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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199745
Party	Defendant Giga-Byte Technology Co., Ltd.
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Date	06/20/2011
Attachments	Reply.pdf (148 pages)(19517577 bytes)

Defendant's Answer to Plaintiff's Opposition

Opposition No.: 91199745

Trademark: ONOFF CHARGE USB & device

Serial No.: 77959661

Defendant: GIGA-BYTE TECHNOLOGY CO., LTD

Cited mark I Serial No.: 77303049

Cited mark II Serial No.: 77303282

Cited mark III Serial No.: 77303256

Cited mark IV Serial No.: 77218488

Cited mark V Serial No.: 77218458

Plaintiff: Apple Inc.

It is well established that a likelihood of confusion determination in this case involves a two-part analysis. The marks are compared for similarities in their appearance, sound, connotation and commercial impression. TMEP §§1207.01, 1207.01(b). The goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. *See Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1164-65, 64 USPQ2d 1375, 1380 (Fed. Cir. 2002); *Han Beauty, Inc. v. Alberto-Culver Co.*, 236 F.3d 1333, 1336, 57 USPQ2d 1557, 1559 (Fed. Cir. 2001); TMEP §§1207.01, 1207.01(a)(vi).

Before the Defendant (Giga-Byte Technology Co., Ltd.) proceeds with a substantive answer, we would like to direct the Examiner to the district court litigation (N.D. Cal. Case 5:11-cv-01846-LHK, Exhibit 1) currently taking place between Apple and Samsung. In a nutshell, Apple claimed that numerous Samsung products infringed certain utility patents, design patents, trademarks, and trade dress allegedly embodied in Apple's iPhone, iPad, and iPod products. These elements, as contend by Apple, are part of its

product configuration trade dress, include, among other things, inherently functional and commonplace elements of phone designed as “a rectangular product shape with all four corners uniformly rounded,” “a display of a grid of colorful square icons with uniformly rounded corners.” (see page 9 of the attached Samsung Motion).

Taken together, we believed our position can be strengthened from some of the arguments made by Samsung. In relevant part, Samsung believes that Apple claims to have a monopoly *over the use of customary, standard, and functional features of generic smartphones*. We are of the same opinion – these trademarks and trade dress, for whatever reason being obtained by Apple, should have not been allowed at the first place. For these reasons, we believed Apple’s Opposition is moot.



That being said, we separately address Apple’s Opposition as follows:


1. Dissimilarity of the marks

In a likelihood of confusion determination, the marks are compared for similarities in their appearance, sound, meaning or connotation and commercial impression. *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973); TMEP §1207.01(b). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); *In re Lamson Oil Co.*, 6 USPQ2d 1041, 1043 (TTAB 1987); *see* TMEP §1207.01(b).

The signs to be compared are the following:



<p>Cited mark I Serial No.: 77303049</p>	
<p>Cited mark II Serial No.: 77303282</p>	 <p>(words only): SMS</p>
<p>Cited mark III Serial No.: 77303256</p>	
<p>Cited mark IV Serial No.: 77218488</p>	 <p>(words only): WORKS WITH IPHONE</p>

<p>Cited mark V Serial No.: 77218458</p>	
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- 1.1 The Plaintiff's trademarks are all the configurations of a handheld mobile digital electronic device, while the cited marks II and IV comprise the words "SMS" and "Works with iPhone" respectively.

- 1.2 However, the applied-for mark is a composite trade mark consisting of the words "ON", "OFF", "CHARGE" & "USB" and the complex d devices. The devices are made up of a mobile phone-shaped device with an image of a battery on its screen connecting to a larger electronic device by a USB cord. On the larger electronic device there are two USB ports surrounded by a shaded rectangle, above which is a circular on/off button. The words are presented in a very stylized way above the mobile phone-shaped device and covering the line of the device with a lightning image between the words "ON" and "OFF".

- 1.3 Apparently, the applied-for mark is a composite mark consisting of words elements and figurative elements. Such words element totally differ from the words contained in the cited mark II and IV. The figurative elements of the applied-for mark distinguish from the cited marks as well. Even though the applied-for mark comprises the phone-shape device, the differences between the phone-shape device and the cited marks are remarkable and can be easily noticed by the average consumers. One key difference in the screen is that the phone-shape device contained in the applied-for mark has six small circle "indicators" on the top of the touch screen, whereas the cited marks have one continuous line. Another notable difference concerns the on/off button. The phone-shape device features a round button, whereas the cited marks have a square button. Besides, the left side-panel of the cited marks I and III features a bow-shaped volume-control button that narrows in the middle and widens at the ends. The correlating button on the phone in the cited marks I and III is

significantly shorter, and has an unvaried rectangular shape. Furthermore, the cited marks I and III feature a mechanical switch above its volume-control button, whereas the phone-shape device in the applied-for mark appears to have a non-movable indicator. Moreover, there is an image of a battery dominantly displayed on the screen, which further differ from the cited marks. It should be clearly pointed out that nowadays, the cited marks, namely the configuration of a handheld mobile digital electronic device have become a common configuration of mobile phone widely used by the mobile phone manufacturers, such as HTC (HTC Touch), Samsung (Samsung Android, Samsung Anycall and Samsung Ultra), LG (the LG KS-20), Acer (Acer BeTouch) and etc (Exhibit 2). The Exhibit 2 contained the images of the above-mentioned mobile phones which show that the configuration of such phones are nearly identical, with rectangular device, rounded corners and a circle button in the middle-bottom part of the device. In addition, similar designs have been found among marks already registered by the USPTO (Exhibit 3). Thus as the U.S. Court of Appeals for the Third Circuit held that “a product configuration is inherently distinctive if it is: "(i) unusual and memorable; (ii) conceptually separable from the product; and (iii) likely to serve primarily as a designator of origin of the product." Duraco Products, Inc. v. Joy Plastic Enterprises, Ltd., 32 U.S.P.Q. 2d 1724, 1725 (3d Cir. 1994)”, the configuration in the cited marks is or has become generic in the field of mobile phones, which shall be freely used in the mobile phone industry and cannot enjoy the trade dress protection, or at least it should not enjoy much protection. Hence, considering these differences, and in particular the widely-used configuration the phone-shape device in the applied-for mark shall be deemed rather different from the cited marks. Furthermore, it should be noted that the average consumers can identify the Plaintiff’s products probably because of its registered trade marks attached to them other than the trade dress herein.

- 1.4 Nevertheless it should be borne in mind that the applied-for mark does not consist of merely the phone-shape device and that in assessing the similarity of the signs, comparison shall be taken in their entirety, not just part of the marks. Hence, given that the phone-shape device contained in the applied-for mark is not similar to the cited marks, and that the cited marks should not enjoy or should only enjoy a very weak trade dress protection, and that the applied-for mark comprises not only the phone-shape device but also a larger electronic device and the stylized

words with a lightning image, which is a trade mark not a trade dress, the applied-for mark taken as a whole shall be considered significantly different from the cited marks.

- 1.5 Phonetically, the applied-for mark will be pronounced as “on-off-charge-us-b”. However, the words contained in the cited marks II and IV are “SMS”, “works with iPhone”, which are completely distinguishable from the applied-for mark. As other cited marks are purely configuration of the product, the comparison in phonetic aspect shall only render them entirely different.
- 1.6 Conceptually, the cited marks indicate that they are the configuration of a mobile phone while the applied-for mark may suggest that the phone-shape device may be charged when is switched on and off. It follows that the conceptual aspect of such marks are distinguishable.
- 1.7 As TMEP 1207.01(b)(iii) stated, in assessing the similarity of the marks, consideration shall be taken to the dominant portion of the marks. Here in this present case, the dominant portion in the applied-for mark is clearly the words “ON OFF CHARGE” with a lightning symbol in between “ON” and “OFF” because a viewer would first be aware of these words in large print on the upper left hand corner and these words are in large print. Once becoming aware of the words “ON OFF CHARGE” with a lightning symbol in between “ON” and “OFF”, the viewer would be made aware that this mark is about charging electricity into an electronic item due to the word “CHARGE” and the electrical bolt symbol between the “ON” and “OFF”. Once the viewer is made aware that the Mark is about charging electricity into an electronic item, the image of an USB outlet (which is labeled “USB” in the Mark) becomes associated with the source of electricity and hence is a part of the dominant portion of the Mark along with the words “ON OFF CHARGE”. Meanwhile the object of the electronic gadget being charge electricity is the mobile phone which would become the minor portion of the mark because it takes up space on the lower left hand corner of the mark with the upper portion of the phone-shape device is being partly covered by the words “ON OFF CHARGE”. By contrast, it is evident that the dominant portion of the cited marks I, II, III and V is the configuration of a handheld electronic device while the dominant portion of the cited mark IV is “works with

iPhone”. Thus it is apparent that the dominant portions of the respective marks are different.

1.8 In conclusion, given that the phone-shape device in the applied-for mark looks different from all of the cited marks, and that the configuration contained in the cited marks is generic, and that the dominant portions of the marks differ, a safe conclusion can be reached that the applied-for mark as a whole is dissimilar to the cited marks and there is no likelihood of confusion on the part of the public.

2. Dissimilarity of the goods

Goods to be compared are the following:

Good of the applied-for mark	Motherboards
Goods of the Cited mark I Serial No.: 77303049	Class 9: Handheld mobile digital electronic devices comprised of a mobile phone, digital audio and video player, handheld computer, personal digital assistant, electronic personal organizer, pocket computer for note-taking, electronic calendar, calculator, and camera, and capable of providing access to the Internet and sending and receiving electronic mail, digital audio, video, text, images, graphics and multimedia files
Goods of the Cited mark II Serial No.: 77303282	same as the above
Goods of the Cited mark III Serial No.: 77303256	same as the above
Goods of the Cited mark IV Serial No.: 77218488	Class 9: Electronic and mechanical parts and fittings for mobile phones and other portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio and video files, namely, electronic docking stations, stands specially designed for holding mobile phones and portable and handheld digital electronic devices, battery chargers, battery packs, electrical connectors, wires, cables, and adaptors, wired and wireless remote controls for mobile phones and other portable and handheld digital electronic devices, headphones and earphones, stereo amplifier and speaker base stations, automobile stereo adaptors, audio, video and radio receivers, audio, and radio transmitters, video viewers, namely, video monitors for

	mobile phones and other portable and handheld digital electronic devices, electronic memory card readers, and carrying cases, all for use with mobile phones and other portable and handheld digital electronic devices for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files
Goods of the Cited mark V Serial No.: 77218458	Same as the above

- 2.1 From the above, it is clear that the goods of the cited marks mainly refer to smart phones, handheld computers and pocket computers and the parts thereof for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files. Despite falling under the same classification, motherboards, the only product which the Defendant claims to register, represent a product segment that is not highly related to the goods of the cited marks.
- 2.2 Motherboards are a central component of a personal computer (as shown below) that requires installation and all other computer components have to connect to motherboards so that such components can be workable. However, the goods of the cited marks, namely the smart phones, handheld computers and pocket computers on the other hand, are standalone, user-ready goods, which are much smaller than computer motherboards and are distinguishable from motherboards in appearance. Even though the goods of the cited marks also include the parts and fittings for smart phones, handheld computers and pocket computers, they are nonetheless much smaller in size and they are, as presented above, for recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files. By contrast, motherboards are not capable of recording, organizing, transmitting, manipulating, and reviewing text, data, audio, image, and video files, thus it is evident that they are completely different in function and also method of use.



- 2.3 As motherboards are dissimilar to the goods covered by the cited marks in function, they are not likely to complement or compete with each other. For instance, if someone needs a smart phone to call, send and receive SMS, access to the internet and etc., such person definitely will not buy a motherboard to replace a smart phone, simply because motherboard is not able to function as a smart phone.
- 2.4 Motherboards and goods of the cited marks are aimed at different end-users. Even though personal computers have penetrated in nearly every family, the average consumers buy computers with motherboards already assembled as part of the package. That is to say most consumers will not place motherboard on their buying list. As motherboard is assembled in the personal computer and will not be seen unless the computer chassis is opened, most average consumers do not know what a motherboard is and how it works. The motherboard-buying consumer is assumed to have particular knowledge of how computer functions, such as the compatibility of the motherboards with other computer components. Important factors, to name a few, include whether the motherboard supports Intel CPU or AMD CPU, the compatibilities of DRAMs with this particular motherboard, or whether the motherboard can fit into the computer chassis. Choosing the wrong motherboard would render the computer useless. In other words, motherboards are high tech products aimed at experts or geeks, who have considerably high level of attention and can immediately differentiate motherboards from the goods of the cited marks. The goods of the cited marks on the other hand, are aimed at the average consumers, since nowadays nearly every one has a mobile phone or smart phone. Thus it is apparent that the end users of the respective goods are not

similar.

