



February 2023

ITC Section 337 2023.

Intelligence Report

January 2017 — December 2022

A comprehensive report on the **Top 100 Best Performing** and **Most Active** ITC Section 337 Attorneys and Law Firms.

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Introduction.

In 2022, there were 78 new investigations under the ITC Section 337, indicating another year of high activity. Our data suggests that an increasing number of these complaints are being funded by litigation funds. Several large law firms, including Am Law 100 firms, are looking to add ITC practice to their intellectual property group. Some firms that have been active on the plaintiff side are more actively using ITC as a way to increase their chance of success. For instance, Fabricant LLP, McKool Smith and Russ August & Kabat LLP are sometimes combining ITC with their district court strategies.

As the level of activity in the ITC increases, the ITC landscape is changing rapidly. New ITC firms like Levi Snotherly & Schaumberg, PLLC and Bartkowski PLLC have emerged in recent years, while some of the older firms

are shutting down. For example, earlier this year, AMS Trade, one of the most active ITC firms, experienced a significant departure as almost all of its active attorneys moved to Polsinelli LLP, an Am Law 100 firm. The fact that AMS Trade served as ITC Counsel for many Am Law firms for a long time means that this move could prompt these firms to look into establishing their own ITC practice. This could also lead to new opportunities for other newly-formed ITC firms.

The period covered by our fourth annual ITC Intelligence Report is from January 1, 2017, to December 31, 2022, encompassing a total of 416 investigations. As a result of feedback received from the ITC community, we have incorporated a few improvements and made some adjustments to the report that we will cover here.

What's New in the 2023 ITC Intelligence Report?

The 2023 *ITC Intelligence Report* is packed with updates and enhancements designed to provide an even more comprehensive view of ITC Section 337 Investigations and all the stakeholders involved in these investigations. One of the key areas we have improved is our ranking methodology. Our goal is to offer

a more accurate and trustworthy measure of the success of ITC Section 337 Investigations, which we have achieved by making several adjustments and normalizations based on feedback from our community. All important updates and changes are summarized below.

Ranking Methodology

Patexia has made a major improvement for its ranking methodology for this year's report. The success of a party in an ITC investigation depends on many factors that may often be beyond the control of that party. For instance, it may depend on the type of the product, parties involved, attorneys and

law firms representing each party, and the judge among other factors. As a result, calculating the success score for an attorney or a firm without accounting for the impact of all other factors, will not properly show the complete picture and will not be a fair assessment.

To mitigate the effect of all other factors, this year for the first time, we implemented a *regression model* that mathematically removes the impact of other factors when looking at the attorney's or a firm's success. By calculating this matrix of coefficients that removes the influence of other factors, to a large extent, we eliminated any inherent biases that exist. For instance, if complainants have historically come out stronger

Analysis of Appealed Cases

In addition to annually publishing a separate report on the Court of Appeals for the Federal Circuit (CAFC), which covers all patent-related appeals, Patexia has taken steps to understand the general satisfaction of all parties with the judgment decisions in various litigation ven-

Time Analysis

We have added two new analyses in Section 1. The first is a chart showing the distribution of cases by length from filing to termination. The second is a table that displays the minimum, maximum, and average lengths

New Section for Administrative Law Judges

We have dedicated a new section to Administrative Law Judges (ALJs) to cover their activity and performance. The table under this section covers their activity and judge score based on outcomes. This section will help stakeholders understand the behavior of judges and provide a better

than respondents, we have adjusted for the difference to provide a more balanced and accurate representation of the parties involved in ITC investigations.

This new approach allows us to produce a more accurate ranking of attorneys and law firms based solely on their performance, rather than any external factors.

ues. Specifically, we have added a section to calculate the number of ITC Section 337 investigations that are appealed. This will provide a more complete picture of the ITC Section 337 investigation landscape and help identify trends and patterns for this litigation venue.

for Section 337 violation investigations that terminated during the study period. These analyses will help stakeholders understand the average duration of cases and identify the outliers.

understanding of their decision-making process.

