

Philadelphia Imposes New Rules And Regulations On Residential Property Wholesalers

In real estate wholesaling, a wholesaler enters into a written agreement of sale to purchase the property with a property owner and then finds an interested party to buy it at a higher price than what the wholesaler agreed to purchase it at, and the wholesaler then keeps the difference between the two as profit.

Wholesalers generally find and enter into agreements for distressed properties.

In order to protect residential property owners from unscrupulous wholesalers, the new law requires all such wholesalers to possess a valid license which must be renewed annually.

The new law creates the following application and renewal process for such a license:

- a non-refundable application fee of \$200;
- proof that the applicant possesses insurance, in such type and amount as may be required by subsequently imposed governmental rules and regulations;
- name and address of the applicant or, if the applicant is not a natural person, the name and address of a responsible natural person; and
- any and all corporate entities doing business in Pennsylvania in which the applicant has an equity interest, regardless of whether the applicant has a direct equity interest or the applicant's equity interest is held through one or more tiers of a

corporate structure.

An individual may not obtain the license if the individual has, within the past 6 years, been convicted of any crime of fraud, dishonesty, breach of trust or deceit, or has been convicted for violating the Public Official and Employee Ethics Law.

An individual applying for and maintaining a license must notify the local government in Philadelphia, in writing, of any changes in the information contained in or submitted with the application for the license within 72 hours of such change.

The new law also restricts the ability of a wholesaler to present an offer to the property owner.

Under the new law, the wholesaler must provide the residential property owner with the following written disclosure at least 3 days before presenting an offer to purchase the property:

- inform the property owner as to how to access resources that assess the fair value of residential properties in Philadelphia, including, but not limited to, Philadelphia's Office of Property Assessment's [website](#) and any private real estate assessment tools as may be identified by subsequently imposed governmental rules and regulations; and
- inform the property owner of their ability to hire a real estate agent, to seek legal counsel, and identify any other resources deemed appropriate by the local government in Philadelphia.

The written disclosure must be signed by the property owner.

Any written agreement of sale entered into by a wholesaler who is not licensed as one under the new law at the time of the solicitation may be rescinded at any time prior to the transfer of the title to the property at the sole option of

the property owner.

If you have questions about this newly passed law and the effect it may have on you, please feel free to contact us at info@nochumson.com and an attorney at Nochumson P.C. will immediately reach out to you to schedule a free consultation.

Getting in the Zone – Land Zoning Types in Philadelphia

Simply put, zoning is what regulates land and development in the city of Philadelphia. The land zoning types in Philadelphia are set by the Philadelphia Zoning Code, and they are enforced by the Department of Licenses and Inspections.

The Philadelphia Zoning Code's purpose, as it is written, is "to guide the land use and development of the City and in so doing, promote the public health, safety, and general welfare of its citizens and visitors." In layman's terms, the Philadelphia Zoning Code sets rules to ensure you are not building something you should not be building. It makes sure your buildings are safe. Either as a homeowner or developer, having a working knowledge of these governmental requirements will help ensure your project is legal and safe.

What are the Zoning Categories?

Zoning categories vary among counties, cities, and communities. In Philadelphia, there are 10 zoning categories:

- Residential
- Parks and open space
- Public, civic, and institutional

- Office
- Retail
- Commercial
- Vehicle and vehicular equipment sales and services
- Wholesale, distribution, and storage
- Industrial
- Urban architecture

Within those categories, there are many subcategories. For example, under the residential category, there are subcategories for single-family, two-family, and multi-family dwellings, or, under the commercial category, there are subcategories for office buildings, shopping centers, nightclubs, hotels, warehouses, etc.

Land Zoning Permit Types

The [Philadelphia Zoning Code](#) covers 2 types of permits:

- **Zoning Permits** authorize construction or an addition to a building. A zoning permit is required for the following:
 - All new construction
 - Building an extension to an existing structure
 - Creating or subdividing a lot
 - Demolition or partial demolition of a structure
 - Billboards and certain signs
 - Construction of masonry fences above two (2) feet
 - Construction of fences above legal height limits allowed by Zoning Code in the specific zoning classification ruling that property.
 - Creation of off-street parking or reconfiguration of existing parking
 - Installation of some signs in addition to the actual sign permit
- **Use Registration Permits** authorize a particular use of the building or ground. A use registration permit is

required for the following situations:

- Changes in any activity in an existing building
- New business use for a property
- Increases or decreases in the number of dwelling units
- Elimination of existing use of a property
- Billboards and most signs

While these lists may seem straightforward enough, as with anything legal, the farther along you get in the process, the more complicated it becomes.

