products accused of infringing that patent into the United States; and (3) terminate U.S. Patent No. 7,137,011 and the '893 patent with respect to Respondent Power Quotient International (HK) Co. Ltd., Syscom Development Co. Ltd., and PQI Corporation based upon a consent order. On October 28, 2008, the undersigned issued an initial determination granting the motion.³⁶ On October 30, 2008, the undersigned issued a notice of errata to Order No. 53, correcting one of the attached consent orders. On November 18, 2008, the Commission issued a notice of determination not to review this initial determination.

On October 29, 2008, SanDisk and Respondent Verbatim Americas LLC and Verbatim Corporation (collectively "Verbatim"), filed a motion to terminate the investigation as to Verbatim based upon a settlement agreement. On November 14, 2008, the undersigned issued an initial determination granting the motion and terminated A-DATA from the investigation.³⁷ On December 8, 2008, the Commission issued a notice of determination not to review this initial determination.

On November 10, 2008, SanDisk filed a motion to admit additional exhibits into evidence. On November 18, 2008, SanDisk and the K&L Gates' respondents filed a joint motion to correct typographical errors and omissions in the hearing transcript. On November 21, 2008, the undersigned issued an order granting the motion.³⁸ On December 2, 2008, an errata was issued regarding Order No. 55.³⁹

³⁶ See Order No. 53 (October 28, 2008).

³⁷ See Order No. 54 (November 14, 2008).

³⁸ See Order No. 55 (November 21, 2008).

³⁹ See Notice (December 2, 2008).

The parties have stipulated as to certain material facts.⁴⁰ Particular stipulated facts that are relevant to this Initial Determination are cited accordingly.

An evidentiary hearing on liability was conducted before the undersigned from October 27, 2008 through November 5, 2008. In support of its case-in-chief and rebuttal case, Complainant called the following witnesses:

- Dr. Paul Min (SanDisk's expert on the '011 patent)⁴¹;
- Dr. Thomas Rhyne (SanDisk's expert on the '424 patent)⁴²;
- Dr. Eliyahou Harari (SanDisk's CEO & Chairman of the Board of Directors);⁴³
- Dr. Jerry Hausman (SanDisk's expert on patent misuse).⁴⁴

In support of its case-in-chief and rebuttal case, Respondents called the following witnesses:

- Ellis Lee (Senior Manager at Phison)⁴⁵;
- Darwin Chen (Kingston's VP of Sales & Marketing)⁴⁶;
- C.Y. Chang (Senior Engineer at Skymedi)⁴⁷;
- V. Nyles Kynett (Silicon Motion's expert)⁴⁸;
- Dr. Vivek Subramanian (Respondents' expert on the '424 patent)⁴⁹;
- Dr. Melvin Ray Mercer (Respondents' expert on the '424 patent);⁵⁰ and
- Dr. Russell W. Mangum (Respondents' expert on patent misuse).⁵¹

In addition, witness statements and deposition designations were received into evidence without any

⁴⁰ See JX-64 (Skymedi Stipulation), JX-167 through JX-172.

⁴¹ CX-1007C (Min Direct); CRX-223C (Min Rebuttal).

⁴² CX-1008C (Rhyne Direct); CRX-225C (Rhyne Rebuttal).

⁴³ CRX-185C, CRX-220C (Harari Rebuttal).

⁴⁴ CRX-221C (Hausman Rebuttal).

⁴⁵ RX-936C (Lee Direct).

⁴⁶ RX-941C (Chen Direct).

⁴⁷ RRX-33C (Chang Rebuttal).

⁴⁸ RX-937C (Kynett Direct).

⁴⁹ RRX-018C (Subramanian Direct).

⁵⁰ ; RX-318C (Mercer Direct); RRX-34C (Mercer Rebuttal Non-Infringement); RRX-36C (Mercer Rebuttal).

⁵¹ RX-938C (Mangum Direct).

live testimony.⁵²

⁵² The following witness statements and deposition designations were received into evidence:

Witness	Position	Exhibit Number
Kevin Conley	VP of SanDisk	CRX-219C (Conley Direct); JX-132C (Conley Dep)
Earle Thompson	VP and Chief Intellectual Property Counsel of SanDisk	CRX-226C (Thompson Witness Statement)
Gerald Parsons	SanDisk's patent prosecution attorney	JX-118C (Parsons Dep)
Richard Chernicoff	Senior Vice President of Corporate Development at SanDisk	JX-146C (Chernicoff Dep)
J.Y. Yang	Chief Engineer at Phison	RRX-017 (Yang Direct)
Chi-Heng Chiu aka Frankie Chiu	Transcend's VP for Research and Development	RX-990C (Chiu Direct); RRX-10C (Chiu Rebuttal); JX-117C (Chiu Dep)
Jason Chien	Silicon Motion's Project Manager in the Product Marketing Department	RX-995C (Chien Direct); RRX-12C (Chien Rebuttal); JX-125C (Chien Dep)
James Lee	Manager at Silicon Motion	RRX-11 (J. Lee Rebuttal); JX-124C (J. Lee Dep)
Chia Kyun Chang	Apacer's Associate Vice President	RRX-13C (C.K. Chang Rebuttal); JX-102C (Chang Dep)
O-byoung Kang	LGE's Group Leader and Principal Research Engineer for the IT Media Group in the Cheongju RMC Division	RX-998C (Kang Direct); RRX-14C (Kang Rebuttal); JX-101C (Kang Dep)
Scott Hsaio	Senior Manager of the quality assurance department at Silicon Motion	JX-153C (Hsaio Dep)
Nigel Doong	Assistant Manager at Silicon Motion	JX-141C (Doong Dep)

After the hearing, post-hearing briefs and reply briefs, together with proposed findings of fact, conclusions of law and rebuttals to the same, were filed on November 25, 2008 and December 16, 2008, respectively.

On November 26, 2008, Staff filed an unopposed motion for leave to accept the late filing of its proposed findings of fact and conclusions of law, which is hereby granted.

B. The Parties

1. Complainant

Complainant SanDisk Corporation is a Delaware corporation with its principal place of business in Milpitas, California.

2. Respondents

a. Controller-Level Respondents

Controller-level Respondents are respondents that manufacture Flash memory controllers.

(1) Phison

Phison is a company organized under the laws of the Republic of China (Taiwan) with its principal place of business in Hsinchu, Taiwan.

(2) Silicon Motion

Silicon Motion (Taiwan) is a company organized under the laws of the Republic of China (Taiwan) with its principal place of business in Jhubei City, Taiwan. Silicon Motion (Taiwan) was formerly known as Feiya Technology Corporation. Silicon Motion (Taiwan) is a wholly-owned subsidiary of Silicon Motion Technology Corporation.

Silicon Motion Inc. (USA) is a California corporation with its principal place of business in Milpitas, California. Silicon Motion Inc. (USA) is a wholly-owned subsidiary of Silicon Motion Inc.

(Taiwan).

Silicon Motion (Taiwan) and Silicon Motion Inc. (USA) are related companies that operate together at “Silicon Motion” and will hereinafter be referred to together as “SMI.”

(3) Skymedi

Skymedi is a company organized under the laws of the Republic of China (Taiwan) with its principal place of business in Hsinchu, Taiwan.

b. System-Level Respondents

System-level Respondents are respondents that purchase controllers from the Controller-level Respondents and incorporate those controllers into Flash memory devices (systems).

(1) PQI

Power Quotient International Co., Ltd. is a limited company organized under the laws of the Republic of China (Taiwan) with its principal place of business in Chung Ho City, Taipei, Taiwan.

Power Quotient International (HK) Co., Ltd. is a limited company organized under the laws of the People’s Republic of China (Hong Kong) with its principal place of business in Kowloon Bay, Hong Kong. Power Quotient International (HK) Co., Ltd. is a wholly-owned subsidiary of Power Quotient International Co., Ltd.

Syscom Development Co., Ltd. is a limited company organized under the laws of the British Virgin Islands with its principal place of business in Road Town, Tortola, British Virgin Islands. Syscom Development Co., Ltd. is a wholly-owned subsidiary of Power Quotient International Co., Ltd.

PQI Corporation is a California corporation with its principal place of business in Fremont, California. PQI Corporation is a wholly-owned subsidiary of Syscom Development Co., Ltd.

Power Quotient International Co., Ltd., Power Quotient International (HK) Co., Ltd., Syscom Development Co., Ltd., and PQI Corporation are related entities and operate together as Power Quotient International or “PQI” and will hereinafter be referred to together as “PQI.”

(2) Kingston

Kingston Technology Corporation is a Delaware corporation with its principal place of business in Fountain Valley, California.

MemoSun, Inc. is a California corporation with its principal place of business in Fountain Valley, California. MemoSun is a distributor of Kingston products.

(3) Transcend

Transcend Information Inc. (Taiwan) is a company organized under the laws of the Republic of China (Taiwan) with its principal place of business in Taipei, Taiwan.

Transcend Information Inc. (California) is a California corporation with its principal place of business in Orange, California. Transcend Information Inc. (California) is owned by Transcend Information Inc. (Taiwan).

Transcend Information Maryland, Inc. is a Maryland corporation with its principal place of business in Linthicum, Maryland.

[]

(4) Imation

Imation Corp. is Delaware corporation with its principal place of business in Oakdale, Minnesota.

Imation Enterprises Corp. is a Delaware corporation with its principal place of business in Oakdale, Minnesota. Imation Enterprises Corp. is a wholly-owned subsidiary of Imation Corp.

Memorex Products, Inc. is a California corporation with its principal place of business in Cerritos, California. Imation Corp. acquired Memorex Products, Inc. in 2006. Memorex Products, Inc. is a wholly-owned subsidiary of Imation Corp.

[]

(5) Apacer

Apacer Technology Inc. is a company organized under the laws of the Republic of China (Taiwan) with its principal place of business in Hsichih City, Taipei Hsien, Taiwan.

Apacer Memory America, Inc. is a California corporation with its principal place of business in Milpitas, California. Apacer Memory America, Inc. is a wholly-owned subsidiary of Apacer Technology Inc.

(6) Dane-Elec

Dane Memory S.A. is a company organized under the laws of France with its principal place of business in Bagnolet, France.

Deantusaiocht Dane-Elec TEO is a limited company organized under the laws of Ireland with its principal place of business in Spiddal, Galway, Ireland. Deantusaiocht Dane-Elec TEO is a wholly-owned subsidiary of Dane Memory S.A.

Dane-Elec Corp. USA is a Delaware corporation with its principal place of business in Irvine, California. Dane-Elec Corp. USA is a wholly-owned subsidiary of Dane Memory S.A.

[]

(7) LG

LG Electronics U.S.A., Inc. is a Delaware corporation with its principal place of business in

Englewood Cliffs, New Jersey.

LG Electronics, Inc. is a company organized under the laws of the Republic of South Korea with its principal place of business in Seoul, South Korea.

[]

C. Overview of the Technology

The asserted patents both involve Flash memory-based systems. Flash is a type of EEPROM, or Electrically Erasable Programmable Read Only Memory. Flash EEPROM (or “Flash memory” or simply “Flash”) is a non-volatile, semiconductor-based memory. “Non-volatile” means that the memory retains the information stored in it, even when the electric power goes off.

Manufacturers use Flash memory in a variety of storage systems. Perhaps most recognizable are USB Flash drives, which attach to a computer system’s USB port and allow users to read and write data to carry to other computers. A Flash memory system, such as a Flash drive or other similar products usually contains a Flash memory controller, among other things.

The asserted claims in the ‘424 patent are directed to two categories of inventions. Claim 17 discloses an allegedly novel technique for updating data stored in the component blocks of a metablock, while claims 24 and 30 disclose an allegedly novel method for performing partial block updates to data stored in a non-volatile memory system.

The asserted claim, claim 8, in the ‘011 patent discloses an allegedly novel, non-volatile memory card that incorporates a Flash memory array in an enclosure and that is removably attached to a host system, and is designed to provide “security with portability.” Unlike prior-art systems, SanDisk asserts that claim 8’s memory card stores both a decryption algorithm and encrypted user data in the Flash memory array so that they can be read out for use together.

D. The Patents at Issue

1. The '424 Patent

The '424 patent is entitled "Partial Block Data Programming and Reading Operations in a Non-Volatile Memory" which was issued on July 13, 2004, based on Application Serial No. 09/766,436, filed on January 19, 2001. The named inventor is Kevin M. Conley and the patent was assigned to SanDisk, the current owner of the '424 patent. The '424 patent has a total of 31 claims. One independent claim, claim 17, is at issue here. Dependent claims 24 and 30, which depend from claim 20, is also at issue here.⁵³

2. The '011 Patent

The '011 patent is entitled "Removable Mother/Daughter Peripheral Card" which was issued on November 14, 2006, based on Application Serial No. 10/050,429, filed on January 15, 2002. The named inventors are Eliyahou Harari, Daniel C. Guterman, and Robert F. Wallace and the patent was assigned to SanDisk, the current owner of the '011 patent. The '011 patent has a total of 9 claims. One independent claim, claim 8, is at issue here.⁵⁴

E. The Products at Issue

At issue in this investigation are certain Flash memory controllers, drives, memory cards, and media players, and products containing same. These products fall into two general categories: (1) Flash memory controllers, and (2) Flash memory products or systems containing infringing Flash memory controllers, generally referred to as Flash memory systems.

Imation is the only respondent accused of infringing the '011 patent. The Imation products

⁵³ See JX-2 ("the '424 patent") and JX-5 ("the '424 prosecution history").

⁵⁴ See JX-3 ("the '011 patent") and JX-6 ("the '011 prosecution history").

accused of infringing the '011 patent include: Pocket, Atom, Nano, Swivel, Swivel Pro, Clip, Rotodrive, Traveldrive, Mini Traveldrive, Pivot and M-Flyer Pilot series.

The controllers accused of infringing the '424 patent include:

Company	USB Controllers	CF/SSD Controllers	MMC Controllers	MP3 Controllers
Phison	USB Controllers [⁵⁵] PS2231: PS2101, PS2134, PS2135, PS2136, PS2143, PS2151, PS2153, PS2154, PS2230, PS2231, PS2232, PS2233, UP8, UP10, UP12	CF/SSD Controllers [⁵⁶] PS3006: ⁵⁶ PS3002, PS3006, PS3102		
Silicon Motion	SM321, SM323, SM324, SM325	SM221, SM222, SM223, SM224	SM261, SM263, SM267	SM339, SM340

⁵⁵ [

⁵⁶ [

]

]

Skymedi	USB Controllers [] IPN 1603/ SK6281 [] ⁵⁷ SK6203/IPN2806, SK6208/IPN1603, SK6211/IPN2806, SK6281/IPN1603, SK6288/IPN1603 USB Controllers [] IPN 1606F/ SK6626AE [] SK6212/IPN1608		MMC Controllers [] IPN1603/SK6621 []] ⁵⁸ SK6618/IPN1603, SK6621/IPN1603, SK6623/KTC681/ IPN1603, SK6625/IPN1605, SK6626/IPN1606, SK6633/IPN1606 MMC Controllers [] IPN1606F/ SK6626AE[] [] SK6626AE/ IPN1606F, SK6628/IPN2807	
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The system products accused of infringing the '424 patent include any of Respondents' Flash memory products that incorporate one of the accused controllers:

System Company	Controllers used by System Company in System Products
Apacer	[]
Dane-Elec	[]
Imation	[]
Kingston	[]
LG	[]
PQI	[]
Transcend	[]

⁵⁷ []

⁵⁸ []

]

II. Jurisdiction and Importation

Section 337 confers subject matter jurisdiction on the International Trade Commission to investigate, and if appropriate, to provide a remedy for, unfair acts and unfair methods of competition in the importation of articles into the United States. In order to have the power to decide a case, a court or agency must have both subject matter jurisdiction, and jurisdiction over either the parties or the property involved.⁵⁹

A. Subject Matter Jurisdiction/In Rem Jurisdiction

The complaint alleges that Respondents have violated Subsection 337(a)(1)(A) and (B) in the importation and sale of products that infringe one or both of the asserted patents. Respondents do not dispute that the importation requirement has been satisfied.⁶⁰ Accordingly, the Commission has subject matter jurisdiction over Respondents in this investigation.⁶¹

B. Personal Jurisdiction

Respondents have responded to the complaint and notice of investigation, participated in the investigation, including participating in discovery, made an appearance at the hearing, and submitted post-hearing briefs, thereby submitting to the personal jurisdiction of the Commission.⁶²

⁵⁹ 19 U.S.C. § 1337; also see *Certain Steel Rod Treating Apparatus and Components Thereof*, Inv. No. 337-TA-97, Commission Memorandum Opinion, 215 U.S.P.Q. 229, 231 (1981) (“*Certain Steel Rod*”).

⁶⁰ See CX-754C (Stipulation) and JX-64 (Stipulation); CFF13.1-13.16.

⁶¹ See *Amgen, Inc. v. U.S. Int’l Trade Comm’n*, 902 F.2d 1532, 1536 (Fed. Cir. 1990) (“*Amgen*”).

⁶² See *Certain Miniature Hacksaws*, Inv. No. 337-TA-237, U.S.I.T.C. Pub. No. 1948, Initial Determination (unreviewed by Commission in relevant part) at 4, 1986 WL 379287 (U.S.I.T.C., October 15, 1986) (“*Certain Miniature Hacksaws*”).

III. Relevant Law

A. Infringement

1. Literal Infringement

Literal infringement is a question of fact.⁶³ Literal infringement requires the patentee to prove that the accused device contains each limitation of the asserted claim(s). Each element of a claim is considered material and essential, and in order to show literal infringement, every element must be found to be present in the accused device.⁶⁴ If any claim limitation is absent from the accused device, there is no literal infringement of that claim as a matter of law.⁶⁵

2. Doctrine of Equivalents

Where literal infringement is not found, infringement nevertheless can be found under the doctrine of equivalents based on “the substantiality of the differences between the claimed and accused products or processes, assessed according to an objective standard” judged from “the vantage point of one of ordinary skill in the relevant art.”⁶⁶ Determining infringement under the doctrine of equivalents “requires an intensely factual inquiry.”⁶⁷

In *Warner-Jenkinson*, the Supreme Court noted that the doctrine of equivalents is subject to several limitations, including applying the doctrine to individual elements of a claim and not to the

⁶³ *Tegal Corp. v. Tokyo Electron Am., Inc.*, 257 F.3d 1331, 1350 (Fed. Cir. 2001) (“*Tegal*”), *cert. denied*, 535 U.S. 927 (2002).

⁶⁴ *London v. Carson Pirie Scott & Co.*, 946 F.2d 1534, 1538 (Fed. Cir. 1991) (“*London*”).

⁶⁵ *Bayer AG v. Elan Pharm. Research Corp.*, 212 F.3d 1241, 1247 (Fed. Cir. 2000) (“*Bayer*”).

⁶⁶ *Hilton Davis Chem. Co. v. Warner-Jenkinson Co., Inc.*, 62 F.3d 1512, 1518-1519 (Fed. Cir. 1995) (“*Hilton Davis*”), *rev'd*, 520 U.S. 17 (1997) (“*Warner-Jenkinson*”).

⁶⁷ *Vehicular Tech. Corp. v. Titan Wheel Int'l, Inc.*, 212 F.3d 1377, 1381 (Fed. Cir. 2000) (“*Vehicular Technologies*”).

invention as a whole.⁶⁸ The court acknowledged that the commonly used “function-way-result” test is suitable in some instances, including analyzing mechanical devices.⁶⁹

3. Indirect Infringement

Indirect infringement may be either induced or contributory. Direct infringement must first be established in order for a claim of indirect infringement to prevail.⁷⁰

a. Induced Infringement

Section 271(b) of the Patent Act prohibits inducement: “[w]hoever actively induces infringement of a patent shall be liable as an infringer.”⁷¹ As the Federal Circuit stated:

To establish liability under section 271(b), a patent holder must prove that once the defendants knew of the patent, they “actively and knowingly aid [ed] and abett[ed] another’s direct infringement.” However, “knowledge of the acts alleged to constitute infringement” is not enough. The “mere knowledge of possible infringement by others does not amount to inducement; specific intent and action to induce infringement must be proven.”⁷²

In addition, the burden of proof is on the complainant.⁷³

b. Contributory Infringement

Under 35 U.S.C. § 271(c), a seller of a component of an infringing product can be held liable for contributory infringement if: “(1) there has been an act of direct infringement by a third party; (2) the accused contributory infringer knows that the combination for which its component was made

⁶⁸ *Warner-Jenkinson*, 520 U.S. at 29.

⁶⁹ See *Hilton Davis*, 62 F.3d at 1518 (“In applying the doctrine of equivalents, it is often enough to assess whether the claimed and accused products or processes include substantially the same function, way, and result”).

⁷⁰ *Broadcom Corp. v. Qualcomm Inc.*, 543 F.3d 683, 697, (Fed. Cir. 2008) (“*Broadcom*”); *ACCO Brands, Inc. v. ABA Locks Mfr. Co.*, 501 F.3d 1307, 1312 (Fed. Cir. 2007) (“*ACCO*”).

⁷¹ 35 U.S.C. § 271(b) (2008).

⁷² *DSU Med. Corp. v. JMS Co.*, 471 F.3d 1293, 1305 (Fed. Cir. 2006) (*en banc*) (“*DSU*”) (citations omitted).

⁷³ *Broadcom*, 543 F.3d at 698.

was both patented and infringing; and (3) there are no substantial non-infringing uses for the component part, *i.e.*, the component is not a ‘staple article’ of commerce.”⁷⁴

B. Domestic Industry

In a patent-based complaint, a violation of Section 337 can be found “only if an industry in the United States, relating to the articles protected by the patent . . . concerned, exists or is in the process of being established.”⁷⁵ This “domestic industry requirement” has an “economic” prong and a “technical” prong.⁷⁶

The term “domestic industry” in Section 337 is not defined by the statute, but the Commission has interpreted the intent of Section 337 to be “the protection of domestic manufacture of goods.”⁷⁷ The Commission has further stated that “[t]he scope of the domestic industry in patent-based investigations has been determined on a case by case basis in light of the realities of the marketplace and encompasses not only the manufacturing operations but may include, in addition, distribution, research and development and sales.”⁷⁸

In making this determination, Section 337(a)(2) provides that for investigations based on patent infringement, a violation can be found “only if an industry in the United States, relating to the articles protected by the patent . . . concerned, exists or is in the process of being established.” 19 U.S.C. § 1337(a)(2). Section 337(a)(3) sets forth the following economic criteria for determining

⁷⁴ *Certain Flash Memory Circuits and Products Containing Same*, Inv. No. 337-TA-382, Commission Opinion at 9-10 (July 1997).

⁷⁵ 19 U.S.C. § 1337(a)(2).

⁷⁶ *Certain Stringed Musical Instruments and Components Thereof*, Inv. No. 337-TA-586, Commission Opinion at 12-14 (April 24, 2008) (“*Stringed Instruments*”).

⁷⁷ *Certain Dynamic Random Access Memories, Components Thereof and Products Containing Same*, Inv. No. 337-TA-242, U.S.I.T.C. Pub. No. 2034 (November 1987), Commission Opinion at 61, 1987 WL 450856 (U.S.I.T.C., September 21, 1987) (“*Certain DRAMs*”).

⁷⁸ *Id.* at 62 (footnotes omitted).

the existence of a domestic industry in such investigations:

an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the . . . patent . . . concerned –

- (A) significant investment in plant and equipment;
- (B) significant employment of labor or capital; or
- (C) substantial investment in its exploitation, including engineering, research and development, or licensing.⁷⁹

As the statute uses the disjunctive term “or,” a complainant can demonstrate this so-called “economic prong” of the domestic industry requirement by satisfying any one of the three tests set forth in Section 337(a)(3).⁸⁰ The complainant bears the burden of establishing that the domestic industry requirement is satisfied.⁸¹

In addition to meeting the economic criteria of the domestic industry requirement, a complainant in a patent-based Section 337 investigation must also demonstrate that it is practicing or exploiting the patents at issue.⁸² In order to find the existence of a domestic industry exploiting a patent at issue, it is sufficient to show that the domestic industry practices any claim of that patent,

⁷⁹ 19 U.S.C. § 1337(a)(3).

⁸⁰ See *Certain Plastic Encapsulated Integrated Circuits*, Inv. No. 337-TA-315, U.S.I.T.C. Pub. No. 2574 (November 1992), Initial Determination at 83, 1992 WL 813952 (U.S.I.T.C., October 15, 1991) (unreviewed by Commission in relevant part) (“*Certain Encapsulated Circuits*”).

⁸¹ See *Certain Set-Top Boxes and Components Thereof*, Inv. No. 337-TA-454, U.S.I.T.C. Pub. No. 3564 (November 2002), Initial Determination at 294, 2002 WL 31556392 (U.S.I.T.C., June 21, 2002), *unreviewed by Commission in relevant part*, Commission Opinion at 2 (August 29, 2002) (“*Certain Set-Top Boxes*”).

⁸² See 19 U.S.C. § 1337(a)(2) and (3); *also see Certain Microsphere Adhesives, Process for Making Same, and Products Containing Same, Including Self-Stick Repositionable Notes*, Inv. No. 337-TA-366, Commission Opinion at 8, 1996 WL 1056095 (U.S.I.T.C., January 16, 1996) (“*Certain Microsphere Adhesives*”), *aff’d sub nom. Minnesota Mining & Mfg. Co. v. U.S. Int’l Trade Comm’n*, 91 F.3d 171 (Fed. Cir. 1996) (Table); *Certain Encapsulated Circuits*, Commission Opinion at 16.

not necessarily an asserted claim of that patent.⁸³ Fulfillment of this so-called “technical prong” of the domestic industry requirement is not determined by a rigid formula, but rather by the articles of commerce and the realities of the marketplace.⁸⁴

The test for claim coverage for the purposes of the technical prong of the domestic industry requirement is the same as that for infringement.⁸⁵ “First, the claims of the patent are construed. Second, the complainant’s article or process is examined to determine whether it falls within the scope of the claims.”⁸⁶ As with infringement, the first step of claim construction is a question of law, whereas the second step of comparing the article to the claims is a factual determination.⁸⁷ To prevail, the patentee must establish by a preponderance of the evidence that the domestic product practices one or more claims of the patent either literally or under the doctrine of equivalents.⁸⁸

C. Validity

A patent is presumed valid.⁸⁹ The party challenging a patent’s validity has the burden of overcoming this presumption by clear and convincing evidence.⁹⁰ Since the claims of a patent

⁸³ *Certain Microsphere Adhesives*, Commission Opinion at 7-16.

⁸⁴ *Certain Diltiazem Hydrochloride and Diltiazem Preparations*, Inv. No. 337-TA-349, U.S.I.T.C. Pub. No. 2902, Initial Determination at 138, 1995 WL 945191 (U.S.I.T.C., February 1, 1995) (unreviewed in relevant part) (“*Certain Diltiazem*”); *Certain Double-Sided Floppy Disk Drives and Components Thereof*, Inv. No. 337-TA-215, 227 U.S.P.Q. 982, 989 (Commission Opinion 1985) (“*Certain Floppy Disk Drives*”).

⁸⁵ *Certain Doxorubicin and Preparations Containing Same*, Inv. No. 337-TA-300, Initial Determination at 109, 1990 WL 710463 (U.S.I.T.C., May 21, 1990) (“*Certain Doxorubicin*”), *aff’d*, Views of the Commission at 22 (October 31, 1990).

⁸⁶ *Id.*

⁸⁷ *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 976 (Fed. Cir. 1995) (*en banc*), *aff’d*, 517 U.S. 370 (1996) (“*Markman*”).

⁸⁸ *See Bayer*, 212 F.3d at 1247.

⁸⁹ 35 U.S.C. § 282; *Richardson-Vicks Inc. v. Upjohn Co.*, 122 F.3d 1476, 1480 (Fed. Cir. 1997) (“*Richardson-Vicks*”).

⁹⁰ *Richardson-Vicks Inc.*, *supra*; *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044 (Fed. (continued...))

measure the invention at issue, the claims must be interpreted and given the same meaning for purposes of both validity and infringement analyses. As with an infringement analysis, an analysis of invalidity involves two steps: the claim scope is first determined, and then the properly construed claim is compared with the prior art to determine whether the claimed invention is anticipated and/or rendered obvious.⁹¹

1. Anticipation, 35 U.S.C. § 102

A patent may be found invalid as anticipated under 35 U.S.C. § 102(a) if “the invention was known or used by others in this country, or patented or described in a printed publication in this country, or patented or described in a printed publication in a foreign country, before the invention thereof by the applicant for patent.” 35 U.S.C. § 102(a). A patent may be found invalid as anticipated under 35 U.S.C. § 102(b) if “the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.”⁹² Under 35 U.S.C. § 102(e), a patent is invalid as anticipated if “the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent.”⁹³ Anticipation is a question of fact.⁹⁴

Under the foregoing statutory provision, a claim is anticipated and therefore invalid when

⁹⁰(...continued)
Cir.) (“*Uniroyal*”), cert. denied, 488 U.S. 825 (1988).

⁹¹ *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343, 1351 (Fed. Cir. 2001) (“*Amazon.com*”).

⁹² 35 U.S.C. § 102(b).

⁹³ 35 U.S.C. § 102(e).

⁹⁴ *Texas Instruments, Inc. v. U.S. Int’l Trade Comm’n*, 988 F.2d 1165, 1177 (Fed. Cir. 1993) (“*Texas Instruments IP*”).

“the four corners of a single, prior art document describe[s] every element of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation.”⁹⁵ To be considered anticipatory, the prior art reference must be enabling and describe the applicant’s claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention.⁹⁶ But, the degree of enabling detail contained in the reference does not have to exceed that contained in the patent at issue.⁹⁷

Further, the disclosure in the prior art reference does not have to be express, but may anticipate by inherency where the inherency would be appreciated by one of ordinary skill in the art.⁹⁸ To be inherent, the feature must necessarily be present in the prior art.⁹⁹ Inherency may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. If, however, the disclosure is sufficient to show that the natural result flowing from the operation as taught would result in the performance of the questioned function, it seems to be well settled that the disclosure should be regarded as sufficient. This modest flexibility in the rule that “anticipation” requires that every element of the claims appear in a single reference accommodates situations where the common knowledge of technologists is not recorded in the reference; that is, where technological facts are known to those in the field of the

⁹⁵ *Advanced Display Sys., Inc. v. Kent State Univ.*, 212 F.3d 1272, 1282 (Fed. Cir. 2000), *cert. denied*, 532 U.S. 904 (2001) (“*Advanced Display Systems*”).

⁹⁶ *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 1346 (Fed. Cir. 2000) (“*Helifix*”); *In re Paulsen*, 30 F.3d 1475, 1478 (Fed. Cir. 1994) (“*Paulsen*”).

⁹⁷ *Paulsen*, 30 F.3d at 1481 n.9.

⁹⁸ *Glaxo Inc. v. Novopharm Ltd.*, 52 F.3d 1043, 1047 (Fed. Cir.), *cert. denied*, 516 U.S. 988 (1995) (“*Glaxo*”).

⁹⁹ *See Finnigan Corp. v. U.S. Int’l Trade Comm’n*, 180 F.3d 1354, 1365-66 (Fed. Cir. 1999) (“*Finnigan*”).

invention, albeit not known to judges.¹⁰⁰

2. Obviousness, 35 U.S.C. § 103

Under 35 U.S.C. § 103(a), a patent is valid unless “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”¹⁰¹ The ultimate question of obviousness is a question of law, but “it is well understood that there are factual issues underlying the ultimate obviousness decision.”¹⁰²

Once claims have been properly construed, “[t]he second step in an obviousness inquiry is to determine whether the claimed invention would have been obvious as a legal matter, based on underlying factual inquiries including : (1) the scope and content of the prior art, (2) the level of ordinary skill in the art, (3) the differences between the claimed invention and the prior art ; and (4) secondary considerations of non-obviousness” (also known as “objective evidence”).¹⁰³

Although Federal Circuit case law also required that, in order to prove obviousness, the patent challenger must demonstrate, by clear and convincing evidence, that there is a “teaching, suggestion, or motivation to combine, the Supreme Court has rejected this “rigid approach” employed by the Federal Circuit in *KSR Int’l Co. v. Teleflex Inc.*:¹⁰⁴

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one.

¹⁰⁰ See *Cont’l Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268-69 (Fed. Cir. 1991) (“*Continental Can*”); *Finnigan*, 180 F.2d at 1365.

¹⁰¹ 35 U.S.C. § 103(a).

¹⁰² *Richardson-Vicks Inc.*, 122 F.3d at 1479; *Wang Lab., Inc. v. Toshiba Corp.*, 993 F.2d 858, 863 (Fed. Cir. 1993) (“*Wang Laboratories*”).

¹⁰³ *Smiths Indus. Med. Sys., Inc. v. Vital Signs, Inc.*, 183 F.3d 1347, 1354 (Fed. Cir. 1999) (“*Smiths Industries*”), citing *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966) (“*Graham*”).

¹⁰⁴ *KSR Int’l Co. v. Teleflex Inc.*, 500 U.S. 398 (2007), 127 S.Ct. 1727, 1739 (“*KSR*”).

If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. *Sakraida and Anderson's-Black Rock* are illustrative—a court must ask whether the improvement is more than the predictable use of prior art elements according to their established function.

Following these principles may be more difficult in other cases than it is here because the claimed subject matter may involve more than the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the improvement. Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicitly. See *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusions of obviousness”). As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

[. . .]

The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents. The diversity of inventive pursuits and of modern technology counsels against limiting the analysis in this way. In many fields it may be that there is little discussion of obvious techniques or combinations, and it often may be the case that market demand, rather than scientific literature, will drive design trends. Granting patent protection to advances that would occur in the ordinary course without real innovation retards progress and may, in the case of patents combining previously known elements, deprive prior inventions of their value or utility.¹⁰⁵

“Secondary considerations,” also referred to as “objective evidence of non-obviousness,” such as “commercial success, long felt but unsolved needs, failure of others, etc.” may be used to

¹⁰⁵ *KSR*, 127 S.Ct. at 1740-41.

understand the origin of the subject matter at issue, and may be relevant as indicia of obviousness or non-obviousness.¹⁰⁶ Secondary considerations may also include copying by others, prior art teaching away, and professional acclaim.¹⁰⁷

Evidence of “objective indicia of non-obviousness,” also known as “secondary considerations,” must be considered in evaluating the obviousness of a claimed invention, but the existence of such evidence does not control the obviousness determination. A court must consider all of the evidence under the *Graham* factors before reaching a decision on obviousness.¹⁰⁸ In order to accord objective evidence substantial weight, its proponent must establish a nexus between the evidence and the merits of the claimed invention, and a *prima facie* case is generally made out “when the patentee shows both that there is commercial success, and that the thing (product or method) that is commercially successful is the invention disclosed and claimed in the patent.”¹⁰⁹ Once the patentee has made a *prima facie* case of nexus, the burden shifts to the challenger to show that the commercial success was caused by “extraneous factors other than the patented invention, such as advertising, superior workmanship, etc.”¹¹⁰

¹⁰⁶ *Graham*, 383 U.S. at 17-18.

¹⁰⁷ See *Perkin-Elmer Corp. v. Computervision Corp.*, 732 F.2d 888, 894 (Fed. Cir. 1984) (“*Perkin-Elmer*”), *cert. denied*, 469 U.S. 857 (1984); *Avia Group Int’l, Inc. v. L.A. Gear California*, 853 F.2d 1557, 1564 (Fed. Cir. 1988) (“*Avia*”) (copying by others); *In re Hedges*, 783 F.2d 1038, 1041 (Fed. Cir. 1986) (“*Hedges*”) (prior art teaching away; invention contrary to accepted wisdom); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565 (Fed. Cir. 1986) (“*Kloster*”), *cert. denied*, 479 U.S. 1034 (1987) (wide acceptance and recognition of the invention).

¹⁰⁸ *Richardson-Vicks Inc.*, 122 F.3d at 1483-84.

¹⁰⁹ *In re GPAC Inc.*, 57 F.3d 1573, 1580 (Fed. Cir. 1995) (“*GPAC*”); *Demaco Corp. v. F. Von Langsdorff Licensing Ltd.*, 851 F.2d 1387, 1392 (Fed. Cir. 1988), *cert. denied*, 488 U.S. 956 (1988) (“*Demaco*”); *Certain Crystalline Cefadroxil Monohydrate*, Inv. No. 337-TA-293, Commission Opinion (March 15, 1990), 15 U.S.P.Q.2d 1263, 1270 (“*Certain Crystalline*”).

¹¹⁰ *Id.* at 1393.

3. Indefiniteness, 35 U.S.C. § 112, ¶ 2

Claims must “. . . particularly point[] out and distinctly claim[] the subject matter which the applicant regards as his invention.”¹¹¹ When “means plus function” language is used in the claims, the specification must set forth “adequate disclosure showing what is meant by that language.”¹¹² Claim indefiniteness under Section 112, ¶ 2 is a question of law.¹¹³

“[I]f the claims, read in light of the specification, reasonably apprise those skilled in the art both of the utilization and scope of the invention, and if the language is as precise as the subject matter permits, the courts can demand no more.”¹¹⁴ Further in this connection, the Federal Circuit has observed:

We have not insisted that claims be plain on their face in order to avoid condemnation for indefiniteness; rather, what we have asked is that the claims be amenable to construction, however difficult that task may be. If a claim is insolubly ambiguous, and no narrowing construction can properly be adopted, we have held the claim indefinite. If the meaning of the claim is discernible, even though the task may be formidable and the conclusion may be one over which reasonable persons will disagree, we have held the claim sufficiently clear to avoid invalidity on indefiniteness grounds.¹¹⁵

“By finding claims indefinite only if reasonable efforts at claim construction prove futile,” the Federal Circuit continued in *Exxon Research*, “we accord respect to the statutory presumption of

¹¹¹ 35 U.S.C. § 112, ¶ 2.

¹¹² *In re Donaldson*, 16 F.3d 1189, 1195 (Fed. Cir. 1994) (“*Donaldson*”).

¹¹³ *Exxon Research and Engineering Co. v. U.S.*, 265 F.3d 1371, 1376 (Fed. Cir. 2001) (“*Exxon Research*”); *Union Pacific Resources Co. v. Chesapeake Energy Corp.*, 236 F.3d 684, 692 (Fed. Cir. 2001) (“*Union Pacific*”).

¹¹⁴ *Shatterproof Glass Corp. v. Libby-Owens-Ford Co.*, 758 F.2d 613, 624 (Fed. Cir. 1985), *cert. dismissed*, 474 U.S. 976 (1985) (“*Shatterproof Glass*”); *accord, Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1385 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 947 (1987) (“*Hybritech*”).

¹¹⁵ *Exxon Research, supra*, 265 F.3d at 1375. *See also Energizer Holdings Inc. v. Int’l Trade Comm’n*, 435 F.3d 1366 (Fed. Cir. 2006) (“*Energizer*”).

patent validity.”¹¹⁶ In this regard, where claims on their face cover various methods that produce widely varying and non-overlapping results such that they “fail to put competitors on notice of the limits of the claimed invention, so that they may fairly know the point at which their activities may begin to pose a serious risk of infringement,” those claims are indefinite under Section 112, ¶ 2.¹¹⁷

D. Other Affirmative Defenses

1. Patent Misuse

Patent misuse is an equitable defense to a claim of patent infringement.¹¹⁸ As the Federal Circuit has explained:

The policy of the patent misuse doctrine is “to prevent a patentee from using the patent to obtain market benefit beyond that which inures in the statutory patent right.” Therefore, in evaluating a patent-misuse defense, “[t]he key inquiry is whether, by imposing conditions that derive their force from the patent, the patentee has impermissibly broadened the scope of the patent grant with anticompetitive effect.”¹¹⁹

Patent misuse has been found, for example, when a patentee conditions a patent license on the purchase of unpatented goods,¹²⁰ or when a patent license requires royalty payments after the expiration of the licensed patents.

To determine if patent misuse exists, courts must conduct a three-part analysis.¹²¹ First, the court determines whether the alleged misuse practice is immunized under Section 271(d) of Title 35

¹¹⁶ *Id.*

¹¹⁷ *Certain Polyethylene Terephthalate Yarn and Products Containing Same*, Inv. No. 337-TA-457, Commission Opinion at 18, 2002 WL 1349938 (U.S.I.T.C., June 18, 2002) (“*Certain Pet Yarns*”).

¹¹⁸ *U.S. Philips Corp. v. United States Int’l Trade Comm’n*, 424 F.3d 1179, 1184 (Fed. Cir. 2005) (“*Philips*”).

¹¹⁹ *Monsanto Co. v. McFarling*, 363 F.3d 1336, 1341 (Fed. Cir. 2004) (“*Monsanto*”) (citations omitted).

¹²⁰ See *Carbice Corp. of Am. v. Am. Patents Dev. Corp.*, 283 U.S. 27 (1931) (“*Carbice*”).

¹²¹ *Virginia Panel Corp. v. MAC Panel Co.*, 133 F.3d 860, 868 (Fed. Cir. 1997) (“*Virginia Panel*”).

of the United States Code. Second, the court determines if the challenged practice fits into the very narrow category of *per se* misuse, such as “tying” arrangements. If a case is not resolved by the third step, the court must determine if the challenged practice is

“reasonably within the patent grant, *i.e.*, that it relates to subject matter within the scope of the patent claims.” If so, the practice does not have the effect of broadening the scope of the patent claims and thus cannot constitute patent misuse. If, on the other hand, the practice has the effect of extending the patentee's statutory rights and does so with an anti-competitive effect, that practice must then be analyzed in accordance with the “rule of reason.” Under the rule of reason, “the finder of fact must decide whether the questioned practice imposes an unreasonable restraint on competition, taking into account a variety of factors, including specific information about the relevant business, its condition before and after the restraint was imposed, and the restraint's history, nature, and effect.”¹²²

Although there are similarities between patent misuse and a violation of the antitrust laws, patent misuse is a broader violation, and thus may be found even where there is no antitrust violation.¹²³

2. Patent Exhaustion

Patent exhaustion, otherwise known as the first sale doctrine, is an affirmative defense to infringement.¹²⁴ The patent exhaustion doctrine deems that “the initial authorized sale of a patented item terminates all patent rights to that item.”¹²⁵

To establish patent exhaustion, an accused infringer must prove two elements: (1) that the

¹²² *Virginia Panel*, 133 F.3d at 868.

¹²³ *Monsanto Co. v. Scruggs*, 459 F.3d 1328, 1339 (Fed. Cir. 2006) (“*Scruggs*”).

¹²⁴ See *Jazz Photo Corp. v. United States*, 439 F.3d 1344, 1350 (Fed. Cir. 2006) (“*Jazz Photo IP*”) (“We articulated the affirmative defense of first sale and permissible repair in *Jazz I*, holding that the “unrestricted sale of a patented article, by or with the authority of the patentee, ‘exhausts’ the patentee’s right to control further sale and use of that article by enforcing the patent under which it was first sold.”); see also *Scruggs*, 459 F.3d at 1332-36 (referring to patent exhaustion doctrine as an affirmative defense and discussing whether patent exhaustion doctrine barred patent infringement claims); *Anton/Bauer, Inc. v. PAG, Ltd.*, 329 F.3d 1343, 1349-50 (“*Anton*”) (Fed. Cir. 2003) (discussing patent infringement analysis and presenting patent exhaustion doctrine as a defense).

¹²⁵ *Quanta*, 128 S.Ct. at 2115.

item “substantially embodies” the patented invention, and (2) that the sale of the item was authorized.¹²⁶ An item “substantially embodies” the patented invention when it itself satisfies two elements: (1) the item’s only reasonable and intended use is to practice the patented invention, and (2) the item embodies essential features of the patented invention.¹²⁷ A patentee’s authorization of an international first sale does not exhaust that patentee’s right in the United States.¹²⁸

As the Federal Circuit Court has held, “when a patented product has been sold the purchaser acquires ‘the right to use and sell it, and ... the authorized sale of an article which is capable of use only in practicing the patent is a relinquishment of the patent monopoly with respect to the article sold.’”¹²⁹ However, it is not any sale that invokes this “first sale” or “patent exhaustion” doctrine. Rather,

The unrestricted sale of a patented article, by or with the authority of the patentee, “exhausts” the patentee’s right to control further sale and use of that article by enforcing the patent under which it was first sold. In *United States v. Masonite Corp.*, 316 U.S. 265, 278, 62 S. Ct. 1070, 86 L. Ed. 1461, 1942 Dec. Comm’r Pat. 777 (1942), the Court explained that exhaustion of the patent right depends on “whether or not there has been such a disposition of the article that it may fairly be said that the patentee has received his reward for the use of the article.” See, e.g., *Intel Corp. v. ULSI Sys. Tech., Inc.*, 995 F.2d 1566, 1568, 27 USPQ2d 1136, 1138 (Fed. Cir. 1993) (“The law is well settled that an authorized sale of a patented product places that product beyond the reach of the patent.”) Thus when a patented device has been lawfully sold in the United States, subsequent purchasers inherit the same immunity under the doctrine of patent exhaustion.¹³⁰

¹²⁶ *Id.* at 2113.

¹²⁷ *Id.* at 2119.

¹²⁸ *Fuji Photo Fil Co., Ltd. v. Jazz Photo Corp.*, 394 F.3d 1368, 1376 (Fed. Cir. 2005) (“*Fuji*”).

¹²⁹ *McFarling*, 302 F.3d 1291, 1298 (Fed. Cir. 2002) (quoting *United States v. Univis Lens Co.*, 316 U.S. 241, 249 (1942) (“*Univis*”).

¹³⁰ *Jazz Photo Corp. v. International Trade Comm’n*, 264 F.3d 1094, 1105 (Fed. Cir. 2001) (“*Jazz Photo I*”), cert. denied, 536 U.S. 950, 153 L. Ed. 2d 823, 122 S. Ct. 2644 (2002).

3. Licensing

A license under a patent, whether express or implied, is generally a complete defense to a charge of infringement, as long as the patent or invention is used in accordance with the license agreement.¹³¹ As an agreement, contract law, rather than patent law, generally governs licenses.¹³²

Licenses can be implied as well as express. There are two requirements for an implied license to arise: (1) the equipment involved must have no noninfringing uses, and (2) the circumstances of the sale must plainly indicate that the grant of a license should be inferred.¹³³

4. Prosecution Laches

The doctrine of prosecution laches is an equitable defense.¹³⁴ Prosecution laches may render a patent unenforceable when it has issued only after an unreasonable and unexplained delay in prosecution.¹³⁵ In determining whether delay during prosecution was unreasonable and unexplained, the court should examine the “totality of the circumstances, including the prosecution history of all of a series of related patents and overall delay in issuing claims.”¹³⁶

IV. The ‘424 Patent

A. Overview

Three claims of the ‘424 patent are asserted against Respondents, namely claims 17, 24, and 30. In addition, claim 20 is at issue even though it is not asserted against Respondents, because it

¹³¹ *Glass Equipment Development, Inc. v. Besten, Inc.*, 174 F.3d 1337 (Fed. Cir. 1999) (“*Glass Equipment*”).

¹³² *Freeman v. Seiberling Rubber Co.*, 72 F.2d 124, 125 (6th Cir. 1934) (“*Freeman*”).

¹³³ *Met-Coil Sys. Corp. v. Korners Unlimited, Inc.*, 803 F.2d 684, 686 (Fed. Cir. 1986) (“*Met-Coil*”).

¹³⁴ *Symbol Technologies, Inc. v. Lemelson Medical, Educ. & Research*, 422 F.3d 1378, 1384 (Fed. Cir. 2005) (“*Symbol Technologies*”).

¹³⁵ *Id.* at 1385.

¹³⁶ *Id.* at 1386.

is an independent claim from which certain asserted dependent claims depend. These claims read as follows:

17. A method of operating a non-volatile memory system having an array of memory storage elements organized into at least two sub-arrays, wherein the individual sub-arrays are divided into a plurality of non-overlapping blocks of storage elements wherein a block contains the smallest group of memory storage elements that are erasable together, and the individual blocks are divided into a plurality of pages of storage elements wherein a page is the smallest group of memory storage elements that are programmable together, comprising: linking at least one block from individual ones of said at least two sub-arrays to form a metablock wherein its component blocks are erased together as a unit, and updating pages of original data within any of the metablock component blocks less than all the pages within the block by programming replacement data into pages within another at least one block in only a designated one of the sub-arrays regardless of which sub-array the data being updated is stored.
20. In a re-programmable non-volatile memory system having a plurality of blocks of memory storage elements that are erasable together as a unit, the plurality of blocks individually being divided into a plurality of a given number of pages of memory storage elements that are programmable together, a method of operating the memory system, comprising: programming individual ones of a first plurality of said given number of pages in each of at least a first block with original data and a logical page address associated with the original data, thereafter programming individual ones of a second plurality of a total number of pages less than said given number in a second block with updated data and a logical page address associated with the updated data, wherein the logical page addresses associated with the updated data programmed into the second plurality of pages are the same as those associated with the original data programmed into the first plurality of pages, and thereafter reading and assembling data from the first and second plurality of pages including, for pages having the same logical addresses, selecting the updated data from the pages most recently programmed and omitting use of the original data from the pages earlier programmed.
24. The method of claim 20, wherein programming the second plurality of pages in a second block includes causing the updated data to be programmable in pages of the second block having different offset positions therein than the offset positions of pages within the first block containing the original data associated with the same logical page addresses.
30. The method of any one of claims 20-24, wherein the non-volatile memory system is formed within an enclosed card having an electrical connector along one edge thereof that operably connects with a host system.

As noted above, the undersigned has already construed the above claims in a *Markman* order.¹³⁷ A

summary of the claims construed in that order is detailed below:

Claim	Term	Construction
17	array of memory storage elements	A contiguous group of memory storage elements arranged in rows and columns with dedicated row and column decoders.
17	sub-array	Two or more blocks in a physically distinct subdivision of an array in which read, write, and/or erase operations can be performed independently.
17	block	The smallest group of cells that are erasable together.
17	page	The smallest group of memory storage elements that are programmable together.
17	updating pages of original data within any of the metablock component blocks less than all the pages within the block	Updating fewer than all the pages of a block within the metablock.
20	logical address	Address for storing data in memory that is distinct from a physical address.
20	programming individual ones of a first plurality of said given number of pages in each of at least a first block with original data and a logical page address associated with the original data.	Writing pages in a first group of blocks with original data and an address consisting of a logical block number and a logical page offset that identifies the logical location of a page containing the original data.
20	programming individual ones of a second plurality of a total number of pages less than said given number in a second block with updated data and a logical page address associated with the updated data	Writing fewer than all of the pages in a second block with updated data and an address consisting of a logical block number and a logical page offset that identifies the logical location of a page containing the updated data.
20	reading and assembling data from the first and second plurality of pages	Reading the logical page address within the first and second plurality of pages and thereafter assembling the data portions from the most up-to-date pages into a data file.

¹³⁷ See Order No. 33.

B. Infringement

1. Claim 17

SanDisk asserts that Flash memory system products that incorporate accused Phison controllers infringe claim 17 of the '424 patent.¹³⁸ According to [

] ¹³⁹

Respondents assert that the Phison 2231 and 3006 controllers do not infringe claim 17, because step (b) requires [

] According to Respondents, if claim 17 is broad enough that the Phison controllers infringe, then it is certainly invalid as anticipated by the Sinclair '321 patent.¹⁴⁰

Staff agrees with SanDisk that Respondents infringe claim 17. According to Staff, Respondents premise their non-infringement argument on a faulty construction of step (b) in claim 17.¹⁴¹

¹³⁸ CIB 62; 69.

¹³⁹ CIB 69.

¹⁴⁰ RIB 47-49.

¹⁴¹ SIB 31.

- a. **Preamble: “A method of operating a non-volatile memory system having an array of memory storage elements organized into at least two sub-arrays, wherein the individual sub-arrays are divided into a plurality of non-overlapping blocks of storage elements wherein a block contains the smallest group of memory storage elements that are erasable together, and the individual blocks are divided into a plurality of pages of storage elements wherein a page is the smallest group of memory storage elements that are programmable together, comprising”**

SanDisk asserts that the accused Phison controllers satisfy the preamble of claim 17.¹⁴² Specifically, SanDisk asserts that: (1) the accused Phison controllers reside in non-volatile memory systems such as USB drives and memory cards, (2) the NAND memories used in these systems have one or more arrays of storage elements or cells, (3) each array is organized into sub-arrays (referred to as “planes”) consisting of “two or more blocks in a physically distinct subdivision or an array in which read, write, and/or erase operations can be performed independently,” and (4) within each plane, the NAND cells are organized as non-overlapping “blocks” which are “the smallest group of cells that are erasable together,” and further divided into “pages” which are “the smallest group of memory storage elements that are programmable together.”¹⁴³

Phison does not address the preamble and therefore does not dispute that the limitations of the preamble are met by its controllers.

Accordingly, the undersigned agrees that Phison’s controllers meet the limitation of the preamble of claim 17.

¹⁴² CIB 69; CRB 26-27.

¹⁴³ CIB 69-70.

- b. Step (a): “linking at least one block from individual ones of said at least two sub-arrays to form a metablock wherein its component blocks are erased together as a unit”**

SanDisk asserts that the accused Phison controllers satisfy step (a) of claim 17.¹⁴⁴

Specifically, SanDisk asserts that when a host system seeks to store original data in the accused Phison memory system, the Phison controller [

] ¹⁴⁵

Phison does not address step (a) and therefore does not dispute that the limitations of step (a) are met by its controllers.

Accordingly, the undersigned agrees that Phison’s controllers meet the limitation of step (a) of claim 17.

- c. Step (b): “and updating pages of original data within any of the metablock component blocks less than all the pages within the block by programming replacement data into pages within another at least one block in only a designated one of the sub-arrays regardless of which sub-array the data being updated is stored.”**

SanDisk asserts that the accused Phison controllers satisfy step (b) of claim 17.¹⁴⁶

Specifically, SanDisk []

¹⁴⁴ CIB 70; CRB 26-27.

¹⁴⁵ CIB 70.

¹⁴⁶ CIB 70-72.

[

] ¹⁴⁷ [] ¹⁴⁸

SanDisk asserts that Respondents are attempting to rewrite the agreed-upon claim construction in order to avoid infringement. SanDisk argues that when claim 17 is read as a whole, it is clear that the term “pages,” although plural, does not exclude single page updates. SanDisk cites to *Versa Corp. v. AG-Bag Int’l Ltd.* in support of the proposition that “the plural can describe a universe ranging from one to some higher number, rather than require more than one item.”¹⁴⁹

Staff agrees with SanDisk and makes similar arguments, citing to *Versa*¹⁵⁰ and arguing that, within the context of the ‘424 patent, when the patentees intended to refer to more than one page, they explicitly did so by reciting a “plurality of pages,” as seen in the preamble. Furthermore, Staff asserts that its claim construction is consistent with the specification’s description of a “metablock operation” and that Respondents’ construction would impermissibly exclude the preferred embodiment.¹⁵¹ Staff also cites to the “summary of the invention” in support.¹⁵²

Respondents assert that claim 17 explicitly requires “updating pages,” not a single page. And because it is only possible to program replacement data into pages within a multiple page update,

¹⁴⁷ CIB 70.

¹⁴⁸ CIB 70-71 citing Subramanian, Tr. 1158, 1163, 1208.

¹⁴⁹ CIB 72 citing *Versa Corp. v. AG-Bag Int’l Ltd.*, 392 F.3d 1325, 1330 (Fed. Cir. 2004) (“*Versa*”).

¹⁵⁰ SIB 32 citing *Versa*, 392 F.3d at 1330; *Dayco Products, Inc. v. Total Containment, Inc.*, 258 F.3d 1317, 1328 (Fed. Cir. 2001) (“*Dayco*”).

¹⁵¹ SIB 33-34 citing the ‘424 patent, col. 12:28-30, 46-50; *Helmsderfer v. Bobrick Washroom Equip., Inc.*, 527 F.3d 1379, 1383 (Fed. Cir. 2008) (“*Helmsderfer*”); SRB 2-3.

¹⁵² SIB 34 citing the ‘424 patent, col. 3:26-27.

Respondents assert that claim 17 requires updating two or more pages. According to Respondents, the multiple page update could be two successive single page updates or a single multiple page update, and infringement only occurs after multiple pages have been updated. In support, Respondents state that the sole embodiment in the specification teaches multiple page updates.¹⁵³ Furthermore, Respondents argue that the general rule in claim construction is that the plural form requires more than one.¹⁵⁴

Respondents also assert that the language of step (b) requires that one and only one of the sub-arrays of the flash memory be designated to store replacement data for a particular metablock regardless of where the old data is stored, as shown in Figure 16.¹⁵⁵ According to Respondents, [

] ¹⁵⁶ In support, Respondents cite to Federal Circuit case law which states that “only” means “only.”¹⁵⁷ []¹⁵⁸

SanDisk counters Respondents’ argument that the specification does not teach single page updates because of Federal Circuit case law which states that even when the specification describes only a single embodiment, the claims of the patent will not be read restrictively unless the patentee has demonstrated a clear intention to limit the claim scope using “words or expressions of manifest

¹⁵³ RIB 52; RRB 6.

¹⁵⁴ RIB 52-53 citing *Electro Scientific Industries, Inc. v. Dynamic Details, Inc.*, 307 F.3d 1343, 1349-50 (Fed. Cir. 2002) (“*Electro Scientific*”); RRB 7.

¹⁵⁵ RIB 53-54.

¹⁵⁶ RIB 54.

¹⁵⁷ RIB 54 citing *Elekta Instruments S.A. v. O.U.R. Scientific Int’l, Inc.*, 214 F.3d 1302 (Fed. Cir. 2000) (“*Elekta*”).

¹⁵⁸ RIB 54.

exclusion or restriction.”¹⁵⁹ Furthermore, SanDisk argues that the “Summary of the Invention” expressly states that the metablock embodiment is “particularly useful when the memory system frequently updates single pages from a metablock.”

As to Respondents’ sub-array argument, while Staff agrees that the recitation of “only a designated one of the sub-arrays” requires a method where all replacement data is programmed into only one designated sub-array, Staff argues that claim 17 does not require the use of a system which necessarily stores all updated data within only one sub-array. Staff argues that in the situation where only one page of data is being updated within the metablock, the claim limitation will be met if the replacement data for that one page is stored in only one sub-array. Conversely, Staff acknowledges that when more than one page of data is being updated, a method which programs each page of replacement data into different sub-arrays, does not infringe claim 17. Staff asserts that the mere fact that an apparatus has potential noninfringing uses does not mean that it cannot be used to practice an infringing method.¹⁶⁰

Respondents counter SanDisk’s and Staff’s arguments that, despite the unequivocal plural term “pages,” the claim may be practiced by updating a single page based on the *Dayco Products* and *Versa* cases. According to Respondents, the limited exception to the rule that a plural limitation may include the singular only applies where the context requires such an interpretation, and that this is not the case for claim 17.¹⁶¹

Respondents also counter Dr. Rhyne’s testimony that []

¹⁵⁹ CIB 72 citing *Liebel-Flarsheim Co. v. Medrad, Inc.*, 358 F.3d 898, 906 (Fed. Cir. 2004) (“*Liebel-Flarsheim*”).

¹⁶⁰ SIB 35.

¹⁶¹ RIB 53.

[

] Respondents argue that [] never appears in claim 17 or the specification and that Dr. Rhyne's test should be disregarded.¹⁶²

The parties agreed that the construction of the term "updating pages of original data within any of the metablock component blocks less than all the pages within the block" should be construed as "updating fewer than all the pages of a block within the metablock."¹⁶³ SanDisk and Staff assert that the stipulated construction of this claim term includes an update to a single page of data, while Respondents argue that it requires updates to multiple pages. There is no dispute among the parties regarding the operation of Phison's controllers and that infringement hinges on claim construction.

The undersigned finds Respondents' arguments to be persuasive. The plain meaning of the term "pages" clearly indicates more than one page. There is no indication within the specification that the patentees intended the word "pages" to indicate anything other than the plain and ordinary meaning of the term "pages." While there may be a reference in the "Summary of the Invention" that the metablock embodiment is "particularly useful when the memory system frequently updates single pages from a metablock," the claim specifically refers to "pages." Furthermore, the example in the preferred embodiment refers to multiple pages.¹⁶⁴ In addition, although there is Federal Circuit case law which states that "the plural *can* describe a universe ranging from one to some higher number, rather than require more than one item,"¹⁶⁵ such exceptions should be limited to situations where the context requires such an interpretation, which the undersigned finds is not applicable here.

¹⁶² RIB 55.

¹⁶³ See Order No. 33 at 57.

¹⁶⁴ See the '424 patent, col. 2:23-3:31, 12:28-30, 46-50.

¹⁶⁵ *Versa*, 392 F.3d at 1330 (italics added).

Accordingly, the use of the term “pages” in the claim term requires updates to multiple pages. There is no disagreement among the parties that if the claim is interpreted in this manner, that Phison’s controllers do not infringe. Therefore, the undersigned finds that Phison’s 2231 and 3006 controllers do not infringe step (b) of claim 17. As the undersigned has found that this limitation is not met, the undersigned does not make any findings with regard to Respondent’s one plane argument.

d. Claim 17 Conclusion

Each and every limitation of claim term must be met in order for there to be a finding of infringement. SanDisk has failed to show that Phison’s controller infringes step (b) of claim 17. Accordingly, SanDisk has failed to show that Phison’s controllers infringe claim 17.

2. Claim 20

While claim 20 is not directly asserted against any of the Respondents, claims 24 and 30, which depend from claim 20, are asserted against Respondents. Therefore, a discussion regarding infringement of claim 20 is necessary.

a. Preamble: “In a re-programmable non-volatile memory system having a plurality of blocks of memory storage elements that are erasable together as a unit, the plurality of blocks individually being divided into a plurality of a given number of pages of memory storage elements that are programmable together, a method of operating the memory system, comprising”

(1) Phison

SanDisk summarizes its opinion of how Phison’s controllers operate.¹⁶⁶ SanDisk asserts that

¹⁶⁶ CIB 73-75.

it is undisputed that Flash memory systems that use a Phison controller meet claims 24's preamble.¹⁶⁷ Specifically, SanDisk asserts that: [

] ¹⁶⁸ Staff agrees. ¹⁶⁹ Phison does not address the preamble and therefore does not dispute that the limitations of the preamble are met by its controllers.¹⁷⁰

Accordingly, the undersigned agrees that Phison's controllers meet the limitations of the preamble of claim 20.