- 2.5 In the US market, motherboards are sold in specialty computer hardware and component shops and their online equivalents. The goods of the cited marks, on the other hand, are sold nearly exclusively through Apple Retail Stores and the website <http://store.apple.com>. The goods of the cited marks are sometimes available in retail chain stores like Walmart and Bestbuy. Motherboards and the goods of the cited marks are not sold in the same counter. Instead, they are displayed on separate shelves. Big stores like Walmart and Bestbuy usually supply a large range of products, from washing machines and microwaves to keyboards and mice. Thus that goods displayed in a same store certainly do not imply that washing machines and keyboard or motherboards and the goods of the cited marks are offered for sale through the same channel and therefore similar. Even in rare and isolated cases where a less sophisticated consumer does encounter the applied-for mark, the likelihood of confusion as to the source of the goods would remain low, due to elements surrounding the mark. In a store setting, the display box to which the applied-for mark is applied, much larger than what would be expected for the goods of the cited marks, as well as the packaging's the prominent "GIGABYTE" logo, are clear indicators that the Plaintiff is not the origin of the goods. Exhibit 4 shows that the in-store displays for goods of the cited marks are very different from how motherboards are presented at the stores of Defendant's distributors.
- 2.6 In sum, having regard to the facts that motherboards and the goods of the cited mark are dissimilar in size, appearance, functions, method of use, end users, trade channel, and place of purchase and the actual use of the marks, and that they cannot be in competition or complementary with each other, it can be concluded that motherboards and the goods of the cited marks in Class 9 are dissimilar thoroughly.

3. The cited marks are of weak distinctive character

- 3.1 As demonstrated in Section 1, the cited marks, namely the configuration of a handheld digital electronic device, is widely combined as part of registered trade

marks in the US and also widely used in the marketplace by other smart phone suppliers, which strongly prove that the cited marks are of weak distinctive character or become generic. Even though the Plaintiff's goods are popular in the US, it does not imply that the cited marks are well-known through use and it is doubtful that the consumers can differentiate the source of the designated if the Plaintiff's Apple trade mark is not used along with such goods.

4. **Conclusion**

- 4.1 In light of the foregoing reasons, the Defendant respectfully requests the TTAB to reject Apple's Opposition.

Signature: /Kuohua Fan/

Date: June 20, 2011

By: Kuohua Fan

Title: Chief Legal Officer

Exhibit 1

Case

511-cv-01846-LHK

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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

17 APPLE INC., a California corporation,
18 Plaintiff,

19 vs.

20 SAMSUNG ELECTRONICS CO., LTD., a
21 Korean business entity; SAMSUNG
ELECTRONICS AMERICA, INC., a New
22 York corporation; SAMSUNG
TELECOMMUNICATIONS AMERICA,
23 LLC, a Delaware limited liability company,
24 Defendants.

CASE NO. 11-cv-01846-LHK

**SAMSUNG'S MOTION TO COMPEL
APPLE TO PRODUCE RECIPROCAL
EXPEDITED DISCOVERY**

Date: Sept. 1, 2011
Time: 1:30 p.m.
Courtroom 4, 5th Floor
The Honorable Lucy H. Koh

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1 **NOTICE OF MOTION AND MOTION**

2 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on September 1, 2011¹ at 1:30 p.m., or as soon thereafter
4 as the matter may be heard by the Honorable Lucy H. Koh in Courtroom 4, United States District
5 Court for the Northern District of California, Robert F. Peckham Federal Building, 280 South 1st
6 Street, San Jose, CA 95113, Samsung Electronics Co., Ltd., Samsung Electronics America, Inc.,
7 and Samsung Telecommunications America, LLC (collectively “Samsung”) shall and hereby do
8 move the Court for an order compelling Apple Inc. (“Apple”) to produce the reciprocal expedited
9 discovery set forth in full below. This motion is based on this notice of motion and supporting
10 memorandum of points and authorities; the supporting declaration of Todd M. Briggs; and such
11 other written or oral argument as may be presented at or before the time this motion is taken under
12 submission by the Court.

13 **RELIEF REQUESTED**

14 Pursuant to Federal Rule of Civil Procedure 37(a)(1), Samsung seeks an order compelling
15 Apple to produce to Samsung the product samples, packaging, and packaging inserts set forth in
16 Samsung’s Civil L.R. 37-2 Statement (below) by June 17, 2011.

17 **STATEMENT OF ISSUES TO BE DECIDED**

18 1. Whether Samsung is entitled to samples of the next generation iPhone and iPad, as
19 well as those products’ packaging and packaging inserts, in order to prepare its defense against
20 any preliminary injunction motion brought against Samsung by Apple for trademark or trade dress
21 infringement.

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25 ¹ At the direction of the Court’s courtroom deputy, the noticed hearing date for the present
26 motion is September 1, 2011. However, concurrently with the filing of this motion, pursuant to
27 Civil L.R. 6-1 and 6-3, Samsung is filing an unopposed motion for an order shortening the briefing
28 and hearing schedule on the motion. That stipulated requests seeks a June 9, 2011 hearing date.

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SAMSUNG’S CIVIL L.R. 37-2 STATEMENT

Pursuant to Civil L.R. 37-2, Samsung’s reciprocal expedited discovery requests to Apple are set forth in full below:

1) a sample of the final, commercial version of the next generation iPhone that Apple will release, whether that product will be known as the “iPhone 4S,” “iPhone 5,” or some other name, along with the final version of the packaging in which this product will be delivered to retail customers and a final version of the insert(s) that will be included within such packaging; and

2) a sample of the final, commercial version of the next generation iPad that Apple will release, whether that product will be known as the “iPad 3,” “Third Generation iPad,” or some other name, along with the final version of the packaging in which this product will be delivered to retail customers and a final version of the insert(s) that will be included within such packaging.

Apple has objected/responded to Samsung’s requests as follows:

This lawsuit is about Samsung’s unlawful copying of Apple’s trademarks, trade dress, design and utility patents. This valuable intellectual property is embodied in products that Apple currently has on the market. A preliminary injunction motion will be based on Apple’s current intellectual property rights, not on future products. Because Apple’s future products have no relevance to a preliminary injunction motion, we reject your request that Apple provide samples of such future products.

SAMSUNG’S CERTIFICATION PURSUANT TO FED. R. CIV. P. 37(a)(1)

Samsung hereby certifies that it has in good faith conferred with Apple in an effort to obtain the discovery described immediately above without court action. Samsung’s efforts to resolve this discovery dispute without court intervention are described in the declaration of Todd M. Briggs, submitted herewith.

1 DATED: May 27, 2011

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

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By/s/ Victoria F. Maroulis

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INC., and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I. **INTRODUCTION**

3 Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung
4 Telecommunications America, LLC (collectively “Samsung”) move this Court for an order
5 compelling Apple Inc. (“Apple”) to produce to Samsung the exact same discovery that this Court
6 ordered Samsung to produce to Apple. This discovery will be highly relevant to Samsung’s
7 defense to the preliminary injunction motion that Samsung anticipates Apple will file against
8 Samsung’s future products. Yet Apple refuses to produce this discovery. Instead, Apple claims
9 that the reciprocal discovery Samsung requests is not relevant, and that Samsung should not
10 receive *any* discovery from Apple until Apple files its motion for a preliminary injunction. In
11 effect, Apple seeks to prevent Samsung from fairly competing in the marketplace regardless of
12 whether Samsung’s future products even remotely resemble the allegedly protected elements of
13 Apple’s products that will be released in the same period.

14 Apple’s argument is without merit. The product samples, packaging and packaging
15 inserts that Samsung seeks are highly relevant to Apple’s defense against any preliminary
16 injunction motion that Apple will bring on its trademark and trade dress claims. This evidence
17 will go directly to the question of whether there will be a likelihood of confusion between the
18 Apple and Samsung products that will most likely be in the market at the same time. Nor will
19 production of this discovery unduly burden Apple. Indeed, the Court has already ordered
20 Samsung to produce identical discovery – for more products than Samsung seeks from Apple.
21 Finally, it would put Samsung at a significant disadvantage in this litigation if the Court allowed
22 Apple access to Samsung’s future products, and the freedom to prepare its motion for a
23 preliminary injunction with those products in its possession – all the while knowing what Apple’s
24 future product development plans include – but prevented Samsung from gaining access to
25 Apple’s future products so that it could prepare its defense to Apple’s motion during this same
26 time frame. For all of these reasons, the Court should order that Apple produce the discovery
27 Samsung requests.

28

1 II. FACTS

2 A. Apple's Motion to Expedite Discovery

3 Apple sued Samsung in this Court on April 15, 2011, claiming that numerous Samsung
4 products infringed seven utility patents, three design patents, a number of trademarks, and trade
5 dress allegedly embodied in Apple's iPhone, iPad, and iPod products. (Compl. (D.N. 1).)
6 Apple's complaint against Samsung followed Apple's prior suits against its other competitors who
7 manufacture smartphones, including HTC and Nokia, whom Apple claims are "stealing" its
8 technology. (Decl. of Todd M. Briggs In Support Of Samsung's Motion to Compel Apple to
9 Produce Reciprocal Expedited Discovery and Unopposed Civil L.R. 6-3 Motion to Shorten Time
10 ("Briggs Decl."), Exs. 19, 20.) The elements that Apple contends are part of its product
11 configuration trade dress include, inter alia, such inherently functional and commonplace elements
12 of phone design as "a rectangular product shape with all four corners uniformly rounded," "a
13 display of a grid of colorful square icons with uniformly rounded corners," and "a bottom row of
14 square icons ... set off from the other icons and that do not change as the other pages of the user
15 interface are viewed." (Compl. (D.N. 1) at 12-13.) Among the trademarks Apple asserts is a
16 green phone button that represents the application for making telephone calls. (Id. at 14.)
17 Essentially, Apple claims to have a monopoly over the use of these customary, standard, and
18 functional features of smartphones – none of which are protectable as trademarks or trade dress –
19 and that Samsung is infringing that monopoly. (See, e.g. Briggs Decl. Exs. 21, 22, 23, 24, 25, &
20 26.)

21 Four days after filing its complaint, based on internet reports about several of Samsung's
22 unreleased products, Apple filed a Motion to Expedite Discovery. (Mot. to Expedite Disc. (D.N.
23 10).) Apple's motion sought extensive discovery into those unreleased Samsung products,
24 including actual samples of those products, documents relating to alleged copying of Apple's
25 iPhone, iPad and iPod products, and a 30(b)(6) deposition on various topics. (Id.) Apple
26 sought this discovery "for the express purpose of evaluating a motion for a preliminary injunction
27 directed at [Samsung] products to be released in the near future." (Apple's Reply In Support of
28 Mot. to Expedite Disc. (D.N. 34), at 6.)

1 On May 12, the Court held a hearing on Apple's motion. (D.N. 50.) Samsung stated at
 2 the hearing that to the extent the Court was inclined to grant expedited discovery from Samsung to
 3 Apple for purposes of a preliminary injunction, Samsung should be entitled to receive reciprocal
 4 expedited discovery from Apple. (Briggs Decl. Ex. 28 at 34:2-22.) Apple responded that Apple
 5 was "willing to live by the rules that you set for us, because we want an injunction here and we're
 6 not going to get an injunction here if we're not reciprocal in discovery." (Id. at 34:24-35:14.)

7 At the close of the hearing the Court stated:

8 And let me just say to counsel for Apple, I'm not going to be happy
 9 if you're not [sic] going to say what's good for the goose is not good
 for the gander. Okay?

10 So if I've granted you this expedited discovery and then you end up
 11 being extremely unreasonable on the reciprocal discovery that's
 reasonably requested, I'm not going to be very happy with that.