These changes in the 2023 *Patexia ITC Intelligence Report* will help readers understand the ITC Section 337 landscape and identify trends and patterns as they emerge.

What's in the Pipeline for 2023?

As our Intelligence Reports enters its seventh year of publication, these annual reports have gained widespread popularity among corporations and law firms. A Google search for "[patexia rankings](#)" yields

thousands of pages published by law firms online, using our reports and data-driven rankings for marketing and business development in various areas of intellectual property (IP).

In addition to this report, Patexia plans to publish the following in 2023:

- [Patent Litigation](#) (Released on January 26, 2023)
- [Patent Prosecution](#) (scheduled for release on March 30, 2023)
- [Trademark Prosecution](#) (scheduled for release on April 27, 2023)
- [Trademark Litigation](#) (scheduled for release on June 29, 2023)
- [ANDA Litigation](#) (scheduled for release on August 31, 2023)
- [Inter-Partes Review \(IPR\)](#) (scheduled for release on September 28, 2023)
- [CAFC \(Court of Appeal for the Federal Circuit\)](#) (scheduled for release on October 26, 2023)

Our *District Court Patent Litigation Report* was released in late January and our next report, *Patent Prosecution*, which is under preparation will be released in March. All these reports are available for free to our

[Concierge Members](#). We are also considering publishing our first *Trademark Litigation Report* later this year.

We are in the process of updating and redesigning our online presence (www.patexia.com). This expansion and update is not possible without the continued support of our readers and Concierge members.

I would like to thank our dear attorneys and the IP community who provided their time and helped us by clarifying some of the doubts we had for performance measurement. They carefully answered and reasoned why we should consider one outcome over another.

We are excited for this forth annual ITC report and believe our corporate partners can use it when making critical decisions about their ITC counsel, while our law firm partners can leverage it as a valuable resource for new business development, marketing and even recruitment decisions.



Pedram Sameni

Pedram Sameni
Founder and CEO

What's in This Report?

The report is divided into the following sections:

- 1 **ITC Statistics:** This section provides a complete overview of ITC investigations and covers high-level statistics about ITC, including all parties, judges, and cases from January 1, 2017, through December 31, 2022.
- 2 **Complainants and Respondents:** This section identifies the most active and best-performing Complainants and Respondents over the study period.
- 3 **Law Firms:** This section analyzes the performance and activity of law firms, comparing and providing rankings for the top firms representing Complainants and Respondents.
- 4 **Attorneys:** This section reviews the performance and activity of attorneys representing Complainants and Respondents, comparing and providing rankings for top attorneys on each side. It also includes the most important lateral moves over the past year.
- 5 **Administrative Law Judges:** This section analyzes the performance of Administrative Law Judges (ALJs) during the study period based on the outcomes of their judgments in all investigations.
- 6 **Ranking Methodology:** This section explains the performance model and how the performance scores and rankings for Complainants, Respondents, their representatives, and ALJs were calculated.

As per tradition for our ITC report and our other intelligence reports, and in order to have a meaningful comparison, as well as compensating for the time required for each case from filing to completion (e.g., 6 to 18 months), we covered a period of six years, January 1, 2017 through December 31, 2022. Appendix A lists all sources of data used for this report.

Disclaimer: The data for this report was obtained from public sources including EDIS, USPTO, PTAB, and PACER, as well as self-reported by attorneys on the Patexia website. Patexia has gone to great lengths to provide valid and accurate analysis based on this data. However, Patexia does not guarantee 100 percent accuracy nor take any responsibility for possible losses caused by the use of any information provided in this report.



Appendix.

Appendix A: Sources of Data.

