

## International Trade Group of the Year: Kelley Drye

By **Steven Trader**

*Law360 (February 6, 2019, 3:28 PM EST)* -- The international trade team at Kelley Drye & Warren LLP landed a major win for the domestic steel industry in a massive, 10-country anti-dumping investigation in 2018 and racked up victories for large power transformer producers as well, earning its place among Law360's International Trade Groups of the Year.

After an impressive workload in 2017 in which Kelley Drye helped initiate half of the 79 anti-dumping and duty investigations launched by the U.S. Department of Commerce that year, the international trade group's roughly 30 attorneys and economists took on an even greater lift in 2018 as they juggled completing those investigations with filing new cases and performing normal administrative work on behalf of clients. It was one of the busiest years partner Kathleen Cannon can remember.

"I've been doing this for probably 30 years and last year was one of the busiest years we've had in terms of having so many simultaneous investigations going on," Cannon said. "It was sort of 'all hands on deck' for quite a bit of last year to not only get through the cases and file everything but to do so successfully and to win so many of these cases in a variety of industries."

One such victory came on behalf of U.S. carbon and alloy steel wire rod producers that just two years earlier had obtained relief from low-priced wire rod imports from China, only to then be undercut in the domestic market by foreign competitors in 10 additional countries, including Italy, South Africa, Spain and the United Kingdom.

Kelley Drye petitioned the Commerce Department for an investigation on behalf of Gerdau Ameristeel US Inc., Keystone Consolidated Industries Inc. and Charter Steel back in March 2017, and the agency responded in early and mid-2018 with anti-dumping duties ranging from 4.93 percent to 756.93 percent, and countervailing duties between 3.81 percent and 44.18 percent.

It took an enormous amount of work by the firm, but resulted in much-needed relief for a segment of the steel industry that was already pretty battered, according to Cannon.

"We had a lot of people handling different aspects of the case and that made a big difference," Cannon said. "Having the depths that we do, just the number of experienced attorneys and economists doing



dumping analyses, working with multiple producers to navigate specific questionnaire responses, coming up with the proper data and reporting it correctly and consistent with International Trade Commission instructions, it was a lot, but because we have people that have done a lot of these cases for many years, that really expedited it."

Given the workload in 2018, Kelley Drye international trade practice managing partner Alan Luberda said it wasn't uncommon for lawyers to stay until 2 or 3 a.m. on occasion, but that everyone in the group, including docket clerks, paralegals, secretaries, associates and partners, all stepped up to get things done without complaint.

"You'd hate to say no to any particular piece of business but we have on occasion if we thought it would break the machine," Luberda said. "I think we came right up to the limit last year, but we managed. It's just a phenomenal group of people who are really dedicated to what they do."

Led by Luberda, a team of Kelley Drye attorneys last year emerged victorious in a highly contested case against two Korean producers that challenged the results of a 2012 anti-dumping duty order on large power transformers during an annual sunset review.

On behalf of the U.S. large power transformer industry, the Kelley Drye team had argued the Korean producers had provided incomplete and unreliable data to Commerce, which the department agreed with in March, assigning a new anti-dumping rate of 60.68 percent.

"It's probably the most complex case I've ever worked on, as the market is very complex and the products themselves are complex," Luberda said. "And the Korean respondents are incredibly aggressive, have great counsel on the other side, and leave no stone unturned. It's been a war with those guys, so it was very satisfying to get that result."

That wasn't the end of the case, though, as Luberda and his team also argued that a name change by Korean producer Hyundai Heavy Industries had allowed the exporter to pay a 22 percent duty rate instead of a much higher one assigned to it in 2017.

Kelley Drye urged Commerce to conduct a changed circumstance review, and in August, for the first time in the history of such reviews, the department decided to retroactively apply the higher duty rate to when Hyundai changed its name.

"We had to be a little more creative than normal and give Commerce a legal path to do that, which they took up," Luberda said. "That was something we were very proud of because it was a first, and it will result I think in enhanced enforcement of the trade laws."

The federal government shutdown that lasted most of January this year finally gave the Kelley Drye trade group a chance to catch its breath from the past two years of work, Luberda said, but he doesn't expect the quiet moment to last very long.

"There's a lot of work in the pipeline," Luberda said. "People are paying attention. The change in the trade environment in the past couple of years is making a lot of people look at their businesses and ask questions about how it's going to affect them, and that's creating a lot of possibilities for work for us, so we are applying ourselves to all those opportunities."