12 (Id. at 50:20-51:3.)

13 B. Samsung's Requested Reciprocal Expedited Discovery

14 Internet reports suggest Apple will be releasing the next version of the iPhone in
 15 September, and the next version of the iPad later this year. (Briggs Decl. Exs. 1 & 2). This
 16 would be in keeping with Apple's past practice. In the last four years, for example, Apple has
 17 introduced a new version of the iPhone every year. (Briggs Decl. Exs. 3, 4, 5 & 6.) However,
 18 Apple has not yet released a new version of the iPhone this year. Apple has released two
 19 versions of the iPad, one in 2010 and another earlier this year. (Briggs Decl. Exs. 7 & 8.) In
 20 the past Apple has discontinued older generations of products when newer generations became
 21 available. (Briggs Decl. Exs. 9, 14, 15, 16, 17 & 18.)

22 Given that these internet reports and Apple's past practice suggest that the Samsung
 23 products into which Apple sought and obtained expedited discovery are likely to be in the market
 24 at the same time that Apple's next generation iPhone and iPad are, Samsung wrote to Apple on
 25 May 16, 2011, requesting that Apple produce to Samsung by June 13, 2011²:

26 _____
 27 ² Samsung's letter was sent before the Court issued its Order Granting Limited Expedited
 28 Discovery. That Order set the deadline for Samsung's production on June 17, 2010. (See D.N.
 (footnote continued))

1 1) a sample of the final, commercial version of the next generation
2 iPhone that Apple will release, whether that product will be known
3 as the “iPhone 4S,” “iPhone 5,” or some other name, along with the
4 final version of the packaging in which this product will be delivered
to retail customers and a final version of the insert(s) that will be
included within such packaging; and

5 2) a sample of the final, commercial version of the next generation
6 iPad that Apple will release, whether that product will be known as
7 the “iPad 3,” “Third Generation iPad,” or some other name, along
8 with the final version of the packaging in which this product will be
delivered to retail customers and a final version of the insert(s) that
will be included within such packaging.

9 (Briggs Decl. Ex. 10 at 1-2.) Samsung clarified that “[i]f ‘final’ or ‘commercial’ versions of the
10 products, packaging, and packaging inserts that Samsung requests are not available by June 13,
11 2011, then Samsung requests that the most current version of each be produced by that date
12 instead.” (Id. at 2.) Samsung also explained that “Samsung needs each of these items to
13 evaluate whether a likelihood of confusion exists between the Samsung and Apple products that
14 will be in the market at the same time.” (Id.) Samsung vowed to “afford these samples,
15 packaging and inserts the same level of confidentiality protection under Patent L.R. 2-2’s Interim
16 Protective Order, as modified by Judge Koh, that Apple must afford to Samsung’s product
17 samples.” (Id.) Finally, Samsung made clear that “by requesting the specific product samples,
18 packaging and packaging inserts described above, Samsung in no way waives its right to seek
19 further discovery relevant to Samsung’s defense against any potential preliminary injunction
20 motion Apple may file in these proceedings.” (Id. at 2.)

21 Not having heard back from Apple by May 19, Samsung again wrote to Apple, asking that
22 Apple respond to Samsung’s May 16 letter by the end of the week. (Briggs Decl. Ex. 11.) On
23 May 20, Apple rejected Samsung’s request for samples of the next generation iPhone and iPad.
24 (Briggs Decl. Ex. 12.) Apple contended that these products had no relevance to any motion
25

26 _____
27 52 at 6.) Samsung asks that Apple be ordered to produce the requested product samples,
28 packaging and packaging inserts no earlier or later than Samsung must produce its product
samples, packaging, and packaging inserts to Apple, i.e., by June 17, 2011.

1 Apple might bring for a preliminary injunction against Samsung's future products since such a
2 motion would be based on products that Apple currently has in the market. (Id.)

3 On May 23, 2011, the parties held a teleconference for the purpose of attempting to resolve
4 their discovery dispute. (Briggs Decl. at ¶ 33.) During this teleconference, counsel for
5 Samsung explained to counsel for Apple that evidence regarding Apple's future products is
6 relevant to Samsung's defense to any preliminary injunction motion Apple might bring based on
7 alleged trademark or trade dress infringement because the requested samples are relevant to an
8 analysis of whether there will be a likelihood of confusion between Apple's future products and
9 Samsung's future products. (Id.) Counsel for Apple stated that they would explain Samsung's
10 position to Apple and inform Samsung by May 24 whether Apple would withdraw its refusal to
11 produce the requested product samples in light of the parties' teleconference. (Id.) On May 24,
12 Apple informed Samsung that Apple maintained its refusal to produce the requested discovery.
13 (Briggs Decl. Ex. 13.)

14 III. LEGAL STANDARDS

15 A party is entitled to seek through discovery "any nonprivileged matter that is relevant to
16 any party's claim or defense." Fed. R. Civ. P. 26(b)(1). "A party may serve on any other party
17 a request within the scope of Rule 26(b): (1) to produce . . . (A) any designated documents . . . ;
18 or (B) any designated tangible things." Fed. R. Civ. P. 34(a). "On notice to other parties and all
19 affected persons, a party may move for an order compelling disclosure or discovery" of documents
20 or tangible things "if: . . . (iv) a party fails to respond that inspection [of such documents or
21 tangible things] will be permitted – or fails to permit inspection – as requested under Rule 34."
22 Fed. R. Civ. P. 37(a)(1), (3)(B).

23 IV. ARGUMENT

24 A. The Discovery Samsung Requests Is Highly Relevant to Samsung's Defense 25 Against Any Motion By Apple for a Preliminary Injunction.

26 Apple has devoted considerable space to its claims for trademark and trade dress
27 infringement in its Complaint, in its briefs on its Motion to Expedite Discovery, and at oral
28 argument. Despite the parties' multiple communications concerning Apple's anticipated

1 preliminary injunction motion, Apple has not disavowed that it will file such a motion based on its
2 claimed trade dress and trademarks. Thus, Samsung reasonably believes that if Apple does file a
3 motion for a preliminary injunction in this action, that motion will be based at least in part on its
4 trademark and trade dress claims. By this motion, Samsung seeks reciprocal expedited discovery
5 that will be highly relevant to Samsung's defense against any such preliminary injunction motion.

6 In the Ninth Circuit, to prove trademark or trade dress infringement, a plaintiff must prove
7 that (1) the claimed trademark or trade dress is nonfunctional, (2) the design is inherently
8 distinctive or acquired distinctiveness through secondary meaning, and (3) there is a likelihood
9 that the plaintiff's product(s) will be confused by consumers with the products the plaintiff has
10 accused. Disc Golf Ass'n, Inc. v. Champion Discs, Inc., 158 F.3d 1002, 1005 (9th Cir. 1998).
11 The reciprocal expedited discovery Samsung seeks will be relevant to the issue of whether there
12 will be a likelihood of confusion between the future Samsung products at issue and the Apple
13 products that will be in the market at the same time.

14 Courts of this Circuit look to the Sleekcraft factors to determine whether there will be a
15 likelihood of confusion. AMF Inc. v. Sleekcraft Boats, 599 F.2d 341 (9th Cir. 1979), abrogated
16 on other grounds, Mattel, Inc. v. Walking Mountain Prods., 353 F.3d 792, 810 n.19 (9th Cir.
17 2003); Rodan & Fields, LLC v. Estee Lauder Cos., Inc., No. 10-CV-02451-LHK, 2010 WL
18 3910178, at *3 (N.D. Cal. Oct. 5, 2010). These factors include "1. strength of the mark; 2.
19 proximity of the goods; 3. similarity of the marks; 4. evidence of actual confusion; 5. marketing
20 channels used; 6. type of goods and the degree of care likely to be exercised by the purchaser; 7.
21 defendant's intent in selecting the mark; and 8. likelihood of expansion of the product lines."
22 Sleekcraft, 599 F.2d at 348-49; Rodan & Fields, 2010 WL 3910178, at *3. However, "the
23 Sleekcraft factors (1) are non-exhaustive, and (2) should be applied flexibly." Network
24 Automation, Inc. v. Advanced Sys. Concepts, Inc., No. 10-55840, 2011 WL 815806, at *8 (9th
25 Cir. Mar. 8, 2011); accord Jada Toys, Inc. v. Mattel, Inc., 518 F.3d 628, 632-33 (9th Cir. 2008)
26 (Sleekcraft factors should be applied without "excessive rigidity" because "a final likelihood of
27 confusion determination may rest on those factors that are of the most relative importance in any
28 particular case"); E. & J. Gallo Winery v. Gallo Cattle Co., 967 F.2d 1280, 1290-91 (9th Cir.

1 1992) (“This list of factors, while perhaps exhausting, is neither exhaustive nor exclusive.”);
2 NINTH CIRCUIT MANUAL OF MODEL CIVIL JURY INSTRUCTIONS,
3 <http://www.cand.uscourts.gov/juryinstructions> (click on “15. TRADEMARK,” then “15.16
4 Infringement—Likelihood of Confusion—Factors—Sleekcraft Test”) (identifying, in addition to
5 eight traditional factors: “9. Other Factors. Any other factors that bear on likelihood of
6 confusion.”)

7 In this particularly unusual case, samples of Apple’s next generation iPhone and iPad will
8 be relevant to a significant enumerated Sleekcraft factor: similarity of the marks. “Similarity of
9 the marks is tested on three levels: sight, sound, and meaning. Each must be considered *as they*
10 *are encountered in the marketplace.*” Network Automation, 2011 WL 815806, at * 9 (citing
11 Sleekcraft, 599 F.2d at 351) (emphasis added). Apple here has sought expedited discovery in
12 order to decide whether it will bring a motion for a preliminary injunction against Samsung’s
13 *future* products, rather than against Samsung products that are already in the market. At the
14 same time, internet reports and Apple’s past practice suggest that Apple will be releasing its own
15 future iPhone and iPad products later this year. Further, Apple’s past practice has been to phase
16 out older generations of such products when newer generations of those products are launched.
17 Apple claims that any motion for a preliminary injunction that it brings “will be based on Apple’s
18 current intellectual property rights” which are “embodied in products that Apple has currently on
19 the market.” (Briggs Decl. Ex. 12.) But if Apple will alter or remove those trademarks and
20 trade dress from its future versions of the iPhone and iPad – the versions that are most likely to be
21 in the market at the same time as Samsung’s future products – then the marks that consumers will
22 actually encounter in the marketplace could be quite different, which will affect the Court’s
23 likelihood of confusion analysis.³ Sleekcraft, 599 F.2d at 351. Samples of Apple’s future

24
25 ³ If a defendant were to stop employing the claimed trademarks or trade dress at issue, a
26 motion for a preliminary injunction would be rendered moot. Moose Creek, Inc. v. Abercrombie
27 & Fitch Co., 331 F. Supp. 2d 1214, 1223 n.3 (C.D. Cal. 2004). This reasoning should apply
28 with equal force when the *plaintiff* stops employing the trademark and trade dress on its own
products.

1 products will provide necessary evidence of how Apple's marks and trade dress might actually be
2 encountered in the marketplace, which must be considered here in determining whether consumers
3 are likely to be confused.

4 Further, Apple's new products may affect the degree to which the parties' products may
5 compete with each other in the market. Although Apple's next generation of products will
6 presumably be smartphones and tablet computers, even products that share the same general
7 product category may not compete directly with each other. For example, the Sleekcraft court
8 concluded that the two boats at issue were not direct competitors, even though "both boats are
9 designed for towing water skiers." 599 F.2d at 348. "[D]espite the potential market overlap,"
10 "Slickcraft boats are for general family recreation, and Sleekcraft boats are for persons who want
11 high speed recreation." Id. Thus, Apple's future products bear on another Sleekcraft factor:
12 proximity of the products. This factor is "measured by whether the products are: (1)
13 complementary; (2) sold to the same class of purchasers; and (3) similar in use and function."
14 Network Automation, 2011 WL 815806, at * 9 (citation omitted). Just as a parties' future
15 products bear on their likelihood to "bridge the gap," they are equally significant to whether the
16 proximity of the parties' products will draw closer or further apart. Kiki Undies Corp. v.
17 Promenade Hosiery Mills, Inc., 411 F.2d 1097, 1100 (2d Cir. 1969) ("An actual design sample for
18 panty hose was offered into evidence at the trial . . . but the district court excluded [it], stating, 'I
19 am not getting any of your future products.' This evidence should not have been excluded. It
20 was relevant to the issue of 'bridging the gap,' i.e., plaintiff's desire to extend its activities into a
21 disputed area."); Trovan, Ltd. v. Pfizer, Inc., No. CV-98-00094 LGB MCX, 2000 WL 709149, at
22 *34 (C.D. Cal. 2000) (evidence of "potential uses, or future applications of the mark" are "relevant
23 to show likelihood of confusion (expansion of the product line).")

