

Before The U.S. International Trade Commission
Tool Chests and Cabinets from China and Vietnam
Inv. Nos. 701-TA-575 & 731-TA 1360-61 (Final)
Nov. 28, 2017

David Spooner, Counsel for Geelong
Opening Statement

Madam Chairman, Honorable Commissioners, I am David Spooner, counsel for Geelong, a respondent in this case. I am joined by key players from throughout the tool storage industry – from representatives of the major manufacturers, to key U.S. sales representatives, to a pivotal retailer. We are here to provide as accurate a picture as possible of the market and of the like product. We are eager to answer all of your questions, and to assist the Commission in coming to a proper understanding that imports are by no means the cause of Petitioner Waterloo's struggles.

These investigations are extraordinary.

Petitioner Waterloo has, for years, relied upon sales to Sears -- to the point that Waterloo rejected opportunities to partner with other retailers. Faced with the precipitous decline of Sears over the POI, Waterloo was unable or unwilling to supply growing retailers such as The Home Depot (see page 12 of The Home Depot's brief). Meanwhile, Waterloo increasingly refused to innovate even for its key customer, Sears, forcing Sears to look offshore for high and medium-end products. You will hear Sears testify today about how Waterloo, during the POI, refused to supply new products and ceased production of stainless steel tool chests, forcing Sears to look for another supplier.

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Sears and The Home Depot are the predominant players in the tool chest market. I'm sure I don't need to ask this, but please read Sears and The Home Depot's briefs. They are damning.

The record is replete with other evidence that Waterloo's own choices, not subject imports, are the cause of the company's poor performance. The record, for example, shows no negative price effects from subject imports. Remarkable – and just what you would expect when a company has refused to supply high to medium end and innovative products to potential customers.

All of the above is against the backdrop of an effort by Waterloo's New York private equity owners to rid themselves of Petitioner, to sell Waterloo at a hefty profit. This summer, Stanley Black & Decker bought Waterloo from the equity firm AFI Partners. Stanley did so quietly. No press release, no disclosure in a SEC filing. Nothing. When word got out on the street about the acquisition, though, it helped respondents understand certain amendments the Petitioner had successfully made to the scope prior to the sale. David Moyer of HMC will spend a portion of his testimony explaining how the scope was crafted to benefit Stanley.

I should also discuss domestic like product issues, though I should stress: The record readily supports a negative determination, even if the Commission decides not to resolve like product issues.

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The scope of the Petition covers “retail” tool chests and excludes “industrial” chests, defining industrial products with a complicated weight to width table, among other factors. Petitioners claim that so-called “retail” and “industrial” chests have different physical characteristics and uses; are not interchangeable; have different channels of distribution; are perceived differently by customers; require different production processes and employees; and entail different prices.

As we trust will become evident, the Petition distinction between so-called retail and industrial products is a fiction. Respondents are all in agreement that the domestic like product is properly defined as both so-called retail and industrial products and that the industry should include producers of both so-called retail and industrial tool chests.

The tool chest and tool box industry is marked by a broad range of products that share common physical characteristics and uses, are interchangeable, are sold through common channels of distribution, are produced in the same manufacturing facilities, and are bought by and available to a common group of consumers.

Indeed, just yesterday, Commerce released a scope decision memorandum in the underlying investigation and found that “there appears to be an overlap in the marketplace between in-scope merchandise and industrial grade products.” (see p.18 of the memorandum)

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You bet there's an overlap. The Home Depot's number one selling product on-line is an out scope industrial chest that Petitioner claims isn't even sold at retail. Our witnesses will testify about how their in-scope retail products are routinely purchased for use in industrial settings – and about how they produce out-of-scope industrial merchandise and sell that merchandise to consumers for home and do-it-yourself use. I will let our experts elucidate this point further with the samples we have before us.

Thank you, Honorable Commissioners, again, for allowing us to come today, and we look forward to answering all of your questions.