June 29, 2026

Lisa Barton
Secretary to the Commission
United States International Trade Commission
500 E Street SW
Washington, DC 20436

Re: Docket No. MISC-051

Dear Secretary Barton:

Save Our Standards writes in support of the U.S. International Trade Commission's proposed amendment to its Rules of Practice and Procedure concerning section 337 adjudication and enforcement, regarding third party litigation funding. Save Our Standards (SOS) is a broad-based coalition of innovators, small businesses, associations, academics, and consumer groups dedicated to reinforcing the voluntary fair, reasonable, and non-discriminatory (FRAND) licensing commitment and its critical role in technical standards. These standards enable competition and innovation that directly benefit consumers. We welcome the opportunity to provide feedback on the impact of third party litigation funding.

At SOS, we are particularly concerned by the threat of injunctive remedies, such as exclusion orders, targeting prospective licensees of standard essential patents (SEPs). Exclusion orders can give SEP holders leverage that far exceeds the value of any individual patent. SEP holders voluntarily commit to license their standard-essential patents on FRAND terms in exchange for the chance to achieve broad adoption of their SEPs via the standard. Yet some SEP holders use the threat of exclusion orders and other injunctive remedies to pressure standards users into accepting excessive, non-FRAND royalty demands. Once a company has invested significant resources in designing, manufacturing, and marketing standards-compliant products, the prospect of having those products removed from the market can force it to accept unreasonable licensing terms regardless of the patent's actual contribution. This hold-up dynamic distorts competition, discourages investment, increases costs for American manufacturers and consumers, and undermines the balance that FRAND commitments are intended to preserve. Preserving reasonable limits on SEP injunctive remedies helps ensure that licensing disputes are resolved through fair compensation rather than coercive threats to block products from the marketplace.

The risks associated with SEP injunctive remedies are amplified when litigation is financed by undisclosed third-party funders. Increasingly, patent assertion campaigns are supported by outside investors, including foreign entities, whose financial interests and degree of control over litigation remain hidden from respondents, the Commission, and the public. When those funders stand to profit from the threat of exclusion orders or other forms of injunctive relief, they may have incentives that are disconnected from innovation, technology development, or participation in standards-setting activities. Greater transparency regarding third-party litigation funding would help ensure that the Commission can identify potential conflicts of interest, understand who is directing and benefiting from a Section 337 investigation, and assess whether litigation is being used to advance legitimate intellectual property interests or primarily as a tool to extract settlements and licensing payments.

The Commission's proposed disclosure requirements are an important step toward promoting transparency and preserving confidence in the Section 337 process. Technical standards are intended to support competition, interoperability and innovation, and disputes involving FRAND-committed SEPs should be resolved in a manner consistent with those objectives. Requiring disclosure of litigation funders and other entities with a material interest in the outcome of an investigation will provide greater visibility into who is seeking the Commission's powerful remedies, facilitate informed settlement discussions, and help prevent the ITC from becoming a vehicle for opaque litigation campaigns designed to leverage the threat of exclusion orders against American manufacturers and standards users. Robust disclosure requirements will strengthen the integrity of the Commission's proceedings while supporting fair competition, innovation, and U.S. economic competitiveness.

Save Our Standards encourages the Commission to adopt robust disclosure requirements that provide meaningful visibility into litigation funding arrangements and other interests that may influence the conduct or outcome of an investigation. Furthermore, the Commission should work to ensure its disclosure requirements are free of loopholes that would enable funded parties to circumvent the intention of the rules. Such transparency will strengthen the Section 337 process and support fair competition, innovation, and American economic leadership.

Sincerely,
Save Our Standards