

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

VITAL PHARMACEUTICALS,  
INC., et al.,  
Plaintiffs,

v.

ORANGE BANG, INC., et al.,  
Defendants.

EDCV 20-1464 DSF (SHKx)

Order DENYING Motion to  
Vacate Arbitration Award; Order  
GRANTING Motion to Confirm  
Final Arbitration Award (Dkt.  
58, 73)

Plaintiffs Vital Pharmaceuticals, Inc. and JHO Intellectual Property Holdings, LLC move to vacate the arbitration award in the dispute between the parties. Defendants Orange Bang, Inc. and Monster Energy Company oppose that motion and move to confirm the arbitration award. The Court deems this matter appropriate for decision without oral argument. See Fed. R. Civ. P. 78; Local Rule 7-15.

Review of an arbitration award is ‘both limited and highly deferential’ and the arbitration award may be vacated only if it is ‘completely irrational’ or ‘constitutes manifest disregard of the law.’” Comedy Club, Inc. v. Improv W. Assocs., 553 F.3d 1277, 1288 (9th Cir. 2009) (simplified). “The ‘completely irrational’ standard is extremely narrow and is satisfied only where the arbitration decision fails to draw its essence from the agreement.” Id. (simplified). “[F]or an arbitrator’s award to be in manifest disregard of the law, it must be clear from the record that the arbitrator recognized the applicable law and then ignored it.” Id. at 1290 (simplified).

The arbitrator in this case appears to have taken great care with both the factual issues and the law. He produced a 177-page final award opinion that, whether correct or incorrect, grapples in good faith with the various conflicts in the case. The arbitrator consistently provided a reasoned basis for his rulings and grounded them in both law and fact. In short, there is no basis to find that the award was “completely irrational” or that the arbitrator engaged in “manifest disregard of the law.” At most, Plaintiffs’ arguments suggest that the arbitrator may have been incorrect in his rulings, but that falls far short of the standard for vacating an arbitration award.

Plaintiffs particularly fault the arbitrator’s interpretation of “creatine-based” in the 2010 settlement agreement and his crafting of remedies.<sup>1</sup> Plaintiffs argue that the award does not “draw its essence from the agreement” because the arbitrator’s definition of “creatine-based” would exclude Plaintiffs’ “Bang Pre-Workout” product, which the parties understood to be “creatine-based” at the time of the settlement. But the arbitrator confronted this tension and accepted Orange Bang’s contention that it had believed that the “Bang Pre-Workout” product was creatine-based at the time of settlement because of representations made by Plaintiffs that turned out to be false or misleading. The arbitrator therefore found it appropriate to focus on what “creatine-based” meant in the negotiations between the parties, rather than to attempt to define it in terms of what Bang Pre-Workout did or did not contain.

As for remedies, the arbitrator had great flexibility in crafting remedies under the Lanham Act, which provides substantial discretion in both damages and equitable remedies. The Court sees no indication that the arbitrator’s chosen remedies are “completely irrational” or that he understood the law and failed to apply it. To the degree that

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<sup>1</sup> Plaintiffs also claim that the arbitrator exceeded his authority, but this argument appears to be just a repackaging of Plaintiffs’ other arguments. Plaintiffs also make a claim that the award demonstrates “evident partiality,” but Plaintiffs present no evidence that the arbitrator was in any way partial against Plaintiffs or in favor of Defendants.

Plaintiffs argue that the arbitrator imposed a penalty, which would not be allowed by the Lanham Act, but there is no indication that the arbitrator recognized that a penalty could not be imposed and imposed one anyway. In fact, it does not appear that the arbitrator intended to impose any penalty at all. If some portion of the award could be construed to be a penalty, this would simply be an error by the arbitrator and error is not grounds for vacating an arbitration award.

An arbitration award must be confirmed if it is not vacated. Hall Street Assocs., L.L.C. v. Mattel, Inc., 552 U.S. 576, 587 (2008). Because Plaintiffs' motion to vacate the award fails, Defendants' motion to confirm must be granted.

The motion to vacate the arbitration award is DENIED. The motion to confirm the arbitration award is GRANTED.

IT IS SO ORDERED.

Date: June 30, 2022



Dale S. Fischer  
United States District Judge