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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@portfoliomedia.com

Antitrust, IP Claims Cut In Roller Bearing Software Suit

By Julie Zeveloff

Law360, New York (March 29, 2010) -- A federal judge has clipped antitrust, copyright and trade secrets claims from Roller Bearing Co. of America Inc.'s suit accusing vendor American Software Inc. of breaching a software licensing contract.

Judge Dominic J. Squatrito of the U.S. District Court for the District of Connecticut on Wednesday dismissed the claims, finding that ASI did not have market dominance in the relevant market and that the intellectual property claims could not be maintained affirmatively.

The suit began as a dispute over contract terms for a licensing agreement Roller Bearing took out to use ASI's programs in the late 1980s, according to the opinion.

Roller Bearing lodged the declaratory judgment suit in 2007, seeking a court determination that it did not violate the contract by exceeding the allowed number of users in the agreement. The plaintiff later amended its complaint to add the antitrust and intellectual property counts.

For its part, ASI filed counterclaims contending Roller Bearing had breached the contract by allowing hundreds of more users than allowed to access its software. The software vendor sought \$1.06 million in overcharges.

Among other allegations, Roller Bearing accuses ASI of including in its programming a source code known as a "logic bomb" that, under certain conditions, sets off a malicious function that would effectively disable Roller Bearing's business.

Once Roller Bearing learned of the logic bomb, ASI refused to deactivate it and instead set it to activate if the ASI software were relocated to any computer other than the Roller Bearing mainframe, the plaintiff contends.

The deactivation fee would run into the range of hundreds of thousands of dollars, Roller Bearing argues.

Judge Squatrito left intact Roller Bearing's claims under the Computer Fraud and Abuse Act, the Connecticut Computer Crimes Act and the Connecticut Unfair Trade Practices Act, rejecting ASI's argument that any damage related to the logic bomb was purely hypothetical.

“In the court’s view, the alleged unilateral, wrongful placement of the logic bomb in the ASI software is, in and of itself, damage,” the opinion said. “The logic bomb is, in essence, preventing RBC from installing the replacement mainframe with the ASI software, which in turn is detrimental to RBC’s business.”

The judge also maintained Roller Bearing’s breach of contract claim, finding that allegation to be sufficiently pled.

However, he sided with ASI as to Roller Bearing’s antitrust allegations for unlawful tying, monopoly leveraging and attempted tying, finding that the plaintiff’s definition of the relevant product market as only software made by ASI was not appropriate.

“While the facts alleged by RBC are facially plausible in terms of claims of computer crimes or unfair trade practices, they simply do not permit the court to draw the reasonable inference that ASI has violated the antitrust laws,” Judge Squatrito said. “The court concludes that the relevant market as to the tying product is not ASI software, but all computer software that performs similar functions to the ASI software.”

He also dismissed Roller Bearing’s copyright misuse and trade secrets allegations, finding that neither claim could be pursued affirmatively.

“In terms of the ruling, it really doesn’t change ASI’s exposure,” said Mike Lockerby of Foley & Lardner LLP, who represents Roller Bearing. “All it does is lower our burden of proof [relating to relevant product market] at trial.”

John Hinton of Baker Donelson Bearman Caldwell & Berkowitz PC, who represents ASI, said he was pleased with the court’s ruling.

“By dismissing these claims, we clear out some of this distraction and allow parties to focus on the real dispute, which is the failure to pay license fees that are owed,” Hinton said.

He denied that ASI’s software contained a logic bomb, saying it had an authorization key that required users to enter a code in order to access the system.

Roller Bearing is represented by Foley & Lardner LLP and Wiggin & Dana LLP.

ASI is represented by Baker Donelson Bearman Caldwell & Berkowitz PC and Rucci Burnham Carta & Carello LLP.

The case is Roller Bearing Co of America Inc. v. American Software Inc., case number 3:07-cv-01516-DJS, in the U.S. District Court for the District of Connecticut.