Tucker Ellis LLP

# Section 337 Investigations

## Overview

At Tucker Ellis, our experienced intellectual property team has a track record of successfully – and cost effectively – litigating U.S. International Trade Commission (ITC) investigations. Under Section 337 of the Tariff Act of 1930, the ITC investigates allegations by a private party of certain unfair trade practices in the importation of goods. Most Section 337 investigations involve allegations that goods imported into the United States infringe another party's patent or trademark rights. Respondents typically include U.S. retailers and others receiving the goods, as well as foreign companies shipping their goods into the United States.

Section 337 investigations are substantively similar in many ways to district court litigation; however, they occur in a notoriously fast-paced and high-stakes arena. Although damages are not available in these proceedings, the ITC can restrict importation into the United States of goods that are found infringing and issue a cease-and-desist order preventing the sale of goods already imported. Both of these actions can result in significant losses, business disruption, and damage to customer relationships. The ITC even has the power to issue "general exclusion orders" that prohibit the importation of goods by companies that were not a party to a Section 337 investigation.

The Tucker Ellis IP team knows how to navigate these complex proceedings to maximize results while minimizing client expenses, and we work well within joint defense groups where appropriate to further reduce costs. We have successfully represented both complainants and respondents in Section 337 investigations, and – helpfully in this international setting – members of our IP team are proficient or fluent in a total of five languages, including Mandarin. We also have experience working with United States Customs and Border Enforcement to release goods withheld as a result of a general exclusion order.