App. No. 20-

In the Supreme Court of the United States

Dr. Lakshmi Arunachalam, a woman,

Petitioner,

v.

CITIGROUP INC., CITICORP, CITIBANK, N.A.,

Respondents,

On Petition for Writ of Certiorari to
the United States Court of Appeals for the Federal Circuit

PETITION FOR WRIT OF CERTIORARI APPENDICES 1a, 4a, 6a and 7a

Dr. Lakshmi Arunachalam, a woman,
SELF-REPRESENTED PETITIONER
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February 18, 2021

App. 1a

Federal Circuit Order **of dismissal**
(11/3/20)

11/3/2020 18 ORDER filed granting the motion for leave to proceed in forma pauperis [2] filed by Appellant Doctor Lakshmi Arunachalam. The appeal is dismissed. Each side shall bear its own costs. (Per Curiam). Service as of this date by the Clerk of Court. [733231] [LMS] [Entered: 11/03/2020 10:44 AM]

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

LAKSHMI ARUNACHALAM,
Plaintiff-Appellant

v.

CITIGROUP INC., CITICORP, CITIBANK, N.A.,
Defendants-Appellees

2020-2196

Appeal from the United States District Court for the District of Delaware in No. 1:14-cv-00373-RGA, Judge Richard G. Andrews.

ON MOTION

PER CURIAM.

ORDER

Dr. Lakshmi Arunachalam moves for leave to proceed *in forma pauperis*. Upon consideration of Dr. Arunachalam's complaint, the judgment of the United States District Court for the District of Delaware, and the opening informal brief, the court dismisses this appeal under 28 U.S.C. § 1915(e)(2)(B).

Dr. Arunachalam filed the operative complaint on March 24, 2014, asserting infringement of U.S. Patent Nos. 5,987,500 ("the '500 patent") and 8,108,492 ("the '492 patent"). The parties agreed to stay the matter pending this court's review of a related case's judgment of invalidity over claims of the same two patents. Dr. Arunachalam sought to amend the complaint to assert U.S. Patent No. 7,340,506 ("the '506 patent"). On June 18, 2020, the district court dismissed the underlying case after finding that all claims of the patents Dr. Arunachalam was asserting or attempting to assert were either finally declared invalid or are claims she is collaterally estopped from asserting. This appeal followed.

The court waives the fee on the ground that Dr. Arunachalam meets the standards for *in forma pauperis* status. However, we must now consider whether this appeal should be dismissed as lacking any arguable basis either in law or in fact. *See* § 1915(e)(2)(B) ("[T]he court shall dismiss the case at any time if the court determines that . . . [the] appeal . . . is frivolous . . . ."); *Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (holding that an appeal is frivolous if it "lacks an arguable basis either in law or in fact"). We conclude that the appeal so qualifies and must be dismissed.

As previously explained to Dr. Arunachalam, claims of the '500 patent and '492 patent were invalidated by decisions of a district court and the Patent Trial and Appeal Board, and Dr. Arunachalam was found to be collaterally estopped from asserting all remaining claims of these patents based on those decisions. *Arunachalam v. Presidio Bank*, 801 F. App'x 750, 751–54 (Fed. Cir. 2020). As to the '506 patent, this court recently explained that a final decision of the Board had invalidated the remaining claims of that patent. *Arunachalam v. Int'l Bus. Machs. Corp.*, 759 F. App'x 927, 930 (Fed. Cir. 2019).

The district court acknowledged that precedent, and Dr. Arunachalam's opening brief on appeal asserts arguments she raised previously and that this court repeatedly has rejected: arguments based primarily on the Contracts Clause and *Fletcher v. Peck*, 10 U.S. 87 (1810), on "prosecution history estoppel" and *Aqua Products, Inc. v. Matal*, 872 F.3d 1290 (Fed. Cir. 2017),[1] and error in a Delaware district court judge's recusal decisions.[2] As such, Dr. Arunachalam has failed to provide any arguable basis in law or fact capable of supporting her appeal, and we therefore conclude that this appeal is frivolous. *Neitzke*, 490 U.S. at 325.

