

International Trade Commission Proceedings

It is a fact of life today that high stakes, international IP disputes almost invariably include one or more so-called Section 337 investigations at the ITC. As intellectual property disputes are becoming more technical, complex, and important, sophisticated companies have realized that the ITC's accelerated time to hearing and resolution and potentially far-reaching remedies, including orders completely excluding products from importation into the United States, provide an effective alternative or supplement to U.S. District Court proceedings. The result is that growing numbers of domestic and foreign companies now choose to litigate their disputes at the ITC in unprecedented numbers.

Quinn Emanuel is one of a relatively small number of law firms that has a dedicated ITC team with extensive knowledge and experience in navigating the unique and complex procedural and technical issues that arise in Section 337 litigation, including the unwritten ways of getting business done. Our success litigating at the ITC is a result of our expertise in and understanding of the ITC's unique procedural rules, body of law, evidentiary hearings, administrative law judges, and the ITC's interaction with other agencies such as U. S. Customs. Our ITC group has received numerous accolades, including being named *Managing IP's* "ITC Firm of the Year" in two consecutive years.

Our ITC group is led by nationally-ranked ITC expert Alex Lasher, who has practiced before the ITC for more than twenty years, representing complainants, respondents and third parties in more than eighty Section 337 investigations. Mr. Lasher and our other similarly accomplished partners have successfully represented companies in all aspects of Section 337 investigations, including initiating counter-investigations or actions in other venues, working with engineers to develop design-arounds, formulating public interest and FRAND arguments, coordinating with U.S. Customs, and enforcing exclusion orders.

ITC proceedings are often just one front in large intellectual property disputes that involve related actions in many different jurisdictions. A huge advantage that our ITC team has over others is that it is supported by Quinn Emanuel's IP group, which was named *Law360's* IP Group of the Year in 2018, consisting of 300+ IP litigators in the U.S., EU and Asia. Quinn Emanuel has led as a firm for "bet the company" litigations on any intellectual property dispute no matter the size or the level of technical complexity, and nowhere does this statement ring truer than at the ITC.

RECENT REPRESENTATIONS

- Certain Wearable Electronic Devices with ECG Functionality and Components Thereof (ITC 2022). QE represented **AliveCor** in an ITC investigation asserting patent infringement against Apple in connection with the cardiac functionality of Apple Watch series 4-7. Specifically, the technology involved using the smartwatch to detect and confirm the presence of potentially fatal cardiac arrhythmia, including the often asymptomatic and episodic Atrial Fibrillation, using a background heart monitoring feature (PPG sensors). When an episode was detected, the user may take an ECG using a feature on the watch to confirm whether they have the cardiac

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arrhythmia. On June 27, the administrative law judge (ALJ) for the ITC found Apple infringed 2 of 3 AliveCor patents directed to this technology, and found the patents' claims valid. The ALJ recommended that full commission of the ITC impose a limited exclusion order against the Apple Watch, prohibiting the watches from being imported into the U.S. containing the accused features—and that Apple be precluded from selling Apple Watches with these features in the United States following importation.

- Certain Power Semiconductors, and Mobile Devices and Computers Containing Same, Inv. No. 337-TA-1308 (ITC 2022). We are defending respondent **Samsung** in a patent-based investigation brought by Arigna Technology. The trial is set for February 2023.
- Certain Barcode Scanners, Mobile Computers With Barcode Scanning Capabilities, Scan Engines, Components Thereof, and Products Containing the Same, Inv. No. 337-TA-1307 (ITC 2022). We are representing complainant **Zebra Technologies** in a second patent-based investigation against Honeywell. The trial is set for December 2022.
- Certain Barcode Scanners, Mobile Computers with Barcode Scanning Capabilities, Scan Engines, RFID Printers, Components Thereof, and Products Containing the Same, Inv. No. 337-TA-1306 (ITC 2022). We are representing complainant **Zebra Technologies** in a patent-based investigation against Honeywell. The trial is set for January 2023.
- Certain Wet Dry Surface Cleaning Devices, Inv. No. 337-TA-1304 (ITC 2022). We are representing complainant **BISSELL** in a patent-based investigation against Tineco Intelligent. The trial is set for December 2022.
- Certain Integrated Circuit Products and Devices Containing the Same, Inv. No. 337-TA-1295 (ITC 2021). We are defending respondents **Google** and **Qualcomm** in a patent-based investigation brought by Future Link Systems. The trial is set for October 2022.
- Certain Integrated Circuits, Chipsets, and Electronic Devices, and Products Containing the Same, Inv. No. 337-TA-1287 (ITC 2021). We are defending respondent **MediaTek** in a patent-based investigation brought by NXP. The trial is set for July 2022.
- Certain Barcode Scanners, Mobile Computers With Barcode Scanning Capabilities, Scan Engines, and Components Thereof, Inv. No. 337-TA-1285 (ITC 2021). We are defending **Zebra Technologies** in a patent-based investigation brought by Honeywell regarding barcode scanning technology. The trial is set for July 2022.
- Certain Video Security Equipment and Systems, Related Software, Components Thereof, and Products Containing Same, Inv. No. 337-TA-1281 (ITC 2021). We are

defending respondent **Verkada, Inc.** in a patent-based investigation brought by Avigilon and Motorola Solutions. The trial is set for August 2022.

