

Foreign Lobbying Against Administrative Protectionism: Evidence from ITC Patent Investigations

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motivation

Can foreign firms overcome administrative protectionism in the US?

motivation

Can foreign firms overcome administrative protectionism in the US?



Photo: Getty

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Illustration: G. Demery / P. P. P.

ITC patent investigations

International Trade Commission (ITC)'s Unfair Import Investigations (a.k.a., Section 337)

- ▶ Quasi-judicial federal agency
- ▶ Investigates unfair imports (90+% **US patent infringements**);
Administers remedies (Exclusion Orders; Cease and Desist Orders)
 - Powerful tool for enforcing US intellectual property rights (IPRs)
 - Domestic vs. foreign interests competing
- ▶ Can be lobbied!

contributions

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2. Create novel dataset: ITC investigations & firm-level lobbying data
3. Implications: Foreign firms may partly overcome administrative protectionism through lobbying

apolitical ITC?

Agency design theory: Yes

- ▶ Independent, nonpartisan design
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Interest group theory: Probably not!

- ▶ American industry lobby behind major re-designing of ITC
 - Trade Act of 1974: Tariff Commission → Trade Commission; Determine violation and relief for the first time
 - Omnibus Trade and Competitiveness Act of 1988: Strengthen IPRs enforcement; “Injury to a domestic industry” presumed

interest groups & ITC rulings

ITC is *not* insulated from political pressures by interest groups.

If so, ITC unfair import investigation rulings are:

- ▶ Likely to favor domestic complainants
- ▶ Likely to be influenced by political contributions (e.g., ITC lobbying)
 - Including those by foreign respondents!

hypotheses

H1: Unfair import investigations likely have a protectionist bent

A patent investigation is more likely to be ruled in favor of the complainant the greater the number of foreign countries associated with the respondent.

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H2: Protectionist rulings are likely partly offset by foreign lobbying

Greater lobbying efforts made by the respondent is likely to *moderate* the relationship b/t foreignness of the respondent & the likelihood of ruling in favor of the complainant.

ITC and lobbying data

1. **ITC unfair import investigations data (1975-2021)**

- ▶ Source: ITC website
- ▶ Scraped and cleaned the entire patent investigations
- ▶ Two different data entries: Excel and jSON

2. **Firm-level lobbying data (1999-2021)**

- ▶ Source: LobbyView (2018)
- ▶ Per investigation, manually identified all firms that lobbied within each respondent/complainant pool
- ▶ Aggregated report-level spending to the ITC prior to the investigation termination year by each firm-investigation; Then aggregated spending up to the investigation-level for respondent/complainant

research design

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- ▶ **Clustered Standard Errors:** Administrative Law Judge (ALJ)

pro-US bias of the ITC

Table 1: Is the ITC protectionist?

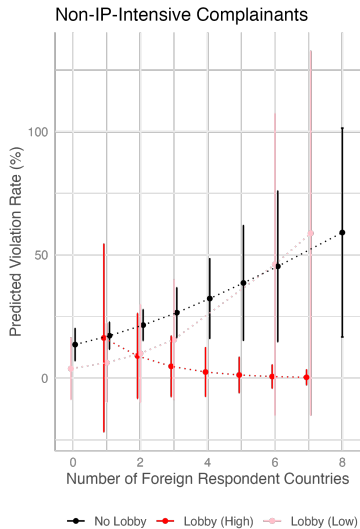
	<i>Dependent variable:</i>		
	Violation Found (1=Yes)		
	(1)	(2)	(3)
Num. of Foreign Respondent Countries	2.64** (1.24)	3.17** (1.42)	2.76 (1.70)
Republican Presidency (1=Yes)		1.62 (3.61)	4.41 (3.77)
IP-Intensive Complainants (1=Yes)		-2.25 (2.05)	-0.19 (1.74)
Patent Citations (Logged)			0.43 (1.21)
Observations	617	598	538
<i>Note:</i>	*p<0.1; **p<0.05; ***p<0.01		

lobbying and overcoming protectionism

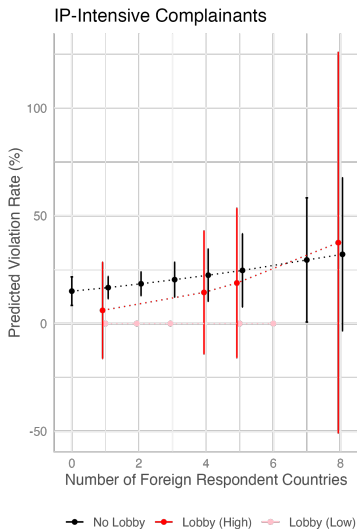
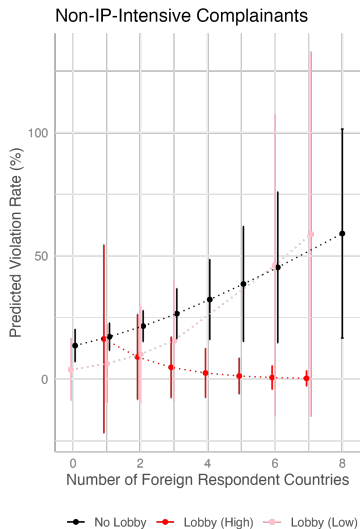
Table 2: Does foreign lobbying help overcome protectionism?