Accordingly,

IT IS ORDERED THAT:

(1) The motion for leave to proceed *in forma pauperis* is granted.

(2) The appeal is dismissed.

(3) Each side shall bear its own costs.

FOR THE COURT

November 03, 2020 /s/ Peter R. Marksteiner
Date Peter R. Marksteiner
Clerk of Court

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[1] Arguments previously rejected in *Arunachalam*, 759 F. App'x at 930; *see also In re Arunachalam*, No. 2019-112 (Fed. Cir. Mar. 27, 2019); *In re Arunachalam*, No. 2019-113 (Fed. Cir. Mar. 27, 2019); *In re Arunachalam*, No. 2019-114 (Fed. Cir. Mar. 27, 2019).

[2] Arguments also previously rejected. *See Arunachalam*, 759 F. App'x at 933–34.

App. 4a
Federal Circuit *En Banc* Rehearing Order
(12/28/20)

12/28/2020	27	ORDER filed denying [19] petition for en banc rehearing filed by Lakshmi Arunachalam. By: En Banc (Per Curiam). Service as of this date by the Clerk of Court. [745349] [JAB] [Entered: 12/28/2020 10:26 AM]

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

LAKSHMI ARUNACHALAM,
Plaintiff-Appellant

v.

CITIGROUP INC., CITICORP, CITIBANK, N.A.,
Defendants-Appellees

2020-2196

Appeal from the United States District Court for the District of Delaware in No. 1:14-cv-00373-RGA, Judge Richard G. Andrews.

ON PETITION FOR REHEARING EN BANC

Before PROST, *Chief Judge*, NEWMAN, LOURIE, DYK, MOORE, O'MALLEY, REYNA, WALLACH, TARANTO, CHEN, and HUGHES, *Circuit Judges.**

PER CURIAM.

O R D E R

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* Circuit Judge Stoll did not participate.

Appellant Lakshmi Arunachalam filed a petition for rehearing en banc. The petition was first referred as a petition for rehearing to the panel that heard the appeal, and thereafter the petition for rehearing en banc was referred to the circuit judges who are in regular active service.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en banc is denied.

The mandate of the court will issue on January 4, 2021.

FOR THE COURT

<u>December 28, 2020</u>
Date

<u>/s/ Peter R. Marksteiner</u>
Peter R. Marksteiner
Clerk of Court

App. 6a:

District Court Order
(6/18/20)

06/18/2020	99	ORDER DISMISSING CASE: Plaintiff's claims are DISMISSED with prejudice (***Civil Case Terminated). Signed by Judge Richard G. Andrews on 6/18/2020. (nms) (Entered: 06/18/2020)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

DR. LAKSHMI ARUNACHALAM, Plaintiff, v. CITIGROUP INC., CITICORP, and CITIBANK, N.A., Defendants.	: : : : : : : : : :	Civil Action No. 14-373-RGA

ORDER DISMISSING CASE

For the reasons stated in the accompanying Memorandum, this 18 day of June 2020, IT IS HEREBY ORDERED that Plaintiff's claims are DISMISSED with prejudice.

/s/ Richard G. Andrews
United States District Judge

App. 7a:
District Court Memorandum
(6/18/20)

06/18/2020	**98**	MEMORANDUM. Signed by Judge Richard G. Andrews on 6/18/2020. (nms) (Entered: 06/18/2020)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

DR. LAKSHMI ARUNACHALAM, Plaintiff, v. CITIGROUP INC., CITICORP, and CITIBANK, N.A., Defendants.	:	Civil Action No. 14-373-RGA

MEMORANDUM

Whereas, the Court issued an order to show cause why the case should not be dismissed with prejudice on November 6, 2019 (D.I. 67);

Whereas, the parties filed various responses by the twice-continued deadline of January 8, 2020[1] (D.I. 71, 80, 81, 82, 83, 84, 86);[2]

Whereas, a number of the claims of the two asserted patents (U.S. patent nos. 5,987,500 and 8,108,492) asserted in the complaint (see D.I. 1) were invalidated in *Pi-Net v. J.P. Morgan*, No. 12-282-SLR (D.Del), which judgment has since become final;

Whereas, additional claims of the two asserted patents were invalidated in various inter partes review and covered business method proceedings, which have also become final, *see Arunachalam v. Presidio Bank,* 801 F. App'x 750, 752 (Fed. Cir. 2020);

[1] (See D.I. 70, 77).

