

SFA SYSTEMS, LLC v. NEWEGG INC., Appeal No. 2014-1712 (Fed. Cir. July 10, 2015).  
Before O'Malley, Clevenger and Hughes. Appealed from E.D. Tex. (Judge Davis).

Background:

SFA Systems, Inc. (SFA) brought suit against multiple online retailers, including Newegg, for patent infringement. All of the online retailers, except Newegg, settled with SFA. In pre-trial proceedings, Newegg disputed terms of the patent at issue, and alleged that a particular claim construction rendered the claims invalid and indefinite. The district court held a *Markman* hearing regarding disputed terms, and Newegg filed a motion for summary judgment that the claims of the SFA patent were invalid and indefinite. In its *Markman* order, the district court rejected Newegg's proposed claim construction and denied Newegg's motion for summary judgment.

SFA moved to dismiss the case against Newegg with prejudice. The district court dismissed the case, and Newegg subsequently filed a motion for recovery of its costs and attorneys' fees under 35 U.S.C. § 285. The district court found that Newegg was the prevailing party, and thus, granted Newegg's bill of costs, but denied Newegg's motion for attorney fees. Newegg appealed.

Issue/Holding:

Did the district court abuse its discretion in denying Newegg's motion for attorneys' fees?  
No. Affirmed.

Discussion:

Under the provisions of 35 U.S.C. § 285, a court may award attorneys' fees to the prevailing party in "exceptional cases." An "exceptional" case is "one that stands out from others with respect to the substantive strength of a party's litigating position . . . or the unreasonable manner in which the case was litigated." The Federal Circuit reviewed the district court's determination that the case was not exceptional for an abuse of discretion.

On appeal, Newegg argued that the district court erred in its determination that the case was not exceptional because the district court's conclusions regarding claim construction and indefiniteness of the patent at issue were wrong, and if the district court had not erred, SFA's case would have been meritless. The Federal Circuit concluded that the district court's finding in favor of SFA's claim construction, and the denial of Newegg's motion for summary judgment were indicators that the case was not meritless, and thus, the district court did not abuse its discretion in finding that the case was not exceptional.

Newegg also argued that SFA improperly brought the suit to obtain a nuisance value settlement, alleging that SFA maintained the suit to increase Newegg's litigation costs, and then dropped the suit when SFA realized that Newegg was not going to settle. As evidence, Newegg submitted the settlement amounts SFA received from other accused infringers. Although the Federal Circuit agreed that a pattern of litigation abuses for the purpose of forcing settlements is relevant to an exceptional case determination, the existence of multiple suits and its previous settlement amounts is not enough to render the case exceptional.