



Foster Swift Successful in Achieving Settlement for Client in Patent License Dispute

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Foster Swift litigation attorney, Zachary Behler, with assistance from associate attorney Hilary McDaniel, was successful in achieving a favorable settlement for a client in a case involving a faulty patent license agreement.

The client had invented a refrigeration system that increased the heat removal capacity of commercial refrigerators and freezers, thereby decreasing the amount of energy used. An LLC approached the client offering to manufacture and sell the refrigeration coils which utilized the patented technology. **The parties entered into a self-written patent license agreement without input from an attorney.**

The LLC asked the client if it could pay for the technology in installments. The client agreed, and the payment schedule was memorialized in the Patent License Agreement. After making payments for roughly a year, the company decided to cease making payments and purported to “cancel” the Patent License Agreement. The Patent License Agreement contained a section allowing for termination of the Agreement under various, inapplicable circumstances, but it did not provide a provision for unilateral “cancellation” of the Patent License Agreement.

This case began as a straight contract interpretation case, but Behler soon recognized that, because the LLC was insolvent from the moment it entered into the Patent License Agreement, the only way to collect a judgment against the LLC would be to “pierce the corporate veil.” After months of litigation, both parties were able to come to terms on a settlement of roughly \$850,000 through mediation.

Zachary is a member of the firm’s business & corporate practice group in Lansing and is a licensed patent attorney. He focuses his practice in the areas of commercial litigation, intellectual property, environmental law and litigation. Hilary also practices from the firm’s Lansing office in general & commercial litigation.

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