

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT L. FULLERTON,
Appellant,
vs.
THE STATE OF NEVADA EX REL.
SECRETARY OF STATE, CHERYL
LAU; MARK J. GRIFFIN,
ADMINISTRATOR; AND ZIP NUT
TECHNOLOGY, LLC,
Respondents.

No. 44077

FILED

SEP 29 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order approving an assignment and sale of patents. Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

Appellant Robert L. Fullerton contests the district court's order approving the assignment and sale of patents for the ZipNut™, a fastener that slides onto a bolt and locks into place for quick assembly. Because the parties are familiar with the facts, we will not recount them in this order except as is necessary for our disposition.

First, as a prelude, Fullerton asserts that the district court lacked subject matter jurisdiction to confirm the 1991 merger of various corporate entities into one company, Zip Nut, Inc. Fullerton contends that this "reorganization" was subject to the federal bankruptcy code and required confirmation by a federal bankruptcy court. Based on that premise, Fullerton then argues that the district court's subsequent order, the subject matter of this appeal, should be reversed. We disagree.

Confirmation of the reorganization plan took place via consent judgment in 1991, while Zip Nut, Inc. filed for bankruptcy in 1995.

Because the 1991 consent judgment predates Zip Nut, Inc.'s 1995 bankruptcy filing by four years, it is difficult to see how a federal bankruptcy court would have jurisdiction over the matter, as Fullerton contends. Instead, provisions in consent judgments may be sustained and enforced if the court has general jurisdiction over the matters adjudicated, even though they may be outside the issues raised by the pleadings.¹ Here, the 1991 reorganization plan took place within the context of a civil securities fraud action, over which the district court had jurisdiction pursuant to NRS Chapter 90. Because NRS 90.640(1) grants the district court broad discretion to craft relief, we conclude that Fullerton's argument against the district court's order lacks merit.

Second, Fullerton argues that the patents were improperly sold because he did not voluntarily assign them. Fullerton contends that only he retained the authority to transfer the patents, so the district court could not pass the patents to the receiver and, thus, the court's order is void. We disagree.

Patents are personal property under federal law,² and Congress has chosen to leave the issue of legal capacity to make an assignment of a patent up to state law.³ "[T]he authority to assign a

¹J.S., Annotation, Right to Attack Consent Judgment or Decree on Ground That It Was Not Within Scope of Pleadings or Was Beyond the Jurisdiction of the Court, 86 A.L.R. 84 (1933); see also Nashville, &c., Railway Co. v. United States, 113 U.S. 261 (1885).

²35 U.S.C. § 261 (2000).

³See Cookson v. Louis Marx & Co., 23 F. Supp. 615, 617 (S.D.N.Y. 1938).

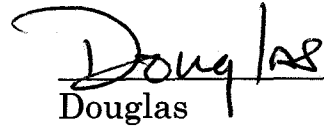
patent must come from some proceeding akin to a creditor's bill or a petition seeking the aid of the equity side of the court to enforce a judgment at law, through the appointment of a legal representative."⁴ NRCF 70 authorizes the district court to divest personal property from a party and vest it in others. Here, the district court first ordered the patents assigned to the State, then sold and assigned to respondent ZipNut Technology, LLC in order to satisfy the State's \$275,196 judgment against Fullerton, stemming from his civil securities fraud case. Based on NRCF 70, we conclude that the district court was authorized to order the patents assigned, so that the district court's order providing for the sale and assignment of patents to a company was not defective or void.


Finally, Fullerton argues that his right to protection under NRS 600A.070, part of the Uniform Trade Secrets Act, was violated when he was not afforded prior notice of, and an opportunity to object to, the sale of his patents. We are not persuaded by Fullerton's argument because substantial evidence in the record supports the district court's inferable finding that Fullerton had (1) notice that the patents were being sold, and (2) ample opportunity to object, yet failed to do so. Thus, we conclude that Fullerton's right to protection under NRS 600A.070 has not been violated.


⁴McClaskey v. Harbison-Walker Refractories Co., 138 F.2d 493, 495 (3d Cir. 1943).

Because we are not persuaded by any of Fullerton's arguments on appeal,⁵ we

ORDER the judgment of the district court AFFIRMED.

 _____, J.
Douglas

 _____, J.
Becker

 _____, J.
Parraguirre

cc: Hon. Steven R. Kosach, District Judge
Robert L. Fullerton
Attorney General George Chanos/Reno
Watson Rounds
Washoe District Court Clerk

⁵We have also considered Fullerton's arguments regarding the alleged conflicts of interest among Fullerton's original attorneys for the civil securities fraud case, but conclude that they lack merit.