	<i>Dependent variable:</i> Violation Found (1=Yes)
Num. of Foreign Respondent Countries	1.73 (1.38)
Respondent Lobbying (\$1, 000)	-0.05*** (0.02)
Complainant Lobbying (\$1, 000)	-0.02 (0.05)
Num. of Foreign Respondent countries X Respondent Lobbying	0.01*** (0.004)
Observations	537
<i>Note:</i>	* p<0.1; ** p<0.05; *** p<0.01

limits of lobbying



limits of lobbying



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→ Political participation can help!

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Interest groups may influence decision-making of an allegedly insulated bureaucratic agency

- "Protection for sale" may be extended to foreign firms

Thank You!

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appendix content

appendix

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- 2 existing research on ITC
- 3 ITC patent investigations over time
- 4 list of covariates
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- 10 complainant lobbying: IP-intensive vs. non IP-intensive
- 11 foreign respondent lobbying: IP-intensive vs. non-IP-intensive
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ITC origin and evolution

Appendix

- ▶ Created as the US Tariff Commission (1916)
- ▶ Investigative authority limited to making recommendations to the President (Tariff Act of 1922)
- ▶ Re-branded into the US Trade Commission – independent, non-partisan, quasi-judicial agency – which can now determine violation (Tariff Act of 1974)

existing research on ITC Appendix

- ▶ **Institutional insulation from political interests:**
Goldstein and Lenway (1989); Baldwin (1986)

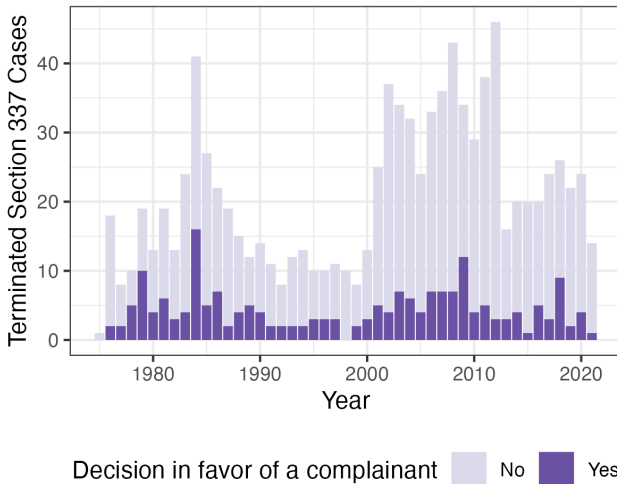
- ▶ **Responsiveness to the congressional oversight committee:**
Moore (1992); Cadell (2014); Aquilante (2016)

- ▶ **Pro-US bias:**
Hahn (2007); Moore (2003)

ITC patent investigations over time

Appendix

Section 337 cases by year, 1975-2021



list of covariates

Appendix

- 1 Complainant's lobbied amount to the ITC (\$1,000)
- 2 Year of investigation concluded
- 3 Total number of respondent firms
- 4 Total number of complainant firms
- 5 Number of Patent Citations (logged)
- 6 Republican Presidency (yes=1)

summary statistics

Appendix

Statistic	N	St. Dev.	Mean	Min	Max
Favor Complainant	618	0.38	0.17	0	1
Num. Foreign Respondent Countries	617	1.39	1.67	0	8
Respondent Lobbying (\$1000)	613	182.80	24.09	0.00	3,153.22
Complainant Lobbying (\$1000)	600	16.82	1.54	0.00	314.67
Respondent Count	618	8.56	7.19	1	53
Complainant Count	618	0.81	1.48	1	6
Investigation Termination Year	618	5.93	2,009.67	1,999	2,021
Republican Presidency (=1)	618	0.49	0.58	0	1
IP-Intensive Complainant	599	0.50	0.53	0	1
Avg. Patent Citations	556	56.99	31.13	0.00	833.00

home countries of foreign respondents Appendix

Respondent	Total Cases Involved
China	230
Taiwan	215
Japan	206
South Korea	122
Hong Kong	101
Germany	87
Canada	86
France	36
Netherlands	34
Mexico	31

Notes: Counted at the case-level. Multiple foreign entities can be registered as respondents in one case.

