

Case 418: CISG 7, 25, 35, 49

United States: U.S. [Federal] District Court for the Eastern District of Louisiana; Civil Action No. 99-0380 Section K (1)

17 May 1999

Medical Marketing International, Inc. v. Internazionale Medico Scientifica, S.r.l.

Published in English: 1999 WL 311945; 1999 U.S. Dist. LEXIS 7380;

<http://cisgw3.law.pace.edu/cases/990517u1.html>

An Italian manufacturer of radiology materials, defendant, granted to a Louisiana marketing corporation, plaintiff, exclusive marketing rights in the United States for certain mammography units. A dispute arose as to which party bore the burden of complying with U.S. governmental safety standards. The dispute was submitted to arbitration and the arbitrators awarded damages to the plaintiff because the defendant had delivered units that failed to comply with U.S. safety standards.

The plaintiff sought judicial confirmation of the award under the Federal Arbitration Act rather than under the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The defendant challenged the award on the grounds that the arbitrators had exceeded their authority by their manifest disregard of international sales law. Specifically, the defendant argued that the arbitrators misapplied the CISG and had refused to follow a German Supreme Court case interpreting the CISG (CLOUT Case 123).

The issue before the Court was whether to confirm an arbitral award that allegedly misapplied the CISG.

The Court noted that the arbitrators had carefully considered the German case and had concluded that the situation before them fit within an exception recognized by the German Supreme Court. The Court therefore held that the arbitrators had not exceeded their authority and confirmed the arbitral award.