Recently, realizing the real estate structures in Philadelphia continue to rise, we have leveraged Philadelphia's open-source data and developed an interactive [Land Use and Zoning Analysis Tool](#). With this tool in place, real estate developers and investors in the city will now have the ability to better determine the feasibility of a project by obtaining valuable and helpful information specific to their project and development.

At Nochumson P.C., we are more than legal counsel. We are people serving our neighbors and community in Pennsylvania and New Jersey. Knowing that real communication between real people can help lead to real positive results, our team of attorneys are available 24/7 to help answer your legal questions and to fight for you with skill and fortitude, whatever the case may be. When you hire us, you can expect a sensible and cost-effective approach to legal counsel. We think fast, think ahead, and get things done. [Contact us today](#) or call us at [\(215\) 399-1346](tel:(215)399-1346) to see how we can represent you.

How a Land Use Attorney Can Help You

As an attorney, few other specializations intersect with so many types of law as land use law. A land use attorney deals with real estate, environmental and administrative law as well as constitutional law, public policy, and politics, in figuring out how land should be used. Knowing the law is only one part of the equation in obtaining permits and licenses in Philadelphia. It also requires the ability to relate to the diverse set of interests of the people governing, residing, and doing business within city limits. No matter the size of your property or project, it is imperative to consider how a land use attorney can help you actualize your dream.

What is Land Use Law

Land use laws determine how landowners can use their property and what limits the government can put on that use. These limits fall under the scope of [zoning laws, ordinances, or regulations](#). The idea is that by creating zones dedicated to similar uses, landowners will be more able to enjoy their property. The three most common types of municipal zoning are:

- **Industrial** – Industrial zoning often has several categories that further regulate the type of industry that can take place. These zones will frequently require more space between buildings. Common examples of activities that take place in industrial zones include manufacturing plants or storage facilities.
- **Commercial** – Commercial zoning can have different categories, depending on the types of businesses using the space. Often, the type of commercial zoning available will be determined by the parking situation in the area. Common commercially zoned properties include office buildings, shopping malls, and some apartment

complexes.

- **Residential** – Residential zones can include homes, apartments, duplexes, and trailer parks. Zoning will generally address how many structures can be on a property and how close to other structures and the property line you can build. Residential zoning laws also address the number of animals allowed and whether you can run a business from your home.

What a Land Use Attorney Does to Help

It can be very challenging to navigate the various contracts for a building project. A land use attorney will guide you through every step of the way and ensure that the right permits are being filed and applied for at all times. There are many matters to consider in this job. Attorneys must understand real estate law as well as the regulations and requirements for all permits and environmental issues. There are also governmental contracts and construction laws to stay on top of. Regardless of whether you are a homeowner, a business owner, or a property developer, you stand to benefit from the use of a land use attorney. They can assist you in challenging a municipality's zoning regulations and help you to procure the proper permits and information in regards to many details if you're remodeling or constructing a house or business.

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New Law Protects Property Owners In Philadelphia From Solicitation

Last month, Mayor James F. Kenney signed a bill passed by Philadelphia City Council into law which provides protection to property owners from solicitation and related problems.

Under the new law, real estate brokers, agents, or their representatives are generally prohibited from soliciting any real property for sale or rent if at any time the property owner does not wish to sell or rent the property or does not want to be solicited to sell or rent.

The new law directs the city government to create and maintain a public "Do Not Solicit List" of property owners who have expressed a desire to not be solicited to sell or rent their real property.

In the event a property owner would like to remove their name from the "Do Not Solicit List", the property owner may request, in writing, the removal of the property owner's name from it, and that will occur within 30 days from such a request.

