WHITE PAPER

Section 337 at the U.S. International Trade Commission:

A Practitioner's Roadmap for Streaming, Connected-Device, and Media-Technology IP Owners

Dr. Edwin A. Hernandez-Mondragon, PhD

Founder, EGLA Corp

July 2026

This white paper is provided for general informational purposes and does not constitute legal advice. It should not be relied upon as a substitute for consultation with qualified ITC counsel regarding any specific matter.

Executive Summary

Section 337 of the Tariff Act of 1930 authorizes the U.S. International Trade Commission ("ITC" or "Commission") to investigate and remedy unfair acts in the importation of articles into the United States, including patent infringement, trademark and copyright infringement, and trade secret misappropriation. Because the U.S. hardware supply chain for streaming players, connected televisions, set-top boxes, and audio devices is manufactured almost entirely overseas, Section 337 has become an increasingly important enforcement venue for patent and trade secret owners in the streaming and media-technology sector.

This paper synthesizes three components of ITC practice into a single reference: (1) why the Commission has become an attractive forum relative to federal district court; (2) the specific procedural and documentary requirements for filing a compliant Section 337 complaint; and (3) how streaming, connected-TV, and audio-technology complainants have actually built and litigated these cases, including the domestic industry theories that have succeeded. It closes with a set of practical considerations for an IP owner evaluating whether, and how, to bring a Section 337 action.

1. Why the ITC Has Become a Preferred Enforcement Venue

The ITC's Section 337 caseload has grown substantially over the past two decades, from 27 active investigations in fiscal year 2000 to 140 in fiscal year 2022. Trade secret misappropriation investigations specifically rose from one active matter in 2017 to nine in 2021 — an 800 percent increase — after averaging roughly two filings per year between 2013 and 2017. Four structural features of the forum explain this growth.

1.1 Worldwide Jurisdiction

The Commission's jurisdiction attaches to the imported article, not to the geography of the underlying conduct. A trade secret misappropriated entirely outside the United States can still support a Section 337 investigation if a product made using that trade secret is imported into the country. More than 80 percent of Section 337 trade secret cases filed since 2011 have involved conduct in the Asia-Pacific region — a jurisdictional reach that frequently surprises respondents who assume that extraterritorial conduct falls outside U.S. regulatory authority.

1.2 A Near-Mandatory Injunction

Where U.S. district courts apply the discretionary four-factor injunction standard, the ITC's remedy is comparatively automatic: upon a finding of violation, the Commission issues an exclusion order unless the public interest weighs against exclusion, an outcome the Commission has found only rarely. Exclusionary periods are calibrated to the time it would take a respondent to independently develop the same technology, and have ranged from one month to 26 years in past investigations. The 2021 settlement between SK Innovation and LG Energy Solution — U.S. $1.8 billion in cash and royalties following an ITC trade secret violation finding — illustrates the leverage a credible exclusion threat can generate, even though no money damages are awarded by the Commission itself.

1.3 Speed

Section 337 investigations completed between 2018 and 2022 averaged 17.6 months from institution to final determination — a period that includes an approximate six-month COVID-19-

related delay — with trade secret matters running about three months longer. Over the same period, comparable trade secret cases in U.S. district court averaged 27.8 months to verdict. More recent Commission guidance describes hearings typically occurring seven to nine months after institution, with final decisions issued, on average, 17 to 18 months after filing.

1.4 Preclusive Effect for Trade Secret Findings

District courts are generally required to follow ITC findings on trade secret misappropriation, foreclosing relitigation of the same issues by the losing party. This allows a two-track strategy in which a complainant obtains a swift exclusion order at the Commission and then leverages that finding to pursue money damages in parallel district court litigation. Patent infringement findings at the ITC, by contrast, do not carry the same preclusive weight in district court.

1.5 The Injury Requirement as a Counterweight

Section 337 claims grounded in patent, copyright, trademark, mask work, or vessel hull design infringement carry no separate injury requirement. Claims based on trade secret misappropriation or other "unfair acts," however, must satisfy the domestic industry requirement by demonstrating that the conduct threatens or has caused substantial injury to a defined U.S. industry. Failure on this element ends the case before the merits of misappropriation are reached; in at least one recent investigation, the Commission required a ruling on injury within 100 days of institution, ahead of any briefing on the underlying conduct.

2. Filing Requirements: Building a Compliant Complaint

The Commission's procedural rules are exacting, and a defective filing can be returned for supplementation before an investigation is even instituted — consuming calendar time in a process whose principal advantage is speed.

