A legal potboiler that would make Grisham grimace

High tech, high stakes in a $15B who-dunnit-to-who

By GREGORY ZELLER

It's a freewheeling legal battle involving hundreds of millions of dollars in licensing fees, hot technology, undercover stings and conspiracy charges against the Nassau County district attorney.

Buried somewhere in all the legal wrangling are important warnings for companies advancing breakthrough technologies and the investors looking to support them.

One clear lesson: Get it in writing.

The most recent round in the fight took place last week, when the New York Supreme Court in Suffolk County dismissed a former Suffolk landlord's $15 billion claim that he co-owns a popular check-imaging technology patented by DataTreasury, a Texas corporation with Melville origins.

According to Justice Elizabeth Emerson, plaintiff Ted Doukas waited too long to bring his fraud claims, and the statute of limitations had long expired.

Doukas has vowed to appeal the case, and understandably. DataTreasury has collected more than $350 million in check-scanner licensing fees from customers that include Citigroup, Bank of America, JPMorgan Chase and other major-league financial institutions.

But the significance of this suit extends far beyond Doukas' claims on DataTreasury, according to DataTreasury attorney Scott Mollen, a partner at Manhattan-based Herrick Feinstein.

"It transcends intellectual property and impacts the entire field of business contracts," he said. "Many businesses have defended claims based on oral joint ventures, where the plaintiffs don't have written contracts memorializing the alleged agreements."

While Doukas' suit was dismissed on a technicality, Mollen characterizes Emerson's ruling as the law serving its purpose.

"Lenders and investors should have certainty as to rights to technology," he said. "I'm an investor. I do my due diligence in a company and make an investment. Suddenly, 14 years later, somebody claims the company doesn't own the technology, and now I'm hurt."

The saga begins in 1995 in Melville, where inventor Claudio Ballard was tinkering with a potentially revolutionary check-imaging technology. Doukas, Ballard's landlord, claims he invested $1 million in Ballard's work and reached a verbal agreement to share future proceeds.

Smithtown attorney Bob Del Col, who is representing Doukas in the fight, said Ballard eventually told Doukas the technology had failed, and after some bitter landlord-tenant horn-locking, the two went their separate ways.

But Ballard was actually shopping the completely functional technology to other potential investors, Del Col claimed. The inventor incorporated DataTreasury in 1998 and patented the check-scanner in 1999, leaving Doukas to believe his million-dollar investment, including equipment purchases and rent-free office accommodations, were lost.

"While Ted was pouring money into this, Claudio was peddling it behind his back and living off the largess of Ted's money," Del Col said. "Claudio took him for a ride."

Fast forward to 2009. While visiting Doukas at his new home in Florida, Del Col happened to mention a company called DataTreasury, which was being sued over a stock-options deal. Doukas had never heard of the company, but when Del Col mentioned DataTreasury's check-imaging product, everything clicked.

"He asked me, 'Are you talking about Claudio Ballard?'" Del Col said.

Doukas would eventually bring suit against the technology company in 2011, but not before a bizarre series of events that included a surreptitiously recorded meeting between the feuding parties and extortion charges against Doukas brought by Nassau County DA Kathleen Rice, later dismissed on a procedural misstep.

Doukas and Del Col are now suing Rice for wrongful prosecution, alleging trumped-up charges bought by political favors. Rice's attorneys attempted to have Doukas and Del Col's civil claims – including unlawful search-and-seizure and conspiracy to obstruct justice – dismissed, but the court tossed most of Rice's motion in December.

Several other claims are pending, including accusations of civil rights violations, conspiracy

SCOTT MOLLEN: Dismissed $15 billion lawsuit represents a big moment in business-contract law.

and abuse of process.

"The court has dismissed most of this frivolous lawsuit," Rice's office said in a statement. "We believe the rest will be dismissed in due course."

Meanwhile, Doukas plans to appeal the ruling in his $15 billion lawsuit. The statutes of limitations cited in Emerson's ruling – six years to file a breach-of-contract claim, for instance – don't apply, according to Del Col, since Doukas knew nothing of DataTreasury until a decade after it secured its first patent.

Emerson's ruling that Doukas could have learned of DataTreasury's success "with minimal diligence" is equally specious, according to Del Col. Once Ballard lied about the status of the check-imaging technology, the attorney said, Doukas had no reason to perform diligence of any kind.

Del Col also cited statutes that give fraud victims two years to take legal action after discovering a fraud, noting Doukas met that deadline by filing in 2011, after learning in 2009 of Ballard's alleged deceptions.

"The judge went through the back door in invoking the statute of limitations," Del Col said.

The question, therefore, is whether Doukas really learned of DataTreasury's success only because his lawyer happened to mention it during a social visit.

Either way, Mollen, the DataTreasury attorney, isn't concerned about the appeal. If Emerson hadn't invoked the statute of limitations, he said, "Data Treasury would have prevailed in a trial based on the suit's merits.

"The biggest banks in the country have hired the most sophisticated law firms in the country, and after substantial analysis and litigation have decided to enter into licensing agreements with DataTreasury," Mollen added.

"Despite Mr. Doukas' claims, there's no cloud over DataTreasury's patents."