

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN DISPOSABLE VAPORIZER  
DEVICES AND COMPONENTS AND  
PACKAGING THEREOF

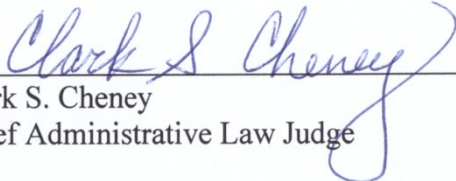
INV. NO. 337-TA-1381

ORDER NO. 2: NOTICE OF GROUND RULES

(December 20, 2023)

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

SO ORDERED.

  
Clark S. Cheney  
Chief Administrative Law Judge

## **GROUND RULES FOR SECTION 337 INVESTIGATIONS**

These Ground Rules supplement the Commission's Rules of Practice and Procedure, 19 C.F.R. Parts 201 and 210 ("Commission Rules"), in order to aid Chief Administrative Law Judge Clark S. Cheney (he/him) in the orderly conduct of the section 337 investigation pursuant to the Administrative Procedure Act, 5 U.S.C. § 556(c).

These Ground Rules govern a U.S. patent-based investigation pursuant to 19 U.S.C. § 1337(a)(1)(B). The Chief Administrative Law Judge may promulgate other rules for investigations involving other matters.

In case of any conflict between these Ground Rules and any subsequent order issued by the Chief Administrative Law Judge or the Commission in this investigation, the subsequent order shall control.

## TABLE OF CONTENTS

<b>1</b>	<b>Filings and Submissions.</b> .....	<b>1</b>
1.1	Definitions.....	1
1.2	Format of Filings and Submissions.....	1
1.3	Filing Requirement. ....	1
	1.3.1 Public Version Required. ....	1
1.4	Service.....	1
1.5	Confidentiality. ....	1
1.6	Word Limits. ....	2
1.7	Citation of Cases. ....	3
1.8	Coordination of Briefs Among Interested Parties.....	3
1.9	Courtesy Copies. ....	3
	1.9.1 Documents Requiring a Courtesy Copy. ....	3
	1.9.2 Procedure. ....	3
<b>2</b>	<b>Time</b> .....	<b>4</b>
<b>3</b>	<b>Preliminary Conference.</b> .....	<b>4</b>
<b>4</b>	<b>Procedural Schedule.</b> .....	<b>5</b>
<b>5</b>	<b>Motions</b> .....	<b>7</b>
5.1	Obligation to Confer. ....	7
5.2	Numbering Responses to Motions.....	7
5.3	Deadline for Filing Response to Motion.....	7
5.4	Rules for Certain Motions.....	8
	5.4.1 Discovery-Related Motions. ....	8
	5.4.1.1 Videoconference Requirement.....	8
	5.4.1.2 Contents of Discovery-Related Motions.....	8
	5.4.2 Motions for Summary Determination and Responses Thereeto. ....	8
	5.4.2.1 Motion.....	8
	5.4.2.2 Response. ....	9
	5.4.2.3 Courtesy Copies. ....	9
	5.4.2.4 Oral Argument. ....	9
5.5	Effect of Filing Unopposed Motions to Terminate.....	10
<b>6</b>	<b>Discovery</b> .....	<b>10</b>
6.1	Resolution of Disputes; Coordinated Discovery.....	10
6.2	Discovery Committee. ....	10
6.3	Service of Discovery Requests and Responses.....	10
6.4	Timing of Discovery Requests, Responses and Objections.....	10
	6.4.1 Depositions; Notice.....	10
	6.4.2 Interrogatories; Deadline for Responses and Objections.....	10
	6.4.3 Requests for Production of Documents or Things or for Entry Upon Land; Deadline for Responses and Objections. ....	11
	6.4.4 Request for Admission; Period for Service; Deadline for	