Data is the foundation and building block of any data-driven analysis. Therefore, collecting that data from quality sources, and taking extra care in maintaining the data integrity, is something that we at Patexia take very seriously. We have collected our raw data from many sources including:

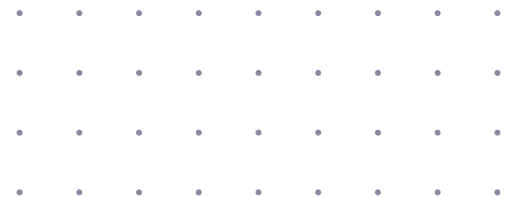
- US ITC Investigations Database System, Section 337 Information (<https://ids.usitc.gov/>)
- ITC Electronic Document Information System (EDIS) (<https://edis.usitc.gov/external/>)
- Patent Trial and Appeal Board (PTAB) Database
- United States Patent and Trademark (USPTO) Patent Database
- Public Access to Court Electronic Records (PACER)
- Court of Appeal for the Federal Circuit (CAFC)
- US Patent Classification Database
- Self-reported by attorneys named on the case

For this release, we limited the date range of our analysis to the last almost six years (January 1, 2017 through December 31, 2022).

While the possibility of errors such as typos in legal documents are inevitable, cleaning and organizing the attorneys’ data is even more challenging as attorneys change firms, may not update their information, and often use different variations of their names.

Our engineering team has implemented machine learning and natural language processing (NLP) methods to find the correct matches for various occurrences of the same name. To further minimize the errors, we not only review suspicious matches manually, but also host profile pages for more than 100,000 attorneys and agents who can directly review and add missing cases to our database.

All the user added data was again verified by Patexia’s internal data team for accuracy.

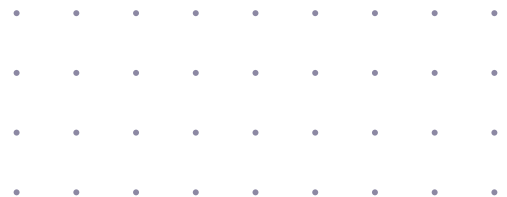


Appendix B: List of All ITC Section 337 Investigations.

See the attached Excel file for the list of all 370 ITC Section 337 cases filed from January 1, 2017 through December 31, 2022.

The spreadsheet covers the following fields for each case:

- ITC Case with a link to the case page on Patexia site
- Filing Date
- Institution Date
- Termination Date
- Status
- Unfair Act
- Title
- Judge
- Patents



Appendix C: Statistics for Complainants and Respondents.

See the attached Excel file for the statistics related to all 1,927 entities (companies) involved in one or more ITC Section 337 investigations, filed during the period of our study. The spreadsheet covers the following information for each of the companies:

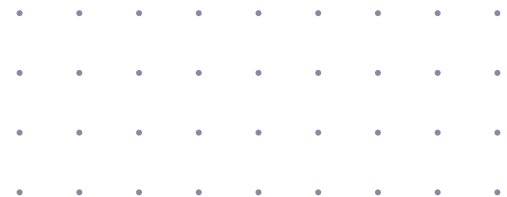
- Company name with a link to Patexia page
- Overall Activity Rank
- Overall Performance Rank
- Respondent Activity Rank
- Respondent Performance Rank
- Complainant Activity Rank
- Complainant Performance Rank
- All Cases
- Respondent Cases
- Complainant Cases
- Overall Activity Score
- Respondent Activity Score
- Complainant Activity Score
- Overall Success Score
- Respondent Success Score
- Complainant Success Score
- Overall Performance Score
- Respondent Performance Score
- Complainant Performance Score
- Overall Activity Rank (2022)
- Overall Performance Rank (2022)
- Respondent Activity Rank (2022)
- Respondent Performance Rank (2022)
- Complainant Activity Rank (2022)
- Complainant Performance Rank (2022)
- Top 3 Law Firms

•	•	•	•	•	•	•	•	•
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•	•	•	•	•	•	•	•	•
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Appendix D: Statistics for Law Firms.

