

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

Inv. No. 337-TA-1138

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>.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.