

UNITED CONSTRUCTION PRODUCTS, INC. v. TILE TECH, INC., Appeal No. 2016-1392 (Fed. Cir. December 15, 2016). Before Moore, Wallach, and Stoll. Appealed from C.D. Cal. (Judge Real).

Background:

United Construction Products, Inc. ("United") sued Tile Tech, Inc. ("Tile Tech") for infringement of its patent. United properly served Tile Tech with a first set of discovery requests, including interrogatories, requests for admission, and requests for production. Nearly one month after the initial response deadline and after multiple extensions granted by United, Tile Tech finally served initial responses to United's discovery requests. Those responses were deficient, so United requested a conference with Tile Tech to discuss them. After three postponements of the conference at Tile Tech's urging and a threat from United to file a Motion to Compel, United and Tile Tech finally conferred, during which Tile Tech agreed to supplement virtually all of its responses. Tile Tech failed to produce supplemental responses by the agreed-upon date, so United filed a Motion to Compel. Tile Tech never responded to that motion, and instead produced two sets of deficient supplemental responses.

In response to the Motion to Compel, the district court ordered Tile Tech to respond to the discovery requests, imposed monetary sanctions, and warned that it would enter default judgment if Tile Tech did not comply with the Order. Tile Tech did not respond to the Order by the given date, so United filed its Motion for Default Judgment. Tile Tech finally served another set of supplemental responses, which contained information disclosing its destruction of a previously undisclosed mold used to make one key component of the disputed device. United then filed a Motion for Spoliation Sanctions and amended its Complaint, to which Tile Tech never replied. The district court finally entered default judgment against Tile Tech, granting all of United's claims for relief and entering a permanent injunction.

Issue/Holding:

Did the district court err in entering default judgment against Tile Tech? No, affirmed.

Discussion:

Applying Ninth Circuit law, the Federal Circuit first stated that a court must consider the following five factors before entering default judgment: "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the [other party]; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions." The Federal Circuit then held that four out of five of these factors favored dismissal; only the public policy favoring disposition of cases on their merits, which always weighs against dismissal, did not favor default judgment.

The Federal Circuit rejected Tile Tech's argument on appeal that default judgment was not appropriate because there had been no finding of bad faith on Tile Tech's part. The Federal Circuit in turn noted that the full test for default judgment is whether a party's conduct was due to "willfulness, bad faith, or fault," and it defined willfulness as "disobedient conduct not shown to be outside the control of the litigant." Because Tile Tech offered no evidence that its dilatory actions were outside of its attorneys' control, the Federal Circuit upheld the district court's grant of default judgment.