

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

**CERTAIN TELEVISION SETS,
TELEVISION RECEIVERS,
TELEVISION TUNERS, AND
COMPONENTS THEREOF**

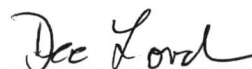
Inv. No. 337-TA-910

ORDER NO. 2: GROUND RULES

(March 4, 2014)

The conduct of this investigation before the Administrative Law Judge shall be governed by the Commission Rules and the Ground Rules attached hereto.

SO ORDERED.



Dee Lord
Administrative Law Judge

GROUND RULES FOR SECTION 337 INVESTIGATION

These Ground Rules supplement the Commission's Rules of Practice and Procedure, 19 C.F.R. Parts 201 and 210 ("Commission Rules"), in order to aid the Administrative Law Judge in the orderly conduct of the section 337 investigation pursuant to the Administrative Procedure Act, 5 U.S.C. § 556(c).

These Ground Rules govern a U.S. patent-based investigation pursuant to 19 U.S.C. § 1337(a)(1)(B). In the case of an investigation based upon a registered copyright, registered trademark, or registered mask work pursuant to 19 U.S.C. § 1337(a)(1)(B), (C) or (D), additional Ground Rules may govern. In addition, in a case involving a motion for temporary relief pursuant to 19 U.S.C. § 1337(e), additional Ground Rules may also govern.

In case of any conflict between these Ground Rules and any subsequent order issued by the Administrative Law Judge or the Commission in this Investigation, the subsequent order shall control.

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JUDGE LORD'S GROUND RULES

1 Address; Requirements for Filing, Service, and Copies; Time

1.1 Address of Administrative Law Judge.

The Administrative Law Judge's address is as follows:

The Honorable Dee Lord
U.S. International Trade Commission
500 E Street, S.W., Room 317
Washington, D.C. 20436

1.2 Filing Requirement.

All submissions shall be filed with the Office of the Secretary of the Commission in accordance with Commission Rule 210.4(f) unless otherwise specifically provided for in these Ground Rules or by order of the Administrative Law Judge.

1.3 Service Copy Requirements.

In accordance with the requirements of Commission Rules 210.4(f)(2) and (g), copies of each submission shall be served on all other parties, including the Commission Investigative Attorney. Also, on the same day that the submission is filed, a courtesy electronic copy in Word or PDF format, excluding attachments such as exhibits, shall be sent to the Administrative Law Judge's attorney-advisor, David Foley, at the following email address: David.Foley@usitc.gov. In addition, two un-bound courtesy paper copies of each submission (excluding notices of appearance and subpoenas) shall be submitted to the Administrative Law Judge at the address listed in Ground Rule 1.1 the next business day after the submission is filed. Exhibits for the paper copies shall be individually tabbed. If the next business day is a Saturday, Sunday, Federal legal holiday, or a day on which weather or other conditions have made the Office of the Secretary of the Commission inaccessible, the two courtesy paper copies shall be submitted the next business day that is not one of the aforementioned days.

1.4 Word Processor Copy.

In the case of any filing of 25 pages or more (excluding attachments), or in the case of any filing that contains lengthy quotations from a patent, transcript, treatise or other document, the courtesy paper copies delivered to the Administrative Law Judge shall, if possible, be accompanied by an electronic version of the filing in Microsoft Word.

1.5 Submission by Fax Disfavored.

Submissions to the Administrative Law Judge by fax are **strongly disfavored** and are not to be made without her prior approval.

1.6 Concurrent Service.

Service on opposing counsel may be by hand, by facsimile, by e-mail, or by overnight courier. Parties are encouraged to agree upon a method of service so that the parties will receive all submissions at the same time the submissions are received by the Commission.

1.7 Computation of Time.

The first day of the ten (10) calendar days for responding to a motion received by the Administrative Law Judge shall be the first business day following the date that said motion was filed in the Office of the Secretary, and shall apply whether a motion is hand delivered, faxed or served by overnight courier on the other parties. In addition to the requirements of Commission Rules 201.14, 201.16(d), and 210.6 for computation of time, if the last day of the period of time for making a submission falls on a day on which weather or other conditions have made the Office of the Secretary of the Commission inaccessible, the period shall run until the end of the next business day which is not one of the aforementioned days.

1.8 Request for Extension of Time.

Any request for extension of time must be made by written motion **the day before** the due date and good cause for such extension must be established.

1.9 Confidential Submissions.

The confidential nature of any filing with the Office of the Secretary of the Commission or of any submission to the Administrative Law Judge shall be conspicuously noted on the top page of any filing or other submission. No cover letter or other document shall be stapled or otherwise attached to a filing or other submission so as to obscure the confidential marking on the top page.

2 Procedural Schedule

The Administrative Law Judge will promulgate a procedural schedule for the investigation. Modifications of the procedural schedule by any party shall be made by written motion showing good cause. The event and deadline dates in the procedural schedule will generally adhere to the following chronological order:

First settlement conference
Submission of first settlement conference joint report
File identification of expert witnesses, including their expertise

and curriculum vitae
Attendance at one-day mediation session ¹
Submission of joint report on mediation
File notice of prior art
Exchange of initial expert reports (identify tests/surveys/data)
File tentative list of witnesses a party will call to testify at the hearing, with an identification of each witness' relationship to the party
Exchange of rebuttal expert reports
Fact discovery cutoff and completion
Deadline for motions to compel discovery
Expert discovery cutoff and completion
Second settlement conference
Submission of second settlement conference joint report
Deadline for filing summary determination motions
Exchange of exhibit lists among the parties
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available – Complainant(s) and Respondent(s)
Submit and serve direct exhibits (including witness statements), with physical and demonstrative exhibits available – Staff
File pre-trial statements and briefs – Complainant(s) and Respondent(s)
File requests for receipt of evidence without a witness
Submit and serve rebuttal exhibits (including witness statements), with rebuttal physical and demonstrative exhibits

¹ For any questions regarding the mediation program, the parties should refer to the Revised Users' Manual for Commission Mediation Program, available at <http://www.usitc.gov>.

available – all parties
Deadline for motions <i>in limine</i>
File pre-trial statement and brief – Staff
File high priority objections statement
File responses to high priority objections statement
File responses to motions <i>in limine</i>
Tutorial on technology (if necessary)
Pre-trial conference
Hearing
File initial post-trial briefs, proposed findings of fact and conclusions of law, and final exhibit lists
File reply post-trial briefs, objections and rebuttals to proposed findings of fact
Initial Determination due
Target date for completion of investigation

3 Motions; Deadlines for Responses

3.1 Contents; In General.

All written motions shall consist of: (1) the motion; (2) a separate memorandum of points and authorities in support of the motion;² (3) an appendix of declarations, affidavits, exhibits, or other attachments in support of the memorandum of points and authorities; and (4) a Certificate of Service as required by Commission Rule 201.16(c). All responses to motions shall include the Motion Docket Number assigned to the motion by the Commission's Office of the Secretary in either the title or the first paragraph of any such response,³ and shall consist of: (1) a memorandum of points and authorities in response to the motion; (2) an appendix of declarations, affidavits, exhibits, or other attachments in support of the memorandum of points and authorities; and (3) a Certificate of Service as required by Commission Rule 201.16(c).

