

Client Alert: A Framework for Analyzing Articles that Infringe Under Section 337

Publications

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Section 337, the statute governing unfair trade practice investigations at the United States International Trade Commission (ITC), makes it unlawful to import into the United States, to sell for importation into the United States, or to sell after importation “articles that . . . infringe” a valid and enforceable United States patent. 19 U.S.C. § 1337(a)(1)(B)(i). The question of whether imported components of an infringing product constitute “articles that infringe” has been the subject of numerous Commission and Federal Circuit opinions. Recently, in *The Matter of Certain High-Density Fiber Optic Equipment and Components Thereof (337-TA-1194)(Fiber Optic Equipment)*, the Commission reiterated its position that the statutory phrase “articles that infringe” can cover components that are combined with other domestically produced components after importation to directly infringe, if the respondent induces others to commit the infringing act. Further, Chair Jason Kearns offered an additional framework for use in future investigations involving a respondent that uses the component after importation to directly infringe the patent. [Read more.](#)

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