

# Intellectual Property Alert

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## COVID-19: The United States International Trade Commission Extends the Postponement of All In-Person Hearings in Section 337 Investigations Until At Least July 10, 2020

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### Key Points

- On May 14, 2020, the ITC extended its COVID-19 Action Plan through July 10, 2020, thereby postponing all in-person hearings in Section 337 investigations until after July 10, 2020.
- Most recently, the ITC had postponed all in-person hearings until June 10, 2020.
- The ALJs of the ITC can continue to conduct their investigations in accordance with their established procedures.
- Trials, or evidentiary hearings, at the ITC have been postponed since March 12, 2020.

On May 14, 2020, the United States International Trade Commission (ITC) issued a Notice extending its COVID-19 Action Plan through July 10, 2020, thereby postponing all in-person hearings including evidentiary hearings/trials and claim construction hearings in investigations under Section 337 of the Tariff Act of 1930, as amended 19 U.S.C. 1337 ("Section 337"), until after July 10, 2020. The ITC had previously postponed all in-person hearings until June 10, 2020.

The ITC directed the Administrative Law Judges (ALJs) to notify all affected parties and to schedule new dates for hearings as appropriate, and to continue to conduct their investigations in accordance with their established procedures. In addition, all discovery is instructed to continue, and any essential outside participation by the Office of Unfair Import Investigation (OUII) will be continued to be decided on a case-by-case basis.

This Notice continues the ITC's postponement of all in-person hearings. On March 12, 2020, the ITC initially postponed all in-person hearings for 60 days and, on April 15, 2020, postponed all in-person hearings until June 10, 2020 (link [here](#)). The postponement of in-person hearings through at least July 10, 2020, therefore reflects a three-month postponement of all in-person hearings in Section 337 investigations.

### Contact Information

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Despite the postponement of in-person hearings, the ITC's modified practices and procedures remain in effect pursuant to the COVID-19 Action Plan. For example, the ITC Secretary's Office continues to accept only electronic filing of documents, and items that were previously filed in paper form, such as complaints, must continue to be filed electronically. Further, the complainant, and not the ITC, will continue to serve the traditional institution package (i.e., the non-confidential copies of the complaint and attachments) on the proposed respondents and their respective embassy(ies). Finally, even though all ITC employees have been teleworking full-time since March 17, 2020, the OUII continues to remain available to receive and review draft complaints under Section 337.

While certain ALJs have suggested a willingness to conduct trials/evidentiary hearings using testimony by live videoconference for witnesses located outside the United States in view of the continued postponement of the dates by which in-person hearings may occur, no trials have been scheduled at this time. With the COVID-19 outbreak continuing to present consequences for all parties engaged in Section 337 investigations, the ITC is continuing its efforts to conclude Section 337 investigations and issue its determinations at the earliest practicable time.

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