

## **Stop the Abuse of the International Trade Commission's Section 337 Authority**

Support H.R. 3535, the Advancing America's Interests Act

Sponsored by David Schweikert (AZ-06) and Don Beyer (VA-08)

Instead of protecting American manufacturers, the International Trade Commission (ITC) is being misused to harm them and is in urgent need of reform. For over 100 years, the ITC has protected American businesses, workers and consumers from unfair foreign competition. But in recent years, the ITC has deviated from this important mission. In stark contrast to its mission, the ITC has become weaponized by litigation financiers who misuse the ITC as a shadow patent court where they can extort money from innovative and productive American companies critical to our economy and national security. These finance entities can leverage the power of the ITC to shut down American factories to shake down American companies for windfall profits. The ITC's power to shut down American factories is much greater than that entrusted to our federal courts, but begs the question, why would a U.S. trade agency shut down a U.S. factory. This enormous agency power should be exercised only when the ITC believes it to be in the public interest, as H.R. 3535 would require.

### **Investment Money is Driving This Abuse**

Capital directed at patent litigation as an investment vehicle is increasing exponentially, as U.S. law firms reported a 414% increase in the use of litigation funding during a recent 5-year period. This emerging patent litigation lottery is driving the misuse of the ITC as a point of leverage, rather than a venue for resolving unfair trade practices. In fact, litigation financiers are [advertising](#) the ITC as a place with "attractive differentiations" from US district court (where these cases belong). And where is this avalanche of money coming from? Hedge funds, sovereign wealth funds and other sources, most of which are shrouded in secrecy and financed by foreign companies and governments, are funding this exponential increase in patent litigation. This has left some [asking](#) whether litigation finance is turning justice into the newest financial asset.

### **What the ITC Process Should Be**

- A mechanism for protecting companies that invest in and support the U.S. economy, workers and consumers.

### **What the ITC Process Should NOT Be**

- A roulette wheel that litigation financiers holding discarded patents spin to extort huge payoffs from American innovators;
- A high-stakes substitute to federal court litigation for plaintiffs willing to game current ITC procedures; or
- A way to harass and threaten American companies while providing nothing of value to our economy or our people.

### **Congress Can Stop Abuse of the ITC**

It is in the public interest to stop hedge funds, private equity firms and other litigation financiers from misusing America's trade enforcement framework to the detriment of innovative American companies, workers and consumers. As the body in charge of oversight of the ITC, Congress can stop the abuse of the agency by making several reforms to how the ITC handles patent cases. These common sense changes will help realign the ITC to its mission, while also ensuring the agency continues to hear cases properly before it.