

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN VIDEO GAME CONSOLES,  
ROUTERS AND GATEWAYS, AND  
COMPONENTS THEREOF**


**Inv. No. 337-TA-1445**

**ORDER NO. 6: NOTICE OF GROUND RULES**

(April 10, 2025)

The conduct of this investigation shall be governed by the Commission Rules and the attached Ground Rules.

**SO ORDERED.**

  
Doris Johnson Hines  
Administrative Law Judge

## **GROUND RULES FOR THIS 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), to aid the Administrative Law Judge in the orderly conduct of this Section 337 investigation pursuant to the Administrative Procedure Act, 5 U.S.C. § 556(c).

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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## **GROUND RULES**

### **1 Filings and Submissions**

#### **1.1 Definitions**

As used in these Ground Rules, “file” means filing a document with the Office of the Secretary of the Commission using the Commission’s Electronic Document Information System (EDIS) per Commission Rule 210.4(f) and “submit” means providing an item to the Administrative Law Judge without using EDIS.

#### **1.2 Address of the Administrative Law Judge**

The address of the Administrative Law Judge is:

The Honorable Doris Johnson Hines  
U.S. International Trade Commission  
500 E Street, S.W., Room 317  
Washington, D.C. 20436

#### **1.3 Format of Filings and Submissions**

Except as otherwise provided, all filed or submitted documents shall be on 8.5” x 11” paper, at least 12-point font, double spaced, with 1-inch margins. Footnotes shall be at least 12-point font, single spaced.

#### **1.4 Filing Requirement**

All documents submitted to the Administrative Law Judge 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.

All PDF-format filings and submissions must be PDF version 1.5 or higher.

##### **1.4.1 Public Version Required**

If a filing contains confidential business information, as defined in Commission Rule 201.6(a), the private parties must file a public version of the document within five business days of the filing. For those investigations in which a Commission investigative attorney is a party, the Commission investigative attorney shall have ten business days to submit a public version. When redacting confidential business information, only information meeting the Commission’s definition of confidential business information should be redacted.

The public version of all motions shall include the Motion Docket Number assigned to the original motion by the Commission’s Office of the Secretary in either the title or the first

paragraph. Motion Docket Numbers are available on EDIS.

## **1.5 Service**

Whenever possible, service of all documents filed with the Secretary or submitted to the Administrative Law Judge shall be by email, addressed to all parties, including the Commission investigative attorney. Otherwise, service shall be as specified in Commission Rules 210.4(i), 210.7, 210.16, or as agreed to by the parties.

## **1.6 Confidentiality**

A protective order will be entered in each investigation. Parties shall mark filings and submissions as required by the protective order. No cover letter or other paper shall be stapled or otherwise attached to a filing or submission that obscures the confidential marking.

When making claims of confidentiality, parties shall follow the definition of confidential business information in Commission Rule 201.6(a).

When a document is filed confidentially, a public version of the document must be filed within the times specified in Ground Rule 1.4.1.

If the Administrative Law Judge issues a confidential order or initial determination, the parties must within seven days jointly submit a single proposed public version with any proposed redactions prominently identified. If the parties submit excessive redactions, they may be required to provide declarations from individuals with personal knowledge, justifying each proposed redaction and specifically explaining why the information sought to be redacted meets the definition of confidential business information in Commission Rule 201.6(a). To the extent possible, proposed redactions should be made electronically, in a single PDF file, using the “Redact Tool” in Adobe Acrobat. The proposed redactions should be submitted as “marked” but not yet “applied.” The proposed redactions or a statement of no redactions shall be submitted by email to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov) and not filed on EDIS.

## **1.7 Word Limits**

Certain Ground Rules provide word limits for certain filings. Any filing that is word-count limited must include a certificate by an attorney or by an unrepresented party that the filing complies with the word-count limitation. The person preparing the certificate may rely on the word count of the word-processing system used to prepare the filing. The certificate must state the number of words in the filing and must appear immediately before the signature block. The word count must include footnotes. The word count need not include captions, table of contents, table of authorities, words in figures, the word count certificate, the signature block, or the certificate of service.

## **1.8 Citation of Cases**

The official case reporter citation must be included for any published decision or order that is cited in a party's filings or submissions. The docket number and the full date of disposition must be included in the citation of any unreported decision or order. The specific page(s) of the cited decision or order containing the holding for which the authority is cited must be identified.

## **1.9 Coordination of Filings and Submissions Among Interested Parties**

When there is more than one complainant and/or respondent in an investigation, complainants and/or respondents shall respectively coordinate their efforts and submit a single filing or submission.

## **1.10 Courtesy Copies**

### **1.10.1 Documents Requiring a Courtesy Copy**

Courtesy copies are required for all documents filed on EDIS except protective order undertakings.

### **1.10.2 Procedure**

#### **1.10.2.1 Submissions Via Box**

On the same day that any document is filed or submitted, the filer or submitter shall place a courtesy copy of the filing or submission as a single PDF document including all attachments (with exhibits bookmarked) via the Box platform. Access to the Box drive will be provided on request to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov). For any motion, the filer shall create a folder on the Box drive for all the filer's courtesy copies related to the motion. The folder should have a descriptive title. The folder for a response to a motion should have the motion number in the title. When all courtesy copies of the filing have been submitted, the filer should email [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov) with notice that the upload is complete. Documents submitted according to this procedure should not be compressed or password protected.

