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June 26, 2026

The Honorable Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E Street SW, Room 112
Washington, D.C. 20436

Re: Comment on Section 337 Adjudication and Enforcement, Notice of Proposed Rulemaking (Docket No. MISC-051), 91 Fed. Reg. 23,190 (Apr. 30, 2026)

Dear Secretary Barton:

TechNet writes in strong support of the U.S. International Trade Commission's (the "Commission") Notice of Proposed Rulemaking (NPRM) to require disclosure of parties with ownership, financial, or controlling interests in Section 337 investigations and ancillary proceedings.[1] The proposed rules — particularly new 19 C.F.R. § 210.14a — are a measured, common-sense reform. They will strengthen the integrity of Section 337[2] proceedings, protect legitimate domestic industries, and give the Commission the information it needs to evaluate the public interest in some of the most consequential technology disputes in the country. We urge the Commission to adopt the proposed rules.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes over 100 dynamic American businesses ranging from startups to the most iconic companies in the world and represents over five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Intellectual property (IP) is the bedrock of innovation in the technology sector, and nowhere is that more visible than in semiconductors, where investments in research, design, and advanced manufacturing routinely run into the billions per node. Section 337 was designed to defend that kind of domestic innovation from unfair foreign competition. In recent years, however, the rise of anonymous third-party litigation funding (TPLF) has, in some cases, begun to turn the Commission into something other than a forum for protecting genuine domestic industries — increasingly, a vehicle for opportunistic, funder-driven litigation brought by non-practicing entities

[1] Section 337 Adjudication and Enforcement, 91 Fed. Reg. 23,190 (Apr. 30, 2026) (to be codified at 19 C.F.R. pt. 210).
[2] Tariff Act of 1930 § 337, 19 U.S.C. § 1337.

(NPEs). TechNet has long supported reforms that, in our own words, "deter litigation abuse in the courts and the International Trade Commission" and discourage "manipulation by litigation funders who take advantage of patent owners and the judicial system for their own financial gain."[3] The proposed disclosure rule is precisely that kind of reform.

Transparency Is Essential to the Integrity of Section 337

The Commission has correctly identified the core problem: Section 337 lacks the real-party-in-interest and litigation-funding disclosure rules that are now standard in federal district courts.[4] That gap matters because Section 337 is a trade forum, and not an ordinary patent forum. Its remedies — exclusion orders and cease-and-desist orders — are extraordinary. A single order can reshape access to the U.S. market and disrupt cross-border supply chains. When the Commission cannot see who is actually funding and directing a case, it cannot meaningfully assess conflicts, evaluate the public interest, or test whether the complainant is a bona fide domestic industry.

Proposed § 210.14a is well calibrated to address that information gap and establishes the right framework. It requires disclosure of corporate parents and entity stockholders, any person or entity with the legal right to bring the Section 337 action besides the named complainant, and any non-counsel entity that either funds the investigation specifically or holds approval rights over litigation or settlement decisions.[5] The proposed rule appropriately excludes ordinary bank loans, insurance, and personal loans. We recommend below targeted refinements to ensure the rule's scope matches the Commission's stated objectives and is not undermined in practice by sophisticated funding structures.

Among these refinements, the Commission should ensure the final rule reaches funding arrangements that route through counsel. As the Government Accountability Office (GAO) has documented, funders sometimes finance patent litigation by contracting directly with the patent owner's law firm, which in turn enters contingency-fee arrangements with one or more patent owners.[6] The final rule should therefore require disclosure of any entity with a material interest in the outcome of the investigation, whether that interest arises from an agreement with the party or from an agreement with the party's counsel.

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[3] TechNet, *2026 Federal Policy Principles* 12–13 (2026) (Intellectual Property and Patent Reform) ("support[ing] reforms that deter litigation abuse in the courts and the International Trade Commission, including policies that . . . discourage . . . manipulation by litigation funders who take advantage of patent owners and the judicial system for their own financial gain").

[4] 91 Fed. Reg. at 23,191 (explaining that the proposed disclosures are intended to "facilitate evaluation of potential conflicts," "provide early clarity about entities whose rights are at issue," and "promote transparency to facilitate settlement and to bring relevant issues to the Commission's attention").

[5] 91 Fed. Reg. at 23,192 (proposed 19 C.F.R. § 210.14a(a)(3)(i)–(ii)).

[6] U.S. Gov't Accountability Off., GAO-25-107214, *Intellectual Property: Information on Third-Party Funding of Patent Litigation* 13 fig.1 (2024) https://files.gao.gov/reports/GAO-25-107214/index.html.

Disclosure Verifies the Domestic Industry and Identifies Real Parties in Interest

The Domestic Industry (DI) requirement is the statutory linchpin of Section 337, but the Commission has limited tools to verify at the threshold whether a named complainant is a genuine domestic industry or a shell entity assembled and financed by undisclosed third parties. Disclosing the entities that hold the legal right to sue, that fund the investigation, or that control litigation and settlement decisions is the most direct and proportionate way to confirm that the party invoking Section 337 is the party Congress intended to protect. This is how federal courts already handle these issues, and it is well within the Commission's rulemaking authority under Section 335 of the Tariff Act. The disclosure is informational; it does not alter any substantive standard, shift any burden of proof, or create any new cause of action.

The same transparency also rebalances a real asymmetry. Anonymous funding has enabled some NPEs to leverage the Commission's extraordinary remedies in ways Congress did not contemplate. When the economic actor behind a complaint is hidden, operating-company respondents face the prospect of an exclusion order without being able to identify, negotiate with, or evaluate the incentives of the entity actually controlling the case. Requiring disclosure corrects that imbalance without restricting any litigant's right to bring a meritorious Section 337 claim.