- Certain Integrated Circuits and Products Containing Same, Inv. No. 337-TA-1272 (ITC 2021). We are representing complainant **MediaTek** in a patent-based investigation against NXP. The trial was held in April 2022, and the judge's determination is scheduled to issue in September 2022.
- Certain Silicon Photovoltaic Cells and Modules with Nanostructures, and Products Containing the Same, Inv. No. 337-TA-1271 (ITC 2021). We are defending solar manufacturing giant **Hanwha** in a patent-based investigation brought by Advanced Silicon Group Technologies. The trial was held in April 2022, and the judge's determination is scheduled to issue in August 2022.
- Certain Wearable Electronic Devices With ECG Functionality and Components Thereof, Inv. No. 337-TA-1266 (ITC 2021). We are representing complainant **AliveCor** in a patent-based investigation against Apple. The trial was held in March 2022, and the judge's determination is scheduled to issue in June 2022.
- Certain LTE-Compliant Cellular Communication Devices, Inv. No. 337-TA-1253 (ITC 2021). We represented respondent **Samsung** in a patent-based investigation brought by Evolved Wireless. One month before trial was scheduled to begin, Evolved withdrew its complaint against Samsung in its entirety.
- Certain Video Processing Devices, Components Thereof and Digital Smart Televisions Containing the Same, Inv. No. 337-TA-1222 (ITC 2020). We represented respondent **MediaTek** in a patent-based investigation brought by complainant DivX. The settled favorably.
- Certain Light-Emitting Diode Products, Fixtures, and Components Thereof, Inv. No. 337-TA-1213 (ITC 2020). We represented complainant **Cree Lighting** in a patent-based investigation against respondent RAB Lighting. The evidentiary hearing was completed in May 2021. In December 2021, the Commission issued our requested exclusion order against RAB.
- Certain Vaporizer Cartridges and Components Thereof, Inv. No. 337-TA-1211 (ITC 2020). We represented complainant **Juul Labs** in a design patent-based investigation against nearly 50 respondents. In February 2022, the Commission issued our requested general exclusion order.
- Certain Audio Players and Controllers, Components Thereof and Products Containing the Same, Inv. No. 337-TA-1191 (ITC 2020). We represented respondent **Google** in a patent-based investigation brought by complainant Sonos, Inc. The evidentiary hearing was completed in February 2021. In January 2022, the Commission issued an opinion blessing our design-arounds for each asserted patent, which allowed Google to continue business as usual.

- Certain Rotating 3-D LiDAR Devices and Products Containing the Same, Inv. No. 337-TA-1173 (ITC 2020). We represented respondent **Hesai Photonics** in a patent-based investigation brought by complainant Velodyne Lidar, Inc. The parties settled while motions for summary determination were pending.
- Certain Light Emitting Diode Products, Systems, and Components Thereof, Inv. No. 337-TA-1168 (ITC 2020). We represent respondent **Cree** in a patent-based investigation brought by complainant LSG. One asserted patent was terminated on summary determination before the evidentiary hearing. We obtained victories on the other two patents following the evidentiary hearing. The Commission affirmed the ALJ's initial determination of no violation, and the case is on appeal at the Federal Circuit.
- Certain LED Packages Containing PFS Phosphor and Products Containing Same, Inv. No. 337-TA-1156 (ITC 2019). We defended respondent **Cree** in a patent infringement action filed by General Electric ("GE") in the International Trade Commission. GE alleged that certain of Cree's LED lighting products were covered by certain of GE's patents. After quickly identifying to GE several key issues in the relief that it sought, we were able to resolve this case through an effective early settlement on behalf of Cree.
- Certain Mobile Electronic Devices and Radio Frequency and Processing Components Thereof (II), Inv. No. 337-TA-1093 (2019). Quinn Emanuel was lead counsel for Qualcomm in a patent infringement action against Apple in the International Trade Commission. Qualcomm alleged that Apple engaged in the unlawful importation and sale of iPhones that infringe one or more claims of five Qualcomm patents covering key technologies that enable important features and function in the iPhones. After a seven day hearing, Administrative Law Judge McNamara issued an Initial Determination finding for Qualcomm on all issues related to claim 1 of U.S. Patent 8,063,674 related to an improved "Power on Control" circuit. ALJ McNamara recommended that the Commission issue a limited exclusion order with respect to the accused iPhone devices. Although the case settled shortly after ALJ McNamara recommended the exclusion order, the order, if adopted by the Commission, would have resulted in the exclusion of all iPhones and iPads without Qualcomm baseband processors from being imported into the United States.
- Certain Magnetic Tape Cartridges and Components Thereof Inv. No. 337-TA-1058 (2019): We represented **Sony** in a multifront battle against Fujifilm arising from Fujifilm's anticompetitive conduct seeking to exclude Sony from the Linear Tape-Open magnetic tape market. LTO tape products are used to store large quantities of data by companies in a wide range of industries, including health care, education, finance and banking. Sony filed a complaint in the ITC seeking an exclusion order of Fujifilm's products based on its infringement of three Sony patents covering various aspects of magnetic data storage technology. In August 2018, the ALJ issued the initial determination finding multiple Section 337 violations by Fujifilm, and in March 2019 the full Commission of the ITC affirmed Sony's victory in all respects

and issued exclusion orders barring Fujifilm's magnetic tape products from being imported into the US.