(2) SMI

SanDisk summarizes its opinion of how SMI's controllers operate.¹⁷¹ SanDisk asserts that the parties agree that Flash memory systems that include a SMI Flash memory controller meet the preamble of claim 24.¹⁷² Staff agrees.¹⁷³ SMI does not address the preamble and therefore do not dispute that the limitations of the preamble are met by its controllers.¹⁷⁴

Accordingly, the undersigned agrees that SMI's controllers meet the limitations of the preamble of claim 20.

¹⁶⁷ While SanDisk puts its analysis under the heading of claim 24, the other parties detail their arguments under claim 20, which is the independent claim from which claim 24 depends. According to SanDisk, "[i]t is the same claim language at issue either way." CRB 29, n. 18. The undersigned hereafter will treat SanDisk's arguments as arising under claim 20.

¹⁶⁸ CIB 75.

¹⁶⁹ SIB 38 citing CX-1008C (Rhyne Direct) at Q. 363.

¹⁷⁰ RRB 8.

¹⁷¹ CIB 92-94.

¹⁷² CIB 94-95.

¹⁷³ SIB 38 citing CX-1008C (Rhyne Direct) at Q. 363.

¹⁷⁴ RRB 8.

(3) Skymedi

SanDisk summarizes its opinion of how Skymedi's controllers operate.¹⁷⁵ SanDisk asserts that the parties agree that Flash memory systems that include a Skymedi Flash memory controller meet the preamble of claim 24.¹⁷⁶ Staff agrees.¹⁷⁷ Skymedi does not address the preamble and therefore do not dispute that the limitations of the preamble are met by its controllers.¹⁷⁸

Accordingly, the undersigned agrees that Skymedi's controllers meet the limitations of the preamble of claim 20.

(4) Conclusion as to the Preamble

As detailed above, the undersigned finds that the flash memory controllers of Respondents Phison, SMI, and Skymedi meet the limitations of the preamble of claim 20.

- b. Step (a): "programming individual ones of a first plurality of said given number of pages in each of at least a first block with original data and a logical page address associated with the original data"**

(1) Phison

(a) Literal Infringement

SanDisk asserts that it is undisputed that Phison's CF/SSD controllers literally practice step (a). According to SanDisk, Phison's expert, Dr. Subramanian, admitted that Phison's CF/SSD controllers meet this limitation and that SanDisk's expert, Dr. Rhyne, agrees.¹⁷⁹ Staff agrees.¹⁸⁰

¹⁷⁵ CIB 99-101.

¹⁷⁶ CIB 101-02.

¹⁷⁷ SIB 38 citing CX-1008C (Rhyne Direct) at Q. 363.

¹⁷⁸ RRB 8.

¹⁷⁹ CIB 76 citing Subramanian, Tr. 1106, 1150; CX-1008C (Rhyne Direct) at Q. 283-91, 301-02, 379-81.

¹⁸⁰ SIB 39; SRB 4.

As to Phison's CF/SSD controllers, the parties agree that these controllers literally satisfy step (a). Accordingly, the undersigned agrees that Phison's CF/SSD controllers meet the limitations of step (a) of claim 20.

(b) Infringement under the Doctrine of Equivalents

SanDisk asserts that it is undisputed that Phison memory systems [

] ¹⁸¹

As to Phison's USB controllers, SanDisk asserts that Phison infringes under the doctrine of equivalents because there is only an insubstantial difference between [

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]

¹⁸¹ CIB 75.

¹⁸² CIB 76.

] ¹⁸³ SanDisk argues that a person of ordinary skill in the art would find the difference between [

] ¹⁸⁴

Applying the function-way-result test, SanDisk argues that the test is met. As to “function,” SanDisk argues that [

] performs the same function as the logical page address because [

] As to “way,” SanDisk argues that [

] performs the same function

in the same way because [

] As to “result,” SanDisk argues that [

] achieves the same result as programming the literal logical

page offset into the pages of a block containing original data because [

] ¹⁸⁵

Respondents assert that, during the hearing, SanDisk admitted that the Phison 2231 controller, the Skymedi 1606F controllers, and all of the SMI controllers do not literally practice step (a) because [] and that

¹⁸³ CIB 77-78.

¹⁸⁴ CIB 78-79 citing CX-1008C (Rhyne Direct) at Q. 371; Subramanian, Tr. 1015-18, 1026-29, 1038-39; Mercer, Tr. 1559-61, 1565-67, 1569-73.

¹⁸⁵ CIB 79-80 citing CX-1008C (Rhyne Direct) at Q. 371, 374-75. See also CRB 34-35.

SanDisk is asserting infringement against these accused products under the doctrine of equivalents.¹⁸⁶

Respondents argue that the evidence shows that these controllers do not infringe step (a) under the doctrine of equivalents.¹⁸⁷

Respondents, in general, assert that SanDisk's doctrine of equivalents analysis contradicts the undersigned's claim construction order, as well as Federal Circuit precedent. Respondents assert that the undersigned construed the term "logical page address" to mean a "logical block number and logical page offset." SanDisk has conceded that, under this claim construction, the Phison 2231 controller, the SMI controllers, and the Skymedi IPN1606F controllers do not literally infringe this limitation, but assert that they infringe under the doctrine of equivalents.¹⁸⁸ Respondents argue that SanDisk is attempting to get around the claim construction by attempting to reclaim a construction that was expressly rejected.¹⁸⁹

According to Respondents, SanDisk's arguments should also be rejected because SanDisk's expert, Dr. Rhyne, has an incorrect understanding of how the doctrine of equivalents products operate.¹⁹⁰ Respondents argue that Dr. Rhyne is attempting to assert that [

] which is directly contradicted by the '424 patent.¹⁹¹ Specifically, Respondents note that the '424 patent absolutely requires the programming of logical page offsets in pages of

¹⁸⁶ RIB 20 citing Rhyne, Tr. 201-02.

¹⁸⁷ RIB 20.

¹⁸⁸ RIB 14 citing Rhyne, Tr. 201-02.

¹⁸⁹ RIB 15.

¹⁹⁰ RIB 14.

¹⁹¹ RIB 15-16.

original data and that []¹⁹² In addition, Respondents argue that SanDisk's proposed equivalents would vitiate the logical page offset requirement in step (a).¹⁹³

As to SanDisk's function-way-result test, Respondents assert that the proposed equivalent [] which is contrary to the claimed function of providing the logical page address to be programmed within the page itself.¹⁹⁴ Respondents also counter Dr. Rhyne's assertion regarding that his way argument is inconsistent.¹⁹⁵

Specifically as to Phison, Phison asserts that SanDisk's doctrine of equivalents argument is factually incorrect.¹⁹⁶ According to Phison, SanDisk accuses the Phison 2231 controller of practicing step (a) by[

197

199

]

¹⁹² RIB 16-17 citing JX -2 (the '424 patent), claim 20 and Figs. 8 and 10, Rhyne, Tr. 197-98, 273-74.

¹⁹³ RIB 17-18.

¹⁹⁴ RIB 19.

¹⁹⁵ RIB 19.

¹⁹⁶ Specifically, Respondents argue that SanDisk's expert, Dr. Rhyne, has significant factual errors with respect to how Phison's accused controllers operate and is inconsistent based on a comparison of Phison's 2231 and 2251 controllers. RIB 20-21.

¹⁹⁷ RIB 20 citing Rhyne, Tr. 201-02.

¹⁹⁸ RIB 20 citing Rhyne, Tr. 448-49. See also RRX-17C (Yang Direct) at Q. 111 and Subramanian, Tr. 1123-24, 1127, 1248-49.

¹⁹⁹ RIB 20 citing Rhyne, Tr. 216 and CX-1008C (Rhyne Direct) at Q. 371. See also JX-173C (continued...)

[

] ²⁰⁰

Staff agrees with Phison that SanDisk has failed to satisfy its burden of proving that Phison's USB controllers can be used to practice the limitations recited in step (a) under the doctrine of equivalents.²⁰¹ According to Staff, the evidence shows that [

202

203

] ²⁰⁴

While Staff agrees with Phison that the function is different, Staff does not agree that consolidation is an express requirement of claim 20.²⁰⁵ Staff also asserts that the '424 patent contemplates a system which locks the original blocks, such that the physical order is always the same as the logical order.²⁰⁶ Therefore, Staff asserts that [

] does not necessarily constitute a substantial difference from the claimed system.²⁰⁷

Furthermore, Staff agrees with SanDisk that SanDisk's arguments do not impermissibly vitiate any

¹⁹⁹(...continued)
(Hsu Dep) at 49-50.

²⁰⁰ RIB 20-21 citing Rhyne, Tr. 451, 457 and JX-173C (Hsu Dep) at 57, 61. See also Subramanian, Tr. 1250.

²⁰¹ SIB 41.

²⁰² SIB 43.

²⁰³ SIB 47-49.

²⁰⁴ SIB 50-51.

²⁰⁵ SIB 43-45 citing Subramanian, Tr. 1155.

²⁰⁶ SIB 45-46.

²⁰⁷ SIB 46.

express claim limitations.²⁰⁸

SanDisk counters Phison's doctrine of equivalents arguments. According to SanDisk, Phison is attempting to avoid infringement by making erroneous statements [

] ²⁰⁹

SanDisk also counters Phison's arguments that SanDisk has misapplied the undersigned's claim construction and taken a position inconsistent with the '424 patent. SanDisk asserts that it has fully honored the claim construction for claim 24 set forth in Order No. 33, which requires programming the page of a first block, [] with original data and the logical page address, comprised of a logical block number and a logical page offset, associated with the data. SanDisk asserts that it is not vitiating a claim limitation because SanDisk is not asserting that "not programming" is equivalent to programming because SanDisk's argument is limited to a product that, [

] Finally, SanDisk asserts that its doctrine of equivalents argument is not inconsistent with Figure 14 in the '424 patent because Figure 14 relates to programming updated data, not original

²⁰⁸ SRB 8.

²⁰⁹ CIB 80-82 citing Subramanian, Tr. 1115, 1130, 1132-33, 1136-38, 1142-43. See also CRB 38-40.

data.²¹⁰

In addition, SanDisk asserts that Dr. Rhyne correctly described how the accused controllers operate. SanDisk also asserts that []
Rather, Dr. Rhyne testified that [] which is a key factor in SanDisk's doctrine of equivalents analysis.²¹¹

Staff also counters SanDisk's arguments regarding Phison's controllers [

] ²¹²

As to Phison's USB controllers, the undersigned agrees with Phison that SanDisk's doctrine of equivalents analysis contradicts the undersigned's claim construction order. In the claim construction order, the undersigned construed the term "logical page address" to mean a "logical block number and logical page offset." SanDisk has conceded that, under this claim construction,

[

] ²¹³ While SanDisk urges the undersigned to find infringement under the doctrine of equivalents, the undersigned rejects such arguments as being overly broad.

The evidence shows that the [

214

]

²¹⁰ CIB 82-84; CRB 31-33.

²¹¹ CRB 29-30.

²¹² SIB 49-50.

²¹³ Rhyne, Tr. 201-02.

²¹⁴ RRX-18C (Subramanian Direct) at Q. 137.

[

] ²¹⁷ Therefore, there are substantial differences in function.

Accordingly, the undersigned finds that SanDisk has failed to satisfy its burden of proving that Phison's USB controllers can be used to practice the limitations recited in step (a) under the doctrine of equivalents.

(2) SMI - Infringement under the Doctrine of Equivalents

SanDisk asserts that SMI's expert, Dr. Subramanian, admitted that SMI controllers meet the "original data" and "logical block number" limitations in step (a).²¹⁸ According to SanDisk, the only limitation in step (a) that is not literally met by SMI's controllers is the "logical page offset" portion of the "logical page address." SanDisk asserts that the evidence shows that SMI's controllers meet this limitation under the doctrine of equivalents.²¹⁹ According to SanDisk, [

] Therefore, SanDisk asserts that a person of ordinary skill in the art would find

²¹⁵ RRX-18C (Subramanian Direct) at Q. 129.

²¹⁶ RRX-18C (Subramanian Direct) at Q. 129.

²¹⁷ RRX-18C (Subramanian Direct) at Q. 129. See also JX-173C (Yang Dep) at 74-75.

²¹⁸ CIB 95 citing Subramanian, Tr. 1106-07, RRX-18C (Subramanian Rebuttal) at Q. 105.

²¹⁹ CIB 95.

that there is an insubstantial difference between [

] SanDisk also counters SMI's arguments that SanDisk is misapplying the undersigned's claim construction, as already discussed when addressing Phicom's arguments.²²⁰

SMI asserts that its controllers do not practice step (a) under the doctrine of equivalents because Dr. Rhyne's testimony is inaccurate and incomplete. According to SMI, its controllers

[

] ²²¹

[

]

²²⁰ CIB 95-96.

²²¹ RIB 23.

[

] ²²²

Furthermore, SMI asserts that SanDisk has not shown that the SMI controllers perform the same function, way, result. As to function, [

] ²²³ As to way, [

] ²²⁴ As to result, [

] ²²⁵

Staff agrees with Respondents that SanDisk has failed to satisfy its burden of proving that SMI's controllers can be used to practice the limitations recited in step (a) under the doctrine of equivalents.²²⁶ According to Staff, the evidence shows that the function served by [

²²⁷

²²⁸

]

²²² RIB 24-25.

²²³ RIB 25.

²²⁴ RIB 25-26.

²²⁵ RIB 26.

²²⁶ SIB 41.

²²⁷ SIB 43.

²²⁸ SIB 53.

[

] ²²⁹

SanDisk counters SMI's and Staff's arguments, asserting that they misstate the function of a logical page address, and therefore do not analyze the function-way-result test correctly.²³⁰

As to SMI's controllers, the undersigned agrees with SMI and Staff that SanDisk's doctrine of equivalents analysis contradicts the undersigned's claim construction order. In the claim construction order, the undersigned construed the term "logical page address" to mean a "logical block number and logical page offset." SanDisk has conceded that, under this claim construction, the Phison 2231 controller, the SMI controllers, and the Skymedi IPN1606F controllers do not literally infringe this limitation.²³¹ While SanDisk urges the undersigned to find infringement under the doctrine of equivalents, the undersigned rejects such arguments as being overly broad.

[

] ²³² Therefore, there are substantial differences in function.

Accordingly, the undersigned finds that SanDisk has failed to satisfy its burden of proving that SMI's controllers can be used to practice the limitations recited in step (a) under the doctrine of equivalents.

²²⁹ SIB 53.

²³⁰ CRB 43-44.

²³¹ Rhyne, Tr. 201-02.

²³² RRX-11C (J. Lee Rebuttal) at Q. 27-31; RRX-18C (Subramanian Direct) at Q. 198; Subramanian, Tr. 1233; Rhyne, Tr. 465.

(3) Skymedi

(a) Literal Infringement

SanDisk asserts that the evidence shows that Skymedi's IPN1603 controllers literally meet the "logical page offset" portion of the "logical page address" limitation.²³³ SanDisk asserts that Skymedi's own witness, Mr. Chang, agreed that [

] ²³⁴

Staff agrees with SanDisk that SanDisk has satisfied its burden of proving that Skymedi's pre-July 1, 2008 controllers literally satisfy step (a).²³⁵ According to Staff, the evidence shows that

[

236

237

] ²³⁸

Skymedi asserts that its 1603 controller does not practice step (a) because it does not store

²³³ CIB 102-05.

²³⁴ CIB 102 citing Chang, Tr. 760.

²³⁵ SRB 4-5.

²³⁶ SIB 39 citing CX-1008C (Rhyne Direct) at Q 440; CX-810 (Huang Dep); Mercer, Tr. 1577-78.

²³⁷ SIB 40 citing RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 147; Mercer, Tr. 1581.

²³⁸ SIB 40 citing CX-1008C (Rhyne Direct) at Q. 465.

a logical page offset. While SanDisk asserts that [] satisfies the requirement for programming a logical page address, Skymedi asserts that [

] ²³⁹ Skymedi asserts that, even if [] were relevant, [] in a page is clearly different from programming a logical page offset as the functions are different. A logical page address allows data to be stored anywhere in the chip, whereas [

] ²⁴⁰

SanDisk counters Skymedi's arguments. According to SanDisk, Skymedi's sole argument as to non-infringement [

] was belied by Dr. Mercer's testimony

at the hearing. SanDisk asserts that Dr. Mercer confirmed that Skymedi's 1603 controller will program [

] ²⁴¹

Skymedi counters SanDisk's and Staff's arguments. According to Skymedi, its controllers program [

] Therefore, Skymedi asserts that the "use"

is completely unrelated to the claim limitations.²⁴²

The undersigned finds SanDisk's and Staff's arguments to be persuasive. The testimony of

²³⁹ RIB 29 citing Rhyne, Tr. 371-72.

²⁴⁰ RIB 30 citing JX-2 (the '424 patent) at col 2:57-62 and Rhyne, Tr. 186.

²⁴¹ CRB 37-38 citing Mercer, Tr. 1576, 1589-92.

²⁴² RRB 12, 18-19.

Dr. Mercer is undisputed that Skymedi's 1603 controllers [

] ²⁴³ Accordingly, Skymedi's 1603 controllers

infringe step (a).

(b) Infringement Under the Doctrine of Equivalents

SanDisk asserts that SMI's expert, Dr. Mercer, admitted that Skymedi's controllers meet the "original data" and "logical block number" limitations in step (a).²⁴⁴ According to SanDisk, the only limitation in step (a) that is not literally met by Skymedi's controllers is the "logical page offset" portion of the "logical page address." SanDisk asserts that the evidence shows that Skymedi's IPN1606F meet this limitation under the doctrine of equivalents.²⁴⁵

Specifically, SanDisk asserts that there is an insubstantiality of difference between [

] which is similar to

SanDisk's argument as to why the Phison USB and SMI controllers also infringe under the doctrine of equivalents.²⁴⁶ In further support, SanDisk notes that Skymedi was able to easily design around the '424 patent by [

] which SanDisk argues is a simple design change in an attempt to overcome literal infringement.

According to SanDisk, because the design change has no impact on performance, the change is insubstantial.²⁴⁷

Staff agrees with SanDisk that SanDisk has satisfied its burden of proving that Skymedi's recently designed accused products can be used to practice the limitations recited in step (a) under

²⁴³ Mercer, Tr. 1576, 1589-92.

²⁴⁴ CIB 102 citing Mercer, Tr. 1576, 1584, 1591.

²⁴⁵ CIB 102-05.

²⁴⁶ CIB 104 citing JX-128C (Huang Dep) at 64-65; RRX-33C (Chang Rebuttal) at Q. 102.

²⁴⁷ CIB 104-05 citing JX-128C (Huang Dep) at 64-65.

the doctrine of equivalents.²⁴⁸ According to Staff, the evidence shows that the function served by [] in the accused Skymedi 1606F controller is insubstantially different.²⁴⁹ Staff asserts that the Skymedi 1606F controller performs a function that is equivalent to programming a logical page offset when it [

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] which is performing substantially the same function as programming a logical page offset, which is to program information that can be used to determine the physical address corresponding to a given logical address.²⁵¹ Furthermore, Staff asserts that the evidence shows that one of ordinary skill in the art would have considered it a trivial design change to modify a system that literally infringes claim 20 of the '424 patent, such as Skymedi's IPN 1603, to the accused equivalent systems.²⁵²

Skymedi asserts that the Skymedi 1606F controllers do not infringe step (a) under the doctrine of equivalents. According to Skymedi, Dr. Rhyne's assertion that the [

] as being equivalent to a logical page address should be rejected. Skymedi notes that while Dr. Rhyne agreed that the required logical page offset in the '424 patent will necessarily differ for each page of original data, Skymedi controllers are substantially different

²⁴⁸ SIB 41.

²⁴⁹ SIB 43.

²⁵⁰ SIB 55-56 citing RRDY-40C at 5; RRY-33C (Chang Rebuttal) at Q. 68; Mercer, Tr. 1597-98.

²⁵¹ SIB 56-57 citing JX-2 (the '424 patent) at col. 10:44-59; CX-1008C (Rhyne Direct) at Q. 477, 481-82.

²⁵² SIB 57-58 citing CX-1008C (Rhyne Direct) at Q. 485; CX-811 (Huang Dep).

because [

253

] ²⁵⁴

SanDisk counters Skymedi's arguments that it does not infringe. First, as to Skymedi's argument that [

] ²⁵⁵ Second, as to

Skymedi's argument that [

] ²⁵⁶ In the alternative, SanDisk

asserts that [

] ²⁵⁷ Furthermore, SanDisk asserts that the fact that

[

] does not make the Skymedi controller

substantially different because [

] In

addition, [

]

²⁵³ RIB 27 citing Rhyne, Tr. 355, 358-59, 362-64, 370, CX-1008 (Rhyne Direct) at Q. 476.

²⁵⁴ RIB 28 citing Rhyne, Tr. 347-48, CX-1008C (Rhyne Direct) at Q.475.

²⁵⁵ CIB 102-03 citing Mercer, Tr. 1581.

²⁵⁶ CIB 103 citing CX-1008C (Rhyne Direct) at Q. 465; JX-128C (Huang Dep) at 81-82, 127-

30.

²⁵⁷ CIB 103-04.

[]²⁵⁸

As to Skymedi's argument that SanDisk is not applying the undersigned's claim construction, SanDisk asserts that Skymedi's argument should be rejected for the same reason that Phison's and SMI's arguments should fail.²⁵⁹

Skymedi counters SanDisk's and Staff's arguments. According to Skymedi, the values that SanDisk identifies as being equivalent to the logical page offsets are [

] In
addition, Skymedi asserts that the claim requires using the values identified as equivalent to logical page offsets for use in a plurality of pages. [

] ²⁶⁰

The undersigned agrees with SanDisk and Staff that, Skymedi's 1606F controllers infringe step (a) of claim 20 because the Skymedi 1606F controller performs a function that is equivalent to programming a logical page offset when it [

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]

²⁵⁸ CRB 36-37.

²⁵⁹ CIB 105.

²⁶⁰ RRB 11-12.

²⁶¹ RRDY-40C at 5; RRB-33C (Chang Rebuttal) at Q. 68; Mercer, Tr. 1597-98.

[

] ²⁶² Accordingly, SanDisk has shown that Skymedi's 1606F controllers meet the function-way-result test and infringe under the doctrine of equivalents.

(4) Conclusion as to Step (a)

As detailed above, the undersigned finds that Phison's CF/SSD controllers literally practice step (a), while Phison's USB controllers do not infringe, either literally or under the doctrine of equivalents. The undersigned finds that none of SMI's controllers infringe step (a), either literally or under the doctrine of equivalents. The undersigned finds that Skymedi's IPN1603 controllers literally practice step (a), while Skymedi's IPN 1606F controllers infringe step (a) under the doctrine of equivalents.

- c. **Step (b): "thereafter programming individual ones of a second plurality of a total number of pages less than said given number in a second block with updated data and a logical page address associated with the updated data, wherein the logical page addresses associated with the updated data programmed into the second plurality of pages are the same as those associated with the original data programmed into the first plurality of pages, and"**

SanDisk asserts that each of Respondents' accused products meets the limitations of step (b).²⁶³ Staff agrees with SanDisk that the accused controllers practice step (b) either literally or under the doctrine of equivalents.²⁶⁴

Respondents assert the Phison 2231 controller, the Skymedi 1603 and 1606F controllers, and all of the SMI controllers do not literally practice step 20(b) because []

²⁶² JX-2 (the '424 patent) at col. 10:44-59; CX-1008C (Rhyne Direct) at Q. 477, 481-82.

²⁶³ CRB 45. See also CX-1008C (Rhyne Direct) at Q. 384-92, 487-94, 567-74.

²⁶⁴ SIB 59; SRB 9.

[

] ²⁶⁵ According to Respondents, Dr. Rhyne asserts that step (b) requires programming pages of updated data with the *same* logical page address as the superseded page of original data, where “same” means that if you looked at them as numerical values, they would be the same.²⁶⁶ Respondents agree that Dr. Rhyne’s testimony comports with the ‘424 patent and is consistent with the representations made during the prosecution history.²⁶⁷

(1) Phison

SanDisk asserts that the evidence shows that [

] ²⁶⁸

As to Phison’s CF/SSD controllers, SanDisk argues that Phison’s expert, Dr. Subramanian, admitted that Phison’s CF/SSD controllers literally practice step (b) and that SanDisk’s expert, Dr. Rhyne, agrees.²⁶⁹

As to Phison’s USB controllers, SanDisk argues that [

]

²⁶⁵ RIB 32.

²⁶⁶ RIB 31 citing Rhyne, Tr. 274-75, 277, 332; RRB 19.

²⁶⁷ RIB 31-32 citing Fig. 8; RRB 19.

²⁶⁸ CIB 85-87.

²⁶⁹ CIB 85-86 citing Subramanian, Tr. 1088-89, 1150-51; CX-1008C (Rhyne Direct) at Q. 390-92.

[]²⁷⁰ Furthermore, SanDisk asserts that its expert agrees that Phison's USB controllers practice step (b).²⁷¹

Phison asserts that its Phison 2231 controllers [

272

273

] ²⁷⁴

Staff argues that it is undisputed that all of Respondents' controllers [

]

Therefore, Staff asserts that SanDisk has shown that flash memory systems incorporating the accused Phison USB controllers satisfy the limitation of step (b) either literally or under the doctrine of equivalents.²⁷⁵

As to Phison's CF/SSD controllers, there appears to be no dispute that such controllers literally infringe step (b). Accordingly, the undersigned agrees with the parties that Phison's CF/SSD controllers literally infringe step (b).

²⁷⁰ CIB 86-87 citing Subramanian, Tr. 1088-89, 1148; RRDx-17 (Non-sequential updates in a system which does not use logical page offsets).

²⁷¹ CIB 87 citing CX-1008C (Rhyne Direct) at Q. 384-89.

²⁷² See RIB 34 citing RRX-18C (Subramanian Direct) at Q. 160.

²⁷³ RIB 35.

²⁷⁴ RRB 20 citing RRX-18C (Subramanian Direct) at Q. 160.

²⁷⁵ SIB 59; SRB 9.

As to Phison's USB controllers, the undersigned find's Phison's arguments persuasive. The evidence shows that the Phison 2231 controllers [

] ²⁷⁶ Accordingly, Phison's 2231 controllers do not infringe step (b).

(2) SMI

SanDisk asserts that the evidence shows that SMI's controllers practice step (b) because [

]

SanDisk asserts that SMI's expert, Dr. Subramanian, conceded as much and that SanDisk's expert, Dr. Rhyne, agrees.²⁷⁷

According to SMI, its controllers have a different address programmed into a page of uploaded data and the corresponding superseded page of original data. Therefore the SMI controllers do not practice step (b).²⁷⁸ Specifically, [

] ²⁷⁹

²⁷⁶ RRX-18C (Subramanian Direct) at Q. 157, 160.

²⁷⁷ CIB 96-97 citing Subramanian, Tr. 1082, 1088-89; CX-1008C (Rhyne Direct) at Q. 567-74.

²⁷⁸ RIB 33 citing Rhyne, Tr. 287; Subramanian, Tr. 1282-83.

²⁷⁹ RIB 34 citing Rhyne 282-83; CX-1008C (Rhyne Direct) at Q. 537-38; Subramanian, Tr. 1228-29; RRX-18C (Subramanian Direct) at Q. 198, 208, 210; RRX-11C (J. Lee Rebuttal) at Q. 27-
(continued...)

The undersigned find's SMI's arguments to be persuasive. Step (b) of claim 20 requires programming pages of updated data with the same logical page address as the superseded page of original data. The evidence [

] ²⁸⁰ Accordingly, SMI's controllers do not infringe step (b).

(3) Skymedi

SanDisk asserts that the evidence shows that Skymedi's controllers practice step (b). According to SanDisk, in Skymedi's IPN1603, [

] as confirmed by Skymedi's employee, Mr.

Huang.²⁸¹ SanDisk also cites to its expert, Dr. Rhyne, in support.²⁸²

Skymedi asserts that the Skymedi 1606F controller does not program a logical page offset or its equivalent into the pages of a block of original data because it programs [

] ²⁸³ Furthermore, Respondents assert that Dr. Rhyne failed to identify how

²⁷⁹(...continued)
31; RRDx-21C; RRB 20.

²⁸⁰ Rhyne, Tr. 287.

²⁸¹ CIB 105-06 citing CFF 37.23-.24.

²⁸² CIB 106 citing CX-1008C (Rhyne Direct) at Q. 486-94.

²⁸³ RIB 35 citing RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 175-76, 182-84.

any of the Skymedi controllers meet the limitations of the wherein clause, which requires the same address be programmed in the pages of original and updated data.²⁸⁴

Staff argues that it is undisputed that all of Respondents' controllers [

] Staff asserts that the evidence shows that the accused Skymedi post-July 2008 controllers program information into the first plurality of pages that is at least equivalent to the logical page address that is programmed into the second plurality of pages containing updated data and that the Skymedi controllers infringe step (b) under the doctrine of equivalents.²⁸⁵ As to Skymedi's 1603 controllers, Staff asserts that the these controllers [

] Therefore, Staff asserts that SanDisk has shown that flash memory systems incorporating the accused Skymedi controllers satisfy the limitation of step (b) either literally or under the doctrine of equivalents.²⁸⁶

Skymedi counters Staff's arguments that Skymedi's controllers practice step (b) under the doctrine of equivalents. According to Skymedi, SanDisk has not put forth any evidence that any accused products practice step (b) under the doctrine of equivalents on an element-by-element basis, and that SanDisk's only evidence on doctrine of equivalents went to step (a), which was discussed above.²⁸⁷

As to Skymedi's 1603 controllers, there appears to be no dispute that such controllers literally

²⁸⁴ RIB 35 citing RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 179; RRB 20.

²⁸⁵ SIB 59; SRB 9.

²⁸⁶ SIB 59; SRB 9.

²⁸⁷ RRB 20-21.

infringe step (b). Accordingly, the undersigned agrees with the parties that Skymedi's 1603 controllers literally infringe step (b).

With respect to Skymedi's 1606F controllers, the undersigned agrees with Skymedi that SanDisk has not set forth whether Skymedi's 1606F controllers infringe under the doctrine of equivalents, and therefore the issue of infringement under the doctrine of equivalents for step (b) will not be considered for these accused products.²⁸⁸ Furthermore, the undersigned agrees with Skymedi that the evidence shows that Skymedi's 1606F controllers do not program the *same* logical page address, including the same logical block number and logical page offset, into the updated pages of data as was programmed into the corresponding pages of original data.²⁸⁹ Accordingly, Skymedi's 1606F controllers do not infringe step (b).

(4) Conclusion as to Step (b)

As detailed above, the undersigned finds that Phison's CF/SSD controllers literally practice step (b), while Phison's USB controllers do not infringe step (b). The undersigned also finds that none of SMI's controllers infringe step (b). The undersigned finds that Skymedi's IPN1603 controllers literally infringe step (b), while Skymedi's IPN 1606F controllers do not infringe step (b).

- d. Step (c): "thereafter reading and assembling data from the first and second plurality of pages including, for pages having the same logical addresses, selecting the updated data from the pages most recently programmed and omitting use of the original data from the pages earlier programmed"**

SanDisk asserts that step (c) is infringed by Respondents' accused products whenever [

]

²⁸⁸ See CIB 105 which states that "Flash memory systems with Skymedi controllers literally meet the limitations of claim 24 step b."

²⁸⁹ RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 176, 182.

[]²⁹⁰ Furthermore, SanDisk asserts that the “assembling” limitation is satisfied by the accused controllers [

]²⁹¹ Staff agrees with SanDisk that SanDisk has met its burden of proof with respect to step (c).²⁹²

Respondents assert the accused controllers do not literally practice step 20(c) for three reasons. [

]²⁹³
As to the first argument, Respondents assert that all the accused controllers [

] Accordingly, Respondents argue that because the accused products [

]²⁹⁴
As to the second argument, Respondents assert that SanDisk argued that the reading step in step (c) is illustrated by Figure 11 of the ‘424 patent and that the undersigned’s construction of “reading and assembling data from the first and second plurality of pages” confirms that the logical

²⁹⁰ CIB 97, SIB 59-60 citing CX-1008C (Rhyne Direct) at Q. 394-403, 496-512, 576-584.

²⁹¹ CIB 97-98.

²⁹² SIB 60; SRB 10-11.

²⁹³ RIB 36.

²⁹⁴ RIB 36 citing Rhyne, Tr. 369; CX-1008C (Rhyne Direct) at Q. 535-538; RRX-18C (Subramanian Direct) at Q. 160; RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 187.

page address for all pages must be read, whether or not those pages are superseded.²⁹⁵ According to Respondents, reading the logical page address within the first and second plurality of pages does not require reading the user data from all of those pages and that the ability to read the logical page address separately from the user data is important to step (c).²⁹⁶ Therefore, Respondents assert that step (c) requires reading the logical page address of each page, including superseded pages, of original data, and that there is a mechanism disclosed in the patent for reading the logical page address separately from the user data.²⁹⁷

As to the third argument, Respondents assert that SanDisk argued that the assembly step in step (c) is illustrated by Figure 13 of the '424 patent.²⁹⁸ Respondents argue that to meet this claim limitation, the assembly takes place in the controller's RAM, requires more than one page being assembled, and that only the "user data portions" of the most up-to-date pages are assembled into a data file.²⁹⁹

Respondents counter SanDisk's and Staff's arguments. According to Respondents, while SanDisk and Staff point to Figure 12 in the '424 patent for support that the controller need not read the logical page address from any pages of superseded data, Respondents argue that Figure 12 does not relate to step (c) because step (c) requires reading the logical page address from each page of data within the blocks of original and updated data.³⁰⁰

As to SanDisk's and Staff's claim differentiation argument, Respondents assert that SanDisk

²⁹⁵ RIB 36-38 citing Rhyne, Tr. 322.

²⁹⁶ RIB 38 citing Rhyne, Tr. 217.

²⁹⁷ RIB 39.

²⁹⁸ RIB 41 citing Rhyne, Tr. 323; Subramanian, Tr. 1290-92.

²⁹⁹ RIB 42 citing Subramanian, Tr. 1293, Rhyne, Tr. 325.

³⁰⁰ RRB 21 citing Subramanian, Tr. 1029, 1290.

and Staff confuse the language of claim 22 and ignore the undersigned's construction of claim 20. According to Respondents, claim 22 requires reading all of the data from all of the pages of both the original and updated data block, and then ignoring the user data portions of the superseded pages, whereas claim 20 is broader than claim 22 and does not require that all of the data be read from each page. Rather, claim 20 only requires that the logical page address be read from each page.³⁰¹

SanDisk counters Respondents' arguments. According to SanDisk, step (c) does not require reading the logical page address from all the pages of original data. Furthermore, SanDisk argues that Respondents impermissibly limit claim 20 to the "reverse read" technique because the '424 patent also teaches a "table" technique when the reverse read technique is not used.³⁰²

Staff counters Respondents' arguments. As to Respondents' second argument, Staff argues that the claim does not require that the logical page address, consisting of an LBN and logical page offset, must be read from each and every page stored in both the original and updated data blocks, including those pages in the original block that have been superseded by updated data. According to Staff, the undersigned's claim construction only requires reading the logical page address within the first and second plurality of pages and that this does not require that the same logical page address must be read from both the first and second plurality of pages or that the logical page addresses from all the pages must be read. In support, Staff cites to the '424 patent which discloses that pages containing superseded data may be ignored or skipped during the read operation.³⁰³ Staff also refers to Figure 12 in the '424 patent for support of an embodiment that teaches that the controller may determine when a page in an original block has the same logical page address as a

³⁰¹ RRB 21-23.

³⁰² CRB 46-47 citing JX-2 (the '424 patent) at col. 9:57-65.

³⁰³ SIB 61-62 citing JX-2 (the '424 patent), col. 9:57-65.

page in an update block based on a table that is populated in the controller's RAM rather than by reading all the logical page addresses within the original data block.³⁰⁴

As to Respondents' third argument, Staff asserts that the undersigned's claim construction does not require an entire page to be omitted altogether when it contains valid sectors of data, as the claim only requires "omitting use of the original data from the pages earlier programmed."³⁰⁵

(1) Phison

SanDisk asserts that Phison's CF/SSD and USB controllers both practice step (c).³⁰⁶ With respect to the CF/SSD controllers, SanDisk asserts that these controllers [

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]

³⁰⁴ SIB 62; SRB 10-11.

³⁰⁵ SIB 62-63.

³⁰⁶ CIB 88 citing CX-1008C (Rhyne Direct) at Q.395-403.

³⁰⁷ CIB 88.

[]³⁰⁸

SanDisk counters Phison's argument that step (c) requires [] as an attempt to rewrite the undersigned's claim construction. According to SanDisk, the construction of the "reading and assembling" limitation is clear, which refers to reading the logical page address, which is singular, not plural.³⁰⁹

SanDisk also counters Phison's attempt to limit claim 24 to a system that reads the logical page addresses stored in the superseded pages of an original block as an attempt to improperly limit the scope of the claim to a "reverse read." SanDisk argues that claims 20, 24, and 30 are not limited to the "reverse read" technique, based on the doctrine of claim differentiation.³¹⁰

With respect to the USB controllers, SanDisk asserts that these controllers practice step (c) []

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]

³⁰⁸ CIB 88.

³⁰⁹ CIB 89.

³¹⁰ CIB 90 comparing claims 22 and 20.

³¹¹ CIB 91.

[

] ³¹²

SanDisk counters Phison's arguments regarding the USB controllers similarly to the arguments for the CF/SSD controllers.³¹³ SanDisk also counters Phison's argument that the claim requires that the entirety of one of the two pages be omitted for pages having the same logical page address as being inconsistent with the plain language of the claim.³¹⁴

Phison asserts that the Phison 2231 controller [

] ³¹⁵

Phison asserts that the Phison 3006 controller [

] ³¹⁶ Therefore, Phison asserts that the Phison 3006 controllers do not infringe step (c).

As to Respondents' first argument, Staff counters that, with respect to Phison's 3006 controllers, [

] In support, Staff notes that Dr. Subramanian testified that

³¹² CIB 91.

³¹³ CIB 91-92.

³¹⁴ CIB 92.

³¹⁵ RIB 36.

³¹⁶ RIB 40 citing RRX-18C (Subramanian Direct) at Q. 16-71.

[

] ³¹⁷

The undersigned finds Respondents' arguments to be persuasive. The evidence shows that, with respect to the Phison 2231 controller, [

] ³¹⁸ and that with respect to the Phison 3001 controller, [

] ³¹⁹ Accordingly, neither of Phison's accused controllers infringe step (c).

(2) SMI

SanDisk asserts that SMI's controllers, [] practice step (c) during a read operation and during a consolidation event. Specifically, during the read operation of un-updated pages from the mother block, [

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] ³²¹

[

]

³¹⁷ SIB 60-61 citing Subramanian, Tr. 1155-56.

³¹⁸ RRX-18C (Subramanian Direct) at Q. 160.

³¹⁹ RRX-18C (Subramanian Direct) at Q. 169-71.

³²⁰ CIB 97.

³²¹ CIB 97-98.

[

322

] ³²³

SanDisk counters SMI's arguments, [] that step (c) requires reading the logical page address in each page of the original block that contains data that has been superseded by pages of data stored in the update block.³²⁴

SanDisk counters SMI's additional argument that SMI's controllers do not assemble a "data file." According to SanDisk, [

] ³²⁵

Respondents assert that Dr. Rhyne's testimony that SMI controllers [] According to Respondents, SMI controllers []

³²² RIB 39 citing RRX-18C (Subramanian Direct) at Q. 155, 216; RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 174.

³²³ RIB 40 citing RRX-18C (Subramanian Direct) at Q. 217; Subramanian, Tr. 1288-89; CX-1008C (Rhyne Direct) at Q. 536; Rhyne Tr. 318; RRX-11C (J. Lee Rebuttal) at Q. 25.

³²⁴ CIB 98.

³²⁵ CIB 98-99.

[

] ³²⁶

SanDisk counters Respondents' argument that [

] ³²⁷

[

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] ³²⁹

The undersigned finds SMI's arguments to be persuasive. The evidence shows that SMI controllers do not store a logical page address within any page of original data,³³⁰ nor do they read any data from an out-of-date page,³³¹ nor do they assemble a data file during a read operation because the SMI controllers transmit pages one at a time to the host.³³² Accordingly, SMI's controllers do not infringe step (c).

³²⁶ RIB 42-43 citing RRX-18C (Subramanian Direct) at Q. 195; Rhyne, Tr. 329, 585; RRB 22-23.

³²⁷ CRB 47-48.

³²⁸ SIB 63-64.

³²⁹ SIB 63-64.

³³⁰ CX-1008C (Rhyne Direct) at Q. 535-38.

³³¹ RRX-18C (Subramanian Direct) at Q. 216.

³³² RRX-18C (Subramanian Direct) at Q. 195; Rhyne, Tr. 329

(3) Skymedi

SanDisk asserts that Skymedi's controllers, []
practice step (c) during a read operation and during a consolidation event. []

333

] ³³⁴

Respondents assert that the Skymedi 1603 and 1060F controllers do not[

] Accordingly, Respondents
assert that the Skymedi controllers do not read every page from the original block and therefore, do
not infringe step (c).³³⁵

³³³ CIB 106.

³³⁴ CIB 106.

³³⁵ RIB 41 citing RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 187, 190-91, 194-95, 199, 210, 212; Rhyne, Tr. 369.

Respondents assert that Skymedi controllers also do not infringe step (c) because its Skymedi controllers [

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] ³³⁷

SanDisk counters Skymedi's argument that it does not practice step (c) because step (c) requires reading the logical page address in each page of the original block for the same reasons that it counters Phison's and SMI's arguments.³³⁸ SanDisk also counters Skymedi's argument that it does not practice step (c) because its controllers do not assemble a "data file" for the same reasons that it counter's SMI's argument.³³⁹

As to Respondents' first argument, Staff counters that Skymedi's 1603 controllers literally infringe the limitation in step (c) because Skymedi's controllers program [

] ³⁴⁰ Also with respect to Respondents' first argument, Staff asserts that the evidence shows that the accused Skymedi 1606F controller performs this step at least under the doctrine of equivalents, because it [

] In support, Staff notes that Dr. Mercer testified []

³³⁶ RIB 43 citing RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 225.

³³⁷ RIB 43-44 citing CX-1008C (Rhyne Direct) at Q. 506, 511 and RRX-33C (Chang Rebuttal) at Q. 59.

³³⁸ CIB 107.

³³⁹ CIB 107.

³⁴⁰ SIB 60-61.

[

] ³⁴¹

Staff also counters Respondents' additional argument that the Skymedi controllers do not assemble a "data file." Staff argues that there is no requirement from the claim that the required data file must be assembled and stored in RAM.³⁴²

The undersigned finds Respondents' arguments to be persuasive. The evidence shows that, neither the Skymedi 1603 or 1606F controllers store a logical page address within any page of original data, nor do they read a logical page address from both a W block (mother block), and a corresponding R block (child block) and thus do not read every page from the original block, nor do they assemble the most up-to-date pages in a data file in the controller memory.³⁴³ Accordingly, neither of Skymedi's accused controllers infringe step (c).

(4) Conclusion as to Step (c)

As detailed above, the undersigned finds that none of Phison's, SMI's, or Skymedi's controllers meet each and every limitation of claim (c).

e. Conclusion as to Claim 20

Each and every limitation of claim must be practiced in order for there to be infringement of a claim.³⁴⁴ As discussed above, SanDisk has not shown, by a preponderance of the evidence, that any of Phison's, SMI's, or Skymedi's accused controllers meet each and every limitation of claim

³⁴¹ SIB 60-61 citing Mercer, Tr. 1628.

³⁴² SIB 63-64.

³⁴³ RRX-34C (Mercer Rebuttal Non-Infringement) at Q. 187, 225.

³⁴⁴ *London*, 946 F.2d at 1538.

20. Accordingly, none of Phison's, SMI's, or Skymedi's accused controllers infringe claim 20 of the '424 patent.

3. Claim 24

SanDisk asserts that all of Respondents' flash memory system products that incorporate accused controllers infringe claim 24 of the '424 patent.³⁴⁵ According to SanDisk, Respondents concede that in the accused products, [

]and that Respondents' own demonstrative exhibit shows [

] ³⁴⁶

Respondents assert that none of the accused controllers infringe dependent claim 24 because SanDisk has failed to show that the accused controllers infringe independent claim 20. In addition, Respondents assert that dependent claim 24 is also not infringed because claim 24 requires that the offset position of the pages of updated data is caused to be different than the superseded pages of original data.³⁴⁷ Specifically, Respondents cite to Dr. Rhyne's testimony that claim 24 requires that the physical offset of a page of updated data must be different, and therefore not the same, as the physical offset of the corresponding superseded page of original data.³⁴⁸ According to Respondents, the key word in claim 24 is the word "causing," which requires that there be a causation that causes the updated data to have different offset positions than the original data.³⁴⁹ Respondents argue that the doctrine of claim differentiation supports its position when comparing claims 23 and 24, which

³⁴⁵ CIB 62, 72.

³⁴⁶ RRB 48 citing RRDY-17.

³⁴⁷ RIB 44; RRB 24-26.

³⁴⁸ RIB 44 citing Rhyne, Tr. 337.

³⁴⁹ RIB 44-45 citing Subramanian, Tr. 1297.

both depend from claim 20.³⁵⁰

Staff asserts that Respondents do not present any additional non-infringement arguments with regard to claims 24 and 30 other than what was argued with respect to claim 20. Staff agrees with SanDisk that SanDisk has met its burden of proving that the accused controllers can be used to satisfy the additional limitations recited in the dependent claims.³⁵¹

SanDisk counters Respondents' argument that claim 24 requires that the offsets be different 100% of the time. According to SanDisk, there are three problems with Respondents' argument. First, SanDisk asserts that Respondents have raised this issue for the first time in their post-trial brief and that the issue has been waived.³⁵² Second, SanDisk asserts that Dr. Subramanian conceded that there is "no rule expressly stated in the specification" that the system takes affirmative steps to guarantee that physical offset of data in the update block always be different than the physical offset used for the original data it supercedes.³⁵³ Finally, SanDisk asserts that Respondents' reference to the doctrine of claim differentiation is not persuasive. According to SanDisk, [

] whereas claim

20 covers both situations in claims 23 and 24.³⁵⁴

Staff also counters Respondents' "causing" argument. Staff asserts that Respondents have raised this "causing" argument for the first time in the post-hearing brief and that the issue has been

³⁵⁰ RIB 45 citing JX-2 (the '424 patent) at col. 16:17-30 and *Curtis-Wright Flow Control Corp. v. Velan, Inc.*, 438 F.3d 1374, 1380 (Fed. Cir. 2006) ("*Curtis-Wright*").

³⁵¹ SIB 64 citing CX-1008C (Rhyne Direct) at Q. 404-421, 513-525, 585-595.

³⁵² CRB 48-49.

³⁵³ CRB 49 citing Subramanian, Tr. 1047-48.

³⁵⁴ CRB 49-50.

waived because it was not preserved in the pre-hearing brief.³⁵⁵

The undersigned agrees with SanDisk and Staff that Respondents failed to address their “causing” argument in Respondents’ pretrial brief³⁵⁶, and therefore failed to preserve this argument under Ground Rule 8.2.

As claim 24 depends from claim 20, and the undersigned has already found that claim 20 is not infringed, claim 24 is also found not to be infringed by any of Respondents’ accused products.

4. Claim 30

SanDisk asserts that claim 30 is performed by all of Respondents’ Flash memory systems whenever an associated host system stores updated data on that system’s memory devices.³⁵⁷

Staff asserts that Respondents do not present any additional non-infringement arguments with regard to claims 24 and 30 other than what was argued with respect to claim 20. Staff agrees with SanDisk that SanDisk has met its burden of proving that the accused controllers can be used to satisfy the additional limitations recited in the dependent claims.³⁵⁸

Respondents assert that because none of the accused controllers practice claim 24, they cannot also practice claim 30, which depends from claim 24.³⁵⁹

As claim 30 depends from claims 24 and 20, and the undersigned has already found that claims 24 and 20 are not infringed, claim 30 is also found not to be infringed by any of Respondents’ accused products.

³⁵⁵ SRB 11.

³⁵⁶ See Respondents’ Pre-Trial Brief at 129.

³⁵⁷ CIB 107.

³⁵⁸ SIB 64 citing CX-1008C (Rhyne Direct) at Q. 404-421, 513-525, 585-595.

³⁵⁹ RIB 2.

5. Indirect Infringement

SanDisk asserts that the steps of claims 17, 24, and 30 are performed when the accused Flash memory products are used in the manner that the Respondents intended, which is to store and retrieve data, and that when Respondents' customers in the U.S. use the Respondents' Flash memory products that have an infringing controller, those customers directly infringe these claims. According to SanDisk, Phison, SMI, and Skymedi infringe in two ways: (1) import or sell for importation controllers that infringe claim 24, or (2) import or sell for importation Flash memory systems that contain their respective accused controllers that infringe claim 24.³⁶⁰

Staff asserts that, because the method claims of the '424 patent are only directly infringed by domestic purchasers of Respondents' accused flash memory systems or flash memory systems that include Respondents' controllers, when they use such flash memory systems to store data in the United States, SanDisk must establish that the Respondents in this investigation indirectly infringe the asserted claims, either by contributory or induced infringement.³⁶¹

Respondents assert that, in order for there to be a violation of Section 337, SanDisk must prove, by a preponderance of the evidence, that one or more Respondents have engaged in conduct that meets the stringent requirements set forth by the Federal Circuit regarding inducement or contributory infringement. Respondents assert that SanDisk has failed to meet its burden with regard to either type of indirect infringement.³⁶²

³⁶⁰ CIB 107-08.

³⁶¹ SIB 64-65 citing *Certain Circuit Board Testers*, Inv. No. 337-TA-342, Comm'n Op. (April 1993) ("*Certain Circuit Boards*").

³⁶² RRB 2.

a. Inducement

SanDisk asserts that Phison, SMI, and Skymedi (“Controller Respondents”) all intended to induce their customers to infringe claims 17, 24, and 30 of the ‘424 patent. SanDisk argues that ordinary usage of a Flash memory system, including the accused controllers, infringes the ‘424 patent. According to SanDisk, the Controller Respondents have known that: (1) their own products operated in accordance with its specifications, (2) their customers use the products as they intend, and (3) [

]³⁶³ Furthermore, SanDisk asserts that there is no dispute that Respondents have known about the ‘424 patent, along with SanDisk’s theories of infringement, at least since this investigation began.³⁶⁴

Specifically, as to Phison, SanDisk asserts that Phison provides specific technical instructions and support for its products, which affirmatively establishes that Phison intended for its customers to infringe the asserted claims of the ‘424 patent. For example, Phison provides [

]³⁶⁵

As to SMI, SanDisk asserts that SMI provides specific technical instructions and support for its products, which affirmatively establishes that SMI intended for its customers to infringe the

³⁶³ CIB 108.

³⁶⁴ CRB 50.

³⁶⁵ CIB 108-09 citing JX-121C (Chen Dep) at 16-19, 22-23, JX-131C (Tsay Dep) at 357-58.

asserted claims of the '424 patent. For example, SMI provides its customers with a mass production tool and a reference design, along with providing field application engineers to provide on-site technical support if a customer encounters difficulties.³⁶⁶

As to Skymedi, SanDisk asserts that Skymedi [] which affirmatively establishes that Skymedi intended for its customers to infringe the asserted claims of the '424 patent. For example, Skymedi provides [] to its customers. In addition, Skymedi admits that []³⁶⁷

Furthermore, SanDisk argues that [] According to SanDisk, Federal Circuit case law supports the proposition that failure to obtain an opinion of counsel regarding non-infringement is one of the factors that can be considered in inducement.³⁶⁸ Finally, SanDisk asserts that [] and continue to induce their customers to infringe the '424 patent.³⁶⁹

Respondents counter SanDisk's arguments and assert that SanDisk has provided no evidence that Respondents knew their actions would induce actual infringement. Respondents assert that at best, SanDisk has shown that Respondents []

³⁶⁶ CIB 109 citing JX-141C (Doong Dep) at 115, 251, 270-71; JX-125C (Chien Dep) at 106-08.

³⁶⁷ CIB 109-110 citing JX-64C (Skymedi stipulation) at ¶¶ F; JX-103C (Chang Dep) at 389-90. See also CX-459C (Skymedi product specification).

³⁶⁸ CIB 111 citing *Broadcom*, 543 F.3d at 699-700.

³⁶⁹ CIB 111-12 citing *Broadcom*, 543 F.3d at 700-01.

[] which is insufficient to prove inducement.³⁷⁰

Furthermore, Respondents assert that SanDisk has provided no evidence to show inducement by Respondents Kingston, Transcend, Apacer, PQI, Imation, and LGE.³⁷¹

Staff asserts that SanDisk has failed to offer any evidence establishing that Respondents affirmatively intended for their customers to infringe the asserted claims of the '424 patent or that Respondents were aware, or should have been aware, that their activities constitute infringement of the asserted claims. Therefore, Staff argues that SanDisk has not satisfied its burden of showing the requisite level of intent under § 271 (b).³⁷²

SanDisk counters Staff's arguments. According to SanDisk, circumstantial evidence of intent suffices to show inducement and therefore direct evidence is not required.³⁷³

In order to prevail on inducement, the patentee must show "that the alleged infringer knowingly induced infringement and possessed specific intent to encourage another's inducement."³⁷⁴ Furthermore, the specific intent necessary to induce infringement "requires more than just intent to cause the acts that produce direct infringement."³⁷⁵ Based on this standard, the undersigned agrees with Respondents and Staff that SanDisk has failed to establish that any of the Respondents in this investigation knowingly induced infringement or possessed specific intent to encourage another's infringement. The evidence presented by SanDisk falls short of the necessary

³⁷⁰ RRB 3 citing *DSU*, 471 F.3d at 1306.

³⁷¹ RRB 3.

³⁷² SIB 65-66 citing *DSU*, 471 F.3d at 1306; SRB 12-14.

³⁷³ CRB 50 citing *MEMC Elec. Materials, Inc. v. Mitsubishi Materials Silicon Corp.*, 420 F.3d 1369, 1378 (Fed. Cir. 2005) ("*MEMC*").

³⁷⁴ *Kyocera Wireless Corp. v. Int'l Trade Comm'n*, 545 F.3d 1340, 1353-54 (Fed. Cir. 2008) ("*Kyocera*").

³⁷⁵ *DSU*, 471 F.3d at 1306.

intent showing for inducement, that is that Respondents possessed a specific intent to cause infringement of SanDisk's patents, as enumerated by the Federal Circuit in *DSU* and *Kyocera*. Accordingly, SanDisk has not shown that Respondents induce infringement of the '424 patent.

b. Contributory

SanDisk asserts that Respondents contributorily infringe the '424 patent. According to SanDisk, direct infringement occurs at the end-user level, while Respondents supply a component for use in the infringing combinations. SanDisk argues that the component, whether it is the memory system or the controller, has no substantial non-infringing use.

Specifically, SanDisk argues that Respondents' Flash memory products are designed to work with host computers and that host computers routinely request that Flash memory products update data. According to SanDisk, the ability to update data, [] is an essential feature of Respondents' Flash memory products when used for their intended purpose. Furthermore, SanDisk asserts that, over the lifetime of a Respondent's Flash memory product, [

] ³⁷⁶ And, according to SanDisk, there is no dispute that Respondents have known of the '424 patent since at least October 2007, which is when SanDisk filed its complaint. ³⁷⁷

Staff agrees with SanDisk that the evidence establishes that Respondents' accused products have contributed to the infringement of the asserted claims of the '424 patent. In support, Staff cites to Dr. Rhyne's testimony, stating that the accused flash memory systems will be used in an infringing

³⁷⁶ CIB 112.

³⁷⁷ CIB 112.

manner during their normal course of operation.³⁷⁸ According to Staff, other than the argument that Respondents' controller cannot be used to infringe at all, Respondents did not make any assertions that their accused controllers have additional "substantial noninfringing uses" and are thus exempted from liability for contributory infringement. In addition, Staff asserts that there is no dispute that Respondents have known about the '424 patent at least since this investigation was instituted.³⁷⁹

Respondents assert that SanDisk has failed to prove that Respondents had the requisite knowledge of infringement and that the mere knowledge of SanDisk's patent portfolio is insufficient.³⁸⁰ In addition, Respondents assert that SanDisk has failed to show the absence of substantial non-infringing uses, as SanDisk's own expert testified that the accused products have substantial non-infringing uses, such as for distributing books on flash, rather than using flash for rewriting capabilities.³⁸¹

The undersigned agrees with Respondents that there are substantial non-infringing uses for the accused products, such as using flash as a distribution-medium, such as for distributing books.³⁸² In addition, the undersigned agrees with Respondents that SanDisk has failed to prove that Respondents knew that the accused products were patented and infringed. Accordingly, the undersigned finds that SanDisk has not established that any of the Respondents contributorily infringe the '424 patent.

6. Conclusion as to Infringement

SanDisk has asserted infringement of claims 17, 24, and 30 of the '424 patent against

³⁷⁸ SRB citing Rhyne, Tr. 415-17, 427-28.

³⁷⁹ SIB 65; SRB 14.

³⁸⁰ RRB 4.

³⁸¹ RRB 5 citing Rhyne, Tr. 427. See also Subramanian, Tr. 1206-07.

³⁸² Subramanian, Tr. 1206-07; Rhyne, Tr. 427.

Respondents. These asserted claims are all “method of use” claims where the accused flash memory systems and controllers themselves do not infringe. Because the accused systems must be operated in a particular manner in order to infringe these claims, liability as to the Respondents can only be based on induced or contributory infringement.

As detailed above, the undersigned has found that SanDisk has not shown, by a preponderance of the evidence, that any of Phison’s, SMI’s, or Skymedi’s controllers infringe claims 17, 24 or 30. Furthermore, the undersigned has found that SanDisk has not shown that Phison, SMI, or Skymedi indirectly infringe the ‘424 patent, either by inducement or contributory infringement. Accordingly, SanDisk has not shown that any Respondents accused products infringe any of the asserted claims of the ‘424 patent.

C. Domestic Industry - Technical Prong

SanDisk asserts that its Flash memory systems with Gen4 firmware practice the methods claimed in claims 17, 24, and 30 of the ‘424 patent.³⁸³ Staff agrees with SanDisk.³⁸⁴ Respondents assert that SanDisk does not meet the technical prong of the domestic industry requirement because SanDisk’s Gen4 products do not practice all the limitations of claims 17, 24, or 30.³⁸⁵ Respondents also assert that, much like infringement, if SanDisk’s products practice claims 17, 24, or 30, then the ‘424 patent is surely invalid.³⁸⁶

1. Claim 17

SanDisk asserts that the steps of method claim 17 are performed by U.S. customers who use

³⁸³ CIB 113.

³⁸⁴ SIB 66-69.

³⁸⁵ RIB 56.

³⁸⁶ RIB 3.

a SanDisk Flash memory system as memory for some host device, such as a computer.³⁸⁷ Staff agrees with SanDisk.³⁸⁸ Respondents assert that, when step (b) is properly construed as requiring updating “pages” of original data, then SanDisk does not practice claim 17.³⁸⁹

a. Preamble

SanDisk asserts that it is undisputed that its Flash memory systems meet the preamble of claim 17.³⁹⁰ According to SanDisk, its Flash memory products are non-volatile memory systems with one or more packaged NAND Flash memory products, which include one or more arrays. Each array is organized into sub-arrays, commonly referred to as planes. Within the sub-arrays, the NAND cells are organized as blocks which are the smallest group of cells that are erasable together. Within those blocks, the cells are arranged as pages which are the smallest group of memory storage elements that are programmable together.³⁹¹ Staff agrees with SanDisk.³⁹²

Phison does not address the preamble and therefore does not dispute that the limitations of the preamble are met by SanDisk’s controllers.

Accordingly, the undersigned agrees that SanDisk’s controllers meet the limitation of the preamble of claim 17.

b. Step (a)

SanDisk asserts that it is undisputed that its Flash memory systems meet step (a) of claim

³⁸⁷ CIB 114.

³⁸⁸ SIB 66-67.

³⁸⁹ RIB 56; RRB 26.

³⁹⁰ CRB 51.

³⁹¹ CIB 114.

³⁹² SIB 66-67.

17.³⁹³ According to SanDisk, [

]³⁹⁴ Staff agrees with

SanDisk.³⁹⁵

Phison does not address step (a) and therefore does not dispute that the limitations of step (a) are met by SanDisk's controllers.

Accordingly, the undersigned agrees that SanDisk's controllers meet the limitation of step (a) of claim 17.

c. Step (b)

SanDisk asserts that its controllers meet the limitation of step (b). According to SanDisk, [

]³⁹⁶

According to SanDisk, there is no dispute that [

³⁹⁷

]

³⁹³ CRB 51.

³⁹⁴ CIB 114-15.

³⁹⁵ SIB 66-67.

³⁹⁶ CIB 115; CRB 51-52.

³⁹⁷ See CX-583C (Exhibit 144D to Complaint).

[

] ³⁹⁸

Staff agrees with SanDisk and argues that, when claim 17 is properly interpreted to encompass updates to only a single page, or less than a page of data, SanDisk's Flash memory controllers meet the technical prong through the use of its Scratch Pad Block.³⁹⁹

Respondents assert that SanDisk's [

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³⁹⁸ CIB 115.

