**GRP Rainer Rechtsanwälte – Report on Authorized Dealer’s Entitlement to Compensation**

Under certain circumstances, an authorized dealer may be entitled to claim compensation after termination of the contract with the company if the latter continues to be able to use its business contacts.

In our experience at the commercial law firm GRP Rainer Rechtsanwälte, it is common for an authorized dealer’s potential claims for compensation after termination of the contract with the company to lead to legal disputes. We note that because the German legislature has not explicitly regulated authorized dealers’ entitlement to compensation, it is possible for the provisions governing commercial agents’ right to compensation under sec. 89b of the Handelsgesetzbuch (HGB), Germany’s Commercial Code, to be applied analogously.

These state that the commercial agent is entitled to claim compensation after termination of the contractual relationship with the company if he or she has established new business contacts and the company continues to be able to benefit from these contacts after the contract has come to an end. This right to compensation cannot be contractually excluded.

The provisions can be applied analogously to an authorized dealer’s entitlement to compensation under certain circumstances. The conditions that need to be met for this to happen were set out by the Bundesgerichtshof (BGH), Germany’s Federal Supreme Court, in a ruling from 5 February 2015 (Az.: VII ZR 315/13). According to this ruling by Germany’s highest court of ordinary jurisdiction, the right to claim compensation only arises if the authorized dealer was integrated into the company’s sales force and committed to making his or her business contacts available to the company so that the latter can continue using them. The authorized dealer must have committed to transferring his or her client base to the company in such a way that the company is able to readily harness the benefits of this client information without any delay. Furthermore, the authorized dealer must by virtue of special contractual arrangements be integrated into the company’s sales force to such an extent that he or she from an economic perspective has extensive duties to perform that would otherwise have to be met by a commercial agent.

In the case in question, the BGH denied the authorized dealer the right to claim compensation because the company had not been entitled to use the client information, having contractually committed to block the transferred data and delete it at the request of the authorized dealer.

The right to claim compensation is a controversial topic in the case of commercial agents and all the more so in relation to authorized dealers. Lawyers who are experienced in the field of commercial law can assist authorized dealers and businesses in drafting agreements as well as in the event of legal disputes.

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