

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN DIGITAL VIDEO
RECEIVERS, BROADBAND
GATEWAYS, AND RELATED
HARDWARE AND SOFTWARE
COMPONENTS

Inv. No. 337-TA-1158

ORDER NO. 26:

ORDER REGARDING MOTIONS *IN LIMINE* AND
HIGH PRIORITY OBJECTIONS, AND TELEPHONE
MANAGEMENT CONFERENCE SCHEDULE

(December 18, 2019)

Motions *in Limine* and High Priority Objections are not suitable vehicles: (1) as substitutes for Motions for Summary Determination; or (2) to attempt to strike or restrict what is clearly admissible testimony. Neither should Motions *in Limine* be used for such inappropriate purposes as to ask that the other parties not violate orders, such as *Markman* constructions, when all parties should know not to violate rules. Similarly, if a burden of proof is in doubt because of testimony, kindly leave that to post-hearing briefing.

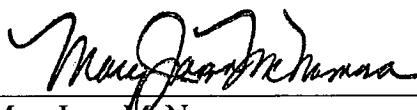
The Complainants as a group and the Respondents as a group each will be allowed no more than a total of three (3) Motions *in Limine* (“MIL”) and High Priority Objections (“HPO”) combined. Therefore, by close of business on December 23, 2019, the Complainants as a group and the Respondents as a group should each choose the three (3) they would like considered. The remainder should be withdrawn.

I will hold a Telephone Conference on January 14, 2019 at 2:00 p.m. to give the Parties decisions on the Motions *in Limine* or High Priority Objections that remain. If I have not

arranged an earlier telephone conference, or the *Markman* Order is not complete, I will also issue the *Markman* constructions in that Telephone Conference.

Please be advised that because Motions to Strike have been used and abused too frequently, I will be limiting those as well. During the evidentiary hearing (“Hearing”) the Parties will be expected to know very well the testimony of their own and the other party’s experts, and the citations to reports and deposition testimony if they claim that testimony was changed or opinions are “beyond the scope” of earlier testimony or opinions. Frivolous motions will be considered those where the party claiming objection cannot support the objection with clear, complete citations that are not simply a partial explanation that elides or attempts to obfuscate or mischaracterize the complete testimony or opinion that was, in fact, given.

SO ORDERED.



MaryJoan McNamara
Administrative Law Judge

CERTAIN DIGITAL VIDEO RECEIVERS, BROADBAND GATEWAYS, AND RELATED HARDWARE AND SOFTWARE COMPONENTS

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, **Cortney Hoecherl, Esq.**, and the following parties as indicated, on **December 18, 2019**.



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

On Behalf of Complainants Rovi Corporation and Rovi Guides, Inc.:

Douglas A. Cawley, Esq.
MCKOOL SMITH, P.C.
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Dallas, TX 75201

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: _____

On Behalf of Respondents Comcast Corporation, Comcast Cable Communications, LLC, Comcast Cable Communications Management, LLC, and Comcast Holdings Corporation

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Suite 1000
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- Via Hand Delivery
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