SUPREME COURT OF THE UNITED STATES

Syllabus

FOGERTY *v.* FANTASY, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 92–1750. Argued December 8, 1993—Decided March 1, 1994

After petitioner Fogerty's successful defense of a copyright infringement action filed against him by respondent Fantasy, Inc., the District Court denied his motion for attorney's fees pursuant to 17 U. S. C. §505, which provides in relevant part that in such an action ``the court may . . . award a reasonable attorney's fee to the prevailing party as part of the costs.'' The Court of Appeals affirmed, declining to abandon it's ``dual standard'' for awarding §505 fees—under which prevailing plaintiffs are generally awarded attorney's fees as a matter of course, while defendants must show that the original suit was frivolous or brought in bad faith—in favor of the so-called ``evenhanded'' approach, in which no distinction is made between prevailing plaintiffs and prevailing defendants.

Held: Prevailing plaintiffs and prevailing defendants must be treated alike under §505; attorney's fees are to be awarded to prevailing parties only as a matter of the court's discretion. Pp. 4–18.

(a) Fantasy's arguments in favor of a dual standard are rejected. Section 505's language gives no hint that successful plaintiffs are to be treated differently than successful defendants. Nor does this Court's decision in *Christiansburg Garment Co.* v. *EEOC,* 434 U. S. 412, which construed virtually identical language from Title VII of the Civil Rights Act of 1964, support different treatment. The normal indication that fee-shifting statutes with similar language should be interpreted alike is overborne by factors relied upon in *Christiansburg* and the Civil Rights Act which are noticeably absent in the context of the Copyright Act. The legislative history of §505 provides no support for different treatment. In addition, the two Acts' goals

and objectives are not completely similar. The Civil Rights Act provides incentives for the bringing of meritorious lawsuits by impecunious ``private attorney general'' plaintiffs who can ill afford to litigate their claims against defendants with more resources. However, the Copyright Act's primary objective is to encourage the production of original literary, artistic, and musical expression for the public good; and plaintiffs, as well as defendants, can run the gamut from corporate behemoths to starving artists. Fantasy's argument that the dual approach to §505 best serves the Copyright Act's policy of encouraging litigation of meritorious infringement claims expresses a one-sided view of the Copyright Act's purposes. Because copyright law ultimately serves the purpose of enriching the general public thorough access to creative works, it is peculiarly important that the law's boundaries be demarcated as clearly as possible. Thus, a defendant seeking to advance meritorious copyright defenses should be encouraged to litigate them to the same extent that plaintiffs are encouraged to litigate meritorious infringement claims. Fantasy also errs in urging that the legislative history supports the dual standard based on the principle of ratification. Neither the two studies submitted to Congress while it considered revisions to the Act, nor the cases referred to in those studies, support the view that there was a settled construction in favor of the dual standard under the virtually identical provision in the 1909 Copyright Act. Pp. 4–16.

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(b) Also rejected is Fogerty's argument that §505 enacted the ``British Rule,'' which allows for automatic recovery of attorney's fees by prevailing plaintiffs and defendants, absent exceptional circumstances. The word ``may'' in §505 clearly connotes discretion in awarding such fees, and an automatic award would pretermit the exercise of that discretion. In addition, since Congress legislates against the strong background of the American Rule—which requires parties to bear their own attorney's fees unless Congress provides otherwise—it would have surely drawn more explicit statutory language and legislative comment had it intended to adopt the British Rule in §505. While there is no precise rule or formula for making fee determinations under §505, equitable discretion should be exercised ``in light of the considerations [this Court] has identified.'' *Hensley* v. *Eckerhart,* 461 U. S. 424, 436–437. Pp. 16–18.

984 F. 2d 1524, reversed and remanded.

REHNQUIST, C. J., delivered the opinion of the Court, in which BLACKMUN, STEVENS, O'CONNOR, SCALIA, KENNEDY, SOUTER, and GINSBURG, JJ., joined. THOMAS, J., filed an opinion concurring in the judgment.