² For procedural motions, such as motions for extensions of time, a separate memorandum is not necessary.

³ Motion Docket Numbers may be obtained online through the Commission's Electronic Document Information System (EDIS).

3.2 Contents; Certification.

All motions shall include a certification that the moving party has made reasonable, good-faith efforts to resolve the matter with the other parties **at least two business days** prior to filing the motion, and shall state, if known, the position of the other parties on such motion. Said certification shall be placed at the beginning of the motion under a heading entitled "Ground Rule 3.2 Certification" or similar language.

3.3 Contents; Motion for Summary Determination.

In addition to the foregoing requirements for all motions, motions for summary determination shall be further accompanied by a separate statement of the material facts as to which the moving party contends there is no genuine issue and which entitle the moving party to a summary determination as a matter of law. The statement shall consist of short numbered paragraphs with specific references to supporting declarations, affidavits or other materials.

3.4 Contents; Response to Motion for Summary Determination.

In addition to the foregoing requirements for all responses to motions, each party opposing a motion for summary determination shall append to the response a separate statement responding individually to the numbered paragraphs of the motion statement required by Ground Rule 3.3 with which the party disagrees, with specific references to supporting declarations, affidavits or other materials. The responsive statement shall also include any similarly numbered paragraphs of additional facts, similarly referenced and supported, which the opposing party believes warrant denial of summary determination. All material facts set forth in the moving party's statement may be deemed admitted by a non-moving party unless so specifically controverted in the nonmoving party's responsive statement.

3.5 Contents; Discovery-Related Motions.

Any discovery-related motion must have appended to it the pertinent parts of the discovery request and all objections and answers thereto. Additionally, if a party serves supplemental responses subsequent to the filing of a motion to compel, that party must provide copies of the supplemental responses, or where documents are produced, a detailed accounting of what additional documents were produced.

3.6 Deadline for Filing Response to Motion.

In addition to the requirements of Commission Rules 201.16 and 210.15(c) governing the time period for a nonmoving party's response to a written motion, the date of service of a motion on a nonmoving party by electronic mail, hand-delivery or by an express-type mail or courier service is the date of delivery. The additional time provided under Commission Rule 201.16(d) after service by mail does not apply in such instances, unless service by electronic mail, hand-delivery or by an express-type mail or courier service is to a nonmoving party in a foreign country, in which event the additional time allowed for responses to motions shall be five (5) days.

3.7 Request for Shortened Time to Respond to Motion.

A motion may include a request to shorten the period of time during which other parties may respond to the motion. The fact that a shortened response time is requested shall be noted in the title of the motion and the motion shall include an explanation of the grounds for such a request. A request for a shortened response time shall not be made through a separate motion.

3.8 No Motion Stops Discovery Except Motion to Quash Subpoena.

No motion stops discovery except a timely motion to quash a subpoena.

3.9 Formatting.

Every page of a pleading or other document (not including attachments or exhibits) must bear a footer with a brief description of the pleading or document and consecutive numbering at the bottom of the page.

4 Discovery

4.1 Resolution of Disputes; Coordinated Discovery.

All parties shall make reasonable efforts to resolve among themselves disputes arising during discovery. Parties with similar interests must coordinate and consolidate depositions and all other discovery.

4.1.1 Discovery Committee.

Commencing with the first full week after these Ground Rules are issued, a discovery conference committee (the "Discovery Committee") consisting of the lead counsel of each party and the Commission Investigative Staff Attorney shall convene at least once every two weeks during the discovery phase of this Investigation, either in person or by telephone, to resolve discovery disputes. The Discovery Committee shall confer in good faith to resolve every outstanding discovery dispute in a timely manner within the deadlines set forth in the Procedural Schedule. Within ten calendar days after the end of each calendar month during the discovery phase, the Discovery Committee shall report in writing to the Administrative Law Judge all disputes that were resolved during the preceding month and all disputes on which there is an impasse as of the end of that month. No motion to compel discovery may be filed unless the subject matter of the motion has first been brought to the Discovery Committee and the Committee has reached an impasse in resolving the matter.

4.2 Stipulations Regarding Discovery Procedure.

Unless otherwise directed by the Administrative Law Judge, the parties may by written stipulation (1) provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions, and (2) modify other procedures governing or limitations placed upon discovery, except that stipulations extending the time provided in Ground Rules 4.4.2, 4.4.3, and 4.4.4 for responses to discovery may, if they would interfere with the target date of the investigation or with any time set in the procedural schedule or in an order for completion of discovery, for hearing of a motion, or for the trial, be made only with the approval of the Administrative Law Judge upon a written motion showing good cause.

4.3 Service of Discovery Requests and Responses.

Discovery requests and responses thereto shall be served upon all parties, including the Commission Investigative Attorney, but **shall not be served on the Administrative Law Judge** unless they are pertinent to a motion. Discovery documents need not be served on the Office of the Secretary of the Commission unless they are appended to motions.

4.4 Timing of Discovery Requests, Responses and Objections.

4.4.1 Depositions; Notice.

In addition to the requirements of Commission Rule 210.28(c), unless otherwise ordered, any party desiring to take a deposition shall give notice in writing to every other party of not less than ten (10) days if the deposition is to be taken of a person located in the United States, or of not less than fifteen (15) business days if the deposition is to be taken of a person located outside the United States.

4.4.2 Interrogatories; Deadline for Responses and Objections.

In addition to the requirements of Commission Rule 210.29(b), unless otherwise ordered, the party upon whom interrogatories have been served shall serve a copy of the answers, and any objections, within ten (10) days after the service of the interrogatories.

4.4.3 Requests for Production of Documents or Things or for Entry Upon Land; Deadline for Responses and Objections.

In addition to the requirements of Commission Rule 210.30(b)(2) with respect to a request for the production of documents or things, or to permit entry upon land, unless otherwise ordered, the party upon whom a request has been served shall serve a written response within ten (10) days after the service of the request.

4.4.4 Request for Admission; Period for Service; Deadline for Responses and Objections.

In addition to the requirements of Commission Rule 210.31(a) and (b), unless otherwise ordered, a request for admission may be served at any time twenty (20) days after the date of service of the Complaint and Notice of Investigation. Unless otherwise ordered, a party upon whom a request for admission has been served, shall serve an answer or objection within ten (10) days after the service of the request, otherwise the matter may be deemed admitted.

