

DOCKET SERVICES

Filing a Section 337 Complaint that Includes a Request for Temporary Relief

COVER LETTER: Lists what is included with the complaint (including the motion for temporary relief and supporting memorandum and documents) and specifies documents, if any, for which confidential treatment is requested.

REQUEST FOR CONFIDENTIAL TREATMENT LETTER: Requests that information be treated as Confidential Business Information (“CBI”) pursuant to 19 CFR §§ 201.6, 210.5.

STATEMENT OF PUBLIC INTEREST: A statement filed with the complaint, not to exceed five pages in length, inclusive of attachments, that provides specific information regarding how issuance of the relief requested could affect the public interest, 19 CFR § 210.8 (b).

EDIS COVER SHEET: Filer must submit an EDIS cover sheet for public documents and a separate cover sheet for confidential documents, 19 CFR § 201.8(g).

COMPLAINT FILING REQUIREMENTS

- original signature of complainant or duly authorized officer, attorney, or agent, 19 CFR §§ 201.8, 210.12(a)(1);
- be under oath pursuant to 19 CFR § 210.12 (a)(1) and include a statement attesting to the representations in §210.4(c)(1) through (3);
- name, address, and telephone number of complainant and duly authorized officer, attorney, or agent on the first page of the complaint, 19 CFR §§ 201.8, 210.12(a)(1).

SUPPLEMENTS TO THE COMPLAINT: When filing supplements to the complaint, filers must follow the same requirements outlined in § 210.8(a)(2); including providing non-confidential versions of any confidential documents submitted.

REQUIREMENTS FOR A REQUEST FOR TEMPORARY RELIEF

- If the complaint includes a motion for temporary relief, the motion must set forth a detailed statement of facts bearing on the factors the Federal Circuit Court has stated that a U.S. District Court must follow in determining whether to grant a preliminary injunction. 19 CFR § 210.52. Additionally, the complainant must address the issue of bond within the motion as set forth in 19 CFR § 210.52.

NUMBER OF COPIES FOR PUBLIC DOCUMENTS¹

¹ Reference to “public” documents throughout this guidance includes both those documents that are public with no attendant confidential document and those documents that are public versions of confidential documents.

- **Original plus 8 copies of the public complaint** (original should be unbound) 19 CFR § 210.8(a)(2)(i)
- **1 copy of any public exhibits** (on CD-ROM, DVD or other portable media approved by the Secretary) 19 CFR § 210.8(a)(2)(i)
- **Original plus 8 copies of the public motion for temporary relief** (original should be unbound) 19 CFR § 210.8(a)(2)(i)
- **1 copy of public exhibits accompanying the motion for temporary relief** (on CD-ROM, DVD or other portable media approved by the Secretary) 19 CFR § 210.8(a)(2)(i)
- **Original, certified copy of the asserted patent or registered, trademark, copyright, mask work or vessel hull design** (depending on the type of case) + **a 3 additional copies of these documents** (additional copies on CD-ROM, DVD or other portable media approved by the Secretary) 19 CFR § 210.12(c)-(h)

Note: A complainant must submit the 3 copies required by Commission Rules 210.12(c)-(h) in electronic format, specifically in DVD/CD format. Please see *Guidelines for Filing the Prosecution Histories and Technical References Accompanying Section 337*

Complaints on DVD/CD Media at:

http://www.usitc.gov/trade_remedy/int_prop/documents/CDInputGroundRules_Complaint_v2.0.pdf

- **(In patent cases) 4 copies of each patent and applicable pages of each technical reference mentioned in prosecution history of each asserted U.S. patent** (on CD-ROM, DVD or other portable media approved by the Secretary) 19 CFR § 210.12(c)(2)
- For **Respondents and Embassies:**
 - ❖ 1 copy of the public complaint and public exhibits for each Respondent, 19 CFR § 210.8(a)(2)(iii)
 - ❖ 1 copy of the public complaint for each Embassy, 19 CFR § 210.8(a)(1)(iv)