³⁹⁹ SIB 66-67 citing CX-1008 (Rhyne Direct) at Q. 1503; SRB 15-16. In addition, Staff asserts that Respondents should be precluded from arguing that SanDisk's products do not practice step (b) [

] SRB 15 citing Respondents' Pre-Hearing Brief at 130-45. Upon review of Respondent's pre-hearing brief, the undersigned finds that the issue was sufficiently preserved so as not be waived. See Respondents' Pre-Hearing Brief at 134-38.

⁴⁰⁰ RIB 56 citing RRX-018C (Subramanian Direct) at Q. 228-29; RRB 26.

⁴⁰¹ RIB 57 citing RRX-018C (Subramanian Direct) at Q. 255.

[

] ⁴⁰²

As to Respondents' argument that SanDisk's products do not practice step (b) because [] SanDisk counters that Respondents' argument ignores the undersigned's construction of the first portion of step (b) to cover fewer than all pages, *i.e.* a single page. As to Respondents' argument that SanDisk's products do not write updates to only one plane, SanDisk counters that Respondents' position is contrary to the teachings of the '424 patent.⁴⁰³

As the undersigned has already made clear in the infringement section, step (b) of claim 17 requires updated *pages*, or more than a single page. The evidence shows that SanDisk's controllers do not meet this limitation because [

] ⁴⁰⁴ Therefore, SanDisk's controller does not practice step (b) of claim 17. As the undersigned has found that this limitation is not met, the undersigned does not make any findings with regard to Respondent's one plane argument.

d. Conclusion as to Claim 17

Each and every limitation of claim term must be met in order for the technical prong of the domestic industry requirement to be met. SanDisk has failed to show that its Flash memory controllers practice step (b) of claim 17. Accordingly, SanDisk has failed to show that its controllers meet the technical prong of the domestic industry requirement by practicing claim 17 of the '424 patent.

⁴⁰² RIB 57 citing RRX-018C (Subramanian Direct) at Q. 250-51.

⁴⁰³ RRB 52.

⁴⁰⁴ See CX-1008C (Rhyne Direct) at Q. 1503; RRX-018C (Subramanian Direct) at Q. 228-29.

2. Claim 20

a. Preamble

SanDisk asserts that it is undisputed that its Flash memory systems that include a SanDisk Flash memory controller meet the preamble of claim 24.⁴⁰⁵ According to SanDisk, its Flash memory systems are re-programmable non-volatile memory systems that contain one or more NAND Flash memory devices that partition the memory array into a plurality of blocks that are erasable together as a unit. Furthermore, each of these blocks are divided into a plurality of pages and the memory cells of the page are programmable together as a unit.⁴⁰⁶ Staff agrees.⁴⁰⁷

Respondents do not address the preamble and therefore do not dispute that the limitations of the preamble are met by SanDisk's controllers.

Accordingly, the undersigned agrees that SanDisk's controllers meet the limitations of the preamble of step 20.

b. Step (a)

SanDisk asserts that step (a) is performed by U.S. customers who use a SanDisk Flash memory system as memory for some host device, such as a computer. According to SanDisk, when

[

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⁴⁰⁵ While SanDisk puts its analysis under the heading of claim 24, the other parties detail their arguments under claim 20, which is the independent claim from which claim 24 depends.

⁴⁰⁶ CIB 115.

⁴⁰⁷ SIB 67.

[]⁴⁰⁸ Staff agrees with SanDisk that SanDisk has shown that it practices claim 20.⁴⁰⁹

Respondents assert that SanDisk's Gen4 products do not practice step (a) of claim 20, and therefore do not practice claims 24 or 30.⁴¹⁰ According to Respondents, SanDisk has failed to prove that its Gen4 products store a logical page offset or the equivalent in the header along with original data. Respondents argue that Dr. Rhyne's testimony [

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SanDisk counters Respondents' arguments and asserts that Respondents are misrepresenting the testimony of Andy Tomlin, a former SanDisk engineer. [

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⁴⁰⁸ CIB 116.

⁴⁰⁹ SIB 67.

⁴¹⁰ RIB 58 citing RRX-18C (Subramanian Direct) at Q. 272; RRB 26-29.

⁴¹¹ RIB 58 citing JX-95C (Tomlin Dep) at 216.

⁴¹² RIB 58 citing JX-95C (Tomlin Dep) at 218.

⁴¹³ CRB 52-53 citing JX-95C (Tomlin Dep) at 218.

Respondents counter Staff's arguments, which rely upon the testimony of Dr. Rhyne. According to Respondents, the accuracy of Dr. Rhyne's testimony is called into question when considering the testimony of Mr. Tomlin.⁴¹⁴

The undersigned agrees with SanDisk and Staff that the testimony of Mr. Tomlin does not contradict the testimony of Dr. Rhyne that Gen4 products [

]⁴¹⁵ Accordingly, the undersigned finds that SanDisk's products practice the limitations of step (a) of claim 20.

c. Step (b)

SanDisk asserts that Respondents agree that SanDisk's Flash memory systems meet step (b), which is performed by U.S. customers who use a SanDisk Flash memory system as memory for some host device, such as a computer.⁴¹⁶ Staff agrees.⁴¹⁷

Respondents do not address step (b) and therefore do not dispute that the limitations of step (b) are met by SanDisk's controllers.

Accordingly, the undersigned agrees that SanDisk's controllers meet the limitation of step (b) of claim 20.

d. Step (c)

SanDisk asserts that its Flash memory products perform step (c) after data has filled an

⁴¹⁴ RRB 27-28.

⁴¹⁵ JX-95C (Tomlin Dep) at 218.

⁴¹⁶ CIB 116-17 citing CX-1008C (Rhyne Direct) at Q. 1501-11.

⁴¹⁷ SIB 67.

original block and updates to those data have been placed in an associated update block, and also when they consolidate data. Specifically, SanDisk asserts that [

] ⁴¹⁸ Staff agrees.⁴¹⁹

Respondents do not address step (c) and therefore do not dispute that the limitations of step (c) are met by SanDisk's controllers.

Accordingly, the undersigned agrees that SanDisk's controllers meet the limitation of step (c) of claim 20.

e. Conclusion as to Claim 20

SanDisk has shown that its Flash memory controllers practice each and every limitation of claim 20. Accordingly, SanDisk has shown that its controllers meet the technical prong of the domestic industry requirement by practicing claim 20 of the '424 patent.

⁴¹⁸ CIB 117-18.

⁴¹⁹ SIB 67.

3. Claim 24

SanDisk asserts that the evidence shows that its Flash memory systems practice claim 24.⁴²⁰ Staff agrees with SanDisk that SanDisk has shown that it practices claim 24 of the '424 patent.⁴²¹ Respondents assert that SanDisk does not practice claim 24 because SanDisk's products [

] ⁴²²

SanDisk asserts that Respondents should be precluded from arguing that SanDisk does not practice the "causing" limitation in claim 24 because it was not raised in Respondents' pre-trial brief.⁴²³ Staff also asserts that Respondents should be precluded from arguing that SanDisk does not practice the "causing" limitation in claim 24 because it was not preserved in Respondents' pre-hearing brief.⁴²⁴

As to SanDisk's and Staff's argument that Respondents failed to preserve the issue of whether SanDisk meets the "causing" limitation in claim 24, the undersigned agrees with SanDisk and Staff that, upon review of Respondents' pre-hearing brief, Respondents failed to adequately preserve this issue, and therefore the issue is hereby waived and will not be considered.

Accordingly, as Respondents have made no other arguments, other than the "causing" argument which has been rejected, the undersigned finds that SanDisk's Flash memory systems practice claim 24 of the '424 patent.

⁴²⁰ CIB 115-18; CRB 52.

⁴²¹ SIB 67 citing CX-1008C (Rhyne Direct) at 1513-1552.

⁴²² RIB 59; RRB 28-29.

⁴²³ CRB 53-54.

⁴²⁴ SRB 15 citing Respondents' Pre-Hearing Brief at 146-52.

4. Claim 30

SanDisk asserts that because its Flash memory systems meet the claim limitations of claim 24 and that there is no dispute among the parties that these systems are non-volatile and formed within an enclosed card having an electrical connector along one edge that operably connects with a host, there is no dispute that SanDisk's Flash memory system products also practice claim 30.⁴²⁵ Staff agrees with SanDisk that SanDisk has shown that it practices claim 30 of the '424 patent.⁴²⁶ Respondents assert that SanDisk does not practice claim 30, because SanDisk does not practice either claims 20 or 24, from which claim 30 depends.⁴²⁷

As the undersigned has already ruled above that SanDisk practices claims 20 and 24, and no new arguments have been made with respect to claim 30, the undersigned hereby finds that SanDisk meets the additional limitations in claim 30 and practices claim 30 of the '424 patent.

5. Conclusion as to Technical Prong

In order to find the existence of a domestic industry exploiting a patent at issue, it is sufficient to show that the domestic industry practices any claim of that patent, not necessarily an asserted claim of that patent.⁴²⁸ While SanDisk has not shown that it practices claim 17 of the '424 patent, SanDisk has shown that it practices claims 20, 24, and 30 of the '424 patent. Accordingly, SanDisk has met the technical prong of the domestic industry requirement.

⁴²⁵ CIB 118; CRB 54.

⁴²⁶ SIB 67 citing CX-1008C (Rhyne Direct) at 1513-1552.

⁴²⁷ RIB 59.

⁴²⁸ *Certain Microsphere Adhesives*, Commission Opinion at 7-16.

D. Validity

1. Ordinary Skill in the Art

The undersigned has already determined that one of ordinary skill in the art is a person with at least a master's degree in electrical engineering, or an equivalent field, as well a few years of experience in the area of non-volatile memory technology.⁴²⁹

2. Claim 17

a. Anticipation⁴³⁰ - The Sinclair '321 Patent & the Sinclair PCT Application

Phison asserts that, if SanDisk's broad interpretation⁴³¹ of claim 17 is adopted, then claim 17 is invalid in light of the Sinclair '321 patent.⁴³²

SanDisk asserts that the Sinclair '321 patent is not prior art to the '424 patent under 35 U.S.C. § 102(e) because it was not published or available until after the '424 patent was filed. As to Phison's contention that the Sinclair '321 patent is relevant evidence of what was known to others

⁴²⁹ See Order No. 33 at 10.

⁴³⁰ SanDisk asserts that Respondents are precluded from arguing that claim 17 is anticipated because Respondents failed to raise the issue in its pre-hearing brief, as discussed during the pre-hearing conference. CIB 119, n. 51 citing *Bullock*, Tr. 36. Respondents counter this assertion, recognizing that, while Respondents could not offer Mr. Kynett's witness statement on the issue because his expert report only argued single-reference obviousness, rather than anticipation, Respondents are not precluded from arguing anticipation during the hearing or in the post-hearing briefs. RRB 29. The undersigned agrees with Respondents that the issue of anticipation of claim 17 is properly before the undersigned because it was addressed in the pre-trial brief, and that the issue before the undersigned during the pre-hearing conference was whether Mr. Kynett could testify regarding anticipation of claim 17 because he failed to raise the issue in his expert report. Accordingly, while Respondents may argue anticipation, they cannot use the testimony of Mr. Kynett to support their contentions.

⁴³¹ According to Phison, SanDisk asserts that claim 17 is infringed [

] RIB 70.

⁴³² RIB 70 citing RX-628 (the Sinclair '321 patent).

in the United States and described in a printed publication prior to the invention date of the '424 patent, SanDisk asserts that the only evidence that the subject matter of the Sinclair '321 patent was publicly available prior to the invention date of the '424 patent is two lines of hearsay from the face of the Sinclair '321 patent referencing PCT application PCT/GB00/00550 (“the Sinclair PCT application”). SanDisk asserts that because the Sinclair PCT application is not in evidence, there is simply no way to know for sure exactly what is disclosed in that reference.⁴³³

Staff agrees that the Sinclair '321 patent itself is not prior art.⁴³⁴ Staff asserts, however, that there is no dispute that the Sinclair PCT application, which was published on August 4, 2000, qualifies as prior art under § 102(a). Staff argues that it is reasonable to presume that the international application to which the Sinclair '321 patent claims priority shares the same written disclosure as the '321 patent. Therefore, to the extent that the Sinclair '321 patent shares the same written description as the Sinclair PCT application, Staff asserts that the '321 patent is evidence of that prior publication.⁴³⁵

Phison counters SanDisk's and Staff's arguments that the Sinclair '321 patent is not prior art. According to Phison, although the Sinclair '321 patent itself was not published until after the filing date of the '424 patent, the Sinclair patent shows on its face that it claims priority back to the published Sinclair PCT application, which was published on August 24, 2000. Phison argues that, with respect to claim 17, the prior art system disclosed in the Sinclair '321 patent is identical to the prior art system disclosed in the published PCT application. Therefore, Phison asserts that the

⁴³³ CIB 119-20 citing *Go Medical Industries Pty. Ltd. v. Inmed Corp.*, 471 F.3d 1264, 1270 (Fed. Cir. 2006) (“*Go Medical*”); CRB 54-56.

⁴³⁴ SIB 69.

⁴³⁵ SIB 69-70; SRB 16-18.

invention of claim 17 was known to others in this country and was described in a printed publication, thereby meeting the requirements of 35 U.S.C. § 102(a).⁴³⁶

The undersigned finds the Sinclair '321 patent itself is not prior art because it was not published or available until after the '424 patent was filed.⁴³⁷ Specifically, the effective filing date of the Sinclair '321 patent is March 5, 2001, which is after the January 19, 2001 filing date of the '424 patent.⁴³⁸ Therefore, the Sinclair '321 patent is not prior art to the '424 patent.

Furthermore, while the parties do not dispute that the PCT application qualifies as prior art, the undersigned already ruled during the prehearing conference that, because none of the Respondents had listed the PCT application on the notice of prior art, that it would not be considered as prior art for the purposes of this investigation.⁴³⁹

Phison and Staff urge the undersigned to consider the Sinclair '321 patent as relevant evidence of what was known to others in the United States as a printed publication prior to the invention date of the '424 patent because the Sinclair '321 patent shares the same disclosure as the PCT application. The undersigned does not find such arguments persuasive. Had one of the parties listed the Sinclair PCT application on the notice of prior art, there would be no dispute that the Sinclair PCT application would be considered prior art to the '424 patent. The Sinclair PCT application, however, was not listed on the notice of prior art. Therefore, any attempt to use the Sinclair '321 patent as relevant evidence as to the written disclosure of the Sinclair PCT application is hereby rejected. Accordingly, the undersigned hereby rejects Phison's arguments that claim 17

⁴³⁶ RIB 76-77 citing *In re Epstein*, 32 F.3d 1559, 1566-67 (Fed. Cir. 1994) ("*Epstein*"); RRB 30-32.

⁴³⁷ See Manual of Patent Examining Procedures ("MPEP") § 2136.03.

⁴³⁸ RX-628 (the Sinclair '321 patent).

⁴³⁹ See Bullock, Tr. 26 (October 23, 2008).

is anticipated by the Sinclair '321 patent.

b. Single Reference Obviousness - The Sinclair '321 Patent & the Sinclair PCT Application

Alternatively, Phison asserts that if claim 17 is not anticipated by the Sinclair '321 patent or the Sinclair PCT application, that claim 17 is obvious, based on single reference obviousness.⁴⁴⁰ As the undersigned has already ruled above that the Sinclair '321 patent and the Sinclair PCT application are not prior art to the '424 patent for this investigation, the undersigned rejects Phison's arguments that claim 17 is invalid based on single reference obviousness of the Sinclair '321 patent.

3. Claims 24 and 30

Respondents assert that, if SanDisk's doctrine of equivalents theory is accepted, there is clear and convincing evidence that the Respondents' accused products, SanDisk's own products, and the prior art become indistinguishable, rendering the patent invalid.⁴⁴¹ Respondents cite to the testimony of Mr. Kynett in support, who asserted that the asserted claims of the '424 patent are invalid if applied as SanDisk advocates in its infringement contentions.⁴⁴² According to Respondents, SanDisk offered no testimony or evidence of its own to rebut Respondents' *prima facie* case, thereby putting all of SanDisk's eggs in its "infringement" basket.⁴⁴³

SanDisk asserts that claims 24 and 30⁴⁴⁴ are valid, which is supported by Respondent's own validity expert, Mr. Kynett, who testified that, if claim 24 is properly construed by the *Markman*

⁴⁴⁰ RIB 70, 75-76.

⁴⁴¹ RIB 60 citing *Brown v. 3M*, 265 F.3d 1349, 1352 (Fed. Cir. 2001) ("*Brown*"); RRB 34-35.

⁴⁴² RIB 60 citing RX-937C (Kynett Direct).

⁴⁴³ RIB 61.

⁴⁴⁴ As to claim 30, SanDisk asserts that claim 30, which depends from claim 24, is not anticipated or rendered obvious if claim 24 is not anticipated or rendered obvious as well. CIB 131.

order, it is a valid claim.⁴⁴⁵

Staff agrees with SanDisk that the evidence does not establish that either claims 24 or 30 are invalid.⁴⁴⁶

a. Anticipation

(1) The Miyauchi ‘783 Patent

Respondents assert that claim 24 is invalid as anticipated by U.S. Patent No. 5,627,783 (“the Miyauchi ‘783 patent”).⁴⁴⁷ According to Respondents, there is no dispute that the Miyauchi ‘783 patent qualifies as prior art.⁴⁴⁸ Specifically, Respondents assert that Mr. Kynett testified that claim 24 is anticipated by at least the prior art system described in the Miyauchi ‘783 patent.⁴⁴⁹

With respect to step (a) of claim 20, Respondents assert that the Miyauchi ‘783 patent discloses storing the same logical address information that SanDisk points to in its own products to satisfy the domestic industry requirement. Specifically, Respondents note that when Dr. Rhyne testified regarding SanDisk’s product for domestic industry, a “logical block address” meets the limitation in step (a) because SanDisk’s products store six bytes of control data, along with 512 bytes of user data.⁴⁵⁰ According to Respondents, the prior art system in the Miyauchi ‘783 patent does the same thing by storing a logical sector address, along with each 512-byte sector of data.⁴⁵¹ While the terminology used differs, Respondents assert that it is insignificant and that Dr. Rhyne himself uses

⁴⁴⁵ CIB 125 citing Kynett, Tr. 775-76; CRB 62-64.

⁴⁴⁶ SIB 76-81; SRB 19.

⁴⁴⁷ RX-659 (“the Miyauchi ‘783 patent”).

⁴⁴⁸ RIB 61 at n. 12.

⁴⁴⁹ RIB 62. Note that Respondents make clear that when referring to the “prior art system” of the Miyauchi ‘783 patent, Respondents are referring to the system set forth in Figures 10-16 and described at col. 1:9-3:63, which is described as being prior art to that patent. RIB 62, n. 13.

⁴⁵⁰ RIB 63 citing CX-1008C (Rhyne Direct) at Q.1518-21, 1523; RRB 35-36.

⁴⁵¹ RIB 63 citing RX-659 (the Miyauchi ‘783 patent) at col. 2:53-61, 3:39-57.

the terms “logical block address” and “logical sector address” interchangeably.⁴⁵² Furthermore, Respondents argue that according to Dr. Rhyne, it is enough to merely store the logical block address, and it is irrelevant as to whether it is ever used, to satisfy step (a).⁴⁵³

With respect to step (c) of claim 20, Respondents assert that the prior art system in the Miyauchi ‘783 patent elects updated pages of data over old pages sharing the same logical sector address by consulting a table that always contains the locations of the most up-to-date data.⁴⁵⁴ According to Respondents, Figure 16 of the Miyauchi ‘783 patent is the type of lookup function that Dr. Rhyne asserts is infringing the claim.⁴⁵⁵

With respect to the “causing” limitation of claim 24, Respondents assert that SanDisk is applying a double standard for validity and infringement. Respondents argue that, for purposes of infringement, SanDisk finds that it is sufficient that offsets be due to random chance, but that for purposes of validity, SanDisk finds that the Miyauchi ‘783 patent does not anticipate because it uses different offset locations as a random event.⁴⁵⁶

SanDisk asserts that the Miyauchi ‘783 patent differs from claim 24 of the ‘424 patent in three ways. First, that the Miyauchi ‘783 patent does not write logical addresses with either original or updated data pages.⁴⁵⁷ According to SanDisk, Mr. Kynett clearly misunderstood Dr. Rhyne’s position regarding what satisfies the “logical page address” limitation.⁴⁵⁸ Second, the Miyauchi ‘783

⁴⁵² RIB 63-64.

⁴⁵³ RIB 64 citing Rhyne, Tr. 219, 374-76.

⁴⁵⁴ RIB 65-66 citing RX-659 (the Miyauchi ‘783 patent) at Fig. 16; RRB 36-37.

⁴⁵⁵ RIB 66-67 citing CX-1008C (Rhyne Direct) at Q. 396, 402, 498, 578, and 1536.

⁴⁵⁶ RIB 67-68 citing Rhyne, Tr. 334-45, 348-49.

⁴⁵⁷ CIB 125-26, 127-28.

⁴⁵⁸ CIB 126 citing Kynett, Tr. 787-89, 989-94.

patent does not cause updated physical data to have a different offset than original data.⁴⁵⁹ Third, the updating method used in the Miyauchi '783 patent does not select the most recently written updated data and omit the earlier written obsolete data with the same logical page address.⁴⁶⁰ According to SanDisk, the Miyauchi '783 patent used flags to distinguish old data from new data, a methodology that was disclaimed by the '424 patent. SanDisk argues that Mr. Kynett improperly asserts that the flag disclaimer is limited to claim 18.⁴⁶¹

Staff agrees with SanDisk that the evidence does not show that claims 24 or 30 are anticipated by the Miyauchi '783 patent. According to Staff, while Respondents acknowledge that the logical sector address taught by the Miyauchi '783 patent does not meet the undersigned's claim construction of "logical page address" which requires both a logical block number and a logical page offset, Respondents argue that the Miyauchi '783 patent teaches the limitation under SanDisk's broad interpretation of the term.⁴⁶² Staff asserts that, it is axiomatic in patent law that a product "which would literally infringe if later in time anticipates if earlier." Accordingly, Staff agrees that if the evidence establishes that the Miyauchi '783 patent teaches all the elements of claims 24 and 30 in the same manner interpreted by SanDisk for its infringement and domestic industry contentions, then the Miyauchi '783 patent anticipates the asserted claims. Staff continues to assert, however, that Respondents have failed to meet their initial burden of proving, by clear and convincing evidence, that claims 24 and 30 are invalid.

First, Staff argues that the evidence does not support a finding that the Miyauchi '783 patent

⁴⁵⁹ CIB 128 citing RX-659 (the Miyauchi '783 patent) at col. 3:39-42, Figs. 15-16; Kynett, Tr. 933-36

⁴⁶⁰ CIB 128 citing Kynett, Tr. 813-17, 820-21, 926-27, 932.

⁴⁶¹ CIB 126-27 citing RX-937C (Kynett Direct) at Q. 103-04.

⁴⁶² SIB 76-77; SRB 19.

teaches a “logical page address.”⁴⁶³ Second, Staff argues that the Miyauchi ‘783 patent does not meet the “second plurality of pages” limitation because the Miyauchi ‘783 patent expressly teaches one page, rather than a plurality of pages where the updated data is programmed into a different offset position than the original data.⁴⁶⁴ Third, Staff argues that the Miyauchi ‘783 patent does not teach any particular method for omitting superceded data. Nor, it is argued, does the Miyauchi ‘783 patent disclose any process for assembling data portions into a data file, as required by the undersigned’s “reading and assembling” limitation in step (c).⁴⁶⁵

As to SanDisk’s argument that the Miyauchi ‘783 patent does not anticipate because it teaches the use of “flags” to distinguish old data, which SanDisk disclaimed in claim 24, Respondents counter that the Miyauchi ‘783 patent does not ever mention flags. Regardless, Respondents argue that even if flags were mentioned in the Miyauchi ‘783 patent, the process of selecting updated data is done entirely through the use of the table in Figure 16, where there is no mention of flags being required or used.⁴⁶⁶

As to Staff’s argument regarding a plurality of pages, Respondents assert that looking at Figure 13 of the Miyauchi ‘783 patent shows an actual system where the number of pages in a flash memory block is greater than shown in Figure 16, which only shows a simplified illustration of the system. According to Respondents, looking at Figure 13, it is “virtually certain that at least two of the pages of updates (i.e., a plurality of pages) will have different offsets from the original pages

⁴⁶³ SIB 78.

⁴⁶⁴ SIB 79 citing Kynett, Tr. 996-97.

⁴⁶⁵ SIB 79.

⁴⁶⁶ RIB 67; RRB 37.

being updated.”⁴⁶⁷

As to Staff’s argument regarding the “omitting” limitation, Respondents concede that under the undersigned’s claim construction, this limitation is not met, but that SanDisk has not used the undersigned’s construction when asserting infringement under Respondents’ products.⁴⁶⁸

The undersigned has already ruled above in the infringement section that Respondents’ accused products do not infringe claims 24 and 30.⁴⁶⁹ Respondents concede that, under such an interpretation, that Respondents’ invalidity arguments should be rejected. Accordingly, the undersigned finds that Respondents have not shown, by clear and convincing evidence, that claims 24 and 30 of the ‘424 patent are invalid as anticipated based on the Miyauchi ‘783 patent.

(2) The Itoh ‘563 Patent

Respondents assert that, if SanDisk’s overly broad claim construction for infringement is applied, that both claims 24 and 30 are also anticipated by U.S. Patent No. 5,987,563 to Itoh (“the Itoh ‘563 patent”).⁴⁷⁰ According to Respondents, their rationale as to anticipation is detailed in the findings of fact and are the same as argued for the Miyauchi ‘783 patent.⁴⁷¹

SanDisk asserts that the Itoh ‘563 patent does not anticipate or render obvious claim 24 or 30.⁴⁷² SanDisk notes that because the Itoh ‘563 patent was considered by the examiner during the prosecution of the ‘424 patent, the burden of proving invalidity on the basis of the Itoh ‘563 patent

⁴⁶⁷ RRB 39.

⁴⁶⁸ RRB 39-40.

⁴⁶⁹ See Section IV (B) (3)-(4).

⁴⁷⁰ RIB 69.

⁴⁷¹ RIB 69.

⁴⁷² CIB 128-31; CRB 64.

alone is “especially difficult.”⁴⁷³ SanDisk asserts that Mr. Kynett’s position is flawed based on his misunderstanding of Dr. Rhyne’s testimony regarding the “logical block address” limitation.⁴⁷⁴

Staff agrees with SanDisk that the evidence does not show that the asserted claims are anticipated or rendered obvious by the Itoh ‘563 patent.⁴⁷⁵

The undersigned is hereby dismissing Respondents’ anticipation argument based on the Itoh ‘563 patent as being insufficient and in non-compliance with the undersigned’s ground rules and post-hearing briefing page limitations.⁴⁷⁶ A mere reference to the Itoh ‘563 patent, with a statement that the detailed *reasoning* is to be found in the proposed findings of facts, is an attempt to get around the page limitation which all parties are bound by and would give Respondents an unfair advantage. While parties may detail their findings of fact with specific references to the record, exhibits, and testimony, the *reasoning* behind the parties’ arguments should be found within the four corners of the brief.

b. Obviousness

Respondents assert that if SanDisk’s overly broad claim construction for infringement is applied, both claims 24 and 30 are obvious in light of the Itoh ‘563 patent taken in combination with any of other several prior art references including: U.S. Patent No. 5,682,499 to Bakke (“the Bakke ‘499 patent”), U.S. Patent No. 6,288,862 to Baron (“the Baron ‘862 patent”), U.S. Patent No. 5,822,781 to Wells (“the Wells ‘781 patent”), U.S. Patent No. 6,219,752 to Sekido (“the Sekido ‘752 patent”), JP No. 3,070,539 to Fuse (“the JP ‘539 patent”), and U.S. Patent No. 6,584,579 to Komatsu

⁴⁷³ CIB 129 citing *Glaxo Group Ltd. v. Apotex, Inc.*, 376 F.3d 1339, 1348 (Fed. Cir. 2004) (“*Apotex*”).

⁴⁷⁴ CIB 129 citing Kynett, Tr. 778-79, RX-937C (Kynett Direct) at Q. 114.

⁴⁷⁵ SIB 80-81.

⁴⁷⁶ See Order No. 2, Ground Rule 11.1; Bullock, Tr. 2,077 (November 5, 2008).

(“the Komatsu ‘579 patent”). According to Respondents, their rationale as to obviousness is detailed in their findings of fact and are the same as argued for the Miyauchi ‘783 patent.⁴⁷⁷

The undersigned is hereby dismissing all of Respondents’ obviousness arguments as being insufficient and in non-compliance with the undersigned’s ground rules and post-hearing briefing page limitations, consistent with the ruling above as to anticipation by the Itoh ‘563 patent.

c. Secondary Considerations

SanDisk asserts that Respondents fail to address any secondary considerations of non-obviousness, such as the commercial success of SanDisk’s products using the inventions in claims 17, 24, and 30 of the ‘424 patent. According to SanDisk, while the issue of secondary considerations was addressed in its pre-trial brief, Respondents failed to address the issue in their post-trial brief and therefore the issue is now waived under Ground Rule 11.1.⁴⁷⁸ Accordingly, SanDisk asserts that the issue of non-obviousness is unrebutted and should be deemed admitted.⁴⁷⁹

As the undersigned has already determined that Respondents’ obviousness arguments are dismissed because Respondents did not set forth their obviousness arguments with specificity in their post-hearing brief, the issue of any secondary considerations of obviousness is rendered moot.

V. The ‘011 Patent

A. Overview

Claim 8 is the only asserted claim against Respondent Imation, which reads as follows:

8. A non-volatile memory card, comprising: a flash EEPROM array, encoded user data stored in a first portion of the array, and data of information useful to decode the encoded user data stored in a second portion of the array, wherein the stored encoded

⁴⁷⁷ RIB 69.

⁴⁷⁸ CRB 64.

⁴⁷⁹ CRB 64.

user data includes encrypted user data, and wherein the information useful to decode the stored encoded user data includes a decryption algorithm, the encoded user data and the decoding information being read from the memory card, and the read encoded user data is decrypted with the read decoding information.

As noted above, the undersigned has already construed the above claims in a *Markman* order.⁴⁸⁰ A summary of the claims construed in that order is detailed below:

Claim	Term	Construction
8	memory card	A removably connected enclosure of memory.
8	flash EEPROM	Non-volatile semiconductor memory that can be programmed and erased electrically and that must erase one or more blocks at one time.
8	flash EEPROM array	An arrangement of one or more flash EEPROM integrated circuit chips.
8	user data	Data transferred from a host for programming into memory.
8	data of information useful to decode the encoded user data	Information used in the process of decoding encoded user data.
8	decryption algorithm	A prescribed set of defined rules or processes for decryption.

B. Infringement of Claim 8

1. In General

SanDisk alleges that Respondent Ivation, the lone remaining respondent accused of infringing the '011 patent, induces infringement of claim 8 through the sale of Flash memory systems that support the encryption of user data. In order to prove induced infringement, complainant must meet the following statutory standard as set forth by the Federal Circuit in *Kyocera*:

Under 35 U.S.C. § 271(b), “[w]hoever actively induces infringement of a patent shall be liable as an infringer.” To prevail on inducement, “the patentee must show, first

⁴⁸⁰ See Order No. 33.

that there has been direct infringement, and second that the alleged infringer knowingly induced infringement and possessed specific intent to encourage another's infringement." *Minn. Mining & Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1304-05 (Fed. Cir. 2002) (citation omitted). In *DSU Med. Corp. v. JMS Co.*, this court clarified en banc that the specific intent necessary to induce infringement "requires more than just intent to cause the acts that produce direct infringement. Beyond that threshold knowledge, the inducer must have an affirmative intent to cause direct infringement." 471 F.3d 1293, 1306 (Fed. Cir. 2006) (en banc review of intent requirement).⁴⁸¹

2. Direct Infringement

a. Claim Element [a]: "A non-volatile memory card, comprising"

It is undisputed that each accused Flash memory system is a "removably connected enclosure of memory" and therefore a "non-volatile memory card."⁴⁸² The accused Flash memory systems are all USB Flash drives.⁴⁸³ They contain at least one NAND Flash memory integrated circuit chip inside a cover that completely encloses and protects the memory.⁴⁸⁴ They can be connected to and removed from a host system via a USB connector port.⁴⁸⁵

b. Claim Element [b]: "a Flash EEPROM array"

It is also undisputed that each accused Flash memory system has a "Flash EEPROM array" as construed.⁴⁸⁶

⁴⁸¹ *Kyocera*, 545 F.3d at 1353 - 1354.

⁴⁸² ROCFF 15.36 - .39. No objections from Staff.

⁴⁸³ ROCFF 15.37. No objections from Staff.

⁴⁸⁴ *Id.*

⁴⁸⁵ ROCFF 15.38. No objections from Staff.

⁴⁸⁶ ROCFF 15.41 - 42. No objections from Staff.

c. Claim Element [c]: “encoded user data stored in a first portion of the array, ... wherein the stored encoded data includes encrypted user data”

(1) Is there encoded user data present in the accused Imation memory cards as imported or sold?

SanDisk alleges that all user data in an accused Imation USB Flash drive is stored in the drive’s Flash EEPROM array encoded as binary numbers.⁴⁸⁷ SanDisk argues that there is no dispute that encrypted data is a form of encoded data.⁴⁸⁸ Thus, SanDisk argues that claim element (c) is met at least because, [as shown below], it has met its burden of proving encrypted user data in each accused system. SanDisk asserts that Imation’s argument, which is that this claim element is not met because none of the accused products contains encoded or encrypted user data *when sold by Imation*, is “irrelevant to infringement.”⁴⁸⁹

Imation asserts that claim 8 is limited to a memory card storing “encoded user data,” including “encrypted user data.” Imation asserts that SanDisk cannot establish these limitations are present in the accused Imation memory cards as imported or sold because user data is not present on any memory card until placed there by a user. Imation cites testimony by Dr. Harari and Dr. Min⁴⁹⁰ to support its argument.

Staff asserts that Dr. Harari testified only with respect to SanDisk’s own products and not with respect to any of Imation’s accused products. In any event, Staff asserts Imation’s argument was not raised in its pre-hearing brief.

SanDisk stated that it had no objection to Imation’s proposed finding of fact RFF 1073,

⁴⁸⁷ ROCFF 15:45. No objections from Staff.

⁴⁸⁸ CIB 25.

⁴⁸⁹ CRB 4.

⁴⁹⁰ RIB 3-5.

which states that “[n]o user data is present on flash drives until a user places the data there.”⁴⁹¹ Thus, the claim element “encoded data stored in a first portion of the array . . . wherein the stored encoded user data includes encrypted user data” is not met with respect to Imation’s accused devices by virtue of such data having been installed at the time of sale or import. SanDisk’s argument that Imation induces users to store such data in “a first portion of the array” will be dealt with below.

(2) **Does Imation induce its customers to store encoded user data in a first portion of the array ... wherein the stored encoded user data includes encrypted user data?**

SanDisk alleges, in its responses to statements by Imation that certain of its products have no user data present until a user places it there, as follows⁴⁹²:

1. Imation Pocket (RFF 7034)

CRRFF 7034. Imation advertizes the Pocket as having “storage capabilities ranging from 1GB to 8GB,” which make[] it easy to manage and transfer digital files.” (CX-622, CX-1007C, Min Q&A 85, 99, 107.)

CRRFF 7034A. The only reasonable conclusion from Imation’s promotion of the Pocket is that Imation *induces* users to place user data in the Pocket. (CX-622; CX1007C, Min Q&A 85, 99, 107.) [Italics added.]

2. Swivel product (RFF7036)

CRRFF 7036. Imation advertises the Swivel for secure data storage. Specifically, Imation advertises a feature of the Swivel as

⁴⁹¹ See CORFF 7031: “No user data is present on flash drives until a user places the data there.” In later responses to Respondents’ findings of fact, SanDisk challenges this proposed finding of fact. See, for example, CORFF 7045. However, it is clear from its overall arguments that the reason SanDisk opposes this proposed finding of fact is because SanDisk believes that Imation *induces* users to place encoded user data in a first portion of the array.

⁴⁹² But see *id.*

“[q]uick, reliable, portable data.” (CX-622; CX-1007C, Min Q&A 95, 116, 124.)

CRRFF 7036A. The only reasonable conclusion from Imation’s promotion of the Swivel is that Imation *induces* users to place data in the Swivel. (CX-622; CX-1007C, Min Q&A 95, 116, 124.) [Italics added.]

3. Pivot product (RFF 7037.)

CRRFF 7037. Imation advertizes the Pivot for secure data storage. Specifically, Imation advertizes it as a “Flash Drive” and shows a picture of the Pivot connected to a PC in its packaging. (CX-622; CX-1007C, Min Q&A 94, 136, 140.)

CRRFF 7037A. The only reasonable conclusion from Imation’s promotion of the Pivot is that Imation *induces* users to place data in the Pivot. (CX-622; CX-1007C, Min Q&A 94, 136, 140.) [Italics added.]

4. TravelDrive product

CRRFF 7038. Imation advertises the TravelDrive for secure data storage. Specifically, Imation’s packaging states the TravelDrive is a “Portable USB 2.0 Flash Storage Device.” (CX-622; CX-1007C, Min Q&A 89, 147, 155.)

CRRFF 7038A. The only reasonable conclusion from Imation’s promotion of the TravelDrive is that Imation *induces* users to place data in the TravelDrive. (CX-622; CX-1007C, Min Q&A 89, 147, 155.) [Italics added.]

5. Mini TravelDrive product

CRRFF 7039. Imation advertises the Mini TravelDrive for secure data storage. Specifically, Imation’s packaging for the Mini TravelDrive calls it a “Portable Storage Device.” (CX-622; CX-1007C, Min Q&A 90, 162, 170.)

CRRFF 7039A. The only reasonable conclusion from Imation’s promotion of the TravelDrive is that Imation *induces* users to place data in the TravelDrive. (CX-622; CX-1007C, Min Q&A 90, 162, 170.) [Italics added.]

6. Rotodrive product

CRRFF 7040. Imation advertises the Rotodrive for secure data storage. Specifically, Imation’s packaging for the Rotodrive proclaims that it is a “Portable USB 2.0 Flash Storage Device.” (CX-622; CX-1007C, Min Q&A 91, 177, 185.)

CRRFF 7040A. The only reasonable conclusion from Imation’s promotion of the Rotodrive is that Imation *induces* users to place data in the Rotodrive. (CX-622; CX-1007C, Min Q&A 91, 177, 185.) [Italics added.]

7. Atom product

CRRFF 7041. SanDisk introduced evidence that Imation affirmatively promotes the Atom for secure data storage. Specifically, Imation advertised the Atom as “the ultimate in data storage portability....” (CX-622; CX-1007C, Min Q&A 87.)

CRRFF 7041A. The only reasonable conclusion from Imation’s promotion of the Atom is that Imation *induces* users to place data on the Atom. (CX-622; CX-1007C, Min Q&A 87.) [Italics added.]

CRRFF 7041B The Imation Atom flash drive is a USB flash drive for which Imation provides ImationLock software. The Atom is sold with ImationLock. (CX-1007C, Min Q&A 87, 92, 99, 114; CPX-37; CX-622.)

CRRFF 7041C SanDisk introduced evidence that ImationLock software functions in exactly the same way, whether it is stored on the Pocket, Atom, Nano, Swivel Pro, or Clip products. This includes the way user data is stored in products containing ImationLock. (CX-1007C, Min Q&A 92, 99, 114; CPX-37; CX-622.)

8. Nano product

CRRFF 7042 SanDisk introduced evidence establishing that Imation affirmatively promotes the Nano for secure data storage. Specifically, Imation advertised the Nano as “combin[ing] a professional design with the performance and storage capacity needed to easily manage and transfer digital files.” (CX-1007C, Min Q&A 86; CX-622.)

CRRFF 7042A The only reasonable conclusion from Imation's promotion of the Nano is that Imation *induces* users to place user data on the Nano. (CX-1007C, Min Q&A 86; CX-622.) [Italics added.]

CRRFF 7042B The Imation Nano flash drive is a USB flash drive for which Imation provides ImationLock software. The Nano is sold with ImationLock. (CX-1007C, Min Q&A 86, 92, 99, 114; CPX-49; CX-622.)

CRRFF 7042C SanDisk introduced evidence that ImationLock software functions in exactly the same way, whether it is stored on the Pocket, Atom, Nano, Swivel Pro, or Clip products. This includes the way user data is stored in products containing Imation Lock. (CX-1007C, Min Q&A 92, 99, 114.)

9. Swivel Pro product

CRRFF 7043 SanDisk introduced evidence establishing that Imation affirmatively promotes the Swivel Pro for secure data storage. Specifically, Imation advertised the Swivel Pro as "the quick and easy way to transfer or share business presentations, digital photos, videos or other large files."(CX-1007C, Min Q&A 95; CX-622.)

CRRFF 7043A The only reasonable conclusion from Imation's promotion of the Swivel Pro is that Imation *induces* users to place user data on the Swivel Pro. (CX-1007C, Min Q&A 95; CX-622.) [Italics added.]

CRRFF 7043B The Imation Swivel Pro flash drive is a USB flash drive for which Imation provides ImationLock software and Flash Manager. The Swivel Pro is sold with Flash Manager. (CX-1007C, Min Q&A 95, 99, 114, 130; CPX-57; CX-622.)

CRRFF 7043C SanDisk introduced evidence that ImationLock software functions in exactly the same way, whether it is stored on the Pocket, Atom, Nano, Swivel Pro, or Clip products. This includes the way user data is stored in products containing Imation Lock. (CX-1007C, Min Q&A 92, 99, 114.)

10. Clip product

CRRFF 7044 SanDisk introduced evidence establishing that Imation affirmatively promotes the Clip for secure data storage. Specifically, Imation advertised the Clip as “the ultimate in portable data storage” (CX-1007C, Min Q&A 84; CX-622.)

CRRFF 7044A The only reasonable conclusion from Imation’s promotion of the Clip is that Imation *induces* users to place user data on the Swivel Pro. (CX-1007C, Min Q&A 84; CX-622.) [Italics added.]

CRRFF 7044B The Imation Clip flash drive is a USB flash drive for which Imation provides ImationLock software and Imation Drive Manager software. The Clip is sold with Imation Drive Manager. (CX-1007C, Min Q&A 84, 99, 114, 130; CPX-40; CX-622.)

CRRFF 7044C SanDisk introduced evidence that ImationLock software functions in exactly the same way, whether it is stored on the Pocket, Atom, Nano, Swivel Pro, or Clip products. This includes the way user data is stored in products containing Imation Lock. (CX-1007C, Min Q&A 92, 99, 114.)

CRRFF 7044D SanDisk introduced evidence that Drive Manager software functions in exactly the same way, whether it is stored on the Swivel, Swivel Pro, or Clip products. This includes the way user data is stored in products containing Drive Manager. (CX-1007C, Min Q&A 84, 92, 95, 96, 130.)

11. M-Flyer product

CRRFF 7045 SanDisk introduced evidence establishing that Imation affirmatively promotes the M-Flyer Pilot for secure data storage. Specifically, Imation advertised the M-Flyer Pilot as “[t]aking portable storage to new heights....” (CX-1007C, Min Q&A 88; CX-622.)

CRRFF 7045A The only reasonable conclusion from Imation’s promotion of the M-Flyer Pilot is that Imation *induces* users to place user data on the M-Flyer Pilot. (CX-1007C, Min Q&A 88; CX-622.) [Italics added.]

CRRFF 7045B The M-Flyer Pilot flash drive is a USB flash drive for which Imation provides Portable Vault software. The M-Flyer pilot is sold with Portable Vault. (CX-1007C, Min Q&A 88,147, 161; CPX-43; CX-622.)

CRRFF 7045C SanDisk introduced evidence that Portable Vault software functions in exactly the same way, whether it is stored on the Travel Drive or M-Flyer Pilot products. This includes the way user data is stored in products containing Portable Vault. (CX-1007C, Min Q&A 88-90,147, 161.)

SanDisk also argues that Imation's argument that it did not have knowledge of the '011 patent as required to prove infringement was not raised in Imation's prehearing brief and therefore is waived pursuant to the undersigned's Ground Rule 8.2. Even if the argument is not deemed to be waived, SanDisk argues that Imation certainly had knowledge of the patent after it was served with the complaint in this proceeding.

Imation argues that SanDisk has failed to establish liability for inducement under § 271(b) because it has failed to demonstrate an affirmative intent to cause direct infringement. Specifically, SanDisk has not shown that Imation knew of the patent and also that SanDisk, at best, has shown only a general intent by Imation to cause infringement, rather than a specific intent to cause direct infringement.

Staff argues that all of Imation's induced infringement arguments were waived pursuant to Ground Rule 8.2.

For the reasons set forth below, it is determined that SanDisk has not shown that Imation has induced its customers to store encoded user data in a first portion of the array. In the first instance, the burden is on complainant to show inducement. Therefore, the arguments relied upon below presented no undue surprise to SanDisk or Staff and thus are not deemed waived pursuant to Ground

Rule 8.2.⁴⁹³

SanDisk's argument with respect to each of the accused products regarding inducement is, in essence, that the only reasonable conclusion from Imation's promotion of each specific product is that Imation induces the user to place user data on the accused product. This conclusion is based upon language in Imation's advertising with respect to each product, as set forth in detail above. However, a review of Federal Circuit precedent indicates that inferences from this type of advertising do not meet the standard of specific intent on the part of the alleged infringer to induce infringement. As the Court has stated, the specific intent necessary to induce infringement "requires more than just intent to cause the acts that produce direct infringement. Beyond that threshold knowledge, the inducer must have an affirmative intent to cause direct infringement."⁴⁹⁴ A level of specific intent required by the Court has not been shown to be present in this case. Accordingly, SanDisk has not demonstrated the Imation's accused products meet claim element (c): "encoded user data stored in a first portion of the array" because Imation has not been shown to induce users to store encoded user data on a first portion of the array. Because this claim element has not been shown to have been infringed by any of Imation's accused products, there is no need to discuss any of the other elements of claim 8.

For the reasons stated above, none of Imation's products have been shown to have infringed claim 8 under the standard of induced infringement.

C. Domestic Industry - Technical Prong

SanDisk argues that SanDisk's Cruzer Micro product embodies the elements of claim 8 of

⁴⁹³ As the undersigned does not rely on Imation's argument that it had no knowledge of the '011 patent, no determination is made with respect to Ground Rule 8.2 regarding this argument.

⁴⁹⁴ *DSU*, 471 F.3d at 1306.

the '011 patent.⁴⁹⁵ Staff does not dispute SanDisk's practice of the '011 patent citing Dr. Min's testimony.⁴⁹⁶ Imation does not challenge SanDisk's contention.⁴⁹⁷ For these reasons, it is determined that SanDisk has met the technical prong of the domestic industry requirement.

D. Validity

1. Ordinary Skill in the Art

The undersigned has already determined that one of ordinary skill in the art is a person with at least a master's degree in electrical engineering, or an equivalent field, as well a few years of experience in the area of non-volatile memory technology.⁴⁹⁸

2. Obviousness

a. Maniscalco in Combination with Izawa and Knowledge of a Person of Ordinary Skill in the Art

Staff argues that claim 8 is obvious in light of the teachings of the Maniscalco reference.⁴⁹⁹ Staff states that the Maniscalco reference is a magazine article in which the author presents a highly secure data-encryption algorithm (called "Crypt") as well as a challenge offering a reward to any reader who can decrypt an encoded message published therein.⁵⁰⁰ Staff states that the article, the testimony of Dr. Min, and the knowledge of one of ordinary skill in the art, teach all of the limitations of claim 8. Staff also cites the Izawa reference⁵⁰¹ as support for its contentions.

Imation supports Staff's position. Imation asserts that SanDisk's argument that Maniscalco

⁴⁹⁵ CX-752 (Stipulation).

⁴⁹⁶ CX-1007 (Min Direct) at Q. 251-57.

⁴⁹⁷ CX-752 (Stipulation).

⁴⁹⁸ See Order No. 33 at 10.

⁴⁹⁹ RX-125 (Maniscalco Article).

⁵⁰⁰ *Id.* at 93.

⁵⁰¹ RX-120 (Izawa).

is not pertinent prior art is not supported.

SanDisk argues that none of the prior art references cited by Staff and Imation are pertinent prior art because they are not sufficiently related to the field of flash memory technology such that one of ordinary skill in the art would have considered them to be analogous prior art. In fact, it is argued, to combine certain of the cited references would render them inoperable. In sum, SanDisk asserts that Staff and Imation have not demonstrated that Maniscalco, in combination with Izawa or the knowledge of one of ordinary skill in the art, discloses, teaches or even suggests the limitations of claim 8.

The contention of Staff and Imation that claim 8 is obvious is persuasive for the reasons set forth below. The Maniscalco reference is a magazine article in which the author presents a highly secure data-encryption algorithm (called “Crypt”) as well as a challenge offering a reward to any reader who can decrypt an encoded message published therein.⁵⁰² The article indicates that “[t]he full source code in C, an executable version of Crypt, and the encoded message are available from the R-E BBS and on IBM PC format diskette from the author.”⁵⁰³

At the hearing, Complainant’s expert Dr. Min testified that Maniscalco teaches all the limitations of claim 8 except for a “non-volatile memory card,” “a flash EEPROM array,” and the requirement that the encoded user data must be programmed into the flash memory.⁵⁰⁴ For example, Dr. Min acknowledged that the message offered by Maniscalco can be both “encoded” and “user data.”⁵⁰⁵ Although the algorithm offered by Maniscalco has the capacity to encrypt and decrypt only

⁵⁰² RX-125 (Maniscalco Article) at 93.

⁵⁰³ *Id.*

⁵⁰⁴ Min, Tr. 2021:17 - 2022:2.

⁵⁰⁵ Min, Tr. 2019:8 - 22.

plain text ASCII files, Dr. Min acknowledged that claim 8 is not limited to any particular type of encoded user data, and could therefore include the type of file that is disclosed in Maniscalco.⁵⁰⁶

With respect to the elements that Dr. Min testified are missing, i.e., “a non-volatile memory card,” “a flash EEPROM array,” and the requirement that the encoded user data must be programmed into the flash memory, this is in essence to say that Maniscalco does not use flash memory. But flash memory was well known in the art and existed long before the November 11, 1993 invention date of the ‘011 patent.⁵⁰⁷ The Izawa article, dated December 7, 1989, and published by February, 1990, is entitled “Digital Still Video Camera Using Semiconductor Memory Cards.”⁵⁰⁸ The Izawa article discloses that “in recent years, electronic still cameras using a two-inch magnetic floppy disk have been gradually introduced into the commercial market.”⁵⁰⁹ The article then proceeds to disclose the movement from floppy disks for the storage of digital photography to “digital picture data store in a memory card” containing flash memory, including a flash memory card with a flash EEPROM.⁵¹⁰ The ‘011 patent itself discusses how flash EEPROM memory cards may be used as a replacement for removable (floppy) magnetic disks because floppy disks are “relatively slow, bulky and require high precision moving mechanical parts.”⁵¹¹ The ‘011 patent also states that “[t]here is currently underway an effort to apply non-volatile Flash EEPROM memory systems for mass storage applications. For example, they are intended to replace either of

⁵⁰⁶ *Id.* at Tr. 2024:11-23.

⁵⁰⁷ RX-120 (Izawa).

⁵⁰⁸ RX-120 (Izawa) at RX-0120.0002.

⁵⁰⁹ *Id.* at 1.

⁵¹⁰ *Id.* at 2; Min, Tr. 1960:6-12.

⁵¹¹ JX-3 (the ‘011 patent), col. 1:45-47.

the existing fixed or removable floppy magnetic disk systems, or both.”⁵¹² Therefore, one of ordinary skill in the art would have found it obvious to replace the floppy disk offered by Maniscalco with a flash EEPROM array memory card.

SanDisk’s argument that the Maniscalco reference is not pertinent is not persuasive. Just because a reference does not exactly encompass the precise class of products as the patent at issue does not determine the issue. As the Supreme Court has said, “familiar items may have obvious uses beyond their primary purposes.”⁵¹³ More specifically, while one of the Maniscalco article’s purposes is to “present a challenge offering a reward to any reader who can decrypt an encoded message” from the author,⁵¹⁴ it is nonetheless pertinent art in the general field of encryption and decryption, which are features recited for the memory card of claim 8. Dr. Min admitted that the “Crypt” program distributed by Maniscalco is a “decryption algorithm” and that the encoded message is “encrypted user data.”⁵¹⁵ Although Maniscalco does not disclose a flash EEPROM memory array, it does teach that a decryption algorithm can be stored along with encrypted user data in a portable storage medium (i.e., a floppy disk). But SanDisk argues that the floppy disk is irrelevant to the problem presented by Maniscalco because it was one of three ways in which the code-breaking challenge was distributed. However, one of ordinary skill in the art would have found it obvious to take the information stored on the floppy disk distributed by Maniscalco and store it onto other portable storage media available at the time, which included flash EEPROM memory cards. Flash memory was well known in the art and existed long before the November 11, 1993 invention date of the ‘011

⁵¹² *Id.* at col.1:66 -2:3.

⁵¹³ *KSR*, 127 S. Ct. at 1742.

⁵¹⁴ *RX-125 (Maniscalco Article)* at 93.

⁵¹⁵ *Min, Tr.* 2021:17 - 2022:2

patent.⁵¹⁶ The '011 patent itself discusses how Flash EEPROM memory cards may be used as a replacement for removable (floppy) magnetic disks because floppy disks are “relatively slow, bulky and require high precision moving mechanical parts.”⁵¹⁷ The '011 patent also states that “[t]here is currently underway an effort to apply non-volatile Flash EEPROM memory systems for mass storage applications. For example, they are intended to replace either of the existing fixed or removable floppy magnetic disk systems, or both.”⁵¹⁸

SanDisk also asserts that Maniscalco teaches away from the secure, portable memory card of claim 8 because Maniscalco describes storing the decryption algorithm on, and executing it from the host. However, claim 8 states nothing about whether encryption algorithm must be stored on the host computer. Dr. Min has testified that the phrase “being read from the memory card” in claim 8 requires the capability to transfer the encoded user data and decoding information out of the memory card.⁵¹⁹ As such, the fact that the host computer may ultimately execute the decryption algorithm disclosed by Maniscalco is entirely consistent with a correct construction of claim 8. Furthermore, there is nothing to suggest in Maniscalco that the Crypt algorithm must necessarily be stored on the host computer in order to be executed. Indeed, Maniscalco discloses than an “executable version of Crypt” is provided on the IBM format diskette.⁵²⁰ Therefore, there is no suggestion that Crypt must be loaded onto the hard drive of a host computer before it is executed.

SanDisk also asserts that Maniscalco teaches away from the limitation that the “read encoded user data is decrypted with the read decoding information” because Maniscalco teaches several times

⁵¹⁶ RX-120 (Izawa).

⁵¹⁷ JX-3 (the '011 patent), col. 1:45-47.

⁵¹⁸ *Id.* at col.1:66 -2:3.

⁵¹⁹ CX-1007C (Min Direct) at Q. 65.

⁵²⁰ RX-125 (Maniscalco Article).

that the ciphertext stored on the diskette cannot be decrypted with the Crypt program because necessary decoding information is not provided. However, it is undisputed that any individual who possesses the decoding information (*i.e.*, the “key”), which would include at least the author of the article, will be able to decrypt the read encoded user data with the read decoding algorithm.⁵²¹ Therefore, Maniscalco does not teach away from this limitation.

SanDisk argues that Maniscalco discloses the decryption algorithm “stored in a second portion of the array” as required by claim 8. SanDisk states that, under Imation’s argument, the undersigned is to suppose that the ciphertext and the Crypt program are stored separately in a first and second portion of the floppy diskette, respectively. SanDisk argues that the only evidence in Maniscalco suggests that they are stored in a single file.

In the first instance, SanDisk’s own expert witness Dr. Min testified that in his expert opinion this claim element was met by the Maniscalco reference.⁵²² In any event, under the standard of *KSR*, this does not seem to be an insurmountable change for one of ordinary skill in the art to make. Accordingly, SanDisk’s argument is rejected.

b. Secondary Considerations

(1) Long-felt Need

SanDisk argues that there was a considerable need in the Flash memory industry to have secure yet highly portable storage of data in a Flash environment and the memory card recited in claim 8 met that need. It is alleged that others failed for years to meet that need. SanDisk asserts that although Maniscalco was published in 1988, Imation has adduced no evidence explaining why no

⁵²¹ *Id.*

⁵²² Min, Tr. 2021:17 - 2022:2.

one arrived at the combination of claim 8 in the five years before SanDisk invented it. SanDisk argues that Staff and Imation have advanced no evidence to refute its contentions.

Imation states that SanDisk has not shown the requisite nexus between long-felt need and the alleged invention. It argues that both flash memory and data protection contained on a portable memory device were known in the prior art. Imation states that the asserted commercial success of the product must be due to the merits of the claimed invention beyond what was readily available in the prior art, which SanDisk has failed to do.

SanDisk's argument is not persuasive. While SanDisk has shown a five-year period between the Maniscalco article and the date of issuance of the patent, it must also show a sufficient relationship between the secondary consideration and the patented invention.⁵²³ It has not demonstrated the required nexus, other than to state that Imation did not explain the 5-year interval. Therefore, SanDisk has not shown long-felt need.

(2) Unexpected Results

SanDisk alleges that the invention of claim 8 produced unexpected results for the industry and is alleged to have been a major breakthrough because it provided portability for secure data, a portability which did not exist prior to the invention.

Imation states that SanDisk has not showed unexpected results because claim 8 is nothing more than Maniscalco, a portable storage device that includes security in the form of data encryption, updated with flash memory technology that was already available at the time of the issuance of the '011 patent. The idea of securing data on any portable device with security features, such as encryption, is neither novel nor a major breakthrough.

⁵²³ *Demaco*, 851 F.2d at 1392.

SanDisk's argument is not persuasive. As discussed in the previous section, a portable storage device that includes security in the form of data encryption, updated with flash memory technology, was already available at the time of the date of issuance of the patent. Again, SanDisk has not shown any unexpected results that can be said to be the result of claim 8.⁵²⁴ Accordingly, SanDisk has not shown unexpected results.

(3) Commercial Success and Industry-Wide Recognition

SanDisk asserts that the combination of portability and security in relatively inexpensive Flash memory products, as defined in claim 8, led to enormous commercial success for these devices, as well as commercial acknowledgment of their importance. SanDisk argues that the portability security features of claim 8 contributed directly to the industry-wide recognition of the value of the invention and its commercial success. SanDisk asserts that this is the reason for its increase in total product revenues from [] More specifically, SanDisk alleges that the increase in the revenues generated by SanDisk Cruzer USB drives (which embody claim 8 of the '011 patent) from over [] is due to claim 8.

Imation states that the testimony of Dr. Harari supports the proposition that the criteria applied in the two July 2004 Editor's Choice awards won by SanDisk's Cruzer Titanium USB flash drive. Dr Harari acknowledged that in granting the awards, the CNET editor stated that the Cruzer drive includes a trinity of useful utilities and superior durability at a competitive price per megabyte. The CruzerLock encryption utility represents only one of the five features identified by Dr. Harari and is not even specifically mentioned. Imation states that the enhanced productivity enabled the fast

⁵²⁴ *Id.*

write speed of the Cruzer products as the primary feature driving commercial success. With respect to SanDisk's increase in overall revenues, there is no evidence to tie the overall revenues to the invention of claim 8.

SanDisk's arguments are not persuasive. Dr. Harari has testified that success was due to many factors, including but not limited to, the trinity of useful utilities,⁵²⁵ superior durability,⁵²⁶ competitive price,⁵²⁷ innovative features,⁵²⁸ and ease of use.⁵²⁹ With respect to the sales revenues, there is no nexus shown between the increased sales revenues and the invention of claim 8. "[S]imple sales figure[s] with no evidence of a nexus" to the claimed invention are insufficient to overcome clear and convincing evidence of obviousness.⁵³⁰ Accordingly, for the reasons stated above, SanDisk has not demonstrated industry-wide recognition and commercial success.

c. Conclusion

For all of the reasons stated above, claim 8 has been shown to be obvious in light of *Maniscalco*, *Izawa*, and knowledge of one of ordinary skill in the art. There have been no showings of secondary considerations of obviousness. In light of this finding of obviousness, there is no need to consider the other possible bases for a finding of obviousness presented in this proceeding.

3. Indefiniteness

Imation argues that claim 8 of the '011 patent is indefinite and invalid as a matter of law under 35 U.S.C. ¶ 112, ¶ 2 because it is a hybrid claim combining an apparatus with two method

⁵²⁵ Harari, Tr.1529:3 - 1530:1.

⁵²⁶ *Id.*

⁵²⁷ *Id.*

⁵²⁸ Harari, Tr. 1535:10 -23.

⁵²⁹ *Id.*

⁵³⁰ *Teleflex Inc. v. KSR Int'l Co.*, 298 F. Supp.2d 581, 596 (E.D. Mich.) ("*Teleflex*"), *aff'd* 550 U.S. 398, 127, 1745.

elements. Imation asserts that claim 8 is directed to an apparatus – a “memory card” – and it contains two steps: (1) encoded user data and decoding information must be read from the memory card and (2) the read encoded user data must be decrypted with the read decoding information. As such, it is alleged, claim 8 is invalid because it is indefinite in that it is not sufficiently precise so as to provide competitors with the ability to determine whether the presence of a memory card alone infringes claim 8, or whether it is the use of a memory card in a particular way that constitutes infringement. Imation states that its argument is supported by *IPXL*,⁵³¹ is distinguishable from *Microprocessor Enhancement*,⁵³² and is supported by the testimony of Dr. Min and Dr. Harari. Imation asserts that it rejects SanDisk’s argument that this situation is similar to that found in *Microprocessor Enhancement* and related cases because those cases contain functional language that states that the claimed apparatus is capable of performing some act and do not, like the instant case, describe active use.⁵³³

SanDisk argues that claim 8 is not indefinite. It argues that Imation’s reliance on *IPXL* is misplaced because that case is a narrow one that has rarely been used to find a claim indefinite since its issuance in 2005. In most cases since *IPXL*, it is argued, including the Federal Circuit’s *Microprocessor Enhancement* decision, courts have found that suspect claims did not cover both an apparatus and a method, but rather were apparatus claims containing functional limitations. Further,

⁵³¹ *IPXL Holdings, L.L.C. v. Amazon.com, Inc.*, 430 F.3d 1377, 1384 (Fed. Cir. 2005) (“*IPXL*”).