- Certain Graphics Processors and Products Containing Same, Inv. No. 337-TA-1099 (2019): We represented **NVIDIA Corporation**, a pioneering developer of graphics processing technology, and a number of its customers (ASUS, MSI, Gigabyte, PNY, Zotac, and EVGA), in patent infringement actions filed by ZiiLabs in the District of Delaware and at the International Trade Commission ("ITC"). ZiiLabs is a subsidiary of Creative Labs. ZiiLabs claimed that various NVIDIA GPUs along with graphics cards and computers containing the same infringe eight patents (three are currently asserted in the ITC investigation) relating to graphics processing and rendering technology. ZiiLabs previously used its patent portfolio (including some of the patents at issue here) to sue Apple, Samsung, ARM, AMD, Sony, Qualcomm, Lenovo, MediaTek and LG and obtain substantial settlements. Over the ITC investigation, the ALJ terminated one of the four asserted patents from the ITC investigation, denied ZiiLabs' Motion for Summary Determination on the Economic Prong of the Domestic Industry Requirement, denied all relevant portions of ZiiLabs' motion to strike our expert reports, and granted large portions of our own motion to strike, include striking the vast majority of ZiiLabs' validity case for one of the three remaining patents. On the eve of trial—with multiple, case dispositive, motions for summary determination pending—the parties resolved the multiple pending actions on confidential terms.
- Certain Modular LED Display Panels and Components Thereof, Inv. No. 337-TA-1114 (2019): The firm secured a full dismissal of all the claims against its client **Ledman Optoelectronics Co., Ltd.** in an ITC investigation launched by Ultravision Technologies, Inc. in March 2018, against 44 respondents. Ultravision accused Ledman's LED modules, which are used in large indoor and outdoor digital displays around the world, of patent infringement. We were the lone respondent to develop and assert defenses of improper inventorship and inequitable conduct against Ultravision at the outset, and we later led the effort to aggressively pursue these defenses during the investigation. Facing a court order granting Ledman's motion to compel emails and depositions related to the defenses, Ultravision voluntarily dismissed its complaint and filed a motion to terminate the investigation.
- Certain Microfluidic Devices, Inv. No. 337-TA-1068 (2018): We obtained a complete trial victory for our client **Bio-Rad** in a patent infringement action against 10X Genomics relating to microfluidic devices. The ALJ's September 20, 2018 initial determination found that 10X infringed 3 of Bio-Rad's asserted patents and recommended exclusion of 10X's products. The Commission issued an exclusion order in late 2019.
- Certain Mobile Electronic Devices and Radio Frequency and Processing Components (I), Inv. No. 337-TA-1065 (2018): We represented complainant **Qualcomm** in a patent infringement action against Apple. The ALJ issued the initial determination on September 28, 2018 finding a Section 337 violation and that Apple infringed one of Qualcomm's asserted patents. Although the Commission reversed

the ALJ's finding of violation, the parties settled shortly thereafter, obviating the need for any further appellate action.

- Organik Kimya v. ITC, Case No. 15-1774 (2017): We obtained an important victory in the Federal Circuit for **Dow Chemical**, upholding the International Trade Commission's entrance of judgment against Organik Kimya and an unprecedented 25-year exclusion order and \$2 million sanction as a result of our opponent's extensive discovery abuse.
- Certain Flash Memory Devices, Inv. No. 337-TA-1034 (2017): We represented third party Samsung in a patent infringement action between Memory Technologies LLC and SanDisk and Western Digital.
- Certain Electronic Devices, Inv. Nos. 337-TA-1038/1039 (2017): We represented third party **Samsung** in patent infringement actions between Nokia and Apple. The cases settled.
- Certain Graphics Systems, Inv. No. 337-TA-1044 (2017): We represented third party **Samsung** in a patent infringement action between ATI and multiple electronics companies.
- Certain Carbon and Alloy Steel Products, Inv. No. 337-TA-1002 (2016): We represented complainant **U.S. Steel** against a host of Chinese steel manufacturers and importers in an action based on price-fixing, false designation of origin, and trade secret misappropriation.
- Certain Memory Modules and Components Thereof, Inv. No. 337-TA-1023 (2016): We represented third party **Samsung** in a patent infringement action between Netlist and SK Hynix.
- Certain Table Saws Incorporating Active Injury Mitigation Technology and Components Thereof, Inv. No. 337-TA-965 (2016): We represented complainant **SawStop, LLC** in a patent infringement action against Robert Bosch GmbH of Germany and its subsidiary Robert Bosch Tool Corporation. An Initial Determination found a violation of Section 337 based on infringement of two asserted SawStop patents. On November 10, 2016, the Commission determined not to review an Initial Determination finding a violation of Section 337 of the Tariff Act of 1930, as amended. We successfully obtained a limited exclusion order on behalf of SawStop.
- Certain Computing or Graphics Systems, Inv. No. 337-TA-984 (2016): We represented third party **Samsung** in a patent infringement action between Advanced Silicon Technologies and various automobile manufacturers. The case settled.
- Certain Woven Textile Fabrics and Products Containing Same, Inv. No. 337-TA-976 (2015): We obtained a General Exclusion Order on behalf of **AAVN** in a patent infringement action against numerous respondents.