24 In addition, Apple's use of different trademarks and different trade dress in its future
25 products is relevant to the strength of Apple's trade dress and trademarks. To the extent Apple's
26 trade dress in the new iPhone product will, like the iPhone 4, differ from the original iPhone, that
27 will further weaken the strength of Apple's trade dress. As recognized in the leading trademark
28 treatise, plaintiffs may face a "'particularly difficult challenge' of proving the validity of broadly

1 defined trade dress which is common to all items in the series or line.” J. THOMAS MCCARTHY,
2 MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION § 8:5.50 (4th ed. 2011); Pilot Corp. of
3 Am. v. Fisher-Price, Inc., 344 F. Supp. 2d 349, 356 (D. Conn. 2004) (finding no trade dress rights
4 in the “consistent overall look” of a product whose “design and package have changed with nearly
5 every iteration of the product”). “[W]hen protection is sought for an entire line of products, our
6 concern for protecting competition is acute.” Landscape Forms, Inc. v. Columbia Cascade Co.,
7 113 F.3d 373, 380 (2d Cir. 1997).

8 Finally, the unusual facts of this case should also be taken into account here, pursuant to
9 the “other factors” element of the likelihood of confusion test set forth in the Ninth Circuit’s
10 Model Civil Jury Instructions. For example, the Court should consider the relatively short
11 product cycle by which new phones are introduced and exist concurrently in the marketplace.
12 Because any motion for a preliminary injunction that Apple brings will be aimed at Samsung’s
13 future products, it is simply common sense that Samsung and the Court should be able to evaluate
14 those products in view of the actual Apple products that are likely to be in the marketplace at the
15 same time. The evidence that would best enable Samsung and the Court to do that are samples of
16 Apple’s future products themselves.⁴

17 In sum, the product samples, packaging and packaging inserts that Samsung requests are
18 highly relevant to Samsung’s defense against any preliminary injunction motion Apple will bring
19 based on trademark or trade dress infringement.
20
21
22

23 ⁴ Indeed, if Apple were not ordered to produce the requested future product samples, the
24 Court could find itself investing significant judicial resources into an ultimately moot exercise.
25 For instance, were the Court to enjoin any of Samsung’s future phones based on Apple’s current
26 iPhone and iPad, Apple may a week later launch the next generation iPhone and iPad. If the new
27 iPhone and iPad eliminated, or substantially modified, many (or all) of the claimed trademarks and
28 trade dress elements upon which the Court had based its injunction, the Court would likely have to
revisit its order, and possibly vacate it. Having the next generation iPhone and iPad in evidence
would lessen the likelihood of that waste occurring.

1 B. The Requested Product Samples, Packaging and Packaging Inserts Meet the
2 Requirements of Federal Rule of Civil Procedure 26(b)(2).

3 Civil Local Rule 37-2 requires that “the moving papers [on a motion to compel] must
4 detail the basis for the party’s contention that it is entitled to the requested discovery and must
5 show how the proportionality and other requirements of FRCivP 26(b)(2) are satisfied.” Because
6 Samsung’s requests are for production of documents and tangible things that are not electronically
7 stored, they do not implicate Federal Rule of Civil Procedure 26(b)(2)(A) or (B), which concern
8 interrogatories, depositions, requests for admission, and electronically stored information.

9 Samsung’s requests also meet the requirements set forth in Federal Rule of Civil Procedure
10 26(b)(2)(C). The discovery Samsung seeks is not unreasonably cumulative or duplicative, nor
11 can it be obtained from some other source that is more convenient, less burdensome, or less
12 expensive. Samsung does not have any discovery yet into the next generation iPhone and iPad,
13 and Apple is in sole possession of samples of its next generation iPhone and iPad, as well as those
14 products’ packaging and packaging inserts. Samsung also has had no opportunity to obtain the
15 discovery it seeks in this action, since the conference of the parties called for by Federal Rule of
16 Civil Procedure 26(f) has not yet occurred, and the Court has ordered only limited expedited
17 discovery in advance of that conference. (Order Granting Limited Expedited Disc. (D.N. 52).)
18 Finally, the benefit of the requested discovery to Samsung far exceeds the burden of production on
19 Apple. As explained above, samples of Apple’s future iPhone and iPad products are likely the
20 best evidence of whether there will be a likelihood of confusion between any trademarks and trade
21 dress allegedly embodied in those products and the future Samsung products that will be in the
22 market at the same time. It is hard to overstate the importance of such discovery. Samsung
23 requests it to prepare its defense against an anticipated motion by Apple that will seek an
24 extraordinary remedy – a preliminary injunction against Samsung’s future products – that, if
25 granted, would seriously harm Samsung. Further, the Court has already determined that the
26 burden of producing samples of future products, as well as the packaging and packaging inserts for
27 those products, will not be unduly burdensome on the parties on one side of this case. Apple
28 should not be heard to complain that it will be burdened by producing samples of its own future

1 products when it has sought and obtained a court order requiring Samsung to produce to Apple the
2 very same thing.

3 C. Fundamental Fairness Requires That Apple Be Ordered to Produce the Requested
4 Product Samples, Packaging, and Packaging Inserts.

5 At the May 12 hearing on Apple's Motion to Expedite Discovery, Apple indicated that it
6 was prepared to engage in reciprocal discovery. (Briggs Decl. Ex. 28 at 34:24-35:14.) Indeed,
7 Apple acknowledged that "we're not going to get an injunction here if we're not reciprocal in
8 discovery." (Id.) The Court also specifically advised counsel for Apple that "I'm not going to
9 be happy if you're not [sic] going to say what's good for the goose is not good for the gander.
10 Okay?" (Id. at 50:20-23.) Yet now Apple claims that Apple should not be required to produce
11 to Samsung the exact same discovery that Samsung is required to produce to Apple.

12 Equity should not countenance Apple's refusal. First, it would fly in the face of Apple's
13 representations to the Court at the May 12 hearing. Second, Samsung would be at a distinct
14 disadvantage in any preliminary injunction motion practice Apple initiates if Samsung does not
15 receive the discovery it requests. Currently, Samsung is to produce to Apple samples of the
16 latest iterations of the Galaxy S2, Galaxy Tab 8.9, Galaxy Tab 10.1, Infuse 4G and 4G LTE, and
17 those products' packaging and packaging inserts by June 17. (See Order Granting Limited
18 Expedited Disc. (D.N. 52), at 6.) The only "reciprocal" discovery that Apple has offered in
19 return would not commence until *after* Apple filed its motion, and that offer of discovery does not
20 include future product samples. (Briggs Decl. Exs. 12, 13.) Under Apple's proposed scheme,
21 until that motion is filed – and Apple has not specified a date on which it will file such a motion –
22 Apple will have as much time as it desires to use Samsung's produced product samples and other
23 discovery to work up its motion and supporting evidence. In the meantime, Samsung would have
24 no discovery from Apple that it could use to work up its defense. That would be fundamentally
25 unfair, and is in part why Samsung stated at the hearing that it would seek discovery *prior* to any
26 preliminary injunction motion practice. (Briggs Decl. Ex. 28 at 50:11-16.) That is also why it
27 has requested that the parties exchange product samples, packaging and packaging inserts on the
28 same day. The inequity of not ordering Apple to produce the discovery Samsung's requests

1 becomes particularly stark when one considers what is at stake for Samsung: a possible
2 injunction of five of its products.

3 V. CONCLUSION

4 For the foregoing reasons, the Court should GRANT Samsung's Motion to Compel Apple
5 to Produce Reciprocal Expedited Discovery.

6

7

8

9 DATED: May 27, 2011

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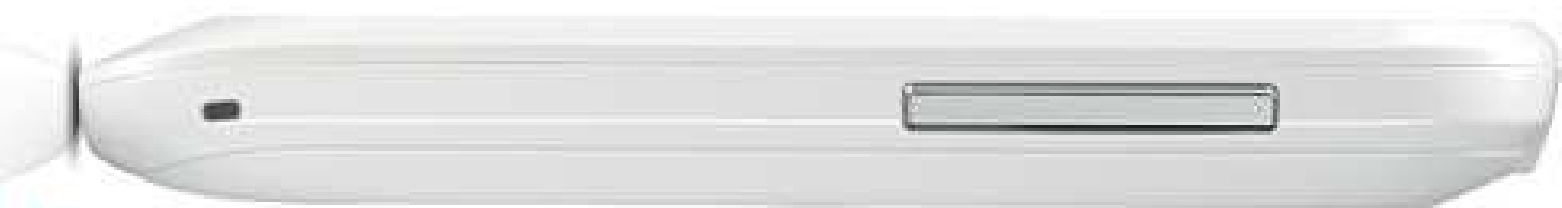
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Exhibit 2

Images of smartphones



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2 SIM

Star A5000



A5000
on
exclusive sale

Brandables



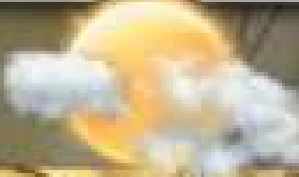
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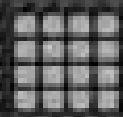
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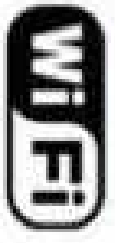


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Exhibit 3

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Goods and Services	<p>IC 035. US 100 101 102. G & S: information management for mobile communication devices, namely, providing consumer information in the field of mobile devices; Updating of advertising material including the preparation of publicity columns including the writing of publicity texts, namely, newspaper columns; business information; systemization of information into computer databases; compilation of information into computer databases; sales promotions for third parties; on-line advertising on a computer network; advertising; business information in the field of electronic devices; providing business information</p> <p>IC 038. US 100 101 104. G & S: Providing an on-line forum, namely, providing an internet electronic telecommunications forum for comments made by telecommunications system users and posting such comments on-line, and providing for the transmission of messages between computer users connected with the electronic devices</p>
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	<p>16.01.08 - Telephones</p> <p>26.03.14 - Ovals, three or more; Three or more ovals</p> <p>26.03.21 - Ovals that are completely or partially shaded</p> <p>26.11.02 - Plain single line rectangles; Rectangles (single line)</p> <p>26.11.21 - Rectangles that are completely or partially shaded</p> <p>26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)</p> <p>26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal</p>
Trademark Search Facility Classification Code	<p>ART-16.01 Telecommunications and sound recording or reproduction equipment</p> <p>SHAPES-BAR-BANDS Designs with bar, bands or lines</p> <p>SHAPES-CIRCLE Circle figures or designs including semi-circles and incomplete circles</p> <p>SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons</p> <p>SHAPES-OVALS Oval figures or designs including incomplete ovals and one or more ovals</p>
Serial Number	79062485

Filing Date August 27, 2008
Current Filing Basis 66A
Original Filing Basis 66A
Published for Opposition October 20, 2009
Registration Number 3734395
International Registration Number 0985933
Registration Date January 5, 2010
Owner (REGISTRANT) "TAITAN GEIT" Ltd LIMITED LIABILITY COMPANY BULGARIA "Avksentii Veleshki" str. floor 1, app. 1 BG-9000 VARNA BULGARIA
Priority Date April 30, 2008
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PHONE" APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the wording "PHONE ARENA" in stylized text overlaid upon a stylized depiction of a mobile phone with an antenna represented by three ovals.
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DICT](#)
[SEARCH OG](#)
[TOP](#)
[HELP](#)
[PREV LIST](#)
[CURR LIST](#)

[NEXT LIST](#)
[FIRST DOC](#)
[PREV DOC](#)
[NEXT DOC](#)
[LAST DOC](#)

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)



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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sat Jul 24 03:54:52 EDT 2010

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DICT](#)
[SEARCH OG](#)
[BOTTOM](#)
[HELP](#)
[PREV LIST](#)
[CURR LIST](#)

[NEXT LIST](#)
[FIRST DOC](#)
[PREV DOC](#)
[NEXT DOC](#)
[LAST DOC](#)

Please logout when you are done to release system resources allocated for you.

