

International Trade Group Of The Year: Kelley Drye

By Alex Lawson



Law360, New York (January 23, 2015, 3:32 PM ET) -- The international trade team at Kelley Drye & Warren LLP continued its sterling work in 2014 for U.S. manufacturers in a bevy of high-profile trade remedy cases while also providing valuable guidance on customs and export compliance matters, cementing the firm's status as one of Law360's Practice Groups of the Year.

Fueling the firm's second consecutive appearance on Law360's list is a roster of attorneys that boast a crucial combination of legal and commercial savvy that has continually proven to be invaluable for clients across a slew of industry sectors, according to partner Kathleen Cannon.

"We have quite a deep bench of people that have done these cases for petitioners representing U.S. industries," Cannon told Law360. "We get to know our clients really well and their products and their industries. I think that experience both with the law and the commercial side of the business that we focus on intensively has helped to elevate our practice."

Cannon — who led the international trade practice before being promoted to managing partner of the firm's Washington, D.C., office earlier this year — also said the firm's clients have also benefited from the insights of Georgetown Economic Services LLC, Kelley Drye's in-house economic consulting firm.

"They bring a wealth of background knowledge about the agencies, about accounting practices and other factors that are really relevant to these types of investigations that reinforce our teams," Cannon said of GES.

The firm kicked off its busy 2014 by lodging trade remedy petitions on behalf of ArcelorMittal USA LLC, Gerdau Ameristeel US Inc. and numerous other companies looking to slap hefty remedial tariffs on valuable imports of wire rod from China that they claimed were being dumped and unfairly subsidized.

After months of arduous litigation before both the U.S. Department of Commerce and the U.S. International Trade Commission, Kelley Drye was able to secure dumping margins ranging between 106 percent to 110 percent and countervailing duties that climbed up to 193 percent to offset the Chinese imports.

Cannon and her team then successfully persuaded the ITC to find that the Chinese rod imports were injuring domestic producers, clearing the final bar for the duties to be put in place.

"The imports were surging and they were underselling the U.S. producers in virtually all instances and the U.S. trade and financial variables were plummeting," she said. "We had strong facts and the commission agreed, so that was a nice victory for an industry that had really been pummeled in a short amount of time by China."

In addition to securing new duties on Chinese wire rod, Kelley Drye was able to keep 12-year-old duties in place on the same products shipped from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago by convincing the ITC that a removal of the measures would hamper domestic industry.

Kelley Drye's robust trade remedy work also included obtaining duties on high-carbon steel wire used in rail ties from Mexico and China, as well as Chinese boltless steel shelving units.

When they weren't toiling before Commerce and the ITC to provide relief for domestic producers, Kelley Drye's attorneys were hard work in court challenging and defending various decisions by the agencies, including in a closely watched case regarding Commerce's use of "adverse facts available" methodology that stretched all the way to the Federal Circuit.

A team led by partner Laurence J. Lasoff, special counsel Mary T. Staley and senior associate Grace W. Kim intervened on behalf of U.S. stainless steel bar producers in a dispute between Commerce and Indian producer Mukand Ltd. over the agency's decision to hit the company with an AFA-driven dumping margin of 21.02 percent.

Commerce's sets duty rates on an AFA basis when a respondent company has not cooperated with the investigation to the best of its ability. The panel approved Commerce's AFA rate for Mukand, a ruling that Cannon said provided much-needed clarity on what was becoming an increasingly murky area of trade law.

"Commerce uses adverse facts available from time to time, but they don't use it as aggressively as we believe they should and part of that is because the court has often rejected their decision to use it," she said. "Precedentially, we thought that was a really good outcome to see at the appellate court."

Taking over for Cannon as the trade practice chair is partner Eric McClafferty, who has spearheaded Kelley Drye's export compliance work, which has been crucial as the White House continues its overhaul of export control rules.

McClafferty told Law360 that the biggest challenge he faces in the ongoing transition of certain items from the stringent controls covered by the International Traffic in Arms Regulations to the more relaxed Export Administration Regulations is walking clients through the reform process without getting them lost in the maze of complex regulatory language.

"It's such a technical area of law and you're required as an attorney to get into the technical details of the products, it's unavoidable," he said. "To try to practice in this area without truly understanding the technical nature of your client's products, then you're not doing your job properly."

Among the clients aided by Kelley Drye's export control team were the Association for Unmanned Vehicle Systems International and firms with a hand in the cloud computing industry.

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