

## BLOGS

Good Faith and Fair Dealing

# Formerly Exclusive Distributor's Motion to Dismiss Is Granted in Part and Denied in Part by Federal Court

A Massachusetts federal court granted in part and denied in part a motion to dismiss claims for breach of the implied covenant of good faith and fair dealing in a distribution contract. *Bruno Int'l Ltd. v. Vicor Corp.*, 2015 U.S. Dist. LEXIS 123556 (D. Mass. Sept. 16, 2015). For nearly 25 years, Bruno had been the exclusive Israeli distributor for Vicor, a Massachusetts supplier of modular power components and power systems. Then, Vicor notified Bruno that it would not renew its exclusive distribution contract. Approximately one month later, the parties signed an agreement providing for nonexclusive distribution and promotion of the Vicor's products in Israel. In 2012, three years after the parties began the nonexclusive distribution relationship, Vicor terminated the parties' agreement citing Bruno's reduction in new business generation. Bruno alleged that the termination was actually due to Vicor's preference for a new distributor.

Under Massachusetts law, a party may breach the implied covenant of good faith and fair dealing without actually breaching the contract itself. The court found that Bruno had pled cognizable claims for breach of the implied covenant of good faith and fair dealing with regards to several actions. First, Vicor shared sensitive pricing information that it had required Bruno to provide in a confidential report. Second, Vicor favored the new distributor by selecting it for projects for which Bruno had performed the initial required project design. Whether Vicor's selections were made for "legitimate business reasons" or with the "intent to interfere with Bruno's ability to reap the benefits of its Agreement" were factual questions to be answered. Finally, Vicor made a direct sale to one of Bruno's customers, when under the Agreement Bruno could have reasonably expected to receive a commission from the sale. The court noted, however, that it is not a breach of the implied covenant of good faith and fair dealing for a supplier to replace a long standing distributor, and it dismissed several other claims.

## Related People

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