If you have questions about this newly passed law and the effect it may have on you, please feel free to contact us at info@nochumson.com and an attorney at Nochumson P.C. will immediately reach out to you to schedule a free consultation

\$900 Billion Federal Covid-19 Relief Package Becomes Law

Here are some key provisions of the relief package:

Direct Payments to Taxpayers

- Single adults with an adjusted gross income of \$75,000 or less will get a one-time payment of \$600.
- Married couples with no children earning \$150,000 or less will receive a total of \$1,200.
- Those with children will get an and an additional \$600 per child.

Relief for Small and Medium-Sized Businesses

The relief package provides additional funding of \$284 billion for loans in the Paycheck Protection Program (“PPP”) and also includes an additional \$20 billion in funding for Economic Injury Disaster Loans.

The new law clarifies that businesses that received loans under PPP would be able to take tax deductions for costs and expenses which formed the basis for loans forgiven for payment under the CARES Act. This clarification reverses the position previously taken by the Internal Revenue Service (IRS) regarding whether such costs and expenses could be taken as tax deductions.

The new law also added some additional categories of costs and expenses for loan forgiveness under the CARES Act, such as:

- Covered operational expenditures: payments for software or cloud computing services that facilitate business operations, product or service delivery, the processing, payment or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses.

- Covered property damage: costs related to property damage and vandalism or looting due to public disturbances that took place in 2020 which were not covered by insurance or other compensation.
- Covered supplier costs: expenses incurred by a borrower under a contract or order in effect before the date the loan proceeds under PPP were disbursed for the supply of goods that are essential to the business's operations.
- Covered worker protection equipment: costs of personal protective equipment incurred by the business to comply with governmental rules or regulations.

Additionally, tax credits would be extended for employers offering paid sick leave or keeping workers on the payroll, allowing recipients of certain tax credits to qualify based on their 2019 incomes.

In an effort to help the struggling restaurant industry, the bill would allow 100% tax deductions for business meals.

Extension of Unemployment Compensation Benefits

Individuals who are not working, working part-time, or are too sick to work will receive \$300 per week from the federal government through March 14, 2021 in addition to state benefits.

The relief package also extends to 50 weeks the amount of time for which workers may claim benefits through both state and federal programs.

As with the CARES Act, the benefits will cover those who do not meet the definition of "employee" such as independent contractors, gig workers and the self-employed.

The bill extends for 11 weeks Pandemic Unemployment Assistance for those who do not qualify for state unemployment benefits, such as independent contractors, gig workers and the self-employed.

Also included is an additional \$100-a-week subsidy for employees who have both wage and self-employment income but whose basic unemployment benefits do not take into account their self-employment income.

Evictions and Rental Assistance

The relief package extends the federal moratorium on residential evictions through the end of January 2021.

The package also provides \$25 billion of assistance to tenants in arrears on their rent, to be administered by the states. Landlords and property owners can apply for the rental assistance on behalf of tenants meeting the eligibility requirements, generally those who make less than 80% of median income in their area, have at least 1 person in their households who has lost a job and can demonstrate they are at risk of losing their home.

Covid-19 Testing and Vaccine Distribution

The relief package also provides \$22.4 billion to the states for testing, tracing and Covid-19 mitigation programs and additional funds for vaccine and therapeutic distribution.

If you have questions about the new relief package, please feel free to contact us at info@nochumson.com and an attorney at Nochumson P.C. will immediately reach out to you to schedule a free consultation.

How a Real Estate Litigation

Lawyer Can Help You

Individuals and companies engaged in real estate transactions and disputes need a knowledgeable real estate attorney to protect their interests. No case is the same and who you [turn to for assistance](#) in finding a beneficial resolution makes a huge difference. There are many types of instances where a real estate litigation lawyer can help you.

Some of the Most Common Types of Disputes

- **Real estate transaction disputes** – Whether a buyer or seller, given the high value of the assets involved in a real estate transaction, it is important that you contact a skilled attorney when a dispute arises.
- [Zoning variances](#) – If your plans require you to deviate from local ordinances, an experienced attorney can help you argue your case. There are typically two main types of zoning variances; one is a use variance and one is a dimensional variance. A use variance is a specific use that requires special approval; such as a tattoo shop or a coffee shop in a residential property. A dimensional variance is when you want to build something or make an addition to something that does not meet the dimensional requirements of local zoning code.
- **Easements** – An easement is the legal right of a non-owner to use a specific part of another person's land for a specific purpose. In some situations, it is necessary to resolve conflicts involving easements as part of a larger transaction.
- **Boundary disputes** – One of the more common disagreements between neighbors are boundary disputes. These disputes start when two neighbors fail to agree on where exactly one person's property ends and the other's begins. If another party occupies your property for an extended period of time, he or she could gain a legal claim to it.

