SUPREME COURT OF THE UNITED STATES

Allied Tube & Conduit Corp. v. Indian Head, Inc.

486 U.S. 492 (1988) · No. No. 87-157 · Decided June 13, 1988

SUMMARY

The Supreme Court held that Noerr antitrust immunity did not protect a steel conduit manufacturer that helped stack a private standard-setting association's meeting to exclude a competing plastic conduit product. Although the association's electrical code was widely adopted by state and local governments, the challenged conduct occurred within a private standard-setting process and could have direct anticompetitive effects in the marketplace. The Court affirmed the judgment that the manufacturer's efforts were subject to evaluation under antitrust law.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Brennan
JURISDICTION	Federal
DECIDED	June 13, 1988
DOCKET	No. 87-157
DISPOSITION	affirmed
PROCEDURAL POSTURE	Indian Head sued Allied Tube and others under § 1 of the Sherman Act. After a jury found Allied liable and awarded treble damages, the District Court granted judgment notwithstanding the verdict for Allied on the ground that Noerr immunity applied. The Second Circuit reversed, and the Supreme Court granted certiorari.
STANDARD OF REVIEW	Review of the legal applicability of Noerr antitrust immunity; the Court did not decide the underlying Sherman Act liability question.
PRECEDENTIAL VALUE	binding Supreme Court precedent
PARTIES	Allied Tube & Conduit Corp. v. Indian Head, Inc.

TOPICS

commercial litigation · commercial · federalism · municipal law

PRACTICE AREAS

antitrust | commercial litigation | administrative and regulatory law | federal courts

QUESTIONS PRESENTED

1. Whether Noerr antitrust immunity protects an economically interested party's efforts to influence a private standard-setting association whose standards are widely adopted by state and local governments.
2. Whether a private standard-setting association should be treated as a quasi-legislative body for purposes of Noerr immunity.
3. Whether the Supreme Court should decide whether Allied's conduct violated the Sherman Act if the conduct was not immune.

HOLDINGS

1. Noerr immunity does not protect an economically interested party that exercises decisionmaking authority in formulating a product standard for a private association composed of market participants when antitrust injury flows from the standard's independent effect in the marketplace.
2. A private association is not transformed into a quasi-legislative body merely because governments routinely adopt its standards.
3. The Court did not decide whether Allied's conduct violated the Sherman Act and vacated its grant of certiorari on that issue as improvidently granted.

KEY QUOTATIONS

> *"we hold that at least where, as here, an economically interested party exercises decisionmaking authority in formulating a product standard for a private association that comprises market participants, that party enjoys no Noerr immunity from any antitrust liability flowing from the effect the standard has of its own force in the marketplace."* (509-510)

> *"What petitioner may not do (without exposing itself to possible antitrust liability for direct injuries) is bias the process by, as in this case, stacking the private standard-setting body with decisionmakers sharing their economic interest in restraining competition."* (511)

> *"the antitrust laws should not necessarily immunize what are in essence commercial activities simply because they have a political impact."* (507)

FACTUAL BACKGROUND

The National Fire Protection Association, a private association, promulgated the National Electrical Code, which was widely adopted by state and local governments and had substantial independent effects in the marketplace. Indian Head proposed that polyvinyl chloride conduit be approved in the Code, threatening Allied Tube's steel-conduit business. Allied and other steel interests recruited and financed 230 association members to attend the annual meeting and vote against the proposal, causing it to fail by a vote of 394 to 390.

PROCEDURAL HISTORY

A bifurcated jury trial resulted in a liability finding and an award of $3.8 million in lost-profit damages, to be trebled. The District Court entered judgment notwithstanding the verdict for Allied, concluding that its conduct was immune under Noerr because the private association was akin to a legislature and Allied intended to influence state and local legislation. The Second Circuit reversed, and the Supreme Court affirmed the Second Circuit. The Court vacated as improvidently granted the separate question whether the conduct violated the Sherman Act if it was not immune.

DISPOSITION

affirmed

CASES CITED

- Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127 (1961)
- Mine Workers v. Pennington, 381 U.S. 657 (1965)
- California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508 (1972)
- American Society of Mechanical Engineers, Inc. v. Hydrolevel Corp., 456 U.S. 556 (1982)
- Radiant Burners, Inc. v. Peoples Gas Light & Coke Co., 364 U.S. 656 (1961) (per curiam)
- FTC v. Indiana Federation of Dentists, 476 U.S. 447 (1986)
- Continental Ore Co. v. Union Carbide & Carbon Corp., 370 U.S. 690 (1962)
- Goldfarb v. Virginia State Bar, 421 U.S. 773 (1975)
- Hallie v. Eau Claire, 471 U.S. 34 (1985)
- Georgia v. Pennsylvania R. Co., 324 U.S. 439 (1945)
- Georgia v. Evans, 316 U.S. 159 (1942)
- NAACP v. Claiborne Hardware Co., 458 U.S. 886 (1982)
- Fashion Originators' Guild of America, Inc. v. FTC, 312 U.S. 457 (1941)
- Sessions Tank Liners, Inc. v. Joor Mfg., Inc., 827 F.2d 458 (1987)
- Allied Tube & Conduit Corp. v. Indian Head, Inc., 817 F.2d 938 (2d Cir. 1987)