

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

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**In the Matter of**

**CERTAIN DIGITAL PHOTO FRAMES AND  
IMAGE DISPLAY DEVICES AND  
COMPONENTS THEREOF**

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**Inv. No. 337-TA-807**

**LIMITED EXCLUSION ORDER**

The Commission has found Respondent Pandigital, Inc. ("Pandigital") in default pursuant to 19 C.F.R. § 210.17, and Respondents Aiptek International Inc. ("Aiptek"); Nextar Inc. ("Nextar"); WinAccord Ltd. ("WinAccord Ltd"); and WinAccord U.S.A., Inc. ("WinAccord USA") (all collectively, "Respondents") in default pursuant to section 337(g)(1) and 19 C.F.R. § 210.16 for failing to respond to a Notice of Investigation and a Complaint that alleged a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), with respect to the unlawful importation and sale within the United States after importation of certain digital photo frames and image display devices and components thereof by reason of infringement of one or more of claims 9, 11-12, and 14 of U.S. Patent No. 7,295,443 ("the '443 patent"); claims 25-26 and 28-29 of U.S. Patent No. 7,522,424 ("the '424 patent"); or claims 1, 7, 11, 17, 19, and 21 of U.S. Patent No. 7,162,549 ("the '549 patent").

Having reviewed the record in this investigation, including the written submissions of complainant, the Commission has made its determination on the issues of remedy, the public interest, and bonding. The Commission has determined that the appropriate form of relief is a limited exclusion order prohibiting the unlicensed entry of digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of the '443

patent, claims 25-26 and 28-29 of the '424 patent, or claims 1, 7, 11, 17, 19, and 21 of the '549 patent, and that are manufactured by, or on behalf of, or are imported by or on behalf of one or more of Respondents.

The Commission has determined that the public interest factors enumerated in 19 U.S.C. §§ 1337(d)(1) and (g)(1) do not preclude issuance of the limited exclusion order. Finally, the Commission has determined that the bond during the period of Presidential review shall be in the amount of 100 percent of the entered value of the articles in question.

Accordingly, the Commission hereby **ORDERS** that:

1. Digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of the '443 patent, claims 25-26 and 28-29 of the '424 patent, or claims 1, 7, 11, 17, 19, and 21 of the '549 patent, and that are manufactured by, or on behalf of, or are imported by or on behalf of, Pandigital, WinAccord USA, or WinAccord Ltd or any of their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patents, except under license of the patent owner or as provided by law.

2. Digital photo frames, image display devices, and components thereof that infringe one or more of claims 9 and 14 of the '443 patent or claims 25-26 and 28-29 of the '424 patent, and that are manufactured by, or on behalf of, or are imported by or on behalf of, Nextar or any of its affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patents, except under license of the patent owner or as provided by law.

3. Digital photo frames, image display devices, and components thereof that infringe one or more of claims 9 and 11-12 of the '443 patent or claims 25-26 and 28-29 of the '424 patent, and that are manufactured by, or on behalf of, or are imported by or on behalf of, Aiptek or any of its affiliated companies, parents, subsidiaries, or other related business entities, or its successors or assigns, are excluded from entry for consumption into the United States, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, for the remaining term of the patents, except under license of the patent owner or as provided by law.

4. Notwithstanding paragraphs 1-3 of this Order, the aforesaid digital photo frames, image display devices, and components thereof are entitled to entry into the United States for consumption, entry for consumption from a foreign-trade zone, or withdrawal from a warehouse for consumption, under bond in the amount of 100 percent of the entered value of imported digital photo frames, image display devices, and components thereof pursuant to subsection (j) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(j)), and the Presidential Memorandum for the United States Trade Representative of July 21, 2005 (70 *Fed. Reg.* 43251), from the day after this Order is received by the United States Trade Representative, and until such time as the United States Trade Representative notifies the Commission that this action is approved or disapproved but, in any event, not later than sixty (60) days after the date of receipt of this action.

5. At the discretion of U.S. Customs and Border Protection ("CBP") and pursuant to the procedures it establishes, persons seeking to import digital photo frames, image display devices, and components thereof that are potentially subject to this Order may be required to certify that they are familiar with the terms of this Order, that they have made appropriate inquiry, and thereupon state that, to the best of their knowledge and belief, the products being imported are

not excluded from entry under paragraphs 1-3 of this Order. At its discretion, CBP may require persons who have provided the certification described in this paragraph to furnish such records or analyses as are necessary to substantiate this certification.

