

CENTRIPETAL NETWORKS, INC. v. CISCO SYSTEMS, INC., Appeal No. 2021-1888 (Fed. Cir. June 23, 2022). Before Dyk, Taranto and Cunningham. Appealed from E.D. Va. (Judge Morgan).

Background:

Centripetal sued Cisco for infringing ten of its patents related to computer network security systems. The suit was brought in the Eastern District of Virginia and eventually assigned to Judge Henry Coke Morgan, Jr.

After presiding over a 22-day bench trial, including a record of over 3,000 pages, 26 witnesses and 300 exhibits, Judge Morgan learned his wife owned Cisco stock. He notified the parties and assured them the existence of the stock in no way influenced his opinion. Centripetal had no objection to the judge continuing to preside over the suit, but Cisco motioned for his recusal. Judge Morgan denied the motion, stating he had decided most of the issues prior to discovering his wife's interest in Cisco. Despite the provision in 28 U.S.C. §455 that recusal is not required if the judge divests himself of the interest, Judge Morgan declined to sell the stock as doing so might raise concerns about insider trading. Instead, he placed the stock in a blind trust.

Judge Morgan then issued his opinion finding Cisco willfully infringed the asserted patent claims, awarding Centripetal damages. Cisco appealed.

Issue/Holding:

Did the district court judge err in not recusing himself? Yes, reversed in part, vacated in part, and remanded.

Discussion:

On appeal, Cisco argued Judge Morgan should have recused himself under §455 in the absence of divestiture of his wife's Cisco stock. The Federal Circuit agreed.

The first question on appeal was whether placing the stock in the blind trust satisfied the requirements of §455 for divestiture. Because Judge Morgan maintained ownership of the stock in the blind trust, the Federal Circuit found that he had failed to divest himself of the financial interest in Cisco. As such, Judge Morgan was disqualified from presiding over further proceedings.

The second question on appeal was the proper remedy. The Federal Circuit noted that mandatory recusal does not necessary require mandatory vacatur, and the harmless error analysis must be applied. Centripetal argued that the time and cost already expended for this complex case weighed against vacatur. The Federal Circuit disagreed, finding the risk of injustice to Cisco, as well as the risk of undermining the public's confidence in the judicial process, weighed against a finding of harmless error and in favor of vacatur. For these reasons, the Federal Circuit reversed the denial of Cisco's motion for recusal, vacated all orders and opinions entered on or after the date Judge Morgan learned of his wife's financial interest in Cisco, and remanded the case for further proceedings before a different judge.