

Case 138: CISG 1(1)(a); 74; 75; 77; 78

United States: United States Court of Appeals, Second Circuit
December 6, 1995

Delchi Carrier SpA v. Rotorex Corp.

Published in English: 10 Federal Reporter (Third Series), 1024

This case involves an appeal against the decision in CLOUT Case 85.

The appellate court affirmed the trial court's award of damages but reversed that court's rejection of specific headings of damages. The appellate court held that plaintiff was entitled to recover damages for (1) shipping, customs, and incidentals relating to the shipments of nonconforming compressors, (2) obsolete materials purchased only for use with these compressors, and (3) obsolete tooling purchased only for production of units with these compressors. The appellate court also remanded to the trial court the issue of whether plaintiff's labor costs when the production line was idle were compensable variable costs or noncompensable fixed costs.

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Commented on in French: Papandréou-Deterville, Recueil Dalloz [1997] 28ème Cahier,
Sommaires commentés, 226