

DEC 29 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SENSORDYNAMICS AG
ENTWICKLUNGS - UND
PRODUKTIONSGESELLSCHAFT, an
Austrian corporation; FRAUNHOFER-
GESELLSCHAFT ZUR FORDERUNG
DER ANGEWANDTEN FORSCHUNG
EV, an incorporated society,

Petitioners - Appellants,

v.

MEMSCO, LLC, a California limited
liability company,

Respondent - Appellee.

No. 08-56803

D.C. No. 8:08-cv-00966-DOC-AN

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Argued and Submitted December 6, 2010
Pasadena, California

Before: PREGERSON, CLIFTON, and BEA, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

SensorDynamics appeals the district court order denying its petition to confirm a foreign arbitral partial award. We affirm.

As this court has held, “judicial review of *non-final* arbitration awards should be indulged, if at all, only in the most extreme cases.” *Pacific Reinsurance Management Corp. v. Ohio Reinsurance Corp.*, 935 F.2d 1019, 1022 (9th Cir. 1991) (internal quotations omitted). This guideline accords with the fundamental principle of federal procedure that a “court may direct entry of a final judgment as to one or more, but fewer than all claims ... only if the court determines that there is no just reason for delay.” Fed. R. Civ. Proc. 54(b).

In the award at issue, the arbitration tribunal acknowledged that it is subject to change based on a number of factors during the arbitration. The award is therefore not final. Because the arbitration is set to move forward to a final decision settling all claims, and because denial of the interim relief sought presents no obstacle thereto, we find no reason in this case to depart from the general rule requiring that an arbitration award be final in order to be confirmed.

AFFIRMED.