

Federal Appeals Court Affirms \$113 Million Verdict for Hetronic

News

August 26, 2021

On August 24, the United States 10th Circuit Court of Appeals affirmed a jury's \$113 million verdict for our client Hetronic International Inc. against two of its former European distributor for selling copycat products, as well as an injunction against selling infringing products in every country in which Hetronic markets or sells its products.

In March 2020, a federal jury in Oklahoma returned the verdict in favor of Hetronic, which manufactures radio remote control systems for heavy industrial uses. Hetronic had sued two of its former Europe-based distribution partners, alleging, among other claims, that the defendants breached agreements and infringed on trademarks and trade secrets, both during the partnership and after forming a competing company.

The following month, the district court granted Hetronic a worldwide injunction preventing the defendants from selling infringing products, ordering the destruction of all infringing products, and requiring the return of confidential information.

In addition to upholding the verdict, the 10th Circuit upheld the injunction for any of the many international countries where Hetronic markets or sells its products.

The decision affirms one of the largest disgorgement verdicts in known history. It also marked the first time the 10th Circuit addressed the question of whether the Lanham Act, which regulates US trademarks, extends to conduct involving foreign defendants making sales to foreign consumers.

"Hetronic has presented more than enough evidence to show that Defendants' foreign infringing conduct had a substantial effect on US commerce," the opinion states. "Besides the millions of euros worth of infringing products that made their way into the United States after initially being sold abroad, Defendants also diverted tens of millions of dollars of foreign sales from Hetronic that otherwise would have ultimately flowed into the United States."

In ruling that the Lanham Act extends to foreign conduct, the Tenth Circuit upheld a major victory not just for Hetronic, but also for the many American manufacturers whose US businesses are impacted by foreign infringers.

Partner Debbie L. Berman argued the appeal and led the matter with Partner Wade A. Thomson. Other members of the cross-office team included Partners Matthew S. Hellman and Gianni P. Servodidio.

Related Attorneys



Debbie Berman

Partner
dberman@jenner.com
+1 312 923 2764



Matthew S. Hellman

Partner
mhellman@jenner.com
+1 202 639 6861



Gianni P. Servodidio

Partner
gservodidio@jenner.com
+1 212 891 1620



Wade A. Thomson

Partner

wthomson@jenner.com

+1 312 840 8613

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