The attached Excel file contains detailed statistics for all 386 law firms involved in one or more ITC Section 337 investigations. The spreadsheet includes the following information for each law firm:

- Law firm name with a link to Patexia page
- Overall Activity Rank
- Overall Performance Rank
- Respondent Activity Rank
- Respondent Performance Rank
- Complainant Activity Rank
- Complainant Performance Rank
- All Cases
- Respondent Cases
- Complainant Cases
- Overall Activity Score
- Respondent Activity Score
- Complainant Activity Score
- Overall Success Score
- Respondent Success Score
- Complainant Success Score
- Overall Performance Score
- Respondent Performance Score
- Complainant Performance Score
- Overall Activity Rank (2022)
- Overall Performance Rank (2022)
- Respondent Activity Rank (2022)
- Respondent Performance Rank (2022)
- Complainant Activity Rank (2022)
- Complainant Performance Rank (2022)
- Top 3 Clients



Appendix E: Statistics for ITC Attorneys.

The attached Excel file contains detailed statistics for the the 1,000 most active ITC attorneys involved in ITC Section 337 investigations during the period of our study. The spreadsheet includes the following information for each attorney:

- Attorney name with a link to Patexia page
- Attorney’s Title
- Attorney’s Law Firm with a link to Patexia Page
- Overall Activity Rank
- Overall Performance Rank
- Respondent Activity Rank
- Respondent Performance Rank
- Complainant Activity Rank
- Complainant Performance Rank
- All Cases
- Respondent Cases
- Complainant Cases
- Overall Activity Score
- Respondent Activity Score
- Complainant Activity Score
- Overall Success Score
- Respondent Success Score
- Complainant Success Score
- Overall Performance Score
- Respondent Performance Score
- Complainant Performance Score
- Overall Activity Rank (2022)
- Overall Performance Rank (2022)
- Respondent Activity Rank (2022)
- Respondent Performance Rank (2022)
- Complainant Activity Rank (2022)
- Complainant Performance Rank (2022)
- Top 3 Clients

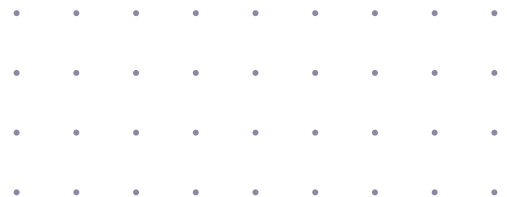
Appendix F: Lateral Moves.

The accompanying Excel file covers all the important lateral moves that took place since our previous publication of the ITC Intelligence Report in early 2022. We looked at the top 1,000 most active ITC attorneys in our 2023 report and identified the ones who had moved since last year. The spreadsheet covers the attorneys who moved as well as the new firms that were formed during this time. The spreadsheet covers the following information for each of the attorneys:

- Attorney’s Name
- Attorney’s Title
- Attorney’s Current Firm
- Attorney’s Old Firm
- Attorney’s Overall Activity Rank
- Attorney’s total number of ITC cases for the period of the study.

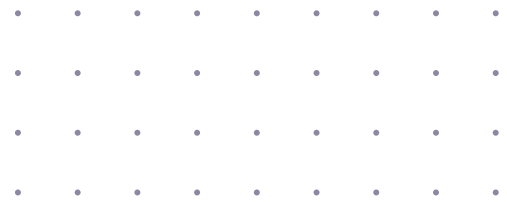
A separate sheet in the Excel file covers the changes in the number of ITC attorneys at firms that experienced any change in their ITC group. The spreadsheet cover the following information for each of the firms:

- Law Firms name
- Net Change in the number of ITC attorneys
- Number of attorneys joined
- Number of attorneys left



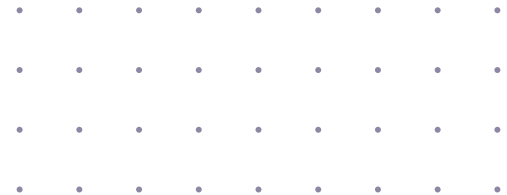
Appendix G: Best Performing and Most Active Badges.

As per our tradition, every year Patexia designs two categories of badges for Best Performing and Most Active Law Firms / Attorneys (Complainant, Respondent and overall). The badges are only provided to those firms and attorneys who are ranked in the top 100 and choose to purchase the report ([Concierge Members](#) will automatically receive the badges if they are ranked among the top 100).



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Contact Us.



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