

International Trade Group Of The Year: Crowell & Moring

By **Alyssa Aquino**

Law360 (January 24, 2022, 2:03 PM EST) -- Crowell & Moring LLP guided Invenergy Renewables LLC in its ongoing campaign against solar panel duties and steered DuPont through a synthetic roofing imports dispute that risked its access to a \$29 billion market, earning the firm a spot among Law360's 2021 International Trade Groups of the Year.

Crowell & Moring's international trade group tackles a number of trade issues, including customs work, litigation and administrative work, free trade agreements, and unfair trade practices and has expanded over the past five years to include more than 50 lawyers and trade analysts in Washington, D.C., New York City, London, Brussels, Shanghai and Doha, Qatar, according to John Brew, co-chair of the group.

But those figures don't fully represent the resources at hand, as Crowell & Moring's trade pros regularly collaborate with colleagues in other practice areas in what Brew refers to as a "no-walls approach."

"The more we collaborate with other practice areas and clients, and just the diversity of practice areas that we collaborate with, creates better results," he said.

This philosophy came to the fore in Crowell & Moring's work for Invenergy, which is waging a multiyear battle against "safeguard tariffs" on double-sided solar panels alongside a broad coalition of importers. The firm had helped secure an injunction preventing the White House from reinstating the solar duties, a court order broadening that injunction, and then another court order faulting the White House when it thrice attempted to impose the duties.

It wasn't "just" trade lawyers who handled the case, Brew said, but also practitioners with other specialties, such as Amanda Berman, an administrative lawyer and former U.S. Department of Justice attorney, and Katie Clune, an intellectual property expert who co-leads Crowell & Moring's International Trade Commission and Section 337 litigation practice.

Clune had previously steered Invenergy through a Section 337 dispute before the U.S. International Trade Commission — experience that became very helpful when Crowell & Moring had to present witnesses and facts for the safeguard duties case, Brew added.



"You have administrative law, litigation, energy, IP and trade kind of all rowing the boat at the same time," Brew said.

Crowell also helped DuPont de Nemours Inc. and E.I. du Pont de Nemours LLC beat allegations that DuPont's Tyvek slip-resistant, roofing underlayment products infringed on a rival's patents — claims that threatened to bar Tyvek imports from the U.S. for a decade.

In December 2020, two months before the trial was set to begin, Crowell & Moring won a dispositive claim construction ruling showing that none of the accused products infringed the asserted claims. The ITC complaint was withdrawn days later.

Clune saw the case as playing to Crowell & Moring's Section 337 and IP litigation expertise. Her team had flagged the dispositive issue that won the case in its first meeting with DuPont, she said.

"That's really the strength of Crowell's international trade practice," she said. "We have the strength in really all aspects of these types of cases, because they don't just reside only in the International Trade Commission."

Crowell & Moring also represented Phosagro, Russia's largest fertilizer producer, when trade officials investigated whether it had received illegal subsidies from Moscow. After a year-long investigation, Phosagro received the lowest off-setting tariff of all the Russian and Moroccan fertilizer businesses under investigation.

The backdrop of COVID-19 made the proceeding particularly memorable, according to partner Dan Cannistra.

"Can my official position be 'nightmare'?" he joked, when asked how his team navigated pandemic restrictions.

Typically, trade officials conduct a three-week on-site audit to verify the information that businesses provide to them. During the pandemic, the U.S. Department of Commerce conducted those audits virtually, by issuing businesses a surprise number of questions with a five-day deadline to respond.

"You didn't know what those five days were going to be," Cannistra said. "You didn't know when that clock was going to start — there were no extensions."

And guiding overseas businesses through that process offered its own headaches.

"You can show someone how to make an omelet in six minutes, but if you had to write down every step, including taking the skillet out, that's going to take two hours," said partner Alexander H. Schaefer.

In addition to defending respondents against anti-dumping and countervailing subsidies allegations, Crowell & Moring successfully brought anti-dumping and countervailing subsidies claims on behalf of domestic companies.

Representing Honeywell Inc., Crowell & Moring secured remedial duties approaching 500% on Chinese imports of R-125, a refrigerant, in August 2021. And for MTD Products Inc., the firm won anti-dumping and countervailing duty orders reaching up to 263% on Chinese and Vietnamese walk-behind lawn mowers.

Heading into 2022, Crowell & Moring's trade team is looking to expand as it sees ramped-up activity in the export controls and sanctions spaces and as more businesses struggle with supply chain woes. Despite the work boom, the group will be taking its time to onboard people, Brew said.

"Our team that we do have ... it might take five people over the holidays, but they were there and they did it," Clune said. "Regardless of the fact that we would love to grow the group, the group that we do have is all hands on deck."

--Editing by Ellen Johnson.

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