

International Trade MVP: Crowell & Moring's Daniel Cannistra

By Alex Lawson

Law360, New York (December 13, 2016, 12:51 PM EST) -- Crowell & Moring LLP partner Daniel Cannistra found himself on the cutting edge of trade remedy litigation over the past year by handling the first-ever countervailing duty case against a Russian company and crafting crucial case law on the scope of a duty order on aluminum extrusions, earning him a spot among Law360's International Trade MVPs.

Cannistra found himself right in the thick of the barrage of trade cases launched by the U.S. steel industry over the past 18 months when he represented Russian producer JSC Severstal in the investigation focused on cold-rolled steel imports. While the case marked the first time Russia had been subject to a CVD probe, Cannistra relied on his years as industry counsel to power through.

"This is probably my third steel crisis I've dealt with over the last 15 years," Cannistra told Law360. "I came into it with an awful lot of experience in the steel industry generally, and that had a pretty significant impact in terms of being able to litigate these cases quickly and effectively over the course of the year."

As the case plowed ahead, Cannistra was able to poke enough holes in the steel industry's case to secure a de minimis CVD margin for Severstal, which meant that no duties would be put in place. Still, the company was tagged with a 13 percent anti-dumping duty after the U.S. Department of Commerce determined that it was selling its products at unfairly low prices.

But when the case volleyed back to the U.S. International Trade Commission, Cannistra and his colleagues were able to show that the Russian imports were not hampering domestic producers, earning a negative injury determination and removing all of Russia from the probe entirely.

To accomplish this, the Crowell & Moring team decided it not only had to conduct a thorough examination of Russia's metals and mining industry, but also how it stacks up with domestic support measures implemented by the world's other major economies, specifically the U.S.

"We made this a discussion about mining globally rather than focusing on Russia in particular, and at the



end of the day we found many more similarities between U.S. and Russian mining than we saw differences between the two countries,” he said.

Cannistra also kept busy litigating cases surrounding the scope of anti-dumping and countervailing duty orders on Chinese aluminum extrusions. Most notably, he was able to convince the U.S. Court of International Trade that oven door handles and aluminum mop parts imported by Meridian Products LLC and Newell Rubbermaid, respectively, should not be subject to the duty.

Because aluminum extrusions are used in hundreds of consumer goods, the trade bar has seen a flurry of litigation over the duty orders since they were finalized in 2011.

That climate has given rise to shifting of conventional wisdom on scoping issues, Cannistra said, asserting that the Rubbermaid and Meridian cases are good examples of challenging the types of decisions that attorneys previously considered to be fairly ironclad.

“Never underestimate the value of challenging convention,” he said. “When we saw these two cases, we just took a different approach and said that, yes, the government gets a lot of discretion, but it still has to be reasonable. And so we went to the court and just said ‘you need to take a real close look and determine whether the agencies are acting reasonably,’ we don’t think that they are.”

--Editing by Bruce Goldman.

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