
Hughes Hubbard & Reed

Firm Wins Venue Transfer Order in SNF Patent Case

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January 16, 2018 — Hughes Hubbard led Chemtall Incorporated and co-defendants to an important procedural victory when a federal district court in Texas, on remand from the Federal Circuit, held that BASF Corp. v. SNF Holding Co. had been filed in an improper venue and ordered the case transferred to the Southern District of Georgia based on the Supreme Court's TC Heartland decision, in which HHR had represented the prevailing defendant/petitioner.

BASF filed its suit against Chemtall and certain of its affiliates in September 2014, alleging infringement of a patent claiming a process for preparing high molecular weight polymers. Chemtall did not initially raise the particular venue defense that the Supreme Court considered in TC Heartland and the case proceeded in Texas for more than two years. HHR was engaged to assume the defense of the BASF case in April 2017.

Promptly following the Supreme Court's decision in TC Heartland -- which held that a corporate defendant "resides" only its state of incorporation for purposes of the patent venue statute, 28 U.S.C. § 1400(b) -- Chemtall moved for dismissal of the BASF case for improper venue. The district court initially denied the motion, concluding that Chemtall and its co-defendants had waived their venue defense by not raising it sooner. Chemtall then petitioned the Federal Circuit for a writ of mandamus, arguing that the venue defense upheld in TC Heartland was not, in law, "available" to SNF prior to the Supreme Court's TC Heartland decision.

The Federal Circuit held that TC Heartland effected an unforeseeable change in the law of patent venue such that Chemtall and its co-defendants had not waived their venue defense by not raising it prior to the Supreme Court's TC Heartland decision. The appellate court remanded the case to the Texas district court for reconsideration in an order issued Nov. 27.

On Dec. 19, the Texas district court (Judge Vanessa Gilmore) reconsidered and reversed its earlier waiver ruling and ordered the case transferred to the Southern District of Georgia, where Chemtall had meanwhile filed an offensive suit against BASF SE for bad faith patent assertion and related torts under Georgia state law. Chemtall

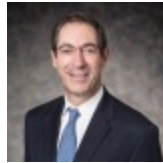
has since filed a first amended complaint which names BASF Corp. as an additional defendant and asserts a claim for declaratory and injunctive relief under federal equity law.

Jim Dabney leads the HHR team, which includes Bill Maguire, Stephen Rabinowitz, Patrice Jean, Khue Hoang, John Duffy, Richard Koehl, Jim Klaiber, Deanne Cevasco, David Lansky, Emma Baratta, Malik Havalic, Stefanie Loptakin and Michael Polka.

Related People



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William R. Maguire



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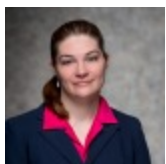
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