4.4.5 Discovery Cutoff and Completion.

All discovery requests, including without limitation requests for admissions, must be initiated in sufficient time prior to the fact discovery cutoff and completion date so that the responses will be due prior to that date within the time periods set forth above. Discovery requests by any party that would require responses after the fact discovery cutoff and completion date must be approved in advance by the Administrative Law Judge upon a showing of compelling circumstances.

4.5 Interrogatory Limitation.

Without leave of the Administrative Law Judge or written stipulation, any party may serve upon any other party written interrogatories not exceeding 175 in number including all discrete subparts. Leave to serve additional interrogatories shall be granted by the Administrative Law Judge only upon a written motion showing good cause.

4.6 Subpoenas.

4.6.1 Issuance and Service.

Pursuant to Commission Rule 210.32, application for subpoena may be made ex parte to the Administrative Law Judge. The application shall be in writing with the proposed subpoena attached, and one (1) copy thereof submitted to the office of the Administrative Law Judges. The application shall set forth with specificity the relevancy of the information sought and the reasonableness of the scope of the inquiry. In addition, the subpoena should set forth a time limit for a motion to quash and should also state that the subpoena will be served by overnight delivery, if not sooner. Any dates in a subpoena set for appearance of a deponent or production of documents should take into account the date set for the filing of any motions to quash. A copy of the issued subpoena and the application shall be served by the applicant upon the subpoenaed party and all other parties to the investigation on the next business day, at the latest, after the subpoena is issued, and all parties including the subpoenaed party shall be notified on that day about the contents of the subpoena. One (1) copy of the issued subpoena, the application, and the proof of service to the subpoenaed party shall be supplied to the Administrative Law Judge. Samples of subpoenas are attached in Appendix A hereto. The application and subpoena need not be filed with or served on the Office of the Secretary of the Commission, including EDIS, unless they are appended to a motion to quash or motion for a protective order.

4.6.2 Motion to Quash Subpoena; Deadline.

In addition to the requirements of Commission Rule 210.32(d), any motion to limit or quash a subpoena shall be filed within ten (10) days after receipt thereof, or within such other time as the Administrative Law Judge may allow. Filing of any motion to quash an issued subpoena automatically stays such subpoena pending disposition of the motion by the Administrative Law Judge. Failure to file a timely motion to quash does not waive objections that are raised timely in response to a subpoena.

4.7 Bates Numbering.

If documents produced by any supplier in response to a document request are furnished to the requester as copies of original documents, every page of every such document shall be numbered sequentially by a unique number (commonly known as a "Bates number"). The Bates number shall appear stamped on the lower right-hand corner of the page.

4.8 Translations.

All documents produced in response to a document request shall be the original or true complete copies of originals. If an English translation of any document produced exists, the English translation shall be produced. If any of the parties dispute the translation provided by the producing party, then the translation must be certified by a qualified and neutral translator upon whom counsel can agree.

4.9 Privileged Matter.

In order to expedite discovery, the following procedure shall be followed with respect to those documents for which counsel claims privilege (attorney-client or work product).

4.9.1 Privileged Document List.

If production of any document is withheld on the basis of a claim of privilege, each withheld document must be separately identified via a privileged document list.⁴ The privileged document list shall be supplied, unless otherwise ordered, within ten (10) days after objections based on privilege to the underlying document requests are due. The privileged document list must identify each document separately, specifying for each document at least the following: (1) the date; (2) the author(s)/sender(s); (3) the recipient(s), including copy recipient(s); and (4) the general subject matter of the document. The sender(s) and recipient(s) shall be identified by position and entity (corporation or firm, etc.) with which they are employed or associated. If the author/sender or recipient is an attorney or foreign patent agent, he or she shall be so identified. The type of privilege claimed must also be stated, together with certification that all elements of the claimed privilege have been met and not waived with respect to each document.

⁴ See *Duplan Corp. v. Deering Millikin, Inc.*, 397 F. Supp. 1146, 184 U.S.P.Q. 775 (D.S.C. 1974).

4.9.2 Motion to Compel Production of Privileged Matter.

Any party seeking production of allegedly privileged documents shall file an appropriate motion only after examining the privileged document list.

The Administrative Law Judge is aware that, often times, parties agree that production of a privilege log is not necessary. The Administrative Law Judge finds such an agreement to be acceptable; however, if such an agreement is in force, the Administrative Law Judge will not consider any motions involving privileged documents.

5 Notice of Prior Art

Parties must file on or before the date set in the procedural schedule, notices of any prior art consisting of the following information: country, number, date, and name of the patentee of any patent; the title, date and page numbers of any publication to be relied upon as anticipation of the patent in suit; or as showing the state of the art, and the name and address of any person who may be relied upon as the prior inventor or as having prior knowledge of or as having previously used or offered for sale the invention of the patent in suit.

If a trademark is involved, the parties must file on or before the date set in the procedural schedule, notices of any art on which a party will rely at the hearing regarding the functionality or non-functionality of any trademarks at issue.

In the absence of such notice, proof of said matters may not be introduced into evidence at the hearing except upon a timely written motion showing good cause.

5A. Markman Hearing on Claim Construction

If the Administrative Law Judge determines that a *Markman* hearing would be beneficial to the Investigation, the Administrative Law Judge may conduct a *Markman* hearing on the date set forth in the procedural schedule for the purpose of construing any disputed claim terms of the patents at issue in the Investigation. The parties and Commission Investigative Staff shall meet and confer on these issues no later than ten (10) days before the *Markman* hearing in order to reduce the number of disputed claim terms to a minimum. Before the *Markman* hearing, Complainant(s), Respondent(s) (if there is more than one Respondent, they are required to file a joint brief), and Staff shall file with the Administrative Law Judge, by the date set forth in the procedural schedule, a short written statement of its interpretation of each of the remaining disputed claim terms together with its support for each interpretation as a matter of ordinary meaning, or as derived from the claims, specification, or prosecution history of the patent(s) at issue, or from extrinsic evidence.⁵ If there are multiple patents at issue, the brief should be organized by patent, similar to the outline for post-trial briefs (see Appendix B). Rebuttal briefs may also be filed by the date set forth in the procedural schedule. After the *Markman* hearing,

⁵ See *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc); *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 979-81 (Fed. Cir. 1995), *aff'd*, 517 U.S. 370 (1996).

the parties shall submit a joint chart, by the date set forth in the procedural schedule, setting forth their post-hearing constructions. Afterwards, the Administrative Law Judge may issue an order construing the disputed claims for the purposes of the Investigation. If such an order is issued, discovery and briefing in the Investigation shall be limited to the claim construction provided in that order.

6 Expert Witnesses and Reports

On or before the dates set forth in the procedural schedule, a party shall disclose to other parties the identity of any person who is retained or employed to provide expert testimony at the hearing and shall provide to the other parties a written report prepared and signed by the witness. The report shall not be filed with the Office of the Secretary of the Commission. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years. The parties shall supplement these disclosures as needed in the manner provided in Commission Rule 210.27(c).