top 10 lobbied cases from respondents

Appendix

Case Number	Title	Lobbied Amount (\$1,000)
No. 337-TA-781	Certain Microprocessors, Components Thereof, and Products Containing Same	3,153
No. 337-TA-1024	Certain Integrated Circuits with Voltage Regulators and Products Containing Same	2,865
No. 337-TA-764	Certain Digital Televisions and Components Thereof; Certain Electronic Devices Having Blu-Ray Disc Player and Components Thereof	612
No. 377-TA-892	Certain Point-to-Point Network Communication Devices and Products Containing Same; Investigation	489
No. 337-TA-1037	Certain Graphics Processors, DDR Memory Controllers and Products Containing the Same	466
No. 337-TA-709	Certain Integrated Circuits, Chipsets, and Products Containing Same Including Televisions, Media Players, and Cameras	463
No. 337-TA-737	Certain Liquid Crystal Display Devices and Products Interoperable With the Same(DN 2751)	408
No. 337-TA-667	Certain Electronic Devices, Including Handheld, Wireless Communications Devices	357
No. 337-TA-841	Certain Computer and Computer Peripheral Devices and components thereof and products containing the same	334
No. 337-TA-1119	Certain Infotainment Systems, Components Thereof, and Automobiles Containing the Same	313

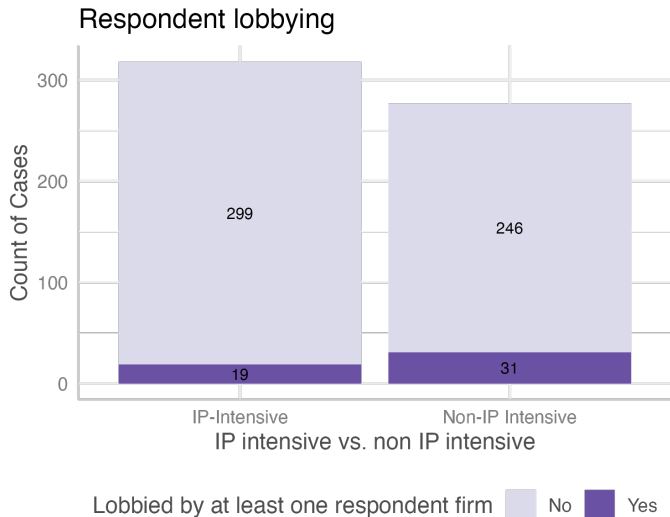
top 10 lobbied cases from complainants

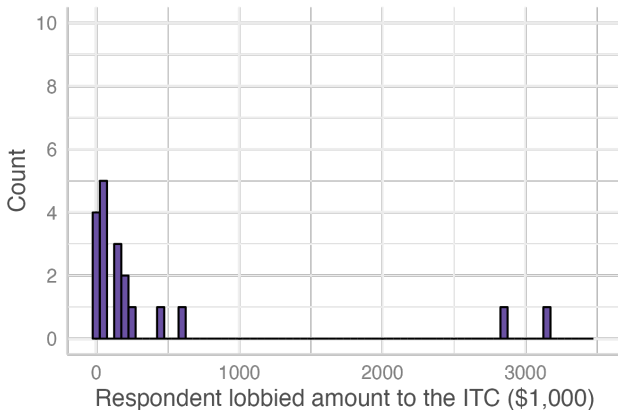
Appendix

Case Number	Title	Lobbied Amount (\$1,000)
No. 337-TA-632	Refrigerators and Components Thereof	315
No. 337-TA-1049	Certain Digital Cable and Satellite Products, Set-Top Boxes, Gateways, and Components Thereof	233
No. 337-TA-927	Certain Noise Cancelling Headphones and Components Thereof	89
No. 377-TA-912	Certain Earpiece Devices having Positioning and Retaining Structure and Products Containing Same	49
No. 337-TA-1012	Certain Magnetic Data Storage Tapes and Cartridge Containing the Same	47
No. 337-TA-1190	Certain Wearable Monitoring Devices, Systems, and Components Thereof	21
No. 337-TA-633	Certain Acetic Acid	20.9
No. 337-TA-667	Certain Electronic Devices, Including Handheld, Wireless Communications Devices	29
No. 337-TA-841	Certain Computer and Computer Peripheral Devices and components thereof and products containing the same	21
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respondent lobbying: IP-intensive vs. non IP-intensive

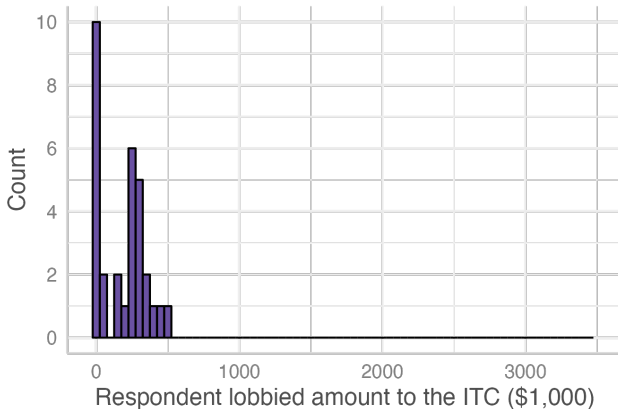
Appendix



respondent lobbying: IP-intensive industry AppendixDistribution of the lobbied amount,
IP-intensive industry, binwidth=50, N=19

