TO THE COMMISSIONER FOR TRADEMARKS
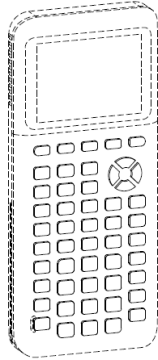

Mark:
Serial Number: 87538416
Filing Date: July 21, 2017
Applicant: Texas Instruments Incorporated
Applicant's Address: 12500 TI Boulevard, Dallas, TX 75243-4136

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Second Declaration of Martha Ann Sandstedt

I, Martha Ann Sandstedt, hereby declare:

1.   As indicated in my prior Declaration in this matter, I am Worldwide Marketing Director, Education Technology, for Applicant, Texas Instruments Incorporated.

2.   There is no patent, nor patent application, for the *5-33DC-5 Configuration* that is the subject of this trademark application.

3.   There have been no claims made as to a superior configuration arising from the *5-33DC-5 Configuration.* Functional explanations of individual calculator keys

i_7261301v.1

located in the *5-33DC-5 Configuration*, and the respective legend for each individual key, however, are provided in TI-8X calculator operating manual materials. These explanations are directed to each such key, rather than the *5-33DC-5 Configuration* as a collective entity or whole.

4.   Attached, as Exhibits J through L, are images of graphing calculators using a key configuration other than the *5-33DC-5 Configuration* and sold by Applicant and during an overlapping time during which Applicant also sold a calculator that uses the *5-33DC-5 Configuration*.

5.   Attached, as Exhibits M through T, are images of graphing calculators using a key configuration other than the *5-33DC-5 Configuration* and sold by parties *other than* Applicant and during an overlapping time during which Applicant also sold a calculator that uses the *5-33DC-5 Configuration*.

6.   Attached, as Exhibits U through X, are images of calculators other than graphing calculators using a key configuration other than the *5-33DC-5 Configuration* and sold by Applicant and during an overlapping time during which Applicant also sold a calculator that uses the *5-33DC-5 Configuration*.

7.   Attached, as Exhibits Y through CC, are images of calculators other than graphing calculators using a key configuration other than the *5-33DC-5 Configuration* and sold by parties *other than* Applicant and during an overlapping time during which Applicant also sold a calculator that uses the *5-33DC-5 Configuration*.

8.   There is no particular cost advantage or disadvantage to the *5-33DC-5 Configuration* versus the product or packaging design of competitor calculators.

9.   *Each individual key* in the *5-33DC-5 Configuration* has its own respective function, but that function is not defined as part of *the Configuration*; instead, the key's function is identified by a label (or legend) on the key, and the circuitry inside the calculator housing that responds to that particular key being pushed.

10.   Applicant's   web   page, https://education.ti.com/en/products/calculators/graphing-calculators/ti-84-plus-ce, indicates that the TI-84 Plus family has "familiar" functionality and a "same menu structure and navigation . . . make it easy to pick up and learn."   This quotation specifically refers to a "menu structure and navigation," which in part relates to: (1) subject matter that can be shown on the calculator *display*; and (2) the function achieved by pressing selected *individual* keys, either individually or as part of a sequence, but the function does not mandate or render essential the relative positioning or configuration layout of keys in order to achieve the corresponding calculator functionality.   Indeed, Exhibit L illustrates a graphing calculator currently sold by Applicant under the trademark TI-*n*spire® cx and that uses a key configuration other than the *5-33DC-5 Configuration*. The TI-*n*spire® cx calculator is operable to perform the same functions as may be achieved by the keys in the "close-up picture" referred to in the Action and on the above-cited web page, but the TI-*n*spire® cx accomplishes those functions without having the key legends or relative locations of keys in the *5-33DC-5 Configuration*.

11.   The "close-up picture" referred to in the Action, and on Applicant's web page of paragraph 10, above, depicts *the familiar label/legend, and corresponding*

familiar known functionality, of each __individual__ key or Applicant's own selection of a grouping or ordering of keys based on legends/individual key function, as Applicant has for years supported a same function for each key, according to the label on the key. As examples from some of the close-up pictured keys, the corresponding calculator user manual description of each such individual key function is paraphrased below:

2nd:	The secondary function of each key is printed above the key. When you press the 2nd key, the character, abbreviation, or word printed above the other keys becomes active for the next keystroke.
alpha:	Many keys also have a third function. These functions are printed above the keys in the same color as the alpha key. The third functions enter alphabetic characters and special symbols as well as access SOLVE and shortcut menus.
y=:	When you press the "y=" key, you may then entire, edit, or select one or more functions in the "Y= editor," such as the entry of an equation.
window:	Press the window key to define the viewing window variables.
zoom:	Press the zoom key to adjust size (enlarge/shrink) of something depicted in the display's viewing window
trace:	Press the trace key to move the cursor from one plotted point to the next along a graphed function.
graph:	Press the graph key to display the graph of the selected function or functions.

