

# ClientAlert

## Intellectual Property

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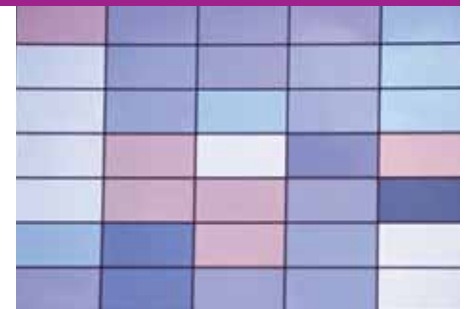
### Importers Beware: Rise in the Number of Intellectual Property Cases Filed at the USITC

A record high number of new intellectual property-related cases were filed at the United States International Trade Commission ("USITC") during FY 2011. Click [here](#) to read the USITC Agency Financial Report.

Section 337 of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act, provides for the USITC investigation of unfair practices related to importation of goods and the corresponding border enforcement of US intellectual property rights. The vast majority of the investigations include patent infringement allegations, but complainants may also assert copyright, trademark, trade dress, trade secret or other intellectual property rights claims.

The number of new section 337 investigations started in FY 2011 is 70, an increase of 37 percent over the 51 new cases instituted in FY 2010. As seen in the data for the last decade, this is the greatest number of new investigations instituted in any given year.

#### USITC Section 337 Caseload, FY 2001 – 2011



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Lynn Levine, Director of the USITC's Office of Unfair Imports Investigations, highlights two main reasons for the increase in section 337 filings depicted above.

- First, the USITC may issue exclusion orders that completely block the entry of products into the United States.
- Second, the USITC has traditionally been able to complete these investigations with expediency.

Also, despite the increase in the number of section 337 filings, the USITC has been able to address its growing caseload by increasing the number of lawyers, increasing the number of administrative law judges from three to six between FY 2003 and FY 2009, hiring two new administrative law judges during FY 2011 to replace two who had retired and allocating funds to build a third courtroom with expected completion during FY 2012.

These changes have had positive results. The average completion time for a section 337 case from institution to decision was 13.7 months in FY 2011—a 26 percent decrease from the 18.4 month average completion time in FY 2010. It is expected that these changes will permit the USITC to continue with its record of efficacy in handling these intellectual property investigations and that the USITC will remain an attractive forum for complainants facing unfair importation practices.

Click [here](#) to view the ITC press release.

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