

Wiley Attorneys Obtain Favorable Ruling for FuelCell Energy in Dispute Before the Court of Chancery in Delaware

August 16, 2021

Wiley, a preeminent Washington, DC law firm, and co-counsel Young Conaway Stargatt & Taylor, LLP obtained a favorable decision for FuelCell Energy Inc. — a global leader in developing sustainable clean energy — in a case in which POSCO Energy Co., Ltd. filed a statutory demand to inspect FuelCell’s books and records. After a bench trial, the Court found that POSCO’s demand lacks a proper purpose because it was “not sincerely held” as it was one of “at least ten legal proceedings” POSCO initiated “against FuelCell in the 2020 calendar year.” The Court further held that “[a]t best, POSCO has an idle curiosity in rummaging through FuelCell’s books and records, unsupported by any genuine interest in investigating any particular wrongdoing. At worst, POSCO has initiated this litigation to gain leverage in its vast commercial war with FuelCell,” and was “simply looking for another forum in which it can force FuelCell to litigate.”

The decision represents a landmark victory as it constitutes one of the few times a Delaware court has denied a plaintiff’s statutory demand based on an improper purpose defense.

“FuelCell is heartened by the outcome and particularly the Court’s finding that we met the high burden of demonstrating that POSCO did not possess a proper purpose,” stated Wiley Litigation partner Gregory M. Williams.

Mr. Williams and associate Lukman S. Azeez represented FuelCell. From Young Conaway, Martin Lessner, Alberto Chavez, and Paige Valeski represented FuelCell.

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