

Supreme Court Declines to Consider Reversing the Republic of France's Successful Assertion of Sovereign Immunity

December 15, 2021

Last March, a unanimous panel of the Fourth Circuit Court of Appeals held for Carter Ledyard client the Republic of France and dismissed a trademark infringement lawsuit brought by France.com, Inc. in federal court in Virginia. On December 13, 2021, the United States Supreme Court declined to grant *certiorari*, leaving the dismissal in place.

In 2015, a French court awarded the domain name "france.com" to France based on principles of French intellectual property law. France.com, Inc. then sued France in U.S. federal district court for cybersquatting, trademark infringement, and expropriation of property. The district court denied France's motion to dismiss the case pursuant to the Foreign Sovereign Immunities Act, and France appealed that ruling to the Fourth Circuit. The Fourth Circuit agreed with France that it is presumptively immune from the jurisdiction of U.S. courts, and neither the "commercial activity" nor the "expropriation" exception to its statutorily-mandated sovereign immunity applied. The court agreed with France's position that France.com's lawsuit arose from an adverse judgment of a foreign court resulting in the transfer of the domain name, not any kind of commercial conduct, and that France.com had failed to identify an "expropriation" in violation of international law.

Carter Ledyard attorneys John M. Griem, Jr. and Nicholas W. Tapert represented the Republic of France with a team of Carter Ledyard attorneys including Jeffrey S. Boxer, Theodore Y. McDonough and Madelyn White, as well as Virginia-based Thompson McMullin attorneys John O'Herron and Zachary Cohen.

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