



Tariff-related Litigation Update

September 12, 2025



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Tariffs Imposed Under IEEPA

“Fentanyl” Tariffs

- **Canada:** 35% *ad valorem* on most goods that are not entered duty free under the United States-Mexico-Canada Agreement (USMCA)
 - Exec. Order 14193, as amended
- **China:** 20% *ad valorem*
 - Exec. Order 14195, as amended
- **Mexico:** 25% *ad valorem* on most goods that are not entered duty free under the USMCA
 - Exec. Order 14194, as amended
 - Threatened to increase to 30% on August 1 but has not increased yet

Reciprocal Tariffs (Exec. Order 14257, as amended)

- **Baseline:** 10% *ad valorem*
 - Applies to all foreign-origin goods **except** goods originating in Belarus, Canada, Cuba, Mexico, North Korea, and Russia
- **Country-specific rates:** 0-40% *ad valorem*
 - Cover over 50 countries
 - China’s country-specific rate is scheduled to go into effect on November 10
- **Exceptions:**
 - Aluminum articles and derivatives, automobiles, automobile parts, semi-finished copper products and intensive copper derivative products, and steel articles and derivatives subject to Section 232 tariffs
 - Canadian- and Mexican-origin goods
 - Goods listed in Annex II to Exec. Order 14257

Tariffs Imposed Under IEEPA

Brazil “Free-Spec” Tariffs (Exec. Order 14323)

- **Rate:** 40% *ad valorem*
 - In addition to the 10% *ad valorem* baseline reciprocal tariff
- **Exceptions:**
 - Aluminum articles and derivatives, automobiles, automobile parts, and steel articles and derivatives subject to Section 232 tariffs
 - Goods listed in Annex I to Exec. Order 14323

Secondary Tariffs on India (Exec. Order 14329)

- **Rate:** 25% *ad valorem*
 - In addition to India’s 25% *ad valorem* country-specific reciprocal tariff rate
- **Exceptions:**
 - Goods listed in Annex II to Exec. Order 14257
 - Aluminum articles and derivatives, automobiles, automobile parts, and steel articles and derivatives subject to Section 232 tariff
- **Not currently being challenged in pending litigation**

Status of Legal Challenges to the IEEPA Tariffs

Trump v. V.O.S. Selections (S. Ct. Sept. 3, 2025)

Learning Resources v. Trump (S. Ct. June 17, 2025)

- **Tariffs challenged:** “fentanyl” and reciprocal tariffs
- **V.O.S. Selections:**
 - On Aug. 29, the Federal Circuit:
 - Affirmed the CIT’s holding that the “fentanyl” and reciprocal tariffs exceed the President’s authority under IEEPA;
 - Affirmed the grant of declaratory relief; and
 - Vacated the permanent injunction that enjoined the tariffs’ enforcement, remanding for the CIT to further evaluate the scope propriety and scope of injunctive relief in light of *Trump v. CASA, Inc.*, 145 S. Ct. 2540 (2025).
 - Federal Circuit ruling stayed until Oct. 14
- Certiorari granted on Sept. 9; *V.O.S. Selections* and *Learning Resources* consolidated
- **Schedule:**
 - Sept. 19 –opening briefs due
 - Oct. 20 – response briefs due
 - Oct. 30 – government’s reply brief due
 - First week of November – oral argument

Status of Legal Challenges to the IEEPA Tariffs

Webber v. U.S. Department of Homeland Security (9th Cir. Apr. 28, 2025)

Webber v. U.S. Department of Homeland Security (D. Mont. Apr. 4, 2025)

- **Tariffs challenged:** Canada “fentanyl” tariff, Section 232 tariffs on steel and aluminum, and reciprocal tariffs
- Transferred to CIT
- Appeal pending before Ninth Circuit
- Government moved to stay the proceedings on Sept. 4; denied (Sept. 5) with ability to renew if certiorari is granted in *V.O.S.* or *Learning Resources*
- Government moved to stay proceedings on Sept. 10
- **Ninth Circuit oral argument:** Sept. 17 at 10:00 a.m. (PT)

California v. Trump (N.D. Cal. Apr. 16, 2025)

California v. Trump (9th Cir. June 3, 2025)

- **Tariffs challenged:** “fentanyl” and reciprocal tariffs
- Dismissed due to lack of jurisdiction (June 2)
- Appeal pending before Ninth Circuit
- Government moved to stay the proceedings on Sept. 4; denied (Sept. 5) with ability to renew if certiorari is granted in *V.O.S.* or *Learning Resources*
- Government moved to stay proceedings on Sept. 10
- **Ninth Circuit oral argument:** Sept. 17 at 10:00 a.m. (PT)

Status of Legal Challenges to the IEEPA Tariffs

Emily Ley Paper, Inc. v. Trump (Ct. Int'l Trade May 23, 2025)

- **Tariffs challenged:** China “fentanyl” tariff
- Stayed pending final, unappealable decision in V.O.S.
- Plaintiffs’ motion to reconsider denied

Johanna Foods v. Executive Office of the President (Ct. Int'l Trade July 18, 2025)

- **Tariffs challenged:** additional Brazil tariffs
- Stayed pending a final, unappealable order in V.O.S.