#### **1.10.2.2 Paper Copies**

For claim construction briefs, summary determination briefs, motions in limine and responses, pre-hearing briefs, and post-hearing briefs, the private parties shall also serve two paper copies, including attached exhibits, on the Administrative Law Judge within one business day of the filing. Paper copies should be double-sided, provided in a notebook, bound, clipped, stapled, or otherwise provided in an organized way and delivered to the Administrative Law Judge at the address in Ground Rule 1.2. The Commission investigative attorney is not required to provide paper copies of the items identified in this paragraph. If paper copies of a confidential version of one of the listed items are provided, paper copies of the public version of that item should not be provided.

## **2 Time**

Time shall be computed as stated in Commission Rules 201.14, 201.16(d), and 210.6.

As used in these Ground Rules, “business day” shall mean a day that is not a Saturday, Sunday, or Federal legal holiday. “Federal legal holiday” refers to any full calendar day designated as a legal holiday by the President or the Congress of the United States.

## **3 Preliminary Conference**

By separate order, the Administrative Law Judge will instruct the parties to appear at a preliminary conference, in person or by videoconference. If by videoconference, connection information will be provided to the parties in a separate communication. The Commission will provide a court reporter who will transcribe this conference, and the transcript will be made available on EDIS.

By noon on the last business day before the preliminary conference, the parties shall jointly submit proposed dates for the procedural schedule, as detailed in Ground Rule 4. At the preliminary conference the parties should be prepared to discuss:

- A. formulating and simplifying the issues, and eliminating frivolous claims or defenses;
- B. amending the pleadings if necessary or desirable;
- C. obtaining admissions and stipulations about facts and documents to avoid unnecessary proof, and ruling in advance on the admissibility of evidence;
- D. avoiding unnecessary proof and cumulative evidence;
- E. controlling and scheduling discovery, including discovery involving non-parties and production of source code (if applicable);
- F. identifying witnesses and documents, and setting dates for further conferences if necessary;
- G. settlement and mediation;
- H. disposing of pending motions;
- I. adopting special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal questions, or unusual proof problems, including the possible consolidation or severance of proceedings;

- J. opportunities for less-experienced attorneys to participate in substantive oral arguments or examine witnesses at the hearing;
- K. word limits for the pre-hearing briefs; and
- L. facilitating, in other ways, the just, speedy, and inexpensive disposition of the action.

#### 4 Procedural Schedule

The Administrative Law Judge will issue by separate order a procedural schedule for the investigation after inviting input from the parties. Parties are encouraged to reach consensus on procedural schedule proposals. Once ordered, modifications to the procedural schedule shall be made following a written motion demonstrating good cause. The event and deadline dates in the procedural schedule will generally follow the framework and order below, although parties may suggest modifications as they deem necessary for the efficient and orderly disposition of the investigation<sup>1</sup>:

|   |
|---|
| Preliminary conference  |
| Exchange list of claim terms to be construed  |
| Exchange proposed constructions for all terms on all lists                              |
| File chart of agreed and disputed constructions   |
| Deadline for party production of source code (if applicable)                            |
| File identification of expert witnesses, including their expertise and curriculum vitae |
| File opening claim construction briefs  |
| File responsive claim construction briefs   |
| Claim construction hearing  |
| File notice of prior art  |
| Fact discovery cutoff and completion  |

<sup>1</sup> The Administrative Law Judge may request a technical tutorial from the parties. The parties should consider whether and when such a tutorial would be appropriate.

|  |
|--|
| Deadline for motions to compel discovery   |
| Exchange initial expert reports (identify tests/surveys/data)  |
| Exchange rebuttal expert reports   |
| File tentative list of witnesses a party will call to testify at the hearing, with an identification of each witness's relationship to the party |
| Expert discovery cutoff and completion   |
| One-day mediation session <sup>2</sup>   |
| Submit joint report on mediation   |
| Deadline for filing summary determination motions  |
| Exchange of exhibit lists among the parties  |
| Complainant and respondent serve proposed direct exhibits, including direct demonstrative exhibits, <sup>3</sup> and identify physical exhibits  |
| Commission investigative attorney serves proposed direct exhibits, including direct demonstrative exhibits, and identifies physical exhibits.    |
| Complainant and respondent file pre-hearing statements and briefs  |
| Serve proposed rebuttal exhibits, including rebuttal demonstrative exhibits, and identify rebuttal physical exhibits                             |
| File joint list of unopposed exhibits  |
| Deadline for motions in limine   |
| Commission investigative attorney files pre-hearing statement and brief  |
| File responses to motions in limine  |

<sup>2</sup> For questions about the mediation program, parties should refer to the materials at: [Mediation Program | United States International Trade Commission \(usitc.gov\)](https://www.usitc.gov/mediation).

<sup>3</sup> The parties may agree on a time to exchange demonstrative exhibits different from the exchange of documentary exhibits.

|   |
|---|
| Complainant and respondent file statement of uncontested claim elements   |
| Final pre-hearing conference  |
| Hearing   |
| File final exhibit list   |
| Complainant and respondent file initial post-hearing briefs and submit final exhibits                                   |
| Commission investigative attorney files initial post-hearing brief  |
| Complainant and respondent file responsive post-hearing briefs and file updated statement of uncontested claim elements |
| Commission investigative attorney files responsive post-hearing brief   |
| Initial determination due   |
| Target date for completion of investigation   |

## **5 Motions**

### **5.1 Obligation to Confer**

All motions shall include a certification that the moving party has made reasonable, good-faith efforts to resolve the matter with the other parties before filing the motion and shall state, if known, the position of the other parties on such motion. The certification shall be placed at the beginning of the motion.

### **5.2 Numbering Responses to Motions**

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. Motion Docket Numbers may be obtained through EDIS.

