

EXCLUSIVE RIGHTS: Intellectual Property — Domestic Industry at the ITC – The Commission Has Set a Positive Trend [PODCAST]

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While there have been some adverse decisions from individual administrative law judges at the US International Trade Commission in recent years, final decisions coming from the commission since January 2019 have largely affirmed that complainants have satisfied the domestic industry (DI) requirement. Daniel Weinger, founding host of the Mintz *EXCLUSIVE RIGHTS: Intellectual Property* podcast, talks about this trend with Jonathan Engler, a seasoned ITC litigator, former attorney in the ITC's General Counsel's office, and newest Mintz IP litigator. Jonathan conducted a case-by-case analysis of relevant ITC decisions over the past 3+ years — and he discusses the results and shares his insights on the data.

Among other things, Daniel and Jonathan will talk about:

- Final decisions on DI issues by the commission have been almost entirely positive since 2019
- The history of the DI requirement at the ITC — from mostly stipulated to regularly challenged
- Recent decisions, including the decision in the 1206 investigation related to complainant Hyperice, and the lessons we can learn from them
- Reasons other than the DI requirement which are likely to trip up complainants at the ITC

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