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Korean Car Part Co. Says US Distributor Misconstrued Award

By [Jack Newsham](#)

Law360, New York (August 19, 2016, 5:49 PM EDT) -- A Korean auto parts manufacturer that has been fighting with a U.S. distributor over a Korean arbitral award told a Michigan federal judge Thursday that the arbitrators gave it a \$2 million victory and didn't rule in the distributor's favor at all.

DMC Inc., which manufactures rubber parts for [General Motors](#) and other automakers, initiated arbitration against its marketer DMTS Inc. in 2011 after they had a falling-out over commissions on sales. A three-person panel of the Korean Commercial Arbitration Board ruled in 2014 that DMTS owes the manufacturer about 1.5 billion won (\$1.3 million) plus hefty interest, according to a copy of the decision filed with the court.

But DMTS alleges the arbitral panel also ruled that it's owed as much as \$20 million in commissions, which prompted it to sue in July 2014 to get the award enforced. The marketer has demanded sales figures from DMC to try calculate what it's owed, but DMC argued this week that the U.S. company's case rests on a strained reading of an analytical section of the arbitration award.

“[T]he panel's ‘reasoning’ does not constitute its ‘order’ or ‘judgment’ and does not equate to a legal ruling governing the parties,” DMC said.

The companies started doing business in 2006, signing a deal for DMTS to sell DMC parts to buyers in the U.S. and Canada, according to the distributor's court filings. The agreement expanded to encompass all countries except China and South Korea in 2008, and the companies struck a deal in 2010 meant to facilitate payment of DMTS' 10 percent commissions from an escrow account.

But disputes arose and the parties went to arbitration. The parts maker reiterated Thursday that the award required it be paid some \$2 million, after interest was tacked on, and said a Seoul court had entered judgment in its favor on that point. DMC added that it was able to collect some of the judgment from the escrow account, but is still owed \$1.1 million.

Discovery has been underway in the U.S. suit since 2015, and DMC has faced \$15,000 in fines for not producing the documents and responses DMTS has sought, the docket shows. The U.S. company is seeking still more sanctions, saying DMC's responses suggest it has still failed to turn off a feature of its email system that automatically deletes messages after 90 days, and that critical evidence may be lost as a result.

A second arbitration is ongoing to determine how much in commissions DMTS is owed, if anything. Frederick Acomb, a principal at [Miller Canfield Paddock & Stone PLC](#) who represents DMTS, told Law360

his client may be owed as much as \$20 million.

A lawyer for DMC didn't reply to requests for comment.

DMTS Inc. is represented by Frederick A. Acomb, A. Michael Palazzi and Kimberly A. Berger of Miller Canfield Paddock & Stone PLC. The company is represented in Korean proceedings by John Bang and Hongjoong Kim of [Bae Kim & Lee LLC](#).

DMC Inc. is represented by Kevin J. Stoops of [Sommers Schwartz PC](#).

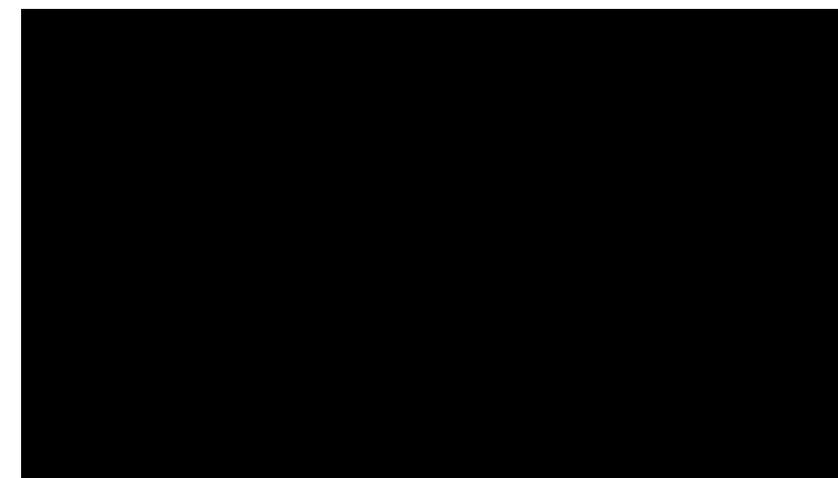
The case is DMTS Inc. v. DMC Inc., case number [2:14-mc-51001](#), in U.S. District Court for the Eastern District of Michigan.

--Editing by Bruce Goldman.

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Case Information

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Case Number

[2:14-mc-51001](#)

Court

Michigan Eastern

Nature of Suit

Other Statutory Actions

Judge

[Victoria A. Roberts](#)

Date Filed

July 25, 2014

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