### **5.3 Deadline for Filing Response to Motion**

When computing the due date for a response to a motion under Commission Rule 210.15(c), the first day shall be the first business day following the date that the motion was filed, no matter the method of service. If the last day for filing a response falls on a day on which weather

or other conditions have made the Office of the Secretary inaccessible, the period shall run until the end of the next business day on which the Office of the Secretary is accessible.

#### **5.4 Extension of Time**

Any request for an extension of time to respond to a motion must be made by written motion at least two business days before the due date demonstrating good cause for the requested extension.

#### **5.5 Reply Briefs**

Except for motions in limine, discovery-related motions, or as otherwise ordered, the moving party may file a reply brief within three business days of the deadline for filing the response to the motion, limited to no more than ten pages. A reply brief must include the Motion Docket Number per Ground Rule 5.2.

Sur-reply briefs are not permitted.

#### **5.6 Rules for Certain Motions**

##### **5.6.1 Discovery-Related Motions**

###### **5.6.1.1 Videoconference Requirement**

The Administrative Law Judge will schedule monthly videoconferences with the parties until the evidentiary hearing in this investigation. Dates for these videoconferences will be included in the procedural schedule. Connection information will be provided to the parties in a separate communication. The Commission will provide a court reporter who will transcribe these conferences and the transcript for each conference will be made available on EDIS.

Before filing any motion related to a discovery dispute, the party seeking to file such a motion must discharge its obligation to confer under Ground Rule 5.1. If, after discharging that obligation, any discovery dispute persists, that party shall submit a letter explaining all ripe discovery disputes. The letter shall be submitted by email to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov) no later than three business days before a scheduled videoconference and shall be no more than three single-spaced pages. Any party submitting a responsive letter must do so no later than one business day following submission of the initial letter. Any responsive letter should be submitted by email to the address above and shall address all issues in no more than three single-spaced pages.

By noon on the last business day before each scheduled videoconference, the parties shall jointly submit to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov) a proposed agenda, which shall include only disputes raised according to the above procedure. The agenda should indicate if any issues raised in the parties' letters have been resolved. If no disputes are pending, the parties shall notify the Administrative Law Judge by email to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov) by noon on the last business day before the scheduled videoconference that the videoconference may be cancelled.

Leave to file a discovery-related motion will be granted, if at all, only after the intended movant has complied with the above procedure.

### **5.6.1.2 Content of Discovery-Related Motions**

Any discovery-related motion must have appended to it the relevant parts of the discovery request and all objections and responses. If a party serves a supplemental response after a motion to compel is filed, that party must file the supplemental response, along with an explanation of the supplemental response. If any portion of a discovery-related motion becomes moot before an order is issued on that motion, the moving party shall promptly file a Notice identifying any portion of its motion that is moot. If the entirety of the motion becomes moot, the moving party shall promptly file a Notice of Withdrawal.

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

## **5.6.2 Motions for Summary Determination and Responses**

### **5.6.2.1 Motion**

No more than one motion for summary determination may be filed by a party without leave from the Administrative Law Judge. Unless otherwise permitted, a motion for summary determination is limited to 10,000 words as counted in Ground Rule 1.7.

A motion for summary determination shall be accompanied by a separate chart of the material facts as to which the moving party contends there is no genuine issue, and which entitles them to summary determination. The chart shall consist of short, factual statements with specific references to supporting declarations, affidavits or other materials. Whenever possible, the factual statement should be a direct quote from record evidence, using quotation marks. The format of the chart should substantially be:

| Item # | Factual Statement | Citation | Disputed? | Factual Rebuttal | Citation |
|--------|-------------------|----------|-----------|------------------|----------|
|--------|-------------------|----------|-----------|------------------|----------|

The moving party shall fill out the first three columns of the chart. The chart shall not be included in the word count in Ground Rule 1.7.

### **5.6.2.2 Response**

Unless otherwise permitted, a response to a motion for summary determination is limited to 10,000 words as counted in Ground Rule 1.7. Any non-moving party shall complete and append to its response the chart of material facts prepared by the movant by identifying specific record evidence showing a disputed issue of fact for each item, with specific references to supporting declarations, affidavits, or other materials. Whenever possible, the factual rebuttal should be a direct quote from record evidence, using quotation marks. The chart shall not be included in the word count of Ground Rule 1.7.

All factual statements in the moving party's chart may be deemed admitted by a non-moving party unless the non-moving party specifically rebuts the statement.

### **5.6.2.3 Oral Argument**

The Administrative Law Judge may hear oral argument on motions for summary determination. Either party may request oral argument, and such request shall be filed as a separate paper for the moving party with the motion for summary determination and for the non-moving party with the opposition to the motion for summary determination. The parties are encouraged to consider argument by a less-experienced attorney and to state whether argument will be made by such an attorney in their request for oral argument.

## **5.7 Effect of Filing Unopposed Motions to Terminate**

On the filing of a motion to terminate the investigation under Commission Rule 210.21 that is unopposed by the complainant and the party or parties to be terminated from the investigation, all deadlines are automatically stayed as to the party or parties to be terminated from the investigation until otherwise ordered by the Administrative Law Judge or the Commission. No request or separate motion to stay is necessary.

## **6 Discovery**

### **6.1 Resolution of Disputes and Coordinated Discovery**

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

### **6.2 Conferring to Resolve Disputes**

The parties are expected to expeditiously meet and confer when a potential discovery issue is identified. The parties shall confer in a timely manner and in good faith to resolve discovery disputes. The parties may be asked about the details of any meet and confer process during a scheduled videoconference.

### **6.3 Service of Discovery Requests and Responses**

Discovery requests and responses shall be served on all parties, including the Commission investigative attorney, but shall not be submitted to the Administrative Law Judge unless they are relevant to a letter submitted under Ground Rule 5.6.1.1. Discovery requests and responses shall not be filed unless they are relevant and appended to a motion and as required by Ground Rule 5.6.1.2.

