

12-1163 HIGHMARK INC. V. ALLCARE HEALTH MANAGEMENT SYSTEMS

DECISION BELOW: 687 F.3d 1300

LOWER COURT CASE NUMBER: 2011-1219

QUESTION PRESENTED:

The Patent Act provides that a "court in exceptional cases may award reasonable attorney fees to the prevailing party." 35 U.S.C. § 285. A case is "exceptional" if it is objectively baseless and brought in bad faith. After living with this case for more than six years, the District Court found that it was objectively baseless and brought in bad faith, and it awarded fees. Over a strong dissent, a Federal Circuit panel reversed, holding that a district court's objective baselessness determination is reviewed "without deference." Pet. App. 9a. The Federal Circuit denied rehearing *en banc* by a vote of six to five. One of the two pointed dissents from that denial accurately observed that the decision below "deviates from precedent * * * and establishes a review standard for exceptional case findings in patent cases that is squarely at odds with the highly deferential review adopted by every regional circuit and the Supreme Court in other areas of law." Pet. App. 191a.

The question presented is: Whether a district court's exceptional-case finding under 35 U.S.C. § 285, based on its judgment that a suit is objectively baseless, is entitled to deference.

CERT. GRANTED 10/1/2013