⁵³² *Microprocessor Enhancement Corp. v. Texas Instruments Inc.*, 520 F.3d 1367 (Fed. Cir. 2008) (“*Microprocessor Enhancement*”).

⁵³³ Imation also attempts to incorporate by reference an argument from its pre-hearing brief that claim 8 is also invalid because it violates 35 U.S.C. ¶ 101. RIB 27, n. 7. The arguments in post trial briefs are to be self-contained. Otherwise the undersigned’s page limits on post trial briefs would be meaningless. Accordingly, Imation’s ¶ 101 argument will not be considered.

it is argued, the testimony cited by Imation does not adequately support Imation's position. SanDisk states that, like *Microprocessor Enhancement* and similar cases, the language of claim 8 describes an apparatus and contains language that indicates that the structures cited in the claim are capable of performing certain actions.

Staff supports SanDisk's position that claim 8 is not indefinite. Staff asserts that Imation is misreading the functioning of claim 8. It is argued that it is not the memory card that is capable of reading the encoded data and decoding data, and decrypting the read encoded user data with the read decoding information because, among other things, the claim itself recites "the encoded user data and decoding information being read from the memory card." Thus, Staff argues that the claim requires only the capability of a connected host system to be able to read the encoded user data and decoding information from the memory card, and that the read decoding information is capable of being decrypted by the host system with the read decoding information. It cites to the specification of the '011 patent as further support for its position.

Imation's arguments are not persuasive. Like the situation in *Microprocessor Enhancement*, claim 8 is an apparatus claim that indicates a structure, a non-volatile memory card, which is capable of having the "encoded user data and the decoding information being read from the memory card, and the read encoded user data is decrypted with the read decoding information."⁵³⁴ Imation, who has the burden of proving this affirmative defense, has not shown the this claim is insolubly ambiguous. Accordingly, Imation's argument that claim 8 is indefinite is rejected.

4. Prosecution Laches

Imation argues that SanDisk's claim for relief under the '011 patent is barred by the doctrine

⁵³⁴ JX-3 (the '011 patent), claim 8, col. 15 - 16.

of prosecution laches because there has been an unreasonable delay in prosecuting the patent. Imation asserts that SanDisk did not file a patent claim directed to encryption/decryption until approximately nine years after the filing date of the application to which the '011 patent claims priority. Imation states that the '011 patent claims an effective date of November 12, 1993. After filing the '428 application, Imation filed six continuation-in-part or continuation patent applications. Imation argues that SanDisk did not file any claims directed to encryption/decryption in those six patent applications. It was only in the seventh continuation application that SanDisk filed claims directed to encryption/decryption.

SanDisk and Staff assert that Imation has not presented sufficient evidence to support a finding of prosecution laches.

The undersigned agrees that Imation has not made a sufficient showing to justify a finding of prosecution laches. A showing of a nine-year delay as alleged by Imation, absent more, is insufficient to justify a finding of prosecution laches. Imation has failed to meet the criteria of the Federal Circuit's *Symbol Technologies* decision⁵³⁵ which are (1) an unreasonable delay, (2) that there was no explanation for the delay, and (3) that the delay caused prejudice to the accused infringer. While Imation has alleged a delay, it has not shown that the delay was unreasonable, and that the delay caused prejudice to the infringer. Accordingly, Imation's affirmative defense of prosecution laches is rejected.

⁵³⁵ *Symbol Techs., Inc. v. Lemelson Med., Educ. & Res. Found.*, 422 F.3d 1378, 1385 (Fed. Cir. 2005) ("*Symbol Technologies*").

VI. Patent Misuse

A. Tying Arrangement

Respondents assert that SanDisk's licensing policy constitutes improper tying of its U.S. patent rights to worldwide royalty payments and constitutes per se patent misuse or an improper tying arrangement under a rule of reason analysis.

1. Per Se

Respondents argue that SanDisk demands worldwide royalties of [] on all licensed products, which include flash memory system products, such as USB drives and flash memory cards, whether or not they are covered by a SanDisk patent.⁵³⁶ Respondents assert that conditioning a patent license on payment of royalties for products not covered by a patent amounts to patent misuse.⁵³⁷ According to Respondents, there is no dispute that both of the asserted patents are jurisdictionally limited to the United States. Therefore, Respondents argue that SanDisk's conditioning of its U.S. patent rights on worldwide royalties amounts to patent misuse, rendering its asserted U.S. patents unenforceable.⁵³⁸

Respondents assert that a *per se* patent misuse tying claim requires four elements: (1) two products, (2) the sale of a product conditioned on the sale of another product, (3) sufficient market power to compel the purchaser to purchase the tied product; and (4) the tying arrangement affects a non-insubstantial amount of commerce.⁵³⁹

⁵³⁶ RIB 78.

⁵³⁷ RIB 78 citing *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 135-36 (1969) ("*Zenith Radio*").

⁵³⁸ RIB 78.

⁵³⁹ RIB 79 citing *Eastman Kodak Co. v. Image Tech. Servs.*, 504 U.S. 451, 461-62 (1992) ("*Eastman Kodak*").

As to the first *Eastman Kodak* factor, Respondents argue that there are two separate relevant markets. According to Respondents, the first relevant market is the removable solid state storage (RS3) product market that is geographically defined as being global, while the second relevant market is the technology or rights to practice or use the RS3 technology that is geographically defined as being only in the U.S. Respondents assert that, with respect to the second relevant market, SanDisk has not provided, nor do Respondents need, any technological “know-how.” Rather, all that is needed for RS3 operations in the U.S. is permission to use the RS3 technology in the U.S. from patent holders, including SanDisk, who have patent rights covering the RS3 technology needed to manufacture RS3 products.⁵⁴⁰

As to the second *Eastman Kodak* factor, Respondents assert that the first product is SanDisk’s U.S. patent rights to use the RS3 technology, while the second product is SanDisk’s foreign rights to use the RS3 technology.⁵⁴¹ Respondents assert that SanDisk is using its U.S. rights to the RS3 technology to force the payments of royalties through the licensing of its non-U.S. intellectual property. In other words, Respondents assert that SanDisk uses its U.S. rights to the RS3 technology as the “tying product” to obligate the licensing of SanDisk’s non-U.S. rights, the “tied product,” to thereby collect royalties on a worldwide basis.⁵⁴²

As to the third *Eastman Kodak* factor, Respondents assert that SanDisk itself believes that it possesses market power in the RS3 technology market because SanDisk asserts that it is unaware of any existing RS3 products in the form of USB flash drives or CF cards that do not infringe at least one of its U.S. patents in its entire U.S. patent portfolio. Respondents argue that SanDisk’s “take-it-

⁵⁴⁰ RIB 79-80.

⁵⁴¹ RIB 80.

⁵⁴² RIB 80.

or-leave-it” approach to its licensing and settlement negotiations is further evidence of SanDisk’s market power in the RS3 technology market.⁵⁴³

As to the last *Eastman Kodak* factor, Respondents assert that requiring Respondents to pay royalties on a worldwide basis in order to obtain a license to SanDisk’s U.S. rights affects a vast amount of commerce. Respondent Kingston estimates that if it were required to pay royalties on a worldwide basis, such royalties would amount to [

] which is the typical term of a SanDisk license.⁵⁴⁴

SanDisk asserts that, in order to prove patent misuse based on tying, Respondents must establish the following five elements: (1) market power; (2) tying of patents that constitute distinct products; (3) coercion; (4) harmful effects on competition; and (5) absence of procompetitive benefits.⁵⁴⁵ According to SanDisk, Respondents have not established any of the elements.

First, SanDisk asserts that Respondents’ expert offered no opinion regarding market power with respect to the product market for Flash memory systems.⁵⁴⁶ Second, SanDisk asserts that Respondents have failed to prove that SanDisk ties two separate products. According to SanDisk, its Flash memory system license involves a single product, which is the right to use SanDisk’s technology relating to the interoperation of Flash memory controllers, Flash memory chips and other parts of a memory system.⁵⁴⁷ Third, SanDisk asserts that Respondents have failed to prove coercion. According to SanDisk, many companies have chosen to license SanDisk’s technology accepting

⁵⁴³ RIB 81.

⁵⁴⁴ RIB 81-82.

⁵⁴⁵ CIB 134 citing *Jefferson Parish Hosp. Dist. No. 2 v. Hyde*, 466 U.S. 2 (1984) (“*Jefferson Parish*”); *Philips*, 424 F.3d 1179.

⁵⁴⁶ CIB 134.

⁵⁴⁷ CIB 135-36.

SanDisk's terms, while others have negotiated different terms, but that none have complained of coercion.⁵⁴⁸ Fourth, SanDisk asserts that Respondents have failed to prove that there is an adverse impact on competition resulting from SanDisk's proposed license terms. According to SanDisk, the focus of the inquiry is not on companies purchasing the technology, but on providers of alternative technologies. And SanDisk asserts that when the focus is not on the Respondents, but on alternative technology providers, Respondents have failed to show a negative effect on commercially available technology.⁵⁴⁹ In addition, SanDisk asserts that higher prices do not necessarily constitute anticompetitive harm.⁵⁵⁰ Finally, SanDisk asserts that even if Respondents could show anticompetitive efforts from SanDisk's licensing practices, the procompetitive efficiencies outweigh those effects.⁵⁵¹ According to SanDisk, in this industry, the channels of distribution and use make it very difficult to track where Flash memory products are shipped, sold, and used.⁵⁵² Therefore, SanDisk and its licensees chose to enter into worldwide portfolio cross-licenses that eliminate the administrative difficulties that they would otherwise face.⁵⁵³ In addition, SanDisk asserts that it wants its licensees to have worldwide design freedom because SanDisk does not want to undertake the burdens of monitoring its licensees' activities worldwide to determine if they infringe any

⁵⁴⁸ CIB 136-37.

⁵⁴⁹ CIB 137-38.

⁵⁵⁰ CIB 138 citing *Jefferson Parish*, 466 U.S. at 14.

⁵⁵¹ CIB 140-41.

⁵⁵² CIB 141 citing CRX-220C (Harari Rebuttal) at Q. 82; JX-114C (Harari Dep) at 138-40, 158-59, 160-61; CRX-226C (Thompson Witness Statement) at Q. 186-92; JX-151C (Mehotra Dep.) at 73-75; CRX-221C (Hausman Rebuttal) at Q. 71-85.

⁵⁵³ [

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unlicensed SanDisk patents.⁵⁵⁴

Staff agrees with SanDisk that the evidence does not support a finding of patent misuse based on improper tying under either the per se or rule of reason analysis.⁵⁵⁵ Staff agrees with SanDisk that, under 35 U.S.C. § 271(d), a “per se” patent misuse defense may not even be a viable claim for licensing arrangements that condition the rights of any patent of the sale of a patented product to the rights in another patent or sale or purchase of a separate product.⁵⁵⁶ Staff also agrees with SanDisk that SanDisk’s worldwide license can be considered a single “product” consisting of the freedom to use SanDisk’s patented technology for flash memory system products anywhere in the world.⁵⁵⁷

As to Respondents’ argument that there is one market for SanDisk’s U.S. patent rights while a separate market exists for the right to sell products covered by SanDisk’s U.S. patents in other countries worldwide, Staff asserts that, while the evidence shows that SanDisk possesses “market power” with regard to its U.S. patent rights, the evidence does not show that tying those rights to worldwide sales has an anticompetitive effect. In support, Staff cites to Dr. Hausman’s testimony, which references the FTC/DOJ Guidelines for the Licensing of Intellectual Property.⁵⁵⁸ Staff agrees with SanDisk that there are many procompetitive benefits and efficiencies from requiring a worldwide license, rather than a U.S.-only license, because it may not be feasible for SanDisk to offer a “country-by-country” license because it is difficult, if not impossible, to track sales of Respondents’

⁵⁵⁴ CIB 142.

⁵⁵⁵ SIB 94-95.

⁵⁵⁶ SIB 95 citing 35 U.S.C. § 271(d); *Philips*, 424 F.3d at 1186.

⁵⁵⁷ SRB 26.

⁵⁵⁸ SIB 96-97 citing CRX-221C (Hausman Rebuttal) at Q. 25; CRX-14 (DOJ and FTC Antitrust Guidelines for the Licensing of IP).

products where SanDisk possesses patent rights over those products.⁵⁵⁹ According to Staff, the Federal Circuit has recognized that portfolio licenses can eliminate the potential for future disputes between the parties and avoid litigation.⁵⁶⁰

SanDisk asserts that Respondents err as a matter of law in asserting a per se theory of tying because courts have recognized that portfolio licensing of patents is fundamentally different from tying the sales of two physical products and therefore, the per se doctrine does not apply to package licenses.⁵⁶¹

SanDisk also asserts that its licensing terms do not apply outside the scope of its patented technology and that the terms have no anticompetitive effect.⁵⁶² According to SanDisk, tying is a rational activity that occurs throughout the economy. SanDisk argues that patent holders frequently license their portfolios as a package, which is lawful, efficient, and beneficial to both sellers and consumers.⁵⁶³ In support, SanDisk asserts that the Federal Circuit has recognized the lawfulness and efficiency of portfolio licensing.⁵⁶⁴ Specifically, in *Philips*, the Federal Circuit held that a package of patents, which are all necessary to practice a technology, is one product, rather than a tying arrangement.⁵⁶⁵ According to SanDisk, *Philips* is controlling here because SanDisk's worldwide portfolio licenses also involve a single product—a covenant not to sue the licensee for products in the

⁵⁵⁹ SIB 97-98 citing CRX-221C (Hausman Rebuttal) at Q. 70, 72; *Philips*, 424 F.3d at 1192; SRB 26-27.

⁵⁶⁰ SRB 27 citing *Philips*, 424 F.3d at 1192-93.

⁵⁶¹ CRB 67 citing *Texas Instruments, Inc. v. Hyundai Elecs. Indus.*, 49 F.Supp.2d 893, 912 (E.D. Tex. 1999) (“*Texas Instruments*”); *In re Recombinant DNA Tech. Patent & Contract Litig.*, 850 F.Supp. 769, 775 (S.D. Ind. 1994) (“*Recombinant DNA*”); *Philips*, 424 F.3d 1186, n. 1.

⁵⁶² CIB 132.

⁵⁶³ CIB 132-33 citing CRX-221C (Hausman Rebuttal) at Q71-94; Mangum, Tr. 1761.

⁵⁶⁴ CIB 133 citing *Philips, supra*.

⁵⁶⁵ *Id.* at 1196.

specified field of use regardless where in the world the products are manufactured, assembled, shipped, sold or used.⁵⁶⁶ SanDisk asserts that its worldwide portfolio licensing achieves substantial procompetitive benefits in the form of ease of administration, worldwide freedom of design and operation, and patent peace with licensees.⁵⁶⁷

Respondents counter SanDisk and Staff's argument that tying cannot be per se patent misuse, citing to *Certain Set-Top Boxes*.⁵⁶⁸

As to the issue of whether or not tying can or cannot constitute per se patent misuse, the undersigned agrees with SanDisk and Staff that in *Philips*, the Federal Circuit called into question whether tying arrangements should be analyzed under per se patent misuse.⁵⁶⁹ As the Federal Circuit did not specifically hold that such an analysis is improper, the undersigned agrees with Respondents that the issue may be raised. While the undersigned agrees that the issue may be raised, the undersigned does not find Respondents' arguments to be persuasive.

The undersigned agrees with SanDisk and Staff that SanDisk offers a portfolio licensing of patents, which is different from tying the sale of two physical products. The undersigned also agrees with SanDisk and Staff that SanDisk has shown that there are many procompetitive benefits and efficiencies from requiring a world-wide license, rather than a U.S.-only license. For example, SanDisk has shown evidence that it is not feasible for SanDisk to offer a "country-by-country" license because it is difficult, if not impossible, to track sales of Respondents' products where

⁵⁶⁶ CIB 133.

⁵⁶⁷ CIB 134.

⁵⁶⁸ RRB 41-42 citing *Certain Set-Top Boxes*, Inv. No. 337-TA-454, Final Initial Determination (November 8, 2002).

⁵⁶⁹ *Philips*, 424 F.3d at 1186, n. 1.

SanDisk possesses patent rights over those products.⁵⁷⁰ In addition, portfolio licenses can eliminate the potential for future disputes between the parties and avoid litigation.⁵⁷¹ Furthermore, the undersigned agrees with SanDisk and Staff that Respondents have not sufficiently shown that there are two separate products that are tied.

Accordingly, the undersigned finds that Respondents have not shown that SanDisk's licensing policy constitutes improper tying of its U.S. patent rights to worldwide royalty payments such that it would constitute per se patent misuse.

2. Rule of Reason

Respondents assert that SanDisk's worldwide licensing scheme creates a threat of harm and restriction on trade, constituting an improper tying arrangement under the rule of reason analysis. According to Respondents, SanDisk has failed to provide any evidence that a worldwide license is necessary. Respondents assert that SanDisk has not performed any valuation of the worldwide royalty rate that it charges under its standard licensing terms or what royalty rate it may be able to charge for a U.S.-only license. Respondents argue that SanDisk's failure to provide any evidence of Respondents' need for foreign rights ends the inquiry into whether there are any efficiencies to be gained from a worldwide license. Respondents further argue that the costs associated with SanDisk's worldwide royalty payments exceed any alleged efficiencies.

Respondents argue that in a standard SanDisk license agreement, [

] Because

⁵⁷⁰ CRX-221C (Hausman Rebuttal) at Q. 70, 72.

⁵⁷¹ *Philips*, 424 F.3d at 1192-93.

there is an obligation to pay a royalty payment even if the licensee designs around SanDisk's patent, Respondents argue that there is a decreased motivation to innovate, which threatens product variety and consumer choice.⁵⁷² Furthermore, Respondents assert that there is a harm to consumers because of potential price increases, which are either passed onto consumers in the RS3 market, a decrease in funding for product development, or the decision by certain companies to exit the market.⁵⁷³

Respondents argue that there are less restrictive alternatives than a worldwide royalty, such as a U.S.-only license. Respondents assert that certain Respondents are able to track which sales are made in the U.S., which would make calculation of a U.S.-only license feasible.⁵⁷⁴

Respondents assert that SanDisk has provided no evidence of any need by any of the Respondents for any of SanDisk's foreign patent rights. Therefore, Respondents assert that, because there is no evidence of a demonstrated need, SanDisk's claims that there are procompetitive benefits to a worldwide license are unfounded.⁵⁷⁵

SanDisk asserts that Respondents have failed to prove any of the required elements of a rule of reason patent misuse claim. Specifically, SanDisk asserts that Respondents are asking the undersigned to assume that SanDisk's licenses extend the power of its patents. According to SanDisk, the evidence shows that its licenses do not extend its power over any non-patented technologies or products.⁵⁷⁶ Furthermore, SanDisk asserts that Respondents have failed to prove

⁵⁷² RIB 84.

⁵⁷³ RIB 85.

⁵⁷⁴ RIB 86-87.

⁵⁷⁵ RRB 42-43.

⁵⁷⁶ CRB 74 citing *Mallinckrodt, Inc. v. Medipart, Inc.*, 976 F.2d 700, 704 (Fed. Cir. 1992) ("*Mallinckrodt*").

anticompetitive effects or establish the absence of efficiencies resulting from SanDisk's licenses.⁵⁷⁷

Staff agrees with SanDisk that the evidence does not support a finding of patent misuse based on improper tying under the rule of reason analysis.⁵⁷⁸

Respondents counter SanDisk's arguments regarding the "market." According to Respondents, SanDisk is improperly collapsing the two separate markets of its U.S. patents and foreign patents into one market. Respondents argue that rights to U.S. patents covering a particular technology are a properly defined product market for assessing a tying arrangement.⁵⁷⁹

Respondents also assert that SanDisk overstates the holding in *Philips*. According to Respondent, in *Philips*, the Federal Circuit assessed a tying claim of alleged "non-essential" U.S. patents included as part of a patent portfolio and did not assess conditioning a license to U.S. patents on licensing foreign patents.⁵⁸⁰ Similarly, Respondents assert that SanDisk's reliance on *Texas Instruments* is also misplaced. According to Respondents, in *Texas Instruments* the parties were engaged in concurrent litigation in several foreign countries, whereas here SanDisk has not even alleged that any of the Respondents infringe any of its foreign patents.⁵⁸¹

Respondents argue that SanDisk improperly dismisses the threat of harm and restraint on competition from raising rivals' costs and limiting their ability to compete, which support a finding of patent misuse. Respondents argue that because SanDisk has never determined what a royalty rate would be for a U.S.-only license, SanDisk cannot claim that there is no harm from charging a

⁵⁷⁷ CRB 74 citing *Minebea Co. v. Pabst*, 444 F.Supp.2d 68 (D.D.C. 2006) ("*Minebea*"); CRB 75.

⁵⁷⁸ SIB 94-95.

⁵⁷⁹ RRB 43 citing *Certain Set-Top Boxes*, Inv. No. 337-TA-454.

⁵⁸⁰ RRB 43-44.

⁵⁸¹ RRB 44.

worldwide license royalty rate.⁵⁸²

SanDisk counters Respondents' reliance on *PSC*, which SanDisk argues only emphasizes Respondents' failure of proof in this investigation.⁵⁸³

The undersigned agrees with SanDisk and Staff that the evidence does not show that SanDisk extends its licensing power over any non-patented technologies or products. Furthermore, as already found above, Respondents have failed to establish the absence of efficiencies resulting from SanDisk's portfolio licenses. Accordingly, the undersigned finds that Respondents have not shown that SanDisk's licensing policy constitutes an improper tying arrangement under a rule of reason analysis.

B. Double Royalties

Respondents assert that the unique structure of SanDisk's standard license agreement results in the impermissible double payment of royalties for the same patents on the same products. According to Respondents, SanDisk enters into licenses with many flash memory device manufacturers, that either cover flash memory devices or flash memory systems. Respondents assert that, because one "use" of a flash memory chip is in a flash memory system and because the license includes the "uses" of flash memory chips, licensed flash memory chips include a license relating to flash memory systems, as well as flash memory devices, which has already been paid for. Respondents assert that SanDisk's charge of a royalty on flash memory systems constitutes a double royalty on the licensed flash memory chips.⁵⁸⁴

Respondents argue that flash memory chips, standing alone, have no meaningful independent

⁵⁸² RRB 44.

⁵⁸³ CRB 74-75.

⁵⁸⁴ RIB 88.

value other than in conjunction with a controller or controller functionality that interfaces with the memory chip to enable sending or retrieving information stored on the memory chip.⁵⁸⁵ Respondents argue that SanDisk's licensing scheme, which charges a royalty on the full price of the flash memory system from the flash memory system manufacturers, after having charged a royalty on the memory chips from the memory manufacturers, results in SanDisk's double royalties at different levels of commerce. Respondents argue that because of the lack of independent value of licensed memory chips outside of a flash memory system, the royalty paid by SanDisk's flash memory chip manufacturers is for the reasonably anticipated use of the memory chip in a flash memory system. When SanDisk charges a royalty on the full price of the flash memory system, Respondents argue that this is a double royalty on the flash memory chip.⁵⁸⁶ Respondents assert that the double royalty increases the price to consumers for RS3 products, which is harmful to consumers, and therefore constitutes patent misuse.⁵⁸⁷

SanDisk asserts that, in order to prove patent misuse based on double royalties, Respondents must show the following four elements: (1) collection of two royalties for the same set of patent rights; (2) the resulting extension of the scope of the patent grant; (3) causing anticompetitive effect; and (4) under the rule of reason, the absence of pro-competitive benefits.⁵⁸⁸ According to SanDisk, Respondents have not established any of the elements. First, SanDisk asserts that it collects royalties for two distinct sets of technologies, covered by two sets of patent rights, which are licensed to different groups of users for the manufacture of different products. Specifically, SanDisk asserts that

⁵⁸⁵ RIB 89-90.

⁵⁸⁶ RIB 90.

⁵⁸⁷ RIB 90-91.

⁵⁸⁸ CIB 143 citing *Mallinckrodt*, 976 F.2d at 708.

one set relates primarily to technologies used entirely inside memory chips, while the other set relates mainly to technologies involving the integration of the controller, the memory chips, the firmware and the other parts of a memory system.⁵⁸⁹ As an example, SanDisk points to the [

] ⁵⁹⁰

Second, SanDisk asserts that Respondents have failed to prove that SanDisk's licensing program extends beyond the scope of its patent grant because SanDisk only collects royalties for: (1) those Flash memory chips that use SanDisk's chip technology and, independently of the licensing arrangement, would be subject to SanDisk's Flash memory chip patents, and (2) those systems that use SanDisk's interface technology and, independently of the licensing arrangement, would be subject to SanDisk's Flash memory system patents.⁵⁹¹

Third, SanDisk asserts that Respondents have failed to prove the existence of an antitrust market involving unpatented goods in which competing technologies are excluded and competition is foreclosed. According to SanDisk, anticompetitive harm requires proof of injury to competition as a whole, not just injury to one company. In addition, higher prices do not necessarily constitute anticompetitive harm.⁵⁹²

⁵⁸⁹ CIB 145 citing CRX-220C (Harari Rebuttal) at Q. 47,83-86; CRX-226C (Thompson Witness Statement) at Q. 47-58; JX-146C (Chernicoff Dep.) at 50-52.

⁵⁹⁰ [

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⁵⁹¹ CIB 146-47 citing CRX-226C (Thompson Witness Statement) at Q. 123-24.

⁵⁹² CIB 147-48 citing *U.S. v. Microsoft*, 253 F.3d 34, 58 (D.C.C. 2001) ("*Microsoft*") and
(continued...)

Finally, SanDisk asserts that its licensing program is procompetitive because it ensures that the appropriate amount of royalties is paid at each level.⁵⁹³

Staff agrees with SanDisk that Respondents have failed to establish patent misuse based on double royalties. According to Staff, the evidence shows that the royalties collected by SanDisk from the flash memory chip manufacturers pay for a different set of patent rights than the royalties that SanDisk seeks to collect from Respondents in this investigation.⁵⁹⁴ For example, Staff notes that it is undisputed that the licenses that SanDisk has granted to the flash memory chip manufacturers includes a “field of use” provision that limits the licensed field of use to only flash memory chips, and, therefore, does not include the sale and importation of Respondents’ accused products.⁵⁹⁵

Respondents assert that SanDisk’s citations and application of the law on double royalties is wrong, particularly, SanDisk’s reliance on *Mallinckrodt* and *C.R. Bard*, which do not even address double royalties. Respondents assert that a case that is directly on point is *PSC*.⁵⁹⁶ As to SanDisk’s argument that flash memory chips have other uses other than in the accused memory systems, Respondents counter that in *PSC*, the fact that a double royalty may not be collected in every instance does not absolve the misuse conduct of the patent holder.⁵⁹⁷ In addition, Respondents counter SanDisk’s argument that it only collects royalties for flash memory systems that use SanDisk’s flash memory system patent because there is evidence that SanDisk collects a royalty

⁵⁹²(...continued)

Rambus Inc. v. U.S.I.T.C., 522 F.3d 456, 464 (D.C.C. 2008) (“*Rambus*”).

⁵⁹³ CIB 149.

⁵⁹⁴ SIB 99-100 citing *Mineabea, supra*.

⁵⁹⁵ SIB 100 citing CRX-226C (Thompson Witness Statement) at Q. 67-68, 80; SRB 27.

⁵⁹⁶ RRB 46-47 citing *PSC Inc. v. Symbol Technologies, Inc.*, 26 F.Supp.2d 505 (W.D.N.Y. 1998) (“*PSC*”).

⁵⁹⁷ RRB 48.

under its standard license agreement whether or not a flash memory system is covered by any of SanDisk's patents.⁵⁹⁸ Specifically, Respondents cite to evidence that[

] ⁵⁹⁹

SanDisk asserts that Respondents' double royalty argument misses the fundamental point that

[

] According to SanDisk, the field of use

and royalty provisions specify that the type of product manufactured determines for which patents and rights royalties are paid. SanDisk asserts that [

] ⁶⁰⁰

Put simply, Respondents argue that SanDisk is collecting double royalties as follows. First, SanDisk collects a first royalty from its licensed memory manufacturers. Second, SanDisk collects a "second" royalty from the flash memory system product manufacturers when they incorporate the flash memory chip into a flash memory system. In Respondents' view, SanDisk is extracting two payments for the same product on the same patents, which imposes an unreasonable restraint on competition by either increasing the cost for flash memory systems, or decreasing the profit margin of flash memory system manufacturers.

In the undersigned's view, while there is evidence that SanDisk has patents that overlap between its field of use for flash memory devices and flash memory systems, the evidence shows that chip manufacturers and system manufacturers pay for a different set of rights. The undersigned

⁵⁹⁸ RRB 48 citing Thompson, Tr. 1385-87.

⁵⁹⁹ RRB 48-49 citing RX-455 § 5.14.

⁶⁰⁰ CRB 73-74.

agrees with SanDisk and Staff that Respondents' double royalty argument fails because SanDisk's licenses to systems manufacturers [

] The evidence shows that the field of use and royalty provisions specify that the type of product manufactured determines for which patents and rights royalties are paid.⁶⁰¹ Accordingly, the undersigned finds that Respondents have not shown that SanDisk's licensing policy results in the impermissible double payment of royalties for the same patents on the same products.

VII. Patent Exhaustion

A. Positions of the Parties

Imation argues that SanDisk has licensed the manufacture of non-volatile memory chips (licensed flash memory chips), which are incorporated into Imation's accused downstream flash memory products. These licensed chip manufacturers are said to include [

] It is asserted that these licenses grant the flash memory chip manufacturers unrestricted rights to make, use, and sell their flash memory chips under SanDisk's entire patent portfolio, including all of the patents-in-suit in this investigation. Imation states that SanDisk seeks to exclude Imation's accused downstream flash memory products because they contain unlicensed controllers alleged to infringe the patents-in-suit in this investigation. Imation argues that this activity is precluded under the doctrine of patent exhaustion.

Imation argues that the United States Supreme Court in *Quanta*⁶⁰² reaffirmed the

⁶⁰¹ [

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⁶⁰² *Quanta, supra.*

longstanding doctrine of patent exhaustion as articulated in *Universal Lens*.⁶⁰³ Imation asserts that under that doctrine, for the patents-in-suit to be exhausted, a showing of an authorized sale of a patented article must occur and the article accused of infringement must sufficiently embody the patent. It is stated that the license that covers the flash memory chips operates as an authorized sale for downstream products that contain the memory chips. Imation also argues that the licensed flash memory chips necessarily embody the patents-in-suit because: (1) the chips are the most material and necessary component of the accused flash memory products at issue in this investigation; and (2) their reasonable and intended use is to be finished under the SanDisk patents covered by the licenses, including the '011 and '424 patents. Therefore, it is argued that SanDisk's rights in the '011 and '424 patents are exhausted by virtue of the unconditional licenses that cover the licensed flash memory chips contained in the accused products.

Imation asserts that SanDisk's license agreements with [

] Even if SanDisk were to prove that the agreements have such provisions, Imation argues that this would, at best, give SanDisk contractual remedies against its licensees, but has no effect on the exhaustion of the patents.

With respect to the '011 patent, Imation asserts that because claim 8 requires the presence of "flash EEPROM" and "flash EEPROM arrays," the claimed method cannot be practiced without

⁶⁰³ *United States v. Univs. Lens, Inc.* 316 U.S. 241 (1942) ("*Universal Lens*").

flash memory. Also, Imation argues that the flash memory chip described in claim 8 is the same flash memory chip that is contained in the accused Imation products. Finally, it is asserted, it is undisputed that the flash memory chips contained in the accused Imation products are licensed under SanDisk's patent portfolio, which includes the '011 patent. Imation argues that it follows that one cannot practice claim 8 of the '011 patent without the licensed flash memory.

Imation also argues that the reasonable and intended use of the licensed flash memory chips is to practice SanDisk's licensed patents including claim 8 of the '011 patent. It is argued that SanDisk has presented no evidence whatsoever in support of its assertion that the '011 patent is not exhausted or that there are substantial non-infringing uses of the licensed flash memory other than incorporation into flash memory systems that practice both the '011 and '424 patents.

Imation states that the licensed flash memory chips are not required to completely practice the patents such that everything inventive about the patents are embodied in the chips. Imation argues that the test is whether the licensed article embodies essential features of the patented invention even if the licensed article only partially practices the patent.

With respect to SanDisk's argument that the sale of licensed flash memory chips by the licensees were not authorized because SanDisk's license agreements with [

]First, Imation states that SanDisk raised this argument for the first time in its initial post-hearing brief and therefore the undersigned is urged to not consider this argument because it was not set forth in SanDisk's pre-hearing brief as required by Ground Rule 8.2. In the alternative, if the undersigned does consider this argument on the merits, Imation argues that there is nothing in the licensing agreements that supports SanDisk's position.

Imation's arguments with respect to claim 17 of the '424 patent are similar to its arguments regarding the '011 patent. It states that the '424 patent relates to "metablock operation," which is said to be a method for storing data in "metablocks" within a memory system and then updating portions of that data. Imation asserts that the licensed flash memory chips embody essential features of claim 17 and that the reasonable and intended use of the licensed flash memory chips is to practice SanDisk's licensed patents, including claim 17 of the '424 patent. Imation states that the testimony of Dr. Rhyne as to substantial uses of flash memory chips other than to practice claim 17 of the '424 patent is not supported by the evidence in this proceeding. It is stated that the only other uses cited by Dr. Rhyne were not current examples or applications. Imation makes similar arguments with respect to dependent claims 24 and 30 of the '424 patent.

In addition, with respect to both patents, Imation argues that it is specifically licensed to import its accused products. Imation asserts that the two patents, as part of SanDisk's overall portfolio of patents, are included in cross-licenses with [] Imation also argues that it has an implied license to import its accused products.

SanDisk argues that its licenses of its chip-related patent claims to chip manufacturers does not exhaust its rights with respect to systems manufacturers. SanDisk states that its chip licensees manufacture and sell free-standing Flash memory *chips* only. It is asserted that these chips do not embody the inventive features of the patents-in-suit, and have significant non-infringing uses. The patents-in-suit, the '011 and the '424 patents, are said to be system patents rather than chip patents. SanDisk asserts that just because Imation uses licensed chips in the products it imports and sells, this does not give Imation the right to import and sell systems that contain the licensed chips.

It is argued that Imation has failed to sustain its burden of proving that free-standing flash

memory chips embody the essential features of the '424 and '011 patents. Specifically, SanDisk argues that the '424 patent relates to management of data in a flash memory system, and the '011 patent relates to storing encrypted data and the information useful to decrypt such data (*e.g.*, decryption algorithm) in a non-volatile memory card. It is asserted that the essential features of these patents are performed outside the memory chip by a controller and/or software. SanDisk argues that the creative or inventive aspect of implementing these patents, which involves integrating the chip with a controller and other parts, begins after the chips are sold.

SanDisk argues that the chips have other reasonable uses other than incorporation into infringing systems. SanDisk rejects Imation's argument that SanDisk has failed to show non-infringing uses for flash memory chips.

Finally, SanDisk argues Imation has not shown that [] were authorized to sell chips for incorporation into unlicensed systems.

Staff argues that the licensed flash memory chips supplied by [] do not sufficiently embody the asserted patents because they have substantial uses other than incorporation into flash memory systems that practice SanDisk's asserted patents. Staff asserts that the licensed flash memory chips have not been shown to substantially embody the asserted patents.

B. Discussion and Conclusion

As indicated above, patent exhaustion is an affirmative defense. For such a showing to be made, it must be demonstrated that the licensed item substantially embodies the essential aspects of the patents in question, in this case the '011 and the '424 patents.⁶⁰⁴ Otherwise the first sale of the licensed item itself does not exhaust the patent in question and subsequent downstream products are

⁶⁰⁴ *Quanta*, 128 S.Ct. at 2128 - 2129.

not immune from infringement allegations even though those downstream products contain the licensed item.⁶⁰⁵

In this instance, the licensed item is a flash memory chip. With respect to the '011 patent, it is clear that a flash memory chip does not substantially embody the essence of that patent. The '011 patent requires a flash EEPROM memory card that includes both encoded memory data and a decryption algorithm that can be read from the memory card.⁶⁰⁶ A flash memory chip, standing alone, does not embody those elements of claim 8 of the '011 patent. The licenses in question cover only flash memory chips.⁶⁰⁷

In addition, Imation has not shown that there are no non-infringing uses for flash memory. Imation's arguments that SanDisk and Staff have failed to show that there *are* non-infringing uses is not persuasive. As the party who raised the affirmative defense of patent exhaustion, the burden is upon Imation to prove all elements of patent exhaustion. Accordingly, Imation has failed to demonstrate patent exhaustion by a preponderance of the evidence.⁶⁰⁸

With respect to the '424 patent, Imation's arguments are similarly unpersuasive. The '424 patent relates to the management of data.⁶⁰⁹ More specifically, claim 17 pertains to a method of updating Flash memories. A flash memory chip does not embody a number of key elements of claim

⁶⁰⁵ *Id.*

⁶⁰⁶ JX-3 (the '011 patent), claim 8, col. 15 - 16. It should be noted that in a previous section of the initial determination, claim 8 of this patent was determined to invalid due to obviousness. See Section V(D)(2). If that determination is upheld by the Commission, there would be no need to consider patent exhaustion in the context of claim 8 of the '011 patent. Therefore the analysis of patent exhaustion in terms of claim 8 of the '011 patent necessarily assumes, for the purpose of analysis only, the validity of claim 8 of the '011 patent.

⁶⁰⁷ See, for example, IIB at 38.

⁶⁰⁸ *Jazz Photo I*, 264 F.3d at 1102.

⁶⁰⁹ JX-2 (the '424 patent).

17, such as features linking at least one block from at least two sub-arrays and updating pages of original data by programming replacement data into pages within blocks, each as described in detail in claim 17 of the '424 patent.⁶¹⁰

Similarly, the '424 patent contains claim 24 and 30, which pertain to a method to efficiently update some, but not all, pages of data in a memory block of a flash memory system. A flash memory chip alone omits a number of key features of these claims, such as the features of programming a second a plurality of a total number of pages in a second block with updated data and a logical page address, reading and assembling data from pluralities of pages and selecting the updated data from pages most recently programmed, causing updated data to be programmable in pages of a second block having different offset positions than those of pages in the first block, and consisting of an enclosed card having an electrical connector along one edge to connect with a host system, each as described in claims 20, 24 and 30 of the '424 patent.⁶¹¹ The absence of these features means that a flash memory chip, standing alone, cannot program, update and omit data and manage addresses in the manner described in claims 24 and 30.

As with the '011 patent, Imation's assertion that SanDisk and Staff have not shown affirmatively that there are in fact non-infringing uses for flash memory chips, is not persuasive. It is Imation's burden, as the party raising the affirmative defense of patent exhaustion, to make the appropriate showing that there are no non-infringing uses for flash memory chips. Imation has not persuasively made such a showing. Accordingly its argument is rejected.⁶¹²

For all of the reasons set forth above, Imation's argument of patent exhaustion as to the '011

⁶¹⁰ *Id.*, claim 17, col. 14 - 15.

⁶¹¹ CRX-225C (Rhyne Rebuttal) at Q. 9-15.

⁶¹² For the same reasons, Imation's argument that it has an implied license is also rejected.

and '424 patents is rejected.

VIII. Domestic Industry - Economic Prong

As stated earlier, on October 2, 2008, the undersigned issued an initial determination granting SanDisk's motion for summary determination that it has satisfied the economic prong of the domestic industry requirement with respect to U.S. Patent Nos. 6,426,893; 6,763,424; and 7,137,011.⁶¹³

⁶¹³ See Order No. 46 (October 2, 2008).

CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction in this investigation.
2. The Commission has personal jurisdiction over Respondents.
3. Respondents Phison, SMI, and Skymedi's accused products do not infringe claims 17, 24, or 30 of U.S. Patent No. 6,763,424 in violation of 35 U.S.C. § 271(a).
4. Respondent Imation's accused products do not infringe claim 8 of U.S. Patent No. 7,137,011 in violation of 35 U.S.C. § 271(a).
5. An industry in the United States exists with respect to SanDisk's products that is practiced by U.S. Patent Nos. 6,763,424 and 7,137,011, as required by 19 U.S.C. § 1337(a)(2) and (3).
6. Claims 17, 24, and 30 of U.S. Patent No. 6,763,424 are not invalid under 35 U.S.C. § 102 or § 103.
7. Claim 8 of U.S. Patent No. 7,137,011 is invalid under 35 U.S.C. § 103 for obviousness based on the Maniscalco prior art reference in combination with the Izawa prior art reference and the knowledge of a person of ordinary skill in the art.
8. U.S. Patent Nos. 6,763,424 and 7,137,011 are not invalid and/or unenforceable based on patent misuse, patent exhaustion, licensing, or prosecution laches.

INITIAL DETERMINATION

Based on the foregoing opinion, findings of fact, conclusions of law, the evidence, and the record as a whole, and having considered all pleadings and arguments, including the proposed findings of fact and conclusions of law, it is the Administrative Law Judge's Initial Determination that a violation of Section 337 of the Tariff Act of 1930, as amended, has not been found in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain flash memory controllers, drives, memory cards, and media players and products containing same, in connection with claims 17, 24, and 30 of U.S. Patent No. 6,763,424 and claim 8 of U.S. Patent No. 7,137,011. Furthermore, the Administrative Law Judge hereby determines that a domestic industry in the United States exists that practices U.S. Patent Nos. 6,763,424 and 7,137,011.

The Administrative Law Judge hereby CERTIFIES to the Commission this Initial Determination, together with the record of the hearing in this investigation consisting of the following: the transcript of the evidentiary hearing, with appropriate corrections as may hereafter be ordered by the Administrative Law Judge; and further the exhibits accepted into evidence in this investigation as listed in the attached exhibit lists.

Pursuant to 19 C.F.R. § 210.42(h), this Initial Determination shall become the determination of the Commission unless a party files a petition for review pursuant to 19 C.F.R. § 210.43(a) or the Commission, pursuant to 19 C.F.R. § 210.44, orders on its own motion a review of the Initial Determination or certain issues therein.

RECOMMENDED DETERMINATION ON REMEDY AND BOND

Pursuant to Commission Rules 210.36(a) and 210.42(a)(1)(ii), the Administrative Law Judge is to consider evidence and argument on the issues of remedy and bonding and issue a recommended determination thereon.

IX. Remedy and Bonding

A. Limited Exclusion Order

Under Section 337(d), the Commission may issue either a limited or a general exclusion order. A limited exclusion order instructs the U.S. Customs Service to exclude from entry all articles that are covered by the patent at issue and that originate from a named respondent in the investigation. The Federal Circuit has held that the Commission has “no statutory authority to issue an LEO against downstream products of non-respondents.”⁶¹⁴

SanDisk requests that a permanent limited exclusion order be issued excluding Respondents’ infringing Flash memory controllers, drives, memory cards and media players, and products containing same from the United States. Furthermore, SanDisk requests that the limited exclusion order should exclude Respondents’ infringing devices from entering the United States for all purposes, including, without limitation, testing, sampling, sale, promotion, and demonstration purposes.⁶¹⁵ In addition, SanDisk requests that the limited exclusion order include a certification provision.⁶¹⁶

Respondents assert that, if a violation is found the remedy should consist of: (1) a limited exclusion order only as to any specific respondents found in violation, and (2) a cease and desist

⁶¹⁴ *Kyocera*, 545 F.3d at 1345.

⁶¹⁵ CIB 158.

⁶¹⁶ CIB 158.

order only as to specific system company respondents if they are found in violation and if they have commercially significant domestic inventory. Respondents assert, however, that [

] Therefore, Respondents assert that, to the extent it is determined that an exclusion order is warranted, the supply and importation into the U.S. of component parts of a flash memory system product or that are stipulated not to infringe any of the asserted patents, should not be included in the exclusion order.⁶¹⁷ Respondents agree that, if there is an exclusion order, it should include a certification provision to assist Customs.⁶¹⁸

Staff agrees that, if a violation is found, that there be a limited exclusion order to exclude accused infringing products of all the named Respondents.⁶¹⁹

The undersigned agrees with the parties that, if a violation is found, that there be a permanent limited exclusion order to exclude the accused infringing products of the named respondents in this investigation.

B. Cease and Desist Order

Under Section 337(f)(1), the Commission may issue a cease and desist order in addition to, or instead of, an exclusion order. Cease and desist orders are warranted primarily when the respondent maintains a commercially significant inventory of the accused products in the United States.⁶²⁰

⁶¹⁷ RIB 91-92.

⁶¹⁸ RIB 92-93.

⁶¹⁹ SIB 104.

⁶²⁰ *Certain Crystalline*, 15 U.S.P.Q.2d at 1277-79.

SanDisk requests a cease and desist order against Respondents [

] ⁶²¹ Respondents dispute that SanDisk has met its burden in proving that any of the system company respondents have commercially significant inventories in the United States. Respondents argues that, to the extent SanDisk demonstrates that any respondent maintains commercially significant inventory in the United States, SanDisk has not presented any evidence to show that this inventory is not licensed under the patents, because licensed products should not be counted toward the assessment of whether SanDisk has met its burden as to a commercially significant inventory. ⁶²²

The undersigned agrees that the evidence shows that [

] and that a cease and desist order is warranted against these Respondents.

C. Bond During Presidential Review Period

If the Commission enters an exclusion order or cease and desist order, parties may continue to import and sell their products during the pendency of the Presidential review under a bond in an amount determined by the Commission to be “sufficient to protect the Complainants from any injury.” ⁶²³ SanDisk asserts that the parties have stipulated that [

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⁶²¹ CIB 159 citing CX-1861C (Kingston), CX-1109C (Kingston), CX-1082C (Dane-Elec), CX-1459C (Imation), CX-1158C (LG), CX-1178C (PQI), CX-1858C (Transcend) and CX-1859C (Apacer).

⁶²² RIB 95-96.

⁶²³ 19 U.S.C. § 1337(e); 19 C.F.R. § 210.50(a)(3).

⁶²⁴ CIB 159 citing CX-1863C.

[

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The Commission frequently sets the bond by attempting to eliminate the difference in sales prices between the patented domestic product and the infringing product.⁶²⁸ In the absence of reliable price information, the Commission has used other methods to determine an appropriate bond. For example, where a price comparison is unworkable, the Commission has determined that a bond of 100% is appropriate.⁶²⁹ In other instances where a direct comparison between a patentee's product and the accused product was not possible, the Commission has set the bond at a reasonable royalty rate.⁶³⁰

In this case, [

]

Within seven days of the date of this document, each party shall submit to the office of the Administrative Law Judge a statement as to whether or not it seeks to have any portion of this document deleted from the public version. The parties' submissions must be made by hard copy by the aforementioned date.

⁶²⁵ CIB 159-60.

⁶²⁶ RIB 97.

⁶²⁷ SIB 106.

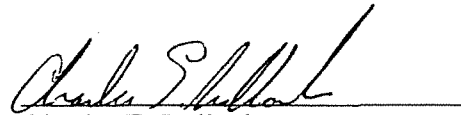
⁶²⁸ See *Certain Microsphere Adhesives*, Commission Opinion at 24.

⁶²⁹ See, e.g., *Certain Variable Speed Wind Turbines and Components Thereof*, Inv. No. 337-TA-376, U.S.I.T.C. Pub. No. 3003, Comm'n Op. at 27-28 and 40 (U.S.I.T.C., September 23, 1996) ("*Certain Wind Turbines*").

⁶³⁰ See, e.g., *Certain Digital Satellite System (DSS) Receivers and Components Thereof*, Inv. No. 337-TA-392, U.S.I.T.C. Pub. No. 3418, Initial and Recommended Determinations at 245, *vacated on other grounds*, Comm'n Determination (May 13, 1999), 2001 WL 535427 (U.S.I.T.C., October 20, 1997) ("*Certain DSS Receivers*").

Any party seeking to have any portion of this document deleted from the public version thereof must submit to this office a copy of this document with red brackets indicating any portion asserted to contain confidential business information. The parties' submission concerning the public version of this document need not be filed with the Commission Secretary.

SO ORDERED.


Charles E. Bullock
Administrative Law Judge

APPENDIX OF EXHIBIT LISTS

Appendix A
SanDisk Corporation's JX-List

ITC 337-TA-619

JX-001				893 patent		11/3/2008
JX-002				424 Patent		10/29/2008
JX-003				011 Patent		10/29/2008
JX-004				Withdrawn		
JX-005				424 Patent File History		10/29/2008
JX-006				011 Patent File History		11/3/2008
JX-007				Withdrawn		
JX-008				Withdrawn		
JX-009				Withdrawn		
JX-010				Withdrawn		
JX-011				Withdrawn		
JX-012				Withdrawn		
JX-013				Withdrawn		
JX-014				Withdrawn		
JX-015				Withdrawn		

Appendix A
SanDisk Corporation's JX-List

ITC 337-TA-619

JX-016			Withdrawn		
JX-017	100	86	Samsung K9XXG09UJXM Datasheet [Exh. 21 to Kan Fan Depo. (5/26/2008)]		10/29/2008
JX-018	104, 279	902	Micron 4Gb, 8Gb, and 16Gb x8 NAND Flash Memory Features; NAND Flash Memory [Exh. 28 to Kan Fan Dep. (5/26/2008)]	SD-I-2269943-2270023	11/5/2008
JX-019			Withdrawn		
JX-020			Withdrawn		
JX-021			Withdrawn		
JX-022			Withdrawn		
JX-023	115	90	Furino Declaration Exhibit 604 re TOne USB Flash Drive 2GB - pictures of disassembled TOne drive [Exh. 53 to Zhang Depo. (5/30/2008)]	SD-I-0016193-0016203	11/5/2008
JX-024	115	949	Photographs of Flash Memory Drives and Chips [Zang Dep. Ex. 53]	SD-I-0016193-0016203	11/5/2008
JX-025			Withdrawn		
JX-026			Withdrawn		
JX-027	144	133	SM324 data book Ver: 0.93, Nov. 2005 [Exh. 36 to Mueller Depo.]	COR_00090221-00090237	11/5/2008
JX-028	194	871	1/22/2007 Kingston Global Flash Conference Presentation [Exh. 9 to Sun Depo.]	KTC00130183-00130337	11/5/2008
JX-029	195	869	Kingston Flash Market Update Q1-2007 [Exh. 10 to Sun Depo.]	KTC00396712-00396748	11/5/2008
JX-030	197	870	2007-07-24 Version of Kingston Flash Product Roadmap and Industry Outlook [Exh. 12 to Sun Depo.]	KTC00292923-00292945	11/5/2008

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JX-031				Withdrawn		
JX-032	261	900		Samsung Electronics Corporation's Datasheet re K9XXG08JUM Advanced Flash Memory [Hsu Dep. Ex. 13]		10/29/2008
JX-033	275, 347	912		Document entitled "Phison PS3006 Controller Version 1.3", November 16, 2007 [Exh. 57 to Hsu Depo.]	PEC00004861-00004906	10/29/2008
JX-034				Withdrawn		
JX-035	301, 307	892		Joint Proposed Claim Construction Chart dated 05/14/2008		11/5/2008
JX-036	301, 307	924		2007 Products to USA with Price.xls	PEC-N-000008	10/29/2008
JX-037	303	873		Untitled Phison Information Management Division Shipping document extracted from ERP [Exh. 225 to Tsay Depo.]		11/5/2008
JX-038	304	874		Untitled Phison Information Management Division Shipping document extracted from ERP [Exh. 226 to Tsay Depo.]		11/5/2008
JX-039	307	875		2007-Products to USA-with Price - Phison Confidential- [Exh. 243 to Tsay Depo.]		11/5/2008
JX-040				Withdrawn		
JX-041				Withdrawn		
JX-042	308	876		2008-04-30 Products to USA with Price.[Exh. 244 to Tsay Depo.]		10/29/2008
JX-043	343	906		Document Entitled "Phison CBI" with handwriting [Exh. 212 to Yang Depo.]		11/5/2008
JX-044	344	907		Document Entitled "Phison CBI" with handwriting [Exh. 213 to Yang Depo.]		11/5/2008
JX-045	345	908		Document Entitled "Phison CBI" with handwriting [Exh. 214 to Yang Depo.]		11/5/2008

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JX-046	346	909	Document Entitled "Phison CBI" with handwriting [Exh. 215 to Yang Depo.]		11/5/2008
JX-047			Withdrawn		
JX-048	349	911	Document entitled "Phison CBI" with handwriting [Exh. 220 to Yang Depo.]		10/29/2008
JX-049	354	24	Part numbering rule [Exh. 12 to Gao Depo. (6/2/2008)]	PQIN00000002	11/5/2008
JX-050	355	25	Part numbering rule [Exh. 13 to Gao Depo. (6/2/2008)]	PQIN00000003	11/5/2008
JX-051	356	22	Numbering principle or rule [Exh. 15 to Gao Depo. (6/2/2008)]	PQIN00000005	11/5/2008
JX-052	357	26	BOM & docs. for product production [Exh. 36 to Gao Depo. (6/2/2008)]	PQIN00026819-00026848	11/5/2008
JX-053	358	27	Coding rule for DOM [Exh. 46 to Gao Depo. (6/4/2008)]	PQIN00000006	11/5/2008
JX-054	359	28	Updated coding rule [Exh. 50 to Gao Depo. (6/4/2008)]	PQIN00000007	11/5/2008
JX-055	361	29	Screenshots from PQI website (My Drive) [Exh. 39 to Wang Depo. (6/3/2008)]		11/5/2008
JX-056	362	30	Printout from PQI website (My Drive) [Exh. 40 to Wang Depo. (6/3/2008)]		11/5/2008
JX-057	363	31	My Drive user manual [Exh. 41 to Wang Depo. (6/3/2008)]		11/5/2008
JX-058	364	32	Screenshots from PQI website (Ur-Smart) [Exh. 44 to Wang Depo. (6/3/2008)]		11/5/2008
JX-059	365	33	Screenshots from PQI website (USB Notebook) [Exh. 45 to Wang Depo. (6/3/2008)]		11/5/2008
JX-060	376	789	2/16/2007 - CF+ and CompactFlash Specification Revision 4.1 [Exh. 13 to Tomlin Depo.]	SD-I-2267309-2267501	11/5/2008

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JX-061		450	9	1603 Design Specification, Rev. 10, [Exh. 11-A - IPN 1603 / EPN 2981 / EPN SK6621 to Vincent Cheng Depo. (5/29/2008)]		10/29/2008
JX-062		456	10	SK6281USB Flash Drive Controller Data Sheet, Rev. 4.21 [Exh. 20 - IPN 1603 / EPN 2981 / EPN SK6621 to C.Y. Chang Depo. (5/21/2008)]	SKY_00000338-00000348	10/29/2008
JX-063		460	11	SK6621 SD2.0/MMC4.2 Memory Card Controller Data Sheet, Rev. 1.3 [Exh. 24 to C.Y. Chang Depo. (5/21/2008)]	SKY_00000498-00000523	10/29/2008
JX-064		501	20	Stipulation Between Skymedl Corporation and SanDisk Corporation, July 24, 2008 [Exh. 148 to Skymedl Depo.]		11/5/2008
JX-065		502	14	SK6626[AD] SD2.0 Memory Card Controller Data Sheet, Rev. 1.4 [Exh. 149 - IPN 1606E / EPN SK6626AD / SS6626AD to Skymedl Depo.]	SKY_20002804-20002826	11/5/2008
JX-066		503	17	SK6626[AE] SD2.0/MMC4.2 Memory Card Controller Data Sheet, Rev. 1.5 [Exh. 150 - IPN 1606F / EPN SK6626AE to Skymedl Depo.]	SKY_20002827-20002851	11/5/2008
JX-067		505	18	SS6626[AE] SD2.0/MMC4.2 Memory Card Controller Data Sheet, Rev. 1.5 [Exh. 152 to Skymedl Depo.]	SKY_20002875-20002899	11/5/2008
JX-068	C	506	15	SS6626[AD] SD2.0 Memory Card Controller Data Sheet, Rev. 1.4 [Exh. 153 to Skymedl Depo.]	SKY_20002852-20002874	11/5/2008
JX-069	C	507	16	1606F Design Specification, Rev. 8 [Exh. 154 IPN 1606F / EPN SK6626AE to Skymedl Depo.]	SKY_20002809-20002803	11/5/2008
JX-070	C	508	13	1606E Design Specification, Rev. 7 [Exh. 155 IPN 1606E / EPN SK6626AD / SS6626AD to Skymedl Depo.]	SKY_20002427-20002608	11/5/2008
JX-071		520	993	Transcend Company Profile 2007 Q4 [Deposition of Ray Chu, Exh. 5]	TSD-ITC 0000119-0000216	11/5/2008
JX-072				Withdrawn		
JX-073				Withdrawn		
JX-074				Withdrawn		
JX-075				Withdrawn		

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JX-076			Withdrawn		
JX-077			Withdrawn		
JX-078	887	899	CV of Dr. Paul S. Min		10/29/2008
JX-079	889	396	List of Materials Relied Upon by Dr. Paul S. Min, Ph.D. re Infringement of U.S. Patent No. 7,137,011		11/5/2008
JX-080			Withdrawn		
JX-081	897	851	CV of Jerry Hausman [Ex. 1 to the Expert Report of Jerry Hausman]		11/5/2008
JX-082	898	852	Trial and Deposition testimony history of Jerry Hausman [Exh. 2 to the Expert Report of Jerry Hausman]		11/5/2008
JX-083	899	853	List of documents considered by Jerry Hausman [Exh. 3 to the Expert Report of Jerry Hausman]		11/5/2008
JX-084			Withdrawn		
JX-085			Withdrawn		
JX-086			Withdrawn		
JX-087			Withdrawn		
JX-088			Withdrawn		
JX-089	1454	1000	Imation's Chart of Components Contained in Accused Imation/Memorex Products	IMA-309902-309906	11/5/2008
JX-090			Withdrawn		

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JX-091				Withdrawn		
JX-092				Withdrawn		
JX-093				Withdrawn		
JX-094				Withdrawn		
JX-095	C			Deposition Designation of Andrew Tomlin		10/31/2008
JX-096				Withdrawn		
JX-097	C			Deposition Designation of Arthur Chih		11/5/2008
JX-098	C			Deposition Designation of Ben Chen		11/5/2008
JX-099	C			Deposition Designation of Ben Tzou		11/5/2008
JX-100				Withdrawn		
JX-101	C			Deposition Designation of Byoung Kang		10/31/2008
JX-102	C			Deposition Designation C.K. Chang		10/31/2008
JX-103	C			Deposition Designation C.Y. Chang		11/5/2008
JX-104				Withdrawn		
JX-105	C			Deposition Designation Chris Chiu		11/5/2008

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JX-106	C			Deposition Designation Christopher Thomas	11/5/2008
JX-107	C			Deposition Designation Daniel Auclair	11/5/2008
JX-108	C			Deposition Designation Darwin Christian Chen	11/5/2008
JX-109	C			Deposition Designation David Sun	11/5/2008
JX-110	C			Deposition Designation Deok Hyun Ha	11/5/2008
JX-111	C			Deposition Designation Donald Sun	11/5/2008
JX-112				Withdrawn	
JX-113	C			Deposition Designation E. Earle Thompsons	11/5/2008
JX-114	C			Deposition Designation Eliyhou Harari	11/5/2008
JX-115	C			Deposition Designation Ellis Lee	11/5/2008
JX-116	C			Deposition Designation Eric Liu	11/5/2008
JX-117	C			Deposition Designation Frankie Chiu	10/31/2008
JX-118	C			Deposition Designation Gerald Parsons	10/31/2008
JX-119				Withdrawn	
JX-120	C			Deposition Designation Honda Shih	11/5/2008

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JX-121	C			Deposition Designation Horace Chen		11/5/2008
JX-122	C			Deposition Designation J.Y. Yang		11/5/2008
JX-123	C			Deposition Designation Jackle Hsu		11/5/2008
JX-124	C			Deposition Designation James Lee		10/31/2008
JX-125	C			Deposition Designation Jason Chien		10/31/2008
JX-126	C			Deposition Designation Jerry Tsai		11/5/2008
JX-127	C			Deposition Designation John S. Mangan		11/5/2008
JX-128	C			Deposition Designation Johnson Huang		11/5/2008
JX-129	C			Deposition Designation Jong Woo Hong		11/5/2008
JX-130				Withdrawn		
JX-131	C			Deposition Designation Katy Tsay		11/5/2008
JX-132	C			Deposition Designation Kevin Conley		10/31/2008
JX-133				Withdrawn		
JX-134	C			Deposition Designation Lucille Wang		11/5/2008
JX-135				Withdrawn		

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JX-136			Withdrawn		
JX-137			Withdrawn		
JX-138	C		Deposition Designation Ming-Jen Liang		11/5/2008
JX-139	C		Deposition Designation Myeong Seop Lee		11/5/2008
JX-140			Withdrawn		
JX-141	C		Deposition Designation Nigel Doong		10/31/2008
JX-142			Withdrawn		
JX-143			Withdrawn		
JX-144			Withdrawn		
JX-145	C		Deposition Designation Ray Chu		11/5/2008
JX-146	C		Deposition Designation Richard Chemicoff		10/31/2008
JX-147			Withdrawn		
JX-148			Withdrawn		
JX-149			Withdrawn		
JX-150	C		Deposition Designation Roy Kung		11/5/2008

