

## International Trade Group Of The Year: Kelley Drye

By **Alex Lawson**

*Law360, New York (January 17, 2014, 1:53 PM ET)* -- Over the past year, the international trade team at Kelley Drye & Warren LLP scored numerous wins before U.S. government agencies to level the playing field for domestic producers and also aided in defending the constitutionality of a critical trade remedy law, earning itself a spot among Law360's International Trade Groups of the Year.

The trade practice is led by Kathleen W. Cannon, who said that the firm's sterling legal team — consisting of 10 partners and six associates — is further buttressed by the firm's expansive set of technical professionals who allow the attorneys to drill down into the details of clients' business models to attain the most effective remedy from U.S. trade authorities.

"We work as a team and we have a good crossover of people who are experienced attorneys in this area and have a diversity of backgrounds, but we also have people in our economic group, some of them are certified public accountants, some of them have advanced degrees in economics or other fields related to data and financial analyses," Cannon told Law360. "I think that lends itself well to tackling any issue we face, whether it is a legal issue, a statistical economic issue or a policy issue."

Never were the skills of the firm's team on display more prominently than in September when it filed one of the largest trade remedy petitions in recent years on behalf of grain-oriented electrical steel, or GOES, producers AK Steel Corp. and Allegheny Ludlum LLC.

At the behest of both companies, Kelley Drye alleged to both the U.S. Department of Commerce and the U.S. International Trade Commission to probe allegations that China, Germany, Japan, Poland, Russia, South Korea and the Czech Republic were unfairly selling GOES products at below market value at margins as high as 217 percent.

Within the same case, Kelley Drye also filed a petition alleging that GOES products shipped from China are benefiting from unwieldy government subsidies and sought a countervailing duty order to offset the discrepancy.

The ITC issued a unanimous preliminary determination in November that domestic GOES producers are being harmed by the allegedly unfair imports, allowing the government investigations to continue. Cannon said she was confident that the duties would eventually be imposed and defended the trade remedy process as an essential tool for U.S. businesses facing unfair competition.

"There are international rules that every country has agreed to on the anti-dumping and countervailing

duty issues as being sound trade practices and all these laws are meant to do is level the playing field," Cannon said. "If you didn't have that, you would have all these aggressive and unfair pricing practices or government subsidies that destroy trade."

In March, Kelley Drye helped to secure a win at the U.S. Court of International Trade on behalf of domestic kitchen appliance shelving and rack manufacturers, fending off a challenge from a Chinese firm against a law passed in 2012 that affirmed the right of the Commerce Department to apply both anti-dumping and countervailing duties to nonmarket economies such as China.

While the challenge was against the U.S. government, Kelley Drye intervened on behalf of the U.S. producers at the CIT. In court, partner Paul C. Rosenthal asserted that the 2012 law, which undid a Federal Circuit decision that reversed long-standing U.S. policy, was the rare example of an issue that bridged political party gaps.

"When I argued this case before the CIT, I made the point that saying that the CAFC decision was unique in managing to unify the House and the Senate and Democrats and Republicans," Rosenthal told Law360. "It's not easy to get Congress to act quickly, but this was one of those unifying events."

CIT Judge Nicholas Tsoucalas rejected arguments from the Chinese company that the law was unconstitutional, a decision that was appealed to the Federal Circuit, where Kelley Drye has continued its fight on behalf of U.S. producers.

The firm was also successful in keeping alive remedial import duties that have been in place for many years. In January, Kelley Drye convinced the ITC that revoking a 1996 order on clad steel plate from Japan would continue to harm the operations of its clients ArcelorMittal USA and Dynamic Materials Corp.

Kelley Drye's client base also extends beyond the steel and heavy manufacturing sector, as the firm was also able to maintain existing anti-dumping and countervailing duty orders on imports of certain pasta varieties from Italy and Turkey. An August determination from the ITC ensured that the orders will remain in place for five additional years.

Cannon said a common element of the firm's many successes over the past year had been the attention to detail and preparation of its professionals and its wide variety of industry clients.

"We are very active in terms of reaching out to our clients and going to tour facilities to learn about their businesses, products and markets," she said. "Also having the wide array of clients that we do gives us a good perspective on different markets and industries when we are in a trade case and that really helps our analysis."

--Editing by Katherine Rautenberg.