

**COURT OF CHANCERY
OF THE
STATE OF DELAWARE**

WILLIAM B. CHANDLER III
CHANCELLOR

COURT OF CHANCERY COURTHOUSE
34 THE CIRCLE
GEORGETOWN, DELAWARE 19947

Submitted: August 13, 2009
Decided: August 26, 2009

Michael Hanrahan
Paul A. Fioravanti, Jr.
Prickett, Jones & Elliot, P.A.
1310 King Street
Wilmington, DE 19801

Lisa A. Schmidt
Ethan A. Shaner
Richards, Layton & Finger, P.A.
One Rodney Square
P.O. Box 551
Wilmington, DE 19899

Re: *Kuo v. Genius Products, Inc., et al.*
Civil Action No. 3329-CC

Dear Counsel:

This is my decision on defendants' motion for reargument. Contrary to defendants' argument, this Court's July 30 letter decision did not misunderstand the material facts or misapply the law in this matter. First, this Court applied the traditional *Sugarland* factors in determining an appropriate attorneys' fee. The benefit is only one of the factors under *Sugarland* and is not the sole determinant of an appropriate fee award. In addition, the Court actually reduced the fee significantly below what was requested. Second, again contrary to defendants' argument, this Court did not erroneously conclude that the litigation had some causal connection to the failure to effect the reverse split. Plaintiff was entitled to a presumption that the litigation had a causal connection to the failure to effect the reverse split. Defendants failed to rebut that presumption, and on this motion for reargument simply rehash the very arguments that this Court rejected in its July 30 letter decision. Defendants do not point to any evidence in the record that would overcome the presumption that the litigation was causally connected to the defendants' decision to abandon the reverse split. Instead, defendants ask the

Court to accept an alternative “plausible conclusion” that the board of directors entered into settlement negotiations in this case simply to avoid the expenses associated with briefing a motion to dismiss. No evidence is offered to support this so called plausible conclusion and in any event it is insufficient to overcome the strong presumption of a causal connection between the lawsuit and the abandonment of the transaction in issue.

Ultimately, defendants’ motion for reargument appears to be a rehash of contentions and arguments rejected in the Court’s July 30 letter decision. Indeed, defendants appear to take the position in their motion for reargument that this Court mistakenly gave more credit to the plaintiff’s lawsuit than it was due as a cause of the board of directors’ action to abandon the transaction. Simply put, this Court gave the lawsuit the presumption to which it is entitled under Delaware law of being causally connected to the abandonment of the transaction. It was defendants’ responsibility to offer evidence to rebut that presumption and defendants failed to do so. It is noteworthy, in my opinion, that defendants’ motion for reargument again fails to cite to *any* evidence in the record as factually demonstrating that the lawsuit had no connection or relationship to the defendants’ action to abandon the disputed transaction.

Accordingly, for all the reasons above stated, as well as the reasons expressed in this Court’s July 30 letter decision, the motion for reargument is denied.

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in cursive script that reads "William B. Chandler III". The signature is written in black ink and includes a horizontal line under the "III" at the end.

William B. Chandler III

WBCIII:meg