

International Trade Group Of The Year: Kelley Drye

By **Emily Johnson**

Law360 (February 14, 2025, 4:03 PM EST) -- Kelley Drye & Warren LLP helped persuade former President Joe Biden to safeguard the U.S. polyester fiber industry by restricting some imports of polyester fiber used in face masks and hospital gowns, and convinced the U.S. International Trade Commission to apply duties on unfairly low-priced imports of printing plates from China and Japan, earning it a spot among the 2024 Law360 International Trade Groups of the Year.

Washington, D.C.-based partner Brooke M. Ringel said that in order to obtain Biden's proclamation, which he issued Nov. 14, the firm's international trade practice had to show that the polyester fiber industry in the country was seriously injured by imports instead of a material injury, the benchmark for antidumping and countervailing cases in front of the ITC.

"We did get a remedy for our clients, which, of course, was really a huge achievement not only because these Section 201 global safeguard cases are relatively rare, but also to get specifically the relief that the ITC and the president determined will benefit the industry is really quite cool," Ringel said. "We're pleased with that outcome."

In its report investigating imports of polyester fiber in August, the ITC told Biden that these imports were "in such increased quantities as to be a substantial cause of serious injury" to the U.S. industry for polyester fiber.

"That's what makes these proceedings unique: There's a higher bar, and we met that bar by demonstrating that the domestic industry has been seriously injured by imports notwithstanding the antidumping and countervailing duty orders we were able to obtain several years ago for the same industry," Ringel said. "The imports continue to surge in, and it caused actually the closure of a number of domestic producers and that was a significant factor for the president to determine to impose a remedy to essentially help save this important industry."

Ringel said the domestic polyester fiber sector is an "important part of the U.S. manufacturing supply chain for the textile industry."

"It's important that those U.S. textile manufacturers have a reliable and healthy domestic supply of polyester fiber, which is why we requested this relief from the president," Ringel said.



The firm's international trade practice includes about 15 attorneys, mostly based in Washington, D.C., with some in New York.

John M. Herrmann II, chair of the firm's international trade practice, said the highlight of 2024 was helping Eastman Kodak Co., the last U.S. manufacturer of aluminum lithographic printing plates that was concerned about whether it would be able to continue manufacturing. Such printing plates are used in producing printed materials, such as newspapers, magazines, books, yearbooks, coupons and packaging, according to the ITC.

The ITC advanced the investigation into printing plates in November 2023. Fujifilm Corp. and Fujifilm Printing Plate (China) Co., as well as Capital Trade Inc., opposed Eastman Kodak's petition.

Most recently, the ITC sided with Eastman Kodak, finding in November that the U.S. industry was materially injured by imports of aluminum lithographic printing plates from China and Japan after the U.S. Department of Commerce determined that those imports were sold in the U.S. at less than fair value and subsidized by the government of China, according to the ITC's final determination.

The ITC said the imports were "significantly undersold" compared to the domestic counterpart, which negatively impacted the domestic industry and "had significant price effects."

Herrmann said the ITC's favorable decision came after "what I would characterize as an extremely hard-fought proceeding" in front of the ITC. He said his hope is that the firm's representation will be able to help Eastman Kodak conduct business "in a healthy environment."

"That was a nice way to end the year on a case that consumed a fair amount of our time last year," he said. "That's probably the highlight for me personally."

Herrmann said the practice is able to be more efficient by working with the firm's in-house economic consulting group, Georgetown Economic Services LLC, on the Eastman Kodak case and other matters. According to the firm, the group offers analytical support to its attorneys on international trade, antitrust and commercial litigation matters.

Based in Washington, D.C., Herrmann said the international trade practice is the firm's largest group in the city, and it includes a number of attorneys who have been with the firm for decades. Ringel, for instance, has practiced law at the firm after starting as a summer associate with a brief stint at a trade association, she said.

"The core of our group has been the same for a long time," Herrmann said. "I think that has been important in generating loyalty and stickiness with our clients, and it's what makes it fun to come to work every day to roll up our sleeves and sit down with people I enjoy working with and try to figure out how we can produce good work and good results for our clients."

Herrmann said the firm's practice also persuaded the Commerce Department to affirm in August that Vietnam is a nonmarket economy country for the purpose of U.S. antidumping duty law. According to an August report from the Congressional Research Service, an NME is a country that the Commerce Department "determines 'does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of merchandise.'"

The department found that despite Vietnam putting in place "notable market-oriented reforms, the extent of government involvement in the economy continues to distort market conditions, rendering Vietnamese prices and costs unusable for U.S. antidumping duty calculations."

Herrmann said the firm represented multiple clients in this matter.

"That was also a very significant victory for our firm and our clients to ensure that the Commerce Department continues to apply its [non-market economy] methodology to imported products from Vietnam," Herrmann said.

The firm's practice also successfully represented clients alleging that importers had circumvented antidumping and countervailing duties.

As lead counsel to the U.S. Aluminum Association, the firm convinced the Commerce Department to find that aluminum foil imports that were exported from Korea and Thailand — with parts from China — were circumventing the antidumping and countervailing duties imposed on aluminum foil imports from China

"The claim was that the foil originated in Korea or Thailand and thus was not susceptible to the assessment of dumping and countervailing duties under the China order," Herrmann said. "We expressed some concerns about that to the Commerce Department."

The department, in turn, imposed the antidumping duties on aluminum foil imports from Korea and Thailand.

--Additional reporting by Alyssa Aquino. Editing by Kelly Duncan.