- Certain Radiotherapy Systems and Treatment Planning Software, and Components Thereof, Inv. No. 337-TA-968 (2015): We represented **Varian Medical Systems, Inc.** in a patent infringement action against Elekta AB, Elekta Ltd. and its subsidiaries. After a two week trial, on October 27, 2016, the Administrative Law Judge issued a final initial determination that Elekta infringed three Varian patents, and recommended that the ITC issue a limited exclusion order and cease and desist order covering Elekta's infringing products. The case settled favorably.
- Certain Standard Compliant Electronic Devices, Including Communication Devices and Tablet Computers, Inv. No. 337-TA-953 (2015): We represented third party **Samsung** in a patent infringement action between Apple and Ericsson. The case settled.
- Certain Electronic Devices, Including Wireless Communication Devices, Computers, Tablet Computers, Digital Media Players, and Cameras, Inv. No. 337-TA-952 (2015): We represented third party **Samsung** in a patent infringement action between Apple and Ericsson. The case settled favorably.
- Certain Light-Emitting Diode Products and Components Thereof, Inv. No. 337-TA-947 (2015): We were hired by **Cree** to bring patent infringement and false advertising claims against Feit Electric Company, Inc. and Unity Opto Technology, Ltd. After a six day trial, the ALJ issued a final initial determination that Respondents infringed multiple claims of five Cree patents, in addition to finding a violation of the Lanham Act and federal common law of unfair competition, with respect to the false advertising claims. We were able to obtain monetary and non-monetary sanctions against Respondent Feit for its discovery misconduct. The case settled favorably.
- Certain Ink Cartridges and Components Thereof, Inv. No. 337-TA-946 (2015): We are representing **Seiko Epson** as complainant against nearly 20 respondents for patent infringement. We obtained an initial determination of violation, which was affirmed by the Commission. On May 26, 2016, the Commission terminated the investigation by granting a general exclusion order for the benefit of Seiko Epson barring the entry of respondent's infringing ink cartridges, in addition to a cease and desist order against two domestic defaulting respondents.
- Certain Optical Disk Drives, Components Thereof, and Products Containing Same, Inv. No. 337-TA-897 (2014): We defended **MediaTek** in a Section 337 investigation in the International Trade Commission brought by Optical Devices, LLC alleging patent infringement related to optical disk drive technology. Optical Devices alleged that optical disc drives that used MediaTek's semiconductor chips infringed its asserted patent and sought an exclusion order on these products based on this alleged infringement. We obtained a complete victory for MediaTek by winning summary determination of lack of standing before the evidentiary hearing, terminating the Investigation in its entirety.

- Certain Integrated Circuits and Products Containing the Same, Inv. No. 337-TA-920 (2014): We defended **MediaTek** and **Sony** against patent infringement allegations brought by Freescale Semiconductor, Inc. The case settled favorably only a few months after institution.
- Certain Set-Top Boxes, Gateways, Bridges, and Adapters and Components Thereof, Inv. No. 337-TA-915 (2014): We defended **DIRECTV** against patent infringement allegations brought by ViXS Systems, Inc. of Canada. We obtained a walk-away settlement for DIRECTV during early discovery.
- Certain Navigation Products, Including GPS Devices, Navigation and Display Systems, Radar Systems, Navigational Aids, Mapping Systems and Related Software, Inv. No. 337-TA-900 (2014): We represented **Furuno** as complainant against Garmin, Navico and Raymarine for patent infringement. We settled on very favorable terms against all three respondents prior to the hearing.
- Certain Optical Disk Drives, Components Thereof, and Products Containing Same, Inv. No. 337-TA-897 (2014): We defended **MediaTek** in a Section 337 investigation brought by Optical Devices, LLC alleging patent infringement. The case settled favorably.
- Certain Consumer Electronics with Display and Processing Capabilities, Inv. No. 337-TA-884 (2013): We defended **Toshiba** against allegations of patent infringement from non-practicing entity Graphics Properties Holdings, Inc. (formerly Silicon Graphics). We obtained summary determination of invalidity on one patent. The case was tried as to the remaining patents in April 2014 and settled after trial.
- Certain Opaque Polymers, Inv. No. 337-TA-883 (2013): We successfully represented **The Dow Chemical Company** and **Rohm and Haas** as complainants against Turkish producer Organik Kimya for patent infringement and trade secret misappropriation on hollow-sphere polymers used in paints. The ALJ hearing the case found the respondent in default for document spoliation and ordered it to pay millions of dollars in Dow's legal fees. The full ITC and Federal Circuit affirmed the judgement.
- Certain Media Devices, Including Televisions, Blu-Ray Disc Players, Home Theater Systems, Tablets and Mobile Phones, Components Thereof and Associated Software, Inv. No. 337-TA-882 (2013): We defended **Toshiba** as respondent against allegations of patent infringement from non-practicing entity Black Hills Media. The case went to trial in February 2014, and we obtained a complete win for Toshiba with a finding of no violation.
- Certain Microelectromechanical Systems, Inv. No. 337-TA-876 (2013): We represented complainant **STMicroelectronics** against InvenSense for patent infringement of gyroscopes and accelerometers contained in consumer electronics

products. After a successful Markman ruling and several important pre-trial rulings the case settled favorably for STMicroelectronics on the second day of trial.

