

1776 K Street, NW  
Washington, DC 20006

# Phosphor Copper from Korea: Legal Issues

USITC Staff Conference  
March 30, 2016

Daniel B. Pickard  
Wiley Rein LLP

# Domestic Like Product

- Single domestic like product: Phosphor Copper
- Coextensive with scope of petition
- To the best of Petitioner's knowledge, phosphor copper and copper phosphides are distinct products:
  - Different chemical formulae
  - Different CAS Nos.
  - Different end-uses
  - Sold in separate channels of distribution

# Domestic Industry

- Metallurgical Products Company (Petitioner)
  - Based in West Chester, PA
  - 107-year old family-owned business
  
- Other U.S. producers
  - Milward Alloys, Inc.
  - H. Kramer & Co.

# Conditions of Competition: Interchangeability

- Both U.S. and Korean product are produced to the same specifications
  - JIS H2501 and ASTM B-644, Alloy 3A
- No significant differences between U.S. and Korean production processes
- U.S. and Korean product is sold to the same customers
- Phosphor copper from both Korea and the United States is sold on the basis of price

# Conditions of Competition: U.S. Demand

- While demand for phosphor copper is generally driven by residential and non-residential construction, a more precise indicator of demand is copper consumption
- According to the Copper Development Association (CDA), demand remained stable in 2013 and 2014
- Demand is expected to remain stable in 2015 and 2016
- Despite this stable demand, U.S. producer market share has declined

# Conditions of Competition: U.S. Supply

- U.S. producers have ample available capacity
- Despite rising demand, U.S. producers had significant unused capacity
- Capacity utilization rates declined over the POI

# Material Injury: Volume

- Volume of imports from Korea increased significantly, both on an absolute and relative basis

	2013	2014	2015	Percent Change 2013-2015
Korean imports (lbs)	1,170,391	1,339,667	1,509,714	29%

- Korean market share also increased during the POI

# Material Injury: Negative Price Effects

- Korean imports of phosphor copper consistently undersold U.S. prices
- Korean imports have caused U.S. price suppression
- As a result, U.S. cost of goods sold (COGS) as a percentage of net sales increased

# Material Injury: Impact

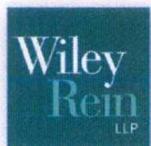
- Petitioner's financial performance declined over the POI
- The decline was caused by the increase in Korean imports
- Financial performance indicators that have declined include:
  - Commercial shipments
  - Production
  - Capacity utilization
  - Profitability
- There have been substantial lost sales and lost revenues confirmed by Commission Staff

# Threat of Additional Material Injury

- The U.S. industry is vulnerable to additional imports
- Subject imports have continued to increase in 2016:

	Jan. 2015	Jan. 2016	Percent Change
Korean imports (lbs)	167,197	209,084	25.1%

- Questionnaire responses also confirm substantial orders for 2016



# Conclusion

- Statutory factors support a finding that imports of phosphor copper from Korea have materially injured the U.S. phosphor copper industry:
  - Korean imports have increased absolutely and by market share
  - Korean product has undersold U.S. product and caused price suppression
  - The U.S. industry has been negatively impacted
- Subject imports also threaten additional material injury to U.S. producers