7 Settlement/Mediation

All parties, throughout the duration of the proceedings, shall explore reasonable possibilities for settlement of all or any of the contested issues. All parties shall certify in their pre-trial statements that good faith efforts were undertaken to settle the remaining issues. Additionally, for each of the required settlement conferences and the one-day mediation provided for in the procedural schedule, the parties shall provide the Administrative Law Judge with two copies of a joint report signed by all the parties setting forth any stipulations on which the parties have agreed. These reports are due by the time designated in the procedural schedule or within such other time as the Administrative Law Judge may allow. The reports shall not be filed with the Office of the Secretary of the Commission.

8 Pre-trial Submissions

8.1 Pre-trial Statement.

Each party who desires to participate in the hearing in this Investigation must file on or before the date set forth in the procedural schedule a pre-trial statement containing the following information:

- (a) The names of all known witnesses, their addresses, whether they are fact or expert witnesses (and their area of expertise), and a brief outline of the testimony of each witness. In the case of expert witnesses, a copy of the expert's curriculum vitae shall accompany this submission.
- (b) A list of all exhibits which the parties will seek to introduce at the hearing.
- (c) A list of any stipulations on which the parties have agreed.

- (d) A proposed agenda for the pre-trial conference.
- (e) Estimated date and approximate length for appearance of each witness. The parties shall confer on estimated dates and approximate length prior to submission of their pre-trial statements.
- (f) Certification regarding good faith efforts to settle.

8.2 Pre-trial Brief.

On or before the date set forth in the procedural schedule, each party shall file a pre-trial brief. The pre-trial brief shall be prefaced with a table of contents and a table of authorities. The pre-trial brief shall set forth a party's contentions on each of the proposed issues, including citations to legal authorities in support thereof, and shall conform to the general outline set forth in Appendix B hereto. All issues, including issues not specifically named in the general outline that any party seeks to address, shall be inserted into the general outline where appropriate. The parties shall meet and confer as needed prior to filing the pre-trial briefs in order to determine appropriate common locations for each issue in the foregoing outline of every pre-trial brief. The parties shall provide complete proposed claim construction for all patent claims at issue.

Any contentions not set forth in detail as required herein shall be deemed abandoned or withdrawn, except for contentions of which a party is not aware and could not be aware in the exercise of reasonable diligence at the time of filing the pre-trial brief.

8.3 High Priority Evidentiary Objections to Exhibits.

High Priority Objections are objections that the party believes to be of high priority for discussion and/or ruling at the pre-trial conference. Although the Federal Rules of Evidence provide numerous bases on which to object to the admission of evidence in Federal District Courts, a party's high priority objections to opening, rebuttal, and/or supplemental exhibits should be based on Commission Rule 210.37, which provides that "[r]elevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable, or unduly repetitious evidence shall be excluded. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded as far as practicable."

Each party's high priority objections shall be accompanied by a narrative explanation of the objections. Except upon a timely written motion and for good cause shown, no party shall place more than ten objections on the high priority list. Any additional objections must be raised when the objected-to exhibit is offered into evidence at the hearing. Objections that are not timely raised at the evidentiary hearing will not be considered.

High priority objections and responses thereto shall include the exhibit(s) that is the subject of the objection and/or exhibit(s) that is referenced or discussed in the objection or response. Any high priority objection that does not include said exhibit(s) will not be considered.

8.4 Motions *in Limine*.

Unless otherwise permitted by the Administrative Law Judge, each side shall be limited to a maximum of ten motions *in limine*. The parties should not attempt to circumvent this limitation by including numerous subsections in a motion *in limine*.

Motions *in limine* and responses thereto shall include the exhibit(s) that is the subject of the motion and/or exhibit(s) that is referenced or discussed in the response. Any motion *in limine* that does not include said exhibit(s) will not be considered.

9 Hearing - Evidence and Exhibits

9.1 Material To Be Received Into Evidence.

Only factual material and expert opinion shall be received into evidence. Legal argument shall be presented in the briefs.

9.2 Legal Experts.

Legal experts may only testify as to procedures of the U.S. Patent and Trademark Office.

9.3 Witness Testimony.

All direct witness testimony, with the exception of adverse witnesses, shall be made by witness statements in lieu of live testimony. Staff may, however, ask the witness supplemental direct testimony on the witness stand. Witness statements shall be marked and offered into evidence as exhibits, and witnesses shall be available for cross-examination on the witness stand unless waived. Witnesses will not read their prepared testimony into the record.

9.3.1 Format of Witness Statements.

A witness statement shall be in the form of numbered questions from counsel, with each question followed by the witness's own answer to that question, and with the final question from counsel asking the witness whether or not the witness statement contains the witness's answers to the questions from counsel, followed by the witness's answer to this question and the witness's signature. The witness statement shall be assigned an exhibit number and each question shall be numbered consecutively.

9.3.2 Language of Witness Statements.

A witness statement shall be in the language of the witness, and a foreign language witness statement shall be accompanied by a certified translation thereof.

9.3.3 Exclusion of Witnesses During Hearing.

Except upon a timely written motion and for good cause shown, fact witnesses shall not review the witness statements of other witnesses and shall be excluded from the hearing during the

presentation of testimony from other witnesses. Subject to restrictions imposed by any protective order entered in an investigation, this rule does not apply to exclude a party who is a natural person or an officer or employee of a party designated as the party's representative by its attorney.

9.4 Exhibits.

9.4.1 Exchange of Proposed Exhibits Among Parties.

Copies of documentary proposed exhibits, along with a proposed exhibit list shall be served on the opposing parties (including the Commission Investigative Attorney) on the date ordered in the procedural schedule. Once the parties have exchanged their proposed exhibit lists, they shall eliminate any duplicative exhibits or renumber such exhibits as joint exhibits and update their exhibit lists before they are submitted to the Administrative Law Judge by the due date in the procedural schedule. Proposed physical and demonstrative exhibits need not be served, but shall be identified in the proposed exhibit list. Proposed physical and demonstrative exhibits, however, must be made available for inspection by the other parties on the date established for the submission and service of proposed exhibits. Proposed exhibits shall not be filed with the Office of the Secretary of the Commission.

9.4.2 Service of Proposed Exhibits Upon Administrative Law Judge.

On the date that is set forth in the procedural schedule, the Administrative Law Judge shall receive an electronic PDF version of all proposed exhibits, along with a proposed exhibit list. The electronic version of proposed exhibits may be submitted on an external hard drive or a flash drive. If a party has received permission from the Secretary to file the Commission's exhibit set on paper, said party shall also submit a set containing each proposed exhibit in an individual folder (which will be used for scanning purposes). Clear photocopies may be used instead of original documents.