- **Commercial lease disputes** – If you are a commercial property owner or manager, you want your operations to run smoothly; high occupancy rates, quality tenants, and timely payments are essential for success. If you are a commercial property tenant, you want the property owner or management firm to comply with the terms of the lease and promptly correct problems. It is common for property owners and renters to come into conflict over a commercial lease.
- **Construction contract and construction-defect litigation** – This litigation typically involves a breach of contract. It can equally involve a breach of warranty, negligence by one party or another, and strict liability. Construction defects can lead to serious and often acrimonious litigation.
- **New Home construction litigation** – During any residential or commercial development or building project, a thousand things can go wrong. Finishing the job on time, within budget, and ready for occupancy requires paying close attention to material specifications, municipal construction codes, and subcontractor performance. Any deviation from the provisions of the contract can result in litigation over design or construction defects, cost overruns, liens, business interruption, or loss of investment opportunity.
- **Construction lien disputes** –A construction lien gives builders, contractors, and suppliers legal recourse to get paid for their work as well as any materials or supplies purchased for a project. This recourse is in the form of a right to interfere with your ability to convey clear title to your real property and/or to foreclose the construction lien to take title to that property.

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Dramatic Changes To Real Estate Tax Abatement Program And New Construction Tax In Philadelphia

Most significantly, the 10-year tax abatement on residential new construction, which was previously scheduled to be significantly altered beginning in January 2021, was extended until January 2022 due to the economic hardships wrought by the pandemic.

Last year, City Council passed legislation phasing out the exemption benefiting properties containing a newly constructed home. To learn more about that legislation, click [here](#).

However, with this newly passed legislation, City Council delayed the effective date for these dramatic changes to the real estate tax abatement program for residential new construction for another year, until January 1, 2022, meaning all real estate tax abatement applications applied for by December 31, 2021, will still remain eligible under the

original real estate tax abatement program as it relates to residential new construction.

Additionally, in the second bill passed by City Council, the real estate tax abatement program for commercial and industrial properties was changed as well.

Beginning on January 1, 2022, only 90% of the assessable amount of the improvement costs for commercial and industrial properties shall be exempt from real estate taxes over the course of the 10 years of the real estate tax abatement.

Lastly, a 1% tax will be imposed on the cost of construction of improvements made to residential properties. Non-residential construction is still exempt from such taxation. The newly enacted tax program will apply to all building permits applied for on or after January 1, 2022.

Under this new tax program, 50% of the tax must be paid by the property owner at the time of the issuance of the building permit with the remaining 50% due and payable by the property owner prior to the issuance of the certificate of final inspection for the construction project. If no certificate of final inspection is required with respect to the construction authorized by the building permit, the tax must be paid by the property owner in full at the time of the issuance of the building permit.

If you have questions about these newly passed laws and the effect it may have on you, please feel free to contact us at info@nochumson.com and an attorney at Nochumson P.C. will immediately reach out to you to schedule a free consultation.

Easement Agreement Voided Due to Lack of Authority in Parking Lot Entrance Case

In *Sehrawat v. Rite Aid*, 2020 Pa. Super. Unpub. LEXIS 3537 (Pa. Super. Ct. Nov. 13, 2020), the Pennsylvania Superior Court recently declared void ab initio an easement agreement as a result of the grantor's failure to properly execute the document, pursuant to a power of attorney.

In *Sehrawat*, Rattan Real Estate Trust and Rite Aid shared a parking lot between their commercial properties. The parking lot had a single entrance from the street, the opinion said.

The entrance driveway and most of the lot was located on property owned by Rattan, the opinion said.

Rite Aid claimed that it was granted an express easement via a written easement agreement that was executed in 2001 but not recorded until 2017.

The written easement agreement was signed twice by Charles Beckman, as grantor—once as himself and once on behalf of his wife, Jean Beckman, pursuant to a power of attorney, the opinion said.

