

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Turner Entertainment Co. v. Degeto Film GmbH

25 F.3d 1512 (11th Cir. 1994) · Decided June 29, 1994

SUMMARY

The Eleventh Circuit considered a dispute over whether German public broadcasters could transmit licensed television works through the ASTRA satellite system despite the license agreement's territorial limitations. The court addressed international abstention, comity, parallel proceedings, and the effect of a German judgment permitting the broadcasts subject to an increased fee. It held that the preliminary injunction should be vacated and that the American litigation should be stayed in deference to the German proceedings.

CASE DETAILS

COURT	United States Court of Appeals for the Eleventh Circuit
WRITING FOR THE COURT	Anderson, Circuit Judge; Anderson; Atkins; Birch
JURISDICTION	Federal
DECIDED	June 29, 1994
DISPOSITION	vacated
PROCEDURAL POSTURE	Defendants appealed the district court's grant of a preliminary injunction barring them from broadcasting licensed works over ASTRA satellites and its denial of their motion to dismiss or stay the American action in deference to parallel German proceedings.
STANDARD OF REVIEW	The court reviewed the district court's decision whether to dismiss or stay the action under principles of international abstention and reviewed the preliminary-injunction ruling in light of materially changed circumstances, including the German judgment rendered while the appeal was pending.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Degeto Film GmbH and the German public broadcasters, collectively referred to as ARD v. Turner Entertainment Co.

TOPICS

- contracts
- civil procedure
- injunctions
- commercial litigation
- foreign affairs

PRACTICE AREAS

international civil procedure

contract law

international law

commercial litigation

remedies

QUESTIONS PRESENTED

1. Whether the federal court should stay the American contract litigation in deference to parallel German proceedings after the German court had rendered a merits judgment.
2. Whether the preliminary injunction barring ARD from broadcasting the licensed works over ASTRA should remain in effect while the German proceedings continued.

HOLDINGS

1. A federal court with jurisdiction may stay an action in deference to parallel foreign proceedings when international comity, fairness to the litigants, and efficient use of judicial resources overwhelmingly favor deference, particularly after the foreign court has rendered a merits judgment. Under the circumstances, a stay rather than dismissal was appropriate because the German appeal and fee determination remained unresolved.
2. The preliminary injunction must be vacated because the same international-comity, fairness, and judicial-efficiency concerns supporting a stay of the American action made it inappropriate to enjoin ARD's broadcasts or interfere with the ongoing German proceedings.
3. The German court's use of supplemental interpretation to fill an unforeseen contractual gap and permit ASTRA broadcasts for an increased fee was not inconsistent with the agreement, Georgia contract law, general common-law principles, or fundamental notions of decency and fairness.

KEY QUOTATIONS

"Federal courts have a "virtually unflagging obligation" to exercise the jurisdiction conferred upon them." (1518)

"In summary, we conclude that the relevant concerns of international comity, fairness and efficiency point overwhelmingly, at this stage of the litigation, to deference to the German forum which has already rendered a judgment on the merits." (1523)

"VACATED and REMANDED." (1523)

FACTUAL BACKGROUND

Turner acquired rights and obligations under a 1984 license agreement that granted ARD an exclusive license to telecast specified entertainment works in German within a defined German-speaking territory. The agreement permitted transmission by satellite but did not clearly define the scope of permissible overspill, and later technological developments made ASTRA satellite broadcasts receivable throughout a footprint substantially larger than the licensed territory. ARD began broadcasting licensed works over ASTRA, and Turner contended that those broadcasts breached the agreement. Parallel actions were filed in Germany and the United States; the German court concluded that ARD had no absolute contractual right to use ASTRA but permitted the broadcasts under a supplemental interpretation of the contract in exchange for an increased fee.

PROCEDURAL HISTORY

Turner filed a breach-of-contract action in Fulton County Superior Court, and defendants removed it to the United States District Court for the Northern District of Georgia. The district court denied defendants' motion to dismiss or stay and granted Turner a preliminary injunction, later staying the injunction pending a bond. While the appeal was pending, the German court reached the merits and permitted ARD to broadcast via ASTRA upon payment of an increased fee. The Eleventh Circuit vacated the district court's judgment and remanded with instructions to vacate the injunction and stay the American litigation.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the preliminary injunction and stay the American litigation. After the German litigation is complete, the district court may consider whether the final results alter the issues addressed by the appellate decision; if not, the American action should be dismissed.

CASES CITED

- Colorado River Water Conservation District v. United States, 424 U.S. 800, 817-18, 96 S. Ct. 1236, 1246-47, 47 L. Ed. 2d 483 (1976)
- Ingersoll Milling Machine Co. v. Granger, 833 F.2d 680, 682, 685-89 (7th Cir. 1987)
- Laker Airways Ltd. v. Sabena, Belgian World Airlines, 731 F.2d 909, 926-27 (D.C. Cir. 1984)
- Continental Time Corp. v. Swiss Credit Bank, 543 F. Supp. 408, 410 (S.D.N.Y. 1982)
- Ronar, Inc. v. Wallace, 649 F. Supp. 310, 318 (S.D.N.Y. 1986)
- Caspian Investments, Ltd. v. Vicom Holdings, Ltd., 770 F. Supp. 880, 882-84 (S.D.N.Y. 1991)
- Hilton v. Guyot, 159 U.S. 113, 163-64, 165, 205-06, 16 S. Ct. 139, 143-44, 159-60, 40 L. Ed. 95 (1895)
- Tahan v. Hodgson, 662 F.2d 862, 864 (D.C. Cir. 1981)
- Black & Decker Corp. v. Sanyei America Corp., 650 F. Supp. 406, 408 (N.D. Ill. 1986)
- Princess Lida of Thurn & Taxis v. Thompson, 305 U.S. 456, 466, 59 S. Ct. 275, 280, 83 L. Ed. 285 (1939)
- Market Street Associates Ltd. Partnership v. Frey, 941 F.2d 588, 595-96 (7th Cir. 1991)
- Kleiner v. First National Bank of Atlanta, 581 F. Supp. 955, 960 n. 5 (N.D. Ga. 1984)
- Higginbottom v. Thiele Kaolin Co., 251 Ga. 148, 304 S.E.2d 365, 366 (1983)