9.4.3 Format of Commission's Exhibit Set.

The following shall apply **ONLY** if a party has received permission from the Secretary to file the Commission's exhibit set on paper:

Exhibits in the Commission set shall consist of loose sheets (which may be clipped but not stapled) in folders (file folders, accordion folders, etc.) that are provided in sequentially-numbered boxes. Each folder must be labeled to reflect the number of the exhibit contained therein, *e.g.*, RX-0014C. In each of the boxes of the Commission exhibit set, the folders containing the exhibits shall be placed in numerical order.

9.4.4 Format of the ALJ's Binder Set.

The exhibits in the Administrative Law Judge's binder set shall be individually tabbed, with each tab reflecting the number of the corresponding exhibit, *e.g.*, CX-0003C. Each binder must be labeled on its spine with the name and number of the investigation and the nature of the contents

of the binder, *e.g.* Complainant's Exhibits CX-0001 through CX-0018C. The exhibits in the binder set shall be in consecutive numerical order, and shall not be separated according to confidential or public status.

9.4.5 Maintenance and Filing of Final Exhibits and Final Exhibit List.

Each party must submit a final exhibit list prepared in accordance with Ground Rule 9.4.8 reflecting the status of all exhibits, including those admitted and rejected during the hearing, on the same date that the post-hearing briefs are due. Any withdrawn exhibit shall be identified on the final exhibit list only by exhibit number and shall indicate that it is withdrawn.

The parties are responsible during the course of the hearing for updating the exhibit lists and for maintaining and updating the Commission set of exhibits, which shall become the set that is filed with the Commission after the record is closed, as well as for confirming that all admitted and rejected exhibits are included among the Commission exhibits and the final exhibit list at the conclusion of the hearing. Any exhibits that are not included with the Commission exhibits and the final exhibit list at the conclusion of the hearing will not be considered as part of the record to be certified to the Commission when the final initial determination issues.

All final Commission exhibits shall be submitted to the office of the Administrative Law Judge who will transmit the Commission exhibits to Docket Services. The Commission exhibits should not be submitted directly to Docket Services.

9.4.5.1 Submission of Final Exhibits to the Administrative Law Judge.

On the same day that initial post-hearing briefs are due, the parties shall submit [1] the Administrative Law Judge's binder set of all the final exhibits in the format set forth in Ground Rule 9.4.4; [2] an electronic version of the final set of exhibits to the Administrative Law Judge for her use in drafting the final initial determination; and [3] the Commission set of exhibits, with rejected exhibits submitted under separate cover and so marked. The Commission set of exhibits must be submitted on CD. The Administrative Law Judge's set, however, may be submitted on an external hard drive or flash drive and need not be separated in the manner set forth in Ground Rule 9.4.16.

9.4.5.2 Binder Exhibit Set for the Office of General Counsel.

No later than thirty (30) days after the submission of post-trial reply briefs, each party shall deliver one additional binder set of copies of all exhibits except withdrawn exhibits directly to the Office of General Counsel along with a final exhibit list, with rejected exhibits submitted under separate cover and so marked. In the alternative, the parties may submit this set electronically pursuant to Ground Rule 9.4.16.

9.4.6 Numbering and Labeling of Exhibits.

Written exhibits shall be marked serially commencing with the four digit number "0001" and preceded by the prefix "CX" for Complainant's exhibits, "RX" for Respondent(s)' exhibits, "SX" for the Commission Investigative Attorney's exhibits, and "JX" for any joint exhibits. The parties shall not "reserve" numbers, but instead shall assign all numbers in consecutive sequence.

Each exhibit shall be marked by placing a label bearing the exhibit's number (*e.g.*, CX-0003C or RX-0005) in the upper right portion of the exhibit's first page. The pages of each exhibit must be sequentially numbered in a consistent location on the pages.

Respondent(s) shall coordinate their numbering to avoid duplication in numbering. Additionally, the parties shall coordinate exhibits to avoid unnecessary duplication (*e.g.*, patents; file wrappers). Further, all exhibits or copies of exhibits shall be clear and legible. Lastly, each exhibit may be assigned no more than one number.

9.4.6.1 Confidential Exhibits.

If an exhibit contains confidential business information, a "C" shall be placed after the exhibit number. Furthermore, exhibits containing confidential business information shall be so designated pursuant to the Protective Order. In addition, on any exhibit list submitted, exhibits which contain confidential business information shall be denoted by placing a "C" after the exhibit number in the listing. No exhibit list shall contain confidential information; all exhibits lists shall be public documents.

9.4.6.2 Physical Exhibits.

Physical exhibits shall be numbered in a separate series commencing the four-digit number "0001" preceded by the prefixes "CPX", "RPX", "SPX" and "JPX", for Complainant, Respondent, the Commission Investigative Attorney, and joint exhibits, respectively. Confidential exhibits shall be denoted with the letter "C" as in the case of documentary exhibits.

9.4.6.3 Demonstrative Exhibits.

Demonstrative exhibits shall be numbered in a separate series commencing with the four-digit number "0001" preceded by the prefixes "CDX", "RDX", and "SDX", for Complainant, Respondent(s), and the Commission Investigative Attorney, respectively. Confidential exhibits shall be denoted with the letter "C". Additionally, the parties shall provide the Administrative Law Judge with two (2) copies of key demonstrative exhibits (*e.g.*, charts, drawings, etc.) reduced to 8 ½ inches x 11 inches.

9.4.7 Public and Confidential Exhibits.

If any portion of an exhibit contains confidential business information, the entire exhibit shall be treated as confidential. For certain lengthy exhibits of which only portions are confidential, the parties may be asked to submit a public version of the exhibit.

The exhibits in the binder sets shall be in consecutive numerical order, and shall not be separated according to confidential or public status.

9.4.8 Exhibit Lists.

Every exhibit list shall consist of a table enumerating all exhibits serially by exhibit number and identifying each exhibit by a descriptive title, a brief statement of the purpose for which the exhibit is being offered in evidence, the name of the sponsoring witness, and the status of receipt of the exhibit into evidence. In the case of joint exhibits, every exhibit list shall identify such exhibits, and the parties shall meet and confer before submitting the lists to agree upon a common descriptive title, statement of purpose, and sponsoring witnesses that shall appear on every list for each joint exhibit. In any exhibit list submitted prior to the offer of any exhibit into evidence, the entry in the column for the status of receipt shall be left blank. In any exhibit list submitted after the exhibit is offered into evidence or withdrawn, the entry in that column shall show the date of admission into evidence or rejection of the exhibit or shall indicate its withdrawal.

Exhibit lists shall include public and confidential exhibits, and shall list all exhibits together in numerical order, e.g., CX-0001, CX-0002, CX-0003C, CX-0004, CX-0005C, etc.

9.4.9 Foreign Language Exhibits.

No foreign language exhibits will be received into evidence unless a translation thereof is provided at the time set for the exchange of exhibits. The translation shall be included as part of the foreign language exhibit.

