

Mexican Auto Parts JV Scores Win In Meritor Contract Suit

By **Linda Chiem**

Law360, New York (February 8, 2017, 7:49 PM EST) -- An Illinois federal judge on Tuesday handed a key victory to a Mexican auto parts manufacturing joint venture that accused its U.S. parent Meritor Heavy Vehicle Systems LLC of breaching a contract allowing it to exclusively manufacture Meritor axles, brakes and other products for sale to original equipment manufacturers in Mexico.

After weighing more than 250 exhibits including the contracts at issue, written communications between the parties, internal communications and admissions, and other documentary evidence, U.S. District Judge Rebecca R. Pallmeyer granted summary judgment to Sistemas Automotrices de Mexico S.A. de C.V. on almost all of its claims against Meritor.

“The court believes the only reasonable conclusion that can be drawn from that evidence — in particular, the evidence of the parties' history of performance and Meritor's own admissions about the agreements' meaning — is that SISAMEX has the contractual right to decide unilaterally to insource components of Meritor products that Meritor sells to OEMs in Mexico,” the judge said.

Judge Pallmeyer called Meritor out for its seeming about-face. Meritor had initially argued that its approval was required to allow SISAMEX to manufacture core components of Meritor products instead of purchasing them from Meritor.

But Meritor switched up its argument in its summary judgment briefs, appearing to concede that the parties' supply agreements permit SISAMEX to manufacture components of Meritor products, including core components, but that SISAMEX can only do so with the approval of a supermajority of SISAMEX's board of directors — half of whom are appointed by Meritor.

That is, Meritor maintained that it has the power, through its appointed directors, to veto SISAMEX's choice to manufacture components of Meritor's products, according to the opinion, but Judge Pallmeyer rejected that argument.

“The court concludes that Meritor's new ‘board approval’ argument fails because it is not supported by specific facts, is contradicted by the plain text of the parties' agreements, and is irreconcilably inconsistent with the parties' history of performance and the history of this litigation,” the judge said. “Ultimately, no reasonable fact finder could credit Meritor's position based on the evidence in the case.”

However, Judge Pallmeyer said there were still genuine issues of material fact as to whether Meritor breached the parties' agreements by unreasonably withholding approval of third-party vendors, so she declined to rule in favor of SISAMEX on that claim.

U.S.-based Meritor Heavy Vehicle Systems supplies axles, brakes, and related components for medium- and heavy-duty trucks, trailers, and other commercial vehicles. Quimmco S.A. de C.V. is a Mexico-based manufacturing group. In 2002, Meritor and Quimmco formed Sistemas Automotrices de Mexico, S.A. de C.V., or SISAMEX, a Mexico-based joint venture, and the parties executed a 2002 shareholders agreement and three supply agreements in 2003 that would govern the relationships among Meritor, Quimmco, and SISAMEX, according to the opinion.

SISAMEX's lead attorney said in a statement on Wednesday that they were pleased with the ruling that found there was enough evidence that Meritor intentionally breached the parties' agreement "in an attempt to transition the manufacture of those products to Meritor's own facility in Mexico."

"The court's well-reasoned decision wholly rejected Meritor's arguments as contrary to over a decade's worth of contemporaneous documentation, including Meritor's myriad internal admissions, contradicted by the plain text of the parties' agreements, and irreconcilable with the parties' history of performance, as well the positions Meritor took throughout the litigation," Erik Haas of Patterson Belknap Webb & Tyler LLP said in the statement.

"Indeed, Meritor offered no plausible explanation for advancing for the first time at summary judgment, arguments that it never raised before, while abandoning the positions it had maintained previously."

Meritor and SISAMEX launched dueling suits in July 2014 after the business relationship started to sour after new management at Meritor disputed the terms of the contracts governing the joint venture.

The new management said the agreements only allowed SISAMEX to manufacture Meritor products and it must buy the so-called core components for those products from Meritor unless specifically authorized, rather than making the parts itself or "insourcing" them as it had been doing for years, according to court documents. Meritor also asserted that SISAMEX must gain Meritor's approval to purchase components from any third-party vendors.

SISAMEX filed suit seeking a declaratory judgment that it has the exclusive right to manufacture Meritor products and their component parts, it has the right to source materials from third parties without Meritor's prior approval, and Meritor has a duty to provide free technical assistance to SISAMEX for the production of Meritor products. A few days later Meritor **filed a competing suit** over the same issues and accusing SISAMEX of breach of contract.

Representatives and attorneys for Meritor did not immediately respond to requests for comment Wednesday.

Quimmco and Sistemas are represented by Erik Haas, Adeel A. Mangi and Elena Steiger Reich of Patterson Belknap Webb & Tyler LLP and Terri L. Mascherin and Laura B. Hulce of Jenner & Block LLP.

Meritor is represented by Peter B. Bensinger Jr., Reid M. Bolton and Faye E. Paul of Bartlit Beck Herman Palenchar & Scott LLP.

The cases are Meritor Heavy Vehicle Systems LLC v. Sistemas Automotrices de Mexico SA de CV et al,

case number 1:14-cv-05319; and Sistemas Automotrices de Mexico, S.A. de C.V. v. Meritor Heavy Vehicle Systems, LLC, case number 1:14-cv-05289; both in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Aebra Coe. Editing by Kelly Duncan.

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