According to the opinion, Jean Beckman's signature does not appear on the document.

At the time the written easement agreement was executed, Jean Beckman was the sole record owner of the property.

The notary seal on the written easement agreement states that "the foregoing instrument was acknowledged before the notary this 14th day of August, 2001, by Charles E. Beckman."

There was no reference to or acknowledgment of a power of

attorney in the notary seal, or any indication that Charles Beckman signed on behalf of Jean Beckman, the opinion said.

Rattan claimed that it had no notice, actual or constructive, of the existence of the written easement agreement in favor of Rite Aid for access from the street to its parking lot when it purchased the property.

The trial court in *Sehrawat* ruled in favor of Rattan and declared the written easement agreement void ab initio because the document was not properly executed.

In addition, the trial court in *Sehrawat* found that the evidence established constructive notice only of Rite Aid's use of a portion of the parking lot, and that there was no evidence that Rattan had actual notice of the written easement agreement.

On appeal, the key issue was whether Rattan had sufficient notice, constructive or actual, of an easement in favor of Rite Aid at the time of the closing on its properties, and whether the written easement agreement should be stricken.

The Superior Court in *Sehrawat* noted that the written easement agreement was recorded after Rattan purchased the property.

Citing to 21 P.S. Section 351, the Superior Court in *Sehrawat*, acknowledged there is no mandatory requirement to record a conveyance of real property; however, the consequence for the failure to do so is that the conveyance will be rendered void as to any subsequent bona fide purchaser.

Referring to its prior ruling in *Long John Silver's v. Fiore*, 255 Pa. Super. 183, 386 A.2d 569, 573 (Pa. Super. 1978), the Superior Court in *Sehrawat* reiterated that, in order to qualify as a bona fide purchaser, the subsequent buyer must be without notice of the prior equitable interests of others ... Either the actual or constructive notice is sufficient to prevent the subsequent purchaser from acquiring the status of

a bona fide purchaser.

Rite Aid averred that Rattan was not a bona fide purchaser, because it had actual and constructive knowledge of the written easement agreement at the time of purchase of its property.

The Superior Court in *Sehrawat*, concluded regardless of whether Rattan had noticed—actual or constructive—of the purported written easement agreement, such notice was irrelevant because the written easement agreement was void ab initio.

The Superior Court in *Sehrawat*, emphasized that at the time the written easement agreement was executed, Charles Beckman had no ownership interest in the subject property and, consequently, no authority to convey a right-of-way across the parking lot.

When considering whether Charles Beckman had the authority to convey an interest in the real estate on Jean Beckman's behalf, the Superior Court in *Sehrawat*, pointed out that the applicable principles of law pertaining to agency and powers of attorney in *Wisler v. Manor Care of Lancaster*, 2015 PA Super 189, 124 A.3d 317, 323-24 (Pa. Super. 2015).

“Agency is a relationship whereby the principal manifests assent that another person (the agent) will act on the principal's behalf subject to the principal's control, and the agent agrees to do so. An agency relationship may be created by any of the following: express authority, implied authority, apparent authority, or authority by estoppel. Agency cannot be inferred from mere relationships or family ties, and we do not assume the agency merely because one person acts on behalf of another. Rather, we look to facts to determine whether the principal expressly or impliedly intended to create an agency relationship ... Finally, the party asserting the agency relationship bears the burden of proving it by a preponderance

of the evidence.”

The Superior Court in *Sehrawat*, went on to address the merits of Rite Aid’s argument that. on its face, the written easement agreement shows it was signed by Charles Beckman on behalf of Jean Beckman, pursuant to a power of attorney and the notary certification on the written easement agreement stands as prima facie evidence that a valid, written power of attorney existed at the time the document was executed.

Both of Rite Aid’s arguments were rejected by the Superior Court in *Sehrawat*, because the notary seal on the written easement agreement certified only that “the foregoing instrument was acknowledged before the notary this 14th day of August, 2001, by Charles E. Beckman.”

The Superior Court also relied on its previous decision in *Bell v. Anderson*, 17 A.2d 647 (Pa. Super. Ct. 1941), which stated that the notary’s certificate must be read and received in all suits in evidence of the facts therein certified; not of facts not certified but attempted to be inferred from those facts.

