

## Battery Co. Fights Sanctions Bid In \$100M Trade Secret Case

By **Michael Phillis**

Law360 (November 15, 2019, 4:16 PM EST) -- A company that helps computer centers maintain uninterrupted power has said it shouldn't face sanctions or the dismissal of its trade secrets case against a former business partner because any discovery-related issues were at worst due to disorganization and were not "extraordinary in volume and breadth."

LiiON LLC told an Illinois federal court on Thursday that its \$100 million trade secrets dispute against private equity-backed Vertiv Group Corps. and its entities had been contentious, but that Vertiv's sanctions bid that alleged a broad pattern of misconduct greatly overstated the case. LiiON had disclosed documents and acted in good faith, it said.

"The drastic sanctions requested by defendant in its latest motion are inequitable and even preposterous," LiiON's response said. It added that the sanctions motion was instead an effort to "misdirect the court" and "avoid a hard look at the merits of this case."

LiiON sued Vertiv claiming it breached their nondisclosure agreement and misappropriated LiiON's trade secrets by using LiiON's proprietary technology in its own products and then sharing that technology with LiiON's rival Samsung. Vertiv has filed counterclaims.

In late October, both sides filed **dueling sanctions motions**. Vertiv asked the judge to toss LiiON's lawsuit for good, accusing it of allowing witnesses to self-select which documents to produce in discovery and intentionally misrepresenting how many documents it needed to produce. In addition to other allegations, Vertiv said LiiON has delayed discovery throughout the litigation.

LiiON's alleged misconduct "is extraordinary in volume and breath. The punishment must fit the crime," Vertiv said.

But LiiON said the sanctions bid was made after discovery closed and that "if defendants truly wanted or needed additional documents or discovery that defendants would have at least attempted to conference with LiiON."

"Plaintiff has not lied or made any deliberate misrepresentations during this discovery process," LiiON said in its own bid for sanctions in October.

The company said it wasn't self-selecting documents as part of some kind of scheme, but had instead produced thousands of pages in discovery. Allegations it should have taken possession of certain devices to look for relevant materials should not result in severe sanctions, LiiON said.

"It is an attempt to create an obligation that does not exist," the company's response said.

The **suit began** in September 2018 and fact discovery has been the subject of extensive motions and dispute. In late October, LiiON filed its own sanctions bid, accusing Vertiv of dumping a bunch of documents just before depositions were scheduled in May.

Representatives for LiiON and Vertiv did not immediately respond to requests for comment Friday.

LiiON is represented by Kenneth A. Nazarian and James A. Karamanis of Barney & Karamanis LLP.

Vertiv is represented by J. Erik Connolly, Nicole E. Wrigley, Christopher J. Letkewicz and Kate Watson Moss of Benesch Friedlander Coplan & Aronoff LLP.

The case is LiiON LLC v. Vertiv Group Corp. et al., case number 1:18-cv-06133, in the U.S. District Court for the Northern District of Illinois, Eastern Division.

--Additional reporting by Dorothy Atkins. Editing by Jack Karp.