- Certain Wireless Electronic Devices, Inv. No. 337-TA-853 (2012): We represented **Barnes & Noble** as respondent against allegations of patent infringement from non-practicing entity Technology Properties Limited. The case was terminated with a finding of no violation.
- Certain Radio Frequency Integrated Circuits and Devices, Inv. No. 337-TA-848 (2012): We defended **RF Micro Devices, Motorola Mobility** and **HTC** in a Section 337 investigation relating to five semiconductor patents asserted by Peregrine Semiconductor. Shortly after the ITC Staff adopted our claim construction positions on the asserted patents, Peregrine filed a motion to voluntarily withdraw its complaint, leading to termination of the ITC proceedings.
- Certain Audiovisual Components and Products Containing the Same, Inv. No. 337-TA-837 (2014): We successfully defended respondents **MediaTek, Ralink** and **Funai** in an investigation brought by LSI and Agere alleging infringement of, among other patents, two patents purportedly relating to 802.11 Wi-Fi technology: U.S. Patent No. 6,452,958, which Complainants argued disclosed the “complementary code keying” modulation system used in the 802.11b physical layer, and U.S. Patent No. 6,707,867, which Complainants argued disclosed the timestamp-based synchronization protocol used in the 802.11 MAC layer. After a trial in April 2013, the ALJ issued an initial determination finding that, as a matter of claim construction, neither patent read on the 802.11 standard. Accordingly, the ALJ found no infringement of any of the 38 asserted claims from these patents. The Commission terminated the investigation with a finding of no violation.
- Certain Integrated Circuits, Chipsets, and Products Containing Same Including Televisions, Inv. No. 337-TA-822 (2012): We represented **MediaTek** in responding to serial-patent infringement complaints filed by Freescale. The ITC dismissed Freescale’s complaint based on res judicata.
- Certain Projectors with Controlled-Angle Optical Retarders, Components Thereof, and Products Containing Same, Inv. No. 337-TA-815 (2012): We defended **Sony** in an ITC Investigation regarding ultra-high resolution LCD projectors, including those used in movie theaters throughout the United States. Two weeks before trial and for nothing in return, Complainants requested that the investigation be terminated in its entirety, securing a total defense victory on behalf of Sony.
- Certain Automotive GPS Navigation Systems, Inv. No. 337-TA-814 (2012): We represented **Ford, Nissan, Clarion, e-Ride** and **Mitsubishi Electric** in wide-ranging patent infringement litigation brought by Swiss NPE Beacon Navigation. The complaint was withdrawn in the middle of discovery and the investigation was terminated.

- Certain GPS Navigation Products, Components Thereof, and Related Software, Inv. No. 337-TA-810 (2011): We represented **Furuno Electric Co., Ltd.** and **Furuno U.S.A., Inc.** against Honeywell International, Inc. in a 337 action where Furuno was accused of importing GPS products alleged to infringe four patents. The case settled favorably.
- Certain Portable Electronic Devices, Inv. No. 337-TA-797 (2012): We represented **HTC** in an ITC investigation initiated by Apple involving five patents covering multi-finger gestures, sensor-based rotation of user interface, and touch panel sensor design. One of the patents was dismissed by Apple prior to trial, following Markman hearing. Shortly before the initial determination was due, Apple settled with HTC, resulting in a 10-year cross-license with HTC reporting no material financial impact on its business. This was the first major settlement involving Apple's claims against Android-based smartphone and tablet manufacturers.
- Certain Electronic Digital Media Devices and Components Thereof, Investigation, Inv. No. 337-TA-796 (2013): We represented **Samsung** against Apple in an investigation based on 7 Apple patents. After a trial in June 2012, the Commission issued its Final Determination on August 9, 2013, finding violations of Section 337 based on old designs but permitting importation of newer Samsung products that use designs adjudicated by the Commission to be non-infringing.
- Certain Electronic Devices, Including Wireless Communication Devices, Portable Music and Data Processing Devices, and Tablet Computers, Inv. No. 337-TA-794 (2013): We represented **Samsung** against Apple in an International Trade Commission Investigation involving a Samsung patent, U.S. Patent No. 7,706,348, which had been declared as potentially essential to the ETSI UMTS (3G) standard. The ITC found that Apple violated Section 337 through the importation and/or sale of UMTS-compliant products that infringe that patent. After a trial and extensive rounds of briefing on technical and public interest issues, the Commission issued an exclusion and cease and desist order against Apple, that will prevent the importation of the iPhone 3G, 3GS (UMTS versions), 4 (UMTS versions), iPad 3G, and iPad 2 3G (UMTS versions) into the United States after a 60 day Presidential Review Period. In finding a violation, the ITC rejected all of Apple's defenses including its assertion that Samsung had allegedly violated certain F/RAND obligations with respect to its assertion and licensing of its declared essential patents. Although Apple had been named as a respondent in the ITC a number of times, this was the first ITC exclusion order to be issued against Apple, and the first exclusion order obtained by Samsung at the ITC.
- Certain Hydroxyprogesterone Caproate and Products Containing Same, No. 2919 (2012): KV Pharmaceutical filed a complaint with the ITC alleging that **Wedgewood Pharmacy** and others were unlawfully importing and selling compounded Hydroxyprogesterone Caproate in the United States, allegedly in violation of KV's exclusive rights to market this product for certain indicated uses under FDA's orphan drug program. We successfully argued that KV had failed to state a

cognizable claim under Section 337 and, in particular, that the FDA, rather than the ITC, has jurisdiction to enforce the Food, Drug, and Cosmetic Act.