Accordingly, the Superior Court in *Sehrawat* determined they could not assume from the notary certificate that Charles Beckman produced a copy of a durable power of attorney at the time of signing.

Lessons Learned

The Superior Court’s ruling in *Sehrawat* encourages parties seeking an agreement to determine the source of an agent’s authority before allowing the agent to sign a written easement agreement on the principal’s behalf.

As the Superior Court has highlighted in its ruling, if a third party relies on an agent’s authority, it must ascertain the scope of that authority at the time of reliance. If not, the third party that fails to do so runs the risk of having

the written agreement voided.

–[Clementa Amazan](#), an associate at Nochumson P.C., is the co-author of this article.

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Civil Litigation Lawyer for Real Estate Matters

The four most common types of civil litigation include tort claims, breach of contract claims, equitable claims, and real estate disputes. When it comes to claims involving real estate, retaining a civil litigation lawyer with an expertise in the field can help ensure your case is heard clearly and effectively.

Types of Real Estate Disputes That May Require a Lawyer

There are a variety of claims which fall under the heading of real estate disputes. Real estate claims are often subject to specialized legal treatment under statute and case law, including construction defects, construction cost overrun cases, professional negligence claims against design professionals, and environmental issues. Many real estate related disputes also involve complicated partnership, financing and land use issues, leading to claims such as breach of fiduciary duty, breach of contract, and specific

performance. There are also other real estate disputes that might require involvement from a lawyer such as partition actions, quiet title actions, commercial and residential evictions, commercial mortgage foreclosure actions, and boundary and property access disputes. The guidance and knowledge provided by a lawyer helps navigate your claims through these often complicated legal maneuvers.

Typical Life Cycle Of A Case

The usual civil litigation case can be sectioned into various parts, which can include investigation, pleadings, discovery, pretrial proceedings, potential settlement or trial, and appeal.

- **Discovery Process** – Usually involves the exchanging of pertinent information between parties. Litigation lawyers may also use this time to examine physical evidence, inspect the scene of the incident, as well as process and analyze data.
- **Pre-Trial** – Litigators advise their clients, retain expert witnesses, and develop a strategy for the upcoming proceedings.
- **Trial** – Most cases are settled prior to going to trial. But if the case does go to trial, the case proceeds as a typical case might; lawyers select a jury, present their case, examine and cross-examine witnesses, and present their case through evidence and testimony.
- **Settlement** – Most cases never go to trial but rather are settled, a period in which opposing parties negotiate to find a compromise.
- **Appeal** – If the litigation lawyer (representing the client) doesn't approve of the outcome, they may appeal the case, which is a quite complex process in its own right.

These steps through the litigation process can be confusing and time-consuming when taken upon one's self. Without the

proper guidance of a qualified real estate civil litigation lawyer with experience in such matters, even the most rock solid claim can be lost due to the mishandling of legal procedures.

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Why You Need a Commercial Litigation Lawyer

One of the most invaluable resources for any private-sector business is a skilled and knowledgeable commercial litigation lawyer. While a business may hope to never have to utilize one, knowing [where to find one](#), and what they do, will save a business an invaluable amount of time and money. It may seem like just another added expense, but trying to settle a business dispute on your own through negotiations or mediations is often a fool's errand.

What Does a Commercial Litigation Lawyer

Do?

Commercial litigation is any dispute between companies. A commercial litigation lawyer is a legal expert who represents a company's interest in a financial dispute. The lawyer's purpose is to protect the company's rights and obtain the best outcomes at the end of the litigation process. A good litigation lawyer will choose the best legal option that will minimize the financial risks for your business and, after gathering all the pertinent information, will advise you whether it's best to have a court lawsuit or an out-of-court settlement.



Why Do I Need One?

There are many reasons that businesses would need to hire a lawyer with this particular skill set. Typically, commercial lawyers do not have experience or expertise handling such a vast amount of different litigation areas. Therefore, it is essential to seek a lawyer who has proven experience in the niche that applies to your specific dispute. Some of the most common disputes that businesses find themselves dealing with include:

- [Employment disputes](#)
- Debt collection
- Partnership or shareholder disputes
- Antitrust litigation
- Intellectual property disputes
- Patent infringements
- Breach of contracts

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