

## International Trade Group of the Year: Kelley Drye & Warren

By **Andrew Strickler**

*Law360, New York (January 31, 2017, 2:28 PM EST)* -- With a string of recent victories in anti-dumping and countervailing duty cases and a Federal Circuit appellate decision validating a key standard for imports that try to skirt anti-dumping orders, Kelley Drye & Warren LLP has earned a spot among Law360's Practice Groups of the Year.

Paul Rosenthal, an international trade expert and co-chair of Kelley's Drye's government relations group, said that the firm's practice has a particularly broad reach, representing corporate clients in the steel, plastics, textiles and chemicals, agriculture and industrial products industries, among others.

"I think we are outstanding in how we integrate all our different practices," he said.

Among the group's notable cases last year was a final determination from the U.S. International Trade Commission for a group of manufacturers saying that Canada, China, India and Oman were causing injury to the domestic polyethylene terephthalate resin industry.

That decision and another saying that imports of PET resin from China and India were being subsidized were significant victories for firm clients DAK Americas, M&G Chemicals and Nan Ya Plastics.

"These companies were greatly in need for relief because imports from these four countries had been causing a lot of financial bleeding," Rosenthal said. "These decisions helped the industry stabilize and invest in capital-intensive factories and keep jobs in the U.S., and that's really what a lot of these cases are about."

In another big ITC win, Kelley represented AK Steel Corp., Allegheny Ludlum LLC, North American Stainless and Outokumpu Stainless USA LLC, four U.S. producers of sheet and strip stainless steel, and secured a unanimous preliminary determination that Chinese exporters were dumping their products at prices below their manufacturing costs.

The U.S. Department of Commerce later announced preliminary subsidy margins ranging up to 193.12 percent, and assigned preliminary anti-dumping margins ranging from approximately 64 percent to 76 percent on Chinese imports.



On behalf of ArcelorMittal USA, Kelley Drye also joined with steel producers Nucor Corp. and SSAB Enterprises on petitions filed in April charging that dumped imports of carbon and alloy steel cut-to-length plate from 12 countries were hurting the domestic industry.

In May, the ITC issued unanimous affirmative preliminary injury findings for all 12 countries. Commerce also responded with positive preliminary determinations on duties, and a preliminary countervailing duty rate of 210 percent for China.

In January, the ITC finalized tariffs on imports of cut-to-length steel plate from Brazil, South Africa and Turkey, giving the all-clear on anti-dumping duties ranging between 42 percent and 94 percent announced by Commerce in November. A related case on cut plate steel from multiple countries is also headed to a final determination.

International trade partner Kathleen Cannon said that the positive decisions for the firm's clients would also help protect thousands of jobs at U.S. steel facilities.

"In these steel cases, everyone is looking to the U.S. as a way to export their overcapacity, so it become a collective harm caused by a number of countries, not just one," she said.

The firm's international trade team was also behind a winning argument at the U.S. Court of Appeals for the Federal Circuit on behalf of a coalition of wire rod manufacturers.

Overtaking a lower court decision on the statutory minor alterations provision in *Deacero v. United States*, the appeals court said that a Mexican company selling steel wire rods in the U.S. that were a quarter-millimeter thinner than rods specified in an anti-dumping order still had to pay duties.

"This was an important win for the industry but also a very important legal finding" because it supported agency authority to police those trying to skirt the policy, said Cannon, who handled the oral arguments.

On the practice's export controls and sanctions compliance side, the Kelley Drye team is also handling a massive Office of Foreign Assets Control sanctions investigation and disclosure matter for an international financial services company, said Eric McClafferty, who chairs the international trade group. The firm is also handling another ongoing sanctions matters for one of the world's largest shipbuilders.

Other work includes export control counsel for banking, insurance, consumer goods, publishing and other companies, and for multiple drone manufacturers and the U.S. drone industry association.

McClafferty said that his team is also counseling clients about the potential ramifications of President Donald Trump's stated intention to renegotiate a multilateral nuclear arms deal penned with Iran two years ago.

"If it happens, the U.S. approach to to Iran would have to change in terms of licensing issues and the president has a lot of power to issue executive orders in the sanctions area," he said.

--Editing by Stephen Berg.