- Certain Handheld Electronic Computing Devices, Inv. No. 337-TA-769 (2011): We represented **Barnes & Noble** in defending its popular Nook e-readers from claims of patent infringement by Microsoft. The case was tried in February 2012 and settled favorably prior to the judge's final determination.
- Certain Digital Television and Components Thereof, and Certain Electronic Devices Having a Blu-Ray Disc Player and Components Thereof, Inv. No. 337-TA-764/765 (2011): We represented **Sony** in 337 actions filed against LG Electronics. The cases were settled favorably.
- Certain Semiconductor Chips and Products Containing the Same, Inv. No. 337-TA-753 (ITC): We served as lead counsel for a large group of chip suppliers (**MediaTek, Broadcom, Nvidia, Freescale, and STMicroelectronics**) and Certain of their customers (including **Cisco, Motorola, and Oppo Digital**) in an ITC investigation initiated by Rambus. The ITC action involved six patents. Three of the patents are owned by Rambus and concern methods of writing data to a DRAM. The other three patents are owned by MIT and exclusively licensed by Rambus. Rambus asserted that the MIT patents cover the use of a particular chip-to-chip SerDes (serialization-deserialization) equalization technique in a wide range of standardized interfaces including PCIe, SATA, SAS, and Displayport. We tried the case in October 2011 and prevailed on all patents.
- Certain Mobile Devices and Related Software, Inv. No. 337-TA-750 (2011): We represented **Motorola Mobility, Inc.** against Apple Inc., in an action brought by Apple alleging infringement of three patents. After a two-week hearing, ALJ Essex issued an initial determination finding no violation of any of the asserted patents for various reasons. The Commission affirmed the initial determination and found no violation, terminating the investigation.
- Certain Mobile Devices, Associated Software, and Components Thereof, Inv. No. 337-TA-744 (2010): We represented **Motorola, Inc.** in several patent actions brought by Microsoft Corp. According to Microsoft, the asserted patents allegedly described features that "are essential to the smartphone user experience, including synchronizing email, calendars and contacts, scheduling meetings, and notifying applications of changes in signal strength and battery power." In the ITC case, filed on October 1, 2010, Microsoft sought an Exclusion Order barring Motorola's importation of Android smartphone devices, prohibiting further sales of such products that have already been imported, and halting the marketing, advertising, demonstration and warehousing of inventory and use of such imported products in the United States. The ITC case was tried in August 2011; a violation was found and a limited exclusion order was issued on one patent as to which Motorola did not contest infringement; the Commission found no violation on the other patents that Microsoft asserted. Motorola subsequently modified its products so that the exclusion order did not impact its business. Microsoft then sued Customs in U.S.

District Court, seeking a preliminary injunction for Customs' decision to allow Motorola to import its redesigned products. Motorola intervened in support of Customs, and the ITC filed an amicus brief supporting Customs' motion to dismiss. That subsidiary action remains pending.

- Certain Digital Set Top Boxes and Components Thereof, Inv. No. 337-TA-712 (2011): On behalf of **Cablevision**, we successfully obtained a finding of no violation with respect to all patents asserted by Verizon against Cablevision in the ITC. Verizon originally filed its complaint with the ITC in March 2010, asserting one claim from each of five patents against digital set-top boxes ("STBs") that Cablevision acquires from third-party vendors, as well as software that is downloaded by customers in connection with their use of certain services on those STBs. After a seven-day hearing, the Administrative Law Judge issued an Initial Determination finding no violation with respect to four of the five asserted patents, but finding a violation of the fifth asserted patent. Although the Commission initially determined not to review the ALJ's determination, Cablevision persuaded the Commission to reconsider that decision. On reconsideration, the Commission found no violation by Cablevision and terminated the investigation, thereby giving Cablevision a complete victory.
- Certain Personal Data and Mobile Communications Devices and Related Software (2010-2011): We represented **HTC Corp., HTC America, Inc. and Exedeia, Inc.**, in patent litigation brought by Apple. HTC Corp., HTC America, Inc., and Exedeia manufacture and supply mobile communication devices and components to customers in the United States. The case was tried in April 2011, and the Commission found no violation on all patents for which Quinn Emanuel was responsible. The dispute was later settled while on appeal.
- Certain Ink Cartridges and Components Thereof, Inv. No. 337-TA-565 (enforcement) (2011): We represented complainants **Epson Portland Inc., Epson America, Inc. and Seiko Epson Corporation** against Ninestar Technology Co., Ltd. and its U.S. distributor Ninestar Technology Company, Ltd. in the ITC. In 2007, during the Violation Phase of the ITC Investigation, Epson showed widespread infringement of its patents resulting in the ITC's issuance of a general exclusion order, a limited exclusion order and cease and desist orders stopping the importation and sale of infringing ink cartridges by the Ninestar respondents and others. The investigation involved 31 claims from 11 patents against 24 respondents and more than 1000 infringing products. The Federal Circuit affirmed the ITC's orders in a per curiam decision. In 2008, Epson brought an Enforcement action against Ninestar and others for continued infringing imports in violation of the ITC's remedial orders. After a hearing in the ITC, the ITC imposed penalties of over \$20 million. On December 13, 2010, the Ninestar respondents sought an advisory opinion that (1) certain of their products did not violate the remedial orders and (2) the remedial orders should be modified. Epson responded by requesting that the remedial orders be modified to exclude from entry components of infringing cartridges. The ITC consolidated the proceedings. The case was tried November 2011. In April 2012, after the parties reached a settlement agreement, the ITC

modified the general exclusion order and cease and desist orders as requested, and terminated the consolidated proceedings.