12.   Applicant's web page section identified by the Action also refers to a "Built-in MathPrint™ functionality." This functionality relates to how things may be shown on the calculator display to "appear [as they do] in textbooks" and, therefore, has nothing to do with any particular key configuration.

13.   I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom.

Martha Ann Sandstedt

Martha Ann Sandstedt

Date: March 21, 2018

Exhibit J to Declaration of Martha Ann Sandstedt

Exhibit K to Declaration of Martha Ann Sandstedt

i_7261301v.1

Exhibit L to Declaration of Martha Ann Sandstedt

i_7261301v.1

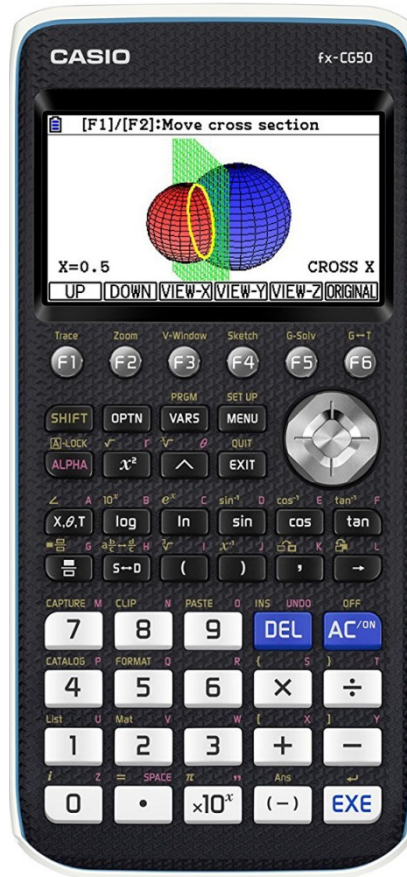## Exhibit M to Declaration of Martha Ann Sandstedt
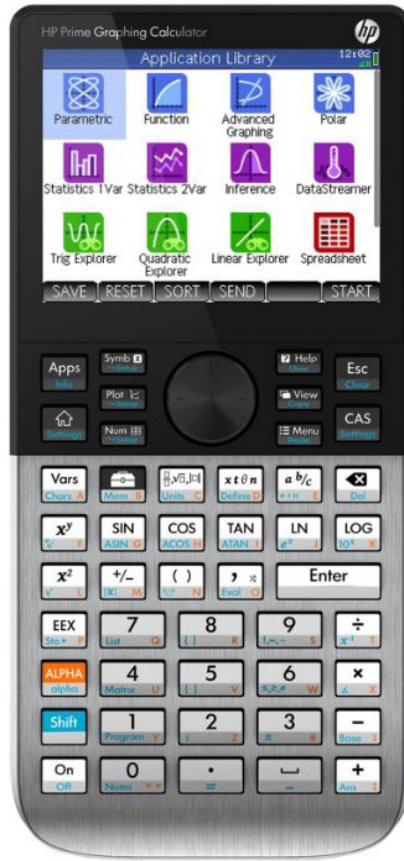
Exhibit N to Declaration of Martha Ann Sandstedt
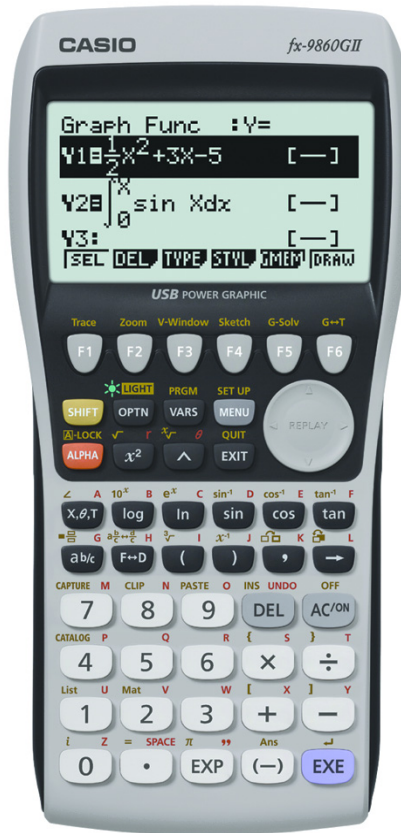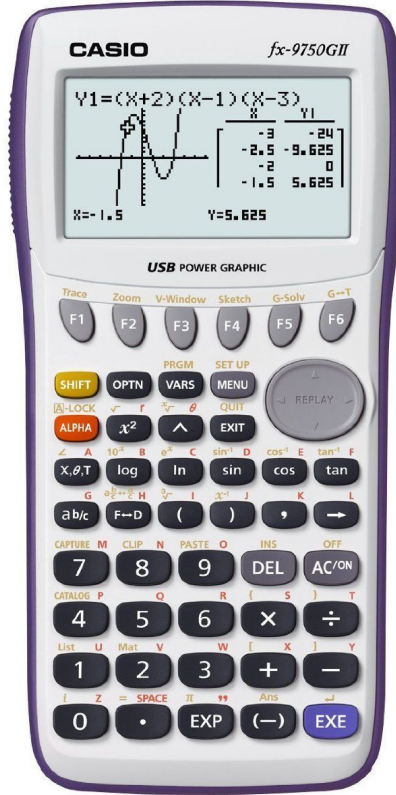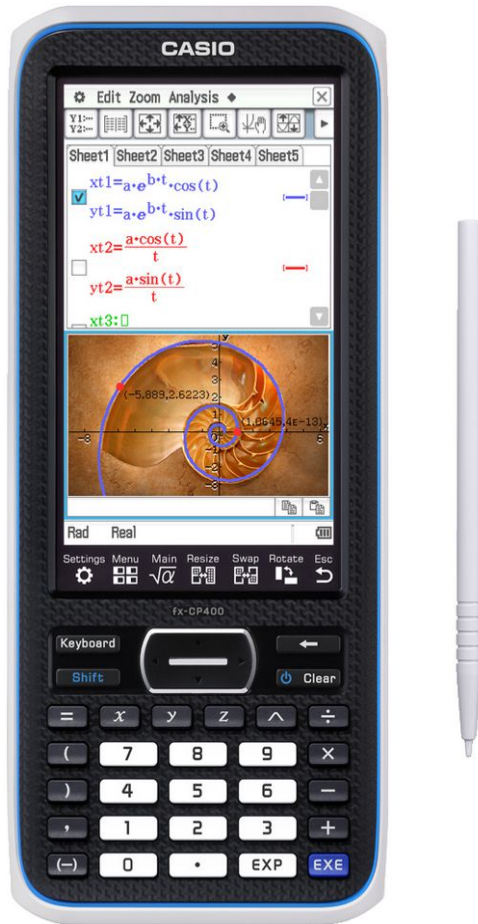
Exhibit O to Declaration of Martha Ann Sandstedt