### **6.4 Timing of Discovery Requests, Responses, and Objections**

#### **6.4.1 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 days if the deposition is to be taken of a person located in the United States, or of not less than fifteen days if the deposition is to be taken of a person located outside the United States.

#### **6.4.2 Deadline for Responses and Objections to Interrogatories**

As provided in Commission Rule 210.29(b)(2), unless otherwise ordered, the party on whom interrogatories have been served shall serve a copy of the answers and objections, if any, within ten days of service of the interrogatories.

#### **6.4.3 Deadline for Responses and Objections to Requests for Production of Documents or Things or for Entry Upon Land**

As provided in Commission Rule 210.30(b)(2), unless otherwise ordered, the party on whom requests for the production of documents or things, or to permit entry upon land, has been served shall serve a written response within ten days of service of the requests.

#### **6.4.4 Period for Service and Deadline for Answers and Objections to Requests for Admission**

In addition to the requirements of Commission Rules 210.31(a) and (b), unless otherwise ordered, requests for admission may be served at any time twenty days after the date of service of the Complaint and Notice of Investigation. Unless otherwise ordered, a party on whom requests for admission have been served shall serve answers and objections within ten days of service of the requests. Requests for admission that are not timely answered may be deemed admitted. Motions to limit an inordinate number of requests for admission will be considered.

#### **6.4.5 Discovery Cutoff and Completion**

All discovery requests, including requests for admissions, must be initiated in sufficient time before the fact discovery cutoff and completion date in the procedural schedule so that responses will be due before that date and within the time periods provided 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 following a written motion demonstrating good cause.

## **6.5 Interrogatory Limitation**

Without leave of the Administrative Law Judge or written stipulation, any party may serve on any other party written interrogatories not exceeding 30 in number including all discrete subparts. Leave to serve additional interrogatories shall be granted by the Administrative Law Judge only following a written motion demonstrating good cause.

## **6.6 Subpoenas**

### **6.6.1 Issuance and Service**

Subpoena applications may be made *ex parte* to the Administrative Law Judge. 19 C.F.R. § 210.32. The application must be in writing, accompanied by the proposed subpoena and attached protective order and submitted in an editable PDF format to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov). The application shall specifically identify the relevance of the information sought and the reasonableness of the scope of the inquiry. Unless the applicant separately moves for an extension of the fact discovery period, discovery sought by subpoena must be within the fact discovery period set in the procedural schedule. The subpoena must identify a time limit for a motion to quash of not less than ten days after receipt of the subpoena and also state that the subpoena will be served by overnight delivery, if not sooner. Any dates proposed in a subpoena for appearance of a deponent or production of documents must consider the date for the filing of any motion to quash. Subpoena applications and subpoenas must not contain confidential business information.

A copy of the issued subpoena, protective order, and the application shall be served by the applicant on 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 copy of the issued subpoena, the application, and the proof of service to the subpoenaed party shall be submitted to the Administrative Law Judge at [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov) but should not be filed. Sample subpoenas are in Appendix A.

### **6.6.2 Motion to Quash Subpoena and 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 days after receipt, or within such other time as the Administrative Law Judge may allow. A motion to quash shall attach a copy of the subpoena, and a copy of the subpoena shall be included in the courtesy copies required by Ground Rule 1.10.2.1. Filing a motion to quash an issued subpoena automatically stays the requested discovery pending disposition of the motion.

### **6.6.3 Withdrawing Subpoena**

A party that has obtained a subpoena may withdraw it by serving written notice of withdrawal to all parties and non-parties (including the Administrative Law Judge) that were provided notice of the subpoena. The notice of withdrawal need not be filed.

### **6.7 Bates Numbering**

Production documents shall be numbered sequentially by a unique number (Bates number), which number should be on the lower right-hand corner of each page.

### **6.8 Originals and Translations**

All documents produced in response to a document request shall be the original or true and complete copies of the original. If an English translation of any produced document exists, the English translation must be produced. If a party disputes the translation provided by the producing party, the translation must be certified by a qualified and neutral translator agreed on by the parties.

### **6.9 Privileged Matter**

The following procedure shall be followed with respect to those documents for which any party claims privilege (for example, attorney-client privilege, work product protection, joint defense privilege).

#### **6.9.1 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 on a privileged document list.<sup>4</sup> The privileged document list shall be supplied, unless otherwise ordered, within ten 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/were 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.

#### **6.9.2 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.

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

The Administrative Law Judge is aware that parties often agree among themselves that the exchange of privilege logs is unnecessary. If there is such an agreement, the Administrative Law Judge may deny any motion involving privileged documents on that basis.

## **7 Claim Construction**

### **7.1 Terms Requiring Construction**

By the date in the procedural schedule, each party shall serve a list of claim terms that party contends should be construed by the Administrative Law Judge. The list shall identify any claim term the party contends is indefinite and any claim term the party asserts invokes means-plus-function treatment under 35 U.S.C. § 112 ¶ 6 / (f). Each party shall serve proposed constructions for all terms the parties have exchanged by the date in the procedural schedule. The parties shall confer for the purpose of narrowing claim construction disputes and shall jointly file a chart of agreed and disputed constructions by the date in the procedural schedule. The chart shall identify up to ten terms agreed by all parties as likely to be most significant to resolving the parties' dispute.