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JX-151	C			Deposition Designation Sanjay Mehrotra		11/5/2008
JX-152				Withdrawn		
JX-153	C			Deposition Designation Scott Hsiao		11/5/2008
JX-154	C			Deposition Designation Shirley Lee		11/5/2008
JX-155	C			Deposition Designation Steven Swenson		11/5/2008
JX-156	C			Deposition Designation Steven Wang		11/5/2008
JX-157	C			Deposition Designation Thomas Northfield		11/5/2008
JX-158	C			Deposition Designation Tosuke Tauchida		11/5/2008
JX-159	C			Deposition Designation Tung Yu Kao		11/5/2008
JX-160	C			Deposition Designation Tzu Ju Huang		11/5/2008
JX-161	C			Deposition Designation Vincent Cheng		11/5/2008
JX-162				Withdrawn		
JX-163	C			Deposition Designation Yao Bao (Nancy) Yu		11/5/2008
JX-164				Withdrawn		
JX-165	C			Deposition Designation of Yu Fong Lin		11/5/2008

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JX-Case No.	Category	Case Title	Date
JX-166	C	Deposition Designation of Yung Ching Wang	11/5/2008
JX-167		Toshiba Stipulation	11/5/2008
JX-168		Stipulation Regarding Phison's 2251 and 3016 Controllers (dated October 23, 2008)	11/5/2008
JX-169		Stipulation Regarding Flash Memory Products Produced by or on Behalf of Toshiba (between SanDisk and Dane-Elec)	11/5/2008
JX-170		Stipulation Regarding Phison's 2251 and 3016 Controllers (dated November 3, 2008)	11/5/2008
JX-171	C	Stipulation Regarding the Importation of Certain CF Cards Accused of Infringing Claims 25 & 27 of U.S. Patent No. 6,426,893	11/5/2008
JX-172	C	Stipulation Regarding the Importation of Certain Flash Memory Products Accused of Infringing Claims 25 & 27 of U.S. Patent No. 6,426,893	11/5/2008
JX-173	C	Deposition Designations for J.Y. Yang (Vol. 6)	11/5/2008
JX-174	C	PS3006 Source Code	11/5/2008
JX-175	C	Deposition Designation of Johnson Huang (Vol. 2)	11/5/2008

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CX	Description	ATTORNEY	COUNSEL (FIRM)	Process	Status
CX-0001	Withdrawn				
CX-0002	Withdrawn				
CX-0003	Withdrawn				
CX-0004	Withdrawn				
CX-0005	Withdrawn				
CX-0006	Withdrawn				
CX-0007	Withdrawn				
CX-0008	Withdrawn				
CX-0009	Withdrawn				
CX-0010	Withdrawn				
CX-0011	Withdrawn				
CX-0012	Withdrawn				
CX-0013	Withdrawn				
CX-0014	Withdrawn				
CX-0015	Withdrawn				

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Case No.	Case Name	Status	Date	Party	Remarks
CX-0016	Withdrawn				
CX-0017	Withdrawn				
CX-0018	Withdrawn				
CX-0019	Withdrawn				
CX-0020	Withdrawn				
CX-0021	Withdrawn				
CX-0022	Withdrawn				
CX-0023	Withdrawn				
CX-0024	Withdrawn				
CX-0025	Withdrawn				
CX-0026	Withdrawn				
CX-0027	Withdrawn				
CX-0028	Withdrawn				
CX-0029	Withdrawn				
CX-0030	Withdrawn				10/29/2008

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CX-0031	Withdrawn				
CX-0032	Withdrawn				10/29/2008
CX-0033	Withdrawn				
CX-0034	Withdrawn				
CX-0035	Withdrawn				
CX-0036	Withdrawn				
CX-0037	Withdrawn				
CX-0038	Withdrawn				
CX-0039	Withdrawn				
CX-0040	Withdrawn				
CX-0041	Withdrawn				
CX-0042	Withdrawn				
CX-0043	Withdrawn				
CX-0044	Withdrawn				
CX-0045	Withdrawn				

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CX-0046	Withdrawn				
CX-0047	Withdrawn				
CX-0048	Withdrawn				10/29/2008
CX-0049	Withdrawn				
CX-0050	Withdrawn				
CX-0051	Withdrawn				
CX-0052	Withdrawn				
CX-0053	Withdrawn				
CX-0054	Withdrawn				
CX-0055	Withdrawn				
CX-0056	Withdrawn				
CX-0057	Withdrawn				
CX-0058	Withdrawn				
CX-0059	Withdrawn				
CX-0060	Withdrawn				

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CX-Case No.	Response Type	Description	Case No.	Respondent	Allegation	Date
CX-0061		Withdrawn				
CX-0062		Withdrawn				
CX-0063		Withdrawn				
CX-0064		Withdrawn				
CX-0065		"About Apacer" pages from Apacer's web site [C. Chang Dep. Ex. 8]		Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0066	C	Presentation Material: Apacer Company Profile [C. Chang Dep. Ex. 7]	AP-ITC 0273892-0273714	Chang, Chia Kun	Infringement, Domestic Industry, Importation, Remedy/Bonding	11/5/2008
CX-0067	C	Apacer's Amended and Supplemental Responses to SanDisk Interrogatories 5-6, 17, 19, 24, 80, 83-84, 86, 90, 121-122 and 124 [C. Chang Dep. Ex. 11]		Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0068		"Products: USB Flash Drives" pages from Apacer web site [C. Chang Dep. Ex. 12]		Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0069	C	Presentation Material: eFlash - Product Introduction SSD (Solid State Drive), Technical Notes FAE [C. Chang Dep. Ex. 13]	AP-ITC 0199395-0199456	Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0070	C	Presentation Material: IStorage, AML (Ver. 4.1) [C. Chang Dep. Ex. 15]	AP-ITC 0248369-0248381	Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0071	C	USB 2.0 Flash Controller Specification UCP236-CLFG, Version 1.0 [C. Chang Dep. Ex. 20]	AP-ITC 0242801-0242817	Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0072	C	Presentation Material: 2007 Handy Roadmap, Pamela/Ellie, 2006 ver. 1.3, Dec. 2006 [C. Chang Dep. Ex. 21]	AP-ITC 0260623-0260626	Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0073		"Products: Flash Cards" pages from Apacer web site [C. Chang Dep. Ex. 25]		Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0074	C	Presentation Material: Apacer MP3/MP4 Product Line Reviewing, PM: Tiffany, Released Date: 2008/1/17 [C. Chang Dep. Ex. 26]	AP-ITC 0270256-0270271	Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0075	C	Apacer's Amended and Supplemental Responses to SanDisk Interrogatories 8, 14-15, 19, 85, 87-89, 92-93 and 121-122 [C. Chang Dep. Ex. 27]		Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008

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CX#	Category	Description	Material	Witness	Issue	Settlement
CX-0076	C	Chang Deposition Exhibit 28 (Apacer Customer/Sales/Inventory Table) [C. Chang Dep. Ex. 28]	AP-ITC 0005784-0005915	Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0077	C	Chang Deposition Exhibit 29 (Apacer Customer/Sales/Inventory Table) [C. Chang Dep. Ex. 29]	AP-ITC-N 00001-000195	Chang, Chia Kun	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0078		Withdrawn				
CX-0079		Withdrawn				
CX-0080		Withdrawn				
CX-0081		Withdrawn				
CX-0082		Withdrawn				
CX-0083		Withdrawn				
CX-0084	C	Table: PS2134 (CH) [Kung Dep. Ex. 37]	AP-ITC 0260482-0260501	Kung, Roy	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0085	C	Market Requirement Specification, Apacer MP3 Player, AU232, Version 1.0 [Kung Dep. Ex. 39]	AP-ITC 0101333-0101337	Kung, Roy	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0086	C	Presentation Material: Apacer MP3 Player Product Plan, PM: Tiffany / PCC: Sunny, Release Date: 2008/1Q [Kung Dep. Ex. 40]	AP-ITC 0181932-0181946	Kung, Roy	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0087	C	Presentation Material: I-Storage Hardware Status [Kung Dep. Ex. 41]	AP-ITC 0224973-0224985	Kung, Roy	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0088	C	Bill of Material Approved Sheet for 80.HED22.1C10C, HS2.0 AH421 2GB [Kung Dep. Ex. 42]	AP-ITC 0239133-0239134	Kung, Roy	Infringement, Importation, Remedy/Bonding	11/5/2008
CX-0089	C	Packaging for Professional Photo Series Flash Cards (100X, 66X), packaging for Mobile Series Flash Cards and data sheet for AH421 - ReadyBoost (Speed Up Your PC) [Kung Dep. Ex. 43]	AP-ITC 0004992 AP-ITC 0004999 AP-ITC 0005001 AP-ITC 0005017	Kung, Roy	Infringement, Importation	11/5/2008
CX-0090		Withdrawn				

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CX-0091	Withdrawn				
CX-0092	Withdrawn				
CX-0093	Withdrawn				
CX-0094	Withdrawn				
CX-0095	Withdrawn				
CX-0096	Withdrawn				
CX-0097	Withdrawn				
CX-0098	Withdrawn				
CX-0099	Withdrawn				
CX-0100	Withdrawn				
CX-0101	Withdrawn				
CX-0102	Withdrawn				10/29/2008
CX-0103	Withdrawn				
CX-0104	Withdrawn				
CX-0105	C Hynix Flash Memory HY27UK08BGM Series Data Sheet [Fan Dep. Ex. 28]	SD-0917136-0917181	Fan, Kan	Infringement, Importation	10/29/2008

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CX	Case Name	Case No.	Case Status	Case Date	Case Comment
CX-0106	Withdrawn				
CX-0107	Withdrawn				
CX-0108	Withdrawn				
CX-0109	Withdrawn				
CX-0110	Withdrawn				
CX-0111	Withdrawn				
CX-0112	Withdrawn				
CX-0113	Withdrawn				
CX-0114	Withdrawn				
CX-0115	Withdrawn				
CX-0116	Withdrawn				10/29/2008
CX-0117	Withdrawn				
CX-0118	Withdrawn				
CX-0119	Withdrawn				
CX-0120	Withdrawn				

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CX	Description	Status	Date	Party	Other
CX-0121	Withdrawn				
CX-0122	Withdrawn				
CX-0123	Withdrawn				
CX-0124	Withdrawn				
CX-0125	Withdrawn				
CX-0126	Withdrawn				
CX-0127	Withdrawn				
CX-0128	Withdrawn				
CX-0129	Withdrawn				
CX-0130	Withdrawn				
CX-0131	Withdrawn				
CX-0132	Withdrawn				
CX-0133	Withdrawn				
CX-0134	Withdrawn				
CX-0135	Withdrawn				

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CX-List					
CX-0136		Withdrawn			
CX-0137		Withdrawn			
CX-0138		Withdrawn			
CX-0139		Withdrawn			
CX-0140		Withdrawn			
CX-0141		Withdrawn			
CX-0142		Withdrawn			
CX-0143		Withdrawn			
CX-0144		Withdrawn			
CX-0145		Withdrawn			
CX-0146		Withdrawn			
CX-0147		Withdrawn			
CX-0148		Withdrawn			
CX-0149		Withdrawn			
CX-0150	C	Table listing controllers used in Imation's flash memory products [Northfield Dep. Ex. 12]	IMA-000034-000036	Northfield, Thomas	Infringement 11/5/2008

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CX-0151	C	Table: Flash Approved Supplier List (Current as of 10/1/08) [Northfield Dep. Ex. 13]	IMA-233152-233171	Northfield, Thomas	Infringement; importation	11/5/2008
CX-0152	C	Table: Flash Approved Supplier List (Current as of 9/5/07) [Northfield Dep. Ex. 14]	IMA-225766-225775	Northfield, Thomas	Infringement; importation	11/5/2008
CX-0153		Withdrawn				
CX-0154	C	Phison Clip 2231 Technical Assessment [Northfield Dep. Ex. 23]	IMA-050230-050235	Northfield, Thomas	Infringement	11/5/2008
CX-0155		Withdrawn				
CX-0156	C	Table: Summary of Products Sold with Encryption Software [Northfield Dep. Ex. 26]		Northfield, Thomas	Infringement	10/29/2008
CX-0157	C	License Agreement between encryptX Corporation and Imation Corp. [Northfield Dep. Ex. 27]	IMA-000160-000180	Northfield, Thomas	Infringement	11/5/2008
CX-0158		Withdrawn				
CX-0159		Withdrawn				
CX-0160		Withdrawn				
CX-0161		Withdrawn				
CX-0162		Withdrawn				
CX-0163	C	Table: Project "Durability" - Product Launch Plan [Swenson Dep. Ex. 7]	IMA-000395-000398	Swenson, Steven	Remedy/bonding	11/5/2008
CX-0164		Withdrawn				
CX-0165		Withdrawn				

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CX-0166		Withdrawn				
CX-0167	C	Stipulation Regarding Importation for Accused Products by Imation/Memorex [Tsuchida 2]		Tsuchida, Yosuke	Importation	11/5/2008
CX-0168	C	Importation Chart [Tsuchida 3]		Tsuchida, Yosuke	Importation	11/5/2008
CX-0169	C	Chart identifying Imation's Accused Products [Lee Dep. Ex. 2]	IMA-315143-315151	Lee, Shirley	Infringement	11/21/2008
CX-0170		Withdrawn				
CX-0171		Withdrawn				
CX-0172		Withdrawn				
CX-0173		Withdrawn				
CX-0174		Withdrawn				
CX-0175		Withdrawn				
CX-0176		Withdrawn				
CX-0177		Withdrawn				
CX-0178	C	Flash Media Label Specification Work Instruction for UK & US Market, W-PKI-007.10, Revision 10 [B. Chen Dep. Ex. 45]		Chen, Ben	Infringement	11/5/2008
CX-0179		Withdrawn				
CX-0180		Withdrawn				

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CX-0181	C	Flash Finished Goods Part Number Decoder, DW-DES-004.001, Revision 001 [B. Chen Dep. Ex. 48]		Chen, Ben	Infringement; importation	11/5/2008
CX-0182		Withdrawn				
CX-0183		Withdrawn				
CX-0184		Withdrawn				
CX-0185		Withdrawn				
CX-0186	C	Kingston 2007 Product Shipments [D. Chen Dep. Ex. 5]		Chen, Darwin	Importation; remedy/bonding	11/5/2008
CX-0187		Withdrawn				
CX-0188		Withdrawn				
CX-0189		One Source Report for Kingston Technology Company, Inc. [Sun Dep. Ex. 3]		Sun, David	Remedy/bonding	11/5/2008
CX-0190		Kingston Technology Company, Inc. company profile [Sun Dep. Ex. 4]		Sun, David	Remedy/bonding	11/5/2008
CX-0191		Gale company profiles for Kingston Technology Company, Inc. [Sun Dep. Ex. 5]		Sun, David	Remedy/bonding	11/5/2008
CX-0192	C	Kingston Digital Media Global Meeting Summary [Sun Dep. Ex. 7]	KTC00253857	Sun, David	Infringement; importation	11/5/2008
CX-0193		Withdrawn				
CX-0194		Withdrawn				
CX-0195		Withdrawn				

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CX-0196	Withdrawn				
CX-0197	Withdrawn				
CX-0198	Withdrawn				
CX-0199	Withdrawn				
CX-0200	Withdrawn				
CX-0201	Withdrawn				
CX-0202	Withdrawn				
CX-0203	Withdrawn				
CX-0204	Withdrawn				
CX-0205	Withdrawn				
CX-0206	Withdrawn				
CX-0207	Withdrawn				
CX-0208	Withdrawn				
CX-0209	Withdrawn				
CX-0210	Withdrawn				

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CX-0211	Withdrawn				
CX-0212	Withdrawn				
CX-0213	Withdrawn				
CX-0214	Withdrawn				
CX-0215	Withdrawn				
CX-0216	Withdrawn				
CX-0217	Withdrawn				
CX-0218	Withdrawn				
CX-0219	Withdrawn				
CX-0220	Withdrawn				
CX-0221	Withdrawn				
CX-0222	Withdrawn				
CX-0223	Withdrawn				
CX-0224	Withdrawn				
CX-0225	Withdrawn				

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CX-0226		Withdrawn				
CX-0227		Withdrawn				
CX-0228		Withdrawn				
CX-0229		Withdrawn				
CX-0230		Withdrawn				
CX-0231		Withdrawn				
CX-0232		Withdrawn				
CX-0233		Withdrawn				
CX-0234	C	Table listing models and buyers from 1/1/07 to 4/9/08 [JW Hong Dep. Ex. 16]	LGE-ITC-00002644	Hong, Jong Woo	Infringement; importation; remedy/bonding	11/5/2008
CX-0235	C	Table listing details of sales by the U.S. local entity to buyers of product [JW Hong Dep. Ex. 17]	LGE-ITC-00003408-00003432	Hong, Jong Woo	Infringement; importation; remedy/bonding	11/5/2008
CX-0236	C	Table listing information for warehouse codes [JW Hong Dep. Ex. 18]	LGE-ITC-00002692-00002711	Hong, Jong Woo	Infringement; importation; remedy/bonding	11/5/2008
CX-0237	C	Table listing flash memory products destined for the US from 2004 to 2007 [JW Hong Dep. Ex. 19]	LGE-ITC-00000197	Hong, Jong Woo	Infringement; importation; remedy/bonding	11/5/2008
CX-0238	C	Translation of Exhibit JW Hong 19 (LGE-ITC 00000197) [JW Hong Dep. Ex. 19T]		Hong, Jong Woo	Infringement; importation; remedy/bonding	11/5/2008
CX-0239	C	Tables showing units of UP3, CF cards, MMC cards, SD Cards and USB imported into the US and Europe in 2006 and 2007 [JW Hong Dep. Ex. 20]	LGE-ITC-00001373-00001378	Hong, Jong Woo	Infringement; importation; remedy/bonding	11/5/2008
CX-0240	C	Table reflecting importation of flash memory products into the US from 2004 to 2007 [JW Hong Dep. Ex. 21]	LGE-ITC-00000092-00000100	Hong, Jong Woo	Infringement; importation; remedy/bonding	11/5/2008

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CX-0241		Withdrawn				
CX-0242	C	Letter identifying LGE's witnesses by topic number [MS Lee Dep. Ex. 2]		Lee, Meong Seop	Infringement; importation; remedy/bonding	10/29/2008
CX-0243		Withdrawn				
CX-0244		Printout of LGE's web site [MS Lee Dep. Ex. 5]	SD-I-2270379-2270556	Lee, Meong Seop	Infringement; importation	11/5/2008
CX-0245		Withdrawn				
CX-0246		Withdrawn				
CX-0247	C	LGE brochure: Store Your Mind, Confidence in Multimedia, Total Media Product [OB Kang Dep. Ex. 3]	LGE-ITC-00000200-00000218	Kang, O Byoung	Infringement; importation	11/5/2008
CX-0248	C	LGE brochure: LG Total Media Product [OB Kang Dep. Ex. 4]	LGE-ITC-00000217-00000221	Kang, O Byoung	Infringement; importation	11/5/2008
CX-0249		Withdrawn				
CX-0250	C	Table identifying procurement of specific flash memory chips by LG [OB Kang Dep. Ex. 6]	LGE-ITC-00003363-00003366	Kang, O Byoung	Infringement; importation; remedy/bonding	11/5/2008
CX-0251	C	Table listing costs associated with purchase of Silicon Motion, Inc.'s controllers [OB Kang Dep. Ex. 7]	LGE-ITC-00003405	Kang, O Byoung	Remedy/bonding	11/5/2008
CX-0252	C	LGE brochure: LG USB Drive, Smart Drive, Storage Drive [OB Kang Dep. Ex. 8]	LGE-ITC-00002407-00002425	Kang, O Byoung	Infringement; importation	11/5/2008
CX-0253		Withdrawn				
CX-0254	C	Respondent Phison Electronics Corporation's Responses to SanDisk Notice of Depo [J. Hsu Dep. Ex. 2]		Hsu, Jackie	Witness background / identification as corporate representative	11/5/2008
CX-0255	C	Fish & Richardson Letter to Mr. Yoon [J. Hsu Dep. Ex. 3]		Hsu, Jackie	Witness background / identification as corporate representative	11/5/2008

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CX-0256	C	E-mail re: Phison Depos [J. Hsu Dep. Ex. 3A]		Hsu, Jackie	Witness background / Identification as corporate representative	11/5/2008
CX-0257		Withdrawn				
CX-0258		Withdrawn				
CX-0259		Withdrawn				
CX-0260		Withdrawn				
CX-0261		Withdrawn				
CX-0262	C	List of Phison USB Controllers [J. Hsu Dep. Ex. 18]		Hsu, Jackie	Importation / Remedy	11/5/2008
CX-0263	C	List of Phison CompactFlash Controllers [J. Hsu Dep. Ex. 19]		Hsu, Jackie	Importation / Remedy	11/5/2008
CX-0264	C	List of Phison MMC Controllers [J. Hsu Dep. Ex. 20]		Hsu, Jackie	Importation / Remedy	11/5/2008
CX-0265		Withdrawn				
CX-0266		Withdrawn				
CX-0267		CF+ and CompactFlash Specification Rev. 3.0 [J. Hsu Dep. Ex. 23]	SD-1349322-1349508	Hsu, Jackie	Infringement	10/29/2008
CX-0268	C	The MultiMediaCard System Specification Version 4.2 [J. Hsu Dep. Ex. 24]	SD-0839814-0839889	Hsu, Jackie	Infringement	11/5/2008
CX-0269	C	Phison PS3008 Introduction [J. Hsu Dep. Ex. 25]	PEC00511210-00511213	Hsu, Jackie	Infringement	11/5/2008
CX-0270	C	Project No. PS2136 AG-AND/2X8/TCS/INT/ACE [J. Hsu Dep. Ex. 32]		Hsu, Jackie	Infringement	11/5/2008

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				Hsu, Jackie		
CX-0271	C	2K Page Drawing [J. Hsu Dep. Ex. 45]			Infringement	11/5/2008
CX-0272		Withdrawn				
CX-0273		Withdrawn				
CX-0274		Withdrawn				
CX-0275		Withdrawn				
CX-0276	C	Toshiba NAND Data Sheet for Part No. TH58NVG4D4CTG00 [J. Hsu Dep. Ex. 58]	PEC00502039-00502105	Hsu, Jackie	Infringement	11/5/2008
CX-0277	C	Samsung Flash Memory K9XXG08UXA [J. Hsu Dep. Ex. 59]	SD-I-2094952-2095001	Hsu, Jackie	Infringement	11/5/2008
CX-0278	C	Hynix 16Gb NAND Flash HY27UK08BGF [J. Hsu Dep. Ex. 60]	SD-I-0917138-0917181	Hsu, Jackie	Infringement	10/29/2008
CX-0279		Withdrawn				
CX-0280	C	Flash Support List for the PS3002 Flash Memory Controller [S. Wang Dep. Ex. 74]	PEC00462027-00462036	Wang, Steven	Infringement	11/5/2008
CX-0281	C	Directory for DVD [S. Wang Dep. Ex. 79]		Wang, Steven	Infringement	11/5/2008
CX-0282	C	Wish 37X BCM list [S. Wang Dep. Ex. 80]		Wang, Steven	Infringement	11/5/2008
CX-0283	C	PS2231 AG-AND/2 X8/TCS/INT/4-CE [S. Wang Dep. Ex. 81]	PEC00274762-00274764	Wang, Steven	Infringement	11/5/2008
CX-0284	C	PS2231 ULGA 2 X 8/TCS/INT [S. Wang Dep. Ex. 82]	PEC00243158-00243160	Wang, Steven	Infringement	11/5/2008
CX-0285	C	PS2231 AG-AND/2 X8/TCS/INT/4-CE [S. Wang Dep. Ex. 83]	PEC00245295-00245297	Wang, Steven	Infringement	11/5/2008

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				Wang, Steven		
CX-0286	C	PS2231 2X 8/TCS/INT [S. Wang Dep. Ex. 84]	PEC00263600-00263502		Infringement	11/5/2008
CX-0287	C	PS2231 2X8/TCS/INT [S. Wang Dep. Ex. 85]	PEC00333949-00333952	Wang, Steven	Infringement	11/5/2008
CX-0288	C	PS2231 ULGA 2X8/TCS/INT [S. Wang Dep. Ex. 86]	PEC00266157-00266159	Wang, Steven	Infringement	11/5/2008
CX-0289	C	PS2231 2X 8/TCS [S. Wang Dep. Ex. 87]	PEC00335033-00335035	Wang, Steven	Infringement	11/5/2008
CX-0290	C	PS2231 AG-AND/2X 8/TCS/INT [S. Wang Dep. Ex. 88]	PEC00302491-00302493	Wang, Steven	Infringement	11/5/2008
CX-0291	C	PS2231 AG-AND/2 X 8/TCS/INT [S. Wang Dep. Ex. 89]	PEC00297281-00297283	Wang, Steven	Infringement	11/5/2008
CX-0292	C	PS2231 2X8/INT/4-CE *2 [S. Wang Dep. Ex. 90]	PEC00307760-00307762	Wang, Steven	Infringement	11/5/2008
CX-0293	C	PS2231- 48PAG-AND/2X8/TCS/INT/4-CE [S. Wang Dep. Ex. 92]	PEC00376919-00376921	Wang, Steven	Infringement	11/5/2008
CX-0294	C	PS2231 ULGA2X8/TCS/INT [S. Wang Dep. Ex. 93]	PEC00314993-00314995	Wang, Steven	Infringement	11/5/2008
CX-0295	C	PS2231 ULGA2X8/TCS/INT [S. Wang Dep. Ex. 94]	PEC00318038-00318040	Wang, Steven	Infringement	11/5/2008
CX-0296	C	PS2231 AG-AND/2X8/TCS/INT/4-CE [S. Wang Dep. Ex. 95]	PEC00347334-00347336	Wang, Steven	Infringement	11/5/2008
CX-0297	C	PS2231 2X8/TCS/AG-AND/INT/4-CE/LGA [S. Wang Dep. Ex. 96]	PEC00340986-00340989	Wang, Steven	Infringement	11/5/2008
CX-0298	C	PS2231 AG-AND/2X8/TCS/INT/4-CE Reference 37X14OGG1-MA [S. Wang Dep. Ex. 98]	PEC00337626-00337629; PEC00335036	Wang, Steven	Infringement	11/5/2008
CX-0299	C	Phison Bill of Materials w/misc. [S. Wang Dep. Ex. 99]	PEC00052762-00132543	Wang, Steven	Infringement	11/5/2008
CX-0300		Withdrawn				

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CX-0301		Withdrawn				
CX-0302	C	Printout of file entitled 20080430_Products to USA_ with price.xls [E. Lee Dep. Ex. 170]		Lee, Ellis	Importation / Remedy	11/5/2008
CX-0303		Withdrawn				
CX-0304		Withdrawn				
CX-0305	C	E-mail String beginning with, From Kuang to Michael Wu, et al., dated 07/27/07 [K. Tsay VI Dep. Ex. 228]	PEC00468003-00468004	Tsay, Katy	Infringement	11/5/2008
CX-0306	C	List of Customers and Locations [K. Tsay VI Dep. Ex. 229]	PEC00468005-00468016	Tsay, Katy	Importation	11/5/2008
CX-0307		Withdrawn				
CX-0308		Withdrawn				
CX-0309	C	US Clients (ship to US) with Product Type_20072008toApril.xls [Katy Tsay Dep. Ex. 245]		Tsay, Katy	Importation / Remedy	11/5/2008
CX-0310	C	Respondent Phison Electronics Corporation's Third Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories [Katy Tsay Dep. Ex. 247]		Tsay, Katy	Importation	11/5/2008
CX-0311		Withdrawn				
CX-0312		Withdrawn				
CX-0313		Withdrawn				
CX-0314		Withdrawn				
CX-0315		Withdrawn				

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CX-0316		Withdrawn				
CX-0317	C	Spreadsheet in Chinese [Katy Tsay Dep. Ex. 256]	PEC00509538-00509547	Tsay, Katy	Importation	11/5/2008
CX-0318	C	March 24 to March 30 Weekly Shipment Report.xls [Katy Tsay Dep. Ex. 257]		Tsay, Katy	Importation	11/5/2008
CX-0319	C	April 28, 2008 Commercial Invoice, Packing List, Air Cargo Air Waybill [Katy Tsay Dep. Ex. 258]		Tsay, Katy	Importation	11/5/2008
CX-0320	C	Respondent Phison Electronics Corporation's Response to Complainant and Notice of Investigation [Katy Tsay Dep. Ex. 260]		Tsay, Katy	Importation	11/5/2008
CX-0321		Withdrawn				
CX-0322	C	December 13, 2007 E-mail [Katy Tsay Dep. Ex. 264]	PEC00503823	Tsay, Katy	Importation	11/5/2008
CX-0323	C	September 28, 2007 Fax Cover Sheet; Phison Invoice; Electronic Integrated Circuit Worksheet; Korean DRAM Certification [Katy Tsay Dep. Ex. 265]	PEC00883247-00883250	Tsay, Katy	Importation	11/5/2008
CX-0324	C	November 19, 2007 NVIDIA Corporation Purchase Order [Katy Tsay Dep. Ex. 268]	PEC00528743-00528744	Tsay, Katy	Importation	11/5/2008
CX-0325		Withdrawn				
CX-0326	C	Phison SATA SSD [Katy Tsay Dep. Ex. 271]	PEC00530236-00530250	Tsay, Katy	Infringement	11/5/2008
CX-0327	C	Phison SATA SSD [Katy Tsay Dep. Ex. 272]	PEC00529518-00529528	Tsay, Katy	Infringement	11/5/2008
CX-0328	C	Phison SATA SSD [Katy Tsay Dep. No. 273]	PEC00886703-00886714	Tsay, Katy	Infringement	11/5/2008
CX-0329	C	Phison SATA SSD [Katy Tsay Dep. No. 274]	PEC00860012-00860022	Tsay, Katy	Infringement	11/5/2008
CX-0330		Withdrawn				

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CX-0331	C	Enabling Next Generation NAND Applications Through Controller Technology Powerpoint Presentation with Notes from MemCon 2007 [H. Chen Dep. Ex. 288]		Chen, Horace	Infringement	11/5/2008
CX-0332	C	July 16, 2007 Phison USA Weekly Status Report [H. Chen Dep. Ex. 287]	PEC00455427-00455428	Chen, Horace	Importation	11/5/2008
CX-0333	C	July 27, 2007 Phison USA Weekly Status Report [H. Chen Dep. Ex. 288]	PEC00004772-00004773	Chen, Horace	Importation	11/5/2008
CX-0334		Withdrawn				
CX-0335		Withdrawn				
CX-0336		Withdrawn				
CX-0337	C	Working Draft American National Standard, Project T10/1417-D [Yang Dep. Ex. 11]	SD-I-2268874-2269018	Yang, J.Y.	Infringement	11/5/2008
CX-0338	C	USB 2.0 Flash Controller Specification PS2231, Ver. 1.8 [Yang Dep. Ex. 202]	PEC00002543-00002563	Yang, J.Y.	Infringement	10/29/2008
CX-0339		Withdrawn				
CX-0340	C	Data Structure & Management Mechanism [Yang Dep. Ex. 204]	PEC00000673-00000878	Yang, J.Y.	Infringement	10/29/2008
CX-0341	C	Technical Workshop [Yang Dep. Ex. 205]	PEC00035872-00035888	Yang, J.Y.	Infringement	10/29/2008
CX-0342	C	Phison PS2231 Source Code [Yang Dep. Ex. 206]	PEC2.00001-005881	Yang, J.Y.	Infringement	11/5/2008
CX-0343		Withdrawn				
CX-0344		Withdrawn				10/29/2008
CX-0345		Withdrawn				

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CX-List					
CX-0346		Withdrawn			10/29/2008
CX-0347		Withdrawn			
CX-0348	C	Phison PS3008 Source Code [Yang Dep. Ex. 219]	PEC2.01188-001544	Yang, J.Y. Infringement	11/5/2008
CX-0349		Withdrawn			
CX-0350		Withdrawn			
CX-0351		Withdrawn			
CX-0352		Withdrawn			
CX-0353		Withdrawn			
CX-0354		Withdrawn			
CX-0355		Withdrawn			
CX-0356		Withdrawn			
CX-0357		Withdrawn			
CX-0358		Withdrawn			
CX-0359		Withdrawn			
CX-0360	C	Exhibit C: Chart re PQI products imported into the United States [Yu PQI Dep. Ex. 51]		Yu, Nancy Infringement; importation; remedy/bonding	11/5/2008

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CX-0361		Withdrawn				
CX-0362		Withdrawn				
CX-0363		Withdrawn				
CX-0364		Withdrawn				
CX-0365		Withdrawn				
CX-0366	C	List of certain PQI products (Pen Drive and I-Slick) imported into the United States [Yu PQI Dep. Ex. 47]	PQI 00000405-00000442	Yu, Nancy	Infringement; importation; remedy/bonding	11/5/2008
CX-0367	C	List of certain PQI products (CF Cards) imported into the United States [Yu PQI Dep. Ex. 48]	PQI 00000375-00000389	Yu, Nancy	Infringement; importation; remedy/bonding	11/5/2008
CX-0368	C	List of certain PQI products (MMC Cards) imported into the United States [Yu PQI Dep. Ex. 49]	PQI 00000393-00000404	Yu, Nancy	Infringement; importation; remedy/bonding	11/5/2008
CX-0369		Withdrawn				
CX-0370		Withdrawn				
CX-0371		Withdrawn				
CX-0372		Withdrawn				
CX-0373		Withdrawn				
CX-0374		Withdrawn				
CX-0375		Withdrawn				

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CX-0376		Withdrawn				
CX-0377		Withdrawn				
CX-0378		Withdrawn				
CX-0379		Withdrawn				
CX-0380	C	List of Silicon Motion CompactFlash/SSD Controllers [Doong SM Dep. Ex. 21]	SD-I-3266409	Doong, Nigel	Importation / Remedy	10/29/2008
CX-0381	C	List of Silicon Motion MMC Controllers [Doong SM Dep. Ex. 22]	SD-I-3266410	Doong, Nigel	Importation / Remedy	10/29/2008
CX-0382	C	List of Silicon Motion USB Controllers [Doong SM Dep. Ex. 23]	SD-I-3266411	Doong, Nigel	Importation / Remedy	10/29/2008
CX-0383	C	List of Silicon Motion MP3/PMP/Digital Frame Controllers [Doong SM Dep. Ex. 24]	SD-I-3266412	Doong, Nigel	Importation / Remedy	10/29/2008
CX-0384		Withdrawn				
CX-0385	C	SM221 CompactFlash Controller DataBook, Ver AC3 [Doong SM Dep. Ex. 27]	SMI-ITC 0004344-0004402	Doong, Nigel	Infringement	10/29/2008
CX-0386	C	SM222 CompactFlash Controller DataBook [Lee SM Dep. Ex. 28]	SMI-ITC 0001032-0001059	Lee, James	Infringement	10/29/2008
CX-0387	C	SM223 CompactFlash Controller Datasheet [Lee SM Dep. Ex. 29]	SMI-ITC 0001080-0001172	Lee, James	Infringement	11/5/2008
CX-0388	C	SM223 SSD/CF Controller Datasheet, Rev. 1.0 [Lee SM Dep. Ex. 29A]	SMI-ITC 1577982-1578073	Doong, Nigel	Infringement	10/29/2008
CX-0389	C	SM263 HS MMC Memory Card Controller DataBook, Ver AE3 [Lee SM Dep. Ex. 30]	SMI-ITC 0008593-0008633	Lee, James	Infringement	11/5/2008
CX-0390	C	SM267 MMC4.2 memory Card Controller DataBook, Ver. 3.4 [Lee SM Dep. Ex. 31]	SMI-ITC 0004558-0004592	Lee, James	Infringement	10/29/2008

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CX-0391		Withdrawn				
CX-0392	C	SM321 USB 2.0 Flash Media Controller, Ver1.6 [Lee SM Dep. Ex. 33]	SMI-ITC 0009155-0009169	Lee, James	Infringement	10/29/2008
CX-0393	C	SM321E, USB2.0 Flash Media Controller, DataBook, Ver. 1.1 [Lee SM Dep. Ex. 34]	SMI-ITC 0009298-0009303	Lee, James	Infringement	11/5/2008
CX-0394	C	SM324, USB2.0 Flash Memory Controller DataBook, Ver 1.02 [Lee SM Dep. Ex. 35]	SMI-ITC 0001495-0001518	Lee, James	Infringement	10/29/2008
CX-0395	C	SM340, USB2.0 Digital Audio Player Controller, Ver. 1.0 [Lee SM Dep. Ex. 38]	SMI-ITC 2455205-2455221	Lee, James	Infringement	10/29/2008
CX-0396	C	Zoom CF Flash Support List (10/02/2007) [Doong SM Dep. Ex. 49]	SMI-ITC 0002722-0002724	Doong, Nigel	Infringement	11/5/2008
CX-0397		Withdrawn				
CX-0398	C	Dyna Flash Support List [Doong SM Dep. Ex. 51]	SMI-ITC 0405251-0405253	Doong, Nigel	Infringement	11/5/2008
CX-0399	C	SMI Flash Support List [Doong SM Dep. Ex. 52]	SMI-ITC 1781655-1781657	Doong, Nigel	Infringement	11/5/2008
CX-0400	C	Zoom CF Flash Support List (01/31/2007) [Doong SM Dep. Ex. 53]	SMI-ITC 1090802	Doong, Nigel	Infringement	11/5/2008
CX-0401		Withdrawn				
CX-0402		Withdrawn				
CX-0403		Withdrawn				
CX-0404		Withdrawn				
CX-0405	C	Presentation entitled, Dyna Family Products [Lee SM Dep. Ex. 73]	USB 00045898-00045929	Lee, James	Infringement	11/5/2008

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CX-0406		Withdrawn				
CX-0407		Withdrawn				
CX-0408		Withdrawn				
CX-0409	C	Note to Customers re SMI UFD Controller- SM325AB Wear Leveling Algorithm Introduction [Lee SM Dep. Ex. 77]	SMI-ITC 1390635-1390639	Lee, James	Infringement	10/29/2008
CX-0410	C	Note to Customers re SMI SSD Controller- SM223 Wear Leveling Algorithm Introduction [Lee SM Dep. Ex. 78]	SMI-ITC 1318371-1318375	Lee, James	Infringement	10/29/2008
CX-0411	C	Note to Customers re SMI CF/SSD Controller- SM222/SM223 Table Re-Link after Sudden Power Down [Lee SM Dep. Ex. 79]	SMI-ITC 1318376-1318379	Lee, James	Infringement	10/29/2008
CX-0412	C	Presentation entitled, When and Where the Bad Block will be Happen [Lee SM Dep. Ex. 80]	SMI-ITC 1398477-1398480	Lee, James	Infringement	10/29/2008
CX-0413	C	Note to Customers re SM222 Rev. AD Product Change Notice [Lee SM Dep. Ex. 81]	SMI-ITC 1302057-1302058	Lee, James	Infringement	10/29/2008
CX-0414	C	Application Note re SM324 Rev. BC Bad Block Reservation Application Note [Lee SM Dep. Ex. 82]	SMI-ITC 2128259-2128261	Lee, James	Infringement	10/29/2008
CX-0415	C	Issue Report re SM324BC [Lee SM Dep. Ex. 85]	SMI-ITC 1389545-1389548	Lee, James	Infringement	10/29/2008
CX-0416		Withdrawn				
CX-0417		Withdrawn				
CX-0418	C	Datasheet page re 1CE pin and 2 pin & 4 CE pin flash setup [Lee SM Dep. Ex. 89]	SMI-ITC 0007389	Lee, James	Infringement	10/29/2008
CX-0419	C	SM325 High Speed USB2.0 Flash Memory Controller DataBook, Ver. 1.03. [Lee SM Dep. Ex. 96]	SMI-ITC 2342482-2342520	Lee, James	Infringement	10/29/2008
CX-0420	C	SMI M324 Hidden Block & Command Define [Lee SM Dep. Ex. 100]	SMI-ITC 1241041-1241070	Lee, James	Infringement	10/29/2008

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CX-0421	C	Handwritten drawing of 2K page [Lee SM Dep. Ex. 103]		Lee, James	Infringement	10/29/2008
CX-0422	C	SM324 Firmware Code module "cardmode.c" [Lee SM Dep. Ex. 118]	SM-ITC-SC 0001.00993-0001.00996	Lee, James	Infringement	11/5/2008
CX-0423		Withdrawn				
CX-0424	C	SM324 Firmware Code module-"public.c" [Lee SM Dep. Ex. 119]	SM-ITC-SC 0001.01216-0001.01253	Lee, James	Infringement	10/29/2008
CX-0425	C	SM324 Firmware Code module-"ritecmd.c" [Lee SM Dep. Ex. 122]	SM-ITC-SC 0001.01575-0001.01583	Lee, James	Infringement	10/29/2008
CX-0426		Withdrawn				
CX-0427	C	Distributorship Agreement between Silicon Motion and Nu Horizon Electronics [Doong SM Dep. Ex. 154]	SMI-ITC 2451511-2451524	Doong, Nigel	Infringement	11/5/2008
CX-0428	C	Distributorship Agreement Between Silicon Motion and All American Semiconductor, Inc. [Doong SM Dep. Ex. 155]	SMI-ITC 2451430-2451447	Doong, Nigel	Infringement / Importation	11/5/2008
CX-0429	C	Sample Request Form- SM267A MMC card [Doong SM Dep. Ex. 169]	SMI-ITC-N 23915056.1-23915056.2	Doong, Nigel	Infringement / Importation	11/5/2008
CX-0430		Withdrawn				
CX-0431		Withdrawn				
CX-0432	C	Sample Request Form- SM223AC PCBA + Frame [Hsiao SM Dep. Ex. 175]	SMI-ITC 2391078	Hsiao, Scott	Infringement / Importation	11/5/2008
CX-0433	C	Sample Request Form- SM223AC + SATA Silicon Image Blind Phison; Hyperstone [Hsiao SM Dep. Ex. 176]	SMI-ITC 2391067	Hsiao, Scott	Infringement / Importation	11/5/2008
CX-0434	C	Sample Request Form SM223-AB evaluation board [Hsiao SM Dep. Ex. 184]	SMI-ITC 1081276.XLS	Hsiao, Scott	Infringement / Importation	11/5/2008
CX-0435	C	Sample Request form Demo Board with CF interface and with Flash [Hsiao SM Dep. Ex. 185]	SMI-ITC 1081288.XLS	Hsiao, Scott	Infringement / Importation	11/5/2008

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CX-0436	C	Sample Request Form SM325 demo boards [Hsiao SM Dep. Ex. 190]	SMI-ITC 2391080	Hsiao, Scott	Infringement / Importation	11/5/2008
CX-0437	C	Sample Request Form SM223AB demo board [Hsiao SM Dep. Ex. 193]	SMI-ITC 1532831	Hsiao, Scott	Infringement / Importation	11/5/2008
CX-0438	C	Sample Request Form SM223AC demo board [Doong SM Dep. Ex. 194]	SMI-ITC 1632833	Doong, Nigel	Infringement / Importation	11/5/2008
CX-0439	C	Customer Shipping List [Doong SM Dep. Ex. 202]	SMI-ITC ND 0000001-0000024	Doong, Nigel	Importation / Remedy	11/5/2008
CX-0440	C	Sample Shipments [Hsiao SM Dep. Ex. 208]	SMI-ITC SH1 0000001-0000012	Hsiao, Scott	Importation / Remedy	11/5/2008
CX-0441	C	Demo Kits [Hsiao SM Dep. Ex. 210]	SMI-ITC SH2 0000001-0000020	Hsiao, Scott	Importation / Remedy	11/5/2008
CX-0442		Withdrawn				
CX-0443		Withdrawn				
CX-0444		Withdrawn				
CX-0445	C	Respondent Skymedi Corporation's Responses to SanDisk Corporation's First Notice of Deposition of Skymedi Corporation [Chang SKX Dep. Ex. 2]		Chang, C.Y.	Witness Background/Identification as corporate representative	11/5/2008
CX-0446	C	Letter to Stafford from Chinoy [Chang SKX Dep. Ex. 3]		Chang, C.Y.	Witness Background/Identification as corporate representative	10/29/2008
CX-0447		Withdrawn				
CX-0448		Withdrawn				
CX-0449		Withdrawn				
CX-0450		Withdrawn				

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CX-0451	C	Skymedi SK6201, USB2.0 Flash Drive Controller, Rev. 1.08 [Chang SKX Dep. Ex. 14]	SKY_00000256-00000284	Chang, C.Y.	Infringement	10/29/2008
CX-0452	C	Skymedi SK6202 USB 2.1 Flash Drive Controller, Rev. 1.02 [Chang SKX Dep. Ex. 15]	SKY_00000285-00000311	Chang, C.Y.	Infringement	10/29/2008
CX-0453	C	Skymedi SK6202 Privacy-enhanced UFD Controller, Rev. 0.10 [Chang SKX Dep. Ex. 16]	SKY_00000312-00000324	Chang, C.Y.	Infringement	10/29/2008
CX-0454	C	Skymedi SK6203Bx Privacy-enhanced UFD Controller, Rev. 2.00 [Chang SKX Dep. Ex. 17]	SKY_00003277-00003288	Chang, C.Y.	Infringement	10/29/2008
CX-0455	C	Skymedi SK6211Bx, Enhanced UFD Controller, Rev. 0.10 [Chang SKX Dep. Ex. 18]	SKY_00000325-00000337	Chang, C.Y.	Infringement	10/29/2008
CX-0456		Withdrawn				
CX-0457	C	Skymedi SK6602, SD1.1/MMC4.0 Memory Card Controller, Rev. 1.04 [Chang SKX Dep. Ex. 21]	SKY_00006313-00006352	Chang, C.Y.	Infringement	10/29/2008
CX-0458	C	Skymedi SK6612, SD1.1/MMC4.1 Memory Card Controller, Rev. 1.91 [Chang SKX Dep. Ex. 22]	SKY_00006662-00006703	Chang, C.Y.	Infringement	10/29/2008
CX-0459	C	Skymedi SK6618, MS/SD 2.0/MMC4.2 with USB2.0 Dual Interface Controller, Rev. 1.0 [Chang SKX Dep. Ex. 23]	SKY_00000471-00000497	Chang, C.Y.	Infringement	10/29/2008
CX-0460		Withdrawn				
CX-0461	C	Skymedi SK6625, SD2.0/MMC4.2 Memory Card Controller, Rev. 2.0 [Chang SKX Dep. Ex. 25]	SKY_10000842-10000865	Chang, C.Y.	Infringement	10/29/2008
CX-0462	C	Skymedi SK6626, SD2.0/MMC4.2 Memory Card Controller, Rev. 1.0 [Chang SKX Dep. Ex. 26]	SKY_00012765-00012789	Chang, C.Y.	Infringement	10/29/2008
CX-0463	C	Skymedi SK6802, MMC4.0 Memory Card Controller, Rev. 1.0 [Chang SKX Dep. Ex. 27]	SKY_00000549-00000588	Chang, C.Y.	Infringement	10/29/2008
CX-0464	C	Skymedi KTC680, SD1.1/MMC4.1 Memory Card Controller, Rev. 10 [Chang SKX Dep. Ex. 28]		Chang, C.Y.	Infringement	10/29/2008
CX-0465	C	Skymedi KTC681, SD2.0/MMC4.2 Memory Card Controller, Rev. 1.0 [Chang SKX Dep. Ex. 29]		Chang, C.Y.	Infringement	10/29/2008

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CX-0466	C	Introduction to Flash Data Management Part 2 by Johnson Huang [Chang SKX Dep. Ex. 30]	SKY 10000302-10000318	Chang, C.Y.	Infringement	10/29/2008
CX-0467	C	Skymedi 6203Bx Privacy-enhanced UFD Controller, Rev. 2.01 [Chang SKX Dep. Ex. 31]		Chang, C.Y.	Infringement	10/29/2008
CX-0468	C	Skymedi 6211Bx Enhanced UFD Controller Rev 3.00 [Chang SKX Dep. Ex. 32]		Chang, C.Y.	Infringement	10/29/2008
CX-0469	C	Skymedi 6288 USB2.0 Flash Drive Controller, Rev 3.10 [Chang SKX Dep. Ex. 33]		Chang, C.Y.	Infringement	10/29/2008
CX-0470	C	Skymedi SK6626 SD2.0/MMC4.2 Memory Card Controller Rev. 1.1 [Chang SKX Dep. Ex. 34]		Chang, C.Y.	Infringement	10/29/2008
CX-0471		Withdrawn				
CX-0472		Withdrawn				
CX-0473	C	Skymedi MMC4.0 Controller Design Specification [Chang SKX Dep. Ex. 44]		Chang, C.Y.	Infringement	10/28/2008
CX-0474	C	Skymedi, 1606 Design Specification [Chang SKX Dep. Ex. 48]	SKY_00012372-00012727	Chang, C.Y.	Infringement	10/29/2008
CX-0475		Withdrawn				
CX-0476		Withdrawn				
CX-0477		Withdrawn				
CX-0478		Withdrawn				10/29/2008
CX-0479		Withdrawn				10/29/2008
CX-0480	C	Introduction to Flash Data Management, Johnson Huang [Chang SKX Dep. Ex. 59]	SKY 00527777	Chang, C.Y.	Infringement	10/29/2008

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CX-0481	C	Universal Serial Bus Mass Storage Class, Bulk-Only Transport, Revision 1.0 [Chiu SKX Dep. Ex. 70]	SD-I-0420751-0420772	Chiu, Chris	Infringement	11/5/2008
CX-0482	C	Working Draft American National Standard, Project T10/1417-D, Revision 16 [Chiu SKX Dep. Ex. 71]	SD-I-2268674-2269018	Chiu, Chris	Importation	11/5/2008
CX-0483	C	Micron Draft Purchase Order [Chiu SKX Dep. Ex. 74]	SKY 00000637-00000642	Chiu, Chris	Infringement	11/5/2008
CX-0484	C	Compatibility List table [Chiu SKX Dep. Ex. 75]		Chiu, Chris	Infringement	10/29/2008
CX-0485	C	Skymedl Reference Design [Chiu SKX Dep. Ex. 76]	SK-PE-D-320-01.PDF	Chiu, Chris	Infringement	11/5/2008
CX-0486	C	Skymedl Flash Support List for SK6281 USB Controller [Chiu SKX Dep. Ex. 77]		Chiu, Chris	Infringement	10/29/2008
CX-0487	C	Samsung K9HBG08U1M NAND Flash Memory Datasheet [Chiu SKX Dep. Ex. 78]		Chiu, Chris	Infringement	11/5/2008
CX-0488	C	Test File document [Chiu SKX Dep. Ex. 79]		Chiu, Chris	Infringement	11/5/2008
CX-0489	C	SK6281AB R-W Performance Capacity List_20070426_K.xls [Chiu SKX Dep. Ex. 80]		Chiu, Chris	Infringement	10/29/2008
CX-0490	C	Samsung K9WAG08U1A [Chiu SKX Dep. Ex. 81]	SD-I-2094952-2095001	Chiu, Chris	Infringement	11/5/2008
CX-0491	C	Skymedl Flash Support List 20060728 [Chiu SKX Dep. 83]		Chiu, Chris	Infringement	10/29/2008
CX-0492		Withdrawn				
CX-0493	C	Skymedl Flash Support List for the 6621, 6625 and 6626 SD/MMC controllers [Chiu SKX Dep. 86]		Chiu, Chris	Infringement	10/29/2008
CX-0494	C	Skymedl Flash Support List for the 6602, 6612 SD/MMC and 6201 USB controllers [Chiu SKX Dep. Ex. 87]		Chiu, Chris	Infringement	10/29/2008
CX-0495	C	*SK281.cfg" file [Tsai SKX Dep. Ex. 119]		Jerry Tsai	Importation	11/5/2008

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CX-0496	C	Copies of FedEx shipping forms [Tsal SKX Dep. Ex. 121]		Jerry Tsai	Importation	11/5/2008
CX-0497	C	Shipping Data 2007-2008 7/14 [Chih SKX Dep. Ex. 130]		Arthur Chih	Importation	11/5/2008
CX-0498	C	Detail Shipment Information, Updated Q2 2008 [Chih SKX Dep. Ex. 131]		Arthur Chih	Importation	11/5/2008
CX-0499	C	Shipment to U.S.A., Amount [Chih SKX Dep. Ex. 132]		Arthur Chih	Importation	11/5/2008
CX-0500	C	2008 BP New Design In [Chih SKX Dep. Ex. 134]	SKY_10020800	Arthur Chih	Infringement	11/5/2008
CX-0501		Withdrawn				
CX-0502		Withdrawn				
CX-0503		Withdrawn				
CX-0504		Withdrawn				
CX-0505		Withdrawn				
CX-0506		Withdrawn				
CX-0507		Withdrawn				
CX-0508		Withdrawn				
CX-0509		Withdrawn				
CX-0510		Withdrawn				

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CX-0511		Withdrawn				
CX-0512		Withdrawn				
CX-0513		Withdrawn				
CX-0514		Withdrawn				
CX-0515		Withdrawn				
CX-0516	C	Table listing customer code, customer name, invoice date, invoice number, brand, unit MSP, price, quantity, ext. price and margin [Chiu Dep. Ex. 3]	TSC-ITC 0000807-0000901	Chiu, Frankie	Importation; remedy/bonding	11/5/2008
CX-0517		Withdrawn				
CX-0518		Withdrawn				
CX-0519		Withdrawn				
CX-0520		Withdrawn				
CX-0521	C	Transcend's Amended and Supplemental Responses to SanDisk's Interrogatories 116 and 118 [Chu Dep. Ex. 6]		Chu, Ray	Infringement; Importation	11/5/2008
CX-0522	C	CompactFlash Guide, First Edition [Chu Dep. Ex. 8]	TSC-ITC 0009256-0009279	Chu, Ray	Infringement; remedy/bonding	11/5/2008
CX-0523		"USB Flash Drive" page from Transcend's Online Store web site [Chu Dep. Ex. 23]		Chu, Ray	Infringement; Importation	11/5/2008
CX-0524		Withdrawn				
CX-0525	C	Exhibit A to Transcend's Amended and Supplemental Responses to SanDisk's Interrogatories 116 and 118 [Tzou Dep. Ex. 4]		Tzou, Ben	Infringement; Importation	11/21/2008

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CX-0526		Withdrawn				
CX-0527	C	CF75/80/120 Print Codes Rules [Tzou Dep. Ex. 6]		Tzou, Ben	Remedy/bonding	11/5/2008
CX-0528		Withdrawn				
CX-0529		Withdrawn				
CX-0530		Withdrawn				
CX-0531		Withdrawn				
CX-0532		Withdrawn				
CX-0533		Withdrawn				
CX-0534		Withdrawn				
CX-0535	C	Table listing Store 'n' Go sales for 2007 [Ryan Dep. Ex. 18]	VB 000001-000021	Ryan, Ronan P.	Infringement; remedy/bonding; validity	11/5/2008
CX-0536		Withdrawn				
CX-0537		Withdrawn				
CX-0538		Withdrawn				
CX-0539		Withdrawn				
CX-0540		Withdrawn				

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CX-0541	Withdrawn				
CX-0542	Withdrawn				
CX-0543	Withdrawn				
CX-0544	Withdrawn				
CX-0545	Withdrawn				
CX-0546	Withdrawn				
CX-0547	Withdrawn				
CX-0548	Withdrawn				
CX-0549	Withdrawn				
CX-0550	Withdrawn				
CX-0551	Withdrawn				
CX-0552	Withdrawn				
CX-0553	Withdrawn				
CX-0554	Withdrawn				
CX-0555	Withdrawn				

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CX-0556	Withdrawn				
CX-0557	Withdrawn				
CX-0558	Withdrawn				
CX-0559	Withdrawn				
CX-0560	Withdrawn				
CX-0561	Withdrawn				
CX-0562	Withdrawn				
CX-0563	Withdrawn				
CX-0564	Withdrawn				
CX-0565	Withdrawn				
CX-0566	Withdrawn				
CX-0567	Withdrawn				
CX-0568	Withdrawn				
CX-0569	Withdrawn				
CX-0570	Withdrawn				

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CX-0571		Withdrawn				
CX-0572		Withdrawn				
CX-0573		Withdrawn				
CX-0574		Withdrawn				
CX-0575		Withdrawn				
CX-0576		Withdrawn				
CX-0577	C	Accused Dane-Elec Flash Memory Product Table	DE 0018080	Rhyne, Thomas	Infringement	10/29/2008
CX-0578		Binary/MLC NAND System Specification		Rhyne, Thomas	Infringement	10/29/2008
CX-0579		Withdrawn				
CX-0580	C	Complaint Ex. 144A		Rhyne, Thomas	Domestic Industry	10/29/2008
CX-0581	C	Complaint Ex. 144B		Rhyne, Thomas	Domestic Industry	10/29/2008
CX-0582	C	Complaint Ex. 144C		Rhyne, Thomas	Domestic Industry	10/29/2008
CX-0583	C	Complaint Ex. 144D		Rhyne, Thomas	Domestic Industry	10/29/2008
CX-0584	C	Flash Design Manual		Rhyne, Thomas	Infringement	10/29/2008
CX-0585		Withdrawn				10/29/2008

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CX-0586	C	Layout Report	SD-I-3266329-3266366	Rhyne, Thomas	Infringement	10/29/2008
CX-0587		Withdrawn				
CX-0588		Micron Technical Note TN-29-28		Rhyne, Thomas	Infringement	10/29/2008
CX-0589	C	mlc2KB3.c (Phison Source Code)		Rhyne, Thomas	Infringement	10/29/2008
CX-0590	C	K9XXG08UXM Samsung Datasheet [Phison Depo Ex. 13]		Rhyne, Thomas	Infringement	10/29/2008
CX-0591		Withdrawn				
CX-0592	C	Phison Stipulation		Rhyne, Thomas	Infringement	10/29/2008
CX-0593		Withdrawn				10/29/2008
CX-0594	C	SD Specification Ver. 2.00	SD-I-2673376-2673558	Rhyne, Thomas	Domestic Industry	11/21/2008
CX-0595	C	System Project Engineering, Ultra II MLC/Extreme III (Falcon) Project	SD-I-0425625-0425642	Rhyne, Thomas	Domestic Industry	10/29/2008
CX-0596	C	Toshiba Datasheet		Rhyne, Thomas	Infringement	10/29/2008
CX-0597		Withdrawn				
CX-0598		Withdrawn				
CX-0599		Withdrawn				
CX-0600		Withdrawn				

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CX-0601	C	Rhyne Expert Report Ex. C (NAND Identification Table)		Rhyne, Thomas	Infringement	10/29/2008
CX-0602		Withdrawn				
CX-0603		Withdrawn				
CX-0604		Withdrawn				
CX-0605		Withdrawn				
CX-0606		Withdrawn				
CX-0607		Withdrawn				
CX-0608		Withdrawn				
CX-0609		Withdrawn				
CX-0610		Withdrawn				
CX-0611		Withdrawn				
CX-0612		Withdrawn				10/29/2008
CX-0613		Withdrawn				
CX-0614	C	Rhyne Expert Report Ex. P (Accused Imation Flash Memory Product Table)		Rhyne, Thomas	Infringement	10/29/2008
CX-0615	C	Rhyne Expert Report Ex. Q (Accused Kingston Flash Memory Product Table)		Rhyne, Thomas	Infringement	10/29/2008

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CX-0616	C	Rhyne Expert Report Ex. R		Rhyne, Thomas	Infringement	10/29/2008
CX-0617	C	Rhyne Expert Report Ex. S (Accused Verbatim Flash Memory Product Table)		Rhyne, Thomas	Infringement	10/29/2008
CX-0618	C	Rhyne Expert Report Ex. T (Accused Apacer Flash Memory Product Table)		Rhyne, Thomas	Infringement	10/29/2008
CX-0619	C	Rhyne Expert Report Ex. U (Accused LGE Flash Memory Product Table)		Rhyne, Thomas	Infringement	10/29/2008
CX-0620	C	Rhyne Expert Report Ex. V (Accused Transcend Flash Memory Product Table)		Rhyne, Thomas	Infringement	10/29/2008
CX-0622	C	Imation/Memorax Website photos		Min, Paul	Infringement	10/29/2008
CX-0623		Withdrawn				
CX-0624		Withdrawn				
CX-0625		Withdrawn				
CX-0626	C	Flash Task Team Final WW Portfolio Summary, December 5, 2007 (Northfield Dep. Ex. 31)	IMA-273187-273185	Min, Paul	Infringement	11/5/2008
CX-0627		Withdrawn				
CX-0628		Withdrawn				
CX-0629		Withdrawn				
CX-0630		Withdrawn				
CX-0631		Withdrawn				

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CX-0632	Withdrawn				
CX-0633	Withdrawn				
CX-0634	Withdrawn				
CX-0635	Withdrawn				
CX-0636	Withdrawn				
CX-0637	Withdrawn				
CX-0638	Withdrawn				
CX-0639	Withdrawn				
CX-0640	Withdrawn				
CX-0641	Withdrawn				
CX-0642	Withdrawn				
CX-0643	Withdrawn				
CX-0644	Withdrawn				
CX-0645	Withdrawn				
CX-0646	Withdrawn				

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CX-0647	Withdrawn				
CX-0648	Withdrawn				
CX-0649	SanDisk Website		Min, Paul	Domestic Industry	10/29/2008
CX-0650	Withdrawn				
CX-0651	Withdrawn				
CX-0652	Withdrawn				
CX-0653	Withdrawn				
CX-0654	Withdrawn				
CX-0655	Withdrawn				
CX-0656	Withdrawn				
CX-0657	Withdrawn				
CX-0658	Withdrawn				
CX-0659	Withdrawn				
CX-0660	Withdrawn				
CX-0661	Withdrawn				

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CX-0662	Withdrawn				
CX-0663	Withdrawn				
CX-0664	Withdrawn				
CX-0665	Withdrawn				
CX-0666	Withdrawn				
CX-0667	Withdrawn				
CX-0668	Withdrawn				
CX-0669	Withdrawn				
CX-0670	Withdrawn				
CX-0671	Withdrawn				
CX-0672	Withdrawn				
CX-0673	Withdrawn				
CX-0674	Withdrawn				
CX-0675	Withdrawn				
CX-0676	Withdrawn				

