

## US Supreme Court refuses Costa Rican case

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The US Supreme Court yesterday declined to hear a case between Canon Latin America and a former Costa Rican distributor.

In May, Canon asked the Court to hear the case, in part to decide whether it should be heard in the US or Costa Rica. It was appealing an appeal court's decision that since the distributor Lantech's original Costa Rican action hinges on statutory rights unique to Costa Rica, the case should be heard there.

That in turn was an appeal of a decision last year by a US District Court in Miami in favour of Canon. The Court issued an anti-suit injunction ruling that the case, initially brought by Lantech in Costa Rica in 2004, should be heard in Florida. .

**Gary Davidson**, of counsel at **Diaz Reus LLP**, who have been advising Canon, says that the cases in Costa Rica and the US are now both active and running concurrently. "The case in Costa Rica, which was temporarily halted, has now resumed. We have no recourse to have it dismissed there again but we will continue litigating the case - the next step is that it will go back to the Appeals court and then back to the District Court."

Lantech first filed suit against Canon in Costa Rica in November 2004 because Canon had appointed a second distributor in Costa Rica, Santa Barbara Technology. The Lantech suit attempted to recover damages for ending Lantech's exclusive distributor status.

Diaz Reus filed suit for Canon in Miami and asked for an injunction against Lantech's litigation in Costa Rica, arguing that when the two companies entered into their contract, they agreed that any dispute would be heard in Florida.

Davidson says their case was one of three similar suits that the Supreme Court declined. "We know that two other anti-suit injunction cases were declined along with ours, and the message is perhaps that the court does not feel it wants to address this type of case at this time."

Davidson says impact on other US companies doing business abroad could be significant: "Chaos reigns, because there is a big discrepancy between rulings on this matter. Now, the question of this type of anti-suit injunction is a business problem in addition to being a legal problem because companies will have to ask themselves how they can anticipate and plan for this in a contract - when in the event of a dispute the agreement might not be honoured."

Davidson believes cases like this will compel a further shift towards arbitration. "In the meantime, I think companies based in this region that use foreign selection clauses should seek legal advice in terms of framing contracts they have entered into for disputes. They should begin to address the issues raised by these series of rulings."

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