### **7.2 Claim Construction Briefing**

By the date in the procedural schedule, each party shall serve an opening claim construction brief addressing the terms agreed by all parties as likely to be most significant to resolving the parties' dispute. The parties may agree to defer briefing on indefiniteness issues. Unless otherwise permitted, the opening brief shall be no more than 10,000 words, as calculated under Ground Rule 1.7. By the date in the procedural schedule, each party shall serve a responsive claim construction brief of, unless otherwise permitted, no more than 8,000 words, as calculated under Ground Rule 1.7.

### **7.3 Claim Construction Hearing Exhibits**

If a claim construction hearing is ordered and a party intends to present additional exhibits at the hearing not already filed with the parties' briefs, including demonstrative exhibits, that party shall file such exhibits by noon on the last business day before the hearing.

### **7.4 Deferring Indefiniteness**

To the extent the parties identify a term for construction that any party contends is indefinite based in substantial part on expert opinion, resolution may be deferred until a complete record has been presented (*e.g.*, on summary determination or after the evidentiary hearing).

## **8 Notice of Prior Art**

Parties must file on or before the date in the procedural schedule, notice of any alleged prior art with the following information:

- For alleged prior art patents: the country, number, title, date, and patentee name(s);

- For alleged prior art printed publications: the title, author, date, and relevant page numbers;
- For alleged prior sales or offers for sale: the brand name and model name or number of the article, the date and location of the offer or sale, and the name and address of any corroborating witnesses; and
- For alleged prior inventors: the name and address of the alleged inventor and of any corroborating witnesses.

Absent a written motion demonstrating good cause, only prior art identified by the date in the procedural schedule may be introduced into evidence at the hearing.

## **9 Expert Witnesses and Reports**

On or before the dates in the procedural schedule, a party shall disclose to the 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 such person. Each report shall be submitted pursuant to Ground Rule 1.10.2.1 and shall not be filed. The report shall contain a complete statement of all opinions to be expressed by such person and the basis and reasons for the opinions, the data or other information considered by the person in forming the opinions, any exhibits to be used as a summary of or support for the opinions, the qualifications of the person, including a list of all publications authored by the person within the last ten years, the compensation to be paid to the person for their work, and a listing of any other cases in which the person has testified as an expert at trial or by deposition within the last four years.

## **10 Narrowing Issues, Mediation, and Settlement**

Counsel shall attempt to narrow or resolve, by stipulation or negotiated agreement, any procedural issues, including those relating to discovery and submission of evidence. Continuing good faith communication among all counsel is expected.

For the one-day mediation session required in the procedural schedule, the parties shall submit a joint report about the mediation by the time designated in the procedural schedule. The report shall not be filed.

All parties shall certify in their pre-hearing statements that they negotiated in good faith to settle all remaining issues.

## **11 Pre-hearing Submissions**

### **11.1 Pre-hearing Statement**

Each party who intends to participate in the hearing must file, by the date in the procedural schedule, a pre-hearing statement containing the following information:

- (a) The names of all known witnesses, their addresses, whether they are fact or expert witnesses, and a brief outline of the testimony of each witness. A copy of any expert's curriculum vitae shall accompany this filing;
- (b) A list of all exhibits which that party will seek to introduce at the hearing;
- (c) Any stipulations on which the parties have agreed;
- (d) A proposed agenda for the pre-hearing conference;
- (e) The estimated date and approximate length of appearance for each witness. The parties shall confer on estimated dates and approximate length before submission of their pre-hearing statements; and
- (f) Certification regarding good faith efforts to settle the investigation.

### **11.2 Pre-hearing Brief**

By the date in the procedural schedule, each party shall file a pre-hearing brief. The pre-hearing brief shall begin with a table of contents and a table of authorities. The pre-hearing brief shall detail the party's contentions on every issue the party intends to address at the hearing, no matter which party has the burden on the issue. The pre-hearing brief shall include specific citations to legal authorities and record evidence.

The pre-hearing briefs shall be organized on a patent-by-patent basis.

Any contention not described in detail in the pre-hearing brief shall be deemed abandoned or withdrawn, except for contentions a party is not aware of and could not be aware of in the exercise of reasonable diligence when the pre-hearing brief was filed.

Any defenses of patent invalidity under 35 U.S.C. § 103 raised in a pre-hearing brief must address the factors of *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966), separately for each unique combination of prior references relied on. Obviousness arguments using "and/or" or "or" nomenclature to combine references are not preserved.

The parties shall address word limits for the pre-hearing briefs at the preliminary conference.

### **11.3 Statement of Uncontested Claim Elements**

By the date in the procedural schedule, the complainant and respondent shall each file a statement identifying uncontested claim elements. Respondent shall identify claim elements it does not dispute with respect to each of infringement and domestic industry technical prong and complainant shall identify claim elements it does not dispute with respect to each allegation of invalidity.

## **11.4 Motions in Limine**

Unless otherwise permitted by the Administrative Law Judge, each side shall be limited to a maximum of five (5) motions in limine. The parties should not attempt to circumvent this limitation by including numerous subsections in a motion in limine.

All motions in limine shall include a copy of the evidence at issue as an attachment to the motion when the motion is filed. Any motion in limine that does not attach a copy of the evidence at issue when the motion is filed may be denied.

## **12 Exhibits**

### **12.1 Form and Marking**

#### **12.1.1 One Document Per Exhibit**

In general, each exhibit shall consist of no more than one document. In limited instances it may be appropriate to group certain documents together as one exhibit, such as a group of invoices.

#### **12.1.2 Exhibit Labeling**

Document exhibits shall be uniquely marked serially starting 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 joint exhibits.

Physical exhibits shall be numbered in a separate series starting with 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.

Demonstrative exhibits shall be numbered in a separate series commencing with the four-digit number 0001 preceded by the prefixes CDX, RDX, SDX, and JDX for complainant, respondent, the Commission investigative attorney, and joint exhibits, respectively.