2.1 Filing Location and Format

Complaints and related filings are submitted to Docket Services at 500 E Street, S.W., Room 112-A, Washington, D.C. 20436, during business hours of 8:45 a.m. to 5:15 p.m. Eastern Time. Certain public documents may be filed electronically through the Commission's Electronic Document Information System (EDIS) at edis.usitc.gov; confidential materials generally must still be filed in paper form over the counter. Every filing, public or confidential, must be accompanied by a completed EDIS cover sheet.

2.2 Components of a Complete Complaint Package

- A cover letter identifying all included documents and any for which confidential treatment is requested.
- A Request for Confidential Treatment letter, where applicable, invoking 19 C.F.R. §§ 201.6 and 210.5.
- A Statement of Public Interest, not exceeding five pages inclusive of attachments.
- EDIS cover sheets for both public and confidential versions of the filing.
- The complaint itself, signed under oath, with the complainant's and counsel's name, address, and telephone number appearing on the first page.

2.3 Copy Requirements

Document	Copies Required
Public complaint	Original (unbound) + 8 copies
Public exhibits	1 copy, approved portable media
Certified IP registration papers (patent/trademark/copyright/mask work/vessel hull)	Original + 3 copies, portable media
Patent prosecution histories & technical references	4 copies, portable media
Confidential complaint (if applicable)	Original (unbound) + 8 copies
Confidential exhibits	1 copy, approved portable media
Per named respondent	1 copy of public complaint + exhibits
Per foreign respondent's embassy	1 copy of public complaint

Paper filings before an Administrative Law Judge ordinarily require an original plus six copies; filings before the full Commission require an original plus twelve. Insufficient copies are grounds for the Commission to decline the filing outright.

2.4 Technical Exhibits for Patent-Based Complaints

Patent-based complaints must be accompanied, for each asserted patent, by a certified prosecution history, copies of the technical references cited in that history, and claim charts demonstrating infringement of each asserted independent claim. Where the complaint relies on license agreements — whether to establish standing or to support a domestic industry showing — those agreements must be produced as exhibits, confidentially where necessary. Materials filed with the Commission but not attached as complaint exhibits must still be served on each represented respondent within five days of that respondent's notice of appearance and agreement to be bound by the protective order.

2.5 Confidentiality and Service

Before a protective order issues — typically shortly after institution — documents may be treated as confidential if properly designated and accepted as such by the Secretary to the Commission. Once entered, the protective order governs handling of confidential material for the balance of the investigation; such orders typically permit outside counsel, but not in-house counsel, to access the opposing party's confidential business information. A complaint is not served on a proposed respondent unless accompanied by a motion for temporary relief; where the Commission institutes an investigation, the Commission itself serves the complaint and notice of investigation on all named respondents and relevant foreign embassies.

2.6 Institution Timeline

The Commission normally determines whether to institute an investigation within 30 calendar days of filing, or 35 days where a motion for temporary relief accompanies the complaint. The Commission's Office of Unfair Import Investigations reviews the complaint for sufficiency beforehand and may request supplementation. Once instituted, the assigned Administrative Law Judge sets a target completion date within 45 days and issues Ground Rules that supplement the Commission's own procedural rules for that specific investigation.

3. Application to Streaming and Connected-Device Technology

Streaming and connected-device hardware — smart televisions, streaming players, set-top boxes, speakers, and remote controls — is manufactured overseas and imported into the United States at high volume, making it a natural fit for Section 337 enforcement. Several recent and pending investigations illustrate how complainants in this sector have structured their cases.

3.1 Representative Investigations by Technology Layer

Adaptive bitrate streaming. DivX, LLC asserted patents covering adaptive bitrate streaming of multimedia files against TCL's video processing devices and smart televisions (Inv. No. 337-TA-1297, instituted 2022).

Music and audio streaming. Sonos asserted patents covering music streaming, playback, and distribution against Google, with expert testimony addressing domestic industry, remedy, and bond. Separately, streaming-audio multimedia patents were asserted to block importation of wireless speakers and audio systems in the Certain Wireless Audio Systems investigations (Inv. Nos. 337-TA-1010 and 337-TA-1071).

Smart TVs and streaming-device infrastructure. InterDigital asserted patents against TCL's video-capable smart televisions and monitors, seeking a limited exclusion order and cease and desist orders (Inv. No. 337-TA-1495, instituted 2026). Universal Electronics named Roku and TCL entities as respondents in an action over patents implicated in streaming players, set-top boxes, and remote controllers (complaint filed April 2020). Roku, as complainant, asserted universal-remote and device-pairing patents against LG and Samsung televisions and remote controls (Inv. No. 337-TA-1263).

