

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

**In the Matter of**

**CERTAIN MICROPERFORATED  
PACKAGING CONTAINING FRESH  
PRODUCE (II)**

**Inv. No. 337-TA-1127**

**Order No. 5: Procedural Schedule**

In accordance with the target date set in Order No. 3, the undersigned has determined that this proceeding shall be conducted in accordance with the following schedule.

<b>Event</b>	<b>Deadline Date</b>
Complainant to file list of all products it will rely upon to satisfy the domestic industry requirement (G.R. 6.f)	October 17, 2018
Parties to exchange claim terms that each party contends should be construed	October 24, 2018
Respondents to file notice of prior art (G.R. 2)	October 31, 2018
File a list of claim terms that each party contends should be construed (G.R. 6.b)	October 31, 2018
Parties to meet and confer to limit terms in dispute and identify most significant terms (G.R. 6.b)	November 5, 2018
Parties to exchange proposed constructions for disputed claim terms	November 8, 2018
File joint statement identifying accused products (G.R. 6.f)	November 15, 2018
Parties to exchange preliminary contention interrogatory responses regarding issues as to which the party bears the burden of proof	November 21, 2018
First settlement conference (G.R. 3)	November 28, 2018
File proposed constructions of each term identified by any party for claim construction (G.R. 6.c)	December 3, 2018
Joint report from first settlement conference (G.R. 3)	December 7, 2018
Parties to meet and confer to narrow issues for joint claim construction chart (G.R. 6.c)	December 12, 2018

Event	Deadline Date
File joint claim construction chart (G.R. 6.d)	December 18, 2018
Parties to exchange preliminary contention interrogatory responses regarding issues as to which the party does not bears the burden of proof	December 21, 2018
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	December 28, 2018
File identification of expert witnesses (G.R. 4.a)	December 28, 2018
Complainant to file list of proposed representative accused products based on complainant's infringement contentions (G.R. 6.f)	January 3, 2019
Exchange final contention interrogatory responses regarding issues as to which the party bears the burden of proof	January 9, 2019
Respondents to file responses to proposed representative accused products assuming complainant's infringement contentions (G.R. 6.f)	January 11, 2019
File final joint stipulation regarding representative accused products (G.R. 6.f)	January 18, 2019
Exchange final contention interrogatory responses on issues for which the party does not bear the burden of proof	January 23, 2019
Second settlement conference (G.R. 3)	January 25, 2019
File joint report from second settlement conference (G.R. 3)	January 30, 2019
File joint technology stipulation (G.R. 6.g)	February 5, 2019
Fact discovery cutoff and completion	February 11, 2019
File motions to compel	February 15, 2019
File initial expert reports (G.R. 4.b)	February 22, 2019
File rebuttal expert reports (G.R. 4.b)	March 1, 2019
Expert discovery cutoff and completion	March 6, 2019
File requests for receipt of evidence without a sponsoring witness	March 6, 2019
File summary determination motions	March 12, 2019
Parties to exchange exhibit lists among the parties	March 15, 2019
Submit and serve direct exhibits (including witness statements (G.R. 8.a))	March 20, 2019
File responses to summary determination motions	March 25, 2019
Submit and serve rebuttal exhibits (including rebuttal witness statements)	March 25, 2019
File pre-hearing statements and briefs (G.R. 7)	March 29, 2019
Parties to provide proposed exhibits and exhibit lists (G.R. 9.e)	April 3, 2019

Event	Deadline Date
File high priority objections to proposed exhibits (G.R. 9.f)	April 10, 2019
File motions <i>in limine</i>	April 10, 2019
File responses to high priority objections	April 17, 2019
File responses to motions <i>in limine</i>	April 17, 2019
Pre-hearing conference	April 24, 2019 at 10 a.m.
Hearing	April 25 – 26, 2019
File initial post-hearing briefs (G.R. 9.g)	May 14, 2019
File comprehensive joint outline of issues to be decided in the final Initial Determination (G.R. 11)	May 14, 2019
Parties to serve ALJ all final exhibits to be filed with the Commission (“original set”) (G.R. 9.g)	May 14, 2019
Submit final exhibit list reflecting the status of all exhibits (G.R. 9.h)	May 14, 2019
File reply post-hearing briefs	May 23, 2019
Each party to submit final exhibits and final exhibit list to the Office of General Counsel (G.R. 9.i)	June 12, 2019
Final Initial Determination	July 18, 2019
Target Date	November 18, 2019

So ordered.



David P. Shaw  
Administrative Law Judge

Issued: September 14, 2018

CERTAIN MICROPERFORATED PACKAGING CONTAINING FRESH PRODUCE (II)

INV. NO. 337-TA-1127

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **Order No. 5** has been served upon the following parties as indicated, on SEP 14 2018.



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

**FOR COMPLAINANT WINDHAM PACKAGING, LLC:**

Edward A. Pennington, Esq.  
**Smith, Gambrell & Russell, LLP**  
1055 Thomas Jefferson Street NW, Suite 400  
Washington, DC 20007

☐ Via Hand Delivery  
☐ Express Delivery  
☒ Via First Class Mail  
☐ Other: \_\_\_\_\_

**FOR RESPONDENT GROWERS EXPRESS, LLC:**

Robert C. Mattson, Esq.  
**Oblon, McClelland, Maier & Neustadt, L.L.P.**  
1940 Duke Street  
Alexandria, VA 22314

☐ Via Hand Delivery  
☐ Express Delivery  
☒ Via First Class Mail  
☐ Other: \_\_\_\_\_

**FOR RESPONDENT C.H. ROBINSON WORLDWIDE, INC.:**

Tyler P. Brimmer, Esq.  
**Fafinski Mark & Johnson, P.A.**  
Flagship Corporate Center, Suite 400  
775 Prairie Center Drive  
Eden Prairie, MN 55344

☐ Via Hand Delivery  
☐ Express Delivery  
☒ Via First Class Mail  
☐ Other: \_\_\_\_\_