

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2019 CA 0740

2018 CW 1536

CAMSOFT DATA SYSTEMS, INC.

VERSUS

SOUTHERN ELECTRONICS SUPPLY, INC.
AND ACTIVE SOLUTIONS, LLC

Judgment Rendered: JUL 02 2019

Appealed from the Nineteenth Judicial District Court
Parish of East Baton Rouge
State of Louisiana

Case No. 582,741

The Honorable Janice Clark, Judge Presiding

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BEFORE: CRAIN, THERIOT, and HOLDRIDGE, JJ.

THERIOT, J.

In this appeal, Dell, Inc. and Dell Marketing, L.P. (sometimes referred to collectively as “Dell”) seek review of the trial court’s judgment denying their Motion for Partial Summary Judgment on Anti-Trust Claim. For the following reasons, Dell’s appeal is dismissed as moot. We deny the companion writ application, as well as CamSoft Data System, Inc’s (“CamSoft”) motion to dismiss the writ, referred to this panel, as moot.

FACTS AND PROCEDURAL HISTORY

The facts and procedural history are laid out in more detail in this court’s opinion in **CamSoft Data Systems, Inc. v. Southern Electronics Supply, Inc.**, 2019-0730 (La. App. 1st Cir. 7/2/19) (unpublished), which is also being issued this date.

Relevant hereto, CamSoft filed a Master Petition for Declaratory Judgment, Supplemental Relief, Damages, and Attorney’s Fees, alleging that Dell, along with other defendants, engaged in a “conspiracy to violate Louisiana’s Antitrust Act, La. R.S. 51:122, *et seq.*” by:

- (1) knowingly [using] illegal, no-bid government contracts to effectuate millions of dollars in replica Crime Camera System sales to various state and local agencies within the State of Louisiana and
- (2) furthermore knowingly [circumventing] monetary public bid purchase thresholds by artificially dividing the total amount of government purchases.

In response, Dell filed a motion for partial summary judgment to dismiss CamSoft’s antitrust claims. After a hearing, the trial court signed a judgment on April 2, 2019, denying Dell’s Motion for Partial Summary Judgment on Anti-Trust Claim. From this judgment, Dell appeals pursuant to La. R.S. 51:135.¹

¹ As set forth in La. R.S. 51:135, all interlocutory judgments in cases involving antitrust claims shall be appealable within five days and shall be heard and determined within twenty days after the appeal is lodged.

DISCUSSION

In **CamSoft Data Systems, Inc. v. Southern Electronics Supply, Inc.**, 2019-0730 (La. App. 1st Cir. 7/2/19) (unpublished), also being issued this date, this court dismissed CamSoft's antitrust claims against Dell as prescribed. In light of this decision, Dell's appeal, which seeks to reverse the trial court's denial of its Motion for Partial Summary Judgment on Anti-Trust Claim, is dismissed as moot. We deny the companion writ application, as well as CamSoft Data System, Inc.'s motion to dismiss, referred to this panel, as moot. Costs of this appeal are to be assessed against appellee, CamSoft Data Systems, Inc.

APPEAL DISMISSED AS MOOT; WRIT AND MOTION TO DISMISS DENIED AS MOOT.

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HOLDRIDGE, J., concurring in the result.

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I concur in the result. I find that Camsoft failed to produce sufficient factual support to establish the existence of a genuine issue of material fact that Dell engaged in a conspiracy to violate Louisiana's Antitrust Act, La. R.S. 51:122, *et seq.* The Antitrust Laws were not enacted for the protection of competitors but were instead enacted to protect competition. See e.g. Clary v. State Farm Mutual Automobile Insurance Co., 2018-198 (La. App. 3rd Cir. 4/18/18) 246 So.3d 8. Importantly, the United States Supreme Court has made it clear that even an act of pure malice by one business competitor against another does not, without more, state an antitrust claim; the antitrust laws do not create a federal law of unfair competition or purport to afford remedies for all torts committed by or against persons engaged in commerce. **Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.**, 509 U.S. 209, 225, 113 S.Ct. 2578, 2589, 125 L.Ed.2d 168 (1993) (internal citations omitted).