9.4.10 One Document Per Exhibit; All Pages Bates-numbered.

Except for good cause shown, each exhibit shall consist of no more than one document and every page of every document shall be Bates numbered in accordance with Ground Rule 4.7 above. Exceptions to this "one document per exhibit" rule include instances when it would be appropriate to group certain documents together as one exhibit, such as a group of invoices or related e-mails.

9.4.11 Witness Exhibit Binder.

In examining witnesses on direct with prepared written testimony, counsel shall provide the witness, the Administrative Law Judge, and other counsel, just prior to the commencement of the examination of each witness, with a binder containing only the witnesses's prepared written testimony, along with a table of all exhibits referred to within the prepared written testimony along with a blank column entitled "Received Into Evidence" or having similar language.

In examining adverse witnesses who have not prepared written testimony, or cross-examining witnesses, counsel shall provide the witness, the Administrative Law Judge, and other counsel,

just prior to the commencement of the examination of each witness, with a binder (or binders) containing all exhibits, in numerical order, and individually tabbed, to be used in the examination of the witness. Each binder must be labeled on its spine with the name and number of the investigation and the nature of the contents of the binder, *e.g.*, Cross-Examination of Witness - Volume 1 of 1. In addition, the front of the witness binder must include a table of all exhibits to be used in the examination of the witness with a blank column entitled "Received Into Evidence" or having similar language.

If there are certain exhibits (*i.e.*, patent, prosecution histories) that will be used frequently with more than one witness, a separate exhibit binder containing those exhibits may be used with those witnesses and do not have to be included in the separate witness binder for each witness.

9.4.12 References for Exhibit.

If it is appropriate, exhibits shall cite sources of information and methods employed in formulating accounting, economic or other types of data. Rebuttal exhibits, if submitted, shall refer specifically to exhibits being rebutted.

9.4.13 Authenticity.

All documents that appear to be regular on their face shall be deemed authentic, unless it is shown by particularized evidence that the document is a forgery or is not what it purports to be.

9.4.14 Sponsoring Witness.

Each exhibit that is offered into evidence shall have a "sponsoring witness." One of the purposes of having a sponsoring witness associated with an exhibit is to establish a foundation for the exhibit. Sponsoring witness testimony does not necessarily have to be in the form of live testimony if all parties are in agreement to allow otherwise. For example, if parties are willing to stipulate and agree to designate portions of deposition testimony into the record in lieu of live testimony, along with certain exhibits that were discussed during the deposition, such request will generally be permitted, as long as the exhibit was clearly identified and discussed during the deposition and the deposition pages discussing the exhibit are included in the designation.

Except in an investigation in which there is no participating Respondent, if a party believes evidence to be non-controversial and to be appropriate for receipt in evidence without a sponsoring witness, that party may present with each such exhibit on or before the due date set forth in the procedural schedule: (1) an affidavit or declaration that the declarant prepared or someone under the declarant's direction prepared the exhibit; (2) a request that the exhibit be received in evidence without a witness at the hearing; and (3) a statement of grounds for receiving the exhibit in evidence without a witness at the hearing. Any party who wishes to cross-examine the declarant may object in writing within three (3) days of service of the affidavit or declaration and request, specifying whom the party intends to examine. In the absence of objections, and upon good cause shown, the exhibit shall be received in evidence without a witness subject to the right of objection on other grounds.

9.4.15 Exhibits in Dispute.

For any exhibit in dispute or to be discussed at the hearing that is not included in a witness exhibit binder, a copy of said exhibit shall be provided to the Administrative Law Judge for her review and consideration.

9.4.16 Filing of Exhibits by CD/DVD Media.

The Commission set of exhibits shall be submitted in electronic format. The procedure for submitting exhibits electronically is set forth at:

http://www.usitc.gov/docket_services/documents/EDIS3UserGuide-CDSubmission.pdf.

There are twenty-four standard exhibit categories: CX, CDX, CPX, RX, RDX, RPX, JX, JDX, JPX, SX, SDX, SPX, CX-[four-digit number]C, CDX-[four-digit number]C, CPX-[four-digit number]C, RX-[four-digit number]C, RDX-[four-digit number]C, RPX-[four-digit number]C, JX-[four-digit number]C, JDX-[four-digit number]C, JPX-[four-digit number]C, SX-[four-digit number]C, SDX-[four-digit number]C, and SPX-[four-digit number]C. Each category of exhibit must be placed on a different CD and labeled with the Investigation name, number, and the range of exhibits contained on the CD. In addition, all source code exhibits shall be submitted on a separate CD.

A Table of Contents file which lists the names of all files on the disc should be created and included on each disc.

9.4.16.1 Delivery to Administrative Law Judge.

The electronic media containing the Commission set of exhibits should be delivered to the Administrative Law Judge's office on the same day that initial post-hearing briefs are due. It should not be delivered directly to Docket Services.

10 Hearing Procedure

10.1 Hearing; Order of Examination.

The order of examination at the hearing is as follows (subject to alteration at the pre-trial conference or other changes in the discretion of the Administrative Law Judge):

- (1) Brief Opening Statements
 - (a) Complainant (limited to one hour)
 - (b) Respondent (limited to one hour)
 - (c) Commission Investigative Attorney (limited to half an hour)
- (2) Complainant's Case-in-Chief.
- (3) Respondent's Case-in-Chief: In the event there is more than one respondent, the order of presentation will be determined at the pre-trial conference. Respondents, where possible, should avoid unnecessary duplication of effort.

- (4) Commission Investigative Attorney's Case-in-Chief.
- (5) Complainant's Rebuttal
- (6) Respondent's Rebuttal

10.2 Closing Argument.

The Administrative Law Judge normally does not schedule closing arguments. Parties may request closing arguments, which are to be held at the discretion of the Administrative Law Judge. Typically, such closing arguments are held after all post-hearing briefs have been submitted.

10.3 Hearing Hours.

Normal hearing hours are 9:30 a.m. to 5:30 p.m. with a one-hour and fifteen minute luncheon recess and two fifteen-minute breaks.

10.4 Trial Decorum.

10.4.1 Conversations at Trial.

No cross conversation between opposing counsel will be permitted. Rather if counsel has anything to say to opposing counsel, such statement must be made through the Administrative Law Judge.

10.4.2 Reading Matter; Cell Phones and Beepers; Food and Beverages.

No reading of extraneous material will be permitted in the courtroom. Audible cell phone and beeper signals shall be turned off in the courtroom during trial, and all cell phone calls must be taken outside of the courtroom. No food, gum, or beverages other than bottled water or coffee with a re-sealable lid will be permitted in the courtroom during trial.

10.4.3 Photos or Video Recording.

No photography or video recording is permitted in the courtroom.

10.4.4 Swearing of Witnesses.

When a witness is sworn, the witness shall remain standing. All others in the trial room must be seated and quiet.

10.4.5 Arguments on Objection.

Arguments or objections may only be made by counsel prior to a ruling. Once a ruling is made, no further discussion of the matter will be permitted.