6. In accordance with 19 U.S.C. § 1337(l), the provisions of this Order shall not apply to infringing digital photo frames, image display devices, and components thereof that are imported by and for the use of the United States, or imported for and to be used for, the United States with the authorization or consent of the Government.

7. The Commission may modify this Order in accordance with the procedures described in Rule 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

8. The Secretary shall serve copies of this Order upon each party of record in this investigation and upon the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and U.S. Customs and Border Protection.

9. Notice of this Order shall be published in the *Federal Register*.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton  
Acting Secretary to the Commission

Issued: March 12, 2013

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

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**In the Matter of**

**CERTAIN DIGITAL PHOTO FRAMES AND  
IMAGE DISPLAY DEVICES AND  
COMPONENTS THEREOF**

---

**Inv. No. 337-TA-807**

**ORDER TO CEASE AND DESIST**

IT IS HEREBY ORDERED THAT Nextar, Inc., 1661 Fairplex Drive, La Verne, California 91750, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for digital photo frames, image display devices, and components thereof that infringe one or more of claims 9 and 14 of U.S. Patent No. 7,295,443 (“the ’443 patent”) or claims 25-26 and 28-29 of U.S. Patent No. 7,522,424 (“the ’424 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.**

**Definitions**

As used in this Order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean Technology Properties Limited, LLC, 20883 Stevens Creek Boulevard, Suite 100, Cupertino, California 95014.

(C) “Respondent” shall mean Nextar, Inc., 1661 Fairplex Drive, La Verne, California 91750.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity or its majority owned or controlled subsidiaries, or their successors or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean digital photo frames, image display devices, and components thereof that infringe one or more of claims 9 and 14 of the ’443 patent or claims 25-26 and 28-29 of the ’424 patent.

## **II.**

### **Applicability**

The provisions of this Cease and Desist Order shall apply to the Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of, Respondent.

## **III.**

### **Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by the

Order. For the remaining term of the patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

#### **IV.**

#### **Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '443 and '424 patents licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

#### **V.**

#### **Reporting**

For purposes of this reporting requirement, the reporting periods shall commence on July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2014. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to

the Commission: (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. A Respondent filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission rule 210.4(f), 19 C.F.R. § 210.4(f). Submissions should refer to the investigation number (“Inv. No. 337-TA-807”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures,

[http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)).

Persons with questions regarding filing should contact the Secretary (202-205-2000). A Respondent desiring to submit a document to the Commission in confidence must file the original and a public version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant’s counsel.<sup>1</sup>

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. §1001.

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<sup>1</sup> Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

## **VI.**

### **Record Keeping and Inspection**

(A) For purposes of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of counsel, or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

## **VII.**

### **Service of Cease and Desist Order**

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in the preceding paragraph, a copy of this Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and (C) shall remain in effect until the date of expiration of the '443 and '424 patents.

## **VIII.**

### **Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

## **IX.**

### **Enforcement**

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(f)), and any other action as the Commission may deem appropriate. In determining whether a Respondent is in violation of this Order, the Commission may infer facts adverse to a Respondent if Respondent fails to provide adequate or timely information.

## **X.**

### **Modification**

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

## **XI.**

### **Bonding**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed Reg* 43251 (July 21, 2005), subject to Respondent posting a bond of in the amount of 100 percent of the entered value for infringing digital photo frames, image display devices, and components thereof. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the limited exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying

documentation on Complainant's counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton  
Acting Secretary to the Commission

Issued: March 12, 2013

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<sup>2</sup> See n. 1.

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
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**In the Matter of**

**CERTAIN DIGITAL PHOTO FRAMES AND  
IMAGE DISPLAY DEVICES AND  
COMPONENTS THEREOF**

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**Inv. No. 337-TA-807**

**ORDER TO CEASE AND DESIST**

IT IS HEREBY ORDERED THAT WinAccord Ltd., 12F, No. 225, Sec. 5, Nan Jing E. Road, Song Shan District, Taipei, Taiwan 105, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of U.S. Patent No. 7,295,443 (“the ’443 patent”), claims 25-26 and 28-29 of U.S. Patent No. 7,522,424 (“the ’424 patent”), or claims 1, 7, 11, 17, 19, and 21 of U.S. Patent No. 7,162,549 (“the ’549 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.**

**Definitions**

As used in this Order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean Technology Properties Limited, LLC, 20883 Stevens

Creek Boulevard, Suite 100, Cupertino, California 95014.