Each document and demonstrative exhibit shall be marked by placing a label with the exhibit number on the first page. Physical exhibits shall also include a label.

Each exhibit in PDF form must be PDF version 1.5 or higher.

#### **12.1.3 Confidential Exhibits**

If any portion of an exhibit contains confidential business information, the entire exhibit shall be treated as confidential, and a "C" shall be placed after the exhibit number. If an exhibit is marked with such a designation, no other exhibit shall use the same number without that designation. Such exhibits shall also include confidentiality markings required by the Protective Order.

For any lengthy exhibit of which only portions are confidential, the parties may be asked to submit a public version of the exhibit.

#### **12.1.4 Foreign Language Exhibits**

No foreign language exhibits will be received into evidence unless a translation is provided by the date in the procedural schedule for the exchange of proposed exhibits. The translation shall be included as part of the foreign language exhibit and shall not be a separate exhibit.

### **12.2 Pre-Hearing Disclosure**

#### **12.2.1 Content of Exhibit Lists**

Every exhibit list shall consist of a table numbering 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. For joint exhibits, the parties shall meet and confer before submitting a joint exhibit list to agree on a common descriptive title, statement of purpose, and sponsoring witnesses. Every exhibit list shall contain a column specifying the PDF version used to create exhibits presented in PDF format; the entry for this column shall be left blank for physical exhibits and other exhibits not in PDF format. The PDF version must be version 1.5 or higher. In any exhibit list submitted before 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.

Exhibit lists shall include demonstrative exhibits and shall indicate that such exhibits were not received into evidence.

No exhibit list shall disclose confidential information; all exhibit lists shall be public documents.

#### **12.2.2 Exchange of Proposed Exhibit Lists**

Proposed exhibit lists shall be served by the date in the procedural schedule. The list shall include Bates numbers and other sufficient information to identify the exhibit with certainty. Proposed exhibit lists shall include demonstrative exhibits. After service of proposed exhibit lists, the parties shall confer and consolidate duplicative exhibits on the proposed exhibit lists.

#### **12.2.3 Exchange of Proposed Exhibits**

Copies of proposed exhibits, including demonstrative exhibits, shall be served on all parties by the date in the procedural schedule. Proposed physical exhibits need not be served but shall be

identified in the proposed exhibit list. Proposed physical exhibits must be made available for inspection by the date established for the submission and service of proposed exhibits. Proposed exhibits shall not be filed or submitted.

### **12.3 Use in Hearing**

#### **12.3.1 Authenticity**

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

#### **12.3.2 Exhibits Not in Dispute**

By the date in the procedural schedule, the parties shall jointly file a list of exhibits to which no party has an objection. The list may include exhibits for which there will be no sponsoring witness. The list should indicate which party is offering the exhibit. At the opening of the hearing, each party shall tender its exhibits on the list and move for admission of those exhibits. Inclusion of an exhibit on such list does not necessarily mean the exhibit will be admitted into the record.

#### **12.3.3 Witness Exhibits**

Before beginning the examination or cross-examination of a witness, counsel shall provide the witness and other counsel with all exhibits to be used in the examination or cross-examination. The parties shall separately agree in advance on when and how exhibits are provided to other counsel and the witness (e.g., physical binders or electronic files).

Before beginning the examination or cross-examination of a witness, counsel shall provide a physical binder of the exhibits for that witness to the Administrative Law Judge.

### **12.4 Admission of Exhibits, Final Exhibit List and Final Exhibits**

#### **12.4.1 Admission of Exhibits**

Before the beginning of each day of the hearing, the parties shall jointly email a list of the exhibits to be admitted from the previous day's hearing, if any, to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov). In that email, the parties shall also identify any objected-to exhibits, which objections will be addressed before the start of testimony that day. The parties are advised to confer at each hearing break about the exhibits discussed during the previous segment of testimony.

#### **12.4.2 Final Exhibit List**

By the conclusion of the hearing, the parties are responsible for creating a final list of admitted exhibits.

The final exhibit list shall be jointly filed by the parties with the Office of the Secretary by the date in the procedural schedule. The final exhibit list shall reflect the status of all exhibits, including those admitted and those rejected during the hearing. Any exhibits that are not labeled as admitted on the final exhibit list will not be considered as part of the record to be certified to the Commission when the final initial determination issues.

On the same day that the parties file the final exhibit list, the parties shall submit a courtesy copy of the final exhibit list in sortable native spreadsheet format to the Administrative Law Judge via Box.

#### **12.4.3 Final Exhibits Must Be Submitted to the Administrative Law Judge**

All admitted document exhibits and all demonstrative exhibits used at the hearing must be submitted in electronic format whenever possible. All PDF-format exhibits shall be PDF version 1.5 or higher. On the same day that initial post-hearing briefs are due, the parties shall jointly submit to the Administrative Law Judge via Box all admitted exhibits and all demonstrative exhibits used at the hearing (the original set).

On the same day that initial post-hearing briefs are due, if not already provided to the Administrative Law Judge, all admitted physical exhibits shall be delivered to the Administrative Law Judge at the address in Ground Rule 1.2.

The admitted exhibits and demonstrative exhibits should not be submitted directly to Docket Services or filed on EDIS. The Administrative Law Judge will transmit the admitted and demonstrative exhibits to Docket Services for posting on EDIS.

