

Suprema Did Not Resolve Inconsistent ITC Rationales

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The Federal Circuit's recent en banc ruling in *Suprema v. U.S. International Trade Commission* has affirmed an inconsistency in two different ITC decisions. *Suprema* affirmed that the commission had authority to exclude articles that do not infringe at the time of importation where the importer induced direct infringement of a third party who used the articles after importation. But in *Certain Electronic Devices*, the commission held that it lacked authority to exclude articles that do not infringe at the time of importation, even though the importer directly infringed the claim by using the articles after importation. The commission's rationales for its decisions in these two investigations cannot be reconciled. U.S. Supreme Court review of *Suprema* may be the last opportunity to correct this inconsistency in commission practice.

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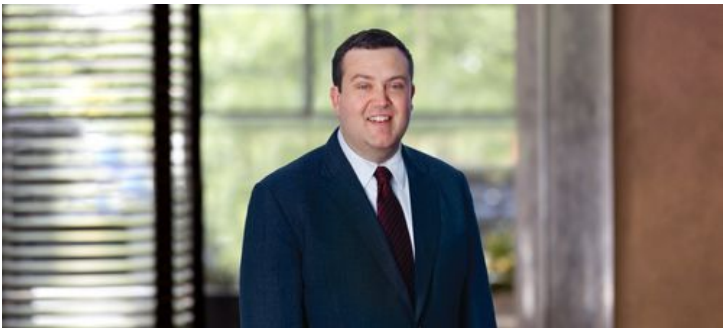
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