List At: OR to record: **Record 25 out of 119**

[TARR Status](#)
[ASSIGN Status](#)
[TDR](#)
[TTAB Status](#)
(Use the "Back" button of the Internet Browser to return to TESS)



Goods and Services IC 042. US 100 101. G & S: Design, creation, hosting and maintenance of mobile web sites for others. FIRST USE: 20090910. FIRST USE IN COMMERCE: 20091001

Mark Drawing Code (2) DESIGN ONLY

Design Search Code 01.15.24 - Sound waves, including designs depicting sound
 16.01.08 - Telephones
 26.11.02 - Plain single line rectangles; Rectangles (single line)
 26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Trademark Search Facility Classification Code ART-16.01 Telecommunications and sound recording or reproduction equipment
 INAN Inanimate objects such as lighting, clouds, footprints, atomic configurations, snowflakes, rainbows, flames
 SHAPES-BAR-BANDS Designs with bar, bands or lines
 SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons

Serial Number 77870898

Filing Date November 12, 2009

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition April 6, 2010

Registration Number 3806938

Registration Date June 22, 2010

Owner (REGISTRANT) Velocitude, LLC LIMITED LIABILITY COMPANY FLORIDA Suite 300 800 East Cypress Creek Road Fort Lauderdale FLORIDA 33334

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Pablo Meles

Description of Mark Color is not claimed as a feature of the mark. The mark consists of an image of a rectangular mobile device screen with three progressively larger curved lines at the upper right hand corner of the device.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE DICT](#) [SEARCH OG](#) [TOP](#) [HELP](#) [PREV LIST](#) [CURR LIST](#)

[NEXT LIST](#) [FIRST DOC](#) [PREV DOC](#) [NEXT DOC](#) [LAST DOC](#)

[|.HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

Exhibit 4

Actual use

GIGABYTE use of its trademark

P55 Motherboard

Visual Marketing Report



(N.A.)

(Sep, 2009)

GIGABYTE TECHNOLOGY CO.,LTD.



P55 Visual Marketing 2009

- Object: Expose and promote P55 feature on different site to target resellers, end-user and direct customers.
- Target: Resellers, End-users and Direct Customers
- Location: USA and Canada
- Focus model: P55 series motherboard
- Cost: One P55M-UD2 MB to award resellers - \$100 x 30 stores = \$3,000
- ROI: Average 300 – 500 end-users per day each store, 60 stores

Visual Marketing at Retail Store

Report No. :P55- country - No.

Date :

Store's name : Canada Reseller 1

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report

GIGABYTE™



Report No. :P55- country - No.
 Date :
 Store's name : Canada Reseller 1

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report



Report No. :P55- country - No.

Date :

Store's name : Canada Reseller 2

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :



(Canada) Report



Report No. :P55- country - No.
 Date :
 Store's name : Canada Reseller 3

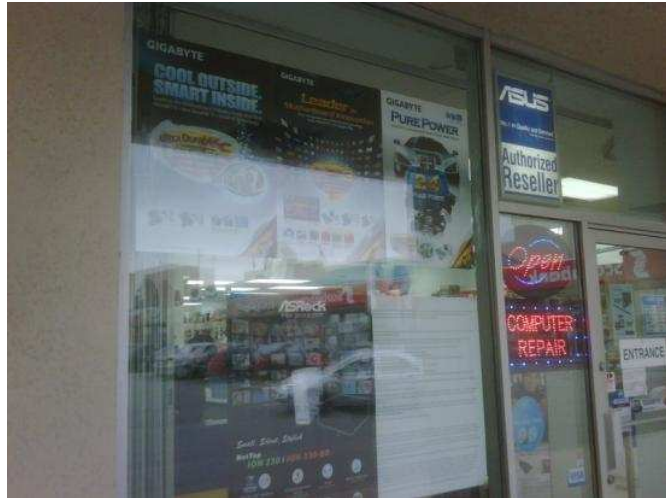
Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report

GIGABYTE™



Report No. :P55- country - No.
 Date :
 Store's name : Canada Computer
 (Mississauga)

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :



(Canada) Report

GIGABYTE™



Report No. :P55- country - No.
Date :
Store's name : Computer Repair

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.
Date : 10.9
Store's name : Fry's (Atlanta)

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.
 Date : 10. 23
 Store's name : Fry's (City of Industry)

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.

Date : 11.6

Store's name : Fry's (Chicago)

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.

Date : 11.6

Store's name : Fry's (Anaheim)

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.
Date :
Store's name : Computer Geek Burbank

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.

Date :

Store's name : Computer Geek Fountain Valley

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.

Date :

Store's name : Computer Geek Redondo Beach

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.

Date :

Store's name : BadBoy Computer

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.

Date :

Store's name : LBS PC Repair

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.

Date :

Store's name : Northboro Computers

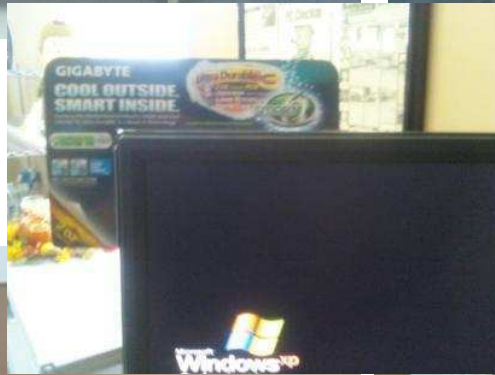
Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.
 Date :
 Store's name : Ciphertek Systems LLC

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.
 Date :
 Store's name : Davis Computerworks

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.

Date :

Store's name : Everything Computerworks

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

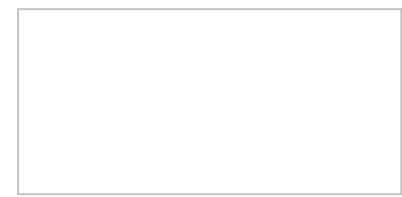
Comments :



Report No. :P55- country - No.
Date :
Store's name : UMA Computers

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____



(USA) Report

GIGABYTE™



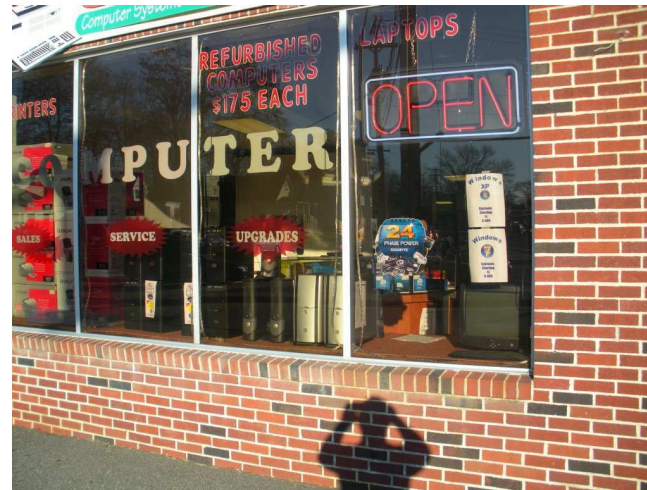
Report No. :P55- country - No.

Date :

Store's name : Absolute Computer

Display Checking List :

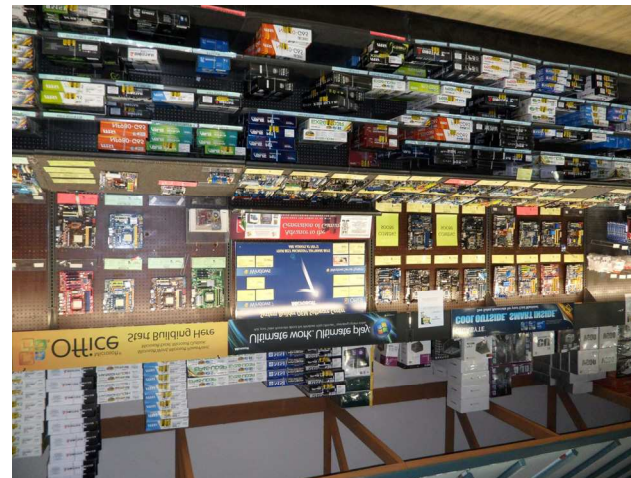
- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____



Report No. :P55- country - No.

Date :

Store's name : Fry's Houston



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Empty rectangular box for additional notes or comments.

Visual Marketing at Distri Sales Training

Report No. :P55- country - No.

Date :

Store's name :

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.

Date : Aug, 09

Store's name : Ingram Micro Aug

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.

Date : Aug. 09

Store's name : D&H

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

Report No. :P55- country - No.

Date : Aug, 09

Store's name : Leadertech Training



Display Checking List :

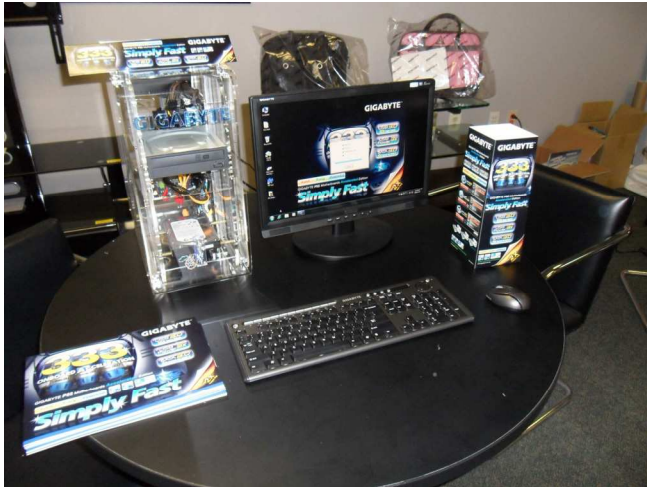
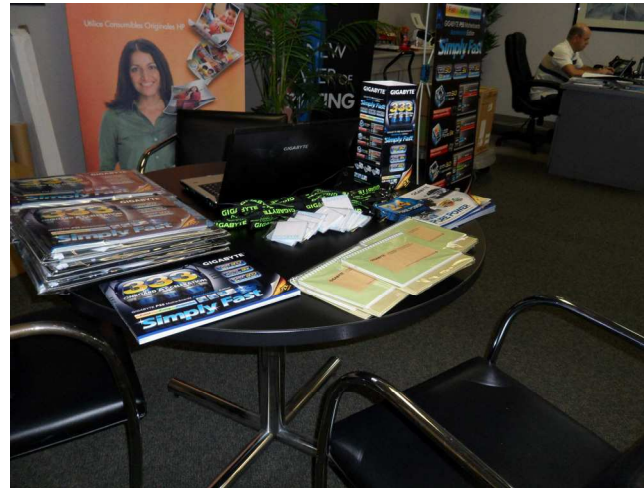
- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

(USA) Report

Report No. :P55- country - No.

Date : Aug, 09

Store's name : SED Miami



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

(USA) Report

Report No. :P55- country - No.

Date : Aug, 09

Store's name : SED Atlanta



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____



(Canada) Report

GIGABYTE™



Report No. :P55- country - No.
Date : Aug, 09
Store's name : Supercom Montreal

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report



Report No. :P55- country - No.
 Date : Aug, 09
 Store's name : Supercom Vancouver

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report



Report No. :P55- country - No.
 Date : Aug, 09
 Store's name : Supercom Toronto

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report

Report No. :P55- country - No.

Date : Aug, 09

Store's name : ASI Toronto

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :



() Report



Report No. :P55- country - No.

Date : Oct, 09

Store's name : MaLabs Atlanta

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report



Report No. :P55- country - No.

Date : Oct, 09

Store's name : ASI Atlanta

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

() Report



Report No. :P55- country - No.
 Date : Oct, 09
 Store's name : MaLabs Chicago

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :



Visual Marketing at Road Show

Report No. :P55- country - No.