10.5 Examination of Witnesses.

10.5.1 Scope of Examination; In General.

Except in extraordinary circumstances, examination of witnesses for Complainant's case-in-chief and Respondent(s)' case-in-chief shall be limited to direct, cross, redirect, and re-cross.

10.5.2 Scope of Cross-examination.

Cross-examination will be limited to the scope of the direct examination. For witnesses called for the purpose of giving testimony in support of a position on an issue that is the same as the position on that issue of a party desiring cross-examination of that witness, that party is precluded from asking that witness leading questions; *i.e.*, "no friendly cross-examination."

When counsel is presenting a witness with a question that refers back to the witness's previous testimony, counsel shall refrain from summarizing the witness's previous testimony because this can lead to a time-consuming objection that counsel's summary was not an accurate recitation of the witness's previous testimony. If counsel wishes to refer back to a witness's previous testimony, counsel must use direct quotations.

10.5.3 Scope of Redirect and Re-cross Examination.

Redirect examination will be limited to matters brought out on cross-examination. Re-cross examination will be limited to matters brought out on redirect examination.

10.5.4 Coordination of Witnesses.

The parties are expected to coordinate examination of witnesses so as to allot appropriate time for examination of each of the witnesses within the total time allotted for the trial.

10.5.5 Documents Presented to Witnesses.

Any document which counsel wishes to show to a witness must first be shown to opposing counsel.

10.5.6 Scope of Expert Witness Testimony.

An expert's testimony at the trial shall be limited in accordance with the scope of his or her expert report(s), deposition testimony, or within the discretion of the Administrative Law Judge.

10.5.7 Coordination of Respondents' Cross-examination.

Respondents shall coordinate cross-examination through one attorney as far as practicable to avoid duplication. If that is not possible, counsel who intends to cross-examine must be present in the trial room during the entire preceding cross-examination of the witness so as not to engage in repetitive questioning.

10.5.8 Requests for Clarification of a Question.

Requests for clarification of a question only may come from the witness or the Administrative Law Judge.

10.5.9 Use of Translators.

If a translator will be used at trial, the parties are responsible for obtaining one qualified, neutral translator upon whom counsel can agree. It is suggested that the translator be chosen from a list of approved translators, such as may be kept by various federal district courts or federal agencies. Translators will be sworn in.

10.5.10 Conferring with Witness during a Break in Testimony.

Counsel shall not confer with a witness during a break in the witness's testimony on the witness's substantive testimony.

11 Post-trial Briefs and Proposed Findings of Fact and Conclusions of Law

11.1 Initial Post-trial Briefs; Filing and Content.

On or before the date set forth in the procedural schedule, each party shall file a post-trial brief. Each party must also submit a copy of its final exhibit list with its post-trial brief. The post-trial brief shall discuss the issues and evidence tried within the framework of the general issues determined by the Commission's Notice of Investigation, the general outline of the briefs as set forth in Appendix B, and those issues that are included in the pre-trial brief and any permitted amendments thereto. All other issues shall be deemed waived.

A reasonable page limit will be imposed for all post-trial briefs, which will be determined on a case-by-case basis. Parties are required to use double-spacing (with the exception of headings, footnotes, quotations, etc.), at least 12 point font, and 1 inch margins (excluding headers for CBI and footers, such as page numbers). Parties must submit a courtesy electronic copy of their brief to the Administrative Law Judge in Word format. If the parties have any questions regarding the acceptable formatting requirements for post-trial briefs, they should contact the Administrative Law Judge's attorney-advisor.

11.2 Proposed Findings of Fact; Form and Content.

In accordance with Commission Rule 210.40, a party may elect to file proposed findings of fact and conclusions of law; however, the other side is not required to respond to the proposed findings of fact and conclusions of law. The lack of a response does not mean that the proposed findings of fact and conclusions of law are admitted, unless specifically stated as such. If a party chooses to file proposed findings of fact and conclusions of law, they must be filed on the same date as the initial post-trial brief.

The proposed findings of fact shall be in the form of numbered paragraphs. The findings shall reflect all section 337 elements, all issues outlined in the Notice of Investigation, and any other issues that arose during the course of the Investigation. Section headings consistent with the outline of the post-hearing brief may be used to set off paragraphs that relate to particular section 337 elements or issues. To be accepted without alteration, a proposed finding of fact must be an assertion of fact only (*i.e.*, without argument more appropriately placed in the post-hearing brief).

Each proposed finding of fact must be followed with citations to supporting authority in the evidence. Examples of commonly used citations are as follows:

Transcript: Smith, Tr. 895 [Witness Name, Transcript page, Line number(s)]
Exhibits: CX-0003; RX-0005; SPX-0002
Pleadings: Complaint ¶ 4, at 2; XYZ Corp. Response to Complaint ¶ 5, at 3.

11.3 Post-trial Reply Briefs; Filing and Content.

On or before the date set forth in the procedural schedule, each party shall file a post-trial reply brief. The post-trial reply brief shall discuss the issues and evidence discussed in the initial post-trial briefs of each opposing party, following the general outline of the briefs as set forth in Appendix B.

A reasonable page limit will be imposed on all post-trial reply briefs, which will be determined on a case-by-case basis. Parties must submit a courtesy electronic copy of their brief to the Administrative Law Judge in Word format. The formatting requirements detailed in Ground Rule 11.1 govern.

11.4 Objections and Rebuttals to Proposed Findings of Fact; Form and Content.

Should a party elect to respond to proposed findings of fact, objections and rebuttals to proposed findings of fact of an opposing party shall repeat the text and citation to the record of the proposed finding of fact being objected to or rebutted and its paragraph number. Rebuttals shall assert only facts (*i.e.*, without argument more appropriately placed in the post-hearing reply brief), and must be followed with citations to the supporting authority in the evidence.

12 Citation of Cases

The official case reporter citation must be included for any published decision or order that is cited in a party's briefs or pleadings. If a party cites to an opinion, order, judgment, or other written disposition of the Commission or another tribunal that is either unpublished or designated as not for publication, the party must file and serve a copy of that opinion, order, judgment, or disposition with the brief or other paper in which it is cited.

13 Coordination of Post-Hearing Briefs

To the extent there is more than one complainant and/or respondent in an investigation, complainants and/or respondents shall coordinate their efforts and submit a single brief. Exceptions to this rule will be made on a case-by-case basis. This rule shall also apply to post-hearing reply briefs.

14 Cooperation Among Parties

Due to the time limitations imposed by section 337, counsel shall attempt to resolve, by stipulation or negotiated agreement, any procedural problems encountered, including those relating to discovery and submission of evidence. To assure the proper cooperative spirit in this investigation, continuing good faith communications between counsel for the parties is essential and expected.

15 *Ex Parte* Contacts

There shall be no *ex parte* contacts with the Administrative Law Judge. Any questions of a technical or procedural nature shall be directed to the Administrative Law Judge's attorney-advisor, David Foley, at (202) 205-1809, or David.Foley@usitc.gov.

