

T/F SYSTEMS, INC. vs. FU SHENG INDUSTRIAL COMPANY LIMITED

David Sales and Jack Scarola have represented T/F Systems, Inc., a Boynton Beach-based manufacturer of automobile products, for several years. In 1990, they sought a declaratory judgment that T/F was the exclusive owner of the manufacturing and marketing rights of T/F's principal patented product, the "Purifiner," a device which extends the life of engine oil. The defendants included Fu Sheng Industrial Co., Ltd., a large Taiwan-based manufacturer and Fu Sheng's domestic trading partner, Purifiner Distribution Corp., based in Illinois. These parties contended that they, and not T/F, had obtained the rights to manufacture and market "Purifiner" devices, which are subject to several United States and foreign patents.

In 1991, the Palm Beach County Circuit Court granted T/F all of the relief it was seeking, including, (1) a declaration that it had the exclusive manufacturing and marketing rights under the referenced patents, (2) a declaration that it had the exclusive right to use the "Purifiner" trademark and (3) money damages in the amount of \$115,000, plus interest for breach of an agreement of which T/F claimed to be a third-party beneficiary.

The defendants appealed and posted a bond in the amount of \$1,000,000. During the pendency of the appeal, they engaged in an aggressive campaign to put as much of their product, which T/F claimed to be inferior, in markets reaching from Australia to Ecuador. T/F suffered significant damages because of head-to-head competition with the defendants and damage done to the Purifiner trademark. In 1993, the Fourth District Court of Appeal affirmed the trial court's judgment. T/F immediately requested a trial to recover its damages due to the appellate delay.

David Sales represented T/F in the delay damages trial. At trial, T/F proved that it had lost contracts with many of its foreign trading partners around the world. It also proved, despite a concerted effort by the defendants to conceal their actual product sales during the appeal, that they had sold millions of dollars worth of Purifiner product. In December 1994, the court agreed and awarded T/F delay damages in excess of \$12.4 million. All of the defendants' post-trial motions have been denied. ■