#### **12.4.4 Format and Organization of the Original Set**

The procedure for formatting and organizing admitted exhibits is detailed in the EDIS 3 User Guide, at: [http://www.usitc.gov/docket\\_services/documents/EDIS3UserGuide-CDSsubmission.pdf](http://www.usitc.gov/docket_services/documents/EDIS3UserGuide-CDSsubmission.pdf).<sup>5</sup>

The standard exhibit categories are listed below, along with the naming convention for each category:

| <b>Category</b>       | <b>Public Exhibit Convention</b> | <b>Confidential Exhibit Convention (ending in C)</b> |
|-----------------------|----------------------------------|--|
| Complainant's Exhibit | CX-[four-digit number]           | CX-[four-digit number]C                              |

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<sup>5</sup> Although the parties will not submit final exhibits on physical media, the exhibits will ultimately be uploaded to EDIS and must conform with EDIS requirements including the 25 MB file size limitation. Exhibits larger than 25 MB must be broken into multiple files, none of which exceed 25 MB.

|   |                         |                          |
|---|-------------------------|--------------------------|
| Complainant's Demonstrative Exhibit                           | CDX-[four-digit number] | CDX-[four-digit number]C |
| Complainant's Physical Exhibit (includes native format files) | CPX-[four-digit number] | CPX-[four-digit number]C |
| Respondent's Exhibit  | RX-[four-digit number]  | RX-[four-digit number]C  |
| Respondent's Demonstrative Exhibit                            | RDX-[four-digit number] | RDX-[four-digit number]C |
| Respondent's Physical Exhibit (includes native format files)  | RPX-[four-digit number] | RPX-[four-digit number]C |
| Joint Exhibit   | JX-[four-digit number]  | JX-[four-digit number]C  |
| Joint Demonstrative Exhibit                                   | JDX-[four-digit number] | JDX-[four-digit number]C |
| Joint Physical Exhibit (includes native format files)         | JPX-[four-digit number] | JPX-[four-digit number]C |
| Staff Exhibit   | SX-[four-digit number]  | SX-[four-digit number]C  |
| Staff Demonstrative Exhibit                                   | SDX-[four-digit number] | SDX-[four-digit number]C |
| Staff Physical Exhibit (includes native format files)         | SPX-[four-digit number] | SPX-[four-digit number]C |

Each submitted electronic file folder may only have exhibits of the same category within it. No folder is required for a category that has no admitted exhibits. All folders containing nonconfidential exhibits shall be collected into a folder with "Public" in the label and all folders containing confidential exhibits should be collected into a folder with "Confidential" in the label.

All source code exhibits, video exhibits, and native file exhibits shall be submitted in separate folders, organized according to file type (e.g., source code in one folder, videos in another folder, and Excel files in a third folder).

The file name of each document must be descriptive of the content of the document. A Table of Contents file (in PDF and in MS Excel for Windows) listing a descriptive file name for each file within a folder should be created and included in each folder.

#### **12.4.5 Duplicate Set for the Administrative Law Judge**

Two business days after the responsive post-hearing briefs are due, the parties shall jointly submit a duplicate of the original set to the Administrative Law Judge via Box. For the duplicate set, all of the final exhibits (whether confidential or public) are to be organized alpha-numerically (*e.g.*, CDX-0001, CDX-0002C ... CPX-0001C, CPX-0002 ... CX-0001C, CX-0002 ... JX-0001 ... RDX-0001, RDX-0002C ... RPX-0001C, RPX-0002 ... RX-0001C, RX-0002) into a single folder. The file name of each exhibit must be descriptive of the content. In addition, a Table of Contents (in PDF and in MS Excel for Windows) listing the exhibits with the same descriptive file names should be created and included in the single folder.

### **13 Hearing Procedure**

#### **13.1 Final Pre-hearing Conference**

A final pre-hearing conference will be held before the opening of the hearing. The parties should be prepared to answer procedural and substantive questions about any aspect of the investigation.

The parties should meet and confer and attempt to resolve any objections to exhibits before the final pre-hearing conference. The Administrative Law Judge will hear any remaining objections to exhibits and rule on them, if possible, at the final pre-hearing conference.

#### **13.2 Hearing Hours**

Normal hearing hours are 9:00 a.m. to 5:00 p.m. with a one-hour lunch recess and two fifteen-minute breaks, one in the morning and one in the afternoon.

#### **13.3 Hearing Decorum**

##### **13.3.1 Conversations During the Hearing**

No cross conversation between opposing counsel is permitted on the record. Argument is to be directed to the Administrative Law Judge. Any communication not directed to the Administrative Law Judge or to a witness must not be audible to the Administrative Law Judge or the witness.

##### **13.3.2 Electronic Devices**

Mobile phones, tablets, and computers shall be silenced during the hearing.

### **13.3.3 Photos or Video Recording**

No photo taking, video recording, or audio recording is permitted in online hearings or in the courtroom except by a court reporter authorized by the Commission.

### **13.4 Opening Statements**

If a party presents an opening statement, the statement will be included in the total hearing time allotted to that party.

### **13.5 Material to Be Received into Evidence**

Only factual material and expert opinion shall be received into evidence. Unless otherwise requested by the Administrative Law Judge, legal argument shall be presented in the briefs.

### **13.6 Examination of Witnesses and Order of Testimony**

#### **13.6.1 Live Direct Testimony**

Unless leave is granted, all direct testimony must be given by live, in-person witnesses.

#### **13.6.2 Scope of Cross-examination**

All direct testimony is subject to cross-examination. Cross-examination is limited to the scope of the direct examination.

#### **13.6.3 Scope of Redirect Examination.**

Redirect examination is limited to matters brought out on cross-examination.

#### **13.6.4 Order of Witnesses**

The parties are expected to coordinate the order of witnesses and allot appropriate time for examination of each of the witnesses within the total time allotted for the evidentiary hearing.