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CX-0677	Withdrawn				
CX-0678	Withdrawn				
CX-0679	Withdrawn				
CX-0680	Withdrawn				
CX-0681	Withdrawn				
CX-0682	Withdrawn				
CX-0683	Withdrawn				
CX-0684	Withdrawn				
CX-0685	Withdrawn				
CX-0686	Withdrawn				
CX-0687	Withdrawn				
CX-0688	Withdrawn				
CX-0689	Withdrawn				
CX-0690	Withdrawn				
CX-0691	Withdrawn				

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CX-0692	Withdrawn				
CX-0693	Withdrawn				
CX-0694	Withdrawn				
CX-0695	Withdrawn				
CX-0696	Withdrawn				
CX-0697	Withdrawn				
CX-0698	Withdrawn				
CX-0699	Withdrawn				
CX-0700	Withdrawn				
CX-0701	Withdrawn				
CX-0702	Withdrawn				
CX-0703	Withdrawn				
CX-0704	Withdrawn				
CX-0705	Withdrawn				
CX-0706	Withdrawn				

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CX-0707	Withdrawn				
CX-0708	Withdrawn				
CX-0709	Withdrawn				
CX-0710	Withdrawn				
CX-0711	Withdrawn				
CX-0712	Withdrawn				
CX-0713	Withdrawn				
CX-0714	Withdrawn				
CX-0715	Withdrawn				
CX-0716	Withdrawn				
CX-0717	Withdrawn				
CX-0718	Withdrawn				
CX-0719	Withdrawn				
CX-0720	Withdrawn				
CX-0721	Withdrawn				

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CX-0722	Withdrawn				
CX-0723	Withdrawn				
CX-0724	Withdrawn				
CX-0725	Withdrawn				
CX-0726	Withdrawn				
CX-0727	Withdrawn				
CX-0728	Withdrawn				
CX-0729	Withdrawn				
CX-0730	Withdrawn				
CX-0731	Withdrawn				
CX-0732	Withdrawn				
CX-0733	Withdrawn				
CX-0734	Withdrawn				
CX-0735	Withdrawn				
CX-0736	Withdrawn				

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CX-0737		Withdrawn				
CX-0738		Withdrawn				
CX-0739	C	Subpoena – Symwave, Inc. [Symwave Dep. Ex. 1]		Thomas, Christopher Todd	Importation / Infringement	11/5/2008
CX-0740	C	CBM1183/CBM1180/CBM2080 Flash Compatibility List [Symwave Dep. Ex. 2]	SYM 0005-0008	Thomas, Christopher Todd	Importation / Infringement	11/5/2008
CX-0741		Withdrawn				
CX-0742		Withdrawn				
CX-0743		Withdrawn				
CX-0744		Withdrawn				
CX-0745	C	Schematic – CBM2080 Generic Solution [Symwave Dep. Ex. 7]	SYM 0087-0068	Thomas, Christopher Todd	Importation / Infringement	11/5/2008
CX-0746		Withdrawn				
CX-0747	C	CBM1180/CBM2080 Flash Compatibility List [Symwave Dep. Ex. 8]	SYM 0001-0004	Thomas, Christopher Todd	Importation / Infringement	11/5/2008
CX-0748	C	As between SanDisk and Phison, a stipulation concerning the designation of Phison representative products		N/A	Infringement	10/29/2008
CX-0749	C	As between SanDisk and Skymed, a stipulation concerning the designation of Skymed representative products, importation into the United States of certain Skymed accused products, and information and assistance provided by Skymed to its customers concerning		N/A	Infringement / Importation	10/29/2008
CX-0750	C	As between SanDisk and all Respondents, a stipulation concerning the economic prong of the domestic industry requirement with respect to the Asserted Patents.		N/A	Domestic Industry	11/21/2008
CX-0751		Withdrawn				

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CX-0752	C	As between SanDisk and Respondents, Corsair, PQI and Imation, a stipulation concerning the technical prong of the domestic industry requirement with respect to claim 8 of the '011 patent.		N/A	Domestic Industry	11/3/2008
CX-0753		Withdrawn				
CX-0754	C	As between SanDisk and Imation, a stipulation concerning the importation into the United States, sale for importation into the United States, and/or sale after importation into the United States, of Imation's accused products.		N/A	Importation	11/21/2008
CX-0755		Withdrawn				
CX-0756		Withdrawn				
CX-0757	C	Chang, C. Y. Deposition Transcript Vol. 1		Chang, CY	Infringement/ Importation/ remedy bonding	10/29/2008
CX-0758	C	Chang, C. Y. Deposition Transcript Vol. 2		Chang, CY	Infringement/ Importation/ remedy bonding	10/29/2008
CX-0759	C	Chang, C. Y. Deposition Transcript Vol. 3		Chang, CY	Infringement/ Importation/ remedy bonding	10/29/2008
CX-0760	C	Chang, C. Y. Deposition Transcript Vol. 4		Chang, CY	Infringement/ Importation/ remedy bonding	10/29/2008
CX-0761	C	Chang, C. Y. Deposition Transcript Vol. 5		Chang, CY	Infringement/ Importation/ remedy bonding	10/29/2008
CX-0762		Withdrawn				
CX-0763		Withdrawn				
CX-0764		Withdrawn				
CX-0765		Withdrawn				
CX-0766		Withdrawn				

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CX-0767		Withdrawn				
CX-0768		Withdrawn				
CX-0769		Withdrawn				
CX-0770		Withdrawn				
CX-0771		Withdrawn				
CX-0772		Withdrawn				
CX-0773	C	Cheng, Vincent Deposition Transcript Vol. 1		Cheng, Vincent	Infringement / Importation	10/29/2008
CX-0774	C	Cheng, Vincent Deposition Transcript Vol. 2		Cheng, Vincent	Infringement / Importation	10/29/2008
CX-0775	C	Chien, Jason Deposition Transcript		Chien, Jason	Infringement / Importation	10/29/2008
CX-0776	C	Chih, Arthur Deposition Transcript		Chih, Arthur	Infringement / Importation	10/29/2008
CX-0777	C	Chiu, Chris Deposition Transcript		Chiu, Chris	Infringement	10/29/2008
CX-0778		Withdrawn				
CX-0779		Withdrawn				
CX-0780		Withdrawn				
CX-0781		Withdrawn				

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CX-0782	C	Doong, Nigel Deposition Transcript Vol. 1		Doong, Nigel	Infringement / Importation 10/29/2008
CX-0783	C	Doong, Nigel Deposition Transcript Vol. 2		Doong, Nigel	Infringement / Importation 10/29/2008
CX-0784	C	Doong, Nigel Deposition Transcript Vol. 3		Doong, Nigel	Infringement / Importation 10/29/2008
CX-0785	C	Doong, Nigel Deposition Transcript Vol. 4		Doong, Nigel	Infringement / Importation 10/29/2008
CX-0786		Withdrawn			10/29/2008
CX-0787		Withdrawn			10/29/2008
CX-0788		Withdrawn			10/29/2008
CX-0789		Withdrawn			10/29/2008
CX-0790		Withdrawn			10/29/2008
CX-0791		Withdrawn			10/29/2008
CX-0792		Withdrawn			
CX-0793		Withdrawn			
CX-0794		Withdrawn			
CX-0795		Withdrawn			
CX-0796		Withdrawn			

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CX-0797	Withdrawn				
CX-0798	Withdrawn				10/29/2008
CX-0799	Withdrawn				10/29/2008
CX-0800	Withdrawn				10/29/2008
CX-0801	Withdrawn				10/29/2008
CX-0802	Withdrawn				10/29/2008
CX-0803	Withdrawn				10/29/2008
CX-0804	Withdrawn				10/29/2008
CX-0805	Withdrawn				10/29/2008
CX-0806	Withdrawn				10/29/2008
CX-0807	Withdrawn				10/29/2008
CX-0808	Withdrawn				
CX-0809	Withdrawn				
CX-0810	Withdrawn				10/29/2008
CX-0811	Withdrawn				10/29/2008

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CX-0812	Withdrawn				
CX-0813	Withdrawn				
CX-0814	Withdrawn				
CX-0815	Withdrawn				
CX-0816	Withdrawn				
CX-0817	Withdrawn				
CX-0818	Withdrawn				
CX-0819	Withdrawn				
CX-0820	Withdrawn				
CX-0821	Withdrawn				10/29/2008
CX-0822	Withdrawn				10/29/2008
CX-0823	Withdrawn				10/29/2008
CX-0824	Withdrawn				10/29/2008
CX-0825	Withdrawn				
CX-0826	Withdrawn				10/29/2008

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CX-0827	Withdrawn				
CX-0828	Withdrawn				
CX-0829	Withdrawn				
CX-0830	Withdrawn				
CX-0831	Withdrawn				
CX-0832	Withdrawn				
CX-0833	Withdrawn				
CX-0834	Withdrawn				
CX-0835	Withdrawn				
CX-0836	Withdrawn				
CX-0837	Withdrawn				
CX-0838	Withdrawn				10/29/2008
CX-0839	Withdrawn				
CX-0840	Withdrawn				
CX-0841	Withdrawn				

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CX-0842	Withdrawn				
CX-0843	Withdrawn				
CX-0844	Withdrawn				
CX-0845	Withdrawn				
CX-0846	Withdrawn				
CX-0847	Withdrawn				10/29/2008
CX-0848	Withdrawn				
CX-0849	Withdrawn				
CX-0850	Withdrawn				
CX-0851	Withdrawn				
CX-0852	Withdrawn				
CX-0853	Withdrawn				
CX-0854	Withdrawn				
CX-0855	Withdrawn				
CX-0856	Withdrawn				

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CX-0857	Withdrawn				
CX-0858	Withdrawn				
CX-0859	Withdrawn				
CX-0860	Withdrawn				10/29/2008
CX-0861	Withdrawn				10/29/2008
CX-0862	Withdrawn				10/29/2008
CX-0863	Withdrawn				10/29/2008
CX-0864	Withdrawn				
CX-0865	Withdrawn				
CX-0866	Withdrawn				10/29/2008
CX-0867	Withdrawn				10/29/2008
CX-0868	Withdrawn				10/29/2008
CX-0869	Withdrawn				10/29/2008
CX-0870	Withdrawn				10/29/2008
CX-0871	Withdrawn				

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CX-0872	Withdrawn				
CX-0873	Withdrawn				
CX-0874	Withdrawn				10/29/2008
CX-0875	Withdrawn				10/29/2008
CX-0876	Withdrawn				
CX-0877	Withdrawn				10/29/2008
CX-0878	Withdrawn				
CX-0879	Withdrawn				
CX-0880	Withdrawn				
CX-0881	Withdrawn				
CX-0882	Withdrawn				
CX-0883	Withdrawn				
CX-0884	Withdrawn				
CX-0885	Withdrawn				
CX-0886	Withdrawn				

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CX-0887		Withdrawn				
CX-0888		Withdrawn				
CX-0890	C	Min Exh. E: Federal Information Processing Standards Publication 197		Min, Paul/ Rhyne, Thomas	Infringement, Validity, Domestic Industry, Enforceability	10/29/2008
CX-0891		Withdrawn				
CX-0892		Withdrawn				
CX-0893		Withdrawn				
CX-0894		Withdrawn				
CX-0895		Withdrawn				
CX-0896		Withdrawn				
CX-0897		Withdrawn				
CX-0898		Withdrawn				
CX-0899		Withdrawn				
CX-0900		Withdrawn				
CX-0901		Withdrawn				
CX-0902		Withdrawn				

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CX-0903	Withdrawn				
CX-0904	Withdrawn				
CX-0905	Withdrawn				
CX-0906	Withdrawn				
CX-0907	Withdrawn				
CX-0908	Withdrawn				
CX-0909	Withdrawn				
CX-0910	Withdrawn				
CX-0911	Withdrawn				
CX-0912	Withdrawn				
CX-0913	Withdrawn				
CX-0914	Withdrawn				
CX-0915	Withdrawn				
CX-0916	Withdrawn				
CX-0917	Withdrawn				

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CX-0918	Withdrawn				
CX-0919	Withdrawn				
CX-0920	Withdrawn				
CX-0921	Withdrawn				
CX-0922	Withdrawn				
CX-0923	Withdrawn				
CX-0924	Withdrawn				
CX-0925	Withdrawn				
CX-0926	Withdrawn				
CX-0927	Withdrawn				
CX-0928	Withdrawn				
CX-0929	Withdrawn				
CX-0930	Withdrawn				
CX-0931	Withdrawn				
CX-0932	Withdrawn				

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CX-0933	Withdrawn				
CX-0934	Withdrawn				
CX-0935	Withdrawn				
CX-0936	Withdrawn				
CX-0937	Withdrawn				
CX-0938	Withdrawn				
CX-0939	Withdrawn				
CX-0940	Withdrawn				
CX-0941	Withdrawn				
CX-0942	Withdrawn				
CX-0943	Withdrawn				
CX-0944	Withdrawn				
CX-0945	Withdrawn				
CX-0946	Withdrawn				
CX-0947	Withdrawn				

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CX-0948	Withdrawn				
CX-0949	Withdrawn				
CX-0950	Withdrawn				
CX-0951	Withdrawn				
CX-0952	Universal Serial Bus Mass Storage Class Specification Overview, Rev. 1.1 at 4-5	SD-I-0420773-0420779	Min, Paul/ Rhyne, Thomas	Domestic Industry	10/29/2008
CX-0953	Withdrawn				
CX-0954	Withdrawn				
CX-0955	Withdrawn				
CX-0956	Withdrawn				
CX-0957	Withdrawn				
CX-0958	Withdrawn				
CX-0959	Withdrawn				
CX-0960	Withdrawn				
CX-0961	Withdrawn				
CX-0962	CF+ and CompactFlash Specification Rev. 4.1	SD-I-2267309-2267501	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008

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CX-0963		Micron NAND Datasheet	SD-I-2268943-2270023	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-0964		Withdrawn				
CX-0965		Withdrawn				
CX-0966		Withdrawn				
CX-0967		Withdrawn				10/29/2008
CX-0968		Toshiba NAND Datasheet	SD-I-2268950	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-0969		Hynix H27UH08AG5B Data Sheet	PEC00502089	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-0970		SCSI Block Commands	SD-I-2268934-2268938	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-0971		Withdrawn				
CX-0972		Withdrawn				
CX-0973		Withdrawn				
CX-0974		Withdrawn				
CX-0975	C	MultiMediaCard System Specification Ver. 4.2	SD-I-0839839-0839840	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-0976		Withdrawn				
CX-0977		Withdrawn				

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CX-0978	Withdrawn				
CX-0979	Withdrawn				
CX-0980	Withdrawn				
CX-0981	Withdrawn				
CX-0982	Withdrawn				
CX-0983	Withdrawn				
CX-0984	Withdrawn				
CX-0985	Withdrawn				
CX-0986	Withdrawn				
CX-0987	Withdrawn				
CX-0988	Withdrawn				
CX-0989	Withdrawn				
CX-0990	Withdrawn				
CX-0991	Withdrawn				
CX-0992	Withdrawn				

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CX-0993		Withdrawn				
CX-0994		Withdrawn				
CX-0995		Withdrawn				
CX-0996		Withdrawn				
CX-0997		Withdrawn				
CX-0998		Withdrawn				
CX-0999		Withdrawn				
CX-1000		Withdrawn				
CX-1001		Withdrawn				
CX-1002		Withdrawn				
CX-1003		Withdrawn				
CX-1004		Withdrawn				
CX-1005		Withdrawn				
CX-1006		Withdrawn				
CX-1007	C	Paul S. Min, PhD. Witness Statement		Min, Paul	Infringement/ Importation/ Domestic Industry	10/29/2008

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CX-1008	C	Thomas Rhyme, PhD. Witness Statement		Rhyme, Thomas	Infringement/ Importation/ Domestic Industry	10/27/2008
CX-1009		Withdrawn				10/29/2008
CX-1010		Withdrawn				10/29/2008
CX-1011		Withdrawn				10/29/2008
CX-1012		Withdrawn				10/29/2008
CX-1013		Withdrawn				
CX-1014		Withdrawn				
CX-1015		Withdrawn				
CX-1016		Withdrawn				
CX-1017		Withdrawn				
CX-1018		Withdrawn				
CX-1019		Withdrawn				
CX-1020		Withdrawn				
CX-1021		Withdrawn				
CX-1022		Withdrawn				

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CX-1023		Withdrawn				
CX-1024		Withdrawn				
CX-1025		Withdrawn				
CX-1026	C	Apacer's Amended Ex. A to its 8-29-08 Supplemental Interrogatory Responses (Sept. 2, 2008)		Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1027	C	Apacer's Amended Supp. Responses to Interrogatories 1-3, 7, 121-122, 124 (Aug. 29, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; remedy	10/29/2008
CX-1028	C	Respondents Apacer Technology, Inc. and Apacer Memory America, Inc.'s Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) (Jan. 14, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1029		Withdrawn				
CX-1030		Withdrawn				
CX-1031	C	Respondents Apacer Technology, Inc. and Apacer Memory America, Inc.'s Third Amended Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-3) (Apr. 4, 2008)		Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1032		Withdrawn				
CX-1033		Withdrawn				
CX-1034		Withdrawn				
CX-1035		Withdrawn				
CX-1036	C	Respondents Apacer Technology, Inc. and Apacer Memory America, Inc.'s Amended & Supplemental Responses to Complainant SanDisk Corporation's Interrogatories (Nos. 1-3, 7, 14, 121-122, 124-125) with Exhibits A, B and C (Aug. 15, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; remedy; affirmative defenses	10/29/2008
CX-1037	C	Respondents Apacer Technology, Inc. and Apacer Memory America, Inc.'s Amended & Supplemental Responses to Complainant SanDisk Corporation's Interrogatories (Nos. 1-4, 7, 14, 121-122, 124) with Exhibits A, B and C (July 28, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; remedy	10/29/2008

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CX-1038	Withdrawn				
CX-1039	Withdrawn				
CX-1040	Withdrawn				
CX-1041	Withdrawn				
CX-1042	C Respondents Apacer Technology, Inc. and Apacer Memory America, Inc.'s Responses to Complainant SanDisk Corporation's Seventh Set of Interrogatories (No. 126-127) (Aug. 8, 2008)		Min, Paul/ Rhyme, Thomas	Importation; affirmative defenses	11/21/2008
CX-1043	Withdrawn				
CX-1044	Withdrawn				
CX-1045	Withdrawn				
CX-1046	Withdrawn				
CX-1047	Withdrawn				
CX-1048	Withdrawn				
CX-1049	Withdrawn				
CX-1050	Withdrawn				
CX-1051	Withdrawn				
CX-1052	Withdrawn				

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CX-1053		Withdrawn				
CX-1054		Withdrawn				
CX-1055		Withdrawn				
CX-1056		Withdrawn				
CX-1057		Withdrawn				
CX-1058		Withdrawn				
CX-1059		Withdrawn				
CX-1060		Withdrawn				
CX-1061		Withdrawn				
CX-1062		Withdrawn				
CX-1063		Withdrawn				
CX-1064		Withdrawn				
CX-1065		Withdrawn				
CX-1066		Withdrawn				
CX-1067		Withdrawn				

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CX-1068		Withdrawn				
CX-1069		Withdrawn				
CX-1070		Withdrawn				
CX-1071		Withdrawn				
CX-1072		Withdrawn				
CX-1073		Withdrawn				
CX-1074		Withdrawn				
CX-1075		Withdrawn				
CX-1076		Withdrawn				
CX-1077		Withdrawn				
CX-1078		Withdrawn				
CX-1079	C	Dane-Elec Corp. USA, Dane Memory S.A. and Deantusaiocht Dane-Elec CEO's Third Supplemental Responses to Complainant SanDisk Corp.'s First Set of Interrogatories (No. 1-108) (June 12, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement	10/29/2008
CX-1080	C	Dane-Elec Corp. USA, Dane Memory S.A. and Deantusaiocht Dane-Elec CEO's Supplemental Responses to Complainant SanDisk Corp.'s Fourth Set of Interrogatories (No. 111) (June 12, 2008)		Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1081	C	Dane-Elec Corp. USA, Dane Memory S.A. and Deantusaiocht Dane-Elec CEO's Responses to Complainant SanDisk Corp.'s First Set of Interrogatories (No. 1-106) (Mar. 10, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1082	C	Dane-Elec Corp. USA, Dane Memory S.A. and Deantusaiocht Dane-Elec CEO's Responses to Complainant SanDisk Corp.'s First Set of Interrogatories (No. 1-106) (Apr. 23, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008

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CX-1083	C	Dane-Elec Corp. USA, Dane Memory S.A. and Deantusaiocht Dane-Elec TEO's Supplemental Responses to Complainant SanDisk Corp.'s Second Set of Interrogatories (No. 107-109) (Apr. 23, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1084	C	Dane-Elec Corp. USA, Dane Memory S.A. and Deantusaiocht Dane-Elec TEO's Second Supplemental Responses to Complainant SanDisk Corp.'s First Set of Interrogatories (No. 1-106) (May 14, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; importation; remedy/bonding	10/29/2008
CX-1085		Withdrawn			
CX-1086		Withdrawn			
CX-1087		Withdrawn			
CX-1088		Withdrawn			
CX-1089	C	Dane-Elec Corp. USA, Dane Memory S.A. and Deantusaiocht Dane-Elec TEO's Fourth Supplemental Responses to Complainant SanDisk Corp.'s First Set of Interrogatories (No. 1-106) (Aug. 4, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; importation; validity; enforceability; remedy/bonding; domestic industry;	11/21/2008
CX-1090		Withdrawn			
CX-1091		Withdrawn			
CX-1092		Withdrawn			
CX-1093		Withdrawn			
CX-1094	C	Supplement A to Dane's Fourth Supplemental Responses to SanDisk's First Set of Interrogatories (Aug. 12, 2008)	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1095		Withdrawn			
CX-1096		Withdrawn			
CX-1097	C	Respondents Kingston Technology Company, Inc. Kingston Technology Corporation, Memosun, Inc., and Payton Technology Corporation's Second Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 4-9, 14- 15,	Min, Paul/ Rhyne, Thomas	Importation; infringement; remedy/bonding	11/5/2008

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CX-1098	C	Respondents Kingston Technology Company, Inc. Kingston Technology Corporation, Third Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos.15,16,17,18, 81, 88, 91, 93, 94, 94(g)) (May 9, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; Importation; remedy/bonding	11/5/2008
CX-1099		Withdrawn			
CX-1100		Withdrawn			
CX-1101		Withdrawn			
CX-1102	C	Respondents Kingston Technology Company, Inc. Kingston Technology Corporation, a Fourth Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1, 2, 3) (May 13, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; Importation	10/29/2008
CX-1103	C	Respondents Kingston Technology Company, Inc. Kingston Technology Corporation, a Fifth Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 7) (May 19, 2008)	Min, Paul/ Rhyne, Thomas	Infringement	11/5/2008
CX-1104		Withdrawn			
CX-1105		Withdrawn			
CX-1106		Withdrawn			
CX-1107		Withdrawn			
CX-1108		Withdrawn			
CX-1109		Withdrawn			
CX-1110		Withdrawn			
CX-1111		Withdrawn			
CX-1112		Withdrawn			

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CX-1113	Withdrawn				
CX-1114	Withdrawn				
CX-1115	Withdrawn				
CX-1116	Withdrawn				
CX-1117	Withdrawn				
CX-1118	C Respondents Kingston Technology Company, Inc., Kingston Technology Corporation, Response to Complainant SanDisk Corporation's Fifth Set of Interrogatories (No. 127) (May 16, 2008)		Min, Paul/ Rhyne, Thomas	Infringement	11/5/2008
CX-1119	Withdrawn				
CX-1120	Withdrawn				
CX-1121	Withdrawn				
CX-1122	Withdrawn				
CX-1123	Withdrawn				
CX-1124	Withdrawn				
CX-1125	Withdrawn				
CX-1126	Withdrawn				
CX-1127	Withdrawn				

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CX-1128		Withdrawn				
CX-1129	C	Imation's 8/19 supplemental responses to SanDisk's roggs (Aug. 19, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; Importation	11/21/2008
CX-1130	C	Imation's 8/26 supplemental responses to SanDisk's roggs (Aug. 26, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; Importation	11/21/2008
CX-1131		Withdrawn				
CX-1132		Withdrawn				
CX-1133		Withdrawn				
CX-1134		Withdrawn				
CX-1135	C	Respondents Imation Corp., Imation Enterprises Corp., Memorex Products, Inc.'s Response to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) (Jan. 7, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1136	C	Respondents Imation Corp., Imation Enterprises Corp., Memorex Products, Inc.'s First Supplemental Response to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-8) (Jan. 29, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1137		Withdrawn				
CX-1138		Withdrawn				
CX-1139		Withdrawn				
CX-1140	C	LGE's Responses to SanDisk's First Set of Interrogatories (Nos. 1-106) to Respondent Flash Memory Products Companies (Jan. 7, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1141	C	Respondents LG Electronics, Inc. and LG Electronics U.S.A., Inc.'s Sixth Amended and Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) to Respondent Flash Memory Product Companies		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1142	C	LG Electronics, Inc. and LG Electronics U.S.A., Inc.'s Fourth Supplemental Responses to Complainant SanDisk Corporation's Second Set of Interrogatories (Nos. 107-109) (Sept. 2, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; Importation	10/29/2008

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CX-1143	C	LG Electronics, Inc. and LG Electronics U.S.A., Inc's Responses to Complainant SanDisk Corporation's Third Set of Interrogatories (Nos. 110-117) (Apr. 18, 2008)	Min, Paul/ Rhyne, Thomas	Affirmative defenses	10/29/2008
CX-1144	C	LG Electronics, Inc. and LG Electronics U.S.A., Inc's Response and Objections to Complainant SanDisk Corporation's Fourth Set of Interrogatories (Nos. 118) (May 16, 2008)	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1145	C	LG Electronics, Inc. and LG Electronics U.S.A., Inc's First Supplemental Responses and Objections to Complainant SanDisk Corporation's Fifth Set of Interrogatories (Nos. 119) (July 31, 2008)	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1146	C	LG Electronics, Inc. and LG Electronics U.S.A., Inc's Response and Objections to Complainant SanDisk Corporation's Fifth Set of Interrogatories (No. 119) (May 19, 2008)	Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1147	C	Respondents LG Electronics, Inc. and LG Electronics U.S.A., Inc's Response and Objections to Complainant SanDisk Corporation's Seventh Set of Interrogatories (Nos. 121-122) (Aug. 3, 2008)	Min, Paul/ Rhyne, Thomas	Importation; affirmative defenses	10/29/2008
CX-1148	C	LGE's First Amended and Supplemental Responses to SanDisk's First Set of Interrogatories (Nos. 1-106) to Respondent Flash Memory Products Companies (Mar. 14, 2008)	Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1149	C	LGE's Responses to SanDisk's Second Set of Interrogatories (Nos. 107-109) (Apr. 14, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1150	C	LGE's Second Amended and Supplemental Responses to SanDisk's First Set of Interrogatories (Nos. 1-106) to Respondent Flash Memory Products Companies (May 10, 2008)	Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1151	C	LGE's Third Amended and Supplemental Responses to SanDisk's First Set of Interrogatories (Nos. 1-106) to Respondent Flash Memory Products Companies (May 19, 2008)	Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1152	C	LGE's Supplemental Responses to SanDisk's Second Set of Interrogatories (Nos. 107-109) (May 19, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1153	C	LGE's Second Supplemental Responses to SanDisk's Second Set of Interrogatories (Nos. 107-109) (July 11, 2008)	Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1154	C	LGE's Fourth Amended and Supplemental Responses to SanDisk's First Set of Interrogatories (Nos. 1-106) to Respondent Flash Memory Products Companies (July 11, 2008)	Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1155	C	LGE's Responses to SanDisk's Sixth Set of Interrogatories (July 11, 2008)	Min, Paul/ Rhyne, Thomas	Affirmative defenses	10/29/2008
CX-1156	C	LGE's Fifth Amended and Supplemental Responses to SanDisk's First Set of Interrogatories (Nos. 1-106) to Respondent Flash Memory Products Companies (July 24, 2008)	Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1157		Withdrawn			

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CX-1158	C	Respondent LG Electronics, Inc. and LG Electronics U.S.A., Inc's Amended and Supplemental Response and Objections to Complainant SanDisk Corporation's Seventh Set of Interrogatories (Nos. 121-122) (Aug. 15, 2008)	Min, Paul/ Rhyne, Thomas	Importation; affirmative defenses	11/21/2008
CX-1159	C	Respondent Phison Electronics Corporation's Responses to Complainant SanDisk's First Set of Interrogatories (Nos. 1-111) (Jan. 7, 2008)	Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1160		Withdrawn			
CX-1161		Withdrawn			
CX-1162	C	Respondent Phison Electronics Corporation's Second Supplemental Responses to Complainant SanDisk's First Set of Interrogatories (Nos. 4, 6-10, 13, 26-27, 78, 85,99) (Apr. 9, 2008)	Min, Paul/ Rhyne, Thomas	Importation; infringement; remedy/bonding	10/29/2008
CX-1163		Withdrawn			
CX-1164	C	Respondent Phison Electronics Corporation's Fourth Supplemental Responses to Complainant SanDisk's First Set of Interrogatories (Nos. 4, 13, 28,93) (June 4, 2008)	Min, Paul/ Rhyne, Thomas	Importation; remedy/bonding	11/5/2008
CX-1165		Withdrawn			
CX-1166	C	Respondent Phison Electronics Corporation's Sixth Supplemental Responses to Complainant SanDisk's First Set of Interrogatories (Nos. 100-111) (July 24, 2008)	Min, Paul/ Rhyne, Thomas	Remedy/bonding; domestic industry	10/29/2008
CX-1167		Withdrawn			
CX-1168		Withdrawn			
CX-1169		Withdrawn			
CX-1170		Withdrawn			
CX-1171		Withdrawn			
CX-1172		Withdrawn			

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CX-1173		Withdrawn				
CX-1174		Withdrawn				
CX-1175		Withdrawn				
CX-1176	C	Response of Respondents Power Quotient International Co., Ltd.; Power Quotient International (HK) CO., Ltd.; Syscom Development Co., Ltd.; and PQI Corporation's to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) to the		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1177		Withdrawn				
CX-1178	C	Second Supplemental Response of Respondents Power Quotient International Co., Ltd.; Power Quotient International (HK) CO., Ltd.; Syscom Development Co., Ltd.; and PQI Corporation's to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) to the		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	11/21/2008
CX-1179	C	Third Supplemental Response of Respondents Power Quotient International Co., Ltd.; Power Quotient International (HK) CO., Ltd.; Syscom Development Co., Ltd.; and PQI Corporation's to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) to the		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	11/5/2008
CX-1180	C	Fourth Supplemental Response of Respondents Power Quotient International Co., Ltd.; Power Quotient International (HK) CO., Ltd.; Syscom Development Co., Ltd.; and PQI Corporation's to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) to the		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1181		Withdrawn				
CX-1182	C	Supplemental Response of Certain Respondent Flash Memory Product Companies to Complainant SanDisk Corporation's First and Second Set of Interrogatories (4) to the Respondent Flash Memory Product Companies (Aug. 15, 2008)		Min, Paul/ Rhyne, Thomas	Importation	11/21/2008
CX-1183		Withdrawn				
CX-1184		Withdrawn				
CX-1185		Withdrawn				
CX-1186		Withdrawn				
CX-1187	C	Second Supplemental Response for Respondent Power Quotient International Co., Ltd.; Power Quotient International (HK) CO., Ltd.; Syscom Development Co., Ltd.; and PQI Corporation's Response to Complainant SanDisk Corporation's Third Set of Interrogatories		Min, Paul/ Rhyne, Thomas	Infringement; Importation	11/5/2008

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CX-1188		Withdrawn				
CX-1189		Withdrawn				
CX-1190		Withdrawn				
CX-1191		Withdrawn				
CX-1192		Withdrawn				
CX-1193	C	Respondents Power Quotient International Co., Ltd., Power Quotient International (HK) Co., Ltd., Syscom Development Co., Ltd., and PQI Corporation's Response to Complainant SanDisk Corporation's First Set of Requests for Admissions (Nos. 1-41)		Min, Paul/ Rhyne, Thomas	Importation; Infringement; validity; enforceability; domestic industry; remedy/bonding	11/21/2008
CX-1194		Withdrawn				
CX-1195	C	Respondents Silicon Motion's Responses and Objections to Complainant SanDisk's First Set of Interrogatories (Nos. 1-111) to Respondent Controller Companies (Jan. 14, 2008)		Min, Paul/ Rhyne, Thomas	Importation; Infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1196	C	Respondents Silicon Motion Technology Corp., Silicon Motion, Inc. (Taiwan), Silicon Motion, Inc. (California) and Silicon Motion International, Inc.'s First Amended and Supplemental Responses and Objections to Complainant SanDisk First Set of Interrogatories		Min, Paul/ Rhyne, Thomas	Infringement; importation; remedy/bonding	11/21/2008
CX-1197		Withdrawn				
CX-1198	C	Respondents Silicon Motion Technology Corp., Silicon Motion, Inc. (Taiwan), Silicon Motion, Inc. (California) and Silicon Motion International, Inc.'s Third Amended and Supplemental Responses and Objections to Complainant SanDisk First Set of Interrogatories		Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1199		Withdrawn				
CX-1200		Withdrawn				
CX-1201		Withdrawn				
CX-1202		Withdrawn				

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CX-1203		Withdrawn				
CX-1204	C	Responses and Objections of Skymedl Corporation to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-111) to Respondent Controller Companies (Jan. 22, 2008)		Min, Paul/ Rhyne, Thomas	Importation; Infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1205		Withdrawn				
CX-1206		Withdrawn				
CX-1207		Withdrawn				
CX-1208		Withdrawn				
CX-1209		Withdrawn				
CX-1210		Withdrawn				
CX-1211		Withdrawn				
CX-1212		Withdrawn				
CX-1213	C	Respondents Transcend Information Inc.'s First Amended & Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-106) (Feb. 4, 2008)		Min, Paul/ Rhyne, Thomas	Importation; Infringement	11/21/2008
CX-1214		Withdrawn				
CX-1215	C	Respondents Transcend Information Inc. (Taiwan), Transcend Information In. (California) and Transcend Information Maryland Inc.'s Third Amended and Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-3) (Apr. 4,		Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1216		Withdrawn				
CX-1217	C	Respondents Transcend Information Inc. (Taiwan), Transcend Information In. (California) and Transcend Information Maryland Inc.'s Amended and Supplemental Responses to Complainant SanDisk Corporation's Interrogatories (Nos. 1-4, 7-8, 14-15, 24-26,		Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008

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CX-1218		Withdrawn			
CX-1219		Withdrawn			
CX-1220		Withdrawn			
CX-1221		Withdrawn			
CX-1222		Withdrawn			
CX-1223		Withdrawn			
CX-1224		Withdrawn			
CX-1225		Withdrawn			
CX-1226		Withdrawn			
CX-1227		Withdrawn			
CX-1228		Withdrawn			
CX-1229		Withdrawn			
CX-1230		Withdrawn			
CX-1231		Withdrawn			
CX-1232	C	Respondents Transcend Information Inc. (Taiwan), Transcend Information Inc. (California), and transcend Information Maryland Inc.'s Response to Complainant SanDisk Corporation's Seventh Set of Interrogatories (Nos. 120-121) (Aug. 6, 2008)		Min, Paul/ Rhyne, Thomas	Importation; affirmative defenses
					11/21/2008

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CX-1233		Withdrawn				
CX-1234		Withdrawn				
CX-1235		Withdrawn				
CX-1236		Withdrawn				
CX-1237		Withdrawn				
CX-1238		Withdrawn				10/29/2008
CX-1239		Withdrawn				
CX-1240		Withdrawn				
CX-1241		Withdrawn				
CX-1242	C	Respondent Verbatim Corporation's Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 1-108) (Jan. 7, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement; validity; enforceability; domestic industry; remedy/bonding	10/29/2008
CX-1243	C	Respondent Verbatim Corporation's Supplemental Responses to Complainant SanDisk Corporation's First Set of Interrogatories (Nos. 5-10, 12, 14-15, 17, 19, 25-26, 80-81, 83-84, 88, 90-92, 94) (Mar. 28, 2008)		Min, Paul/ Rhyne, Thomas	Importation; infringement; remedy/bonding	10/29/2008
CX-1244	C	Respondent Verbatim Corporation's Supplemental Responses to Complainant SanDisk Corporation's Second Set of Interrogatories (Nos. 107-109) (Apr. 14, 2008)		Min, Paul/ Rhyne, Thomas	Infringement; importation	10/29/2008
CX-1245	C	Respondent Verbatim Corporation's Supplemental Responses to Complainant SanDisk Corporation's Third Set of Interrogatories (Nos 110) (May 21, 2008)		Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1246	C	Respondent Verbatim Corporation's Supplemental Responses to Complainant SanDisk Corporation's Fourth Set of Interrogatories (May 21, 2008)		Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008
CX-1247	C	Respondent Verbatim Corporation's Supplemental Responses to Complainant SanDisk Corporation's Fifth Set of Interrogatories (May 21, 2008)		Min, Paul/ Rhyne, Thomas	Infringement	10/29/2008

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CX-1248	C	Respondent Verbatim Corporation's Supplemental Responses to Complainant SanDisk Corporation's Sixth Set of Interrogatories (July 11, 2008)		Min, Paul/ Rhyne, Thomas	Affirmative defenses	10/29/2008
CX-1249	C	Respondent Verbatim Corporation's Supplemental Responses to Complainant SanDisk Corporation's Seventh Set of Interrogatories (Aug. 5, 2008)		Min, Paul/ Rhyne, Thomas	Affirmative defenses	10/29/2008
CX-1250		Withdrawn				
CX-1251		Withdrawn				
CX-1252		Withdrawn				
CX-1253		Withdrawn				
CX-1254		Withdrawn				
CX-1255	C	SMI-ITC-NAT 00001/SMI Ship Plans 01-01-2007 - 07-31-2008.xls (updated version of Silicon Motion Depo. Ex. 202)	SMI-ITC-NAT 00001	Hsiao, Scott	Importation	11/5/2008
CX-1256	C	SMI-ITC-NAT 00001/SMI Sample Shipments 01-01-2007 - 07-31-2008.xls (updated version of Silicon Motion Depo. Ex. 209)	SMI-ITC-NAT 00001	Hsiao, Scott	Importation	11/5/2008
CX-1257	C	SMI-ITC-NAT 00001/SMI Demo Kits Shipments 01-01-2007 - 07-31-2008.xls (updated version of Silicon Motion Depo. Ex. 210)	SMI-ITC-NAT 00001	Hsiao, Scott	Importation	11/5/2008
CX-1258		Withdrawn				
CX-1259		Withdrawn				
CX-1260		Withdrawn				
CX-1261		Withdrawn				
CX-1262		Withdrawn				

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CX-1263	Withdrawn				
CX-1264	Withdrawn				
CX-1265	Withdrawn				
CX-1266	Withdrawn				
CX-1267	Withdrawn				
CX-1268	Withdrawn				
CX-1269	Withdrawn				
CX-1270	Withdrawn				
CX-1271	Withdrawn				
CX-1272	Withdrawn				
CX-1273	Withdrawn				
CX-1274	Withdrawn				
CX-1275	Withdrawn				
CX-1276	Withdrawn				
CX-1277	Withdrawn				

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CX-1278	Withdrawn				
CX-1279	Withdrawn				
CX-1280	Withdrawn				
CX-1281	Withdrawn				
CX-1282	Withdrawn				
CX-1283	Withdrawn				
CX-1284	Withdrawn				
CX-1285	Withdrawn				
CX-1286	Withdrawn				
CX-1287	Withdrawn				
CX-1288	Withdrawn				
CX-1289	Withdrawn				
CX-1290	Withdrawn				
CX-1291	Withdrawn				
CX-1292	Withdrawn				

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CX-1293	Withdrawn				
CX-1294	Withdrawn				
CX-1295	Withdrawn				
CX-1296	Withdrawn				
CX-1297	Withdrawn				
CX-1298	Withdrawn				
CX-1299	Withdrawn				
CX-1300	Withdrawn				
CX-1301	Withdrawn				
CX-1302	Withdrawn				
CX-1303	Withdrawn				
CX-1304	Withdrawn				
CX-1305	Withdrawn				
CX-1306	Withdrawn				
CX-1307	Withdrawn				

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CX-1308	Withdrawn				
CX-1309	Withdrawn				
CX-1310	Withdrawn				
CX-1311	Withdrawn				
CX-1312	Withdrawn				
CX-1313	Withdrawn				
CX-1314	Withdrawn				
CX-1315	Withdrawn				
CX-1316	Withdrawn				
CX-1317	Withdrawn				
CX-1318	Withdrawn				
CX-1319	Withdrawn				
CX-1320	Withdrawn				
CX-1321	Withdrawn				
CX-1322	Withdrawn				

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CX-1323	Withdrawn					
CX-1324	Withdrawn					
CX-1325	Withdrawn					
CX-1326	Withdrawn					
CX-1327	Withdrawn					
CX-1328	Withdrawn					
CX-1329	Withdrawn					
CX-1330	Withdrawn					
CX-1331	Withdrawn					
CX-1332	Withdrawn					
CX-1333	Withdrawn					
CX-1334	Withdrawn					
CX-1335	Withdrawn					
CX-1336	Withdrawn					
CX-1337	Withdrawn					

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CX-1338	Withdrawn				
CX-1339	Withdrawn				
CX-1340	Withdrawn				
CX-1341	Withdrawn				
CX-1342	Withdrawn				
CX-1343	Withdrawn				
CX-1344	Withdrawn				
CX-1345	Withdrawn				
CX-1346	Withdrawn				
CX-1347	Withdrawn				
CX-1348	Withdrawn				
CX-1349	Withdrawn				
CX-1350	Withdrawn				
CX-1351	Withdrawn				
CX-1352	Withdrawn				

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CX-1353		Withdrawn				
CX-1354		Withdrawn				
CX-1355		Withdrawn				
CX-1356		Withdrawn				
CX-1357		Withdrawn				
CX-1358		Withdrawn				
CX-1359		Withdrawn				
CX-1360		Withdrawn				
CX-1361		Withdrawn				
CX-1362		Withdrawn				
CX-1363		Withdrawn				
CX-1364		Withdrawn				
CX-1365		Withdrawn				
CX-1366	C	Phison PS2231 Flash Memory Controller Specification	IMA-053285-053304	Min, Paul/ Rhyns, Thomas	Infringement	10/29/2008
CX-1367		Withdrawn				

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CX-1368	Withdrawn					
CX-1369	Withdrawn					
CX-1370	Withdrawn					
CX-1371	Withdrawn					
CX-1372	Withdrawn					
CX-1373	Withdrawn					
CX-1374	Withdrawn					
CX-1375	Withdrawn					
CX-1376	Withdrawn					
CX-1377	Withdrawn					
CX-1378	Withdrawn					
CX-1379	Withdrawn					
CX-1380	Withdrawn					
CX-1381	Withdrawn					
CX-1382	C	Silicon Motion SM324 Flash Memory Controller Databook	LGE-ITC-00001140-00001163	Min, Paul/ Rhyns, Thomas	Infringement	11/5/2008

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CX-1383		Withdrawn				
CX-1384		Withdrawn				
CX-1385		Withdrawn				
CX-1386		Withdrawn				
CX-1387		Withdrawn				
CX-1388		Withdrawn				
CX-1389		Withdrawn				
CX-1390		Withdrawn				
CX-1391		Withdrawn				
CX-1392		Withdrawn				
CX-1393		Withdrawn				
CX-1394		Withdrawn				
CX-1395		Withdrawn				
CX-1396		Withdrawn				
CX-1397		Withdrawn				

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CX-1398	Withdrawn					
CX-1399	Withdrawn					
CX-1400	Withdrawn					
CX-1401	Withdrawn					
CX-1402	Withdrawn					
CX-1403	Withdrawn					
CX-1404	Withdrawn					
CX-1405	Withdrawn					
CX-1406	Withdrawn					
CX-1407	Withdrawn					
CX-1408	Withdrawn					
CX-1409	Withdrawn					
CX-1410	Withdrawn					
CX-1411	Withdrawn					
CX-1412	Withdrawn					

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CX-1413		Withdrawn				
CX-1414		Withdrawn				
CX-1415		Withdrawn				
CX-1416		Withdrawn				
CX-1417		Withdrawn				
CX-1418		Withdrawn				
CX-1419	C	2004 Product Line chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1420	C	2004 USB Flash Drive Chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1421	C	2005 Product Line chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1422	C	2005 USB Flash Drive Chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1423	C	2006 Product Line Chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1424	C	2006 USB Flash Drive Chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1425	C	2007 Product Line Chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1426	C	2007 USB Flash Drives Chart	SD-I-NAT-000046	Waltze, Todd	Domestic Industry	11/3/2008
CX-1427		Withdrawn				

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CX-1428	Withdrawn				
CX-1429	Withdrawn				
CX-1430	Withdrawn				
CX-1431	Withdrawn				
CX-1432	Withdrawn				
CX-1433	Withdrawn				
CX-1434	Withdrawn				
CX-1435	Withdrawn				
CX-1436	Withdrawn				
CX-1437	Withdrawn				
CX-1438	Withdrawn				
CX-1439	Withdrawn				
CX-1440	Withdrawn				
CX-1441	Withdrawn				
CX-1442	Withdrawn				

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CX-1443		Withdrawn				
CX-1444		Withdrawn				
CX-1445		Withdrawn				
CX-1446		Withdrawn				
CX-1447		Withdrawn				
CX-1448		Withdrawn				
CX-1449		Withdrawn				
CX-1450		Withdrawn				
CX-1451		Withdrawn				
CX-1452		Withdrawn				
CX-1453	C	List of Imation products, active and phase-out	IMA-000129-000149	Min, Paul/ Rhyne, Thomas	Importation	11/5/2008
CX-1454		Withdrawn				
CX-1455		Withdrawn				
CX-1456		Withdrawn				
CX-1457		Withdrawn				

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CX-1458		Withdrawn				
CX-1459	C	Spreadsheet detailing Imation's US Inventory as of June 18, 2008	IMA-309911-309924	Min, Paul/ Rhyne, Thomas	Inventory	11/21/2008
CX-1460		Withdrawn				
CX-1461		Withdrawn				
CX-1462		Withdrawn				
CX-1463		Withdrawn				
CX-1464		Withdrawn				
CX-1465		Withdrawn				
CX-1466		Withdrawn				
CX-1467		Withdrawn				
CX-1468		Withdrawn				
CX-1469		Withdrawn				
CX-1470		Withdrawn				
CX-1471		Withdrawn				
CX-1472		Withdrawn				

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CX-1473	Withdrawn				
CX-1474	Withdrawn				
CX-1475	Withdrawn				
CX-1476	Withdrawn				
CX-1477	Withdrawn				
CX-1478	Withdrawn				
CX-1479	Withdrawn				
CX-1480	Withdrawn				
CX-1481	Withdrawn				
CX-1482	Withdrawn				
CX-1483	Withdrawn				
CX-1484	Withdrawn				
CX-1485	Withdrawn				
CX-1486	Withdrawn				
CX-1487	Withdrawn				

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CX-1488	Withdrawn				
CX-1489	Withdrawn				
CX-1490	Withdrawn				
CX-1491	Withdrawn				
CX-1492	Withdrawn				
CX-1493	Withdrawn				
CX-1494	Withdrawn				
CX-1495	Withdrawn				
CX-1496	Withdrawn				
CX-1497	Withdrawn				
CX-1498	Withdrawn				
CX-1499	Withdrawn				
CX-1500	Withdrawn				
CX-1501	Withdrawn				
CX-1502	Withdrawn				

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CX-1503	Withdrawn				
CX-1504	Withdrawn				
CX-1505	Withdrawn				
CX-1506	Withdrawn				
CX-1507	Withdrawn				
CX-1508	Withdrawn				
CX-1509	Withdrawn				
CX-1510	Withdrawn				
CX-1511	Withdrawn				
CX-1512	Withdrawn				
CX-1513	Withdrawn				
CX-1514	Withdrawn				
CX-1515	Withdrawn				
CX-1516	Withdrawn				
CX-1517	Withdrawn				

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CX-1518	Withdrawn				
CX-1519	Withdrawn				
CX-1520	Withdrawn				
CX-1521	Withdrawn				
CX-1522	Withdrawn				
CX-1523	Withdrawn				
CX-1524	Withdrawn				
CX-1525	Withdrawn				
CX-1526	Withdrawn				
CX-1527	Withdrawn				
CX-1528	Withdrawn				
CX-1529	Withdrawn				
CX-1530	Withdrawn				
CX-1531	Withdrawn				
CX-1532	Withdrawn				

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CX-1533	Withdrawn				
CX-1534	Withdrawn				
CX-1535	Withdrawn				
CX-1536	Withdrawn				
CX-1537	Withdrawn				
CX-1538	Withdrawn				
CX-1539	Withdrawn				
CX-1540	Withdrawn				
CX-1541	Withdrawn				
CX-1542	Withdrawn				
CX-1543	Withdrawn				
CX-1544	Withdrawn				
CX-1545	Withdrawn				
CX-1546	Withdrawn				
CX-1547	Withdrawn				

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CX-1548	Withdrawn				
CX-1549	Withdrawn				
CX-1550	Withdrawn				
CX-1551	Withdrawn				
CX-1552	Withdrawn				
CX-1553	Withdrawn				
CX-1554	Withdrawn				
CX-1555	Withdrawn				
CX-1556	Withdrawn				
CX-1557	Withdrawn				
CX-1558	Withdrawn				
CX-1559	Withdrawn				
CX-1560	Withdrawn				
CX-1561	Withdrawn				
CX-1562	Withdrawn				

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CX-1563	Withdrawn				
CX-1564	Withdrawn				
CX-1565	Withdrawn				
CX-1566	Withdrawn				
CX-1567	Withdrawn				
CX-1568	Withdrawn				
CX-1569	Withdrawn				
CX-1570	Withdrawn				
CX-1571	Withdrawn				
CX-1572	Withdrawn				
CX-1573	Withdrawn				
CX-1574	Withdrawn				
CX-1575	Withdrawn				
CX-1576	Withdrawn				
CX-1577	Withdrawn				

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CX-1578	Withdrawn					
CX-1579	Withdrawn					
CX-1580	Withdrawn					
CX-1581	Withdrawn					
CX-1582	Withdrawn					
CX-1583	Withdrawn					
CX-1584	Withdrawn					
CX-1585	Withdrawn					
CX-1586	Withdrawn					
CX-1587	Withdrawn					
CX-1588	Withdrawn					
CX-1589	Withdrawn					
CX-1590	Withdrawn					
CX-1591	Withdrawn					
CX-1592	Withdrawn					

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CX-1593	Withdrawn				
CX-1594	Withdrawn				
CX-1595	Withdrawn				
CX-1596	Withdrawn				
CX-1597	Withdrawn				
CX-1598	Withdrawn				
CX-1599	Withdrawn				
CX-1600	Withdrawn				
CX-1601	Withdrawn				
CX-1602	Withdrawn				
CX-1603	Withdrawn				
CX-1604	Withdrawn				
CX-1605	Withdrawn				
CX-1606	Withdrawn				
CX-1607	Withdrawn				

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CX-1608	Withdrawn					
CX-1609	Withdrawn					
CX-1610	Withdrawn					
CX-1611	Withdrawn					
CX-1612	Withdrawn					
CX-1613	Withdrawn					
CX-1614	Withdrawn					
CX-1615	Withdrawn					
CX-1616	Withdrawn					
CX-1617	Withdrawn					
CX-1618	Withdrawn					
CX-1619	Withdrawn					
CX-1620	Withdrawn					
CX-1621	Withdrawn					
CX-1622	Withdrawn					

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CX-1623	Withdrawn				
CX-1624	Withdrawn				
CX-1625	Withdrawn				
CX-1626	Withdrawn				
CX-1627	Withdrawn				
CX-1628	Withdrawn				
CX-1629	Withdrawn				
CX-1630	Withdrawn				
CX-1631	Withdrawn				
CX-1632	Withdrawn				
CX-1633	Withdrawn				
CX-1634	Withdrawn				
CX-1635	Withdrawn				
CX-1636	Withdrawn				
CX-1637	Withdrawn				

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CX-1638	Withdrawn				
CX-1639	Withdrawn				
CX-1640	Withdrawn				
CX-1641	Withdrawn				
CX-1642	Withdrawn				
CX-1643	Withdrawn				
CX-1644	Withdrawn				
CX-1645	Withdrawn				
CX-1646	C	Imation Drive Manager Software User's Manual	Min, Paul	Infringement	10/29/2008
CX-1647	Withdrawn				
CX-1648	Withdrawn				
CX-1649	Withdrawn				
CX-1650	Withdrawn				
CX-1651	Withdrawn				
CX-1652	Withdrawn				

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CX-1653	Withdrawn				
CX-1654	Withdrawn				
CX-1655	Withdrawn				
CX-1656	C Hynix NAND Datasheet HY27SF161G2M	CHIC 002.001787-1833	Rhyne, Thomas	Infringement	10/29/2008
CX-1657	Withdrawn				
CX-1658	Hynix NAND Datasheet HY27UF081G2A	SD-I-090916887-932	Rhyne, Thomas	Infringement	10/29/2008
CX-1659	C Hynix NAND Datasheet HY27UF081G2M	CHI 00022439-00022486	Rhyne, Thomas	Infringement	10/29/2008
CX-1660	C Hynix NAND Datasheet HY27UF081G2M	CHIC 002.001787-1833	Rhyne, Thomas	Infringement	10/29/2008
CX-1661	Withdrawn				
CX-1662	Hynix NAND Datasheet HY27UF082G2A	SD-I-0916833-916979	Rhyne, Thomas	Infringement	10/29/2008
CX-1663	C Hynix NAND Datasheet HY27UF082G2M	CHI 00022755-00022807	Rhyne, Thomas	Infringement	10/29/2008
CX-1664	Hynix NAND Datasheet HY27UF084G2M	SD-I-0916980-917030	Rhyne, Thomas	Infringement	10/29/2008
CX-1665	C Hynix NAND Datasheet HY27UG082G2M	PEC00852353-00852397	Rhyne, Thomas	Infringement	10/29/2008
CX-1666	C Hynix NAND Datasheet HY27UG084G2M	ADA 00393572-00393619	Rhyne, Thomas	Infringement	10/29/2008
CX-1667	C Hynix NAND Datasheet HY27UG088G5B	PEC00979931-00979983	Rhyne, Thomas	Infringement	10/29/2008

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CX-1668	C	Hynix NAND Datasheet HY27UG088G5M	SD-I-0917031-917082	Rhyne, Thomas	Infringement	10/29/2008
CX-1669		Hynix NAND Datasheet HY27UH084G2M	CHIC 002.002501-2547	Rhyne, Thomas	Infringement	10/29/2008
CX-1670	C	Hynix NAND Datasheet HY27UH088G2M	SD-I-0017712-0017765	Rhyne, Thomas	Infringement	10/29/2008
CX-1671	C	Hynix NAND Datasheet HY27US08121A	CHI 00023325-00023372	Rhyne, Thomas	Infringement	10/29/2008
CX-1672	C	Hynix NAND Datasheet HY27US08121M	CHI 00023237-00023281	Rhyne, Thomas	Infringement	10/29/2008
CX-1673	C	Hynix NAND Datasheet HY27US08561M	CHI 00022487-00022532	Rhyne, Thomas	Infringement	10/29/2008
CX-1674	C	Hynix NAND Datasheet HY27UW08BGM	PEC00852027-00852083	Rhyne, Thomas	Infringement	10/29/2008
CX-1675	C	Hynix NAND Datasheet HY27UW08CGFM	KTC00209343-00209385	Rhyne, Thomas	Infringement	10/29/2008
CX-1676	C	Hynix NAND Datasheet HY27UU08AG5A,HY27UU08AGDA	SKY 10975448-10976497	Rhyne, Thomas	Infringement	10/29/2008
CX-1677	C	Hynix NAND Datasheet HY27UU08AG5M,HY27UU09AGDM	KTC00209215-00209259	Rhyne, Thomas	Infringement	10/29/2008
CX-1678	C	Hynix NAND Datasheet HY27UV08AG5M	KTC00209280-00209297	Rhyne, Thomas	Infringement	10/29/2008
CX-1679	C	Hynix NAND Datasheet HY27UV08BG(5/D/F)M	CHI 00022910-00022954	Rhyne, Thomas	Infringement	10/29/2008
CX-1680	C	Hynix NAND Datasheet HY27UH08AG(5/D)M	CHI 00022062-00022114	Rhyne, Thomas	Infringement	10/29/2008
CX-1681	C	Intel NAND Datasheet JS29F04G08AANB1	PEC00991785-00991854	Rhyne, Thomas	Infringement	10/29/2008
CX-1682	C	Intel NAND Datasheet JS29F08G08CANB1	PEC00955749-00955818	Rhyne, Thomas	Infringement	10/29/2008

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CX-1683	C	Intel NAND Datasheet JS29F16G08FANB1	PEC00991786-00991854	Rhyne, Thomas	Infringement	10/29/2008
CX-1684		Withdrawn				
CX-1685		Samsung NAND Datasheet K9F1208U0A	SD-I-1907887-1908030	Rhyne, Thomas	Infringement	10/29/2008
CX-1686		Samsung NAND Datasheet K9F1208U0B	SD-I-2094364-2094408	Rhyne, Thomas	Infringement	10/29/2008
CX-1687		Samsung NAND Datasheet K9F1208U0C	SD-I-2094408-2094446	Rhyne, Thomas	Infringement	10/29/2008
CX-1688	C	Samsung NAND Datasheet K9F1208U0M	CHI 00028504-00028537	Rhyne, Thomas	Infringement	10/29/2008
CX-1689	C	Samsung NAND Datasheet K9F1G08U0A	CHI 00067666-00087725	Rhyne, Thomas	Infringement	10/29/2008
CX-1690		Samsung NAND Datasheet K9F1G08U0B	SD-I-2094520-2094555	Rhyne, Thomas	Infringement	10/29/2008
CX-1691	C	Samsung NAND Datasheet K9F1G08U0M	PQI 00007808-00007848	Rhyne, Thomas	Infringement	10/29/2008
CX-1692		Samsung NAND Datasheet K9F2G08U0M	SD-I-2094596-2094634	Rhyne, Thomas	Infringement	10/29/2008
CX-1693	C	Samsung NAND Datasheet K9F4G08U0A	CHI 00014646-00014666	Rhyne, Thomas	Infringement	10/29/2008
CX-1694	C	Samsung NAND Datasheet K9F4G08U0M	CHI 00028799-00028841	Rhyne, Thomas	Infringement	10/29/2008
CX-1695	C	Samsung NAND Datasheet K9F5608U0C	PQI 00005916-00005956	Rhyne, Thomas	Infringement	10/29/2008
CX-1696		Samsung NAND Datasheet K9F5608U0D	SD-I-2094704-2094738	Rhyne, Thomas	Infringement	10/29/2008
CX-1697		Samsung NAND Datasheet K9F8G08U0M	SD-I-2094739-2094782	Rhyne, Thomas	Infringement	10/29/2008

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	C					
CX-1698		Samsung NAND Datasheet K9G4G08U0A	SKY_00038118-00038161	Rhyne, Thomas	Infringement	10/29/2008
CX-1699	C	Samsung NAND Datasheet K9G8G08U0M	ADA_00392013-00392054	Rhyne, Thomas	Infringement	10/29/2008
CX-1700	C	Samsung NAND Datasheet K9G8G08U0A	SKY_00035670-00035714	Rhyne, Thomas	Infringement	10/29/2008
CX-1701	C	Samsung NAND Datasheet K9GAG08U0M	KTC00210808-00210860	Rhyne, Thomas	Infringement	10/29/2008
CX-1702	C	Samsung NAND Datasheet K9WBG08U1M	PQI_00017794-00017856	Rhyne, Thomas	Infringement	10/29/2008
CX-1703		Samsung NAND Datasheet K9HAG08U1M	SD-I-1907725-1907767	Rhyne, Thomas	Infringement	10/29/2008
CX-1704	C	Samsung NAND Datasheet K9HBG08U1A	SKY_00038138-00036186	Rhyne, Thomas	Infringement	10/29/2008
CX-1705	C	Samsung NAND Datasheet K9HBG08U1M	CX_467	Rhyne, Thomas	Infringement	10/29/2008
CX-1706	C	Samsung NAND Datasheet K9HCG08U1M	CHI_00035578-00035637	Rhyne, Thomas	Infringement	10/29/2008
CX-1707	C	Samsung NAND Datasheet K9HCG08U5M	KTC00210808-00210860	Rhyne, Thomas	Infringement	10/29/2008
CX-1708		Samsung NAND Datasheet K9K4G08U0M	SD-I-2094864-2094901	Rhyne, Thomas	Infringement	10/29/2008
CX-1709		Samsung NAND Datasheet K9K8G08U0A	SD-I-2094952-2095001	Rhyne, Thomas	Infringement	10/29/2008
CX-1710	C	Samsung NAND Datasheet K9K8G08U0M	SKY_00037769-00037812	Rhyne, Thomas	Infringement	10/29/2008
CX-1711	C	Samsung NAND Datasheet K9K8G08U1A	CHI_00014646-00014688	Rhyne, Thomas	Infringement	10/29/2008
CX-1712	C	Samsung NAND Datasheet K9K8G08U1M	CHI_00026799-00026841	Rhyne, Thomas	Infringement	10/29/2008