[2] The Inventor Rights Act of 2019, cited by Plaintiff, has not been passed, and therefore is not law.

Whereas, the District Court for the Northern District of California found in two decisions hat Plaintiff was collaterally estopped from asserting the claims of the two patents that no tribunal had invalidated, a judgment that has since been affirmed by the Federal Circuit,[3] *see id.* at 754;[4]

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[3] The Federal Circuit reviewed the California decisions pursuant to the following legal principles:

> When reviewing the application of collateral estoppel, we are "generally guided by regional circuit precedent, but we apply our own precedent to those aspects of such a determination that involve substantive issues of patent law." *Ohio Willow Wood Co. v. Alps South, LLC*, 735 F.3d 1333, 1342 (Fed. Cir. 2013). In the Ninth Circuit, "[c]ollateral estoppel applies to a question, issue, or fact when four conditions are met: (1) the issue at stake was identical in both proceedings; (2) the issue was actually litigated and decided in the prior proceedings; (3) there was a full and fair opportunity to litigate the issue; and (4) the issue was necessary to decide the merits." *Oyeniran v. Holder*, 672 F.3d 800, 806 (9th Cir. 2012). "Where a patent has been declared invalid in a proceeding in which the 'patentee has had a full and fair chance to litigate the validity of h[er] patent,' ... the patentee is collaterally estopped from relitigating the validity of the patent." *Miss. Chem. Corp.v. Swift Agric. Chems. Corp.*, 717 F.2d 1374, 1376 (Fed. Cir. 1983) (quoting *Blonder-Tongue Labs., Inc. v. Univ. of Ill. Found.*, 402 U.S. 313, 333 . . . (1971)). Further, "[o]ur precedent does not limit collateral estoppel to patent claims that are identical. Rather, it is the identity of the *issues* that were litigated that determines whether collateral estoppel should apply." *Ohio Willow Wood*, 735 F.3d at 1342 (emphasis in original).

Id. at 752. The Third Circuit's collateral estoppel standard is not substantively different from that of the Ninth Circuit. Under Third Circuit law, in order for collateral estoppel to apply, a party must demonstrate that "(1) the identical issue was previously adjudicated; (2) the issue was actually litigated; (3) the previous determination was necessary to the decision; and (4) the party being precluded from relitigating the issue was fully represented in the prior action." *Jean Alexander Cosmetics, Inc. v. L'Oreal USA, Inc.*, 458 F.3d 244, 249 (3d Cir. 2006) (citations omitted). The Third Circuit also considers whether the party being precluded "had a full and fair opportunity to litigate the issue in question in the prior action" and "whether the issue was determined by a final and valid judgment." *Id.* (citations omitted).

[4] Thus, Plaintiff is doubly collaterally estopped. She is not only collaterally estopped from asserting the claims not already invalidated, but she is also collaterally estopped from asserting that she is not collaterally estopped.

Whereas, all claims of an additional patent (U.S. patent no. 7,340,506) sought to be asserted in an amended complaint (*see* D.I. 48) were invalidated in PTAB litigation, Case CBM2016-00081, which judgment has since become final;[5]

Now, therefore, since all claims of the three patents that Plaintiff either asserts or has attempted to assert are claims that have either been finally declared invalid or are claims which she is collaterally estopped from asserting;

A separate order will be entered this 18 day of June 2020 dismissing this case with prejudice.

/s/ Richard G. Andrews
United States District Judge

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[5] The decision in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019), has no effect on this case, because it is too late to raise an *Arthrex* challenge. *See Customedia Techs, LLC v. Dish Network Corp.*, 941 F.3d 1173 (Fed. Cir. 2019) (per curiam) (*Arthrex* challenge not raised in opening appellate brief is forfeited).