

CASE STUDY

In International Arbitration, Defeating a €20M Claim and Securing a €10M Award Instead

“In sum, [Pillsbury’s client] prevailed with a Final Award in its favor of €10,295,686 plus interest.” —Arbitration panel’s award to Pillsbury’s client



Client:	Scandinavian Equipment Manufacturer
Industry:	Manufacturing Processes Equipment
Area of Law:	Contracts
Venue:	ICC Arbitration, Geneva, Switzerland
Result:	Won a unanimous decision awarding our client more than \$13 million on its claim while rejecting virtually all of the opponent’s counterclaim



Pillsbury’s client, a Scandinavian equipment manufacturer, outfitted a state-of-the-art manufacturing facility in central Europe. Claiming that the facility fell far short of contractual performance guarantees, the owner of the facility failed to pay the €8.1 million contract balance and attempted to enforce a €9.8 million bank guarantee triggered by the alleged performance issues.

Our client initiated arbitration proceedings in July 2009 to obtain the amounts owed to it and to defeat the attempted draw against the guarantee letter of credit. The owner then filed a counterclaim seeking €20 million for allegedly defective equipment and equipment allegedly missing from the delivery.

The arbitration proceedings were held in Geneva, Switzerland, before a tribunal composed of a Swiss national, a Swiss/U.S. national and a United Kingdom national. The tribunal credited the testimony of our client’s witnesses, and largely discredited the testimony of the owner’s witnesses based on the cross-examination, concluding that the failure to meet the performance specifications was, in fact, due to the owner’s misuse of the equipment.

Pillsbury’s client was awarded virtually its entire claim of €10 million. The tribunal rejected all of the owner’s €20+ million counterclaim, except for a few hundred thousand euros, which our client had conceded.

The owner thereafter challenged the arbitral award in the Swiss courts, where Pillsbury, in association with Swiss counsel, succeeded in having the award confirmed.