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**Trade Barriers That U.S. Small and Medium Size Enterprises  
Perceive as Affecting Exports to the European Union  
ITC Inv. No. 332-541**

**HEARING STATEMENT OF RADWELL INTERNATIONAL, INC.  
for  
THE OWNER'S RIGHTS INITIATIVE**

**Introduction**

On behalf of the Owners' Rights Initiative, Radwell International ("Radwell") appreciates the opportunity to appear before the International Trade Commission ("Commission") and offer its views on barriers small and medium size U.S. enterprises face in exporting to the European Union ("EU").

Radwell purchases, repairs and sells industrial electrical and electronic control devices, including timers, photoelectric sensors, circuit breakers, programmable logic controllers, motors and virtually any other device used to run machinery. We operate out of a 110,000 square foot facility in Lumberton, New Jersey, including a 15,000 square foot state-of-the-art repair center and 75,000 square feet of inventory space. Radwell purchases new and used control devices from plant closings, auctions and inventory overstock. We inspect, repair as needed, and certify the products, and resell them worldwide. Radwell's customers include companies across the manufacturing spectrum, from steel plants and auto manufacturers to food processors and bakeries, and range from small to large private companies and government agencies and municipalities.

During the period 2010-12, Radwell's gross sales averaged \$65 million annually, of which approximately \$1.6-2.0 million were exports to the EU. To facilitate expansion into the EU market and better serve our European customers, in 2011 Radwell established a repair and distribution center in the United Kingdom ("U.K."). Radwell U.K.'s sales to the EU have reached approximately \$4 million, double what they were when we served the EU market from the United States. But, our U.S. exports to the EU have declined dramatically. While some of that decline is due to having a local presence, the shift away from U.S. exports is also in part due to the risk and uncertainty caused by the EU's restrictive trademark and copyright laws, as recently interpreted by the U.K. Supreme Court in the *Oracle* decision.

To compete effectively Radwell needs flexibility to rationalize our sales and sourcing decisions to provide the right product at the best available price in the most efficient manner. Sometimes that means that both sales and sourcing should be done through the U.K. facility, but in other instances an export from the U.S. would be the best option. The risk and uncertainty inherent in the EU's copyright and trademark regime significantly limits that flexibility.

Radwell deals exclusively in genuine branded products, which we are able to freely sell here in the United States. We value our customers and want them to return. To do so, we must meet their expectations – and we try to exceed them. So, it is in *our* interest – not just the rights holder's interest – to insure that we provide products that meet our customers' needs, and that they are properly informed about the products they are purchasing to avoid confusion or disappointment.

In the EU, however, it is irrelevant that we insure that our customers are able to make informed choices. We source products from around the world and, as the ITC found in a previous study,<sup>1</sup> the supply chain for used electronic equipment is complex. Because we have no way of verifying the provenance of many of the products we sell, we cannot export to the EU without assuming significant risk of unknown liability for trademark infringement. In addition, much of today's electronic equipment contains embedded software that, under the EU system, could potentially give rise to additional copyright liability when the equipment is exported to the EU. That unknown risk forms the walls of Europe's Gated Community, which is a substantial barrier to U.S. exports.

We have no doubt that, given the availability of large volumes of used and surplus electronic equipment here in the U.S., Radwell could directly, or through its U.K. facility significantly increase its U.S. exports to the EU, if the EU applied a first sale rule of exhaustion, as we do here in the United States. The demand is there and growing because a robust secondary market for electronic equipment is a vital resource for manufacturing. For example, one of our customers, a small bottling company here in the United States, had one of their high-speed labelers malfunction and the manufacturer did not have the critical part in stock. Radwell was able to supply the needed component by the next morning, saving the company thousands of dollars in lost production.

Similar situations are common in manufacturing, in the EU as well as the U.S. It is the mission of Radwell, and many U.S. companies like us, to meet those needs while performing to the highest professional standards. To achieve that goal we need open and fair market access.

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<sup>1</sup> See Used Electronic Products: An Examination of U.S. Exports, Inv. No. 332-528, USITC Pub. 4379 (Feb. 2013) at xi.

We do not currently have that in the EU. We therefore urge the Commission to examine this issue and report on the need for change.

Respectfully submitted,

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General Counsel  
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