#### **13.6.5 Documents Presented to Witnesses**

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

#### **13.6.6 Scope of Expert Witness Testimony**

An expert's testimony at the hearing shall be within the scope of the expert's report(s) and deposition testimony. If an objection is made that testimony of an expert is outside the scope of the report or deposition, the parties should be prepared to address the content of the report or

deposition and shall provide a copy of the report or deposition transcript to the Administrative Law Judge.

### **13.6.7 Use of Interpreters**

If an interpreter will be used at the hearing, the parties are responsible for obtaining one qualified, neutral interpreter agreed to by counsel. Interpreters will be sworn.

### **13.6.8 Conferring with a Witness during a Break in Testimony**

Counsel shall not confer with a witness about the witness's testimony or about any hearing evidence during a break in the witness's testimony.

### **13.7 Timekeeping**

The parties are responsible for keeping track of the time each party has used. By 8:00 am on each day of the evidentiary hearing, the parties shall jointly submit a schedule of estimated time and date of hearing witnesses for that day and shall identify the hearing time remaining for each party.

### **13.8 Corrections to Hearing Transcripts**

If a hearing transcript needs to be corrected, within seven days of the conclusion of the hearing, a party requesting correction shall do so through a motion. To the extent possible, the parties should meet and confer and file a joint motion for corrections. Immediately on issuance of an order adopting any requested corrections, the parties jointly or, if the motion is not made jointly, the party requesting correction, shall send a copy of the order to the reporting company so the corrections can be made.

## **14 Post-hearing Briefs**

### **14.1 Initial Post-hearing Briefs**

By the date in the procedural schedule, the complainant and respondent shall each file an initial post-hearing brief addressing only those issues on which the party bears the burden of proof. The Commission investigative attorney shall also file an initial post-hearing brief by the date in the procedural schedule and may address any issue in its initial post-hearing brief. All parties' initial post-hearing briefs shall be organized on a patent-by-patent basis. Any party filing a post-hearing brief containing information designated for confidential treatment must also file a public version in accordance with Ground Rule 1.4.1.

Any issue for which a party has the burden of proof that is not addressed in detail in the initial post-hearing brief shall be deemed abandoned or withdrawn.

Any defenses of patent invalidity under 35 U.S.C. § 103 raised in a post-hearing brief must address the factors of *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966), separately for

each unique combination of prior references relied on. Obviousness arguments using “and/or” or “or” nomenclature to combine references are not preserved.

#### **14.2 Responsive Post-hearing Briefs**

By the date in the procedural schedule, each party shall file a responsive post-hearing brief, which shall address only the issues and evidence raised in the initial post-hearing briefs of the opposing party and the Commission investigative attorney. Any party filing a responsive post-hearing brief containing information designated for confidential treatment must also file a public version in accordance with Ground Rule 1.4.1.

Any contentions raised in an initial post-hearing brief that a party does not respond to in detail in its responsive post-hearing brief shall be deemed unopposed.

#### **14.3 Updated Statement of Uncontested Claim Elements**

By the date in the procedural schedule, the complainant and respondent shall each file an updated statement identifying uncontested claim elements. Respondent shall identify claim elements it does not dispute with respect to each of infringement and domestic industry technical prong and complainant shall identify claim elements it does not dispute with respect to each allegation of invalidity.

#### **14.4 Word Limits for Post-hearing Briefs**

The parties shall address word limits for the post-hearing briefs at the pre-hearing conference or at the close of the evidentiary hearing. The parties are encouraged to meet and confer and jointly propose word limits for the initial and responsive post-hearing briefs.

### **15 Ex Parte Contacts**

There shall be no ex parte contacts with the Administrative Law Judge. Any technical or procedural questions shall be directed to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov).

### **16 Suspension, Waiver, and Modification of Ground Rules**

The Administrative Law Judge may modify, waive, suspend, or otherwise alter these Ground Rules during this investigation, either prospectively or retroactively.

# **APPENDIX A**

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

**In the Matter of**

**CERTAIN VIDEO GAME CONSOLES,  
ROUTERS AND GATEWAYS, AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-1445**

**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 on an application for subpoena made by [“complainant” / “respondent”/ *etc.*, followed by name of company],

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

If production of any document listed and described in Attachment A 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 are considered “confidential business information,” as that term is defined in the attached Protective Order, such documents or things shall be produced subject to the terms of the Protective Order.

This subpoena will be served by overnight delivery, if not sooner.

Any motion to limit or quash this subpoena shall be filed within ten days of receipt of the subpoena. A copy of any motion concerning this subpoena, including a copy of the subpoena, shall be emailed to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov).

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 \_\_\_\_\_, 20\_\_\_\_.

Doris Johnson Hines  
Administrative Law Judge  
United States International Trade Commission

**UNITED STATES INTERNATIONAL TRADE COMMISSION**

**Washington, D.C.**

**In the Matter of**

**CERTAIN VIDEO GAME CONSOLES,  
ROUTERS AND GATEWAYS, AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-1445**

**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 on an application for subpoena made by [“complainant” / “respondent”/ *etc.*, followed by name of company],

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

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 attached Protective Order, such testimony shall be so designated and treated according to the terms of the Protective Order.

This subpoena will be served by overnight delivery, if not sooner.

**PATENT OWNER  
EX. 2008**

Any motion to limit or quash this subpoena shall be filed within ten days of the receipt of the subpoena. A copy of any motion concerning this subpoena, including a copy of the subpoena, shall be emailed to [JohnsonHines1445@usitc.gov](mailto:JohnsonHines1445@usitc.gov).

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 \_\_\_\_\_, 20\_\_.

Doris Johnson Hines  
Administrative Law Judge  
United States International Trade Commission