FORUM ON SECTION 337

Presented by ABA Section of International Law’s
International Trade Committee and
International Intellectual Property Committee, and
the ABA Section of Intellectual Property’s ITC Committee,
in Cooperation with the ITC Trial Lawyers Association

December 2, 2008

EVOLUTION OF THE USE OF SECTION 337
CHARTS

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CHARTS

1. Number of Section 337 Investigations, 1990-2007 (by fiscal year)
2. Number of Section 337 Investigations, 1972-2008 (by calendar year)
3. Section 337 Respondents by country, 1972-2008 (by calendar year)
4. Section 337 Respondents by country, 1972-2008 (by calendar year), top six countries
5. Geographic Distribution of Section 337 Respondents, 2000-2007
6. Usage of Section 337 by Non-U.S. Based Complainants, 2000-2007
7. Representative Investigations Involving Non-U.S. Based Complainants
8. Section 337 Dispositions, 2000-2007
9. Some Recent Section 337 Investigations in which Counter-Complaints Have Been Filed

Charts 1, 5, 6, 7, and 8 courtesy of Tom Schaumberg.
Charts 2, 3, and 4 courtesy of Alex Koff.
Chart 9 courtesy of Jim Altman.
Increasing Use of Section 337

~ 12/Year

~ 26/Year

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All 337 Investigations Since 1972
As of December 1, 2008

Source: http://info.usitc.gov/oui/public/337inv.nsf/All
All 337 Investigations Since 1972
As of December 1, 2008

Source: http://info.usitc.gov/oui/public/337inv.nsf/All
Geographic Distribution

2000-2007

- 1% Australia

China 31%
Taiwan 22%
Japan 16%
Korea 11%
Hong Kong 9%
Other 11%

65% Asia
19% Europe
3% Middle East
12% Americas
## Representative Investigations Involving Non-U.S. Based Complainants, By Country

<table>
<thead>
<tr>
<th>Country</th>
<th>Complainant</th>
<th>ITC Matter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada</td>
<td>Sidel Canada Inc.</td>
<td>Certain Buffer Systems (337-TA-609)</td>
</tr>
<tr>
<td>Denmark</td>
<td>Bavarian Nordic A/S</td>
<td>MVA Viruses and Vaccines (337-TA-550)</td>
</tr>
<tr>
<td>Finland</td>
<td>Nokia Corporation</td>
<td>Wireless Communication Chips and Chipsets (337-TA-614)</td>
</tr>
<tr>
<td>France</td>
<td>SAS PRAXIM</td>
<td>Devices for Organ Positions (337-TA-555)</td>
</tr>
<tr>
<td>Germany</td>
<td>OSRAM Gmbh</td>
<td>Light-Emitting Diodes (337-TA-512)</td>
</tr>
<tr>
<td>Italy</td>
<td>Fabio Perini S.P.A.</td>
<td>Tissue Converting Machinery (337-TA-548)</td>
</tr>
<tr>
<td>Japan</td>
<td>Ajinomoto</td>
<td>L-Lysine Feed Products (337-TA-571)</td>
</tr>
<tr>
<td>Japan</td>
<td>Seiko Epson Corporation</td>
<td>Ink Cartridges (337-TA-565)</td>
</tr>
<tr>
<td>Japan</td>
<td>Toshiba Corporation</td>
<td>Flash Memory Devices (337-TA-552)</td>
</tr>
<tr>
<td>Korea</td>
<td>Hynix Semiconductor Inc.</td>
<td>NAND Flash Memory Devices (337-TA-553)</td>
</tr>
<tr>
<td>Korea</td>
<td>Samsung Telecommunications</td>
<td>Wireless Communication Equipment (337-TA-577)</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Unilin Beheer B.V.</td>
<td>Laminated Floor Panels (337-TA-545)</td>
</tr>
<tr>
<td>Sweden</td>
<td>Telefonaktiebolaget LM Ericsson</td>
<td>Wireless Communication Devices (337-TA-583)</td>
</tr>
<tr>
<td>Taiwan</td>
<td>Media Tek, Inc.</td>
<td>Optical Disk Controller Chip (337-TA-523)</td>
</tr>
<tr>
<td>UK</td>
<td>GlaxoSmithKline PLC</td>
<td>Coamoxiclav Products 337-TA-479</td>
</tr>
</tbody>
</table>

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Dispositions (2000 – 2007)

- Settled: 47%
- No Violation: 16%
- Violation: 25%
- Complaint Withdrawn: 11%
- Other: 1%

*Terminated due to arbitration*
Some Recent Section 337 Investigations
in which Counter-Complaints Have Been Filed

Integrated Circuits (LSI v. Qimonda), Invs. 648, 2641

LCD’s (Samsung v. Sharp), Invs. 631, 634

Computer Systems (HP v. Acer) Invs. 606, 618

Semiconductor Devices (Renesas v. Samsung) Invs. 595, 607

GPS (SiRF v. Global Locate/Broadcom) Invs. 596, 602

Wireless Communication Devices (Qualcomm v. Nokia) Invs. 578, 614

Wireless Communication Equipment (Samsung v. Ericsson) Invs. 577, 583

Portable Digital Media Players (Creative Labs v. Apple) Invs. 573, 576

Flash Memory (Toshiba v. Hynix) Invs. 552, 553, see also 592