Anonymous Funding Is a National Security and Supply Chain Risk

Section 337 investigations frequently touch the most sensitive parts of the modern technology stack — semiconductors, advanced packaging, artificial intelligence (AI) hardware, aerospace components, and 5G infrastructure. In that environment, who is actually paying for and directing a complaint is a national security question, not just a procedural one. Anonymous funding — whether sourced from foreign sovereign wealth funds, opaque private equity vehicles, or entities with undisclosed ties to foreign adversaries — can be used to target specific U.S. and allied manufacturing nodes, raise costs for trusted suppliers, or create supply chain vulnerabilities at moments of geopolitical stress. Without disclosure, the Commission cannot reliably distinguish a legitimate Section 337 complaint from a tool of foreign economic disruption that would be impermissible under the statute. The proposed rule gives the Commission the visibility it needs to tell them apart.

The Proposed Rules Align with Broader U.S. Innovation Policy

Congress and the Administration, along with the private sector, have made historic investments in onshoring semiconductor manufacturing and protecting critical and emerging technologies. Those investments rest on a simple national security premise: the United States must know who is participating in, and seeking to influence, its most sensitive technology supply chains. The Commission's proposed disclosures are a natural legal guardrail for that policy. By making it harder for undisclosed foreign or opaque funders to quietly leverage Section 337 against the industries Congress is

working to onshore, the rule reinforces — rather than burdens — U.S. innovation policy.

Disclosure Helps Protect Trade Secrets in Discovery

Section 337 discovery routinely reaches into the crown jewels of U.S. and allied innovators — process recipes, design files, and advanced packaging and 3D heterogeneous integration (3DHI) techniques, among others. When the entities actually funding or controlling a complaint are unknown, neither the Commission nor respondents can meaningfully evaluate the risk that discovery is being used as a backdoor for competitive intelligence or, in the worst cases, for foreign-directed misappropriation. Knowing who is behind a case lets the Commission, parties, and Administrative Law Judges craft protective orders and discovery rulings that match the actual interests at stake.

Targeted Refinements to Strengthen Proposed § 210.14a

While TechNet strongly supports the proposed rules, there are adjustments that can be made to ensure that they meet the Commission's goals with respect to transparency.

First, the requirement to disclose entities that provide funding "specifically for the section 337 investigation" should be broadened. Modern litigation funding is rarely structured as investigation-specific financing. Funders frequently bankroll worldwide patent campaigns that include actions in foreign jurisdictions, U.S. district courts, and Section 337 proceedings under a single agreement, or portfolios that bundle multiple complainants and asserted patents. By way of example, Atlantic IP and its subsidiary Arigna Technologies Ltd., both Irish entities, have pursued a worldwide patent campaign and filed Section 337 actions at the Commission against U.S. businesses including Apple, Google, General Motors, and Microsoft. We recommend that the Commission instead require disclosure of any entity that stands to benefit, financially or otherwise, from any agreement that contemplates the outcome of the investigation.

Second, the rule should close the counsel loophole. As drafted, the carve-out for counsel risks allowing funders to avoid disclosure by entering into funding agreements directly with the complainant's law firm rather than the complainant itself, or by bundling Section 337 funding inside broader portfolio or contingency arrangements with counsel that span multiple matters and jurisdictions. We recommend that the final rule require disclosure of any entity with a material interest in the outcome of the investigation, whether that interest arises from a direct agreement with the party or from an agreement with the party's counsel.

Third, the rule should not categorically exclude natural persons. As drafted, the exclusion would permit individuals with significant or controlling ownership in funded litigation to remain undisclosed. Peer forums have taken a broader approach. The Northern District of California's local rules, for example, require disclosure of "persons, associations of persons, firms, partnerships, corporations (including, but not limited

to, parent corporations), or any other entities, other than the parties themselves" known to have a financial interest in the litigation. Chief Judge Connolly of the District of Delaware has adopted similar standing orders, and the Federal Civil Rules Advisory Committee is considering corresponding amendments to the Federal Rules of Civil Procedure. We respectfully recommend that the Commission require disclosure of a financial interest in the outcome of the investigation, and any entity with an ownership interest above a 10 percent threshold, traced up the chain of ownership until a party has been identified.

Fourth, the rule should require a party's disclosure statement to include a brief description of the nature of any funding arrangement under proposed Rule 210.14a(a)(3)(i). Such a requirement will provide additional and necessary transparency for the Commission and parties, and is also consistent with other disclosure requirements including Chief Judge Connolly's standing order for the District of Delaware.

Fifth, as raised by the Commission in the NPRM, the rule should require disclosure of funding or necessary approval in related litigation. This information is highly relevant to the Commission's transparency goals. Section 337 proceedings are typically part of larger patent litigation campaigns that include district court actions. Funding arrangements for such litigation campaigns could be strategically structured to avoid disclosure in Section 337 proceedings. The rule should address this potential loophole with a disclosure requirement for both the Section 337 proceeding and related litigation.

Conclusion

Disclosure of corporate parents, real parties in interest, investigation-specific funders, and entities with approval rights over litigation and settlement decisions is not a burden on legitimate domestic industry. It is a necessary safeguard that brings Section 337 practice into line with every other major federal litigation forum, gives the Commission what it needs to perform its public interest analysis on accurate information, and aligns the Commission's rules with the national security, supply chain, and innovation imperatives of a modern technology economy. TechNet respectfully urges the Commission to adopt the proposed rules.

Thank you for the opportunity to comment. Please do not hesitate to contact us if we can provide additional information or be of further assistance.

Sincerely,

Linda Moore
President and CEO