Date :

Store's name :

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.
 Date : Sep, 09
 Store's name : Tiger Direct Symposium

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.

Date : Oct, 09

Store's name : ICC Boston

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™



Report No. :P55- country - No.
Date : Oct, 09
Store's name : ICC Chicago

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :



(USA) Report

GIGABYTE™



Report No. :P55- country - No.

Date : Oct, 09

Store's name : ASI Altanta

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

Report No. :P55- country - No.

Date :

Store's name : Bass BBQ



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Empty rectangular box for additional notes or comments.

(USA) Report

Report No. :P55- country - No.

Date :

Store's name : ICC Cleveland



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

(USA) Report

Report No. :P55- country - No.

Date :

Store's name : ICC Denver



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

(USA) Report

Report No. :P55- country - No.

Date :

Store's name : ICC Orlando



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
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- Others _____

(USA) Report

Report No. :P55- country - No.

Date :

Store's name : SED Road Show Dallas



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Spec Board
- Sticker
- Stand
- Others _____

Visual Marketing at GBT Office

Report No. :P55- country - No.

Date :

Store's name : Canada Reseller 1

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
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- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

GIGABYTE™

Report No. :P55- country - No.

Date : Oct, 09

Store's name : GBT Office



Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :



Visual Marketing at Vendor Co-op Event

Report No. :P55- country - No.

Date :

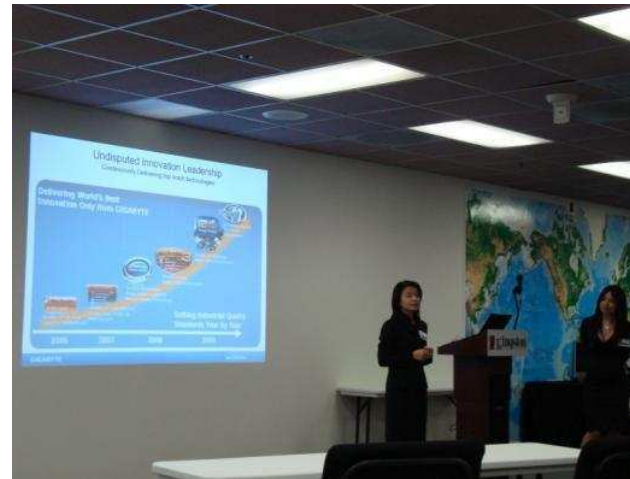
Store's name :

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.
 Date : Oct, 09
 Store's name : Kingston Press event

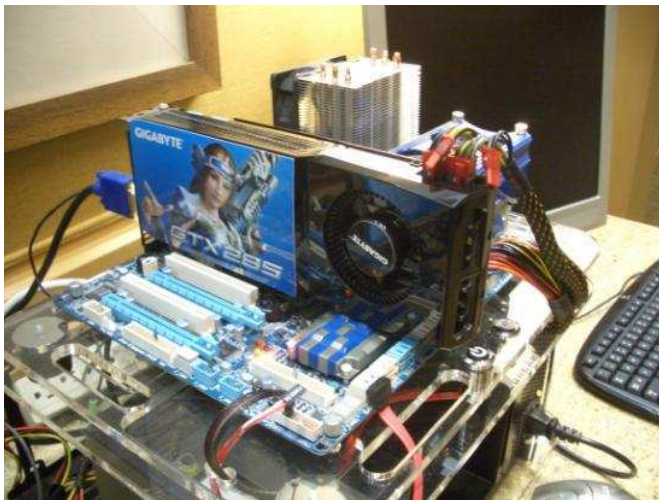
Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Poster
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- Shop Sign
- Show Window
- Spec Board
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- Others _____

Comments :

(USA) Report

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Report No. :P55- country - No.

Date : Oct, 09

Store's name : Kingston Customers Event

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
- POP
- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

Visual Marketing at LAN Party

Report No. :P55- country - No.

Date :

Store's name :

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(Canada) Report

GIGABYTE™



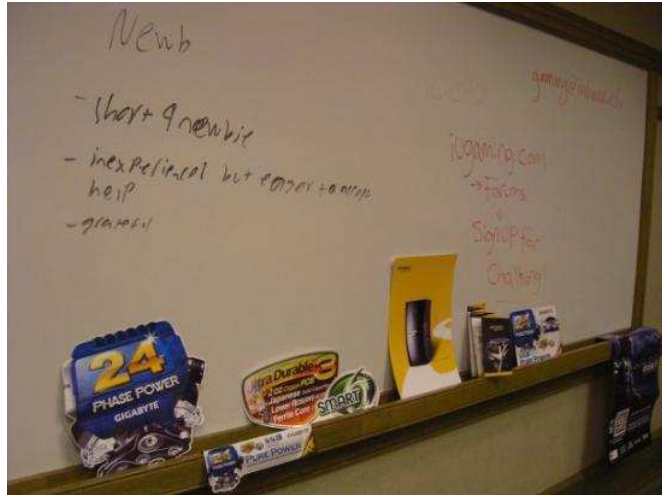
Report No. :P55- country - No.
 Date : Sep, 09
 Store's name : Canada Computer LAN

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Poster
- Product
- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report



Report No. :P55- country - No.
 Date : Sep, 09
 Store's name : IU Mini LAN

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Spec Board
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- Others _____

Comments :

Visual Marketing at Media Gathering Event

Report No. :P55- country - No.

Date :

Store's name :

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
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- Internet / Magazine Activity
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Comments :

(USA) Report

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Report No. :P55- country - No.
Date :
Store's name : P55 Media Gathering

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
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- Shop Sign
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- Spec Board
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Comments :



(USA) Report



Report No. :P55- country - No.

Date :

Store's name : P55 Media Gathering

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Shop Sign
- Show Window
- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

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Preparing for P55: Motherboards, Memory and NVIDIA

Gigabyte invited us to their P55/Lynnfield press event in Los Angeles. I hadn't been to LA since 2005. Gigabyte's invitation provided me with an opportunity to rectify that.

We find ourselves in an interesting situation with Lynnfield. Processors have been trickling out but motherboards aren't available in North America. We know what the [model numbers](#) are, what the price points are and [even what the processor boxes look like](#).

For most of the past month we've [been doing pictorial previews](#) of the P55 motherboards that will be supporting Lynnfield. This is going to be a strong launch with wide availability.

We [previewed Lynnfield's performance](#) a couple months ago, but what will be shipping in September will be faster than that thanks to a very potent set of turbo modes. We'll provide final performance next month.

Lynnfield, as we all know, is a dual-channel platform. While [Gigabyte's high end P55 motherboard](#) (the GA-P55-UD6) will have six DIMM slots, most P55 boards will have four slots. This means that the triple-channel kits we saw for the Bloomfield Core i7 parts will be replaced augmented by dual-channel Lynnfield kits.

The same voltage sensitivities apply. While pre-i7 DDR3 memory kits operated well above 1.65V, with Lynnfield the max safe voltage is 1.65V. Stock JEDEC spec DDR3 memory kits will run at 1.5V, while the lower latency/higher bandwidth DDR3-1600, 1800 and 2133 kits will run at 1.65V.

Kingston outlined its entire Lynnfield lineup for us, including a new part number decoder to make

Report No. :P55- country - No.

Date :

Store's name : P55 Media Gathering

Display Checking List :

- Banner
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- Demo Flash
- Giveaway
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- Internet / Magazine Activity
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- Spec Board
- Sticker
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- Others _____

Comments :

HOT HARDWARE
THE HOTTEST TECH,
TESTED AND BURNED IN

LET'S CONNECT THE WORLD TO AFRICA

PROCESSORS GRAPHICS / SOUND MOTHERBOARDS STORAGE MEMORY NETWORKING

HOME REVIEWS VIDEOS IMAGES FORUMS BLOGS SHOP

Gigabyte Invitational Editor's Day 2009 - Lynnfield / P55

Thursday, August 20, 2009 - by [Mathew Miranda](#) in [Motherboards](#)

Article Index: [Gigabyte Invitational Press Day](#)

GIGABYTE™

As details of upcoming Lynnfield processors and P55 chipset-based motherboards hit the scene, there is a growing buzz within the industry about the effects of bringing Nehalem down into the mainstream market segments. While X58 and Core i7 performance dominates, complete system pricing has kept some average consumers looking to upgrade wistfully on the fence. That roadblock will likely be cleared by P55 as the companies involved eagerly expect to see widespread adoption of the high performing and relatively [affordable](#) platform.

On August 18, 2009, Loews Hotel in Santa Monica, California was host to Gigabyte's Invitational Press Day. The affair promised to provide an informative look at Intel's Lynnfield processor, along with the P55 platform. Representatives from Gigabyte, Intel, and Kingston were available to provide demonstrations and answer questions on their upcoming [technology](#) and product line-ups.

Gigabyte's high end P55 motherboard

Gigabyte Invitational Press Day 2009

Featured Speakers

	Tony Liao - Gigabyte Vice President Greeting speech
	Dan Snyder - Intel PR Manager Intel Keynote: Lynnfield technology
	Mark Tekunoff - Kingston Senior Product Manager P55 memory performance demonstration
	Francois Piednoel - Intel Senior Performance Analyst Lynnfield demonstration and Turbo technology
	Colin Brix - Gigabyte Technical Marketing Manager Smart 6 demonstration and motherboard line up
	Charles Wirth - Xtremesystems.org Owner P55 overclocking demonstration

After a brief greeting and introduction by the Vice President of Gigabyte, Tony Liao, we got right into the important details as keynote speaker, Francois Piednoel of Intel, covered Lynnfield technology and its performance benefits. Francois spent some time explaining the advantages of the new platform as well as Lynnfield's Turbo feature. Basically, Intel has refined their Turbo mode technology to provide even more performance for threaded applications and he explained how consumers will benefit from these advancements. A new application was also demoed in order to show CPU clock variation in real time, which allows users to [monitor](#) Turbo technology at work. The tool is called TMonitor and is available to download for free right [here](#). We aren't allowed to steal the thunder of the upcoming Lynnfield reviews by talking about specific numbers but the performance increases over Core 2 looked impressive and the energy [savings](#) will likely be a major selling point too.

Report No. :P55- country - No.
Date :
Store's name : P55 Media Gathering

Display Checking List :

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- Color Box
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- Demo Flash
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- Internet / Magazine Activity
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- Sticker
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- Others _____

Comments :

(USA) Report

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PROCESSORS GRAPHICS / SOUND MOTHERBOARDS STORAGE MEMORY NETWORKING

HOME REVIEWS VIDEOS IMAGES FORUMS BLOGS SHOP

Gigabyte Invitational Editor's Day 2009 - Lynnfield / P55
Thursday, August 20, 2009 - by [Mathew Miranda](#) in [Motherboards](#)

Article Index:

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Gigabyte P55 Mainstream Motherboards
CPU Socket LGA 1156

P55-UD6 **P55-UD5** **P55M-UD4**

P55 Motherboard Models:

GA-P55-UD6	GA-P55-UD3P	GA-P55-US3L
GA-P55-UD5	GA-P55-UD3R	GA-P55M-UD4
GA-P55-UD4P	GA-P55-UD3	GA-P55M-UD2
GA-P55-UD4	GA-P55-UD3L	

In all, Gigabyte plans to put eleven P55 motherboards on the market. You read that right, eleven different models including two micro-ATX sized boards to make up for the fact that they decided not to make a small form factor X58 product. The most exciting model for enthusiasts will probably be the P55-UD6 which has three PCIe 2.0 x16 slots, 24 phase power, DDR3-2200 [compatibility](#), and six DIMM slots. It is still a dual channel configuration, but the capability to allow for six memory sockets has been added.

Report No. :P55- country - No.
Date :
Store's name : P55 Media Gathering

Display Checking List :

- Banner
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- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
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- Light Box
- Live Demo
- Packaging
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- Spec Board
- Sticker
- Stand
- Others _____

Comments :

The screenshot shows the 'THE TECH REPORT' website with a 'GIGABYTE EXPERIENCE M' banner. The main navigation includes CPU'S, GPU'S, MOBOS & CHIPSETS, CASES & POWER, STORAGE, MOBILE, FORUMS, and MORE... The featured article is 'Gigabyte aims for microATX with P55 boards', dated August 20, 2009. Other sections include 'LATEST NEWS STORIES' with various hardware news items, 'FEATURE ARTICLES' such as 'Acer's Aspire Timeline 13.3-inch ultraportable notebook' and 'AMD's Phenom II X4 965 Black Edition processor', and 'LATEST BLOG POSTS'.

