In The News

5th Circ. Won't Nix $1.4M Arbitral Award To Taiwanese Co.

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Law360 (January 10, 2020, 7:07 PM EST) -- The Fifth Circuit has upheld a $1.36 million arbitral award against a Texas surveillance products company, finding that the company failed to show an arbitrator manifestly disregarded state law when he denied its damages claims against a Taiwanese camera products company.

In a per curiam decision released Jan. 9, the Fifth Circuit agreed with U.S. District Judge Jane J. Boyle from the northern district of Texas in finding there was no sign that significant injustice would result from enforcing the award against Razberi Technologies Inc. Both courts found that Razberi did not provide sufficient evidence to prove its claims, according to the opinion.

Razberi asked the court in its brief to take a side on the debate of whether an arbitrator's manifest disregard was sufficient to vacate an award, but the Fifth Circuit declined to do so. The court said it was not necessary to take a side on the issue that has circuit courts split across the nation, because reviewing this case didn't require it, according to the opinion.

"We have previously declined to take a side on this split and need not do so here because Razberi fails to show that the arbitrator manifestly disregarded controlling law," according to the opinion.

The Fifth Circuit ruled that evidence in the court record shows the arbitrator, after a six-day hearing, weighed the equities of the case and made his decision based on that. There was no sign he "appreciated the existence of a clearly governing principle but decided to ignore or pay no attention to it," according to the opinion.

Steven Williams of Munsch Hardt Kopf & Harr, P.C., representing DynaColor, said his client was pleased with the Fifth Circuit's ruling.

"The Fifth Circuit reached the right result and the obvious result, especially in respect to the central issue of manifest disregard," he told Law360.

Counsel for Razberi did not immediately respond to requests for comment Friday.

Razberi was created as a subsidiary of DynaColor Inc., a camera products company based in Taiwan that is the plaintiff in the underlying case. DynaColor formed Razberi to design, assemble and sell network video recorders and invested more than $2 million in the company, according to court records.

The companies entered into a deal in 2014 under which Razberi agreed to buy network video recorders and associated parts of DynaColor, which Razberi then sold to another company called Avigilon Corp. At the same time, Razberi borrowed some $600,000 from DynaColor that it promised to pay back over a two-year period.

But Razberi fell behind on some $1.2 million in payments due under the loan and under the purchase agreement. Meanwhile, unbeknownst to Razberi, DynaColor had secretly begun negotiating with Avigilon to replace Razberi as a supplier of network video recorders, Razberi said.

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The companies initiated arbitration proceedings, in which DynaColor accused Razberi of breaching their contract. Razberi, meanwhile, sought damages for lost profits in relation to the Avigilon deal.

An International Center for Dispute Resolution arbitrator issued the $1.36 million award favoring DynaColor in 2018, concluding that even though DynaColor had deceived Razberi with regard to its dealings with Avigilon, Razberi couldn't prove it had been damaged as a result.

The Fifth Circuit agreed with the arbitrator, finding that the evidence showed Avigilon, not DynaColor, started the negotiations. The decision to explore its other options was made by Avigilon itself, according to the opinion.

Judges Jacques L. Wiener Jr., Catharina Haynes and Gregg J. Costa sat on the panel for the Fifth Circuit.

DynaColor is represented by Carrie Schadle, Keith C. McDole, Steven N. Williams and Winston O. Huff of Munsch Hardt Kopf & Harr, P.C.

Razberi is represented by Jeffrey Goldfarb of Goldfarb PC.

The case is DynaColor Inc. v. Razberi Technologies Inc., case number 19-10720, in the Fifth Circuit.

The full article can also be viewed by clicking here.

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