Supreme Court of the United States

HIGHMARK INC. v. ALLCARE HEALTH MANAGEMENT SYSTEM, INC.

Argued February 26, 2014
Decided April 29, 2014

JUSTICE SOTOMAYOR delivered the opinion of the Court.

Section 285 of the Patent Act provides: "The court in exceptional cases may award reasonable attorney fees to the prevailing party." 35 U. S. C. §285. In *Brooks Furniture Mfg., Inc. v. Dutailier Int'l, Inc.,* 393 F. 3d 1378 (2005), the United States Court of Appeals for the Federal Circuit interpreted §285 as authorizing fee awards only in two circumstances. It held that "[a] case may be deemed exceptional" under §285 "when there has been some material inappropriate conduct," or when it is both "brought in subjective bad faith" and "objectively baseless." We granted certiorari to determine whether an appellate court should accord deference to a district court's determination that litigation is "objectively baseless." On the basis of our opinion in *Octane Fitness, LLC v. ICON Health & Fitness, Inc.,* argued together with this case and also issued today, we hold that an appellate court should review all aspects of a district court's §285 determination for abuse of discretion.

I

Allcare Health Management System, Inc., owns U. S. Patent No. 5,301,105 ('105 patent), which covers "utilization review" in " 'managed health care systems.' " Highmark Inc., a health insurance company, sued Allcare seeking a declaratory judgment that the '105 patent was invalid and unenforceable and that, to the extent it was valid, Highmark's actions were not infringing it. Allcare counterclaimed for patent infringement. Both parties filed motions for summary judgment, and the District Court entered a final judgment of noninfringement in favor of Highmark. The Federal Circuit affirmed.

Highmark then moved for fees under §285. The District Court granted Highmark's motion. The court reasoned that Allcare had engaged in a pattern of "vexatious" and "deceitful" conduct throughout the litigation. Specifically, it found that Allcare had "pursued this suit as part of a bigger plan to identify companies potentially infringing the '105 patent under the guise of an informational survey, and then to force those companies to purchase a license of the '105 patent under threat of litigation." And it found that Allcare had "maintained infringement claims [against Highmark] well after such claims had been shown by its own experts to be without merit" and had "asserted defenses it and its attorneys knew to be frivolous." In a subsequent opinion, the District Court fixed the amount of the award at $4,694,727.40 in attorney's fees and $209,626.56 in expenses, in addition to $375,400.05 in expert fees.

The Federal Circuit affirmed in part and reversed in part. It affirmed the District Court's exceptional-case determination with respect to the allegations that Highmark's system infringed one claim of the '105 patent, but reversed the determination with respect to another claim of the patent. In reversing the exceptional-case determination as to one claim, the court reviewed it de novo. The court held that because the question whether litigation is "objectively baseless" under *Brooks Furniture* "'is a question of law based on underlying mixed questions of law and fact,'" an objective-baselessness determination is reviewed on appeal "'de novo'" and "without deference." It then determined, contrary to the judgment of the District Court, that "Allcare's argument" as to claim construction "was not 'so unreasonable that no reasonable litigant could believe it would succeed.'" The court further found that none of Allcare's conduct warranted an award of fees under the litigation-misconduct prong of Brooks Furniture.

Judge Mayer dissented in part, disagreeing with the view "that no deference is owed to a district court's finding that the infringement claims asserted by a litigant at trial were objectively unreasonable." He would have held that "reasonableness is a finding of fact which may be set aside only for clear error." The Federal Circuit denied rehearing en banc, over the dissent of five judges. The dissenting judges criticized the court's decision to adopt a de novo standard of review for the "objectively baseless" determination as an impermissible invasion of the province of the district court.

We granted certiorari and now vacate and remand.

II

Our opinion in *Octane Fitness, LLC v. ICON Health & Fitness, Inc.,* rejects the *Brooks Furniture* framework as unduly rigid and inconsistent with the text of §285. It holds, instead, that the word "exceptional" in §285 should be interpreted in accordance with its ordinary meaning. An "exceptional" case, it explains, "is simply one that stands out from others with respect to the substantive strength of a party's litigating position (considering both the governing law and the facts of the case) or the unreasonable manner in which the case was litigated." And it instructs that "[d]istrict courts may determine whether a case is 'exceptional' in the case-by-case exercise of their discretion, considering the totality of the circumstances." Our holding in *Octane* settles this case: Because §285 commits the determination whether a case is "exceptional" to the discretion of the district court, that decision is to be reviewed on appeal for abuse of discretion.

Traditionally, decisions on "questions of law" are "reviewable de novo," decisions on "questions of fact" are "reviewable for clear error," and decisions on "matters of discretion" are "reviewable for 'abuse of discretion.'" For reasons we explain in *Octane,* the determination whether a case is "exceptional" under §285 is a matter of discretion.

And as in our prior cases involving similar determinations, the exceptional-case determination is to be reviewed only for abuse of discretion.

[T]he text of the statute "emphasizes the fact that the determination is for the district court," which "suggests some deference to the district court upon appeal." "[A]s a matter of the sound administration of justice," the district court "is better positioned" to decide whether a case is exceptional, because it lives with the case over a prolonged period of time. And the question is "multifarious and novel," not susceptible to "useful generalization" of the sort that de novo review provides, and "likely to profit from the experience that an abuse-of-discretion rule will permit to develop."

We therefore hold that an appellate court should apply an abuse-of-discretion standard in reviewing all aspects of a district court's §285 determination. Although questions of law may in some cases be relevant to the §285 inquiry, that inquiry generally is, at heart, "rooted in factual determinations."

* * *

The judgment of the United States Court of Appeals for the Federal Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.