

International Trade Commission Section 337 Proceedings

Practices and Industries

PRIMARY CONTACTS

Richard D. Rochford

+1 212.659.4984

Kenneth G. Parker

+1 949.202.3014

Our IP litigation team has successfully prepared for and tried numerous Section 337 investigation and hearings before the ITC, relying not only on extensive trial experience but on particular knowledge of the ITC's judges, rules, and procedures. This proven track record and experience with ITC procedures and personnel ensure that our teams are well suited to meet the high demands of ITC schedules and cases to obtain the best possible results for our clients.

Our team includes a former head of the ITC's Section 337 legal office as well as lawyers who have represented clients in investigations. In particular, Ken Parker and Rich Rochford have worked together as an effective, efficient, and successful team in these intense cases.

Our frequent appearances before the ITC give us significant familiarity and knowledge of specialized rules for discovery and evidentiary hearings (trial). We also have in-depth experience with a wide range of technologies and products, including semiconductors, electronic devices, medical devices, pharmaceuticals, software, and smartphones.

As part of our extensive experience in successfully litigating ITC cases, we also have worked with U.S. Customs and Border Protection officials to implement or enforce or ensure compliance with ITC exclusion orders. This unique knowledge of enforcement issues gives our clients the foresight vitally needed in a constantly changing global marketplace.

Anti-Dumping Proceedings and Other ITC Matters

Haynes Boone also obtains relief for U.S. industries injured by dumped or subsidized imports and successfully defends foreign companies against such actions. We are especially adept in advising clients on how to comply with U.S. trade laws and avoid costly legal proceedings. We regularly deal with OFAC sanctions, export controls, USMCA, anti-bribery issues under the Foreign Corrupt Practices Act (FCPA), and customs matters.

Representative Experience

- *In the Matter of Certain Noise Cancelling Headphones*, Inv. No. 337-TA-626 (ITC). Represented Respondents in a Section 337 investigation based on patent infringement claims. After fact and expert discovery, matter settled before final hearing.
- *In re Certain Blood Testing Strips and Associated Systems Containing the Same*, Inv. No. 337-TA-1116 (ITC). Represented Complainant in a Section 337 investigation involving patent infringement asserted against laboratory diagnostic products. Obtained a limited exclusion order after a final hearing.
- *In the Matter of Certain Mobile Devices Holders and Components Thereof*, Inv. No. 337-TA-1028 (ITC). Represented Complainant in a 337 investigation asserting patent infringement against Respondents' hands-free mobile device mounts. Following a final hearing, the ITC issued a General Exclusion Order and 16 limited exclusion orders.
- *In the Matter of Certain Light-Emitting Diode Products, Systems, and Components Thereof*, Inv. No. 337-TA-1163, 1164, and 1168 (Int'l Trade Comm'n). Represented Complainant in a Section 337 investigation based on patent infringement and false advertising. Matter settled before final hearing.
- Represented Taiwan Semiconductor Manufacturing Company ("TSMC") in multiple lawsuits brought against them by Global Foundries ("GF") in the Western District of Texas and in Delaware. The technology involved multiple aspects of semiconductor fabrication. GF brought 13 lawsuits against TSMC and 2 ITC proceedings in the US as well as actions in Germany. Our team was also responsible for preparing potential offensive actions in response to the GF lawsuits. As part of a multi-firm effort, we were also one of two firms to lead in the coordination of all discovery to be collected from TSMC. We also were one of two firms handling settlement negotiations. We assisted in ultimately negotiating a global cross-license between the parties and all litigation world-wide has now been dismissed.
- Represented a global-based company in a jury trial and before the ITC in a patent infringement action relating to automated mechanical transmissions. A jury found in favor of the company on all counts.
- Advised major telecommunications client regarding claim constructions, post-verdict proceedings and appeal relative to district court and ITC actions in major third-party patent dispute involving communications semiconductors.
- Successfully defended manufacturer of wireless, Bluetooth™ headsets in the International Trade Commission.
- Pursued complaint in the International Trade Commission against a competitor on behalf of a manufacturer of blood-test technology, obtaining successful settlement by which the competitor ceased importation entirely. (ITC, C.D. Cal.)
- Represented a patent owner in filing a complaint for patent infringement with the International Trade Commission (ITC). The asserted patents included a patent that Greg obtained allowance for at the USPTO. In response to the complaint, the ITC issued an exclusion order preventing importation of the infringing products into the U.S.
- Secured a General Exclusion Order (GEO) from the International Trade Commission (ITC) excluding from importation all products covered by certain Nite Ize patents related to their Steelie ecosystem of hands-free mobile device mounts. Additionally, the ITC issued 16 specific exclusion orders against primarily Chinese companies, preventing them from importing knockoff mobile device holders into the U.S.
- Represented patent owner Polymer Technology Systems, Inc. ("PTS") as the complainant in a Section 337 investigation in the International Trade Commission. We obtained an initial determination in June 2019 that the Respondents, ACON Laboratories, Inc. and its related entity, infringe two patents, and a further recommendation that the infringing products be banned from importation. On April 16, 2020, the ITC issued a Final Determination finding that ACON Laboratories, Inc. and ACON Biotech (Hangzhou) Co. infringed two of PTS

Diagnostics' key patents. Additionally, the ITC determined that a limited exclusion order prohibiting ACON from importing the infringing products into the U.S. is proper.

- In the Matter of Certain Wireless Headsets, Inv. No. 337-TA-943 (ITC). Represented Respondent GN in a Section 337 investigation based on patent infringement claims. ALJ assigned to the matter: Thomas Pender. After favorable Claim Construction Order that term was indefinite under 35 U.S.C. 112 ¶ 2, ALJ granted Motion for Summary Determination of Patent Invalidity. Matter proceeded to appeal and subsequently settled.
- Represented Wistron Corporation, a leading Taiwanese original design and computer manufacturer, in connection with investigation concerning allegations by Hewlett Packard Corporation of patent infringement by Acer Inc. for which Wistron manufactures several laptop models.