(C) “Respondent” shall mean WinAccord Ltd., 12F, No. 225, Sec. 5, Nan Jing E. Road, Song Shan District, Taipei, Taiwan 105.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity or its majority owned or controlled subsidiaries, or their successors or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of the ’443 patent, claims 25-26 and 28-29 of the ’424 patent, or claims 1, 7, 11, 17, 19, and 21 of the ’549 patent.

## II.

### Applicability

The provisions of this Cease and Desist Order shall apply to the Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of, Respondent.

### **III.**

#### **Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by the Order. For the remaining term of the patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

### **IV.**

#### **Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '443, '424, and '549 patents licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

### **V.**

#### **Reporting**

For purposes of this reporting requirement, the reporting periods shall commence on July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2014. This reporting requirement shall continue in force until such time as Respondent will have

truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. A Respondent filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission rule 210.4(f), 19 C.F.R. § 210.4(f). Submissions should refer to the investigation number (“Inv. No. 337-TA-807”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures,

[http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)).

Persons with questions regarding filing should contact the Secretary (202-205-2000). A Respondent desiring to submit a document to the Commission in confidence must file the original and a public version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant’s counsel.<sup>1</sup>

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be

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<sup>1</sup> Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. §1001.

## **VI.**

### **Record Keeping and Inspection**

(A) For purposes of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of counsel, or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

## **VII.**

### **Service of Cease and Desist Order**

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered

products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in the preceding paragraph, a copy of this Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and (C) shall remain in effect until the date of expiration of the '443, '424, and '549 patents.

## **VIII.**

### **Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

## **IX.**

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Violation of this Order may result in any of the actions specified in section 210.75 of the Commission Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(f)), and any other action as the Commission may deem appropriate. In determining whether a Respondent is in violation of this Order, the Commission may infer facts adverse to a Respondent if Respondent fails to provide adequate or timely information.

## **X.**

### **Modification**

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

## **XI.**

### **Bonding**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed Reg* 43251 (July 21, 2005), subject to Respondent posting a bond of in the amount of 100 percent of the entered value for infringing digital photo frames, image display devices, and components thereof. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the limited exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying

documentation on Complainant's counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By Order of the Commission.

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Lisa R. Barton  
Acting Secretary to the Commission

Issued: March 12, 2013

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<sup>2</sup> See n. 1.

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
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**In the Matter of**

**CERTAIN DIGITAL PHOTO FRAMES AND  
IMAGE DISPLAY DEVICES AND  
COMPONENTS THEREOF**

---

**Inv. No. 337-TA-807**

**ORDER TO CEASE AND DESIST**

IT IS HEREBY ORDERED THAT WinAccord U.S.A., Inc., 2526 Qume Drive, Suite 24, San Jose, California 95131, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of U.S. Patent No. 7,295,443 (“the ’443 patent”), claims 25-26 and 28-29 of U.S. Patent No. 7,522,424 (“the ’424 patent”), or claims 1, 7, 11, 17, 19, and 21 of U.S. Patent No. 7,162,549 (“the ’549 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.**

**Definitions**

As used in this Order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean Technology Properties Limited, LLC, 20883 Stevens Creek Boulevard, Suite 100, Cupertino, California 95014.

(C) “Respondent” shall mean WinAccord U.S.A., Inc., 2526 Qume Drive, Suite 24, San Jose, California 95131.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity or its majority owned or controlled subsidiaries, or their successors or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of the ’443 patent, claims 25-26 and 28-29 of the ’424 patent, or claims 1, 7, 11, 17, 19, and 21 of the ’549 patent.

## II.

### Applicability

The provisions of this Cease and Desist Order shall apply to the Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of, Respondent.

### **III.**

#### **Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by the Order. For the remaining term of the patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

### **IV.**

#### **Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '443, '424, and '549 patents licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

### **V.**

#### **Reporting**

For purposes of this reporting requirement, the reporting periods shall commence on July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2014. This reporting requirement shall continue in force until such time as Respondent will have

truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. A Respondent filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission rule 210.4(f), 19 C.F.R. § 210.4(f). Submissions should refer to the investigation number (“Inv. No. 337-TA-807”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures,

[http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)).

Persons with questions regarding filing should contact the Secretary (202-205-2000). A Respondent desiring to submit a document to the Commission in confidence must file the original and a public version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant’s counsel.<sup>1</sup>

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be

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<sup>1</sup> Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. §1001.