Program guides and DVR functionality. Rovi and TiVo pursued ARRIS over on-screen programming guide technology in digital video receivers — a case ARRIS won after a five-day evidentiary hearing, illustrating that exclusion-order exposure runs in both directions.

Trade secrets, for reference. No streaming-specific trade secret case has yet produced a public settlement of comparable scale, but the SK Innovation / LG Energy Solution battery case ($1.8 billion) remains the reference point for what a credible exclusion threat is worth in a negotiated resolution.

3.2 Domestic Industry Considerations for Licensing-Driven Portfolios

For patent-based claims, the domestic industry requirement has two components: a technical prong (a domestic article practicing the patent) and an economic prong (significant investment in plant and equipment, significant employment of labor or capital, or substantial investment in engineering, research and development, or licensing). The licensing-and-engineering path is generally the more relevant route for a complainant whose business model centers on IP licensing rather than large-scale domestic manufacturing. Where the portfolio underlying a licensing program is large, Commission precedent requires a demonstrated nexus between the specific licensing activity relied upon and the particular patents asserted in that investigation — an undifferentiated, portfolio-wide licensing narrative is not sufficient on its own.

For trade secret claims, the domestic industry inquiry is categorically different: rather than technical and economic prongs tied to a patent, the complainant must show that the threat or effect of the misappropriation is to destroy or substantially injure a U.S. industry, prevent its establishment, or restrain competition. Because this threshold question can be resolved on an expedited basis — in some matters within 100 days of institution — it warrants the same pre-filing diligence as the underlying misappropriation claim itself.

3.3 Practical Considerations Before Filing

- Claim charts must map to the specific accused product implementation, not to an industry standard or specification, even where the asserted patents are standard-adjacent (adaptive bitrate delivery, audio codecs, device-pairing protocols).
- License agreements relied upon for standing or domestic industry must be produced as exhibits at the time of filing, confidentially where appropriate — not introduced later in discovery.
- Respondent geography should inform strategy from the outset; consumer streaming hardware respondents are overwhelmingly Asia-based manufacturers or their U.S. import affiliates, which shapes service, translation, and coordination with U.S. counsel of record.
- Exclusion-order exposure runs both ways; a domestic industry record that is thin invites an early, dispositive loss rather than a negotiated resolution.
- Where a parallel district court action is pending on overlapping patent or trade secret claims, the non-preclusive status of ITC patent rulings (as against the generally preclusive status of ITC trade secret rulings) should inform a deliberate claim-allocation strategy between the two forums, rather than default duplication.

4. Conclusion

The ITC offers patent and trade secret owners in the streaming and connected-device sector a combination of worldwide jurisdiction, comparatively fast adjudication, and a near-automatic exclusionary remedy that is difficult to replicate in U.S. district court. That leverage, however, is conditioned on rigorous compliance with the Commission's filing rules and a domestic industry record built before the complaint is filed — not assembled after institution. For an IP owner with a licensing-driven portfolio evaluating enforcement options against imported streaming hardware, Section 337 merits serious consideration as either a standalone remedy or a complementary track to parallel federal court litigation.

References

- White & Case LLP, “Trade secret litigation at the US International Trade Commission: A rising fence,” whitecase.com.
- U.S. International Trade Commission, Docket Services, “Filing a Section 337 Complaint” (guidance document).
- U.S. International Trade Commission, Publication No. 4105, “Section 337 Investigations: Answers to Frequently Asked Questions” (March 2009).
- Congressional Research Service, “An Introduction to Section 337 Intellectual Property Litigation at the U.S. International Trade Commission,” congress.gov (2024).
- Troutman Pepper Locke, “Overview of a Section 337 Investigation at the ITC” (2025).
- USITC press releases and notices of investigation: Certain Video Processing Devices (337-TA-1297); Certain Video-Capable Electronic Devices (337-TA-1495); Certain Electronic Devices Including Streaming Players (complaint filed 2020); Certain Televisions, Remote Controls (337-TA-1263).

- J.S. Held LLC, “ITC 337 Investigations” (expert engagement summaries, Sonos v. Google).
- Kilpatrick Townsend & Stockton LLP, Crowell & Moring LLP, Alston & Bird LLP, and Weil, Gotshal & Manges LLP, respective Section 337 practice summaries.

This white paper reflects publicly available Commission rules, guidance, and case filings as of the date of publication and does not constitute legal advice. Readers evaluating a specific Section 337 filing should consult qualified ITC counsel and confirm current procedural posture through the Commission's EDIS database at edis.usitc.gov.