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BLOGS
Arbitration

Second Circuit Rules That District Court Could Not Enjoin Licensee From Making Merit-Based Arguments to Arbitration Panel Edit

The Second Circuit has affirmed in part and reversed in part a district court's injunction in aid of arbitration in a license agreement dispute. *Benihana, Inc. v. Benihana of Tokyo, LLC*, 2015 WL 1903587 (2nd Cir. Apr. 28, 2015). For many years, Benihana of Tokyo had been operating a restaurant in Hawaii pursuant to a license agreement with Benihana, Inc. ("Benihana America"). Despite provisions in the license agreement that prohibited Benihana of Tokyo from serving unapproved menu items, the restaurant began serving hamburgers without approval. After Benihana America terminated the license agreement, Benihana of Tokyo filed an arbitration demand seeking a declaration that it had not defaulted under the license agreement. Alternatively, if the arbitration panel concluded that it had defaulted, Benihana of Tokyo requested time to cure the alleged defaults. While the arbitration was pending, Benihana America petitioned a New York federal court for injunctive relief in aid of arbitration, specifically asking the court to enjoin Benihana of Tokyo from selling hamburgers, using unapproved advertisements, and from arguing to the arbitration panel that it be provided additional time to cure any defaults. The district court granted the requested injunctive relief.

On appeal, the Second Circuit concluded that the district court was within its discretion to enjoin Benihana of Tokyo from selling hamburgers and from using unapproved advertisements while the arbitration was pending because the normal injunction factors all weighed in favor of the request. The appellate court, however, reversed the part of the order that enjoined Benihana of Tokyo from making certain arguments to the arbitration panel. Although the district court had concluded nothing in the license agreement gave an arbitrator the authority to extend a cure period, the Second Circuit noted this conclusion went to the merits and was not a jurisdictional question for the district court to decide. Because the dispute had been properly submitted to an arbitrator, any decision on the merits was to be made by the arbitrator.

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