Spanish Piping Co. Hit With $31M Verdict For False Ads

By **Daniel Siegal**

Law360 (September 30, 2019, 7:09 PM EDT) -- A Texas federal jury on Friday found that Spanish pipe manufacturer Ulma Piping owes roughly $31 million to a pair of American pipe makers for undercutting their business by falsely advertising its oil pipeline parts as being strengthened by heat treatment.

After deliberating for less than a day following a nine-day trial, the Houston jury returned with a verdict entirely in favor of plaintiffs Boltex Manufacturing Co. LP and Weldbend Corp., finding that Spanish cooperative Ulma Piping and its U.S. unit had falsely advertised its carbon steel flanges in violation of the Lanham Act.

Ulma falsely stated that its flanges met two American Society for Testing and Materials standards, and falsely claimed they were normalized, or heat-treated, according to the verdict form.

The jury further found that Ulma's false advertising had harmed Boltex's and Weldbend's businesses, awarding Boltex $650,000 and Weldbend $300,000 in compensatory damages. Ulma's false advertising had been done with malice or fraud, and awarded Boltex and Weldbend $2 million each in punitive damages, according to the verdict form.

Boltex and Weldbend also proved that Ulma had made a $26 million profit from its misconduct, which should be disgorged, according to the verdict form.

The jury rejected Ulma's defense that the U.S. companies had unclean hands and had engaged in their own false advertising to consumers and about Ulma's products.

Frank Bernobich, chairman and president of Boltex, said in a statement Monday that the company was very pleased with the verdict, and James Coulas Jr., president of Weldbend, thanked the jury.

"American companies like Weldbend and Boltex can compete with anyone in the world on a fair and level playing field," he added.

Saul Perloff of Norton Rose Fulbright, who represented the U.S. companies, said via email on Monday that the most crucial piece of evidence in the trial was probably that "defendants admitted — eventually — that for years, if not decades, they had not in fact heat treated their flanges in accordance with the ASTM industry standards."

Perloff's co-counsel Carmine Zarlenga of Mayer Brown LLP, added via email that, "At the same time, however, defendants tried to explain away the admission and seemed unwilling to take responsibility."

An attorney for Ulma did not immediately respond to a request for comment on Monday.

Texas-based Boltex and Illinois-based Weldbend sued in 2017, saying that metallurgical testing had revealed that Ulma's flanges — which were being sold to U.S. customers at prices that undercut the plaintiffs — were not heat-treated and did not meet industry standards as Ulma touted in its advertisements.

Flanges are a key part of pipeline systems, and defects in them can lead to catastrophic failure, according to the complaint. The heat treatment at issue makes steel tougher, according to the complaint.

Ulma countered in its pretrial memorandum that it and the plaintiffs weren't competing for the same customers, because their carbon steel flanges were priced so differently that potential customers wouldn't have viewed them as interchangeable.

The U.S. companies are represented by Saul Perloff, Marc Collier, Kathy Grant, Bob Rouder, Leaf McGregor, Andre Hanson, Nathan Damweber and Andrea Shannon of Norton Rose Fulbright, and Carmine Zarlenga and Michael Lindinger of Mayer Brown LLP.

Ulma is represented by Andrew J. Levander, Mauricio A. España and Hector Gonzalez of Dechert LLP, and David Gerger of Gerger Khalil & Hennessy.

The case is Boltex Manufacturing Co. LP et al. v. Ulma Forja S. Coop, a/k/a Ulma Piping, case number 4:17-cv-01400, in the U.S. District Court for the Southern District of Texas.

--Editing by Adam LoBelia.