International Trade

The interdependence and growth of global markets have increased the scale and frequency of international trade disputes. As these disputes become more complex, expert assessments of financial, economic, and business matters have become increasingly important.

EXPERTISE IN ECONOMIC THEORY AND MODELING

Assess markets and demand
Estimate potential impact of trade remedies
Analyze past trade actions as “natural experiments”
Review consequences for consumers
Analyze product differentiation between imported and domestically produced products

Cornerstone Research and our affiliated experts have worked with clients on a range of international trade issues, including Section 337 investigations involving patent infringement claims, bond determination, antidumping and countervailing duty investigations, sunset reviews, and other import and export restrictions. The venues where our firm has provided expert analysis include the U.S. International Trade Commission, the U.S. Department of Commerce, the International Trade Administration, and the World Trade Organization.
SECTION 337
UNFAIR IMPORT INVESTIGATION OF MEDICAL DEVICES

Cornerstone Research worked with a healthcare and competition expert in a patent infringement matter before the ITC.


Professor Nicholson evaluated the impact on the public interest if the ITC blocked the defendants’ products from the U.S. market. He determined that the plaintiff and defendants were, for all practical purposes, the only two competitors in the relevant product market so that an exclusion order would substantially increase the plaintiff’s market power. The defendants’ product family in this case was not a new entrant but had been on the market for almost a decade and had obtained a substantial market share. Professor Nicholson showed that an exclusion of the products would impose substantial switching costs on medical practitioners and hospitals, and would negatively impact public health and welfare.

The ITC found the economic analysis compelling and decided that LWTP imports from Germany no longer posed a threat to the domestic industry.

Professor Nicholson also analyzed capacity data and projections to determine whether the plaintiff would be able to meet the increased demand that would result from an exclusion order. He found that the plaintiff’s internal projections did not establish that it could meet the full market demand and that any shortfall would have a further negative impact on public health and welfare.

Finally, Professor Nicholson reviewed the analyses of two of plaintiff’s experts on issues of commercial success and on the appropriate size of the bond to be posted for the duration of the presidential review period. The case settled after trial.

ITC INVESTIGATION
LIGHTWEIGHT THERMAL PAPER

The ITC ruled unanimously in favor of Koehler and revoked an antidumping order on lightweight thermal paper imports from Germany.

Counsel for Koehler SE retained Cornerstone Research and Professor Orley Ashenfelter of Princeton University to review the potential effects of the removal of an antidumping order. Koehler, a German firm, is the world’s largest producer of lightweight thermal paper (LWTP), which is commonly used for receipts. In 2008, the U.S. International Trade Commission (ITC) imposed an antidumping order on imports of LWTP from Germany on the grounds that they posed a threat to the domestic producers. These orders are reviewed after a period of five years in what is called a sunset review.

In the sunset review that concluded in 2014, Cornerstone Research and Professor Ashenfelter analyzed whether the imposition of the antidumping order had impacted prices of LWTP in the United States, whether Koehler had incentives to reduce its prices and shift sales to the United States in the absence of the order, and whether the revocation of the order would adversely impact the domestic producers of LWTP.

Using confidential data from Koehler and domestic producers, Cornerstone Research and Professor Ashenfelter showed that the imposition of the antidumping order did not impact prices of LWTP sold in the United States. In addition, the economic analysis demonstrated that the productivity of the primary domestic producer had improved significantly since 2008, and that German producers had no incentive to increase their U.S. market share if the ITC were to lift the order.

The ITC found the economic analysis compelling and decided that LWTP imports from Germany no longer posed a threat to the domestic industry. In a unanimous ruling, the Commission revoked the antidumping order. Cornerstone Research vice president Dr. Kivanç Kirgiz and principal Dr. Emre Uyar also appeared on behalf of Koehler during the ITC hearing.
U.S.–CANADA SOFTWOOD LUMBER DISPUTE

Cornerstone Research worked with an expert who analyzed the potential impact of eliminating export restrictions on softwood lumber.

Cornerstone Research was retained in the fourth round of the U.S.–Canada softwood lumber dispute. Cornerstone Research worked with Professor Edward Leamer of the University of California, Los Angeles, to address the economic consequences of Canadian log export restrictions.

Professor Leamer found that the elimination of export restrictions would have no long-term price impact.

Professor Leamer submitted analyses before the International Trade Administration, the U.S. Department of Commerce, and the U.S. International Trade Commission on behalf of the respondents. He analyzed whether log export restrictions have a “direct and discernible effect” and benefit softwood lumber producers. Professor Leamer addressed general equilibrium effects, cross-country trade patterns, and log price differences. He found that in the long run there was no price impact of export restrictions and their elimination would have no effect.

ITC INVESTIGATION
CERTAIN PASSENGER VEHICLE TIRES AND LIGHT TRUCK TIRES FROM CHINA

Cornerstone Research experts evaluated whether a reduction in tire imports from China would have an impact on the production of U.S. domestically produced tires.

Cornerstone Research was retained by counsel of a major importer in connection with the U.S. International Trade Commission’s (ITC’s) investigation of certain passenger vehicle tires and light truck tires from China. Dr. Kivanç Kirgiz, vice president, and Dr. Emre Uyar, principal, of Cornerstone Research analyzed the competition between domestically produced tires and those imported from China. The experts addressed whether antidumping and countervailing duties on subject imports are likely to lead to an increase in domestic production.

Drs. Kirgiz and Uyar found that there was a high degree of product differentiation. They concluded that a reduction in imports of tires from China would be unlikely to lead to an increase in the volume of domestically produced tires. Instead, imports from other countries, which are closer substitutes for Chinese tires, would increase to fill the gap.

Drs. Kirgiz and Uyar showed that imposing duties did not result in a statistically significant increase in U.S. domestic tire production.

Drs. Kirgiz and Uyar provided empirical evidence using the “natural experiment” of safeguard duties placed on tires imported from China in 2009 under Section 421 of the Trade Act of 1974.

Their regression analysis showed that Section 421 duties resulted in a statistically significant decline in imports from China and a statistically significant increase in tire imports from other countries. At the same time, there was no statistically significant increase in domestic production.
SECTION 337
INVESTIGATION OF INCREMENTAL DENTAL POSITIONING ADJUSTMENT APPLIANCES

Align Technology sued OrthoClear (a foreign manufacturer) for patent infringement under Section 337 of the Tariff Act of 1930.

Align Technology alleged that OrthoClear’s clear aligners infringed its U.S. patents and that OrthoClear had misappropriated its trade secrets. Counsel for Align Technology retained Dr. Michael Keeley, a senior vice president of Cornerstone Research, to determine whether a “domestic industry” existed for the Invisalign System and assess whether the industry had suffered injury from OrthoClear’s imports of allegedly infringing clear aligners.

Dr. Keeley showed that the industry had suffered significant damage from OrthoClear’s import of infringing products.

Dr. Keeley analyzed Align Technology’s economic activity as it related to the existence of a domestic industry. He provided evidence on the economic prong of the test for the existence of a domestic industry and showed that the industry had suffered significant damage from OrthoClear’s import of infringing products.

About Cornerstone Research

Cornerstone Research provides economic and financial consulting and expert testimony in all phases of complex litigation and regulatory proceedings. The firm works with an extensive network of prominent faculty and industry practitioners to identify the best-qualified expert for each assignment.

Cornerstone Research has earned a reputation for consistent high quality and effectiveness by delivering rigorous, state-of-the-art analysis for over 25 years. The firm has 600 staff and offices in Boston, Chicago, London, Los Angeles, New York, San Francisco, Silicon Valley, and Washington.