Report No. :P55- country - No.
 Date :
 Store's name : P55 Media Gathering

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
- Hanging Flag
- Internet / Magazine Activity
- Light Box
- Live Demo
- Packaging
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- Spec Board
- Sticker
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- Others _____

Comments :

Visual Marketing at Media Web

Report No. :P55- country - No.

Date :

Store's name :

Display Checking List :

- Banner
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- Color Box
- Decoration of Promotion Event
- Demo Flash
- Giveaway
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- Spec Board
- Sticker
- Stand
- Others _____

Comments :

(USA) Report

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THE TECH REPORT
PC Hardware Explored

GIGABYTE

24 PHASE POWER

Ultra Durable 3 2.02 Copper PCB High-Speed Heat Spreader Lower Resistance Fanless Core

SMART

20% Copper PCB

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LATEST NEWS STORIES

- Intel demos first working 22-nm silicon [14]
- Firefox, WebKit nightlies get WebGL support [0]
- Gulftown sample pushed to 6.4GHz [11]
- AMD confirms six-core desktop CPU [28]
- Tuesday Shortbread [22]
- Next Ubuntu can boot in seconds on an SSD [38]
- Rambus, Kingston to demo threaded DDR3 RAM [17]
- Get ready for mini-SATA [20]
- Ion-toting Eee PC 1201N spotted in China [16]
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- Wii may drop to \$200 next Sunday [39]
- Monday Shortbread [21]
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- Saturday Shortbread [19]
- Saturday science subject: Electron-stimulated luminescence [100]
- Friday night topic: YouTube fever [62]
- Deal of the week: The \$99 quad-core [43]

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TR's system guide
Looking to build your own PC? Start here.

Our system guide can help you pick the right mix of components for any price range.

LATEST BLOG POSTS

- Cupertino Bong Water™—ask for it by name [38]
- Chance to win a Core i7 gaming PC [44]
- Diggin' out [63]
- It's a mad, mad Internet [13]
- A few podcast scheduling notes - Updated [8]
- So that's why it only costs \$29 [92]

Corsair's H50 all-in-one CPU water cooler

Corsair has developed a new Hydro Series H50 CPU water cooler, and we've put the factory-sealed, all-in-one unit through the wringer against some of its direct rivals. Keep reading to see if it hoses the competition, or if we can come up with any more bad puns. [Read more...](#)

26 comments — Last by **UberGerbil** at 10:25 AM on 09/22/09

FEATURE ARTICLES

A look at Asus' P7P55D and Gigabyte's GA-P55-UD4P motherboards
September 17, 2009

Ultra-high-end motherboards for Core i5 and i7-800 processors make little sense, but there are plenty of excellent mid-range models to choose from, including Asus' P7P55D and Gigabyte's GA-P55-UD4P. We've taken a close look at how those two boards match up against the P55 competition. [Read more...](#)

28 comments — Last by **glynor** at 10:27 AM on 09/21/09

TR's fall 2009 system guide
September 16, 2009

In this edition of the system guide, we update our Utility Player and Sweeter Spot builds with Intel's new Lynnfield processors, juice up the Econobox with a triple-core processor, and more. [Read more...](#)

25 comments — Last by **Deane-Med** at 11:01 AM on 09/16/09

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On Health Care Reform
Reform, yes... but the *right* reform.

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Comments :

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GIGABYTE

PHASE POWER 24 Ultra Durable 3 SMART

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News Archive

Latest News

Corsair Expands Flash Voyager Line Up, Begins Shipment of New 4GB Ultra-Durable USB2.0 Drive
Mon, Nov 21, 2005 - 11:39 AM
Jeremy Hellstrom | Source: PC Perspective | Subject: General Tech

Fremont, CA (November 21, 2005) â€” Adding to its award-winning Flash Voyager USB2.0 drives, Corsair Memory today announced immediate availability of a new capacity â€” 4GB. Enclosed in the Corsair proprietary all-rubber Flash Voyager housing and boasting water-resistant/temperature tolerant properties, the new 4GB drive allows users to carry more valuable data and applications without compromise. Equipped with a security application and featuring dual channel technology, the 4GB Flash Voyager delivers a perfect combination of functionality, capacity and performance.

Favored by those who are on the go, the Flash Voyager drives bring additional features to make the perfect mobile companion. First in the industry to feature an all-rubber housing, the USB drive performs reliably even under the most extreme conditions. Whether it is exposed to severe temperature, moisture or physical abuse, the Flash Voyager performs consistently to hold the valuable data. To promote data security, each Flash Voyager is readied with a security application that allows users to create a hidden, password-protected partition on the USB drive.

Engineered with the same dual channel technology found in other Flash Voyager drives, the new 4GB USB drive delivers blazing fast read and write performance at 19MB/sec and 13MB/sec respectively. When reading or writing data to the drive, dual channel technology allows twice the interface width between the NAND flash and the controller, hence delivering twice the performance.

Permalink

Ed. Nov 18, 2005 - 06:23 PM

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Compatible with Windows7

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- Live from IDF: Malon keynote and first Larr demonstration!!

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Posted: September 21st, 2009

Halo fans have been waiting for this moment for a very long time. Although Halo Wars launched in the interim, it really didn't give us that First Person Shooter action that we expected of the Halo franchise. The answer we've ...

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The screenshot shows the Hardware Canucks website with a navigation menu (Home, Reviews, Articles, News, Forums, Charts, Techwiki, Store, Price Compare) and a cartoon beaver mascot. The main content area includes a Gigabyte banner with '24 PHASE POWER' and 'Ultra Durable 3' logos, a search bar, and several article teasers: 'Gigabyte GTX 260 896MB Super Overclock Review', 'OCZ Summit 120GB SSD Review', 'EVGA P55 Classified 200 LGA1156 Motherboard Preview', and 'Sapphire Radeon HD 4890 2GB Vapor-X Video Card Review'. A 'Review Roundup' section for Monday, September 21, 2009, lists motherboard, storage, and case reviews.

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 Date :
 Store's name : HardwareCanucks

Display Checking List :

- Banner
- Billboard
- Brochure
- Color Box
- Decoration of Promotion Event
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- Others _____

Comments :

Visual Marketing at Social Networking

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Date :

Store's name :

Display Checking List :

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Comments :

(USA) Report

GIGABYTE™

Report No. :P55- country - No.

Date :

Store's name : Twitter

GIGABYTE™ **twitter** Home Profile Find People Settings Help Sign out

GIGABYTE **GIGABYTEUSA**
Location Los Angeles
Web <http://www.gigabyte.com>
249 following 282 followers

Tweets 46

Favorites

Following

RSS feed of GIGABYTEUSA's tweets

GIGABYTE P55-UD6 is awarded with GOLD AWARD with rating 9.5 out of 10 at Bjorn3D <http://bit.ly/cVksC>
about 1 hour ago from web

ASUS P7P55D vs. GIGABYTE P55-UD4P at Tech Report <http://www.techreport.com/a...>
about 7 hours ago from web

GA-P55-UD4P and GA-P55-UD3R are recommended at TR's System Guide <http://www.techreport.com/a...>
6:14 PM Sep 18th from web

GA-P55-UD3R is recommended as The Utility Player at TR's System Guide <http://www.techreport.com/a...>
6:12 PM Sep 18th from web

GA-MA770T-UD3P is recommended at TR's System Guide <http://www.techreport.com/a...>
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GIGABYTE P55-UD6 is Awarded with Gold Award at HardOCP <http://bit.ly/11Twz3>
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P55-UD6 & P55M-UD4 review at Legitreviews <http://www.legitreviews.com...>
11:37 AM Sep 14th from web

GA-P55-UD6 and HyperX Video <http://bit.ly/154sNZ>
5:28 PM Sep 11th from web

Fragapalooza 2009 – Canada's LAN Party <http://bit.ly/wUJin>
2:13 PM Aug 31st from web

Ultra Durable 3
2oz Copper PCB
Japanese Solid Capacitor
Lower Rds(on) MOSFET
Ferrite Core Choke

2oz Copper PCB

Display Checking List :

- Banner
- Billboard
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Comments :

(USA) Report

GIGABYTE™

The screenshot displays the Facebook page for 'Gigabyte Us'. The page features a cover photo of a Gigabyte Ultra Durable 3 motherboard. The main content area shows several posts from Gigabyte Us, including links to articles from Bjorn3D.com and TechReport.com. The right sidebar contains advertisements for Nokia Birthdays, a Depression Study, and Bewitched. The bottom of the page shows a 'Motherboard' tab and a partial view of a user's profile.

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Store's name : Facebook

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Exhibit 4

Actual use

iPhone on Display

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[iPhonAsia Travelogue Part 3: Into the heart of darkness – shopping the Beijing iPhone blackmarket](#)

Nov 16th, 2009 by [Dan Butterfield](#)



One of several monster-sized malls in Zhongguancun region

The black/grey markets in Beijing will blow your mind! On Saturday and Sunday (November 14/15) I had a chance to do a bit of undercover work. I hired a guide to help me navigate the Zhongguancun (*pronounces* “Djong Guan Tsun”) shopping mall maze – Hailong, Dinghao and e-World Kemao. Jennifer, my guide/interpreter, was in the market for an iPhone (our ruse) and I was going to buy it for her. Hence we both needed to hear the pitch and understand why we should buy the grey-market version versus the “official” China Unicom iPhone.

I was truly impressed by gargantuan size of these Zhongguancun region malls. Picture four or five Manhattan-sized Macy’s department stores filled to the rafters with electronics and other sundry goods. Untold thousands of shoppers fill these stores each day. From the moment you walk in the door (if you look like money or are a tourist) you’re besieged by barkers attempting to coax you over to their store space. They are not subtle and will do anything to get your attention and ultimately your yuan renminbi. No judgment here, this is a game of survival in an electronics jungle. There’s no room for the meek.

One thing you'll quickly observe ... there are mobile phones everywhere. Handsets are a central part of Chinese youths' lives and the selection of phones is something to behold.

If you want to buy an iPhone ... not a problem. Just ask any one of the mobile handset vendors. Even if an iPhone is not on display (and there are plenty in plain sight), just ask and you'll soon have one in hand.



The aptly named hypermart near Zhongguancun

No sooner had Jennifer and I walked in the door of the Hypermart and barkers were in full voice Chinglish (for my benefit) "*You wan computer? ... very cheap.*" Jennifer shook her head and uttered one word "*iPhone.*" Instantly a fleet-footed barker in blue blazer and tie (the standard uniform throughout the malls) pulled us aside and beckoned us to follow. We were ushered down a hallway to a bank of elevators and up to the seventh floor, then down a corridor ("where the heck are we going" I thought) and into a private room. It was not so private. There were 30 or so shoppers engaged in enterprise with a dozen blue-blazer salesmen. Our barker sat us down at a table and within moments a salesman appeared with an official looking iPhone box. The pitch was on. Jennifer asked my prearranged list of questions (in Mandarin of course) while I closely inspected the iPhone. It was real as best as I could tell and after navigating the UI it looked/functioned as expected. This was a gen one 8GB 2G iPhone and it had seen better days. No plastic covering on the screen and the casing had several scratches.



The pitch

During the next few hours, Jennifer and I sat through eight or nine iPhone demos ... all of them were jail-broken/hacked or unlocked iPhones smuggled in from Hong Kong. All but one of the iPhones appeared to be real (only one clear Shanzhai iClone) and I inspected them closely. There were several that were brand new 16GB and 32GB iPhone 3GS.

Perhaps the biggest source of these grey-market iPhones in Zhongguancun was the Apple "Authorised" Reseller stores. Each mall we entered had 3 or 4 of these stores complete with phony Apple logos. These stores do their best to mimic the Apple look and are very convincing but their "authorization" is about as legit as Madoff's split strike investment strategy.



Apple "Authorised" ... Oh really.