NUMBER OF COPIES FOR CONFIDENTIAL DOCUMENTS

- **Original plus 8 copies of the confidential complaint** (original should be unbound and submitted with an EDIS coversheet for confidential filings as noted above) 19 CFR § 210.8(a)(2)(ii)
- **1 copy of any confidential exhibits to the complaint** (on CD-ROM, DVD or other portable media approved by the Secretary), 19 CFR §§ 201.8(g), 210.8(a)(2)(ii)
- **Original plus 8 copies of the confidential motion for temporary relief** (original should be unbound and submitted with an EDIS coversheet for confidential filings) 19 CFR § 210.8(a)(2)(ii)

- **1 copy of any confidential exhibits accompanying the motion for temporary relief** (on CD-ROM, DVD or other portable media approved by the Secretary) 19 CFR § 210.8(a)(2)(ii)
 - **For Respondents:**
 - ❖ for each respondent, 1 copy of the confidential complaint along with 1 copy of any confidential exhibits to the complaint, 19 CFR § 210.8(a)(2)(iii)
 - ❖ for each respondent, 1 copy of the confidential motion for temporary relief along with 1 copy of any confidential exhibits to the motion for temporary relief, 19 CFR § 210.8(a)(2)(iii)
 - **Content of service copies**
 - ❖ Redactions of CBI from any public version service copy of the complaint and/or motion for temporary relief must comply with the requirements of 19 CFR §§ 201.6(a) and 210.55. Despite the redaction of CBI the service copy must contain sufficient factual information about each element of the violation alleged in the complaint and motion for temporary relief to allow each proposed respondent to understand the allegations. 19 CFR § 210.55
 - **License Agreements:** License agreements must be provided as exhibits pursuant to 19 CFR § 210.12(a)(9)(iv), (10)(ii) ***ONLY IF:***
 - ❖ *The complaint relies on license agreements to establish standing, or*
 - ❖ *The complaint relies on licenses agreements to support contentions that a domestic injury as defined in section 337(a)(3) exists or is in the process of being established as the result of domestic activities of one or more licensees.*
- Note:** If confidential treatment is sought for these agreements, they should be filed as confidential exhibits along with a request for confidential treatment pursuant to 19 CFR § 210.5.
- **Appendices:** The complainant has the obligation to serve each Respondent represented by counsel with materials covered in 19 CFR § 210.12(c)-(h) that were not included as exhibits to the complaint, but were filed with the complaint, *within 5 days of service of a notice of appearance and an agreement to be bound by the protective order.* 19 CFR § 210.12(i)

SERVICE OF PROCESS: If the complaint includes a motion for temporary relief, on the day the complainant files the complaint with the Commission, the complainant *must serve* public versions of the *complaint* and *motion for temporary relief* on all proposed respondents and on the embassies in Washington, D.C. of the country in which the foreign respondents are located by messenger, overnight delivery, or equivalent means. This service requirement also extends to public versions of supplemental information the complainant files with the Commission prior to institution. 19 CFR § 210.54

- **Certificate of Service**: A signed certificate of service must accompany the complaint and the motion for temporary relief when filed. Actual proof of service must be filed within *ten (10) days* after filing the complaint and motion. 19 CFR § 210.54
- **Notice accompanying service copies**: Instructions regarding the required notice that must accompany each service copy of the complaint and motion for temporary relief are set forth in 19 CFR § 210.56.
- **Amendments to Motion for Temporary Relief**: A motion for temporary relief may be amended at any time prior to institution of an investigation. However, all materials filed to amend the motion must also be served on all proposed respondents and the embassies in Washington, DC of the country in which the foreign respondents are located pursuant to 19 CFR § 210.57.

If you have any questions regarding the procedures, as outlined in this document, please contact the Docket Services at 202-205-1802