

PRACTICE FOCUS / PRODUCT LIABILITY

# Jurisdiction rulings in Chinese drywall case a step forward

Commentary by Hilarie Bass

Two recent rulings by state and federal judges have established personal jurisdiction over one of the more significant Chinese drywall manufacturers that exported defective drywall into the United States during the height of the building boom between 2005 and 2007, Taishan Gypsum Co.

Not only is this a positive first step toward recovery for the hundreds of millions in damages owed to home-builders and other victims, but also a favorable precedent has been set for other victims nationwide in what has been characterized as one of the largest construction defects cases in U.S. history.

The lawsuit, *Lennar v. Knauf Gips KG*, which was filed in 2009 against Taishan and others, was the first in the United States on behalf of a home-builder against the manufacturers, distributors, suppliers, and installers of the faulty Chinese-made wallboard, commonly known as Chinese drywall. The lawsuit was filed to recover the millions of dollars in expenses the home-builder incurred proactively investigating the problems associated with Chinese drywall and repairing hundreds of its affected homes in Florida.

This one-of-a-kind court ruling is the first time, of which we are aware, that anyone has overcome one of the major obstacles that have traditionally discouraged victims from pursuing claims against Chinese manufacturers: fear of not being able to establish personal



ZHANG WEI/AP

Recent rulings in jurisdiction over a Chinese drywall manufacturer set a favorable precedent in what has been characterized as one of the largest construction defects cases in U.S. history, writes Hilarie Bass of Greenberg Traurig.

jurisdiction against a Chinese manufacturer in U.S. court.

While these manufacturers target and enjoy the benefits of selling their products in the United States, they typically have little, if any, physical presence in the United States. And they set up complex corporate structures and elaborate distribution chains in an attempt to shield themselves from lawsuits here. This ruling forces Taishan to answer for its actions in a U.S. court.

And others affected by Taishan's Chinese drywall will undoubtedly cite the orders by Miami-Dade Circuit Court Judge Joseph P. Farina and U.S. District Judge Eldon E.

Fallon in seeking to establish personal jurisdiction and liability over Taishan in the United States.

Judge Farina's order found that personal jurisdiction exists over Taishan in Florida, and Judge Fallon's order found personal jurisdiction to also exist over Taishan in Louisiana and Virginia. Judge Fallon agreed with Judge Farina in finding jurisdiction over Taishan in Florida.

In his order, Judge Farina also upheld a default against Taishan for its failure to timely respond to the lawsuit that was served on Taishan in China. Judge Fallon similarly denied Taishan's motion to dismiss

four federal class-action lawsuits filed by drywall homeowners. Taishan at first refused to respond to these federal lawsuits and later argued they should be dismissed on the grounds that U.S. courts had no jurisdiction over Taishan. Both judges disagreed, as evidence shows that Taishan and its wholly owned subsidiary, Tai'an Taishan Plasterboard Co., had sufficient business dealings and contacts in Florida, Louisiana and Virginia to satisfy the exercise of jurisdiction in those states.

These rulings are a major win for all victims of Chinese drywall. Just as important, these rulings undoubtedly also represent a major step forward in the long legal battle to hold foreign companies accountable for the litany of defective

China-made products, including everything from toxic toys to tainted milk.

While the U.S. Consumer Product Safety Commission and other consumer advocates have not been able to force Taishan and other Chinese drywall manufacturers to come to the table and negotiate, there is hope the judges' rulings will have an impact.

The orders may put increased pressure on Taishan

to do the right thing and pay what is justly owed to U.S. home-builders and other victims who have suffered enormous damages as a result of the Chinese Drywall problem. Knauf Plasterboard Tianjin Co., another Chinese-manufacturer of defective drywall, already agreed earlier this year to pay hundreds of millions of dollars to resolve related drywall claims.

If Taishan refuses to step up and do the right thing, there are other possible avenues to pursue when judgments are entered against Taishan in the United States, including seizing Taishan's property on ships and other assets outside China.

While the rulings are a major positive step forward, ultimately what is really needed is stronger, more-defined requirements for foreign companies doing business in or with the United States.

**Hilarie Bass, Greenberg Traurig's global operating shareholder, is lead litigation shareholder representing Miami-based home-builder Lennar Corp. in the Chinese drywall case.**



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## LEGAL TECHNOLOGY

# Daily Business Review parent ALM buys online service firm RivalEdge

by Monica Bay  
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ALM, parent of the Daily Business Review, on Thursday announced the acquisition of RivalEdge, a Saratoga, California-based company that has developed a namesake online service that uses Big Data technology to provide business intelligence to the legal community.

The two privately held companies declined to disclose the terms of the transaction, which closed Tuesday.

RivalEdge is now part of ALM's Legal Intelligence group led by Kevin Iredell, vice president of research and continuing legal education products. RivalEdge founder Srikanth Chari has joined ALM

and will continue to lead RivalEdge product development. He will remain in California.

The subscription-based RivalEdge service's sweet spot is large law firms, both in the United States and internationally, ALM president and CEO Bill Carter said in an interview. He described the service as a "listening platform for the legal industry."

"Our law firm customers need new ways to organize and consume the huge volume of news and information that floods their email inboxes every day without the risk of missing a vital development that escaped their own best monitoring efforts," Carter said in a news release. "Attorneys will be able to rely on ALM to deliver current infor-

mation they need to stay on top of their practices, industries, and competitors in a more efficient way."

Users can set up alerts, receive daily RSS feeds and subscribe to news monitoring services.

To accomplish those goals, RivalEdge monitors thousands of online news sources, more than 500 law firm websites and social media, looking for articles, posts and other information. The data is aggregated into personalized email alerts and sent daily to subscribers, said Carter. Typical topics include intelligence about competitor firms, legal developments affecting current or potential clients, and industry news tailored to specific practice groups.

Likely competitors will include

Manzama. Peter Ozolin, its CEO and chair, has been active in the legal technology community for years and founded Legal Anywhere, which he sold to Niku Corp. in 2000 for \$27 million.

ALM content will be integrated into the system, said Carter. Also on the agenda for RivalEdge's first year as part of ALM is improving the user interface, adding more law firms and data sources, enhancing processing and analytics capabilities, and adding visualization and trending tools, said Iredell. The subscription structure is based on a combination of users and numbers of lawyers at the firm, and will not change, he said.

**Monica Bay reports for Legal Technology News, an ALM affiliate of the Daily Business Review.**