## **VI.**

### **Record Keeping and Inspection**

(A) For purposes of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of counsel, or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

## **VII.**

### **Service of Cease and Desist Order**

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered

products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in the preceding paragraph, a copy of this Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and (C) shall remain in effect until the date of expiration of the '443, '424, and '549 patents.

## **VIII.**

### **Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

## **IX.**

### **Enforcement**

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(f)), and any other action as the Commission may deem appropriate. In determining whether a Respondent is in violation of this Order, the Commission may infer facts adverse to a Respondent if Respondent fails to provide adequate or timely information.

**X.**

**Modification**

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

**XI.**

**Bonding**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed Reg* 43251 (July 21, 2005), subject to Respondent posting a bond of in the amount of 100 percent of the entered value for infringing digital photo frames, image display devices, and components thereof. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the limited exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying

documentation on Complainant's counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton  
Acting Secretary to the Commission

Issued: March 12, 2013

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<sup>2</sup> See n. 1.

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

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**In the Matter of**

**CERTAIN DIGITAL PHOTO FRAMES AND  
IMAGE DISPLAY DEVICES AND  
COMPONENTS THEREOF**

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**Inv. No. 337-TA-807**

**ORDER TO CEASE AND DESIST**

IT IS HEREBY ORDERED THAT Aiptek International Inc., No. 19, Industry E. Road IV., Science Park, Hsinchu 300, Taiwan, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for digital photo frames, image display devices, and components thereof that infringe one or more of claims 9 and 11-12 of U.S. Patent No. 7,295,443 (“the ’443 patent”) or claims 25-26 and 28-29 of U.S. Patent No. 7,522,424 (“the ’424 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.**

**Definitions**

As used in this Order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean Technology Properties Limited, LLC, 20883 Stevens Creek Boulevard, Suite 100, Cupertino, California 95014.
- (C) “Respondent” shall mean Aiptek International Inc., No. 19, Industry E. Road IV., Science Park, Hsinchu 300, Taiwan.

(D) "Person" shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity or its majority owned or controlled subsidiaries, or their successors or assigns.

(E) "United States" shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms "import" and "importation" refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term "covered products" shall mean digital photo frames, image display devices, and components thereof that infringe one or more of claims 9 and 11-12 of the '443 patent or claims 25-26 and 28-29 of the '424 patent.

## II.

### Applicability

The provisions of this Cease and Desist Order shall apply to the Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of, Respondent.

## III.

### Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by the Order. For the remaining term of the patents, Respondent shall not:

(A) import or sell for importation into the United States covered products;

- (B) market, distribute, offer for sale, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

#### **IV.**

#### **Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '443 and '424 patents licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

#### **V.**

#### **Reporting**

For purposes of this reporting requirement, the reporting periods shall commence on July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2014. This reporting requirement shall continue in force until such time as Respondent will have truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that

Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. A Respondent filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission rule 210.4(f), 19 C.F.R. § 210.4(f). Submissions should refer to the investigation number (“Inv. No. 337-TA-807”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)).

Persons with questions regarding filing should contact the Secretary (202-205-2000). A Respondent desiring to submit a document to the Commission in confidence must file the original and a public version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant’s counsel.<sup>1</sup>

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. §1001.

## VI.

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<sup>1</sup> Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

### **Record Keeping and Inspection**

(A) For purposes of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of counsel, or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

### **VII.**

#### **Service of Cease and Desist Order**

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in the

proceeding paragraph, a copy of this Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and (C) shall remain in effect until the date of expiration of the '443 and '424 patents.

### **VIII.**

#### **Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

### **IX.**

#### **Enforcement**

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(f)), and any other action as the Commission may deem appropriate. In determining whether a Respondent is in violation of this Order, the Commission may infer facts adverse to a Respondent if Respondent fails to provide adequate or timely information.

### **X.**

## **Modification**

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

## **XI.**

### **Bonding**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed Reg* 43251 (July 21, 2005), subject to Respondent posting a bond of in the amount of 100 percent of the entered value for infringing digital photo frames, image display devices, and components thereof. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the limited exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying

documentation on Complainant's counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By Order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', written in a cursive style.

Lisa R. Barton  
Acting Secretary to the Commission

Issued: March 12, 2013

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<sup>2</sup> See n. 1.

