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Decon Labs Settles Antitrust Suit Against UK Rival

By **Samuel Howard**

Law360, New York (January 06, 2010) -- Brotherly love, perhaps, has led disinfectant supplier Decon Labs Inc. and unrelated U.K.-based Decon Labs Ltd. — whose CEOs are siblings — to settle a battle in which the British company was accused of blocking its rival from entering the global market.

Judge Harvey Bartle dismissed the antitrust suit in the U.S. District Court for the Eastern District of Pennsylvania on Tuesday, following word that Peter J. Taylor, CEO of Decon Laboratories Inc., agreed to drop claims against his brother Robert N. Taylor, who heads Decon Laboratories Ltd., an unaffiliated British manufacturer of industrial cleaning agents.

No details regarding the settlement are available, save that each side will bear its own costs.

Decon Laboratories Inc. (called Decon USA in court papers) filed suit in March to void a 1987 agreement with Decon Laboratories Ltd. (called Decon UK) that prevented one company from stepping on the other's turf, namely by barring Decon USA from selling its products outside North America and South America.

Decon USA argued the contract granting Decon UK unchallenged access to markets worldwide is fundamentally at odds with antitrust laws and entitles Decon USA to triple damages totaling more than \$1.5 million.

The King of Prussia, Pa.-based Decon USA said the agreement to divide the markets was unenforceable and could not be used to prevent the company from expanding and offering its disinfectants and cleaning agents to laboratories and pharmaceutical processing facilities in China and India.

"The agreement between Decon USA and Decon UK constitutes a per se violation of 15 U.S.C. § 1 in that it divides the market within which Decon USA and Decon UK, as horizontal competitors, shall conduct the business defined in the agreement and defines the markets

within which Decon USA and Decon UK have agreed to refrain from any competition in the sale and distribution of their products, in perpetuity," the complaint said.

Decon USA intended to sell its products worldwide through Thermo Fisher Scientific Inc. but the defendant objected, maintaining that the rivals' 1987 contract precludes expanding beyond the established markets, according to the complaint.

The plaintiff filed suit after Decon UK notified Fisher Scientific that Decon USA had long agreed not to sell its products outside of North America and South America, according to the complaint.

While Decon USA manufactures more than 70 products for use in medical and scientific facilities, the defendant's catalog features only seven products, according to the complaint.

Representatives for both parties were not available for comment Wednesday.

Decon USA is represented by Venzie Phillips & Warshawer PC.

Decon UK is represented by Harkins Cunningham LLP.

The case is Decon Laboratories Inc. v. Decon Laboratories Ltd., case number 2:09-cv-01241, in the U.S. District Court for the Eastern District of Pennsylvania.

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