

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Walker v. Health International Corp.

845 F.3d 1148 (Fed. Cir. 2017) · No. 2015-1676 · Decided January 6, 2017

SUMMARY

The U.S. Court of Appeals for the Federal Circuit affirmed an award of attorneys’ fees against Andre Walker for vexatious litigation conduct after the parties had entered into a comprehensive settlement. The court held that the district court properly awarded fees under its inherent equitable authority and retained jurisdiction to impose sanctions after dismissing the merits claims. The Federal Circuit also found the appeal frivolous under Federal Rule of Appellate Procedure 38 and awarded HSN \$51,801.88 in attorneys’ fees and double costs, jointly and severally against Walker’s counsel.

CASE DETAILS

COURT	United States Court of Appeals for the Federal Circuit
WRITING FOR THE COURT	Circuit Judge Reyna; Circuit Judge Hughes; Circuit Judge Stoll
JURISDICTION	Federal
DECIDED	January 6, 2017
DOCKET	2015-1676
DISPOSITION	affirmed
PROCEDURAL POSTURE	Walker appealed the District of Colorado's final judgment awarding HSN \$20,511.50 in attorneys' fees as sanctions for vexatious litigation after the parties settled their patent dispute. HSN moved for damages and double costs under Federal Rule of Appellate Procedure 38 based on the alleged frivolousness of the appeal.
STANDARD OF REVIEW	The Federal Circuit applied Tenth Circuit law to review the equitable fee award and reviewed the district court's determination for abuse of discretion, reversing only when the record does not show a reasonable ground for finding vexatiousness. The court exercised its discretion under Federal Rule of Appellate Procedure 38 to impose sanctions for a frivolous appeal.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Andre Walker v. Health International Corporation, HSN Inc., HSN Interactive LLC

TOPICS

sanctions

attorney fees

appellate procedure

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patent infringement

PRACTICE AREAS

civil procedure

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QUESTIONS PRESENTED

1. Whether the district court could award equitable attorneys' fees and costs based on vexatious post-settlement litigation without making findings of subjective bad faith.
2. Whether the district court had authority to strike or deny Walker's untimely and redundant objection to HSN's fee submission.
3. Whether the district court lacked jurisdiction to impose sanctions after dismissing the merits claims or after the parties agreed that the case should be dismissed.
4. Whether Walker was the prevailing party under the catalyst theory of attorney-fee recovery.
5. Whether Walker's appeal was frivolous as filed or as argued and therefore warranted sanctions under Federal Rule of Appellate Procedure 38.

HOLDINGS

1. A federal court may award attorneys' fees under its inherent equitable authority when a litigant acts in bad faith, vexatiously, wantonly, or for oppressive reasons; a supported finding that the litigant's conduct was vexatious is sufficient, and a separate finding of subjective bad faith is not required.
2. A district court retains jurisdiction to consider and award sanctions after the merits of a case have been dismissed.
3. The district court had authority to strike or deny Walker's objection because it was untimely and merely repeated arguments already considered and rejected; refusing to rehear those arguments did not deny due process or affect Walker's substantial rights.
4. Walker was not entitled to recover fees under the catalyst theory because the Supreme Court has rejected that theory as a basis for attorney-fee recovery.
5. An appeal is frivolous as filed when the lower tribunal's judgment was plainly correct and contrary authority was clear; it is frivolous as argued when the appellant's misconduct in presenting the appeal, including distorting the record or mischaracterizing controlling authority, warrants sanctions. Walker's appeal was frivolous both as filed and as argued.

KEY QUOTATIONS

“First, an appeal is frivolous as filed when “the judgment by the tribunal below was so plainly correct and the legal authority contrary to appellant’s position so clear that there really is no appealable issue.”” (at 7)

“Second, an appeal is frivolous as argued when “the appellant’s misconduct in arguing the appeal” justifies such a holding.” (at 7)

“Where a party blindly disregards long established authority and raises arguments with no factual foundation, . . . the judicial process has not been used, but abused, and sanctions under Rule 38 are warranted.” (at 13)

“Sanctions are awarded to compensate the victimized party for the burden of continued litigation in what long ago [was] a settled matter, as well as to discourage frivolous appeals which unnecessarily clog our docket.” (at 13)

FACTUAL BACKGROUND

Walker sued HSN and other defendants for infringement of U.S. Patent No. 7,090,627. On May 6, 2014, Walker and HSN entered a handwritten mediated settlement agreement requiring HSN to pay \$200,000, Walker to provide a release, and the parties to dismiss all claims with prejudice by joint stipulation. Although HSN paid the settlement amount and Walker delivered a release, Walker continued litigating and filed or opposed motions concerning amendment, discovery, enforcement, dismissal, and fees. The district court found that the settlement resolved all claims and that Walker's continued litigation was vexatious and unnecessarily multiplied the proceedings.

PROCEDURAL HISTORY

Walker filed a patent-infringement action in the District of Colorado. After the parties entered a mediated settlement requiring HSN to pay \$200,000 and the parties to dismiss their claims, Walker continued filing motions and opposing dismissal. The district court dismissed the claims, found that Walker's post-settlement conduct unnecessarily multiplied the proceedings, and awarded HSN \$20,511.50 in attorneys' fees and costs. The district court denied reconsideration and entered final judgment; Walker appealed. The Federal Circuit affirmed and imposed Rule 38 sanctions of \$51,801.88 against Walker and his counsel jointly and severally.

DISPOSITION

affirmed

CASES CITED

- Hall v. Cole, 412 U.S. 1, 5 (1973)
- Pickholtz v. Rainbow Technologies, Inc., 284 F.3d 1365, 1371 (Fed. Cir. 2002)
- Ryan v. Hatfield, 578 F.2d 275, 277 (10th Cir. 1978)
- State Industries, Inc. v. Mor-Flo Industries, Inc., 948 F.2d 1573, 1578-79, 1582 (Fed. Cir. 1991)
- Finch v. Hughes Aircraft Co., 926 F.2d 1574, 1579-80 (Fed. Cir. 1991)
- Romala Corp. v. United States, 927 F.2d 1219, 1222 (Fed. Cir. 1991)
- Grannis v. Ordean, 234 U.S. 385, 394 (1914)
- Servants of Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000)
- SmithKline Diagnostics, Inc. v. Helena Laboratories Corp., 859 F.2d 878, 892 (Fed. Cir. 1988)
- Smith v. Phillips, 881 F.2d 902, 904 (10th Cir. 1989)

- *Griffen v. Oklahoma City*, 3 F.3d 336, 338, 340 (10th Cir. 1993)
- *Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 532 U.S. 598, 601, 610 (2001)
- *Becton Dickinson & Co. v. C.R. Bard, Inc.*, 922 F.2d 792, 800 (Fed. Cir. 1990)
- *Asberry v. U.S. Postal Service*, 692 F.2d 1378, 1382 (Fed. Cir. 1982)
- *Octocom Systems, Inc. v. Houston Computer Services, Inc.*, 918 F.2d 937, 943 (Fed. Cir. 1990)