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

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**In the Matter of**

**CERTAIN DIGITAL PHOTO FRAMES AND  
IMAGE DISPLAY DEVICES AND  
COMPONENTS THEREOF**

---

**Inv. No. 337-TA-807**

**ORDER TO CEASE AND DESIST**

IT IS HEREBY ORDERED THAT Pandigital, Inc., 6375 Clark Avenue, Suite 100, Dublin, California 94568, cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of U.S. Patent No. 7,295,443 (“the ’443 patent”), claims 25-26 and 28-29 of U.S. Patent No. 7,522,424 (“the ’424 patent”), or claims 1, 7, 11, 17, 19, and 21 of U.S. Patent No. 7,162,549 (“the ’549 patent”) in violation of Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.**

**Definitions**

As used in this Order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainant” shall mean Technology Properties Limited, LLC, 20883 Stevens Creek Boulevard, Suite 100, Cupertino, California 95014.

(C) “Respondent” shall mean Pandigital, Inc., 6375 Clark Avenue, Suite 100, Dublin, California 94568.

(D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity or its majority owned or controlled subsidiaries, or their successors or assigns.

(E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.

(F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.

(G) The term “covered products” shall mean digital photo frames, image display devices, and components thereof that infringe one or more of claims 9, 11-12, and 14 of the ’443 patent, claims 25-26 and 28-29 of the ’424 patent, or claims 1, 7, 11, 17, 19, and 21 of the ’549 patent.

## **II.**

### **Applicability**

The provisions of this Cease and Desist Order shall apply to the Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by Section III, *infra*, for, with, or otherwise on behalf of, Respondent.

### **III.**

#### **Conduct Prohibited**

The following conduct of Respondent in the United States is prohibited by the Order. For the remaining term of the patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, offer for sale, or otherwise transfer (except for exportation), in the United States imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

### **IV.**

#### **Conduct Permitted**

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if, in a written instrument, the owner of the '443, '424, and '549 patents licenses or authorizes such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

### **V.**

#### **Reporting**

For purposes of this reporting requirement, the reporting periods shall commence on July 1 of each year and shall end on the subsequent June 30. However, the first report required under this section shall cover the period from the date of issuance of this Order through June 30, 2014. This reporting requirement shall continue in force until such time as Respondent will have

truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that Respondent has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period. A Respondent filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission rule 210.4(f), 19 C.F.R. § 210.4(f). Submissions should refer to the investigation number (“Inv. No. 337-TA-807”) in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, [http://www.usitc.gov/secretary/fed\\_reg\\_notices/rules/handbook\\_on\\_electronic\\_filing.pdf](http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000). A Respondent desiring to submit a document to the Commission in confidence must file the original and a public version of the original with the Office of the Secretary and serve a copy of the confidential version on Complainant’s counsel.<sup>1</sup>

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be

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<sup>1</sup> Complainant must file a letter with the Secretary identifying the attorney to receive the reports or bond information. The designated attorney must be on the protective order entered in the investigation.

referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. §1001.

## **VI.**

### **Record Keeping and Inspection**

(A) For purposes of securing compliance with this Order, Respondent shall retain any and all records relating to the sale, offer for sale, marketing, or distribution in the United States of covered products, made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of three (3) years from the close of the fiscal year to which they pertain.

(B) For purposes of determining or securing compliance with this Order and for no other purpose, and subject to any privilege recognized by the federal courts of the United States, duly authorized representatives of the Commission, upon reasonable written notice by the Commission or its staff, shall be permitted access and the right to inspect and copy in Respondent's principal office during office hours, and in the presence of counsel, or other representatives if Respondent so chooses, all books, ledgers, accounts, correspondence, memoranda, and other records and documents, both in detail and in summary form as are required to be retained by subparagraph VI(A) of this Order.

## **VII.**

### **Service of Cease and Desist Order**

Respondent is ordered and directed to:

(A) Serve, within fifteen (15) days after the effective date of this Order, a copy of this Order upon each of its respective officers, directors, managing agents, agents, and employees who have any responsibility for the importation, marketing, distribution, or sale of imported covered

products in the United States;

(B) Serve, within fifteen (15) days after the succession of any persons referred to in the preceding paragraph, a copy of this Order upon each successor; and

(C) Maintain such records as will show the name, title, and address of each person upon whom the Order has been served, as described in subparagraphs VII(A) and VII(B) of this Order, together with the date on which service was made.