APPENDIX A

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

Certain . . .

Investigation No. 337-TA-____

SUBPOENA DUCES TECUM

TO: NAME
ADDRESS

TAKE NOTICE: By authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), 5 U.S.C. § 556(c)(2), and pursuant to 19 C.F.R. § 210.32 of the Rules of Practice and Procedure of the United States International Trade Commission, and upon an application for subpoena made by ["Complainant(s)" / "Respondent(s)"/ etc., followed by name of company]

YOU ARE HEREBY ORDERED to produce at _____, on _____, or at such other time and place agreed upon, all of the documents and things in your possession, custody or control which are listed and described in Attachment A hereto. Such production will be for the purpose of inspection and copying, as desired.

If production of any document listed and described in Attachment A hereto is withheld on the basis of a claim of privilege, each withheld document shall be separately identified in a privileged document list. The privileged document list must identify each document separately, specifying for each document at least: (1) the date; (2) author(s)/sender(s); (3) recipient(s), including copy recipients; and (4) general subject matter of the document. The sender(s) and recipient(s) shall be identified by position and entity (corporation or firm, etc.) with which they are employed or associated. If the sender or the recipient is an attorney or a foreign patent agent, he or she shall be so identified. The type of privilege claimed must also be stated, together with a certification that all elements of the claimed privilege have been met and have not been waived with respect to each document.

If any of the documents or things listed and described in Attachment A hereto are considered "confidential business information," as that term is defined in the Protective Order attached

hereto, such documents or things shall be produced subject to the terms and provisions of the Protective Order.

Any motion to limit or quash this subpoena shall be filed within **ten (10) days** after the receipt hereof. At the time of filing of any motion concerning this subpoena, two courtesy copies shall be served concurrently on the Administrative Law Judge at her office.

IN WITNESS WHEREOF the undersigned of the United States International Trade Commission has hereunto set her hand and caused the seal of said United States International Trade Commission to be affixed at Washington, D.C. on this ____ day of _____, 201_.

Dee Lord
Administrative Law Judge
United States International Trade Commission

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

Certain . . .

Investigation No. 337-TA-____

SUBPOENA AD TESTIFICANDUM

TO: NAME
ADDRESS

TAKE NOTICE: By authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), 5 U.S.C. § 556(c)(2), and pursuant to 19 C.F.R. § 210.32 of the Rules of Practice and Procedure of the United States International Trade Commission, and upon an application for subpoena made by ["Complainant(s)" / "Respondent(s)" / etc., followed by name of company]

YOU ARE HEREBY ORDERED to present yourself for purposes of your deposition upon oral examination on _____, at _____, or at such other time and place agreed on, concerning the subject matter set forth in Attachment A hereto.

This deposition will be taken before a Notary Public or other person authorized to administer oaths and will continue from day to day until completed.

If any of your testimony is considered "confidential business information," as that term is defined in the Protective Order attached hereto, such testimony shall be so designated and treated according to the terms and provisions of the Protective Order.

Any motion to limit or quash this subpoena shall be filed within **ten (10) days** after the receipt hereof. At the time of filing of any motion concerning this subpoena, two courtesy copies shall be served concurrently on the Administrative Law Judge at her office.

IN WITNESS WHEREOF the undersigned of the United States International Trade Commission has hereunto set her hand and caused the seal of said United States International Trade

Commission to be affixed at Washington, D.C. on this ____ day of
_____, 201_.

Dee Lord
Administrative Law Judge
United States International Trade Commission

APPENDIX B
GENERAL OUTLINE FOR ALL BRIEFS

I. INTRODUCTION

- A. Procedural History
- B. The Parties
- C. Overview of the Technology
- D. The Patents at Issue
- E. The Products at Issue

II. JURISDICTION

III. PATENT "A"

A. Claim Construction

- 1. First Disputed Claim Term (Claims 1, 2, 3, . . .)
- 2. Second Disputed Claim Term (Claims 1, 2, 3, . . .)

B. Infringement

- 1. Claim 1
- 2. Claim 2

C. Domestic Industry - "Technical Prong"

D. Validity

- 1. Anticipation Under 35 U.S.C. § 102(a)
- 2. Obviousness Under 35 U.S.C. § 103(a)

E. Unenforceability

F. Other Defenses

IV. PATENT "B" ...

V. DOMESTIC INDUSTRY - ECONOMIC PRONG

- A. Significant Investment in Plant and Equipment
- B. Significant Employment of Labor or Capital

VI. REMEDY AND BONDING

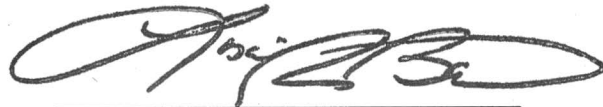
**CERTAIN TELEVISION SETS,
TELEVISION RECEIVERS, TELEVISION
TUNERS, AND COMPONENTS THEREOF**

Inv. No. 337-910

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, **Peter J. Sawert, Esq.**, and the following parties as indicated, on

MAR 05 2014



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

FOR COMPLAINANT CRESTA TECHNOLOGY CORPORATION:

Louis S. Mastriani, Esq.
ADDUCI MASTRIANI & SCHAUMBERG LLP
1133 Connecticut Avenue NW
Washington, DC 20036

() Via Hand Delivery
() Via Express Delivery
(☒) Via First Class Mail
() Other: _____

RESPONDENTS:

Silicon Laboratories, Inc.
400 West Cesar Chavez Street
Austin, TX 78701

() Via Hand Delivery
() Via Express Delivery
(☒) Via First Class Mail
() Other: _____

Samsung Electronics Co., Ltd.
129, Samsung-ro Yeongton-gu
Suwon-si, Gyeonggi-do
Republic of Korea

() Via Hand Delivery
() Via Express Delivery
(☒) Via First Class Mail
() Other: _____

Samsung Electronics America, Inc.
85 Challenger Road
Ridgefield Park, NJ 07660

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() Via Express Delivery
(☒) Via First Class Mail
() Other: _____

**CERTAIN TELEVISION SETS,
TELEVISION RECEIVERS, TELEVISION
TUNERS, AND COMPONENTS THEREOF**

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PUBLIC CERTIFICATE OF SERVICE PAGE 2

RESPONDENTS:

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LG Twin Towers
20 Yeouido-dong, Yeoungdeungpo-gu
Seoul, Republic of Korea 150-7-21

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LG Electronics U.S.A.
1000 Sylvan Avenue
Englewood Cliffs, NJ 07632

☐ Via Hand Delivery
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☒ Via First Class Mail
☐ Other: _____

MaxLinear, Inc.
2051 Palomar Airport Road, Suite 100
Carlsbad, CA 92011

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Sharp Corporation
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Japan

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Sharp Electronics Corporation
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Vizio, Inc.
39 Tesla
Irvine, CA 92618

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