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Infogroup $21.2 mln judgment against DatabaseUSA and ousted founder is upheld

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A federal appeals court upheld a $21.2 million award in favor of Infogroup Inc in a lawsuit accusing founder Vinod Gupta of breaching a separation agreement, and a rival compiler of U.S. business names that he later founded of copyright infringement.

The 8th U.S. Circuit Court of Appeals in St. Paul, Minnesota on Monday let stand awards of $10 million against Gupta for breaching non-disparagement and confidentiality clauses, and $11.2 million against DatabaseUSA.com LLC, his new company.

Infogroup, the parent of infoUSA, accused Omaha, Nebraska-based DatabaseUSA of trying to steal its customer database, and confuse people into thinking the companies were related.

It claimed to have searched Database USA's website and found fake entries, known as "seeds," that it had planted in its own database. Infogroup created the seeds in order to spot possible copyright infringement if the fake entries appeared elsewhere.

Gupta, who founded in Infogroup in 1972, left in 2008 amid media reports about his lavish lifestyle, and founded privately-held DatabaseUSA less than two years later.

His lifestyle also became the subject of a U.S. Securities and Exchange Commission civil case, which he resolved in March 2010. He has denied Infogroup's allegations.

"We are pleased that justice has been achieved, and the competitors that violated the rules have been held responsible," said Greg Scaglione, a lawyer at Koley & Jessen representing Infogroup, said in an emailed statement.

Lawyers for DatabaseUSA and Gupta include Eric Magnuson of Robins Kaplan. He did not immediately respond to requests for comment.

Circuit Judge Duane Benton said reasonable jurors could view Infogroup's database as being more than a mere compilation of facts created with at least a "minimal degree of creativity," and that DatabaseUSA had copied its original elements.

Benton also said the $11.2 million damages award, reduced from $39.6 million awarded in August 2018 by a jury to exclude duplication and commissions, was supported by evidence that DatabaseUSA boosted revenue by using its infringing database.

To support its claims against Gupta, Infogroup offered evidence he had used its trademarks, told a salesman he was using its customer lists, and told a reporter that his former company had "no leadership, no brains and their product is obsolete."

The appeals court said jurors could reasonably conclude that Gupta violated his confidentiality clause.

It also said his comments to the reporter did not fall under the non-disparagement clause's exception for "comments made during legal or administrative investigations or proceedings" even if litigation were ongoing.

Circuit Judges James Lokey and Jane Kelly joined Monday's decision.

Gupta agreed in March 2010 to pay $7.4 million to settle SEC charges that he improperly spent corporate and investor funds on international travel, several homes, a yacht, 20 automobiles, 28 club memberships and other expenses.

He did not admit or deny wrongdoing, and also agreed to a ban on serving as an officer or director of a public company.

The case is Infogroup Inc v Gupta et al, 8th U.S. Circuit Court of Appeals, No. 18-3723.

For Infogroup: Greg Scaglione of Koley Jessen

For DatabaseUSA and Gupta: Eric Magnuson of Robins Kaplan

---- Index References ----

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