- Certain Ink Cartridges, Inv. No. 337-TA-565 (ITC 2007 and 2009): On behalf of **Seiko Epson**, we brought one of the largest patent infringement cases ever filed with the ITC, asserting 11 patents and 31 claims against more than 1,000 different cartridge models sold by 25 manufacturers, importers, and distributors of aftermarket ink cartridges. After a seven-day hearing, we prevailed on every asserted patent against every accused product that was adjudicated and every respondent that had not entered into a consent order. The ITC then prohibited all companies, whether or not they were parties, from importing and selling infringing cartridges in the United States. After a three-day trial in January 2009, an Administrative Law Judge (“ALJ”) at the ITC issued an Initial Determination ruling that several foreign respondents and their U.S. subsidiaries violated certain ITC orders that bar imports and sales of infringing inkjet cartridges. The Commission later affirmed the ALJ’s findings that the ITC orders were violated, and imposed penalties of \$11.1 million against one group of related respondents, \$9.7 million against another group and \$700,000 against another group. The penalties are among the largest penalties ever imposed in an ITC enforcement proceeding. Other Representations Involving Our Lawyers:
- Certain Electronic Devices, Including Mobile Phones, Mobile Tablets, Portable Music Players, and Computers, Inv. No. 337-TA-701/704/771 (2011): Some of our partners represented a **global telecommunications company** in high-stakes patent litigation against Apple, which spanned three separate ITC investigations and resulted in an extraordinarily large settlement in the client’s favor.
- Certain Muzzle-Loading Firearms and Components Thereof, Inv. No. 337-TA-777 (2011): Some of our partners defended a **Spanish manufacturer of black powder rifles** in a patent suit brought by Smith & Wesson. The case settled before trial.
- Certain Automated Media Library Device, Inv. No. 337-TA-746 (2011): Some of our partners represented one of the **world’s largest computer makers** in litigation relating to media libraries. The case was tried in September 2011 and settled before the judge issued his final determination.
- Certain Components for Installation of Marine Autopilots with GPS or IMU, Inv. No. 337-TA-738 (2011): Some of our partners represented a **marine navigation company** in patent litigation involving autopilot systems. The case settled favorably before trial.
- Certain Flash Memory Chips, Inv. No. 337-TA-735 (2011): Some of our partners represented a global telecommunications company in a patent dispute regarding NAND and NOR flash memory.
- Certain Electronic Imaging Devices, Inv. No. 337-TA-726 (2011): Some of our partners represented a **global telecommunications company** in a camera-related patent dispute brought by Flashpoint. The case was settled prior to trial.

- Certain Electronic Paper Towel Dispensing Devices and Components Thereof, Inv. No. 337-TA-718 (2011): Some of our partners represented a **global paper products company** in a patent dispute against numerous manufacturers and importers of infringing paper towel dispensers. After a finding of infringement on summary determination, the client obtained a general exclusion order prohibiting importation of all infringing devices from any source.
- Certain Display Devices, Including Digital Televisions and Monitors, Inv. No. 337-TA-713 (2010): Some of our partners represented a **global electronics manufacturer** against multiple respondents for infringement of patents relating to display devices. The cases settled favorably.
- Certain Mobile Telephones and Wireless Communications Devices Featuring Digital Cameras, Inv. No. 337-TA-703 (2010): Some of our partners represented **the most well-known photography company** in the world against Apple and RIM.
- Certain DC-DC Controllers and Products Containing Same, Inv. No. 337-TA-698 (2010): Some of our partners represented a **Taiwanese semiconductor company** in seeking relief for patent infringement and trade secret misappropriation. Respondents filed a consent order agreeing not to import accused products on the eve of trial.
- Certain Welding Bulk Welding Wire Containers and Components Thereof and Welding Wire, Inv. No. 337-TA-686 (2010): Some of our partners represented a **European welding wire supplier** against allegations of infringement. The case was tried in 2010, and the Commission found no infringement and terminated the investigation.
- Certain Non-Shellfish Derived Glucosamine, Inv. No. 337-TA-668 (2010): Some of our partners represented a **Chinese health products company** accused of patent infringement by Cargill. The investigation was settled favorably very early in the litigation.
- Certain Electronic Devices, Including Handheld Wireless Communications Devices, Inv. No. 337-TA-673 (2009): Some of our partners represented a **global telecommunications company** in an investigation brought by licensing entity Saxon Innovations. The case settled favorably early during discovery.
- Certain Unified Communications Systems, Products Used with such Systems, and Components Thereof, Inv. No. 337-TA-598 (2008): One of our partners successfully defended a respondent in an ITC action against Microsoft alleging infringement of four patents involving unified communication systems. After trial, the Commission found none of the patents infringed and one of the patents invalid.
- Certain Catheters, Consoles, and Other Apparatus for Cryosurgery, Inv. No. 337-TA-642 (2008): Some of our partners represented a **small, Canadian medical products company** in a bet-the-company litigation brought by its market rival

CryoCor, Inc., which settled favorably prior to trial. Immediately thereafter, the client was acquired by Medtronic.

