



DREXEL UNIVERSITY
Thomas R. Kline
School of Law



PIPLA
PHILADELPHIA INTELLECTUAL PROPERTY LAW ASSOCIATION | EST. 1923



NJIPLA

New Jersey Intellectual Property Law Association

**AN OVERVIEW OF SECTION 337 INVESTIGATIONS BEFORE
THE U.S. INTERNATIONAL TRADE COMMISSION**

Join us for an afternoon program introducing Section 337 and discussing developments in and finer points of Section 337 law and procedure. Learn how to use the statute to protect patented goods and other company IP assets from infringement by imported products and to remedy other unfair competition at the border, as well as how to defend fairly traded goods against actions brought under this statute.

Presented at

**KLINE INSTITUTE OF TRIAL ADVOCACY, DREXEL UNIVERSITY
THOMAS R. KLINE SCHOOL OF LAW**

1200 Chestnut Street, Philadelphia 19107

by the

**ITC TRIAL LAWYERS ASSOCIATION
PHILADELPHIA INTELLECUAL PROPERTY LAW ASSOCIATION
NEW JERSEY INTELLECTUAL PROPERTY LAW ASSOCIATION**

September 17, 2019

**Program 1:00 p.m. – 4:45 p.m.
Reception 4:45 p.m. – 6:00 p.m.**

REGISTRATION: <http://www.itctla.org/upcoming-events/event/40>

Cost:	ITCTLA, PIPLA and NJIPLA members	\$50.00
	Non-members	\$75.00
	Law Students	Free (with registration online)

For Information Contact: Tamara Winns at 202-675-8335 or TWinns@thegateam.com

Agenda below



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AN OVERVIEW OF SECTION 337 INVESTIGATIONS AT THE U.S. INTERNATIONAL TRADE COMMISSION

AGENDA

- 1:00 pm – 1:25 pm Introductory Remarks
- Jeffrey M. Telep, President, ITCTLA, King & Spalding LLP
 Professor Amy L. Landers, Thomas R. Kline School of Law
 Sarah E. Hamblin
- 1:30 pm – 2:10 pm The ITC can provide a viable alternative or supplement to the “patent dance” of the Biologics Price Competition and Innovation Act (“BPCIA”)
- (a) *The panel will discuss a number of reasons why Section 337 investigation can provide a viable alternative or supplement to the patent dance.*
- (b) *While imported licensed biologics and biosimilars are viable candidates for Section 337 jurisdiction, there are further restrictions under which ITC jurisdiction can be obtained with respect to an unapproved biosimilar that is the subject of an Abbreviated New Biologics Application (“ABLA”).*
- Moderator: Tony V. Pezzano, DLA Piper
- Panelists: Veronica S. Ascarrunz, Morrison Foerster LLP
 Goutam Patnaik, Pepper Hamilton LLP
 Adam D. Swain, Alston & Bird
- 2:15 pm – 2:55 pm Remedy Issues in the High Tech and Bio-Pharma Spaces
- (a) *Available remedies*
- (b) *Do remedies apply to electronic transmissions? What about components used in electronic transmissions?*
- (c) *The Commission has not yet decided whether exclusion of a biologic or biosimilar product would be against the public interest. However, a number of public interest issues were outlined by the Commission in Recombinant Factor VIII Products (Inv. No. 337-TA-956) before this investigation settled.*
- (d) *Post remedy considerations.*
- Moderator: Aarti Shah, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC
- Panelists: Jeffrey Hsu, Supervisory Attorney, U.S. International Trade Commission
 David F. Nickel, Foster, Murphy, Altman & Nickel, PC
 Jamie D. Underwood, Latham & Watkins, LLP



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3:00 pm – 3:15 pm Break

3:15 pm – 3:55 pm Establishing a domestic industry at the ITC

- (a) *Under what circumstances can Research and Development be sufficient?*
- (b) *What if all your manufacturing is abroad?*
- (c) *Do you have to demonstrate an injury to your domestic industry?*

Moderator: Paul C. Goulet, Winston & Strawn LLP

Panelists: Charles E. Bullock, Chief Administrative Law Judge, U.S. International Trade Commission
 Anthony Del Monaco, Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
 Benjamin Levi, Levi & Snotherly, PLLC
 Matthew J. Rizzolo, Ropes & Gray LLP

4:00 pm – 4:40 pm Enforcement Issues in the High Tech and Bio-Pharma Spaces

- (a) *Strategies for Assisting Customs with its Enforcement of Section 337 Exclusion Orders*
- (b) *Post-Exclusion Order Strategies/Procedures to Avoid Seizure/Obtain Release*
- (c) *ITC Enforcement, Modification, & Advisory Proceedings, including Effective Use of Cease & Desist Orders and Design-Arounds*
- (d) *Challenges in Monitoring Shipments in High-Tech and Bio-Pharma, including Use of Data Services & Update on Tracking Manifest Data*

Moderator: Steven M. Anzalone, Winston & Strawn LLP

Panelists: Christopher Bullard, U.S. Customs and Border Protection
 G. Brian Busey, Morrison Foerster LLP
 Jeffrey M. Telep, King & Spalding LLP

4:40-4:45 pm Closing remarks

4:45 pm – 6:00 pm Reception