

## Section 337

### Overview

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#### The Power of Section 337

Section 337 investigations before the U.S. International Trade Commission (ITC) provide a powerful tool for IP rights holders in the United States to protect their intellectual property against infringement in importation.

- Section 337 investigations most frequently involve patent infringement, but the Commission's governing statute grants it the authority to investigate a broad range of unfair acts in importation, including copyright and trademark infringement, Lanham Act violations, theft of trade secrets, false designation of origin, antitrust violations, and other forms of unfair competition.
- Section 337 is subject to due process requirements and provides for worldwide discovery, expedited hearings, judges with expertise in intellectual property law, and effective remedies enforced by U.S. Customs and Border Protection (Customs).

#### We have a long history with Section 337.

Adduci, Mastriani & Schaumberg LLP (AMS) has a level of experience and expertise in Section 337 investigations that is unmatched.

- We have been involved in approximately 30% of all Section 337 investigations instituted at the ITC since 1980, representing more than 250 parties, both complainants and respondents.
- Our in-depth understanding of the ITC's complex rules and procedures assures that clients avoid pitfalls and unforced procedural errors.
- We have represented clients from a wide range of industries, including smartphones, GPS equipment, footwear, semiconductor memory modules and connectors, automobile condensers, back supports, automobile tires, biotechnology products, global positioning receivers, fiber optic modems, rotary printers, air impact wrenches, flow measurement devices, exercise machines, vertical milling machines, bearings, tonometers, electric power tools and textile machinery components.

#### We have a uniquely deep understanding of the ITC's policies and procedures.

Section 337 investigations can be won or lost based on skillfully navigating the procedures before the Commission, which differ substantially from those in district court.

AMS clients benefit from our substantive knowledge and first-hand understanding of how the ITC operates and what it takes to maintain the initiative in cases.

- Our expertise derives from a roster of uniquely qualified attorneys, including past ITC Chairmen and other former ITC attorneys with experience working on establishing the very rules and precedent still applicable today.
- The Firm's book on Section 337, published by the American Bar Association, is recognized as a leading text in the field.
- We are also a recognized thought leader in this area of the law, with our attorneys regularly contributing articles, speeches, and Congressional testimony on current trends in ITC jurisprudence or pending changes to the Commission's policies or procedures.
- Our attorneys are active members of the ITC Trial Lawyers Association, and we make a point to engage with the ITC's rule-making process.

#### A client's interests do not end at the Commission.

AMS provides advice relevant to all stages of a dispute, from the first day of an investigation to the expiration of the exclusion order years later.

- We have experience navigating the remedial phase of ITC investigations, which poses unusual and complex challenges for parties to Section 337 investigations.
- We have extensive experience addressing the public interest issues that have become increasingly important to Section 337 in recent years.
- We work closely with seasoned economic experts familiar with how the Commission calculates the bond during the Presidential review period.
- Our familiarity with Customs' on-the-ground enforcement practices allows our clients to plan ahead for future product development cycles—long after the ITC investigation has concluded.

## News & Insights

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### Exploring the Breadth of the ITC's Jurisdiction

The ITC Trial Lawyers Association, Boston Patent Law Association, and Suffolk University Law School will host an afternoon program in Boston introducing Section 337 and discussing developments in and finer points of Section 337 law and procedure.

### Section 337 Litigation at the International Trade Commission

Lauren Peterson will lead a CLE course entitled "Section 337 Litigation at the International Trade Commission" on January 17, 2018.

### Section 337 and Unfair Trade Practices

On October 26, 2017, Evan Langdon will teach a seminar entitled Section 337 and Unfair Trade Practices for the Japan Intellectual Property Association .

### Asha Allam and Lauren Peterson to Teach CLE Course on Section 337

AMS attorneys Asha Allam and Lauren Peterson will teach a CLE course for West LegalEd Center entitled "Section 337: America's Unfair Trade 'Wall'" on April 6.

### ITC False Ad Decision Shows the Breadth of Section 337 (March, 2017)

On March 28, 2017, AMS attorneys Beau Jackson and Michael Doman, Jr. published an article in *Law360*.

### Could Laches Make a Comeback in Section 337 Inquiries? (April, 2016)

On April 7, 2016, AMS attorneys Michael Doane and David Hollander published an article in *Law360*.

### New Guide to Section 337

In 2016, the American Bar Association published the third edition of the firm's book: *A Lawyer's Guide to Section 337 Investigations Before the U.S. International Trade Commission*.

### Section 337 Litigation at the ITC

The University of Akron School of Law recently hosted its Fourth Annual Naples Patent Experts Conference.

### New Guide to Section 337

The American Bar Association published the firm's third edition of the Section 337 lawyers' guide entitled, "A Lawyer's Guide to Section 337 Investigations Before the U.S. International Trade Commission."

### Section 337: Friend or Foe?

Asha Allam spoke at an international seminar on intellectual property in Ahmedabad, India, on February 14, 2015

### ITC Gets Creative to Limit NPE Access Under Section 337

Tom M. Schaumberg and Evan H. Langdon recently published an article for *IP Law 360* entitled "ITC Gets Creative to Limit NPE Access Under Section 337."

## **New Guide to Section 337**

The American Bar Association published the firm's second edition of the Section 337 lawyers' guide entitled, "Section 337 Investigations Before the U.S. International Trade Commission."