

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN LTE- AND 3G-COMPLIANT
CELLULAR COMMUNICATIONS
DEVICES

Inv. No. 337-TA-1138

ORDER NO. 7: SETTING THE PROCEDURAL SCHEDULE

(November 6, 2018)

On October 31, 2018, Complainant INVT SPE LLC (“INVT” or “Complainant”), Respondents Apple Inc. (“Apple”), HTC Corporation, HTC America, Inc. (collectively, “HTC”), ZTE Corporation, and ZTE (USA), Inc. (collectively, “ZTE”) (collectively “Respondents,” and with INVT, “the Private Parties”), and the Office of Unfair Import Investigations (“Staff, and with INVT and Respondents, “the Parties”), filed a Joint Proposed Procedural Schedule (“Proposed Schedule”). (Doc. ID No. 660499; Proposed Schedule at 1.). Having considered the Parties’ Proposed Schedule, the Procedural Schedule attached hereto as Appendix A is adopted.

SO ORDERED.



Mary Joan McNamara
Administrative Law Judge

APPENDIX A

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PROCEDURAL SCHEDULE

Event	Date
Parties file a joint proposed procedural schedule and identify USPTO/PTO proceedings as well as state and federal litigation that is relevant to this Investigation	October 31, 2018
Deadline for Complainant's objections and responses to Respondents' first set of interrogatories and request for production	November 5, 2018
Deadline for Respondents' objections and responses to Complainant's first set of interrogatories and requests for production	November 5, 2018
Deadline for propounding first set of interrogatories	November 30, 2018 (already completed by private parties)
Deadline for propounding first request for production of documents	November 30, 2018 (already completed by private parties)
Deadline for propounding initial contention interrogatories	November 30, 2018 (already completed by private parties)
Identification of expert witnesses, including their expertise and curriculum vitae	November 27, 2018
Complainant files notice of patent priority dates/dates of conception	November 20, 2018
Parties exchange list of patent claim terms for construction	November 28, 2018
Deadline for disclosure of Domestic Industry Products (see G.R. 1.13)	November 30, 2018
Deadline for initial contention interrogatory responses on which a party has the burden of proof (except for	December 19, 2018

infringement and invalidity)	
Respondents file notice of prior art	December 7, 2018
Deadline for disclosure of invalidity contentions	January 4, 2019
Deadline for disclosure of infringement contentions	January 4, 2019
Deadline for disclosure of domestic industry contentions	January 4, 2019
Complainant and Respondents provide each other and Staff with their proposed construction of disputed claim terms	December 12, 2018
Staff provides private parties with its proposed construction of disputed claim terms	December 17, 2018
Deadline for first settlement conference	On or before November 30, 2018
File tentative list of witnesses a party will call to testify at the evidentiary hearing, with an identification of each witness's relationship to the party	January 16, 2019
Parties meet and confer to attempt to limit terms and claim term disputes	December 19, 2018
Deadline for substantial completion of document (paper and electronic) discovery by Complainant and Respondents	December 20, 2018
Submit first settlement conference joint report	December 6, 2018
Parties to exchange proposed <i>Markman</i> exhibit lists and exhibits (except for expert declarations and demonstratives) (per G.R. 1.14.3.1)	December 17, 2018
File joint claim construction chart	December 21, 2018
Deadline for responses to all contention interrogatories on which a party does not bear the burden of proof, except for those related to infringement, invalidity, and domestic industry	December 28, 2018
Deadline for responses to infringement, invalidity, and domestic industry contention interrogatories on which a party does not bear the burden of proof	January 15, 2019
Private parties file a joint list showing each party's proposed construction of disputed claim terms, with initial	January 11, 2019

claim construction briefs by private parties explaining their initial claim constructions and expert declarations (if applicable)	
Staff files initial claim construction brief	January 16, 2019
Deadline to file <i>Markman</i> hearing proposals (including final proposed <i>Markman</i> exhibit lists)	January 11, 2019
Parties file reply claim construction briefs	January 18, 2019
Last day to file motions to compel discovery	January 22, 2019
Fact discovery cutoff and completion	January 22, 2019
Exchange of initial expert reports (identify tests/surveys/ data)	January 25, 2019
Technology stipulation deadline	January 22, 2019
Submission of statements regarding the use of witness statements in lieu of live direct testimony, and statements regarding whether any party intends to offer expert reports into evidence	February 18, 2019
<i>Markman</i> hearing (if ordered) (parties should provide thumb drive of tutorials if included in <i>Markman</i> hearing)	February 25, 2019
File joint chart setting forth parties' post-hearing claim constructions (per G.R. 1.14)	March 5, 2019
Exchange of rebuttal expert reports	February 20, 2019
Last day to file summary determination motions ¹	March 1, 2019
Parties exchange hearing exhibit lists	March 8, 2019
Expert discovery cutoff and completion	March 7, 2019
Second settlement conference	On or before February 27, 2019
Submit and serve direct exhibits (including witness statements if appropriate), with physical and demonstrative	March 13, 2019

¹ Commission Rule 210.18 requires at least 60 days between summary determination motions and the evidentiary hearing.

exhibits available – Complainant and Respondents	
File requests for receipt of evidence without a witness	March 15, 2019
Submit and serve direct exhibits (including witness statements if appropriate), with physical and demonstrative exhibits available – Staff	March 15, 2019
Submit and service rebuttal exhibits (including witness statements), with rebuttal physical and demonstrative exhibits	March 22, 2019
Complainant and Respondents file pre-hearing statements and briefs (briefs should contain no more than 100 pages of text, each side, unless there is no identify of interests, or different interests)	April 8, 2019
Staff files pre-hearing statement and brief (brief no more than 100 pages of text)	April 15, 2019
Parties file joint outline of issues/contentions from pre-hearing briefing (per G.R. 7.3)	April 17, 2019
Submissions of declarations justifying confidentiality of exhibits	April 17, 2019
Attendance at one-day mediation session ²	On or before April 17, 2019
Submission of Mediation Report	(Within 7 days of mediation) April 19, 2019
Last day to file motions <i>in limine</i>	April 15, 2019
Last day to file high priority objections	April 15, 2019
File responses to motions <i>in limine</i>	April 22, 2019
File responses to high priority objections	April 22, 2019
Prehearing conference (location TBA)	May 15, 2019
Evidentiary hearing (starting with tutorials, as parties propose) (location TBA)	9:30 a.m., May 15-17, 20-21, 2019

² 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>.

Last day to submit final exhibits, by appointment. All exhibits should be properly labeled (follow G.Rs.)	No more than four (4) business days after hearing May 28, 2019
Complainants and Respondents file initial post-hearing briefs (only on issues for which the party bears the burden of proof, per Order No. 2 at 4) and final exhibit lists (briefs no more than 75 pages of text)	June 7, 2019
Staff files initial post-hearing brief and final exhibit list (brief no more than 75 pages of text)	June 14, 2019
Submit final JOINT direct and rebuttal exhibits (via flash drive)	June 7, 2019
Complainants and Respondents file reply post-hearing briefs (only on issues discussed in the initial post-hearing brief of an opposing party, per Order No. 2 at 4) (briefs no more than 50 pages of text)	June 21, 2019
Staff files reply post-hearing brief (brief no more than 50 pages of text)	June 26, 2019
Parties file outline of issues, tracing arguments/contentions from pre-hearing through post-hearing reply briefs (include contentions/arguments that have been dropped, per G.R. 7.3)	June 28, 2019
Final ID due	November 19, 2019
Target date	March 19, 2020

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, **Reginald Lucas, Esq.**, and to the following parties as indicated, on **November 6, 2018**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
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