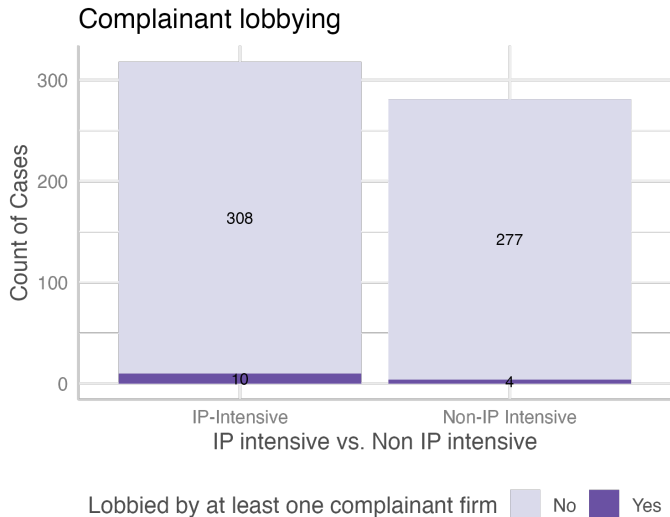
respondent lobbying: non IP-intensive industry Appendix

Distribution of the lobbied amount,
Non IP-intensive industry, binwidth=50, N=31



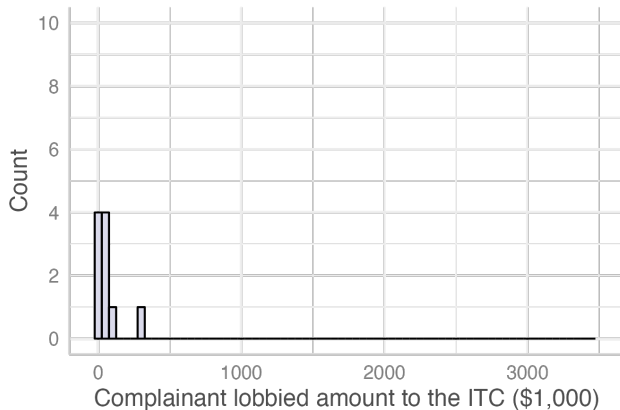
complainant lobbying: IP-intensive vs. non IP-intensive

Appendix



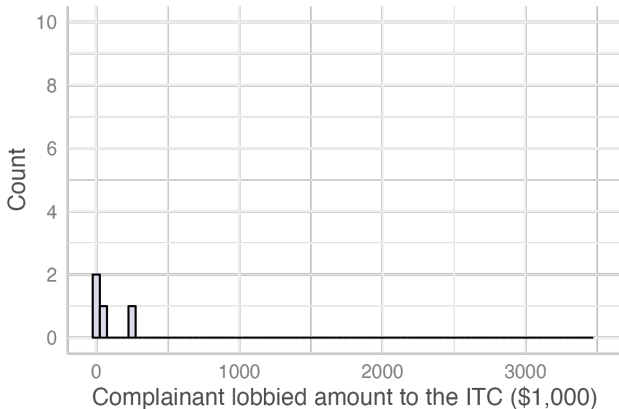
complainant lobbying: IP-intensive industry Appendix

Distribution of the lobbied amount,
IP-intensive industry, binwidth=50, N=10



complainant lobbying: non IP-intensive industry Appendix

Distribution of the lobbied amount,
Non IP-intensive industry, binwidth=50, N=4



foreign respondent lobbying: IP-intensive vs. non IP-intensive

Appendix

IP-Intensive Complainants (Case N=314)

Num. Foreign Resp. Countries	0	1	2	3	4	5	6	7	8
No Lobby	32	162	58	24	9	9	0	3	1
Low Lobby	0	2	3	1	0	2	1	0	0
High Lobby	0	3	0	0	2	1	0	0	1

Non IP-Intensive Complainants (Case N=275)

Num. of Foreign Resp. Countries	0	1	2	3	4	5	6	7	8
No Lobby	25	133	49	23	10	3	2	0	1
Low Lobby	2	2	3	3	0	0	1	1	0
High Lobby	0	3	3	4	3	1	2	1	0

ideas for future works

Appendix

1. For this project: Add other dimensions of domestic contributions
 - ▶ domestic employment
 - ▶ tax to the US government

2. Follow-up project: Focus on specific countries
 - ▶ the past and current rivals (Japan and China)