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CX-1713		Samsung NAND Datasheet K9KAG08U0M	SD-I-0017547-0017614	Rhyne, Thomas	Infringement	10/29/2008
CX-1714	C	Samsung NAND Datasheet K9L8G08U0A	USB_00071809-00071853	Rhyne, Thomas	Infringement	10/29/2008
CX-1715		Samsung NAND Datasheet K9L8G08U0M	SD-I-1807725-1907787	Rhyne, Thomas	Infringement	10/29/2008
CX-1716	C	Samsung NAND Datasheet K9LAG08U0A	SKY_00036138-00036186	Rhyne, Thomas	Infringement	10/29/2008
CX-1717	C	Samsung NAND Datasheet K9LAG08U0M	ADA_00390211-00390258	Rhyne, Thomas	Infringement	10/29/2008
CX-1718	C	Samsung NAND Datasheet K9LAG08U1M	ADA_00392013-00392054	Rhyne, Thomas	Infringement	10/29/2008
CX-1719	C	Samsung NAND Datasheet K9LBG08U0M	CHI_00035578-00035637	Rhyne, Thomas	Infringement	10/29/2008
CX-1720	C	Samsung NAND Datasheet K9LBG08U1M	KTC00210808-00210860	Rhyne, Thomas	Infringement	10/29/2008
CX-1721	C	Samsung NAND Datasheet K9MBG08U5M	SKY_00037769-00037812	Rhyne, Thomas	Infringement	10/29/2008
CX-1722	C	Samsung NAND Datasheet K9MDG08U5M	CHI_00035578-00035637	Rhyne, Thomas	Infringement	10/29/2008
CX-1723		Samsung NAND Datasheet K9NBG08U5A	SD-I-2094952-2095001	Rhyne, Thomas	Infringement	10/29/2008
CX-1724	C	Samsung NAND Datasheet K9NBG08U5M	PEC00854360-00854409	Rhyne, Thomas	Infringement	10/29/2008
CX-1725		Samsung NAND Datasheet K9KAG08U1M, K9F8G08U0M, K9F8G08B0M	SD-I-2094739-2094792	Rhyne, Thomas	Infringement	10/29/2008
CX-1726		Samsung NAND Datasheet K9K2G08R0B	SD-I-2094783-2094824	Rhyne, Thomas	Infringement	10/29/2008
CX-1727		Samsung NAND Datasheet K9K2G08U0M, K9K2G08Q0M, K9K2G08U0M, K9K2G16Q0M, K9K2G16U0M	SD-I-2094825-2094863	Rhyne, Thomas	Infringement	10/29/2008

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CX-1728		Samsung NAND Datasheet K9W8G08U1M, K9K4G08Q0M, K9K4G16Q0M, K9K4G08U0M, K9K4G16U0M	SD-I-2094864-2094901	Rhyne, Thomas	Infringement	10/29/2008
CX-1729		Samsung NAND Datasheet K9WAG08U1M, K9K8G08U0M	SD-I-2094902-2094951	Rhyne, Thomas	Infringement	10/29/2008
CX-1730		Samsung NAND Datasheet K9WAG08U1A, K9K8G08U0A, K9NBG08U5A	SD-I-2094952-2095001	Rhyne, Thomas	Infringement	10/29/2008
CX-1731	C	Toshiba NAND Datasheet TC58128FT	CHI 00031017-00031049	Rhyne, Thomas	Infringement	10/29/2008
CX-1732	C	Toshiba NAND Datasheet TC58256AFT	PEC00858160-00858192	Rhyne, Thomas	Infringement	10/29/2008
CX-1733	C	Toshiba NAND Datasheet TC58512FTI	SKY 00050327-00050369	Rhyne, Thomas	Infringement	10/29/2008
CX-1734	C	Toshiba NAND Datasheet TC58DVG02A1FT00	TAEC0000110-0000153	Rhyne, Thomas	Infringement	10/29/2008
CX-1735	C	Toshiba NAND Datasheet TC58DVG04B1FT00	TAEC0000154-0000198	Rhyne, Thomas	Infringement	10/29/2008
CX-1736	C	Toshiba NAND Datasheet TC58NVG0S3AFT05	CHI 00031611-00031642	Rhyne, Thomas	Infringement	10/29/2008
CX-1737	C	Toshiba NAND Datasheet TC58NVG3D1DTG50	TAEC0000270-0000329	Rhyne, Thomas	Infringement	10/29/2008
CX-1738	C	Toshiba NAND Datasheet TH58NVG2D4BTG00	TAEC0000232-0000269	Rhyne, Thomas	Infringement	10/29/2008
CX-1739	C	Toshiba NAND Datasheet TH58NVG3D4BTG00	TAEC0000370-0000429	Rhyne, Thomas	Infringement	10/29/2008
CX-1740	C	Toshiba NAND Datasheet TH58NVG3D4CTG00	TAEC0000330-0000369	Rhyne, Thomas	Infringement	10/29/2008
CX-1741	C	Toshiba NAND Datasheet TH58NVG4D4CTG00	TAEC0000430-0000469	Rhyne, Thomas	Infringement	10/29/2008
CX-1742	C	Toshiba NAND Datasheet TH58NVG4D4CTG20	TAEC0000470-0000534	Rhyne, Thomas	Infringement	10/29/2008

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CX-1743	C	Toshiba NAND Datasheet TH58NVG5D4CTG20	TAEC0000535-0000601	Rhyne, Thomas	Infringement	10/29/2008
CX-1744	C	Toshiba NAND Datasheet TC58NVG3D4CTG00	USB_00031462-00031526	Rhyne, Thomas	Infringement	10/29/2008
CX-1745	C	Toshiba NAND Datasheet TC58NVG2D4BTG00	PEC00953171-00953230	Rhyne, Thomas	Infringement	10/29/2008
CX-1746	C	Toshiba NAND Datasheet TC58NVG1D4BTG00	PEC00953415-00953467	Rhyne, Thomas	Infringement	10/29/2008
CX-1747	C	Toshiba NAND Datasheet TH58NVG4D4CTG00/TH58NVG4D9CTG00	PEC00502039-00502105	Rhyne, Thomas	Infringement	10/29/2008
CX-1748	C	Toshiba NAND Datasheet TC58NVG1D4BFT00	SKY_00049638-00049690	Rhyne, Thomas	Infringement	10/29/2008
CX-1749		Micron NAND Datasheet MT29H8G08ACA1, MT29H16G08ECAH1, MT29H32G08GCAH2	SD-I-2269935-2269942	Rhyne, Thomas	Infringement	10/29/2008
CX-1750	C	Charts showing components used in Kingston's accused products		Chen, Ben	Infringement	10/29/2008
CX-1751		Micron NAND Datasheet MT29F2G08AACWP, MT29F4G08BACWP, MT29F8G08FACWP	SD-I-2270024-2270081	Rhyne, Thomas	Infringement	10/29/2008
CX-1752		Withdrawn				
CX-1753		Withdrawn				
CX-1754		Withdrawn				
CX-1755		Withdrawn				
CX-1756		Withdrawn				
CX-1757		Withdrawn				

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CX-1758		Withdrawn				
CX-1759		Withdrawn				
CX-1760		Withdrawn				
CX-1761	C	B. Chen Depo Exhibit 32 Bill of Materials	KTC-N-00005	Chen, Ben	Infringement	11/5/2008
CX-1762	C	B. Chen Depo Exhibit 33 Bill of Materials	KTC-N-00005	Chen, Ben	Infringement	11/5/2008
CX-1763	C	B. Chen Depo Exhibit 34 Bill of Materials	KTC-N-00005	Chen, Ben	Infringement	11/5/2008
CX-1764	C	B. Chen Depo Exhibit 35 Bill of Materials	KTC-N-00005	Chen, Ben	Infringement	11/5/2008
CX-1765	C	B. Chen Depo Exhibit 36 Bill of Materials	KTC-N-00005	Chen, Ben	Infringement	11/5/2008
CX-1766	C	B. Chen Depo Exhibit 37 Bill of Materials	KTC-N-00005	Chen, Ben	Infringement	11/5/2008
CX-1767		Withdrawn				
CX-1768	C	LG logo MS Lee depo ex. 18		Lee, Myeong Seop	Remedy/ Bonding	11/5/2008
CX-1769	C	6/4/08 letter to McCrum from Diagrando designating Apacer 30(b)(6) witnesses Chang depo ex. 4		Chang, Chia Kun	All	11/5/2008
CX-1770	C	Bill of Materials for Apacer product Chang depo ex. 19	AP-ITC 0273919-0273920	Chang, Chia Kun	Infringement; Importation	11/5/2008
CX-1771	C	Skymedi, Flash Data Management, Ver. 0.9	SKY 00008154-00008223	Chang, CY / Rhyne, Thomas	Infringement	10/29/2008
CX-1772		Withdrawn				

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CX-1773		Withdrawn				
CX-1774		Withdrawn				
CX-1775	C	Imation - USB Flash Devices page from Imation web site [Northfield Dep. Ex. 5]		Northfield, Thomas A	Infringement/ Importation	11/5/2008
CX-1776	C	Memorex Flash Drives: Traveldrives & Thumbdrives Products from Memorex web site [Northfield Dep. Ex. 6]		Northfield, Thomas A	Infringement/ Importation	11/5/2008
CX-1777	C	Table: UFD SKU Analysis - US B2C [Northfield Dep. Ex. 8]	IMA-000129	Northfield, Thomas A	Infringement	11/5/2008
CX-1778		Withdrawn				
CX-1779	C	Bill of Material for TS1GCF80 with 29-7342 for 1GB Compact Flash Card (3.3V, 1Gx8) HY27UG088G5M) [Chu Dep. Ex. 9]	TSC-ITC 0008578-0008579	Chu, Ray	Infringement	11/5/2008
CX-1780	C	Bill of Material for TS1GBF80 with 29-7342 for 1GB Compact Flash Card (3.3V, 1Gx8) K9K8G08U0A, K9K8G08U0M) [Chu Dep. Ex. 10]	TSC-ITC 0008580-0008581	Chu, Ray	Infringement	11/5/2008
CX-1781	C	Bill of Material for TS8GCF133 with 29-7520 for 8GB Compact Flash Card (3.3V, 8Gx8) [Chu Dep. Ex. 11]	TSC-ITC 0028216-0028217	Chu, Ray	Infringement	11/5/2008
CX-1782	C	Bill of Material for TS1GJF110 with 29-6500 for 1GB JetFlash (3.3V, 512Mx8) [Chu Dep. Ex. 14]	TSC-ITC 0003598-0003597	Chu, Ray	Infringement	11/5/2008
CX-1783	C	Bill of Material for TS16GSSD34E-M with 29-7510 for 16GB SSD34E (3.3V, 4Gx8, SEC) [Chu Dep. Ex. 18]	TSC-ITC 0348338-0348340	Chu, Ray	Infringement	11/5/2008
CX-1784	C	Bill of Material for TS8GDOM40V-S with 29-7840 for 8GB 40Pins IDE Flash Module (3.3v, 8Gx8) [Chu Dep. Ex. 19]	TSC-ITC 0348108-0348107	Chu, Ray	Infringement	11/5/2008
CX-1785	C	Presentation: Analyst Day, SanDisk Financial Information and projections	SD-I-3265951-3266126	Waltze, Todd	Remedy; Confidential	11/3/2008
CX-1786		Withdrawn				
CX-1787		Withdrawn				

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CX-1788		Withdrawn				
CX-1789	C	US Market Shares, Digital Audio Players, Analysis and Presentation, May 2008	SDI-I-3266314-3266328	Waltze, Todd	Remedy; Confidential	11/3/2008
CX-1790		Withdrawn				
CX-1791		Withdrawn				
CX-1792		Withdrawn				
CX-1793		Withdrawn				
CX-1794		Withdrawn				
CX-1795		Withdrawn				
CX-1796		Withdrawn				
CX-1797		Withdrawn				
CX-1798		Withdrawn				
CX-1799		Withdrawn				
CX-1800		Withdrawn				
CX-1801		Withdrawn				
CX-1802		Withdrawn				

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CX-1803		Withdrawn				
CX-1804		Withdrawn				
CX-1805		Withdrawn				
CX-1806	C	Taiwan Patent 221217		Rhyns, Thomas	Domestic Industry	10/29/2008
CX-1807		Withdrawn				
CX-1808	C	Phison CB14 with additional handwriting [Yang Dep. Ex. 207]		Yang, JY	Infringement	10/29/2008
CX-1809		Withdrawn				
CX-1810	C	PQIN000001.XLS [Kao Dep. Ex. 11]		Kao, Pluto	Infringement/ Importation	11/5/2008
CX-1811		Withdrawn				
CX-1812		Withdrawn				
CX-1813		Withdrawn				
CX-1814	C	SK6826 SD2.0/MMC4.2 Memory Card Controller data sheet [Cheng Dep. Ex. 150]	SKY 20002827-20002851	Cheng, Vincent	Infringement/ Importation	10/29/2008
CX-1815	C	Phison Deposition Exhibit 210		Rhyns, Thomas	Infringement/ Importation	10/29/2008
CX-1816		Withdrawn				
CX-1817		Withdrawn				

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CX-1818		Withdrawn				
CX-1819		Withdrawn				
CX-1820		Withdrawn				
CX-1821		Withdrawn				
CX-1822		Withdrawn				
CX-1823		Withdrawn				
CX-1824		Withdrawn				
CX-1825		Withdrawn				
CX-1826		Withdrawn				
CX-1827	C	SK6628 SD2.0/MMC4.2 Memory Card Controller data sheet (Cheng Dep. Ex. 152)	SKY 20002875-20002899	Cheng, Vincent	Infringement/ Importation	10/29/2008
CX-1828	C	1808F Design Specification (Cheng Dep. Ex. 154)	SKY 20002609-20002803	Cheng, Vincent	Infringement/ Importation	10/29/2008
CX-1829	C	Stipulation between SanDisk and Imation re: encryption			Infringement	10/29/2008
CX-1830		Withdrawn				
CX-1831	C	Screen captures from Imation Pocket with ImationLock		Min, Paul	Infringement	10/29/2008
CX-1832	C	Screen captures from Imation Swivel and Drive Manager		Min, Paul	Infringement	10/29/2008

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CX-1833	C	Screen captures from Imation Pivot and Encryption Manager	Min, Paul	Infringement	10/29/2008
CX-1834	C	Screen captures from Imation Traveldrive and Portable Vault	Min, Paul	Infringement	10/29/2008
CX-1835	C	Imation Encryption Manager Quick Start Guide	Min, Paul	Infringement	10/29/2008
CX-1836	C	Screen captures from Imation Mini Traveldrive and U3	Min, Paul	Infringement	10/29/2008
CX-1837	C	Screen captures from Memorex Rotodrive and SecureTD	Min, Paul	Infringement	10/29/2008
CX-1838		Withdrawn			
CX-1839		Withdrawn			
CX-1840		Withdrawn			
CX-1841	C	Screen captures from SanDisk Cruzer Micro	Min, Paul	Infringement	10/29/2008
CX-1842		Withdrawn			
CX-1843	C	LGE's 9/24/08 Fifth Supplemental Responses and Objections to SanDisk's Second Set of Interrogatories	Min, Paul/ Rhyna, Thomas	Infringement/ Importation	11/21/2008
CX-1844		Withdrawn			
CX-1845		Withdrawn			
CX-1846		Withdrawn			
CX-1847		Withdrawn			

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CX-1848		Withdrawn				
CX-1849		Withdrawn				
CX-1850		Withdrawn				
CX-1851		Withdrawn				
CX-1852		Withdrawn				
CX-1853		Withdrawn				
CX-1854		Withdrawn				
CX-1855		Withdrawn				
CX-1856		Withdrawn				
CX-1857		Withdrawn				
CX-1858	C	Transcend's amended/supplemental responses to SanDisk interrogatories 1-4, 7, 14, 115-116 and 118 dated October 9, 2008			Importation/Infringement/remedy	11/21/2008
CX-1859	C	Apacer's amended/supplemental responses to SanDisk interrogatories 1-4, 7, 14, 121-122 and 124 dated October 9, 2008			Importation/Infringement/remedy	11/21/2008
CX-1860		Withdrawn				

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CPX-001	Withdrawn				
CPX-002	Withdrawn				
CPX-003	Withdrawn				
CPX-004	Withdrawn				
CPX-005	Withdrawn				
CPX-006	Withdrawn				
CPX-007	Withdrawn				
CPX-008	Withdrawn				
CPX-009	Withdrawn				
CPX-010	Withdrawn				
CPX-011	Withdrawn				
CPX-012	Withdrawn				
CPX-013	Withdrawn				
CPX-014	Withdrawn				
CPX-015	Withdrawn				
CPX-016	Withdrawn				

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CPX-017	Withdrawn				
CPX-018	Withdrawn				
CPX-019	Withdrawn				
CPX-020	Withdrawn				
CPX-021	Withdrawn				
CPX-022	Withdrawn				
CPX-023	Withdrawn				
CPX-024	Withdrawn				
CPX-025	Withdrawn				
CPX-026	Withdrawn				
CPX-027	Withdrawn				
CPX-028	Withdrawn				
CPX-029	Withdrawn				
CPX-030	Withdrawn				
CPX-031	Withdrawn				
CPX-032	Withdrawn				

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CPX-033	Withdrawn				
CPX-034	Withdrawn				
CPX-035	Withdrawn				
CPX-036	Withdrawn				
CPX-037	Atom Flash Drive 2GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-038	Withdrawn				
CPX-039	Withdrawn				
CPX-040	Clip Flash Drive USB 2 8GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-041	Withdrawn				
CPX-042	Withdrawn				
CPX-043	Withdrawn				
CPX-044	Memorex Mini Travel Drive USB 2.0 (32509353) 612 MB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-045	Withdrawn				
CPX-046	Withdrawn				
CPX-047	Memorex Travel Drive CL 8GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-048	Withdrawn				

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CPX-049	Nano Flash Drive 8GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-050	Withdrawn				
CPX-051	Withdrawn				10/29/2008
CPX-052	Withdrawn				
CPX-053	Withdrawn				
CPX-054	Pocket Flash Drive 8GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-055	Withdrawn				
CPX-056	Swivel Flash Drive 8GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-057	Swivel Pro Flash 8GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-058	Withdrawn				
CPX-059	Memorex RotoDrive 3PK, 1GB		Min, Paul/ Rhyne, Thomas	Infringement / Importation	10/29/2008
CPX-060	Withdrawn				
CPX-061	Withdrawn				
CPX-062	Withdrawn				
CPX-063	Withdrawn				
CPX-064	Withdrawn				

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CPX-065	Withdrawn				
CPX-066	Withdrawn				
CPX-067	Withdrawn				
CPX-068	Withdrawn				
CPX-069	Withdrawn				
CPX-070	Withdrawn				
CPX-071	Withdrawn				
CPX-072	Withdrawn				
CPX-073	Withdrawn				
CPX-074	Withdrawn				
CPX-075	Withdrawn				
CPX-076	Withdrawn				
CPX-077	Withdrawn				
CPX-078	Withdrawn				
CPX-079	Withdrawn				
CPX-080	Withdrawn				

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CPX-081	Withdrawn				
CPX-082	Withdrawn				
CPX-083	Withdrawn				
CPX-084	Withdrawn				
CPX-085	Withdrawn				
CPX-086	Withdrawn				
CPX-087	Withdrawn				
CPX-088	Withdrawn				
CPX-089	Withdrawn				
CPX-090	Withdrawn				
CPX-091	Withdrawn				
CPX-092	Withdrawn				
CPX-093	Withdrawn				
CPX-094	Withdrawn				
CPX-095	Withdrawn				
CPX-096	Withdrawn				

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CPX					
CPX-097	Withdrawn				
CPX-098	Withdrawn				
CPX-099	Withdrawn				
CPX-100	Withdrawn				
CPX-101	Withdrawn				
CPX-102	Withdrawn				
CPX-103	Withdrawn				
CPX-104	Withdrawn				
CPX-105	Withdrawn				
CPX-106	Withdrawn				
CPX-107	Withdrawn				
CPX-108	Withdrawn				
CPX-109	Withdrawn				
CPX-110	Withdrawn				
CPX-111	Withdrawn				
CPX-112	Withdrawn				

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CPX-113	Withdrawn				
CPX-114	Withdrawn				
CPX-115	Withdrawn				
CPX-116	Withdrawn				
CPX-117	Withdrawn				
CPX-118	Withdrawn				
CPX-119	Withdrawn				
CPX-120	Withdrawn				
CPX-121	Withdrawn				
CPX-122	Withdrawn				
CPX-123	Withdrawn				
CPX-124	Withdrawn				
CPX-125	Withdrawn				
CPX-126	Withdrawn				
CPX-127	Withdrawn				
CPX-128	Withdrawn				

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CPX	CPX	CPX	CPX	CPX	CPX
CPX-129	Withdrawn				
CPX-130	Withdrawn				
CPX-131	Withdrawn				
CPX-132	Withdrawn				
CPX-133	Withdrawn				
CPX-134	Withdrawn				
CPX-135	Withdrawn				
CPX-136	Withdrawn				
CPX-137	Withdrawn				
CPX-138	Withdrawn				
CPX-139	Withdrawn				
CPX-140	Withdrawn				
CPX-141	Withdrawn				
CPX-142	Withdrawn				
CPX-143	Withdrawn				
CPX-144	Withdrawn				

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CPX-List					
CPX-145	Withdrawn				
CPX-146	Withdrawn				
CPX-147	Withdrawn				
CPX-148	Withdrawn				
CPX-149	Withdrawn				
CPX-150	Withdrawn				
CPX-151	SanDisk Cruzer Micro		Min, Paul	Domestic Industry	10/29/2008
CPX-152	Withdrawn				

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CDX-01	424 Patent: Sequential Block	Rhyne, Thomas	Infringement	10/29/2008
CDX-02	424 Patent: Random Block	Rhyne, Thomas	Infringement	10/29/2008
CDX-03	424 Patent: Metablock with Eight Pages per Block	Rhyne, Thomas	Infringement	10/29/2008
CDX-04	424 Patent: Phison Type-1 Updating	Rhyne, Thomas	Infringement	10/29/2008
CDX-05	424 Patent: Phison Type-1 Updating	Rhyne, Thomas	Infringement	10/29/2008
CDX-06	424 Patent: Phison Type-1 Updating	Rhyne, Thomas	Infringement	10/29/2008
CDX-07	424 Patent: Phison Type-1 Updating	Rhyne, Thomas	Infringement	10/29/2008
CDX-08	424 Patent: Phison Type-1 Updating	Rhyne, Thomas	Infringement	10/29/2008
CDX-09	424 Patent: One Page Regardless of Plane	Rhyne, Thomas	Infringement	10/29/2008
CDX-10	424 Patent: One More Page Regardless of Plane	Rhyne, Thomas	Infringement	10/29/2008
CDX-11	424 Patent: One More Page Regardless of Plane	Rhyne, Thomas	Infringement	10/29/2008
CDX-12	424 Patent: One More Page Regardless of Plane	Rhyne, Thomas	Infringement	10/29/2008
CDX-13	424 Patent: Two More Pages Regardless of Planes	Rhyne, Thomas	Infringement	10/29/2008
CDX-14	424 Patent: Five More Pages Regardless of Planes 424 Patent: Sixteen Total Pages Regardless of Planes	Rhyne, Thomas	Infringement	10/29/2008
CDX-15	424 Patent: Sixteen Total Pages Regardless of Planes	Rhyne, Thomas	Infringement	10/29/2008
CDX-16	Withdrawn			10/29/2008

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CDX-17	Withdrawn			10/29/2008
CDX-18	Withdrawn			10/29/2008
CDX-19	Withdrawn			10/29/2008
CDX-20	Withdrawn			10/29/2008
CDX-21	Withdrawn			10/29/2008
CDX-22	Withdrawn			10/29/2008
CDX-23	Withdrawn			
CDX-24	Withdrawn			
CDX-25	Withdrawn			
CDX-26	Withdrawn			
CDX-27	Withdrawn			
CDX-28	Withdrawn			
CDX-29	Withdrawn			
CDX-30	Withdrawn			
CDX-31	Encryption method block diagram	Min, Paul	Infringement	10/29/2008
CDX-32	Encryption method block diagram	Min, Paul	Infringement	10/29/2008

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CDX-33	Encryption method block diagram	Min, Paul	Infringement	10/29/2008
CDX-34	Photo of SanDisk Cruzer Micro	Min, Paul	Domestic Industry	10/29/2008

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CRX-0001		Withdrawn				
CRX-0002		Withdrawn				
CRX-0003		Withdrawn				
CRX-0004		Withdrawn				
CRX-0005		Withdrawn				
CRX-0006		Withdrawn				
CRX-0007	C	SanDisk Analyst Day presentation, dated February 25, 2008	SD-I-3265951-3266126	Hausman, Jerry	Affirmative Defenses	11/4/2008
CRX-0008		Withdrawn				
CRX-0009		Withdrawn				
CRX-0010	C	Gartner -- Dataquest Insight: Consumer Removable Solid-State Storage Competitive Landscape, 2007	SD-I-3270846-3270868	Hausman, Jerry	Affirmative Defenses	11/4/2008
CRX-0011		Withdrawn				
CRX-0012		Withdrawn				
CRX-0013		Withdrawn				
CRX-0014		Department of Justice and Federal Trade Commission, Antitrust Guidelines for the Licensing of Intellectual Property, April 6, 1995		Hausman, Jerry	Affirmative Defenses	11/4/2008
CRX-0015		Withdrawn				

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CRX-0016		Withdrawn				
CRX-0017	C	Amended Complaint, Amended Exhibit 99		Hausman, Jerry	Affirmative Defenses	10/31/2008
CRX-0018	C	Amended Complaint, Amended Exhibit 101		Hausman, Jerry	Affirmative Defenses	10/31/2008
CRX-0019		Withdrawn				
CRX-0020	C	Presentation: Demand Creation Through Innovation, SanDisk Analyst Day, February 26, 2007 [Harari Dep. Ex. 16]	SD-I-1265724-1265900	Harari, Eli	Affirmative Defenses	11/21/2008
CRX-0021		Withdrawn				
CRX-0022	C	Presentation: Card License Program, October 24, 2007 [Mehrotra Dep. Ex. 104]	KTC 00562924-00562931	Merhrotra, Sanhay	Affirmative Defenses	11/5/2008
CRX-0023		Withdrawn				
CRX-0024		Withdrawn				
CRX-0025		Withdrawn				
CRX-0026		Withdrawn				
CRX-0027		Withdrawn				
CRX-0028		Withdrawn				
CRX-0029	C	NASDAQ 20th Investor Program, Dec. 4, 2007 [Mehrotra Dep. Ex. 107]	SD-I-1265924-1265943	Hausman, Jerry	Affirmative Defenses	11/21/2008
CRX-0030		Withdrawn				

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CRX-0031	Withdrawn				
CRX-0032	Withdrawn				
CRX-0033	Withdrawn				
CRX-0034	Withdrawn				
CRX-0035	Withdrawn				
CRX-0036	Withdrawn				
CRX-0037	Withdrawn				
CRX-0038	Withdrawn				
CRX-0039	Withdrawn				
CRX-0040	Withdrawn				
CRX-0041	Withdrawn				
CRX-0042	Withdrawn				
CRX-0043	Withdrawn				
CRX-0044	Patent Family Report for U.S. Patent No. 6,763,424		Thompson, Earle	Affirmative Defenses	10/31/2008
CRX-0045	Withdrawn				

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CRX-0046	Withdrawn				
CRX-0047	Withdrawn				
CRX-0048	C English translation of the Taiwanese counterpart to the '424 patent		Hausman, Jerry	Affirmative Defenses	10/31/2008
CRX-0049	Withdrawn				
CRX-0050	Withdrawn				
CRX-0051	Withdrawn				
CRX-0052	Withdrawn				
CRX-0053	C US Flash Card and UFD Market Shares – 15 Month Period Ending with May 2007	SD-I-0081413-0081452	Hausman, Jerry/Harari, Eli	Affirmative Defenses	11/3/2008
CRX-0054	Withdrawn				
CRX-0055	Withdrawn				
CRX-0056	SanDisk's Ultra II CompactFlash Cards Win Prestigious Digital Imaging Award for Speed and Performance	SD-I-0098040-0098041	Conley, Kevin	Validity	10/31/2008
CRX-0057	SanDisk Cruzer Titanium Wins Two Editors' Choice Awards	SD-I-0098042-0098043	Min, Paul/ Rhyne, Thomas/Harari, Eli	Validity	11/3/2008
CRX-0058	Withdrawn				
CRX-0059	Withdrawn				
CRX-0060	Accolades – Awards for 2003	SD-I-0098072	Min, Paul/ Rhyne, Thomas/Harari, Eli	Validity	11/3/2008

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CRX-0061	Withdrawn				
CRX-0062	Withdrawn				
CRX-0063	Withdrawn				
CRX-0064	Withdrawn				
CRX-0065	Withdrawn				
CRX-0066	Withdrawn				
CRX-0067	Withdrawn				
CRX-0068	Withdrawn				
CRX-0069	Withdrawn				
CRX-0070	Withdrawn				
CRX-0071	Withdrawn				
CRX-0072	Withdrawn				
CRX-0073	Withdrawn				
CRX-0074	Withdrawn				
CRX-0075	Withdrawn				

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CRX-0076		Withdrawn				
CRX-0077		Withdrawn				
CRX-0078		Withdrawn				
CRX-0079		Withdrawn				
CRX-0080		Withdrawn				
CRX-0081		Withdrawn				
CRX-0082		Withdrawn				
CRX-0083		Withdrawn				
CRX-0084		Withdrawn				
CRX-0085		Withdrawn				
CRX-0086	C	Sales and Revenue figures [Ex. I to Min Rebuttal Report]	SD-I-0916126-0916184	Min, Paul/ Rhyne, Thomas	Validity	11/21/2008
CRX-0087		Withdrawn				
CRX-0088		Withdrawn				
CRX-0089		Withdrawn				
CRX-0090		Withdrawn				

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CRX-0091		Withdrawn				
CRX-0092	C	SanDisk Cruzer Titanium USB Flash Drive marketing brochure [Ex. E to Min Rebuttal Report]	SD-I-1348436-1348440	Min, Paul/ Rhyne, Thomas	Validity	11/21/2008
CRX-0093		Withdrawn				
CRX-0094	C	Unlimited Storage that Fits in Your Pocket [Ex. F to Min Rebuttal Report]	SD-I-1355468-1355469	Min, Paul/ Rhyne, Thomas	Validity	11/21/2008
CRX-0095		Withdrawn				
CRX-0096		Withdrawn				
CRX-0097		Withdrawn				
CRX-0098		Withdrawn				
CRX-0099		Withdrawn				
CRX-0100		Withdrawn				
CRX-0101		Withdrawn				
CRX-0102		Withdrawn				
CRX-0103		Withdrawn				
CRX-0104		Withdrawn				
CX-0105	C	Hynix Flash Memory HY27UK08BGM Series Data Sheet [Fan Dep. Ex. 29]	SD-I-0917136-0917181	Fan, Kan	Infringement, Importation	10/29/2008

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CRX-0106		Withdrawn				
CRX-0107		Withdrawn				
CRX-0108		Withdrawn				
CRX-0109		Withdrawn				
CRX-0110		Withdrawn				
CRX-0111		Withdrawn				
CRX-0112		Withdrawn				
CRX-0113		Withdrawn				
CRX-0114		Withdrawn				
CRX-0115		Press Release: SanDisk Takes Security to a New level with Powerful Encryption Software for Its Cruzer USB Flash Drives, dated September 27, 2004 [Ex. C to Min	SD-I-2036418-2036419	Min, Paul/ Rhyne, Thomas/Harari, Eli	Validity	11/3/2008
CRX-0116		Withdrawn				
CRX-0117		Withdrawn				
CRX-0118	C	E-mail from Ken Castle re Press Release dated September 19, 2005 re SanDisk to Ship Units of Its First "U3 Smart" Flash Drive That Creates a Portable Secure	SD-I-2347462-2347464	Min, Paul/ Rhyne, Thomas	Validity	11/21/2008
CRX-0119		Withdrawn				
CRX-0120		Withdrawn				

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CRX-0121	Withdrawn				
CRX-0122	Withdrawn				
CRX-0123	Withdrawn				
CRX-0124	Withdrawn				
CRX-0125	Withdrawn				
CRX-0126	Withdrawn				
CRX-0127	Withdrawn				
CRX-0128	Withdrawn				
CRX-0129	Withdrawn				
CRX-0130	Withdrawn				
CRX-0131	Withdrawn				
CRX-0132	Withdrawn				
CRX-0133	Withdrawn				
CRX-0134	Blaine Flamig, "SanDisk 2GB Cruzer Titanium USB Flash Drive - A U3-Compliant Key Drive with Big Storage & Performance," PC Today, Vol. 5, Issue 4 (April 2007)		Min, Paul	Validity	11/21/2008
CRX-0135	Justin Jaffe, CNET Editor's Review - SanDisk Cruzer Titanium (512MB, Silver), Reviewed June 24, 2004, Released May 3, 2004 [Exh. H to Min Rebuttal Report]		Min, Paul	Validity	11/21/2008

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CRX-0136		Withdrawn				
CRX-0137		Withdrawn				
CRX-0138		Press Release: SanDisk Wins EISA Award - Named European Memory Card of the Year 2004-2005, dated August 24, 2004	SD-I-0098101	Conley, Kevin	Validity	10/31/2008
CRX-0139		Withdrawn				
CRX-0140		Withdrawn				
CRX-0141		Withdrawn				
CRX-0142		Withdrawn				
CRX-0143		Withdrawn				
CRX-0144	C	SanDisk/Hynix Patent Cross License Agreement dated March 20, 2007 [Chernicoff Dep. Ex. 13]	SD-I-2180056-2180076	Hausman, Jerry / Partlow, Gene	Affirmative Defenses	10/31/2008
CRX-0145		Withdrawn				
CRX-0146	C	SanDisk/Intel Patent Cross License Agreement dated October 12, 1995	SD-I-0300353-0300370	Hausman, Jerry / Partlow, Gene	Affirmative Defenses	10/31/2008
CRX-0147		Withdrawn				
CRX-0148		Withdrawn				
CRX-0149		Withdrawn				
CRX-0150		Withdrawn				

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CRX-0151	C	SanDisk/PNY Limited Patent Cross License Agreement dated January 2, 2008 [Chernicoff Dep. Ex. 15]	SD-I-0909137-0909158	Hausman, Jerry / Partlow, Gene	Affirmative Defenses	10/31/2008
CRX-0152		Withdrawn				
CRX-0153		Withdrawn				
CRX-0154	C	SanDisk/Ritek Limited Patent Cross License Agreement dated June 30, 2007	SD-I-0300372-0300392	Hausman, Jerry / Partlow, Gene	Affirmative Defenses	10/31/2008
CRX-0155	C	SanDisk/Samsung First Amendment to Second Settlement and Patent Cross License Agreement dated December 12, 2002	SD-I-0300394-0300399	Hausman, Jerry / Partlow, Gene	Affirmative Defenses	10/31/2008
CRX-0156	C	SanDisk/Samsung Second Settlement and Patent Cross License Agreement dated August 14, 2002	SD-I-0300402-0300446	Hausman, Jerry / Partlow, Gene	Affirmative Defenses	10/31/2008
CRX-0157		Withdrawn				
CRX-0158		Withdrawn				
CRX-0159		Withdrawn				
CRX-0160		Withdrawn				
CRX-0161		Withdrawn				
CRX-0162		Tech News, "Sandisk Wins EISA Award-Named 'European Memory Card Of The Year 2004-2005'," dated August 17, 2004	SD-I-0098065	Conley, Kevin	Validity	10/31/2008
CRX-0163		Withdrawn				
CRX-0164		Withdrawn				
CRX-0165		Withdrawn				

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CRX-0166		Withdrawn				
CRX-0167		Withdrawn				
CRX-0168		Withdrawn				
CRX-0169		Withdrawn				
CRX-0170		Withdrawn				
CRX-0171		Withdrawn				
CRX-0172		Withdrawn				
CRX-0173		Withdrawn				
CRX-0174		Withdrawn				
CRX-0175	C	SanDisk/Toshiba Patent Cross License Agreement dated July 30, 1997	SD-I-0300486-0300513	Hausman, Jerry / Partlow, Gene	Affirmative Defenses	10/31/2008
CRX-0176		Withdrawn				
CRX-0177		Withdrawn				
CRX-0178		Withdrawn				
CRX-0179		Withdrawn				
CRX-0180		Withdrawn				

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CRX-0181		U.S. Patent No. 4,115,914	SD-I-2035537-2035548	Rhyne, Thomas/Harari, Eliyhon	Affirmative Defenses	11/3/2008
CRX-0182	C	SunDisk Notebook #2	SD-I-0068541-0068694	Rhyne, Thomas/Harari, Eliyhon	Affirmative Defenses	11/3/2008
CRX-0183		Withdrawn				
CRX-0184		Withdrawn				
CRX-0185	C	Rebuttal Witness Statement of Dr. Eli Harari dated November 6, 2006	N/A	Rhyne, Thomas/Harari, Eliyhon	Affirmative Defenses	11/3/2008
CRX-0186		Withdrawn				
CRX-0187		Email re SanDisk press release regarding SanDisk Sues to Enforce Memory System Patents dated October 24, 2007	SD-I-3282850-3282853	Rhyne, Thomas/Harari, Eliyhon	Affirmative Defenses	11/3/2008
CRX-0188		SanDisk 10K for the fiscal year ended December 30, 2007	SD-I-2266309-2266467	Rhyne, Thomas/Harari, Eliyhon	Affirmative Defenses	10/31/2008
CRX-0189		Withdrawn				
CRX-0190	C	Kingston Technology Company, Inc. Company Profile, April 2, 2008 [Sun Dep. Ex. 4]		Sun, David	Affirmative Defenses	11/5/2008
CRX-0191	C	SanDisk/CompactFlash Association License and Sublicense Agreement	SD-I-2261728-2261737	Partlow, Gene	Affirmative Defenses	11/5/2008
CRX-0192	C	Article: Sun vs. Sun, Seth Lubove, March 20, 2000, [Sun Dep. Ex. 30]		Sun, David	Affirmative Defenses	11/5/2008
CRX-0193	C	Article: Kingston Technology licenses Sun Microsystems memory patents; Licensing agreement for products manufactured by Kingston for use in high-performance		Sun, David	Affirmative Defenses	11/5/2008
CRX-0194	C	Article: Kingston Manufactures Silicon Graphics Patented Origin-Onyx2 Server Memory, December 30, 1997 [Sun Dep. Ex. 34]		Sun, David	Affirmative Defenses	11/5/2008
CRX-0195	C	Article: Kingston announces business unit sale to Delta Products, September 26, 1997 [Sun Dep. Ex. 35]		Sun, David	Affirmative Defenses	11/5/2008

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CRX-0196	C	Screenshots from SanDisk website re: About SanDisk Corporation [Sun Dep. Ex. 37]		Sun, David	Affirmative Defenses	11/5/2008
CRX-0197	C	E-Mail from David Sun to Donald Sun re: Flash Update, September 7, 2007 [Sun Dep. Ex. 46]	KTC00460947-00460948	Sun, David	Affirmative Defenses	11/5/2008
CRX-0198	C	Memo from David Sun to Richard Chernicoff re: card license agreement, October 26, 2007 [Sun Dep. Ex. 58]	KTC00225086, KTC00562924-00562931	Sun, David	Affirmative Defenses	11/5/2008
CRX-0199		Withdrawn				
CRX-0200		Withdrawn				
CRX-0201		Withdrawn				
CRX-0202		Withdrawn				
CRX-0203		Taiwanese Patent 249,713		Parsons, Gerald	Affirmative Defenses	11/5/2008
CRX-0204	C	Taiwan counterpart to '424 (not translated) [Parsons Dep. Ex. 17]		Parsons, Gerald	Affirmative Defenses	10/31/2008
CRX-0205	C	Jerry Hausman Curriculum Vitae [Hausman Report Ex. 1]		Hausman, Jerry	Affirmative Defenses	11/4/2008
CRX-0206		Withdrawn				
CRX-0207	C	Kingston Product Roadmap	KTC 00292923-00292945	Hausman, Jerry	Affirmative Defenses	11/21/2008
CRX-0208		Withdrawn				
CRX-0209		Withdrawn				
CRX-0210		Withdrawn				

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CRX-0211		European Patent 13352394		Thompson, Earle	Affirmative Defenses	10/31/2008
CRX-0212		Withdrawn				
CRX-0213		Withdrawn				
CRX-0214		Withdrawn				
CRX-0215		Withdrawn				
CRX-0216		Withdrawn				
CRX-0217		Withdrawn				
CRX-0218		Withdrawn				
CRX-0219	C	Rebuttal Witness Statement of Kevin Conley		Conley, Kevin	Validity	10/31/2008
CRX-0220	C	Rebuttal Witness Statement of Dr. Eliyhou Harari		Harari, Eli	Validity/Affirmative Defenses	11/3/2008
CRX-0221	C	Rebuttal Witness Statement of Jerry Hausman		Hausman, Jerry	Affirmative Defenses	11/4/2008
CRX-0222		Withdrawn				
CRX-0223	C	Rebuttal Witness Statement of Dr. Paul S. Min regarding validity of U.S. Patent 7,137,011		Min, Paul	Validity	11/4/2008
CRX-0224		Withdrawn				
CRX-0225	C	Rebuttal Witness Statement of Dr. V. Thomas Rhyne		Rhyne, Thomas	Validity	10/27/2008

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CRX-0226	C	Rebuttal Witness Statement of Earle E. Thompson		Thompson, Earle	Affirmative Defenses	10/31/2008
CRX-0227	C	Letter from Thomas Ventrone to Michael Gruenglas et al. dated May 16, 2008 re SanDisk/Samsung matter	SD-I-3284962-3284963	Partlow, Gene/Thompson, Earle	Affirmative Defenses	11/4/2008
CRX-0228	C	Final Award in SanDisk/Samsung matter dated December 31, 2003	SD-I-3284964-3285005	Partlow, Gene/Thompson, Earle	Affirmative Defenses	11/4/2008
CRX-0229		Withdrawn				
CRX-0230		European Patent 1031992		Thompson, Earle	Affirmative Defenses	10/31/2008

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-1		WITHDRAWN			
RX-2		WITHDRAWN			
RX-3		WITHDRAWN			
RX-4		WITHDRAWN			
RX-5		WITHDRAWN			
RX-6		WITHDRAWN			
RX-7		WITHDRAWN			
RX-8		WITHDRAWN			
RX-9		WITHDRAWN			
RX-10		WITHDRAWN			
RX-11		WITHDRAWN			
RX-12		WITHDRAWN			
RX-13		WITHDRAWN			
RX-14		WITHDRAWN			
RX-15		WITHDRAWN			
RX-16		WITHDRAWN			
RX-17		WITHDRAWN			
RX-18		WITHDRAWN			
RX-19		WITHDRAWN			
RX-20		WITHDRAWN			
RX-21		WITHDRAWN			
RX-22		WITHDRAWN			
RX-23		WITHDRAWN			
RX-24		WITHDRAWN			
RX-25		WITHDRAWN			
RX-26		WITHDRAWN			
RX-27		WITHDRAWN			
RX-28		WITHDRAWN			
RX-29		WITHDRAWN			
RX-30		WITHDRAWN			
RX-31		WITHDRAWN			
RX-32		WITHDRAWN			
RX-33		WITHDRAWN			
RX-34		WITHDRAWN			
RX-35		WITHDRAWN			
RX-36		WITHDRAWN			
RX-37		WITHDRAWN			
RX-38		WITHDRAWN			
RX-39		WITHDRAWN			

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-40		WITHDRAWN			
RX-41		WITHDRAWN			
RX-42		WITHDRAWN			
RX-43		WITHDRAWN			
RX-44		WITHDRAWN			
RX-45		WITHDRAWN			
RX-46		WITHDRAWN			
RX-47		WITHDRAWN			
RX-48		WITHDRAWN			
RX-49		WITHDRAWN			
RX-50		WITHDRAWN			
RX-51		WITHDRAWN			
RX-52		WITHDRAWN			
RX-53		WITHDRAWN			
RX-54		WITHDRAWN			
RX-55		WITHDRAWN			
RX-56		WITHDRAWN			
RX-57		WITHDRAWN			
RX-58		WITHDRAWN			
RX-59		WITHDRAWN			
RX-60		WITHDRAWN			
RX-61		WITHDRAWN			
RX-62		WITHDRAWN			
RX-63		WITHDRAWN			
RX-64		WITHDRAWN			
RX-65		WITHDRAWN			
RX-66		WITHDRAWN			
RX-67		WITHDRAWN			
RX-68		WITHDRAWN			
RX-69		WITHDRAWN			
RX-70		WITHDRAWN			
RX-71		WITHDRAWN			
RX-72		WITHDRAWN			
RX-73		WITHDRAWN			
RX-74		WITHDRAWN			
RX-75		WITHDRAWN			
RX-76		WITHDRAWN			
RX-77		WITHDRAWN			
RX-78		WITHDRAWN			

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-79		WITHDRAWN			
RX-80		WITHDRAWN			
RX-81		WITHDRAWN			
RX-82		WITHDRAWN			
RX-83		WITHDRAWN			
RX-84		WITHDRAWN			
RX-85		WITHDRAWN			
RX-86		WITHDRAWN			
RX-87		WITHDRAWN			
RX-88		WITHDRAWN			
RX-89		WITHDRAWN			
RX-90		WITHDRAWN			
RX-91		WITHDRAWN			
RX-92		WITHDRAWN			
RX-93		WITHDRAWN			
RX-94		WITHDRAWN			
RX-95		WITHDRAWN			
RX-96		WITHDRAWN			
RX-97		WITHDRAWN			
RX-98		WITHDRAWN			
RX-99		WITHDRAWN			
RX-100		WITHDRAWN			
RX-101		WITHDRAWN			
RX-102		WITHDRAWN			
RX-103		WITHDRAWN			
RX-104		WITHDRAWN			
RX-105		WITHDRAWN			
RX-106		WITHDRAWN			
RX-107		WITHDRAWN			
RX-108		WITHDRAWN			
RX-109		WITHDRAWN			
RX-110		WITHDRAWN			
RX-111		WITHDRAWN			
RX-112		WITHDRAWN			
RX-113		WITHDRAWN			
RX-114		WITHDRAWN			
RX-115		WITHDRAWN			
RX-116		WITHDRAWN			

Exhibit No	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-117		Ray Mercer Curriculum Vitae (Exh. 1 to Mercer Expert Report on Invalidity and Unenforceability)			11/3/2008
RX-118		WITHDRAWN			
RX-119		Dennis G. Abraham et al., Transaction Security System (from IBM), IBM Systems Journal, June 1991 ("Abraham") (Exh. 3 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-120		Izawa et al., Digital Still Video Camera Using Semiconductor Memory Card, IEEE Transactions On Consumer Electronics, vol. 36, no. 1, February 1990 (Exh. 5 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-121		P. Harrop, The Electronic Purse, IEE Review June 1992 ("Harrop") (Exh. 6 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-122		Hiro Shogase, The Very Smart Card: A Plastic Pocket Bank, IEEE Spectrum (October 1988) ("Shogase") (Exh. 7 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-123		Patrice Peyret et al., Smart Cards Provide Very High Security And Flexibility In Subscribers Management, IEEE Transactions on Consumer Electronics, Vol. 36, No. 3, August 1990 ("Peyret") (Exh. 8 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-124		J.D. Tygar et al., Dyad: A System For Using Physically Secure Coprocessors, IP Workshop Proceedings, Carnegie Mellon University School of Computer Science Technical Report CMU-CS-91-140R (May 4, 1991) ("Tygar") (Exh. 9 to Mercer Expert Report on Invalidity	Invalidity and Unenforceability	Ray Mercer	11/3/2008

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-125		Mario J. Maniscalco, Data Encryption, Radio-Electronics, Apr. 1988, 93-97 ("Maniscalco") (Exh. 10 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-126		V.M. Cordonnier, Smart Cards: Present And Future Applications And Techniques, Electronics and Communication Engineering Journal (October 1991) ("Cordonnier") (Exh. 11 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-127		S.W. Smith and S. Weingart, Building A High-Performance, Programmable Secure Coprocessor, Computer Networks 31:831-860 (1999) ("Smith") (Exhibit 12) (Exh. 12 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-128		Telequip Corporation Introduces The Crypta Plus Card, PR Newswire (January 9, 1995) ("1995 Crypta Plus Press Release") (Exh. 12 to Mercer Expert Report on Invalidity and Unenforceability) (Exh. 13 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-129		Crypta Plus W/ RSA, Business Wire (January 31, 1994) at http://cypherpunks.venona.com/date/1994/02/msg00375.html ("1994 Crypta Plus Press Release") (Exh. 14 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-130		U.S. Patent No. 5,623,637 (Exh. 15 to Mercer Expert Report on Invalidity and Unenforceability)	Invalidity and Unenforceability	Ray Mercer	11/3/2008
RX-131		WITHDRAWN			
RX-132		WITHDRAWN			
RX-133		WITHDRAWN			
RX-134		WITHDRAWN			

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-135		WITHDRAWN			
RX-136		WITHDRAWN			
RX-137		WITHDRAWN			
RX-138		WITHDRAWN			
RX-139		WITHDRAWN			
RX-140		WITHDRAWN			
RX-141		WITHDRAWN			
RX-142		WITHDRAWN			
RX-143		WITHDRAWN			
RX-144		WITHDRAWN			
RX-145		WITHDRAWN			
RX-146		WITHDRAWN			
RX-147		WITHDRAWN			
RX-148		WITHDRAWN			
RX-149		WITHDRAWN			
RX-150		WITHDRAWN			
RX-151		WITHDRAWN			
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RX-154		WITHDRAWN			
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RX-159		WITHDRAWN			
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RX-167		WITHDRAWN			
RX-168		WITHDRAWN			
RX-169		WITHDRAWN			
RX-170		WITHDRAWN			
RX-171		WITHDRAWN			
RX-172		WITHDRAWN			
RX-173		WITHDRAWN			

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-174		WITHDRAWN			
RX-175		WITHDRAWN			
RX-176		WITHDRAWN			
RX-177		WITHDRAWN			
RX-178		WITHDRAWN			
RX-179		WITHDRAWN			
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RX-182		WITHDRAWN			
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RX-209		WITHDRAWN			
RX-210		WITHDRAWN			
RX-211		WITHDRAWN			
RX-212		WITHDRAWN			

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-213		WITHDRAWN			
RX-214		WITHDRAWN			
RX-215		WITHDRAWN			
RX-216		WITHDRAWN			
RX-217		WITHDRAWN			
RX-218		WITHDRAWN			
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RX-242		WITHDRAWN			
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RX-244		WITHDRAWN			
RX-245		WITHDRAWN			
RX-246		WITHDRAWN			
RX-247		WITHDRAWN			
RX-248		WITHDRAWN			
RX-249		WITHDRAWN			
RX-250		WITHDRAWN			
RX-251		WITHDRAWN			

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-252		WITHDRAWN			
RX-253		WITHDRAWN			
RX-254		WITHDRAWN			
RX-255		WITHDRAWN			
RX-256		WITHDRAWN			
RX-257		WITHDRAWN			
RX-258		WITHDRAWN			
RX-259		WITHDRAWN			
RX-260		WITHDRAWN			
RX-261		WITHDRAWN			
RX-262		WITHDRAWN			
RX-263		WITHDRAWN			
RX-264		WITHDRAWN			
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RX-266		WITHDRAWN			
RX-267		WITHDRAWN			
RX-268		WITHDRAWN			
RX-269		WITHDRAWN			
RX-270		WITHDRAWN			
RX-271		WITHDRAWN			
RX-272		WITHDRAWN			
RX-273		WITHDRAWN			
RX-274		WITHDRAWN			
RX-275		WITHDRAWN			
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RX-278		WITHDRAWN			
RX-279		WITHDRAWN			
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RX-282		WITHDRAWN			
RX-283		WITHDRAWN			
RX-284		WITHDRAWN			
RX-285		WITHDRAWN			
RX-286		WITHDRAWN			
RX-287		WITHDRAWN			
RX-288		WITHDRAWN			
RX-289		WITHDRAWN			
RX-290		WITHDRAWN			

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Exhibit No.	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-291		WITHDRAWN			
RX-292		WITHDRAWN			
RX-293		WITHDRAWN			
RX-294		WITHDRAWN			
RX-295		WITHDRAWN			
RX-296		WITHDRAWN			
RX-297		WITHDRAWN			
RX-298		WITHDRAWN			
RX-299		WITHDRAWN			
RX-300		WITHDRAWN			
RX-301		WITHDRAWN			
RX-302		WITHDRAWN			
RX-303		WITHDRAWN			
RX-304		WITHDRAWN			
RX-305		WITHDRAWN			
RX-306		WITHDRAWN			
RX-307		WITHDRAWN			
RX-308		WITHDRAWN			
RX-309		WITHDRAWN			
RX-310		WITHDRAWN			
RX-311		WITHDRAWN			
RX-312		WITHDRAWN			
RX-313		WITHDRAWN			
RX-314		WITHDRAWN			
RX-315		WITHDRAWN			
RX-316		WITHDRAWN			
RX-317		WITHDRAWN			
RX-318	C	Direct Witness Statement of Ray Mercer	Invalidity	Ray Mercer	11/3/2008
RX-319		WITHDRAWN			
RX-320		WITHDRAWN			
RX-321		WITHDRAWN			
RX-322		WITHDRAWN			
RX-323		WITHDRAWN			
RX-324		WITHDRAWN			
RX-325		WITHDRAWN			
RX-326		WITHDRAWN			
RX-327		WITHDRAWN			
RX-328		WITHDRAWN			
RX-329		WITHDRAWN			

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Exhibit No	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-330		WITHDRAWN			
RX-331		WITHDRAWN			
RX-332		WITHDRAWN			
RX-333		WITHDRAWN			
RX-334		WITHDRAWN			
RX-335		WITHDRAWN			
RX-336		WITHDRAWN			
RX-337		WITHDRAWN			
RX-338		WITHDRAWN			
RX-339		WITHDRAWN			
RX-340		WITHDRAWN			
RX-341		WITHDRAWN			
RX-342		WITHDRAWN			
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RX-345		WITHDRAWN			
RX-346		WITHDRAWN			
RX-347		WITHDRAWN			
RX-348		WITHDRAWN			
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RX-350		WITHDRAWN			
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RX-358		WITHDRAWN			
RX-359		WITHDRAWN			
RX-360		WITHDRAWN			
RX-361		WITHDRAWN			
RX-362		WITHDRAWN			
RX-363		WITHDRAWN			
RX-364		WITHDRAWN			
RX-365		WITHDRAWN			
RX-366		WITHDRAWN			
RX-367		WITHDRAWN			
RX-368		WITHDRAWN			

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Exhibit No	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-369		WITHDRAWN			
RX-370		WITHDRAWN			
RX-371		WITHDRAWN			
RX-372		WITHDRAWN			
RX-373		WITHDRAWN			
RX-374		WITHDRAWN			
RX-375		WITHDRAWN			
RX-376		WITHDRAWN			
RX-377		WITHDRAWN			
RX-378		WITHDRAWN			
RX-379		WITHDRAWN			
RX-380		WITHDRAWN			
RX-381		WITHDRAWN			
RX-382		WITHDRAWN			
RX-383		WITHDRAWN			
RX-384		WITHDRAWN			
RX-385		WITHDRAWN			
RX-386		WITHDRAWN			
RX-387		WITHDRAWN			
RX-388		WITHDRAWN			
RX-389		WITHDRAWN			
RX-390		WITHDRAWN			
RX-391		WITHDRAWN			
RX-392		WITHDRAWN			
RX-393		WITHDRAWN			
RX-394		WITHDRAWN			
RX-395		WITHDRAWN			
RX-396		WITHDRAWN			
RX-397		WITHDRAWN			
RX-398		WITHDRAWN			
RX-399		WITHDRAWN			
RX-400		WITHDRAWN			
RX-401		WITHDRAWN			
RX-402		WITHDRAWN			
RX-403		WITHDRAWN			
RX-404		WITHDRAWN			
RX-405		WITHDRAWN			
RX-406		WITHDRAWN			
RX-407		WITHDRAWN			

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-408		WITHDRAWN			
RX-409		WITHDRAWN			
RX-410		WITHDRAWN			
RX-411		WITHDRAWN			
RX-412		WITHDRAWN			
RX-413		WITHDRAWN			
RX-414		WITHDRAWN			
RX-415		WITHDRAWN			
RX-416		WITHDRAWN			
RX-417		WITHDRAWN			
RX-418		WITHDRAWN			
RX-419		WITHDRAWN			
RX-420		WITHDRAWN			
RX-421		WITHDRAWN			
RX-422		WITHDRAWN			
RX-423		WITHDRAWN			
RX-424		WITHDRAWN			
RX-425		WITHDRAWN			
RX-426		WITHDRAWN			
RX-427		WITHDRAWN			
RX-428		WITHDRAWN			
RX-429		WITHDRAWN			
RX-430		WITHDRAWN			
RX-431		WITHDRAWN			
RX-432		WITHDRAWN			
RX-433		WITHDRAWN			
RX-434		WITHDRAWN			
RX-435		WITHDRAWN			
RX-436		WITHDRAWN			
RX-437		WITHDRAWN			
RX-438	C	10/12/1995 - Cross-License Agreement Between SanDisk and Intel Corporation [Exh. 70 to Auclair Depo.; Exh. 11 to Chernicoff Depo.] [SD-I-0300352 - SD-I-0300370]	Express or implied license; Patent misuse	Daniel Auclair; Richard Chernicoff; Earle Thompson	11/5/2008
RX-439		WITHDRAWN			
RX-440		WITHDRAWN			
RX-441		WITHDRAWN			
RX-442		WITHDRAWN			

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-443		WITHDRAWN			
RX-444		WITHDRAWN			
RX-445		WITHDRAWN			
RX-446		WITHDRAWN			
RX-447	C	7/1/1998 - Patent Cross License Agreement Between SanDisk and Silicon Storage Technology [Exh. 79 to Auclair Depo., Exh. 152 to Thompson Depo.] [SD-I-2100053 - SD-I-2100074]	Express or implied license; Patent misuse	Daniel Auclair; Earle Thompson	10/31/2008
RX-448	C	7/18/2000 - Patent Cross License Agreement Between SanDisk and TDK Corp [Exh. 82 to Auclair Depo.; Exh. 153 to Thompson Depo.] [SD-I-2100075 - SD-I-2100090]	Express or implied license; Patent misuse	Daniel Auclair; Earle Thompson	10/31/2008; 11/05/2008
RX-449		WITHDRAWN			
RX-450		WITHDRAWN			
RX-451		WITHDRAWN			
RX-452		WITHDRAWN			
RX-453		WITHDRAWN			
RX-454		WITHDRAWN			
RX-455		1/3/2008 - E-mail from Mr. Ladra to Most of the Other Respondents in the Case, Attaching a Limited Patent Cross-License Agreement [Exh. 14 to Chernicoff Depo]	Express or implied license; Patent misuse	Richard Chernicoff	10/29/2008; 10/31/2008; 11/05/2008
RX-456		WITHDRAWN			
RX-457	C	7/30/1997 - Patent Cross License Agreement Between SanDisk Corp and Toshiba Corp [Exh. 8 to Chernicoff Depo.; Exh. 113 to Mehrotra Depo.; Exh. 133 to Thompson Depo.] [SD-I-0300485 - SD-I-0300513]	Affirmative Defenses	Richard Chernicoff; Sanjay Mehrotra; Earle Thompson	10/31/2008
RX-458		WITHDRAWN			
RX-459		5/23/2008 - Letter from Mr. Yoon, Counsel for SanDisk, to all Counsel [Exh. 5 to Chernicoff Depo.; Exh. 3 to Parsons Depo.]	Express or implied license; Patent misuse	Richard Chernicoff; Gerald Parsons	11/5/2008

RESPONDENTS' EXHIBIT LIST

ITC INV. NO. 337-TA-619

Exhibit No	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-460		4/30/2008 - Respondents Kingston, MemoSun, Payton, and Phison's Notice of Deposition of Complainant SanDisk Corporation [Exh. 2 to Chernicoff Depo.; Exh. 2 to Mangan Depo.; Exh. 91 to Mehrotra Depo.; Exh. 121 to Thompson Depo.; Exh. 1 to Tomlin Depo.; Exh. 1 to Parsons Depo.; Exh. 3 to Conley Depo.]	Witness Background/Identification as corporate representative	Richard Chernicoff; Gerald Parsons; John Mangan; Sanjay Mehrotra; Earle Thompson; Andy Tomlin; Kevin Conley	11/5/2008
RX-461		5/2/2008 - Kingston, Phison's Second Notice of Deposition of Complainant SanDisk Corporation [Exh. 3 to Chernicoff Depo.; Exh. 2 to Parsons Depo.; Exh. 92 to Mehrotra Depo.; Exh. 122 to Thompson Depo.; Exh. 2 to Tomlin Depo.; Exh. 4 to Conley Depo.; Exh. 2 to Harari Depo.]	Witness Background/Identification as corporate representative	Richard Chernicoff; Gerald Parsons; John Mangan; Sanjay Mehrotra; Earle Thompson; Andy Tomlin; Kevin Conley; Elyhou Harari	11/5/2008
RX-462	C	12/12/2002 - Agreement Between SanDisk and Samsung [Exh. 10 to Chernicoff Depo., Exh. 143 to Thompson Depo.] [SD-I-0300394 - SD-I-0300400]	Affirmative Defenses	Richard Chernicoff; Earle Thompson	11/5/2008
RX-463	C	8/14/2002 - Cross-License Agreement Between SanDisk and Samsung Corporation [Exh. 9 to Chernicoff Depo.] [SD-I-0300401 - SD-I-0300446]	Affirmative Defenses	Richard Chernicoff; Earle Thompson	11/5/2008
RX-464	C	1/2/2008 - Limited Patent Cross License Agreement Between SanDisk and PNY Technologies, Inc. [Exh. 157 to Thompson Depo.; Exh. 15 to Chernicoff Depo.; Exh. 21 to Harari Depo.] [SD-I-0909137 - SD-I-0909158]	Affirmative Defenses	Richard Chernicoff; Earle Thompson; Elyhou Harari	10/31/2008; 11/05/2008
RX-465	C	1/11/2008 - Patent Cross-License Agreement Entered Into With Supertron Memory [Exh. 16 to Chernicoff Depo.; Exh. 164 to Thompson Depo.] [SD-I-1786720 - SD-I-1786741]	Affirmative Defenses	Richard Chernicoff; Earle Thompson	10/31/2008

