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# Shutdown Slowdown: What It Means for Patent Enforcement at the ITC

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On October 1, 2025, the U.S. federal government entered a partial shutdown after Congress failed to pass a continuing resolution to fund government operations before the September 30 deadline. This political impasse disrupts operations across federal agencies, including the U.S. International Trade Commission (ITC). Here, we examine the impact of the December 2018–January 2019 shutdown, its effect on Section 337 investigation schedules, and what it indicates for ITC proceedings during the current shutdown.

Businesses turn to the ITC for its reputation for swift proceedings. A government shutdown, however, introduces delays and uncertainties for companies involved in Section 337 investigations where one party is seeking ITC remedies. For complainants, a stalled Section 337

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Anticipating the latest shutdown, the ITC updated its “Contingency Plan for an Orderly Shutdown of Operations” in late September. That plan shows that the ITC needs about a half day to complete shutdown activities.<sup>1</sup> But the plan specifies that “Investigative activities ... under... Section 337 of the Tariff Act” will “cease during a lapse” in appropriations.<sup>2</sup> Be aware, however, that a shutdown does not pause the clock on filings. The rules establish that “[d]uring any period in which the Commission is closed, deadlines for filing documents” are extended only to the “first business day after the end of the closure.”<sup>3</sup>

Although government shutdowns disrupt Section 337 investigations, ALJs always rebound, striving to complete their investigations at the earliest practicable time. During a 16-day shutdown in 2013, the ITC suspended all investigative activities, halting patent and trade cases. Similarly, the 35-day shutdown from December 2018 to January 2019 furloughed ALJs and paused proceedings.

A review of scheduling orders issued after those shutdowns shows that ALJs prioritize allowing private parties to continue prosecuting Section 337 investigations during shutdowns where feasible. Of the six presiding ALJs, only Chief Judge Clark S. Cheney and Judge MaryJoan McNamara oversaw active investigations during the 2018–2019 shutdown. Judge McNamara adapted her investigations by rescheduling evidentiary hearings, with delays ranging from one month (e.g., Investigation Nos. 1138 and 1130) to four months (e.g., Investigation Nos. 1124 and 1118), and extending target dates by a few months. Chief Judge Cheney adjusted schedules in his investigations based on the stage of the investigation and the parties’ recommendations. For instance, in Investigation Nos. 1122 and 1116, he maintained procedural schedules because the parties continued prosecution. In contrast, for Investigation No. 1110, he rescheduled the evidentiary hearing from January 2019 to April 2019 due to its timing during the shutdown. For later-stage investigations, such as Investigation Nos. 1098 and 1091, he extended target dates to accommodate delays.

## Takeaways

ALJs’ actions in prior shutdowns reflect a clear preference for completing investigations at the

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<sup>1</sup> Prior versions of the Commission’s plan expressly stated that “[a]cceptance of new electronic case filings that do not support excepted functions will be disabled within 12 hours after the shutdown is declared” due to the “[t]ime required to shutdown activities.” See [https://www.usitc.gov/documents/usitc\\_fy\\_2021\\_shutdown\\_plan\\_09\\_24\\_2021.pdf](https://www.usitc.gov/documents/usitc_fy_2021_shutdown_plan_09_24_2021.pdf). That provision is no longer included in the latest update. As of October 1, 2025, EDIS disabled the ability to electronically file documents.

[https://www.usitc.gov/documents/usitc\\_fy\\_2026\\_lapse\\_plan.pdf](https://www.usitc.gov/documents/usitc_fy_2026_lapse_plan.pdf)

<sup>2</sup> [https://www.usitc.gov/documents/usitc\\_fy\\_2026\\_lapse\\_plan.pdf](https://www.usitc.gov/documents/usitc_fy_2026_lapse_plan.pdf)

<sup>3</sup> 19 C.F.R. § 210.4(f)(8); *see also* 19 C.F.R. § 201.8(d)(4); 19 C.F.R. § 201.14(a).

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