



## US International Trade Commission Experience

When facing an International Trade Commission (ITC) Section 337 investigation, leaders across industries turn to our seasoned litigation team for our encyclopedic knowledge of the commission's procedures, priorities and rulings. We owe our stellar record to a deep bench of lawyers who have first-chair trial experience at the ITC. Our clients benefit from our lawyers' understanding of the ITC's operating process and of what differentiates this venue from the other courts.

### ADVANTAGES

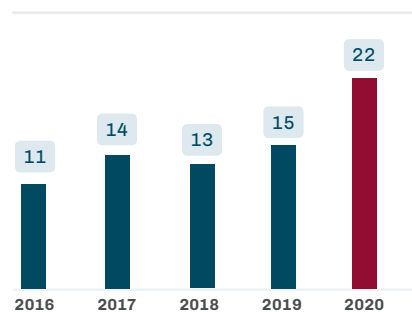
- Speedy proceedings: Pursuant to Section 337, the ITC must conclude each investigation and make its determination **“at the earliest practicable time”** and all proceedings should be conducted **“expeditiously.”**
- Broad jurisdiction: The ITC's authority covers the **entire US** and its territories.
- No jury trials: There is **no jury option** available for either the claimant or the respondent.
- General exclusion orders: When infringing products are being imported from several sources, the ITC can issue a **general exclusion order**, which allows the IP owner to avoid repeated litigation against numerous patent infringers.

### DISADVANTAGES

- Detailed documentation and cost: An ITC complaint **must include file history, patent assignments, certified copies of the patent and claim charts** showing that the accused article infringes a representative claim of each asserted patent.
- Limited power: ITC final decisions in patent-based complaints are **not binding in US district courts.**

25+

ITC cases successfully litigated by WilmerHale since 2010



### Jump in Section 337 Violations Found

The number of violations found increased by more than 46% from 2019 to 2020

**“They have a serious ITC practice.”**

**“They are competitors who are central to their clients in big litigation strategies in ITC and district courts.”**

— Clients on WilmerHale at the ITC

## EXPERIENCE

**Apple v. Samsung:** WilmerHale achieved a historic victory for Apple in its litigation with Samsung when the President vetoed a Commission order that otherwise would have excluded certain Apple products. The President cited significant public interest concerns with the Commission's issuance of an exclusion order on the basis of a patent Samsung declared essential to a standard.

**The Chamberlain Group v. Nortek Security & Control:** WilmerHale obtained a significant victory for The Chamberlain Group when the Commission determined that Nortek's competing garage door openers infringe our client's patent. The Commission issued exclusion and cease and desist orders against all infringing Nortek products, successfully concluding a four-year long dispute.

**X2Y Attenuators v. Apple, HP, Intel:** WilmerHale won a complete victory for Apple, HP and Intel against complainant X2Y, after X2Y asserted six patents and sought to exclude all of Intel's microprocessors and all the Apple and HP computers containing them, (essentially seeking to exclude billions of dollars of products from the US.) After extensive discovery, X2Y dropped three of the asserted patents, and the case went to hearing on the remaining three. The ALJ found all three remaining asserted patents not infringed and two invalid, and the Federal Circuit affirmed.

**Bioverativ v. CSL Behring:** WilmerHale successfully represented CSL Behring in an investigation brought by Bioverativ, which alleged that CSL's innovative hemophilia B treatment, Idelvion, infringed patents directed to methods of administering products. Following a successful Markman decision in which the ALJ adopted all of CSL Behring's positions and found that most of the asserted claims were "non-sensical," Bioverativ withdrew its complaint, and the investigation was terminated.

**Freescale Semiconductor v. MediaTek:** WilmerHale achieved an unlikely trial victory, as the case was all but lost when MediaTek turned to us. A prior ITC investigation had already found the claims of the Freescale patent valid and infringed. Nonetheless, when Freescale refiled its complaint, we proved that Freescale had no domestic industry, that the asserted claims were invalid, and that MediaTek's same chip did not infringe.

**R2 Semiconductor v. Intel, Dell, HP and HPE:** WilmerHale won a complete victory for Intel, Dell, HP and HPE, defeating R2 Semiconductor's attempt to exclude our clients' microprocessors and computers. The CALJ initially found noninfringement of all asserted claims. Later, the Commission vacated the CALJ's decision and remanded for further proceedings. We then won on multiple IPR petitions, which were affirmed by the Federal Circuit, cancelling all claims of the asserted patent.

## RECOGNITION

- **The American Lawyer** has named WilmerHale the winner of its biennial IP Litigation Department of the Year contest twice and a finalist six times.
- **Law360** has named WilmerHale the "Technology Group of the Year" from 2016-2018 and the "IP Group of the Year" five times.
- **Chambers USA** has continuously ranked WilmerHale's IP Practice Band 1 since 2011, with every US office ranked. We are also ranked in **Chambers Global** for International Trade: Intellectual Property (Section 337) in USA.
- **U.S. News & World Report** has ranked WilmerHale as Tier 1 in IP Litigation for 10 years in a row.
- **Managing IP** has selected WilmerHale as "Patent Contentious Firm of the Year" seven times since 2011 and named WilmerHale Tier 2 in ITC Litigation in 2019.
- **Legal 500** has consistently ranked WilmerHale in the Top Tier for IP since 2011.

### For more information, please contact:

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