

7th Circ. Axes Software Co.'s Trade Secret Row Arbitration Bid

By Adam Lidgett

Law360 (June 6, 2022, 8:36 PM EDT) -- The Seventh Circuit has refused to compel arbitration in CCC Intelligent Solutions' trademark and trade secrets suit against a business that uses artificial intelligence technology to assist accident recovery.

A three-judge panel on Monday threw out Tractable Inc.'s bid for arbitration in the dispute.

Tractable claimed representatives for both parties "signed a contract containing a broad arbitration agreement," but CCC argued the deal was actually signed between CCC and "a front that Tractable used to create the impression that it was an ordinary customer ... [in order] to gain access to, and then steal, CCC's proprietary valuation methods."

The appellate court sided with CCC, saying that the word Tractable isn't actually on any agreement between the two sides.

"Some legal disputes are simple. This is one," the panel wrote. "It is so simple that the courts of Illinois (whose law applies) have not found it necessary to address during the last 80 years the question whether C can claim rights under a contract that has only A and B as parties. The court's answer was 'no.'"

Both sides have businesses involving giving estimates on automobile damage repair by using secret computer algorithms, according to the court.

The complaint accused Tractable of wanting to get a leg up on business leader CCC by sending a Tractable worker "to obtain a license to use CCC's software" using a fake name, address and even email address, according to the decision.

The worker said they were representing a company called JA Appraisal, and Tractable got its hands on the software package it wanted, leading CCC to file suit, according to the decision.

However, Tractable said the suit should go to arbitration by pointing to a pact between JA Appraisal and CCC, according to court records.

But "the word 'Tractable' does not appear in the agreement, and CCC has not approved an assignment by JA Appraisal," the panel wrote.

Tractable said in a statement to Law360 on Monday that the Seventh Circuit's order "does not reflect a decision surrounding the merits of CCC's complaint."

"The case remains ongoing, fact discovery has not yet begun, and will proceed to district court where Tractable looks forward to obtaining a favorable resolution to CCC's unfounded complaint," Tractable said.

Counsel for CCC did not immediately respond to requests for comment on Monday.

U.S. Circuit Judges Frank Easterbrook, Michael B. Brennan and Amy J. St. Eve sat on the panel for the Seventh Circuit.

CCC is represented by Gregory G. Garre, Jason R. Burt, Adam M. Greenfield and Samir Deger-Sen of Latham & Watkins LLP.

Tractable is represented by Lazar Pol Raynal, Paul Alessio Mezzina and David P. Mattern of King & Spalding LLP.

The case is CCC Intelligent Solutions Inc. v. Tractable Inc., case number 19-1997, in the U.S. Court of Appeals for the Seventh Circuit.

--Additional reporting by Andrew Karpan. Editing by Daniel King.