

Litigation Group Prevails in Business Litigation Involving Breach of Fiduciary Duty and Several Business Torts

On May 24, 2007, attorneys from Finkel Law Group secured a victory on behalf of the cross-complaining members of a dissolving limited liability company known as BoxedCPU. The company once owned and operated a profitable chain of retail outlets that sold computers, peripherals, related equipment and software across the San Francisco Bay Area.

During a six day trial, Finkel Law Group attorneys proved that the cross-defendants failed to fulfill their fiduciary duties to the company and its members, and engaged in conversion, common law misappropriation, and unfair competition in violation of Business & Professions Code section 17200.

At trial, Finkel Law Group attorneys showed that the cross-defendants breached their fiduciary duty by promoting the sale of computers and services through a separate company they themselves controlled. The cross-defendants testified that they established the new company - called Unisky Communications - for the express purpose of competing against BoxedCPU for sales of computers and software. The evidence showed that the cross-defendants opened a competing retail store three blocks away from BoxedCPU's San Francisco address. They created a website virtually identical to the BoxedCPU website under the domain name "SFBayCPU.com" to sell computers and software via the Internet in direct competition with BoxedCPU.

The firm's attorneys further showed that the cross-defendants misappropriated the company's inventory, sold the inventory at a discount to their separately owned company, and then resold the inventory at full retail price to their company's customers. The crossdefendants admitted establishing the new company, retail store and website to compete directly with BoxedCPU because they believed they would make more money this way than promoting BoxedCPU. The evidence presented at trial also showed that the crossdefendants sold computers with unlicensed software, installed unlicensed software onto customers' machines, and filed false insurance claims.

At the conclusion of the plaintiff's case, defendant successfully non-suited the plaintiff's claims for breach of fiduciary duty and conversion. At the conclusion of crosscomplainant's case, the court found in their favor on the claims of breach of fiduciary duty, common law misappropriation and statutory unfair business practices. The court awarded cross-complainants judgment in the amount of \$178,000 with interest at 10 percent per annum. The court also awarded the cross-complainants their costs of suit.

If your company needs intelligent, insightful, conscientious, and cost-effective legal counsel please contact us to discuss your matter.

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