- Certain Variable Speed Wind Turbines, Inv. No. 337-TA-641 (2008): Some of our partners represented a **Spanish alternative energy utility** in third party practice. The Commission terminated the investigation after finding no violation.
- Certain Short-Wavelength Light Emitting Diodes, Laser Diodes and Products Containing Same, Inv. No. 337-TA-640 (2008): Some of our partners represented a **global telecommunications company** in responding to allegations that certain LEDs infringe a patent owned by a former university professor who seeks exclusion of products containing those LEDs from the United States. The investigation was settled favorably.
- Certain R-134a Coolant (otherwise known as 1,1,1,2-tetrafluoroethane), Inv. No. 337-TA-623 (2008): One of our partners represented a **global chemical company** in an investigation brought against SinoChem for infringement of a patented process of producing an ozone-friendly refrigerant. The investigation was settled favorably on appeal.
- Certain Hard Disk Drives, Inv. No. 337-TA-616 (2008): Some of our partners represented a **California-based hard disk drive manufacturer** in an investigation brought against hard drives and computers that contain them. Complainant withdrew its case prior to trial.
- Certain 3G Mobile Handsets, Inv. No. 337-TA-613 (2008): Some of our partners represented a **global telecommunications company** in an investigation brought by InterDigital Communications LLC. The ITC found non-infringement of any of InterDigital's patents and terminated the investigation.
- Certain Nitrile Rubber Gloves, Inv. No. 337-TA-612 (2008): Following trial, some of our partners obtained a finding of no violation on behalf of a **global medical equipment supplier and its affiliates** in an investigation regarding medical examination gloves. The victory was confirmed by the Federal Circuit.
- Certain Magnifying Loupe Products, Inv. No. 337-TA-611 (2008): Some of our partners represented a respondent in this investigation. The case settled favorably.
- Certain Digital Cameras, Inv. No. 337-TA-593 (2007): Some of our partners represented complainant in this investigation. The case settled favorably.
- Certain Stringed Instruments, Inv. No. 337-TA-586 (2007): Some of our partners represented one of the respondents in this investigation. The case settled favorably.
- Certain Mobile Telephone Handsets, Inv. No. 337-TA-578 (2007): In one of the largest global intellectual property wars ever, our ITC partners defended a **global telecommunications company** in multiple cases in the United States, including an

ITC action, and coordinated cases in the U.K., France, Italy, Germany, Finland, Holland, and China. The Administrative Law Judge denied the plaintiff's request to enjoin the client from importing its handsets into the United States. It also held that none of the three asserted patents were infringed and that one was invalid under *KSR Int'l v. Teleflex*. This provided a complete defense victory—allowing the client to continue importing hundreds of millions of handsets into the United States—and set the stage for a global settlement on the eve of trial in another case in Delaware.

- Certain NAND and NOR Flash Memory Products, Inv. No. 337-TA-560 (2006): Some of our partners represented a **global telecommunications company** in third party discovery. The investigation was terminated with a finding of no violation.
- Certain NAND Flash Memory Products, Inv. No. 337-TA-553 (2006): Some of our partners represented a **global flash memory company** against Toshiba. The case settled favorably.
- Certain Automotive Grilles, Inv. No. 337-TA-540 (2005): Some of our partners defended the **principal importer of aftermarket automotive body parts from Taiwan** in an investigation brought by one of the big three US automakers. Early in the investigation, our partners found a public disclosure that rendered the asserted patent invalid and the case was withdrawn.
- Certain Automotive Fuel Caps, Inv. No. 337-TA-532 (2005): Some of our partners represented the respondent in this investigation. The case was terminated when the complainant withdrew the complaint.
- Certain Electric Robots and Component Parts Thereof, Inv. No. 337-TA-530 (2005): Some of our partners represented a **German paint robot manufacturer** who was sued by its Japanese rival. Following trial, the case was terminated with a finding of no infringement and invalidity.
- Certain NAND Flash Memory Circuits, Inv. No. 337-TA-526 (2005): Some of our partners represented a third party in an investigation relating to flash memory.
- Certain Point of Sale Terminals, Inv. No. 337-TA-524 (2004): Some of our partners defended an **Irish manufacturer of credit and debit card processing machines** against a claim filed by a non-practicing entity. In November 2004, our partners won a final determination that the ITC lacked jurisdiction over the client or its products.
- Certain Injectable Implant Compositions, Inv. No. 337-TA-515 (2004): Some of our partners represented multiple respondents in an investigation regarding injectable implants. The case settled favorably.
- Certain Encapsulated Integrated Circuit Devices, Inv. No. 337-TA-501 (2004): Some of our partners represented a **global semiconductor company** in a case brought by a competitor. The case was terminated with a finding of no violation.

- Certain Insect Traps, Inv. No. 337-TA-498 (2004): Some of our partners represented the lead respondent in an investigation involving propane-based insect traps. In a novel move, our partners succeeded in terminating the investigation as to one of the patents and certain of the accused products during the discovery period without a hearing and without any findings of a Section 337 violation. Our partners tried the remaining case in late May 2004 and won a final determination of non-infringement.
- Certain Universal Transmitters for Garage Door Openers, Inv. No. 337-TA-497 (2004): Some of our partners represented one of the **largest garage door manufacturers** in an investigation against its competitors under the Digital Millennium Copyright Act.
- Certain Zero-Mercury-Added Alkaline Batteries, Inv. No. 337-TA-493 (2003): Some of our partners represented a **global battery company** in an investigation against multiple respondents.
- Certain Machine Vision Systems, Inv. No. 337-TA-484 (2003): Some of our partners represented a respondent in an investigation for patent infringement. The case settled favorably.
- Certain Electronic Educational Devices, Inv. No. 337-TA-475 (2003): Some of our partners represented a respondent in an investigation for patent infringement. The case settled favorably.
- Certain Two-Handle Centerset Faucets, Inv. No. 337-TA-422 (2000): Some of our partners represented **one of America's largest plumbing products companies** and obtained a rare "general exclusion order" instructing U.S. Customs to seize or deny entry to any imported infringing faucets. The victory was highlighted by the ITC Bar Association as the most significant ITC patent litigation of the year and resulted in detentions and seizures by U.S. Customs of many competitive products.