The obligations set forth in subparagraphs VII(B) and (C) shall remain in effect until the date of expiration of the '443, '424, and '549 patents.

### **VIII.**

#### **Confidentiality**

Any request for confidential treatment of information obtained by the Commission pursuant to Sections V and VI of this Order should be in accordance with Commission Rule 201.6, 19 C.F.R. § 201.6. For all reports for which confidential treatment is sought, Respondent must provide a public version of such report with confidential information redacted.

### **IX.**

#### **Enforcement**

Violation of this Order may result in any of the actions specified in section 210.75 of the Commission Rules of Practice and Procedure (19 C.F.R. § 210.75), including an action for civil penalties in accordance with section 337(f) of the Tariff Act of 1930, as amended (19 U.S.C. § 1337(f)), and any other action as the Commission may deem appropriate. In determining whether a Respondent is in violation of this Order, the Commission may infer facts adverse to a Respondent if Respondent fails to provide adequate or timely information.

## **X.**

### **Modification**

The Commission may amend this Order on its own motion or in accordance with the procedure described in section 210.76 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.76).

## **XI.**

### **Bonding**

The conduct prohibited by Section III of this Order may be continued during the sixty (60) day period in which this Order is under review by the United States Trade Representative as delegated by the President, 70 *Fed Reg* 43251 (July 21, 2005), subject to Respondent posting a bond of in the amount of 100 percent of the entered value for infringing digital photo frames, image display devices, and components thereof. This bond provision does not apply to conduct that is otherwise permitted by Section IV of this Order. Covered products imported on or after the date of issuance of this order are subject to the entry bond as set forth in the limited exclusion order issued by the Commission, and are not subject to this bond provision.

The bond is to be posted in accordance with the procedures established by the Commission for the posting of bonds by complainants in connection with the issuance of temporary exclusion orders. *See* Commission Rule 210.68, 19 C.F.R. § 210.68. The bond and any accompanying documentation is to be provided to and approved by the Commission prior to the commencement of conduct which is otherwise prohibited by Section III of this Order. Upon acceptance of the bond by the Secretary, (a) the Secretary will serve an acceptance letter on all parties and (b) the Respondent must serve a copy of the bond and any accompanying

documentation on Complainant's counsel.<sup>2</sup>

The bond is to be forfeited in the event that the United States Trade Representative approves, or does not disapprove within the review period, this Order, unless the U.S. Court of Appeals for the Federal Circuit, in a final judgment, reverses any Commission final determination and order as to Respondent on appeal, or unless Respondent exports the products subject to this bond or destroys them and provides certification to that effect satisfactory to the Commission.

The bond is to be released in the event the United States Trade Representative disapproves this Order and no subsequent order is issued by the Commission and approved, or not disapproved, by the United States Trade Representative, upon service on Respondent of an order issued by the Commission based upon application therefore made by Respondent to the Commission.

By Order of the Commission.



Lisa R. Barton  
Acting Secretary to the Commission

Issued: March 12, 2013

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<sup>2</sup> See n. 1.

**CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **NOTICE** was served upon the Office of Unfair Import Investigations and the following parties as indicated on **March 12, 2013**



Lisa R. Barton, Acting Secretary  
U.S. International Trade Commission  
500 E Street SW, Room 112A  
Washington, D.C. 20436

**FOR COMPLAINANT TECHNOLOGY PROPERTIES LIMITED, LLC:**

James C. Otteson, Esq.  
**AGILITY IP LAW, LLC**  
149 Commonwealth Drive, Suite 1033  
Menlo Park, CA 94025

- Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**FOR RESPONDENT DIGITAL SPECTRUM SOLUTIONS, INC.:**

Robert D. Fish  
**FISH & ASSOCIATES PC**  
2603 Main Street, Suite 1000  
Irvine, CA 92614

- Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

**RESPONDENT PANDIGITAL, INC.**

Daphne Masin  
Assignee of Pandigital, Inc.  
**CREDIT MANAGEMENT ASSOCIATION  
ADJUSTMENT BUREAU**  
40 East Verdugo Ave.  
Burbank, CA 91502

- Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_

Jeremy E. Rosenthal  
Credit Managers Association Handling Assignment for  
the Benefit of Creditors of Pandigital, Inc.  
**SIDLEY AUSTIN LLP**  
555 West Fifth Street  
Los Angeles, CA 90013

- Via Hand Delivery  
 Via Overnight Mail  
 Via First Class Mail  
 Other: \_\_\_\_\_