

## Chinese Aluminum Imports Injure US Industry: ITC

By **Ben James**

Law360, New York (April 28, 2011) -- The U.S. International Trade Commission found Thursday that U.S. producers were being hurt or threatened with injury by dumped and subsidized aluminum goods imported from China, clearing the way for countervailing and anti-dumping duty orders on most items.

The U.S. Department of Commerce had previously determined that all aluminum extrusions — shapes formed out of aluminum alloys and made into a wide range of products — brought into the U.S. from China were subsidized and sold at less than fair value. A March 2010 petition from the Aluminum Extrusion Fair Trade Committee and the United Steelworkers Union got the probes started.

But the ITC's affirmative findings do not apply to finished heat sinks, which are used to dissipate heat in products like computers and routers. Mayer Brown LLP's Duane Layton, who represents heat sink maker Aavid Thermalloy LLC, said Thursday that he was happy with the ITC's decision to carve out heat sinks, which Aavid's had argued were a separate product that did not have a negative effect on U.S. industry.

"We are completely pleased. We won on heat sinks today," Layton said.

The ITC vote on the issue of material injury marked the last hurdle the U.S. petitioners had to clear in pressing their case, Layton said.

Because of the affirmative determinations, Commerce will issue anti-dumping and countervailing duty orders on imports of aluminum extrusions from China other than finished heat sinks, while no orders will be issued on finished heat sinks from China, the ITC said.

At a March 29 public hearing, Senators Claire McCaskill, D-Mo., and Sherrod Brown, D-Ohio, urged the ITC to implement anti-dumping and countervailing duty orders on importers of Chinese aluminum extrusions.

McCaskill told the ITC the duties were all about jobs, citing thousands of positions that disappeared from the domestic industry over the past two years due to alleged unfair competition from China. Rural communities supported by aluminum extrusion company plants in her state and elsewhere have very

few places to turn when the facilities close their doors, McCaskill said.

Local industry has been forced to compete on an uneven playing field in the global economy, Brown told the commission.

That same day, Commerce determined Chinese producers and exporters had sold aluminum extrusions in the U.S. at margins ranging from 32.79 to 33.28 percent. Commerce also determined that Chinese producers and exporters have received net countervailable subsidies of 8.02 to 374.15 percent ad valorem.

In January, Commerce revised its proposed anti-dumping duties on aluminum extrusions from China, virtually cutting the rates in half after correcting initial calculations.

"This is an important decision for U.S. aluminum extrusion producers, which saw unfair imports from China decimate their markets during the past several years," said Steven Jones of King & Spalding LLP, lead counsel for the Aluminum Extrusions Fair Trade Committee, who had spoken in support of the anti-dumping and countervailing duty orders at the March hearing.

Aavid Thermalloy, represented by Mayer Brown, and The Shower Door Manufacturers Alliance, represented by Squire Sanders & Dempsey LLP, argued at the hearing that heat sinks and shower door kits were not covered under the orders, and that their corresponding industries were not being materially injured or threatened with injury.

Aluminum extrusions made of aluminum alloys of manganese, magnesium and silicon are used as parts in a range of products, among them window and door frames, sills, gutters, solar panel frames, cars, trucks, boats and furniture, according to Commerce.

King & Spalding LLP represents the Aluminum Extrusions Fair Trade Committee.

Mayer Brown LLP represents Aavid Thermalloy. Squire Sanders & Dempsey LLP represents The Shower Door Manufacturers Alliance.

The investigations are titled Aluminum Extrusions from China, investigation numbers 701-TA-475 and 731-TA-1177, before the U.S. International Trade Commission.

--Editing by Eydie Cubarrubia.

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