Exhibit Nn	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-466	C	5/5/2007 - Patent Cross License Agreement Between Renesas Technology and SanDisk [Exh. 151 to Thompson Depo.; Exh. 12 to Chernicoff Depo.] [SD-I-2100152 - SD-I-2100164]	Express or implied license; Patent misuse	Richard Chernicoff; Earle Thompson	10/31/2008
RX-467	C	2/2/2000 - E-mail string, top e-mail to 9 various individuals from Ed Cuellar [Exh. 1 to Conley Depo.] [SD-I-1850372 - SD-I-1850374]	Non-infringement	Kevin Conley	11/5/2008
RX-468		WITHDRAWN			
RX-469		WITHDRAWN			
RX-470	C	11/17/1997 - Document entitled "SunDisk SDP-32 MBit 'Mizer' Logical Format Rev 7.3" [Exh. 9 to Conley Depo.] [SD-I-2105944 - SD-I-2105975]	Non-infringement; Lack of domestic industry	Kevin Conley	11/5/2008
RX-471		WITHDRAWN			
RX-472		WITHDRAWN			
RX-473		WITHDRAWN			
RX-474		WITHDRAWN			
RX-475	C	7/30/1998 - E-mail to various individuals from Yoram Cedar [Exh. 18 to Conley Depo.] [SD-I-1859110 - SD-I-1859113]	Non-infringement; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893	Kevin Conley	11/5/2008
RX-476		WITHDRAWN			
RX-477		WITHDRAWN			
RX-478		WITHDRAWN			
RX-479	C	5/20/1996 - SanDisk Proprietary Memorandum to Carlos G., John M., Steve G., 12 Kevin C., Jeff C. and Sanjay M. from Dan G. [Exh. 25 to Conley Depo.] [SD-I-1736871 - SD-I-1736880]	Non-infringement; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893	Kevin Conley	11/5/2008
RX-480		WITHDRAWN			
RX-481	C	4/1/2003 - E-mail from Alan Sinclair to Kevin Conley [Exh. 29 to Conley Depo.] [SD-I-1902403]	Non-infringement; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893	Kevin Conley	11/5/2008

RESPONDENTS' EXHIBIT LIST

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Exhibit No	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-482	C	2002-2003 - "Adaptive Metablocks" - [Exh. 30 to Conley Depo.] [SD-I-1902420 - SD-I-1902445]	Non-infringement; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893	Kevin Conley	11/5/2008
RX-483		WITHDRAWN			
RX-484		WITHDRAWN			
RX-485		WITHDRAWN			
RX-486		WITHDRAWN			
RX-487		WITHDRAWN			
RX-488		WITHDRAWN			
RX-489		WITHDRAWN			
RX-490		WITHDRAWN			
RX-491		WITHDRAWN			
RX-492		12/24/2007 - Card License Program - SanDisk [Exh. 20 to Harari Depo.]	Express or implied license; Patent misuse	Harari, Eliyhou	10/29/2008; 11/05/2008
RX-493	C	12/8/2006 - E-mail string from Eli Harari [Exh. 22 to Harari Depo.] [SD-I-3224980 - SD-I-3224981]	Equitable defenses; Express or implied license; Patent misuse	Eliyhou Harari	11/5/2008
RX-494	C	7/19/2007 - FD Wire Q2 2007 SanDisk Corp. Earnings Conference Call [Exh. 23 to Harari Depo.] [SD-I-3269823 - SD-I-3269842]	Equitable defenses; Express or implied license; Patent misuse	Eliyhou Harari	11/5/2008
RX-495	C	11/6/2007 - SanDisk vs STM - Answer to Second Amended Complaint and Counterclaims [Exh. 24 to Harari Depo.] [SD-I-3134969 - SD-I-3135009]	Equitable defenses; Express or implied license; Patent misuse; Non-infringement; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893	Eliyhou Harari	11/5/2008
RX-496	C	2/22/2007 - E-mail string from Eli Harari [Exh. 25 to Harari Depo.] [SD-I-3269929]	Equitable defenses; Express or implied license; Patent misuse	Eliyhou Harari	11/5/2008

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-497	C	8/16/2007 - E-mail string from Eli Harari [Exh. 28 to Harari Depo.] [SD-I-3213226]	Equitable defenses; Express or implied license; Patent misuse	Elihou Harari	11/5/2008
RX-498	C	10/29/2006 - E-mail string from Dov Moran [Exh. 29 to Harari Depo.] [SD-I-3147765 - SD-I-3147766]	Equitable defenses; Express or implied license; Patent misuse	Elihou Harari	11/5/2008
RX-499		WITHDRAWN			
RX-500		WITHDRAWN			
RX-501		WITHDRAWN			
RX-502		WITHDRAWN			
RX-503		WITHDRAWN			
RX-504		WITHDRAWN			
RX-505		WITHDRAWN			
RX-506		WITHDRAWN			
RX-507		WITHDRAWN			
RX-508		WITHDRAWN			
RX-509		WITHDRAWN			
RX-510		WITHDRAWN			
RX-511		WITHDRAWN			
RX-512		WITHDRAWN			
RX-513		WITHDRAWN			
RX-514		WITHDRAWN			
RX-515		WITHDRAWN			
RX-516		WITHDRAWN			
RX-517		WITHDRAWN			
RX-518		WITHDRAWN			
RX-519		WITHDRAWN			
RX-520		WITHDRAWN			
RX-521		WITHDRAWN			
RX-522		WITHDRAWN			
RX-523		WITHDRAWN			
RX-524		WITHDRAWN			
RX-525		WITHDRAWN			
RX-526	C	5/27/2008 - Letter to Hatsumi/Toshiba From Thompson/SanDisk [Exh. 105 (corrected exhibit) to Mehrotra Depo.] [KTC00570665]	Affirmative Defenses	Sanjay Mehrotra; E. Earle Thompson	10/31/2008

RESPONDENTS' EXHIBIT LIST

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Exhibit No.	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-527		WITHDRAWN			
RX-528		WITHDRAWN			
RX-529		WITHDRAWN			
RX-530		WITHDRAWN			
RX-531		WITHDRAWN			
RX-532		WITHDRAWN			
RX-533		WITHDRAWN			
RX-534		WITHDRAWN			
RX-535		WITHDRAWN			
RX-536		WITHDRAWN			
RX-537		WITHDRAWN			
RX-538		WITHDRAWN			
RX-539		WITHDRAWN			
RX-540		WITHDRAWN			
RX-541		WITHDRAWN			
RX-542		WITHDRAWN			
RX-543	C	Limited Patent Cross License Agreement [Exh. 95 to Mehrotra Depo.] [SD-I-1258229 - SD-I-1258248]	Affirmative Defenses	Sanjay Mehrotra; Gene Partlow	10/31/2008; 1/05/2008
RX-544		WITHDRAWN			
RX-545		WITHDRAWN			
RX-546		WITHDRAWN			
RX-547		WITHDRAWN			
RX-548	C	11/29/2006 - Email - Subject: "Confidential" [Exh. 109 to Mehrotra Depo.] [SD-I-3134179]	Express or implied license; Patent misuse; Domestic industry	Sanjay Mehrotra	11/5/2008
RX-549	C	11/14/2000 - Agreement Between SanDisk Corp and Lexar Media, Inc. [Exh. 114 to Mehrotra Depo.; Exh. 145 to Thompson Depo.] [SD-I-2100091 - SD-I-2100096]	Express or implied license; Patent misuse; Domestic Industry	Sanjay Mehrotra; Earle Thompson	10/31/2008
RX-550		WITHDRAWN			
RX-551		WITHDRAWN			
RX-552		WITHDRAWN			
RX-553		WITHDRAWN			
RX-554		WITHDRAWN			
RX-555		WITHDRAWN			
RX-556		WITHDRAWN			
RX-557		WITHDRAWN			

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Exhibit No	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-558		WITHDRAWN			
RX-559		WITHDRAWN			
RX-560		WITHDRAWN			
RX-561		WITHDRAWN			
RX-562		WITHDRAWN			
RX-563		WITHDRAWN			
RX-564		WITHDRAWN			
RX-565		WITHDRAWN			
RX-566		WITHDRAWN			
RX-567		WITHDRAWN			
RX-568		WITHDRAWN			
RX-569		WITHDRAWN			
RX-570		WITHDRAWN			
RX-571		WITHDRAWN			
RX-572		WITHDRAWN			
RX-573		WITHDRAWN			
RX-574		WITHDRAWN			
RX-575		WITHDRAWN			
RX-576		WITHDRAWN			
RX-577		WITHDRAWN			
RX-578		WITHDRAWN			
RX-579		WITHDRAWN			
RX-580		WITHDRAWN			
RX-581		WITHDRAWN			
RX-582		WITHDRAWN			
RX-583		WITHDRAWN			
RX-584		WITHDRAWN			
RX-585		10/13/1998 - U.S. Patent 5,822,781 [PEC00012238 - PEC00012279]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-586		WITHDRAWN			
RX-587		WITHDRAWN			
RX-588		WITHDRAWN			
RX-589		WITHDRAWN			
RX-590		WITHDRAWN			
RX-591		WITHDRAWN			
RX-592		WITHDRAWN			
RX-593		WITHDRAWN			
RX-594		WITHDRAWN			
RX-595		WITHDRAWN			

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ITC INV. NO. 337-TA-619

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-596		WITHDRAWN			
RX-597		WITHDRAWN			
RX-598		WITHDRAWN			
RX-599		WITHDRAWN			
RX-600		WITHDRAWN			
RX-601		WITHDRAWN			
RX-602		WITHDRAWN			
RX-603		WITHDRAWN			
RX-604		WITHDRAWN			
RX-605		WITHDRAWN			
RX-606		WITHDRAWN			
RX-607		WITHDRAWN			
RX-608		WITHDRAWN			
RX-609		WITHDRAWN			
RX-610		WITHDRAWN			
RX-611		WITHDRAWN			
RX-612		WITHDRAWN			
RX-613		11/16/1999 - U.S. Patent 5,987,563 [PEC00016051 - PEC00016060]	Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893	Richard Pashley; Niles Kynett	11/3/2008
RX-614		WITHDRAWN			
RX-615		WITHDRAWN			
RX-616		WITHDRAWN			
RX-617		WITHDRAWN			
RX-618		WITHDRAWN			
RX-619		WITHDRAWN			
RX-620		WITHDRAWN			
RX-621		WITHDRAWN			
RX-622		4/17/2001 - U.S. Patent 6,219,752 [PEC00023199 - PEC00023222]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-623		WITHDRAWN			
RX-624		WITHDRAWN			
RX-625		2/17/1998 - U.S. Patent 5,719,808 [PEC00025159 - PEC00025174]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-626		WITHDRAWN			
RX-627		WITHDRAWN			
RX-628		4/20/2004 - U.S. Patent 6,725,321 [PEC00025875 - PEC00025914]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008

RESPONDENTS' EXHIBIT LIST

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Exhibit No.	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-629		WITHDRAWN			
RX-630		WITHDRAWN			
RX-631		WITHDRAWN			
RX-632		WITHDRAWN			
RX-633		WITHDRAWN			
RX-634		WITHDRAWN			
RX-635		WITHDRAWN			
RX-636		WITHDRAWN			
RX-637		WITHDRAWN			
RX-638		WITHDRAWN			
RX-639		WITHDRAWN			
RX-640		WITHDRAWN			
RX-641		WITHDRAWN			
RX-642		WITHDRAWN			
RX-643		WITHDRAWN			
RX-644		WITHDRAWN			
RX-645		WITHDRAWN			
RX-646		WITHDRAWN			
RX-647		WITHDRAWN			
RX-648		WITHDRAWN			
RX-649		WITHDRAWN			
RX-650		WITHDRAWN			
RX-651		WITHDRAWN			
RX-652		WITHDRAWN			
RX-653		WITHDRAWN			
RX-654		WITHDRAWN			
RX-655		WITHDRAWN			
RX-656		WITHDRAWN			
RX-657		WITHDRAWN			
RX-658		WITHDRAWN			
RX-659		5/6/1997 - U.S. Patent 5,627,783 [PEC01091058 - PEC01091081]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-660		WITHDRAWN			
RX-661		WITHDRAWN			
RX-662		10/28/1997 - U.S. Patent 5,682,499 [PEC01091181 - PEC01091196]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-663		WITHDRAWN			
RX-664		WITHDRAWN			
RX-665		WITHDRAWN			

RESPONDENTS' EXHIBIT LIST

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Exhibit No.	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-666		WITHDRAWN			
RX-667		WITHDRAWN			
RX-668		WITHDRAWN			
RX-669		WITHDRAWN			
RX-670		WITHDRAWN			
RX-671		WITHDRAWN			
RX-672		WITHDRAWN			
RX-673		WITHDRAWN			
RX-674		WITHDRAWN			
RX-675		WITHDRAWN			
RX-676		WITHDRAWN			
RX-677		WITHDRAWN			
RX-678		WITHDRAWN			
RX-679		WITHDRAWN			
RX-680		WITHDRAWN			
RX-681		WITHDRAWN			
RX-682		WITHDRAWN			
RX-683		9/11/2001 - U.S. Patent 6,288,862 [PEC01091675 - PEC01091686]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-684		WITHDRAWN			
RX-685		WITHDRAWN			
RX-686		WITHDRAWN			
RX-687		WITHDRAWN			
RX-688		WITHDRAWN			
RX-689		WITHDRAWN			
RX-690		WITHDRAWN			
RX-691		WITHDRAWN			
RX-692		WITHDRAWN			
RX-693		WITHDRAWN			
RX-694		WITHDRAWN			
RX-695		WITHDRAWN			
RX-696		WITHDRAWN			
RX-697		WITHDRAWN			
RX-698		WITHDRAWN			
RX-699		WITHDRAWN			
RX-701		6/24/2003 - U.S. Patent 6,584,579 [PEC01092165 - PEC01092232]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-702		WITHDRAWN			

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Exhibit No	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-703		WITHDRAWN			
RX-704		WITHDRAWN			
RX-705		WITHDRAWN			
RX-706		WITHDRAWN			
RX-707		WITHDRAWN			
RX-708		WITHDRAWN			
RX-709		WITHDRAWN			
RX-710		WITHDRAWN			
RX-711		WITHDRAWN			
RX-712		WITHDRAWN			
RX-713		WITHDRAWN			
RX-714		WITHDRAWN			
RX-715		WITHDRAWN			
RX-716		WITHDRAWN			
RX-717		WITHDRAWN			
RX-718		WITHDRAWN			
RX-719		WITHDRAWN			
RX-720		WITHDRAWN			
RX-721		WITHDRAWN			
RX-722		WITHDRAWN			
RX-723		WITHDRAWN			
RX-724		WITHDRAWN			
RX-725		WITHDRAWN			
RX-726	C	SanDisk Card License Program - 10/24/2007	Express or implied license; Patent misuse	Earle Thompson	11/5/2008
RX-727		WITHDRAWN			
RX-728	C	1/4/2008 - Agreement Between SanDisk and Kaser Corp [Exh. 163 to Thompson Depo.] [SD-I-0909116 - SD-I-0909136]	Express or implied license; Patent misuse	Earle Thompson	10/31/2008
RX-729		WITHDRAWN			
RX-730		WITHDRAWN			
RX-731		WITHDRAWN			
RX-732		WITHDRAWN			
RX-733		WITHDRAWN			
RX-734		WITHDRAWN			
RX-735		WITHDRAWN			
RX-736		WITHDRAWN			

RESPONDENTS' EXHIBIT LIST

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Exhibit No	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-737	C	1/8/2008 - Limited Patent Cross License Agreement Between SanDisk and TSR Silicon Resources, Inc. [Exh. 158 to Thompson Depo.] [SD-I-1786678 - SD-I-1786698]	Affirmative Defenses	Earle Thompson	10/31/2008
RX-738	C	1/9/2008 - Limited Patent Cross License Agreement Between SanDisk and Add-On Computer Peripherals, LLC [Exh. 162 to Thompson Depo.] [SD-I-1786699 - SD-I-1786719]	Affirmative Defenses	Earle Thompson	10/31/2008
RX-739		WITHDRAWN			
RX-740		WITHDRAWN			
RX-741		WITHDRAWN			
RX-742		WITHDRAWN			
RX-743		WITHDRAWN			
RX-744	C	1/17/2008 - Limited Patent Cross License Agreement Between SanDisk and Interactive Media Corporation [Exh. 160 to Thompson Depo.] [SD-I-2100165 - SD-I-2100185]	Affirmative Defenses	Earle Thompson	10/31/2008
RX-745	C	1/17/2008 - Limited Patent Cross License Agreement Between SanDisk and EDGE Tech Corporation [Exh. 159 to Thompson Depo.] [SD-I-2100186 - SD-I-2100207]	Affirmative Defenses	Earle Thompson	10/31/2008
RX-746	C	1/16/2008 - Limited Patent Cross License Agreement Between SanDisk and Welldone Company [Exh. 161 to Thompson Depo.] [SD-I-2100208 - SD-I-2100228]	Affirmative Defenses	Earle Thompson	10/31/2008
RX-747		WITHDRAWN			
RX-748		WITHDRAWN			
RX-749		WITHDRAWN			
RX-750	C	9/10/2004 - "Operating Agreement of Flash Partners, Ltd. Between Toshiba and SanDisk" [Exh. 140 to Thompson Depo.] [SD-I-2272121 - SD-I-2272171]	Express or Implied License; Patent misuse	Earle Thompson	10/31/2008

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-751	C	9/10/2004 - "Amendment No. 3 to Patent Cross License Agreement" [Exh. 138 to Thompson Depo.] [SD-I-2272300 - SD-I-2272302]	Express or Implied License; Patent misuse	Earle Thompson	10/31/2008
RX-752	C	5/9/2000 - "Amendment to Patent Cross License Agreement" Between SanDisk and Toshiba [Exh. 134 to Thompson Depo.] [SD-I-2272579 - SD-I-2272585]	Express or Implied License; Patent misuse	Earle Thompson	10/31/2008
RX-753	C	4/10/2002 - "New Master Agreement By and Between Toshiba and SanDisk" [Exh. 135 to Thompson Depo.] [SD-I-2272684 - SD-I-2272756]	Express or Implied License; Patent misuse	Earle Thompson	10/31/2008
RX-754	C	4/10/2002 - "New Operating Agreement Between Toshiba and SanDisk" [Exh. 137 to Thompson Depo.] [SD-I-2272757 - SD-I-2272795]	Express or Implied License; Patent misuse	Earle Thompson	10/31/2008
RX-755	C	4/10/2002 - "Amendment No. 2 to Patent Cross License Agreement [Exh. 136 to Thompson Depo.] [SD-I-2272908 - SD-I-2272911]	Express or Implied License; Patent misuse	Earle Thompson	10/31/2008; 11/05/2008
RX-756		WITHDRAWN			
RX-757		WITHDRAWN			
RX-758	C	8/23/2005 - Slide presentation titled Standard & Poor's [Exh. 193 to Thompson Depo.] [SD-I-3249844 - SD-I-3249924]	Express or Implied License; Patent misuse	Earle Thompson	11/5/2008
RX-759		WITHDRAWN			
RX-760		WITHDRAWN			
RX-761		WITHDRAWN			
RX-762		WITHDRAWN			
RX-763		WITHDRAWN			
RX-764		WITHDRAWN			
RX-765		WITHDRAWN			
RX-766	C	11/14/2006 - Correspondence from Jay Shim (VP - Samsung) to Charles Van Orden (SanDisk) re negotiations [Exh. 216 to Thompson Depo.] [SD-I-3148130 - SD-I-3148131]	Express or Implied license; patent misuse	Earle Thompson	11/4/2008; 11/05/2008

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ITC INV. NO. 337-TA-619

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-767	C	11/29/2006 - Email String beginning with - Subject: "Confidential" [Exh. 217 to Thompson Depo.] [SD-I-3134179 - SD-I-3134219]	Express or Implied license; patent misuse	Earle Thompson	11/5/2008
RX-768	C	1/11/2007 - Correspondence from Jay Shim (VP - Samsung) to Earle Thompson [Exh. 218 to Thompson Depo.] [SD-I-3153816]	Express or Implied license; patent misuse	Earle Thompson	11/5/2008
RX-769	C	2/15/2007 - Correspondence from Jay Shim (VP - Samsung) to Earle Thompson [Exh. 219 to Thompson Depo.; Exh. 26 to Harari Depo.] [SD-I-3153815]	Express or Implied license; patent misuse	Earle Thompson; Eliyhou Harari	11/5/2008
RX-770	C	6/20/2007 - SamSung / SanDisk Meeting - Seoul [Exh. 220 to Thompson Depo.] [SD-I-3130320 - SD-I-3130337]	Express or Implied license; patent misuse	Earle Thompson	11/5/2008
RX-771	C	7/4/2007 - E-mail Correspondence from Jay Shim attaching SanDisk Proposal [Exh. 221 to Thompson Depo.] [SD-I-3214649 - SD-I-3214658]	Express or Implied license; patent misuse	Earle Thompson	11/5/2008
RX-772		WITHDRAWN			
RX-773	C	11/14/2007 - E-mail Correspondence from Sanjay Mehrotra to Eli Harari attaching Samsung Concerns.pdf and SanDisk termsheet.pdf [Exh. 223 to Thompson Depo.; Exh. 27 to Harari Depo.] [SD-I-3244984 - SD-I-3244997]	Express or Implied license; patent misuse	Earle Thompson; Eliyhou Harari	11/5/2008
RX-774		WITHDRAWN			
RX-775	C	9/10/2004 - Various License Agreements Entered Into Between Toshiba and SanDisk [Exh. 139 to Thompson Depo.; Exh. 7 to Chernicoff Depo.] [SD-I-2272049 - SD-I-2272106]	Express or Implied license; patent misuse	Earle Thompson; Richard Chernicoff	10/31/2008; 11/05/2008
RX-776	C	6/30/2007 - Limited Patent Cross License Agreement Between SanDisk and Ritek Corporation [Exh. 156 to Thompson Depo.; Exh. 110 to Mehrotra Depo.] [SD-I-0300371 - SD-I-0300392]	Express or Implied license; patent misuse	Earle Thompson; Sanjay Mehrotra	10/31/2008; 11/05/2008

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-777	C	6/1/2008 - Kingston Competitive Analysis [Exh. 13 to Harari Depo.] [SD-I- 3266127 - SD-I- 3266139]	Affirmative Defenses	Eliyhou Harari	10/31/2008
RX-778		WITHDRAWN			
RX-779		WITHDRAWN			
RX-780	C	7/15/2008 - E-mail from Michael Pape to Mr. Yoon [Exh. 5 to Tomlin Depo.]	Witness Background/Identification as corporate representative	Andy Tomlin	11/5/2008
RX-781		WITHDRAWN			
RX-782	C	Demonstrative Exhibit Titled "Block 0" [Exh. 8 to Tomlin Depo.]	Non-Infringement Defenses; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893; Domestic Industry	Andy Tomlin	11/5/2008
RX-783	C	Demonstrative Exhibit Titled [Exh. 9 to Tomlin Depo.]	Non-Infringement Defenses; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893; Domestic Industry	Andy Tomlin	11/5/2008
RX-784	C	Demonstrative Exhibit Titled "Block 10" [Exh. 10 to Tomlin Depo.]	Non-Infringement Defenses; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893; Domestic Industry	Andy Tomlin	11/5/2008
RX-785		WITHDRAWN			

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-786	C	Multipage Printout of Spreadsheets [Exh. 12 to Tomlin Depo.] [SD-I-0802973 - SD-I-0803062]	Non-Infringement Defenses; Invalidity re U.S. Patent 6,763,424 & U.S. Patent 6,426,893; Domestic Industry	Andy Tomlin	11/5/2008
RX-787		WITHDRAWN			
RX-788		WITHDRAWN			
RX-789		WITHDRAWN			
RX-790		WITHDRAWN			
RX-791		WITHDRAWN			
RX-792		WITHDRAWN			
RX-793		WITHDRAWN			
RX-794		WITHDRAWN			
RX-795		WITHDRAWN			
RX-796		WITHDRAWN			
RX-797		WITHDRAWN			
RX-798		WITHDRAWN			
RX-799		WITHDRAWN			
RX-800		WITHDRAWN			
RX-801		WITHDRAWN			
RX-802	C	11/14/2000 - Agreement between SanDisk and Lexxar Corporation [SD-I- 2100097 - SD-I- 2100100]	Affirmative Defenses	Eliyhoo Harari	10/31/2008
RX-803		CV of Russell W. Mangum III [Ex. 1 to the 2008-08-08 Expert Report of Dr. Russell Mangum III]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-804	C	Documents Received for Expert Report of Dr. Russell W. Mangum, III Regarding Complainant SanDisk's Licensing Practices [Exh. 2 to the 2008-08-08 Expert Report of Dr. Russell Mangum III]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-805		Comparison Chart of RS3 Flash Drives and External hard drives by storage capacity [Exh. 3 to the 2008-08-08 Expert Report of Dr. Russell Mangum III]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008

Exhibit No.	CB!	Description	Purpose	Sponsoring Witness	Admitted
RX-806	C	Kingston Flash Memory Profits - Global Consolidated - [Exh. 4 to the 2008-08-08 Expert Report of Dr. Russell Mangum III]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-807	C	Kingston Flash Memory Profits - US [Exh. 5 to the 2008-08-08 Expert Report of Dr. Russell Mangum III]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-808	C	Kingston Flash Memory Profits - Net of SanDisk Royalty [Exh. 6 to the 2008-08-08 Expert Report of Dr. Russell Mangum III]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-809	C	Exhibit 7: Kingston Flash Memory Profits, Excl. SD, US (Company 1 & 5 Domestic)	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-810	C	Kingston Flash Memory Profits Excl. SD - US & Net of SanDisk Royalty (80% & 50% devices) [Exh. 8 to the 2008-08-08 Expert Report of Dr. Russell Mangum III]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-811		WITHDRAWN			
RX-812		WITHDRAWN			
RX-813		WITHDRAWN			
RX-814		WITHDRAWN			
RX-815		CV of V. Niles Kynett [Exh. 8 to the Expert Report of V. Niles Kynett]	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-816		WITHDRAWN			
RX-817		WITHDRAWN			
RX-818		WITHDRAWN			
RX-819		WITHDRAWN			
RX-820		WITHDRAWN			
RX-821		CV of Dr. Vivek Subramanian [Exh. 1 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-822		Dr Vivek Subramanian List of Publications and Patents [Exh. 2 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-823		List of Documents Considered by Dr Vivek Subramanian [Exh. 3 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-824	C	2008-08-22 Declaration of JY Yang Regarding the Operation of Phison's 2231 and 3006 Flash Memory Controllers [Exh. 5 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-825	C	2008-08-05 Declaration of James Lee Iso Rebuttal Expert Report of Vivek Subramanian [Exh. 6 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-826		"Definition of 'a'" - Compact Oxford English Dictionary 3rd Ed 2005 [Exh. 7 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-827	C	Phison 3006 Writesectors [Exh. 8 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-828	C	Phison - 2231 - flash2b0 [Exh. 9 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-829	C	Phison - 2231 - partialWB5 [Exh. 11 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-830	C	Phison - 3006 - ReadSectors [Exh. 12 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-831	C	Phison - 3006 - ClearMCToNewBlock [Exh. 13 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-832	C	Phison - 2231 - rwsecrb2 [Exh. 14 to the Rebuttal Expert Report on Non-Infringement of Vivek Subramanian]	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-833		WITHDRAWN			
RX-834		WITHDRAWN			
RX-835	C	The NPD Group, Inc., 2008 Report of top producer brands of consumer flash products through US retail and etail [KTC 00571717 - KTC 00571720]	Express or implied license; Patent misuse	Russell Mangum III	10/29/2008
RX-836		WITHDRAWN			

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Exhibit No	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-837		Christopher Falan Yinug, "The Rise of the Flash Memory Market: It's Impact on Firm Behavior and Global Semiconductor Trade Patterns," United States International Trade Commission, Journal of International Commerce and Economics, July 2007 [KTC 00571793-816]	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-838		Kingston, Flash Memory Guide, "http://www.kingston.com/products/pdf_files/FlashMemGuide.pdf" [KTC 00571777-571789]	Express or implied license; Patent misuse	Russell Mangum III	10/29/2008
RX-839	C	October 2005 - Stock Analysis Presentation [SD-I- 3208907- SD-I- 3208968]	Express or implied license; Patent misuse	Russell Mangum III; Eliyhou Harari	10/31/2008
RX-840	C	Web-Foot Research, Inc., Flash Memory Applications and Markets: 2005-2010 - Niebel, Alan [SD-I- 00910704 - SD-I- 00910918]	Express or implied license; Patent misuse	Russell Mangum III; Eliyhou Harari	10/31/2008
RX-841		Tiger Direct "http://www.tigerdirect.com" [KTC 00571721-571776]	Express or implied license; Patent misuse	Mangum III, Russell	11/4/2008
RX-842	C	2007-06-04 - Gartner/Dataquest Insight: Final 2006 Memory Market Share Rankings [SD-I- 0933294-933316]	Express or implied license; Patent misuse	Russell Mangum III; Eliyhou Harari	10/31/2008
RX-843		WITHDRAWN			
RX-844		"Industrial Organization, A Strategic Approach", by Jeffrey Church and Roger Ware, 2000	Express or implied license; Patent misuse	Russell Mangum III	11/4/2008
RX-845		"Modern Industrialization" by Dennis Carlton and Jeffrey Perloff, 4th Edition, 2005	Express or implied license; Patent misuse	Russell Mangum III	11/5/2008
RX-846		WITHDRAWN			
RX-847	C	Kingston - Flash Memory Income Statements [KTC 00571714-00571716]	Express or implied license; Patent misuse	Russell Mangum III; Darwin Chen	10/29/2008
RX-848	C	2004 Kingston Flash Competitive Analysis [KTC00100191-KTC00100194]	Express or implied license; Patent misuse	Russell Mangum III	10/29/2008
RX-849		WITHDRAWN			

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-850		WITHDRAWN			
RX-851		WITHDRAWN			
RX-852		WITHDRAWN			
RX-853		WITHDRAWN			
RX-854	C	2007-01-02 Letter correspondence from Earle Thompson to Jay Shim [SD-I-3271003 - SD-I-3271005]	Affirmative defenses	Earle Thompson	11/4/2008
RX-855		WITHDRAWN			
RX-856		WITHDRAWN			
RX-857		WITHDRAWN			
RX-858		WITHDRAWN			
RX-859		WITHDRAWN			
RX-860		List of documents considered - Appendix C to the Expert Report on Claim Construction by Dr. Vivek Subramanian	Claim Construction; Noninfringement; Invalidity	Vivek Subramanian	11/3/2008
RX-861		Excerpts from the 5,663,901 FH [Exh. I to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Noninfringement; Invalidity	Vivek Subramanian	11/3/2008
RX-862		1989-02-16 An Experimental 4Mb CMOS EEPROM with a NAND Structured Cell [Exh. K to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Noninfringement; Invalidity	Vivek Subramanian	11/3/2008
RX-863		WITHDRAWN			
RX-864		WITHDRAWN			
RX-865		WITHDRAWN			
RX-866		WITHDRAWN			
RX-867		WITHDRAWN			
RX-868		WITHDRAWN			
RX-869		WITHDRAWN			
RX-870		WITHDRAWN			
RX-871		WITHDRAWN			
RX-872		WITHDRAWN			
RX-873		WITHDRAWN			
RX-874		WITHDRAWN			
RX-875		WITHDRAWN			
RX-876		WITHDRAWN			
RX-877		WITHDRAWN			

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Exhibit No.	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-878		WITHDRAWN			
RX-879		WITHDRAWN			
RX-880		WITHDRAWN			
RX-881		WITHDRAWN			
RX-882	C	Joint Proposed Claim Construction Chart dated 05/14/2008	Non-Infringement Defenses	Vivek Subramanian	11/3/2008
RX-883		WITHDRAWN			
RX-884		WITHDRAWN			
RX-885	C	E-mail (redacted) from James Yoon to Roger Borovoy et al. with attached SanDisk cross license agreement [SD-I-1258228 - SD-I-1258248]	Affirmative defenses	Earle Thompson	10/31/2008
RX-886		WITHDRAWN			
RX-887		WITHDRAWN			
RX-888		WITHDRAWN			
RX-889		WITHDRAWN			
RX-890		WITHDRAWN			
RX-891		WITHDRAWN			
RX-892		WITHDRAWN			
RX-893		WITHDRAWN			
RX-894	C	Phison Electronics Corporation's PS2231 source code [PEC2.00001 - PEC2.00597; Yang Dep. Ex. 209]	Non-Infringement Defenses	Yang, JY	11/5/2008
RX-895		WITHDRAWN			
RX-896		WITHDRAWN			
RX-897		WITHDRAWN			
RX-898		WITHDRAWN			
RX-899		WITHDRAWN			
RX-900		WITHDRAWN			
RX-901		WITHDRAWN			
RX-902		WITHDRAWN			
RX-903	C	Exhibit 207: Phison CBI - diagram re "Mother Block" and "Child Block"	Non-Infringement Defenses	JY Yang	11/5/2008
RX-904	C	Exhibit 208: Phison CBI - diagram re "Mother Block" and "Child Block"	Non-Infringement Defenses	JY Yang	11/5/2008
RX-905	C	Exhibit 210: Phison CBI - diagram re "Mother Block" and "Child Block"	Non-Infringement Defenses	JY Yang	11/5/2008
RX-906		WITHDRAWN			
RX-907		WITHDRAWN			

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-908		WITHDRAWN			
RX-909		WITHDRAWN			
RX-910	C	Document Entitled "Phison CBI" with handwriting [Exh. 216 to Yang Depo.]	Non-Infringement Defenses	JY Yang	11/5/2008
RX-911		WITHDRAWN			
RX-912		WITHDRAWN			
RX-913		WITHDRAWN			
RX-914		WITHDRAWN			
RX-915		WITHDRAWN			
RX-916		WITHDRAWN			
RX-917		WITHDRAWN			
RX-918	C	Import 2007 FINAL.XLS file [from KTC-N-000004]	Remedy & Bonding	Donald Sun; Darwin Chen	10/29/2008
RX-919		WITHDRAWN			
RX-920	C	Kingston-Toshiba Imports_2007-2008.xls [from KTC-N-000012]	Remedy & Bonding	Donald Sun; Darwin Chen	10/29/2008
RX-921		WITHDRAWN			
RX-922		WITHDRAWN			
RX-923		WITHDRAWN			
RX-924		WITHDRAWN			
RX-925		WITHDRAWN			
RX-926		WITHDRAWN			
RX-927		WITHDRAWN			
RX-928		WITHDRAWN			
RX-929		WITHDRAWN			
RX-930		Excerpts from The American Heritage Dictionary for the English Language 2000 Ed. [Exh. D to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Non-infringement; Invalidity	Vivek Subramanian	11/3/2008
RX-931		Excerpts from IEEE 100 The Authoritative Dictionary of IEEE Standards Terms - 7th Edition [Ex. E to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Non-infringement; Invalidity	Vivek Subramanian	11/3/2008
RX-932		Excerpts from The American Heritage Dictionary for the English Language Third Ed. 2000 [Ex. F to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Non-infringement; Invalidity	Vivek Subramanian	11/3/2008

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Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-933		The Computer Glossary - The Complete Illustrated Desk Reference - 5th Edition [Ex. J to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Non-infringement; Invalidity	Vivek Subramanian	11/3/2008
RX-934		Excerpts from Webster's Ninth New Collegiate Dictionary 1991 [Ex. M to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Non-infringement; Invalidity	Vivek Subramanian	11/3/2008
RX-935		Excerpts from Howard W. Sams & Company Modern Dictionary of Electronics - 6th Edition [Ex. P to the Expert Report on Claim Construction of Dr. Vivek Subramanian]	Claim Construction; Non-infringement; Invalidity	Vivek Subramanian	11/3/2008
RX-936	C	Direct Witness Statement of Ellis Lee	Patent Misuse, Express or Implied License, Importation	Ellis Lee	10/29/2008
RX-937	C	Direct Witness Statement of Dr. V. Niles Kynett	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RX-938	C	Direct Witness Statement of Dr. Russell Mangum	Patent Misuse Defenses; Express or Implied License	Russell Mangum III	11/3/2008
RX-939		WITHDRAWN			
RX-940		WITHDRAWN			
RX-941	C	Direct Witness Statement of Darwin Chen	Importation, Patent Misuse, Express or Implied License	Darwin Chen	10/29/2008
RX-942		WITHDRAWN			
RX-943		CV of Dr. Ray Mercer, Ph.D. [App. A to The Rebuttal Expert Report of Dr. Ray Mercer, Ph.D. on Non-Infringement of U.S. Patent Nos. 6,426,893 and 6,763,424 by Heller Respondents]	Witness Background Information	Ray Mercer	11/5/2008
RX-944		Dr. Ray Mercer's List of Previous Cases, Testimony in the Last 8 Years [App. B to The Rebuttal Expert Report of Dr. Ray Mercer, Ph.D. on Non-Infringement of U.S. Patent Nos. 6,426,893 and 6,763,424 by Heller Respondents]	Witness Background Information	Ray Mercer	11/5/2008

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Exhibit No	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-945		WITHDRAWN			
RX-946		WITHDRAWN			
RX-947		WITHDRAWN			
RX-948		WITHDRAWN			
RX-949		WITHDRAWN			
RX-950		WITHDRAWN			
RX-951		WITHDRAWN			
RX-952		WITHDRAWN			
RX-953		WITHDRAWN			
RX-954		WITHDRAWN			
RX-955	C	Slide Presentation titled "YE 2007 Rate Comparisons" [SD-I-3284961]	Patent Misuse	E. Earle Thompson	11/4/2008
RX-956		WITHDRAWN			
RX-957	C	Redacted e-mail from Eliyahou Harari to Earle Thompson, Richard Chernicoff, Sanjay Mehrotra, and Jim Brelsford dated January 18, 2008 [SD-I-3265659 - 660]	Patent Misuse	Eliyahou Harari; E. Earle Thompson; Richard Chernicoff; Sanjay Mehrotra	11/4/2008
RX-958		WITHDRAWN			
RX-959	C	E-mail from James Yoon to Anup Tikku dated March 13, 2008 with attachments [SD-I-3283477 - 516]	Patent Misuse	Eliyahou Harari; E. Earle Thompson; Richard Chernicoff; Sanjay Mehrotra	10/31/2008
RX-960		WITHDRAWN			
RX-961		WITHDRAWN			
RX-962		WITHDRAWN			
RX-963		WITHDRAWN			
RX-964		WITHDRAWN			
RX-965		WITHDRAWN			
RX-966		WITHDRAWN			
RX-967		WITHDRAWN			
RX-968		WITHDRAWN			
RX-969		WITHDRAWN			
RX-970		Translation of JP3070539 [Expert Report of V. Niles Kynett, 8/8/08, Exhibit 33] [KYNETT-RPT001967 - 2007]	Invalidity	V. Niles Kynett	11/3/2008
RX-971		WITHDRAWN			
RX-972		WITHDRAWN			
RX-973		WITHDRAWN			
RX-974		WITHDRAWN			

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Exhibit No	CRI	Description	Purpose	Sponsoring Witness	Admitted
RX-975		WITHDRAWN			
RX-976		WITHDRAWN			
RX-977		WITHDRAWN			
RX-978		WITHDRAWN			
RX-979		WITHDRAWN			
RX-980		WITHDRAWN			
RX-981		WITHDRAWN			
RX-982		WITHDRAWN			
RX-983		WITHDRAWN			
RX-984		WITHDRAWN			
RX-985		WITHDRAWN			
RX-986		WITHDRAWN			
RX-987		List of all Foreign Patents and Applications Corresponding to US Patent 6,763,424 [Deposition of E. Earle Thompson, 8/5/08, Exhibit 225]	Licensing and Patent Misuse	E. Earle Thompson	10/31/2008; 11/05/2008
RX-988	C	Corrected Witness Statement of Chia Kun Chang	Licensing, Remedies and Patent Misuse	CK Chang	10/31/2008
RX-989		WITHDRAWN			
RX-990	C	Direct Witness Statement of Frankie Chiu	Licensing, Remedies and Patent Misuse	Frankie Chiu	10/31/2008
RX-991		WITHDRAWN			
RX-992		WITHDRAWN			
RX-993		WITHDRAWN			
RX-994		WITHDRAWN			
RX-995	C	Direct Witness Statement of Jason Chien	Licensing	Jason Chien	10/31/2008
RX-996		WITHDRAWN			
RX-997		WITHDRAWN			
RX-998		Direct Witness Statement of O-byoung Kang	Exhaustion, Implied license	O-byoung Kang	10/31/2008
RX-999		WITHDRAWN			
RX-1000		WITHDRAWN			
RX-1001		WITHDRAWN			
RX-1002		WITHDRAWN			
RX-1003		WITHDRAWN			
RX-1004		WITHDRAWN			
RX-1005		WITHDRAWN			

RESPONDENTS' EXHIBIT LIST

ITC INV. NO. 337-TA-619

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-1006		WITHDRAWN			
RX-1007		WITHDRAWN			
RX-1008		WITHDRAWN			
RX-1009		WITHDRAWN			
RX-1010		WITHDRAWN			
RX-1011	C	Second Settlement and Patent Cross License Agreement between Sandisk Corporation and Samsung Electronics Co., Ltd., 8/14/02 (SD-I-0300402 to SD-I-0300446)	Licensing and Patent Misuse	Eliyhou Harari	11/5/2008
RX-1012		WITHDRAWN			
RX-1013		WITHDRAWN			
RX-1014		WITHDRAWN			
RX-1015		WITHDRAWN			
RX-1016		WITHDRAWN			
RX-1017		WITHDRAWN			
RX-1018		WITHDRAWN			
RX-1019		WITHDRAWN			
RX-1020		WITHDRAWN			
RX-1021		WITHDRAWN			
RX-1022	C	Complainant SanDisk Corporation's Opening Claim Construction Brief	Non-infringement	Thomas Rhyne	10/29/2008
RX-1023	C	Complainant SanDisk Corporation's Responsive Brief on Claim Construction of U.S. Patent Nos. 6,947,332; 6,426,893; and 7,137,011	Non-infringement	Thomas Rhyne	10/29/2008
RX-1024		WITHDRAWN			
RX-1025		WITHDRAWN			
RX-1026		WITHDRAWN			
RX-1027		WITHDRAWN			
RX-1028		WITHDRAWN			
RX-1029		WITHDRAWN			
RX-1030		WITHDRAWN			
RX-1031		WITHDRAWN			
RX-1032		WITHDRAWN			
RX-1033	C	Samsung MMC Purchase order spreadsheet (AP-ITC 031457 - 0314458)	Licensing	C.K. Chang	10/31/2008
RX-1034	C	POs and invoices for Samsung products (AP-ITC 0314018 - 0314047)	Licensing	C.K. Chang	10/31/2008

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted
RX-1035		WITHDRAWN			
RX-1036		WITHDRAWN			
RX-1037		WITHDRAWN			
RX-1038		International Publication No. WO 00/49488	Invalidity	Kevin Conley	
RX-1039	C	SanDisk 3rd Generation System Option Analysis 1.2	Invalidity	Kevin Conley	11/5/2008
RX-1040	C	SanDisk Rhodes 2 0.13 BB NAND Ultra ATA System Spec	Invalidity	Kevin Conley	11/5/2008
RX-1041		WITHDRAWN			
RX-1042	C	Past, Present and Future of SanDisk NAND Products	Invalidity	Kevin Conley	11/5/2008
RX-1043	C	Email - SD-I-1884439	Invalidity	Kevin Conley	11/5/2008
RX-1044	C	Email - SD-I-1883272	Invalidity	Kevin Conley	11/5/2008
RX-1045	C	Email - SD-I-1883145	Invalidity	Kevin Conley	11/5/2008
RX-1046		WITHDRAWN			
RX-1047		WITHDRAWN			
RX-1048		WITHDRAWN			
RX-1049	C	Email - SD-I-1883557	Invalidity	Kevin Conley	11/5/2008
RX-1050	C	SDSC-SDUS Face to Face Meeting	Invalidity	Kevin Conley	11/5/2008
RX-1051	C	Email SD-I-1883876	Invalidity	Kevin Conley	11/5/2008
RX-1052	C	CyclicStorage Algorithms	Invalidity	Kevin Conley	11/5/2008
RX-1053	C	SDSC Company Overview	Invalidity	Kevin Conley	11/5/2008
RX-1054	C	SDSC IP Review, (SD-I-1884104 - 4127)	Invalidity	Kevin Conley	11/5/2008
RX-1055	C	Email SD-I-1884356	Invalidity	Kevin Conley	11/5/2008
RX-1056	C	Email Bates SD-I-1902053	Invalidity	Kevin Conley	
RX-1057	C	Email SD-I-3283374	Invalidity	Kevin Conley	11/5/2008
RX-1058	C	San Disk Metablocks	Invalidity	Kevin Conley	11/5/2008
RX-1059		WITHDRAWN			
RX-1060	C	Email SD-I-1883399	Invalidity	Kevin Conley	11/5/2008
RX-1061		WITHDRAWN			
RX-1062	C	Email SD-I-1883150	Invalidity	Kevin Conley	11/5/2008
RX-1063	C	Performance Post Mortem	Invalidity	Kevin Conley	11/5/2008
RX-1064	C	SanDisk Invention Disclosure form	Invalidity	Kevin Conley	11/5/2008
RX-1065	C	Interrogatories	Invalidity	Kevin Conley	11/5/2008
RX-1066	C	SanDisk Rhodes /Taver NAND	Invalidity	Kevin Conley	11/5/2008
RX-1067	C	Claims Pending in SDK0156.000US	Invalidity	Kevin Conley	11/5/2008
RX-1068	C	Parallel Extension to parial Block Programming	Invalidity	Kevin Conley	11/5/2008
RX-1069	C	AlgoRithm Representation	Invalidity	Kevin Conley	11/5/2008

RESPONDENTS' EXHIBIT LIST

ITC INV. NO. 337-TA-619

Exhibit No.	CBI	Description	Purpose	Sponsoring Witness	Admitted

RESPONDENTS' DEMONSTRATIVE EXHIBIT LIST

Exhibit No	CBI	Exhibit Description	Purpose	Sponsoring Witness	Admitted
RDX-0001		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0002		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0003		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0004		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0005		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0006		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0007		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0008		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0009		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0010		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0011		Demonstrative Ex to RX-937C - Dr. Kynett's Witness Statement	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RDX-0012		WITHDRAWN			
RDX-0013		Figures 9, 10 & 11 from '321 Sinclair Patent with handwritten notations from Dr. Kynett	Invalidity re U.S. Patent 6,763,424	Niles Kynett	11/3/2008
RCD-001		Rhyme Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyme, Thomas	10/29/2008
RCD-002		Rhyme Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyme, Thomas	10/29/2008
RCD-003		WITHDRAWN			
RCD-004		Rhyme Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyme, Thomas	10/29/2008

RCD-005	C	Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-006	C	Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-007	C	WITHDRAWN			
RCD-008	C	Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-009	C	Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-010		WITHDRAWN			
RCD-011		WITHDRAWN			
RCD-012		WITHDRAWN			
RCD-013		WITHDRAWN			
RCD-014		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-015		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-016		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-017		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-018		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-019		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-020		WITHDRAWN			
RCD-021		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-022		Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-023	C	Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-024		WITHDRAWN			
RCD-025	C	Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008
RCD-026	C	Rhyne Cross Demonstrative	Infringement re U.S. Patent 6,763,424	Rhyne, Thomas	10/29/2008

RESPONDENTS' REBUTTAL EXHIBIT LIST - INV. NO. 337-TA-619

RRX-1		CX-520	Complainant SanDisk Corporation's First Notice of Taking Deposition of Ray Chu, (Ray Chu Depo Exhibit 4)	Chu, Ray	Witness Background	11/5/2008
RRX-2			WITHDRAWN			
RRX-3			WITHDRAWN			
RRX-4			WITHDRAWN			
RRX-5			WITHDRAWN			
RRX-6			WITHDRAWN			
RRX-7		CX-0084	Complainant SanDisk Corporation's First Notice of Taking Deposition of Roy Kung, (Roy Kung Depo Exhibit 36)	Kung, Roy	Witness Background	
RRX-8	C	CX-1008	Exhibit A to Transcend's Amended Supplemental Responses to Interrogatories	Chiu, Frankie	Non-Infringement	10/31/2008
RRX-9	C	CX-1008	Exhibit A to Apacer's Amended Supplemental Responses to Interrogatories	Chang, C.K.	Non-Infringement	10/31/2008
RRX-10	C	CX-1008	Rebuttal Witness Statement of Chi-Heng (Frankie) Chiu	Frankie Chiu	Remedies, Non-Infringement	10/31/2008
RRX-11	C	CX-1008	Rebuttal Witness Statement of James Lee	James Lee	Non-Infringement	10/31/2008
RRX-12	C	CX-1008	Rebuttal Witness Statement of Jason Chien	Jason Chien	Remedies, Non-Infringement	10/31/2008
RRX-13	C	CX-1008	Rebuttal Witness Statement of Chia-Kun (C.K.) Chan	C.K. Chang	Remedies, Non-Infringement	10/31/2008
RRX-14	C	CX-1008	Rebuttal Witness Statement of O-byoung Kang	Kang, O-byoung	Non-Infringement	10/31/2008
RRX-15	C	CX-1008	Exhibit 1 to the Rebuttal Witness Statement of O-byoung Kang	Kang, O-byoung	Non-Infringement	10/31/2008
RRX-16	C	CX-1008	Exhibit 2 to the Rebuttal Witness Statement of O-byoung Kang	Kang, O-byoung	Non-Infringement	10/31/2008
RRX-17	C	CX-1008	Witness Statement of J.Y. Yang	Yang, J.Y.	Non-Infringement	10/29/2008; 10/31/2008
RRX-18	C	CX-1008	Witness Statement of Dr. Vivek Subramanian	Subramanian, Vivek	Non-Infringement	10/30/2008; 10/31/2008; 11/03/2008
RRX-19	C	CX-0480, CX-0466, CX-1008, CX-1204	YASKYSC_001_20080508HDSourCode.rar\6281\FW_Source_code\ID1109.rar\ID1109\IncludeVdmREG.h	Chang, C.Y. / Mercer, Ray	Non-Infringement	11/5/2008
RRX-20	C	CX-0480, CX-0466, CX-1008, CX-1204	YASKYSC_001_20080508HDSourCode.rar\6281\FW_Source_code\ID1109.rar\ID1109\CODE_BOOTVdmRead.c	Chang, C.Y. / Mercer, Ray	Non-Infringement	11/5/2008
RRX-21	C		WITHDRAWN			
RRX-22	C		WITHDRAWN			
RRX-23	C	CX-0480, CX-0466, CX-1008, CX-1204	YASKYSC_001_20080508HDSourCode.rar\6281\FW_Source_code\ID1109.rar\ID1109\CODE_FDMVdmWrite.c	Chang, C.Y. / Mercer, Ray	Non-Infringement	11/5/2008
RRX-24	C		WITHDRAWN			
RRX-25	C		WITHDRAWN			
RRX-26	C	CX-0480, CX-0466, CX-1008, CX-1204	SKY_003\SKY_003.rar\1806_new.rar\SK6626_SS6626_AEYCode0721.rar\Code0721\IncludeVdmREG.h	Chang, C.Y. / Mercer, Ray	Non-Infringement	11/5/2008
RRX-27	C		WITHDRAWN			
RRX-28	C	CX-0480, CX-0466, CX-1008, CX-1204	SKY_003\SKY_003.rar\1806_new.rar\SK6626_SS6626_AEYCode0721.rar\Code0721\CODE_BOOTVdmRead.c	Chang, C.Y. / Mercer, Ray	Non-Infringement	11/5/2008
RRX-29	C	CX-0480, CX-0466, CX-1008, CX-1204	SKY_003\SKY_003.rar\1806_new.rar\SK6626_SS6626_AEYCode0721.rar\Code0721\CODE_BOOTVdmInitial.c	Chang, C.Y. / Mercer, Ray	Non-Infringement	11/5/2008
RRX-30	C		WITHDRAWN			

RRX-31	C	CX-0480, CX-0466, CX-1008, CX-1204	SKY_003\SKY_003.rar\1806_new.rar\SK6626_SS6626_AE\Code0721.rar\Code0721\CODE_FDM_MLCVdmWrite.c	Chang, C.Y. & Mercer, Ray	Non-Infringement	11/5/2008
RRX-32	C	a(-0480, CX-0466, CX-1008, CX-1204	SKY_003\SKY_003.rar\1806_new.rar\SK6626_SS6626_AE\Code0721.rar\Code0721\CODE_FDM_MLCVdmOther2.c	Chang, C.Y. & Mercer, Ray	Non-Infringement	11/5/2008
RRX-33	C	a(-0480, CX-0466, CX-1008, CX-1204	Witness Statement of C.Y. Chang	Chang, C.Y.	Non-Infringement	10/29/2008
RRX-34	C	CX-0480, CX-0466, CX-1008, CX-1204	Witness Statement of Ray Mercer on Non-Infringement of the '424 Patent by Stymed Flash Controller Products	Mercer, Ray	Non-Infringement	11/3/2008
RRX-35	C		WITHDRAWN			
RRX-36	C	CX-0480, CX-0466, CX-1008, CX-1204	Ray Mercer Rebuttal Witness Statement	Mercer, Ray	Non-Infringement	11/3/2008

RESPONDENTS' REBUTTAL DEMONSTRATIVES EXHIBIT LIST

Exhibit ID	Case No.	Description	Author	Legal Status	Date
RRDX-1	CX-1008	Replacement of data in a child block	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-2	CX-1008	Information stored within the firmware bytes in PS2251 controller mother block	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-3	CX-1008	Mother block storing 48 original data sectors (numbered 1 - 47)	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-4	CX-1008	Consolidated mother and child blocks	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-5	CX-1008	Original mother block and update child block	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-6	CX-1008	Original mother block, update child block, and new mother block	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-7	CX-1008	Storing Original Data with a Logical Page Offset	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-8	CX-1008	One step consolidation for mother and child blocks	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-9	CX-1008	Information stored in the firmware bytes by the PS3016 controller	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-10	CX-1008	Series of three successive updates	Yang, J.Y.	Non-Infringement	10/29/2008
RRDX-11	CX-1008	Fig. 12 of '424 patent	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-12	CX-1008	Example for illustrating usage of scratch pad block	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-13	CX-1008	Firmware bytes within a mother block of the PS2251 controller	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-14	CX-1008	Firmware bytes of a mother page created and utilized by a PS3016 controller	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-15	CX-1008	Storing Original Data with a Logical Page Offset	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-16	CX-1008	Consolidation in a system that uses logical page offsets in the mother block	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-17	CX-1008	Non-sequential updates in a system which does not use logical page offsets	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-18	CX-1008	Consolidation process for random child blocks in a system that does not store a logical page offset in the mother block.	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-19	CX-1008	Fig. 8 of the '424 patent	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-20	CX-1008	Fig. 10 of the '424 patent	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-21	CX-1008	Logical page address within a sector of data in a Mother Block and a sector of a FAT Block	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-22	CX-1008	Blowup of Fig. 10 of the '424 patent	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-23	CX-1008	Fig. 11 of the '424 patent	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-24C	CX-1008	Pg. 24 of Ex. 144B of SanDisk's Complaint	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-25	CX-1008	Scratch pad block, sequential update block, and an original block	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-26	CX-1008	Demonstrative illustrating an update to sector no. 5	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-27	CX-1008	Demonstrative illustrating an update to sector no. 6	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-28	CX-1008	Demonstrative illustrating an update to sector no. 7	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-29	CX-1008	Demonstrative illustrating an update to sector no. 8	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-30	CX-1008	Demonstrative illustrating an update to sector no. 10	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-31	CX-1008	Demonstrative illustrating an update to sector no. 14	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-32	CX-1008	Sequence of writes from time 11 thru 15	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-33	CX-1008	Chart of claim 20 of '424 patent	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-34		WITHDRAWN			
RRDX-35	CX-1008	Compilations of '424 Patent figures, specification language, and reproduced language from other exhibits part 2	Rhyne, Thomas	Non-Infringement	10/29/2008
RRDX-36		WITHDRAWN			
RRDX-37		WITHDRAWN			

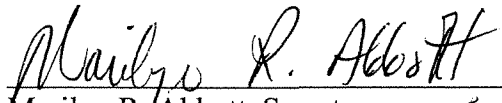
RRDX-38	CX-1008	Compilations of '424 Patent figures, specification language, and reproduced language from other exhibits part 5	Rhyne, Thomas	Non-Infringement	10/29/2008
RRDX-39		WITHDRAWN	Rhyne, Thomas	Non-Infringement	
RRDX-40C	CX-1008	Demonstrative exhibits related to Skymed's non-infringement of the '424 patent.	Mercer, Ray	Non-Infringement	11/5/2008
RRDX-41	CX-1008	Reading the Logical Page Address in Each Page of Original Data Step (c)			10/29/2008
RRDX-42		WITHDRAWN			
RRDX-43		WITHDRAWN			
RRDX-44C	CX-1008	Demonstrative titled "W Block 1806F"	Rhyne, Thomas	Non-Infringement	10/28/2008; 10/29/2008
RRDX-45C	CX-1008	Demonstrative titled "R Block 1806F"	Rhyne, Thomas	Non-Infringement	10/28/2008; 10/29/2008
RRDX-46		WITHDRAWN			
RRDX-47		WITHDRAWN			
RRDX-48	CX-1008	Block diagram re user data, LBN=3, and logical page offset = 4	Subramanian, Vivek	Non-Infringement	10/31/2008
RRDX-49	CX-1008	Block diagram re user data, LBN=3, and P	Subramanian, Vivek	Non-Infringement	10/31/2008

**IN THE MATTER OF CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY CARDS, AND
MEDIA PLAYERS CONTAINING SAME**

337-TA-619

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **CONFIDENTIAL FINAL INITIAL DETERMINATION** has been served upon, **Christopher G. Paulraj, Esq.**, Commission Investigative Attorney, and the following parties via overnight delivery where necessary on April 10, 2009.


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**IN THE MATTER OF CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY CARDS, AND
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337-TA-619

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**IN THE MATTER OF CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY CARDS, AND
MEDIA PLAYERS CONTAINING SAME**

337-TA-619

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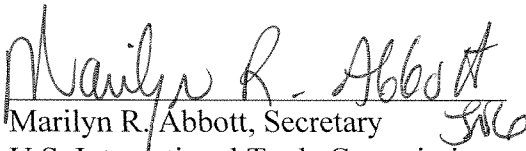
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**IN THE MATTER OF CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY CARDS, AND
MEDIA PLAYERS CONTAINING SAME**

337-TA-619

CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **PUBLIC INITIAL DETERMINATION** has been served upon, **Christopher G. Paulraj, Esq.**, Commission Investigative Attorney, and the following parties via first class mail and air mail where necessary on May 5th, **2009**.


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**IN THE MATTER OF CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY CARDS, AND
MEDIA PLAYERS CONTAINING SAME**

337-TA-619

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**IN THE MATTER OF CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY CARDS, AND
MEDIA PLAYERS CONTAINING SAME**

337-TA-619

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**IN THE MATTER OF CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY CARDS, AND
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337-TA-619

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN FLASH MEMORY
CONTROLLERS, DRIVES, MEMORY
CARDS, AND MEDIA PLAYERS AND
PRODUCTS CONTAINING SAME**

Investigation No. 337-TA-619

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING FIVE RESPONDENTS IN DEFAULT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 28) in the above-referenced investigation finding respondents Zotek Electronic Co., Ltd. (d/b/a Zodata Technology Limited) ("Zotek"); Add-On Technology Co. ("Add-On"); Behavior Tech Computer Corp. ("BTC"); Behavior Tech Computer (USA) Corp. ("BTC USA"); and Emprex Technologies Corp. ("Emprex") in default.

FOR FURTHER INFORMATION CONTACT: Michelle Walters, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 12, 2007, based on a complaint filed by SanDisk Corporation ("SanDisk"). The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain flash memory controllers, drives, memory cards, media players, and

products containing the same by reason of infringement of various claims of five United States patents. The complaint names nearly fifty respondents.

On February 27, 2008, SanDisk filed a motion for an order to show cause and default against five respondents: Zotek; Add-On; BTC; BTC USA; and Emprex. On March 12, 2008, the ALJ issued Order No. 24 ordering these respondents to show cause why they should not be found in default for failing to respond to the complaint and notice of investigation. No response was received from any of these respondents.

On April 25, 2008, the ALJ issued the subject ID finding Zotek, Add-On, BTC, BTC USA, and Emprex in default. The ALJ also found that they had waived their rights to appear, to be served with documents, and to contest the allegations against them. No petitions for review of this ID were filed.

The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.42).

By order of the Commission.

A handwritten signature in black ink, appearing to read "Marilyn R. Abbott". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Marilyn R. Abbott
Secretary to the Commission

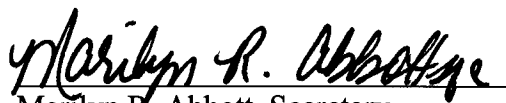
Issued: May 14, 2008

**CERTAIN FLASH MEMORY CONTROLLERS, DRIVES,
MEMORY CARDS, AND MEDIA PLAYERS AND PRODUCTS
CONTAINING SAME**

337-TA-619

PUBLIC CERTIFICATE OF SERVICE

I, Marilyn R. Abbott, hereby certify that the attached **NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION FINDING FIVE RESPONDENTS IN DEFAULT** has been served by hand upon the Commission Investigative Attorney, Christopher G. Paulraj, Esq., and the following parties as indicated, on May 14.



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