



Dismissal on Forum non Conveniens Grounds Is Inappropriate Absent Evidence Showing that the Foreign Forum Can Provide an Adequate Remedy for U.S. Infringement

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In this case, Appellant Halo, a Hong Kong private company that designs and sells high-end furniture, sued appellee Comptoir, a Canadian corporation, in the Northern District of Illinois. Halo alleged that Comptoir infringed its U.S. design patents, copyrights and trademark. Halo also alleged that Comptoir violated the Illinois consumer fraud and deceptive business practices statutes. Comptoir moved to dismiss Halo's complaint on *forum non conveniens* grounds, arguing that the Federal Court of Canada provided a superior forum in which to resolve the dispute.

In reversing the district court's decision to grant Comptoir's motion to dismiss, the Federal Circuit stated that a *forum non conveniens* inquiry must consider whether an alternative forum is both adequate and available. In order to meet the adequacy requirement, the foreign forum must provide some potential avenue for redress of the subject matter in dispute. Here, the Federal Circuit held that the Federal Court of Canada was not an adequate alternative forum, because there was no indication that the Canadian court would adjudicate an intellectual property dispute where the alleged infringement occurred elsewhere, and there was no evidence to support the proposition the Canadian court would apply U.S. law. The Federal Circuit further noted that the requirement that a movant demonstrate adequacy of an alternative forum is particularly important in intellectual property cases due to the territoriality concerns raised by these disputes.

Halo Creative & Design Ltd. v. Comptoir Des Indes Inc., No. 15-1375 (Fed. Cir. Mar. 14, 2016).
[Dyk (opinion), Mayer, Hughes]

Categories

Federal Circuit

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