



Software engineer wins \$5.1M verdict (19519)

By: admin August 11, 2006

Attorneys Norman L. Smith, Jeffrey E. Nusinov and Francis J. Gorman, above, represented the plaintiff in his lawsuit against Landover-based L-Soft and its CEO.

A software engineer won a \$5.1 million verdict in federal court in Greenbelt last week against Landover-based L-Soft, developer of the LISTSERV e-mail list management system, and its chief executive officer.

Juan Pizzorno claimed the company failed to pay him royalties when it continued selling his e-mail delivery system software even after the two severed ties in 1999.

The jury in U.S. District Court deliberated two days after a two-week trial that ended Aug. 8, ultimately finding for Pizzorno on his breach of contract and copyright infringement claims. Its award was almost exclusively for economic damages Pizzorno suffered between 1999 and this year, when L-Soft stopped using his system.

"The jury found that L-Soft had breached the contract, Pizzorno had not," said plaintiff's attorney Norman L. Smith. "It means that, from that moment on, L-Soft had no right to use the [software], and from that time on it was copyright infringement. So the damages are essentially for copyright infringement."

Neither L-Soft's spokeswoman nor its lawyers could be reached for comment Friday. L-Soft was represented by attorneys from Hogan & Hartson's McLean, Va., office.

Brazilian-born Pizzorno developed the software while studying in Germany. It was the "fastest, highest-volume e-mailing system in the world," according to Smith, and worked hand-in-hand with LISTSERV to deliver the millions of messages LISTSERV managed.

Pizzorno granted L-Soft exclusive distribution rights to his copyrighted software in North America in 1995, but had a falling-out with the company four years later. Regardless, the company continued to sell the mail delivery program, and claimed instead that Pizzorno had breached the terms of their distribution agreement.

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Pizzorno was represented by Smith and Jeffrey E. Nusinov, both partners at Fisher & Winner, as well as Francis J. Gorman, a partner at Gorman & Williams.

In a statement about the verdict on Friday, Gorman pointed to the importance of an early ruling in the case on personal jurisdiction.

Eric Thomas, founder and CEO of L-Soft, argued in pre-trial motions that the court lacked personal jurisdiction over him since he was a resident of Sweden and almost never set foot in Maryland.

However, U.S. District Judge Peter J. Messitte ruled that, despite the physical distance, Thomas basically functioned as director of L-Soft's Maryland operations "24/7" through e-mail, instant messaging and by cellular phone.

As his flagship enterprise was in the state and he was constantly in contact with it, there would be no particular burden upon him to defend a suit in Maryland, Messitte held.

The jury imposed liability on Thomas as well as his company, finding his actions "vicarious" and "contributory," according to Smith.

Nusinov commented that the most challenging aspect to this case was managing the massive document production, which totaled over 200,000 pages of documents and hundreds of thousands of lines of software source code.

Advances in technology made it possible for the small firm to compete successfully with the likes of Hogan & Hartson.

"In the old days, this never could have happened," Nusinov said.