	Responses and Objections; Time for Requests and Responses and Objections.....	11
	6.4.5 Discovery Cutoff and Completion.....	11
6.5	Interrogatory Limitation.....	11
6.6	Subpoenas.....	11
	6.6.1 Issuance and Service.....	11
	6.6.2 Motion to Quash Subpoena; Deadline.....	12
	6.6.3 Withdrawing Subpoena.....	12
6.7	Bates Numbering.....	12
6.8	Translations.....	12
6.9	Privileged Matter.....	12
	6.9.1 Privileged Document List.....	13
	6.9.2 Motion to Compel Production of Privileged Matter.....	13
<b>7</b>	<b>Claim Construction.....</b>	<b>13</b>
	7.1 Terms Requiring Construction.....	13
	7.2 Claim Construction Briefing.....	13
	7.3 Claim Construction Hearing Exhibits.....	14
<b>8</b>	<b>Notice of Prior Art.....</b>	<b>14</b>
<b>9</b>	<b>Expert Witnesses and Reports.....</b>	<b>14</b>
<b>10</b>	<b>Narrowing Issues, Mediation, Settlement.....</b>	<b>15</b>
<b>11</b>	<b>Pre-hearing Submissions.....</b>	<b>15</b>
	11.1 Pre-hearing Statement.....	15
	11.2 Pre-hearing Brief.....	16
	11.3 Motions <i>in Limine</i> .....	16
	11.3.1 Requirement to Include Evidence in Question.....	16
	11.3.2 Motion for Confidential Treatment at the Hearing.....	16
<b>12</b>	<b>Exhibits.....</b>	<b>17</b>
	12.1 Form and Marking.....	17
	12.1.1 One Document Per Exhibit.....	17
	12.1.2 Labeling Exhibits.....	17
	12.1.3 Physical Exhibits.....	18
	12.1.4 Demonstrative Exhibits.....	18
	12.1.5 Confidential Exhibits.....	18
	12.1.6 Foreign Language Exhibits.....	18
	12.2 Pre-Hearing Disclosure.....	18
	12.2.1 Content of Exhibit Lists.....	18
	12.2.2 Exchange of Proposed Exhibit Lists.....	19
	12.2.3 Exchange of Proposed Exhibits.....	19
	12.3 Use in Hearing.....	19
	12.3.1 Authenticity.....	19
	12.3.2 Exhibits Not in Dispute.....	19
	12.3.3 Witness Exhibits.....	20
	12.4 Final Exhibit List and Final Exhibits.....	20
	12.4.1 Final Exhibit List.....	20

12.4.2	Final Exhibits Must Be Submitted to the Chief Administrative Law Judge. ....	20
12.4.3	Format for Submitting Final Exhibits. ....	21
<b>13</b>	<b>Hearing Procedure.....</b>	<b>22</b>
13.1	Final Pre-hearing Conference. ....	22
13.2	Hearing Hours. ....	22
13.3	Hearing Decorum.....	23
	13.3.1 Conversations During the Hearing.....	23
	13.3.2 Audible Devices; Food and Beverages. ....	23
	13.3.3 Photos or Video Recording.....	23
13.4	Opening Statements. ....	23
13.5	Material to Be Received into Evidence. ....	23
13.6	Examination of Witnesses.....	23
	13.6.1 Live Direct Testimony. ....	23
	13.6.2 Scope of Cross-examination. ....	23
	13.6.3 Scope of Redirect and Re-cross Examination.....	23
	13.6.4 Order of Witnesses.....	24
	13.6.5 Documents Presented to Witnesses. ....	24
	13.6.6 Scope of Expert Witness Testimony.....	24
	13.6.7 Use of Interpreters.....	24
	13.6.8 Conferring with Witness during a Break in Testimony. ....	24
13.7	Corrections to Transcripts.....	24
<b>14</b>	<b>Post-Hearing Briefs.....</b>	<b>24</b>
14.1	Post-hearing Initial Briefs. ....	24
14.2	Post-hearing Responsive Briefs. ....	25
14.3	Courtesy Copies of Post-hearing Briefs.....	25
<b>15</b>	<b><i>Ex Parte</i> Contacts.....</b>	<b>25</b>
<b>16</b>	<b>Suspension, Waiver, and Modification of Ground Rules.....</b>	<b>26</b>

# 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.