The only authorized Apple reseller in Beijing is Drangonstar. The hundreds of phony Apple "Authorised" stores (could be 100+ locations in Beijing alone) no doubt fool many shoppers. The Macs, iPods and iPhones on display look amazingly real. And I suspect that many are in fact the real McCoy. Yet buyer beware! I learned from some Apple savvy expats in Beijing that you can only tell you've got a bandit (Shanzhai ji) when you take your purchase home and discover the erratic (crappy) non-Apple like UI and inability to sync to iTunes.

So many have been burned by these incidences that the miss-trust unjustly spills over to the real Apple Store in Beijing (Sanlitun). I heard anecdotally that one Sanlitun Apple Store shopper insisted that the new iMac he purchased be completely unboxed and booted up before he would leave the store. Sounds crazy as the legit Apple Store at Sanlitun has an impeccable record of integrity and service. But this just goes to show how deep-rooted the mistrust is in China as a result of the Shanzhai ji (counterfeit goods) markets.



China Unicom affiliate

It wasn't all grey/blackmarket snooping ... Jennifer and I also went to a China Unicom "Wo" Store and to several official Unicom affiliates who were selling on-contract iPhones. In my opinion, the official outlets need significant help with their iPhone sales pitch. The Unicom staff are focusing on the subsidies (for on contract buyers) and the warranty as the key selling points against the WiFi enabled grey-market iPhones and they are not stressing other value-add propositions. The warranty is important but they need to present the other benefits of going official (e.g. no bricking concerns, easy software updates, fully localized with China apps preloaded, no extra unlocking fees or total lack of tech support/service that you'd have with a grey-market purchase. They also surprisingly failed to pitch their own Wo Portal with apps and services and completely missed the opportunity to pitch the Apple App Store even though Jennifer asked several leading questions.

Jennifer and I also went to mystery shop several official iPhone distribution partners – Carrefour, Gome, Suning and Best Buy. To my surprise, the Suning stores we visited had not yet stocked the iPhone. The first Suning store we visited had no idea that they would be selling the iPhone. The second Suning Store staff said for sure iPhone was coming but they did not know the exact date.

The first Carrefour store (in the Zhongguancun mall) we visited also “dk”ed anything about selling iPhones. I know Carrefour has a deal with China Unicom to sell iPhones so I pressed to speak with a manager. It wasn’t long before a gentleman in a suit appeared and he explained that they had received their initial iPhone inventory, but they had not yet been given clearance to put up iPhone signage and he wasn’t sure when they would get the green light to sell.

Hmmm? This had me perplexed. The official customized China Unicom iPhone launched in China at the end of October. Here it was already mid November and many of the official distribution partners did not have iPhones for sale? Not even signage? These were not small stores mind you. The retail stores we visited are as big as most Best Buy locations in the US. **NOTE: Read update re China Mobile playing hardball with potential iPhone distributors > [HERE](#)**



Carrefour iPhone display

Not ready to give up, we moved to another part of town. Good thing too. The next Carrefour Store we visited *did* have their signage up (since Nov 1) and had iPhones nicely displayed. The staff was on top of things and presented more effectively than the China Unicom Wo employees. The Carrefour assistant manager let me know that he had sold 27 iPhones in his store since November 1st. 10 were iPhone 16GB 3GS and 7 were 32GB 3GS. He had recently sold out his initial allotment and had taken 4 iPhone reservation orders. Just goes to show that training sales staff does make a difference.

One item of note is that only the China Unicom Wo Stores and the Unicom mall affiliates are selling on-contract (subsidized) iPhones. All other iPhone distribution partners – Gome, Suning, Carrefour and Best Buy are, or soon will be, selling off-contract iPhones at full “bare-metal” (no contract) prices. This is not too surprising as a significant majority in China prefer to go prepaid.

The Best Buy Premium store we visited in Beijing did have their signage up and they were selling iPhones. The BB Premium store was located in a very upscale mall (many new Audis, BMWs and Mercedes in the parking lot), and I was lucky enough to witness an iPhone sale while we were there.

One sidebar ... W-CDMA 3G coverage in Beijing is great. In 4 days I only had one moment without a good connection. I live near San Francisco and my 3G connection is very spotty. China Unicom has had their 3G network up and running for a few short weeks. AT&T has had a few years to get it right. What’s wrong with this picture?

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- [iPhonAsia Travelogue Part 1: Wheels down in Beijing](#)
- [iPhonAsia Travelogue Part 2: Getting Oriented in Beijing](#)

- [iPhonAsia Travelogue Part 3: Into the heart of darkness – shopping the Beijing iPhone blackmarket](#)
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6 Responses to “iPhonAsia Travelogue Part 3: Into the heart of darkness – shopping the Beijing iPhone blackmarket”

1.  *rossor* says:
[November 17, 2009 at 3:47 am](#)


Yikes. Sounds like no brand is safe from having its reputation for quality damaged by the counterfeiters.

2.  *Cindy* says:
[November 17, 2009 at 4:13 am](#)

Hey Dan, really enjoy reading your venture:-) looking forward to more update from your next stop.

3.  *Dan Butterfield* says:
[November 17, 2009 at 3:18 pm](#)

@Cindy ... Thanks ... I'm now in Shanghai and hope to explore the market here a bit. Then off to Hong Kong.

4.  *shanzaidotcom* says:
[November 17, 2009 at 5:16 pm](#)

Hi Dan,

Over at Shanzai.com here we took a hidden video camera into the phone markets of Shenzhen last summer and made this short Youtube video tour to give Western audience a taste of the ... “magnitude” of the market experience.


You can check it out here:

<http://www.youtube.com/watch?v=sFg5qbGg5P4>


Love your site by the way.

Cheers,
Tai-Pan

<http://www.shanzai.com>

5.  *Dan Butterfield* says:
[November 29, 2009 at 3:31 pm](#)

@Tai-Pan interesting video you made in Shenzhen. Similar in many ways to the markets at Sham Shui Po in Kowloon, Hong Kong.

6.  *Dan Butterfield* says:
[November 29, 2009 at 3:32 pm](#)

@Rossor thanks for commenting. Appreciate all of your posts on AAPLSanity

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Wednesday, October 28, 2009

Who benefits when you buy an iPhone?

Apple will officially introduce the iPhone in China on Friday, tapping into a potential market of half a billion people. Why has it taken so long for the iPhone to be sold in the country where it's produced? Scott Tong rips open one to find out.

TEXT OF STORY

KAI RYSSDAL: If you think sales of the iPhone have been strong so far -- they have. There are more than 20 million of 'em in circulation. You ain't seen nothin' yet. The iPhone goes on sale in China on Friday. Talk about expanding your market: half a billion Chinese use cellphones. You might think China's already seen some of the benefits of the iPhone phenomenon. Factories there actually make the thing, after all. But that's just the first step in a very long iPhone supply and profit chain. Our man in China, Scott Tong, has more.



iPhones on display at a Beijing store.
(Liu Jin/AFP/Getty Images)

SCOTT TONG: When you buy an iPhone, who in the world profits? Let's start by ripping the phone open and looking inside.

KYLE WEINS: So the first thing you do is remove those two screws.

Kyle Weins takes apart gadgets for a living. His California company iFixit sells spare parts for computers and cellphones. Weins peeks inside at what he considers the coolest piece of the iPhone: the touchscreen.

WEINS: And that is a whole bunch, and by a whole bunch I mean hundreds of thousands of little capacitors that are baked into the back of the glass.

The touchscreen digitizer costs Apple an estimated \$27 each. It's made by Sharp, from Japan. And that country is one of the winners in Apple's global supply chain.

So we pause for a Japan moment, courtesy of this Japanese hit song at the Apple iTunes store.

Another Japanese firm, Toshiba, supplies the iPhone flash memory chip. Here's Syracuse business professor Jason Dedrick.

JASON DEDRICK: The underlying technology and knowledge and innovation is much more concentrated in Japan because you have companies that have been leaders in a lot of these fields for a long time.

Exactly how much suppliers get paid from Apple is a secret, but Dedrick tries to make estimates.

His best guess is Japanese firms rake in somewhere around 14 percent of the total profits. That's about one slice out of eight in the apple pie.

WEINS: And now I can see what is on the board itself.

Electronic dissector Kyle Weins is now in the inner sanctum of the of the iPhone: the motherboard. He's looking at a chip with a code number on it.

WEINS: K2132. And when I see that number a little chime goes off in my head, because I know that K2 marker at the beginning means that it's a Samsung chip.

Samsung from Korea.

Jason Dedrick at Syracuse thinks Korea gobbles up one or two slices of the profit pie. And the one place we haven't talked about yet is China.

That's where all the iPhone components around the world come together and get assembled. And it turns out Chinese factory workers only get a few crumbs.

DEDRICK: Well, China mainly just gets the wages. And that's really not much, that's probably a few dollars per phone.

About \$4 for every iPhone that sells for \$300 or more, which leaves a whole lot of the pie for the biggest winner: California-based Apple.

Dedrick estimates it gets as much as half the profit for every gadget it sells. That's because Apple creates and designs things -- that's where the real money is. And the best jobs.

DEDRICK: High level management jobs, engineering, R and D. Apple tends to be very U.S. centric, so a lot of their high-value activities, they tend to keep pretty close to their home base.

From China's perspective, here's the moral of the iPhone story: the dominant players in the global economy are the inventors and the brand owners: whether it's electronics, or cars, or clothing.

Zheng Chen Ai owns a garment factory in the Chinese city of Wenzhou. He says the Chinese need to move up the ladder in the global economy.

ZHENG CHEN AI: So the next step for us is to build our own brands. But we face challenges. We need more talent, good designers, and more innovation. It doesn't come overnight.

That reality hits home Friday, when the iPhone hits the Chinese market. And most of the spoils go to the U. S. of A.

In Shanghai, I'm Scott Tong for Marketplace.

RYSSDAL: Tomorrow on the Marketplace Morning Report: the Chinese factory workers who put the iPhone together.

推薦

成為你朋友中第一個推薦這的人。

By forrest preston
From orlando, FL, 11/09/2009

COMMENTS

You want the American public to 'prosper' from the manufacturing of the iPhone? Lower the US government mandated wages/benefits to be the same as workers in China. Of course the administration that does that will be voted out. Bottom line: World economy; US can no longer support 'economically worthless people'.

[Comment](#) | [Refresh](#)

By Chuck Allanson
10/31/2009

"Japan and Korea produce parts, China assembles, and Apple designs."

Just to add heft to Mr. Sticklen's point, those Japanese (Toshiba) and Korean (Samsung) parts weren't just produced. They too were designed and engineered.

By Francisco Barreto
From Atlanta, GA, 10/29/2009

"And when I see that number a little chime goes off in my head, cuz I know that K2 marker at the beginning means that it's a Samsung chip."

Cuz? Come on, Marketplace! If you're going to provide a transcript, the least you can do is ensure that it's in proper English.

By Jon Sticklen
From East Lansing, MI, 10/28/2009

This story on the "pie" making up an iPhone is a stunningly good example of how the playing field in engineering has changed. Japan and Korea produce parts, China assembles, and Apple designs. And Apple reaps the lion's share of the proceeds. American engineering is still about design (as it always has been) but it is increasingly not about material product production. As an educator in a college of engineering, I feel both a responsibility and an urgency to take part in a rejuvenation of undergraduate engineering education that takes into account the new reality of the global economic world. The "winners" in this new, very global world will be the designers and the integrators. Broad engineering understanding and problem solving skills are needed. Apple definitely understands the need for "Renaissance men and women" in engineering.

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iPhone 3G breaks cover, shows up in Swiss store display

By [Joshua Topolsky](#)  posted Jul 8th 2008 12:15PM



You probably saw this one coming, but with that massive slew of countries and partners Apple has wrangled for the new iPhone launch, that July 11th street date was bound to be neglected. So here you have it, courtesy of the french blog Gadget O'Mac, an iPhone 3G on display in a shop in Switzerland. While the shots may be blurry, we at least get to see this thing in the hands of someone other than an Apple employee, and coupled with that [Portuguese leak](#), this should thoroughly whet your appetite for

Friday. Check out a few more shots after the break.

[Thanks, Florence]



SOURCE *Read*

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