
International Trade Commission

Intellectual Property Litigation

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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. With the ITC's increasing popularity as a venue for various types of intellectual property disputes, our powerhouse litigation team is imperative to the success of our clients.

We owe our stellar record of more than 25 consecutive successful Section 337 investigations in the last decade to a deep bench of lawyers with first-chair trial experience at the ITC. We offer strategic analysis, critical courtroom advocacy and technical acumen, and approach every phase of a Section 337 investigation with unmatched creativity, commitment and vigor. Our lawyers have collectively appeared before most of the ITC's administrative law judges (ALJs), providing us with a unique understanding of the ways in which individual ALJs run their courtrooms. Our insight has propelled us to achieve a multitude of business-critical victories for clients, including our successful obtainment of the first Presidential disapproval of an ITC decision in more than 25 years.

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Experience

Achieved an historic victory for Apple Inc. in its litigation with Samsung Electronics Co. Ltd. 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.

Prevailed on behalf of Intel in a case against X2Y Attenuators LLC before the ITC. X2Y sued Intel for infringement in both the ITC and district court. The ITC found no infringement and the Federal Circuit affirmed. Intel then heard nothing from X2Y until three years later, when X2Y moved to reopen the district-court action, which had been closed during the ITC proceedings. The court granted Intel's motion to dismiss for failure to prosecute. We then defended that dismissal on appeal as within the district court's discretion, given X2Y's history of dilatoriness, prejudice to Intel, and the other factors under the relevant test. The Federal Circuit summarily affirmed.

Represented CSL Behring in an investigation brought by Bioverativ, Inc., a spin-off of Biogen. Bioverativ alleged that Idelvion, an innovative treatment for hemophilia B that CSL spent more than a decade developing, infringed patents directed to methods of administering products with an extended half-life. Following a successful Markman decision in which the ALJ adopted each of CSL Behring's positions and found that the asserted claims of two of the three asserted patents were "non-sensical," Bioverativ withdrew its complaint, and the investigation was terminated.

Achieved victory for MediaTek Inc. against complainant Freescale Semiconductor. Freescale had initially sued MediaTek's customers, who were represented by separate counsel. In that case, the ITC ruled that Freescale had proven domestic industry and that its patent was valid and likely infringed, but declined to find a violation because Freescale had failed to properly authenticate a key MediaTek datasheet. Freescale then sued MediaTek, who retained WilmerHale to defend. Following a two-week trial, MediaTek prevailed on every issue—including those prior counsel had lost. MediaTek's chip was found not to infringe, Freescale's patent was held invalid, and the ITC found that Freescale had failed to prove domestic industry.

Secured a significant victory for Intel, Dell, HP Inc., and Hewlett Packard Enterprise in defense of patent infringement claims brought by R2 Semiconductor. R2 sought an exclusion order barring importation into the United States of current and future Intel microprocessors, as well as the Dell, HP Inc., and Hewlett Packard Enterprise computers and servers containing those processors. On summary determination, the ALJ found non-infringement for all the asserted claims.

