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Hard drives make hard cases

Seagate prevails (finally) to the tune of \$800 million

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Special to Minnesota Lawyer

A twisting, decade-long legal odyssey came to an end recently when a Minneapolis law firm helped a locally based technology giant gain a recovery worth almost a billion dollars in a dispute over trade secrets.

With help from Bassford Remele, Bloomington-based Seagate Technologies prevailed in an arbitration proceeding against a competitor, Irvine, Calif.-based Western Digital Corp. — after having to resort to the state's Court of Appeals and Supreme Court to reverse district court rulings.

The dispute began when Sining Mao, a senior scientist for Seagate, left the company in 2006 for Western Digital. Mao had helped lead the development of hard drives with superior storage capacity.

"I think he was offered more money," recalled Bassford Remele shareholder Lewis A. Remele Jr. "We were able to demonstrate in arbitration that Seagate was more of an innovator in that field, and Western Digital would often wait and hire engineers from them and other companies to reverse-engineer their technologies. We argued that they couldn't in this case, so they stole the trade secrets."

Secret documents

Mao took with him thousands of Seagate documents, something Seagate deduced when Western Digital began developing products bearing all-too-similar technological stamps. Seagate sued Western Digital in October 2006, alleging misappropriation of trade secrets. A provision in Mao's employment contract stipulated that the matter should be sent to arbitration, delaying litigation, but giving Seagate the opportunity to add allegations connected to misappropriation of confidential information.

(Faegre & Benson, now Faegre Baker Daniels, had originally represented Seagate in the matter, but the case was passed off



STAFF PHOTO: BILL KLOTZ

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to Bassford Remele in 2009 when Western Digital brought a motion to disqualify Faegre based on their representation in an unrelated matter.)

During arbitration, Western Digital and Mao said that three of the supposed trade secrets were in the public record, and in fact had been used by Mao in an industry presentation he had given while employed by Seagate.

"The most important trade secrets, which turned out to be the fulcrum of the case, were some charts," said Remele.

Seagate said the presentation was fabricated and that Mao had inserted PowerPoint charts disclosing the three trade secrets only after the fact. The arbitrator agreed, finding that Mao's fabrication was "obvious."

In December 2011, the arbitrator found that Western Digital had misappropriated three of Seagate's trade secrets and awarded damages of \$525 million, plus \$90 million in interest. But the already 5-year-old saga was just getting revved up.

Hennepin County District Judge Janet M. Poston granted Western Digital's petition to vacate the award, citing the "extreme" and "punitive" award granted by the arbitrator. "I guess she was shocked by the size of the award, even though we proved damages and arbitration awards are rarely overturned in Minnesota," said Remele.

The Minnesota State Court of Appeals reversed Poston's ruling in 2013 and upheld the arbitrator's original award, saying that that Western Digital didn't provide any citation arguing that the arbitrator lacked the authority to impose the sanctions and didn't establish that the arbitration award violated public policy.

On appeal by Mao and the Western Digital, the Minnesota Supreme Court sided with Seagate in 2014, finding that the arbitration agreement gave the arbitrator the authority to grant "injunctions or other relief" — including punitive sanctions.

One more time

End of story, right? Not quite: Bassford Remele went back to district court asking for an additional \$27 million based on Minnesota's 2011 post-judgment interest statute (Minn. Stat. § 549.09), which stipulates in part that for a judgment or award over \$50,000, the interest rate shall be 10 percent per year until the judgment is paid. In other words, while Western Digital had been hoping against hope that the original judgment would be wiped out or reduced, the meter had been running on the interest.

Enter once again District Court Judge Poston, who again ruled in favor of Western Digital. And once again Seagate appealed, and in late January of this year the appellate court ruled in their favor.

"After getting reversed twice, Western Digital finally said, 'OK, how much do we owe you?'" said Remele.

A lot, it turns out. Western Digital paid Seagate \$32,604,158.02 to satisfy the balance of the judgment. All told, Bassford Remele lawyers recovered \$806,008,261.76 for Seagate.

"It was a rewarding case, but much more long and contentious than it had to be," said Remele. "You're never confident that you're going to win an appeal, but I would have been amazed if [Poston] hadn't been reversed."