SPC Guiding Case No. 251: Enforcement Case of Sichuan [X] Chemical Co., Ltd., Shandong [X] Chemical Co., Ltd., et al.

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Keywords

Enforcement / enforcement implementation / intellectual property / escalated enforcement / enforcement settlement

Holding

1. In an enforcement case involving acts, where there are circumstances such as the judgment debtor continuing to commit the infringing act involved, the case involving multiple major cross-regional related cases, and the need for overall coordination by a superior people's court, resulting in the case not being fully enforced within six months of the date of enforcement docketing, the superior people's court may adopt measures such as escalated enforcement and urged enforcement to advance the enforcement of the case.

2. For an enforcement case involving acts such as the demolition of production equipment infringing intellectual property rights, the people's court may, on the premise of fully safeguarding the lawful rights and interests of the rights holder, guide the parties to reach a settlement, replacing the demolition of the relevant production equipment with the judgment debtor's payment of technical license fees, so as to promote the lawful utilization of the relevant production equipment and achieve a win-win, multi-win outcome.

Basic Facts

In a trade secret infringement dispute between Sichuan [X] Chemical Co., Ltd. and Shandong [X] Chemical Co., Ltd. and others, the Supreme People's Court rendered Civil Judgment (2022) Zui Gao Fa Zhi Min Zhong No. 541 on December 26, 2022: Shandong [X] Chemical Co., Ltd. (“Shandong [X] Chemical”) and others shall immediately cease selling melamine products produced using the technical secrets of Sichuan [X] Chemical Co., Ltd. (“Sichuan [X] Chemical”) involved in the case, destroy the equipment involved in the project (the methods of destruction including but not limited to demolishing the parts of the relevant equipment containing the technical secrets involved) and the technical secret materials held, and jointly and severally compensate Sichuan [X] Chemical for economic losses and reasonable expenses of RMB 98 million (same currency hereinafter). Because Shandong [X] Chemical failed to perform the obligations determined in the effective judgment within the time limit, Sichuan [X] Chemical applied for compulsory enforcement.

This case was enforced by the Sichuan Tianfu New Area People's Court. During enforcement, through network inquiry and control and transfer, the monetary payment obligation was fully enforced, but the judgment debtor had never voluntarily performed the act obligations determined in the judgment to cease selling the infringing products and destroy the infringing equipment and technical materials. Moreover, the demolition of the production equipment involved was extremely difficult: the equipment involved tens of thousands of fine parts, and it was not easy to precisely define the scope of demolition; the equipment had flammable and explosive properties, and improper operation could easily cause serious chemical pollution; there were very few domestic companies with the relevant demolition qualifications, and there had never been a precedent of similar demolition operations; and the equipment was located in another province, requiring cross-regional coordination. At the same time, the enforcement applicant and the judgment debtor had three related cases pending before the Guangzhou Intermediate People's Court of Guangdong Province and the Sichuan Provincial High People's Court, all of which were disputes arising from the infringement

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involved in this case. The act obligations determined in the judgment of the Guangzhou Intermediate People's Court were the same as those in this case, and the judgment debtor had likewise not performed them; the subject amounts of the two cases being tried by the Sichuan Provincial High People's Court were as high as RMB 600 million.

In December 2023, the Supreme People's Court decided to supervise and urge the handling of this case, carrying out unified command, dispatch and management of the compulsory enforcement measures and enforcement progress nodes adopted in this case; it took the lead in organizing special meetings to study enforcement plans such as escalated enforcement, and, based on the obligations determined in the effective judgment and in light of the special circumstances of this case, guided the parties to reach a settlement and clarified the enforcement approach of resolving, in a “package” manner, the four related cases between the parties in Sichuan and Guangdong. Thereafter, the Chengdu Intermediate People's Court of Sichuan Province lawfully escalated the enforcement of this case; the Sichuan Provincial High People's Court and the Chengdu Intermediate People's Court, together with the Guangdong Provincial High People's Court, the Guangzhou Intermediate People's Court, the Shandong Provincial High People's Court, the intermediate people's court of the place where the judgment debtor is located and the relevant Shandong departments, held discussions on several occasions, guiding the parties to ultimately reach an enforcement settlement agreement whose main content included the judgment debtor's payment of technical license fees, infringement compensation and the continued production and operation of the equipment involved.