i_7261301v.1
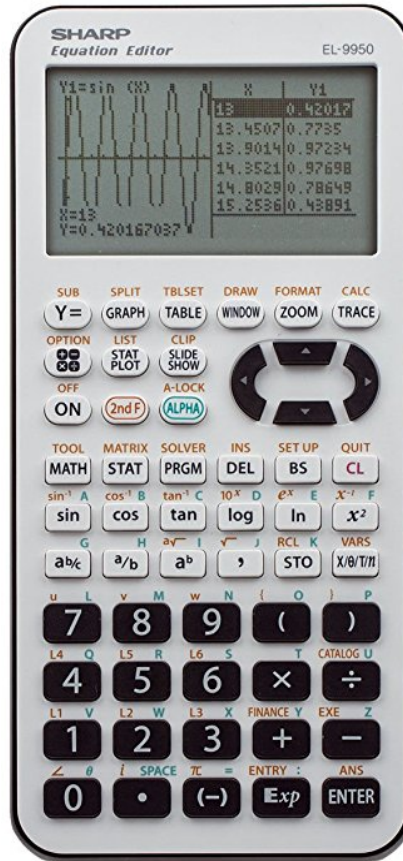
Exhibit P to Declaration of Martha Ann Sandstedt

Exhibit Q to Declaration of Martha Ann Sandstedt

i_7261301v.1

Exhibit R to Declaration of Martha Ann Sandstedt

Exhibit S to Declaration of Martha Ann Sandstedt

Exhibit T to Declaration of Martha Ann Sandstedt

Exhibit U to Declaration of Martha Ann Sandstedt
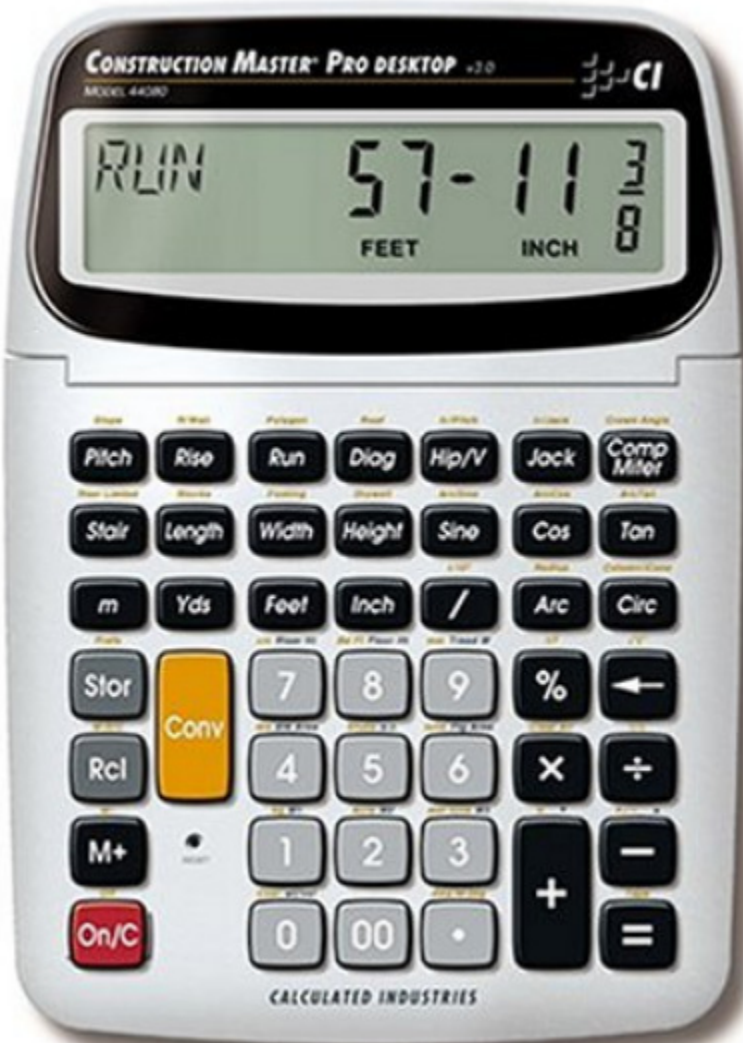
Exhibit V to Declaration of Martha Ann Sandstedt
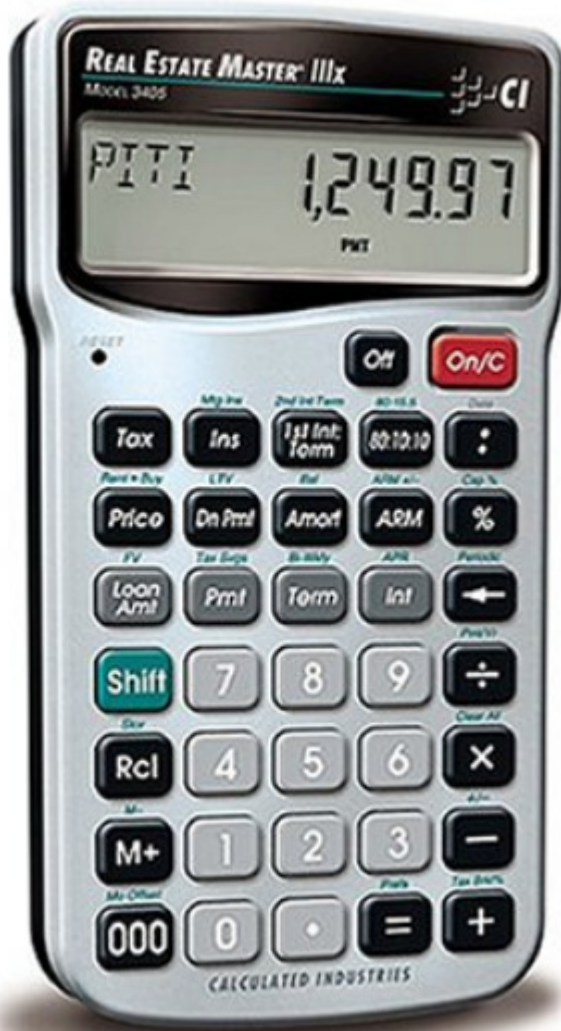
Exhibit W to Declaration of Martha Ann Sandstedt

i_7261301v.1

Exhibit X to Declaration of Martha Ann Sandstedt

i_7261301v.1

Exhibit Y to Declaration of Martha Ann Sandstedt

Exhibit Z to Declaration of Martha Ann Sandstedt

i_7261301v.1

Exhibit AA to Declaration of Martha Ann Sandstedt

Exhibit BB to Declaration of Martha Ann Sandstedt

i_7261301v.1

Exhibit CC to Declaration of Martha Ann Sandstedt