



2017 Practice Group of the Year

International Trade

Guiding such major deals as Blackstone Group's \$6.1 billion TeamHealth buyout and winning hard-fought battles before the U.S. International Trade Commission last year earned the international trade and national security practice at Kirkland & Ellis LLP a place on *Law360's* Practice Groups of the Year list.

Rooted in Washington, D.C., the practice group helps clients navigate the risks of cross-border operations and investments, regularly handling matters related to the Committee on Foreign Investment in the United States, the Foreign Corrupt Practices Act, the U.K. Bribery Act, the federal Office of Foreign Assets Control, the European Union, and other areas.

The deal in which private equity giant Blackstone acquired physician staffing firm TeamHealth, for example, involved international trade due diligence, coordinating with an agency of the U.S. Department of Defense and obtaining CFIUS clearance, as Blackstone had brought a number of international investors into the transaction.

It was a complicated matter, said partner Mario Mancuso, who leads the team. The deal included "working through nettlesome issues, national security issues, in the context of an industry that is not immediately

identified with national security risks," he said, declining to discuss the specifics of those concerns.

"That was one transaction where we brought to bear technical legal expertise, commercial creativity, but also a deep familiarity with how the U.S. government thinks about national security risk in the context of [health care] transactions," Mancuso said.

"[We] continue to develop ... this really terrific, dynamic and talented team across all levels."

Kirkland also represented CapVest Partners in its \$690 million acquisition of Mallinckrodt Nuclear Imaging, advising the private equity firm on international trade due diligence, including issues related to nuclear

export controls. The firm also led the process for obtaining cross-border investment clearance.

Some matters handled by the international trade and national security team are difficult for the firm to tout because they pertain to confidential counseling matters and investigations.

In one such situation, Mancuso said, his group advised a European manufacturer of specialty materials in connection with a large, multijurisdictional internal investigation over alleged violations of U.S. economic sanctions.

"We were delighted that after more than a year of work our client was issued a warning letter, [with] no penalty," Mancuso said. "That was one where we really worked very closely with the client, we spent a lot of time traveling, we spent a lot of time assessing the facts and frankly a lot of time advocating in Washington in front of U.S. regulators."

The matter brought to bear Kirkland's technical and investigative expertise, the partner said, along with the practice group's "deep understanding of the policy agendas that drive regulatory and enforcement agendas." That kind of immersive familiarity, which also comes from routinely appearing before regulators, really matters to clients, he said.

The practice group's work also includes complex compliance and counseling assignments across a variety of industries relating to such countries as Venezuela, Russia, Syria and Iran, Mancuso said. Successes last year include helping a global manufacturer of packaging products make voluntary self-disclosures in connection with violations of U.S. economic sanctions and export control requirements related to Cuba and Syria — without penalty.

The manufacturer had reason to believe a third party it was working with "had done things inconsistent with U.S. law," Mancuso said, once again backing away from identifying details. Kirkland was hired to "get to the bottom of the situation," help make the appropriate disclosures to the government and offer warranted compliance recommendations.

Kirkland also achieved favorable outcomes at the International Trade Commission for its clients.

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Such wins include prevailing on behalf of BASF Corp. and Argonne National Laboratory in a patent dispute with one of the company's primary competitors in the approximately \$2 billion annual market for lithium-ion battery materials. At the end of 2016, the full International Trade Commission determined Umicore NV infringed BASF and Argonne's patents, issued an order banning the import of Umicore's infringing materials, and found that Umicore contributed to and induced its customers' infringement.

Kirkland intellectual property attorney Gregg LoCascio won that patent trial and said the case was important because the firm represented a government lab seeking to protect an invention funded at taxpayer expense. The victory also helped "maintain the U.S. role and lead in battery technology, which is critical in so many things, from a consumer perspective, but also the military takes great interest in that as well," he said.

LoCascio also represented Kapsch TrafficCom IVHS Inc. and China-based Star Systems International Ltd. before the ITC in a dispute over

the radio-frequency identification equipment used in vehicle tolling. In 2017, an ITC administrative law judge sided with Kirkland's clients in finding rival Neology Inc.'s asserted patents were invalid and thus Kapsch's imported RFID products and components don't infringe.

The concerted efforts of Kirkland's lawyers are deserving of recognition, said the practice group's leader.

"One can think of it in terms of matters because we're lawyers and we work on matters, but I think that the principal thing that's probably the most rewarding is knowing that collectively as a practice we have made a difference for our clients," Mancuso said. "The second thing, which is a little bit broader, is that we continue to develop ... this really terrific, dynamic and talented team across all levels."



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