Judgment

On January 28, 2024, Sichuan [X] Chemical and Shandong [X] Chemical reached a settlement and signed an agreement, resolving in a “package” manner this case, one case docketed for enforcement by the Guangzhou Intermediate People's Court, and two cases being tried by the Sichuan Provincial High People's Court. In August 2024, Shandong [X] Chemical remitted the full RMB 440 million agreed upon in the settlement agreement into the account designated by the enforcement applicant. On August 28, 2024, the Chengdu Intermediate People's Court issued Notice (2023) Chuan 01 Zhi No. 4918, and the enforcement of this case was completed.

Reasoning

This case was a difficult and complex case of act-based enforcement in the field of intellectual property. What enforcement methods and strategies to adopt to guide and facilitate an enforcement settlement, promote the “package” resolution of conflicts and disputes, and achieve a win-win, multi-win outcome, was the key to lawfully and properly handling this case.

First, with respect to the enforcement method. With reference to Article 237 of the Civil Procedure Law of the People's Republic of China, where a people's court has not enforced a case within six months of receiving the application for enforcement, in light of the specific circumstances of the case, the superior people's court may order the original people's court to enforce within a time limit, or may direct another people's court within its jurisdiction to enforce, or may directly escalate the case to be enforced by the superior court itself. In accordance with paragraph 2 of Article 74 of the Several Provisions of the Supreme People's Court on the Enforcement Work of People's Courts (Fa Shi [1998] No. 15, amended in 2020), “for a case that a lower court has failed to fully enforce over a long period, where it is truly necessary, the superior court may decide to enforce the case itself or jointly with the lower court, or may designate another court within its jurisdiction to enforce it.” In this case, the enforcement applicant and the judgment debtor had three other major related cases in Guangdong and Sichuan, and the enforcement applicant expressed to the court its wish to resolve all the disputes in an integrated manner. At the same time, both the judgment debtor and the infringing equipment were in other provinces; the compulsory demolition of the production equipment involved had high professional requirements, there was no domestic precedent of demolition, and the safety risk was high. Therefore, relying on the strength of the original enforcement court to carry out cross-provincial and cross-departmental coordination clearly presented considerable difficulty and could hardly guarantee the

efficiency and effectiveness of enforcement, and it was necessary to advance the smooth and efficient handling of the case through measures such as escalated enforcement.

Second, with respect to the enforcement measures. Civil Judgment (2022) Zui Gao Fa Zhi Min Zhong No. 541, which served as the basis for enforcement, clearly stated that the methods of destroying the relevant equipment include but are not limited to demolition. Judging from the specific circumstances of this case, simply and directly adopting compulsory enforcement measures was not the best plan. The equipment involved had flammable and explosive properties, demolition was highly specialized, and improper operation would cause serious chemical pollution; compulsory demolition of the equipment involved would make it difficult for the enterprise to continue production and operation, and would affect the relevant industrial chain, having a certain impact on the survival of the enterprise, the employment of its employees and the local economic development. The production equipment involved, however, had the conditions for sustainable production, did not belong to backward production capacity requiring elimination, and, if licensed, could be lawfully and continuously used, which was conducive to making the best use of things, could both preserve the survival of the infringing enterprise and safeguard the employment of its employees, and could also maximize the interests of the intellectual property rights holder, with clearly better economic and social benefits. Moreover, obtaining authorization to lawfully use the relevant technical equipment by paying infringement compensation and paying technical license fees for continued implementation could likewise achieve the requirements of the judgment and the purpose of rights protection, and was an enforcement measure requiring special attention in technical intellectual property infringement cases. In view of this, the people's court strengthened coordination and, through multi-party linkage and multi-case coordination, identified the balance of interests, guided the parties to reach a settlement, and determined the technical license fees through negotiation, providing the rights holder with the “positive value” of lawfully collecting technical license fees in place of the “negative value” of compulsorily demolishing the infringing equipment, and facilitating the lawful and continuous utilization of the production equipment involved.

Relevant Legal Provisions

Article 237 of the Civil Procedure Law of the People's Republic of China

Paragraph 2 of Article 74 of the Several Provisions of the Supreme People's Court on the Enforcement Work of People's Courts (Fa Shi [1998] No. 15, amended in 2020)

Articles 1 and 8 of the Several Provisions of the Supreme People's Court on Enforcement Settlement (Fa Shi [2018] No. 3, amended in 2020)

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