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Two Courts, One Decision: How Res Judicata Halts Concurrent Battles

When a civil lawsuit has been fully litigated, the doctrine of *res judicata* operates to stop the losing party from (1) relitigating the same claims and (2) bringing new claims based on the same underlying facts. But does it apply when there are concurrent litigations across jurisdictions? In *Beijing Neu Cloud Oriental Sys. Tech. Co., Ltd. v. IBM Corporation*, the Second Circuit held that it does.

The Case: *Beijing Neu Cloud Oriental Sys. Tech. Co., Ltd. v. IBM Corporation*, – F.4th – (2d Cir. 2024)

In 2021, Beijing Neu Cloud decided to bring suit against IBM for trade secret misappropriation. Rather than initiate a single action in either state or federal court, Beijing Neu Cloud chose to split its claims in two, initiating one action in the United States District Court for the Southern District of New York for, among other things, violations of the federal Defend Trade Secrets Act of 2016 (DTSA), and another in the New York State Supreme Court alleging various state law business torts. IBM moved to dismiss the state court action, and in March 2022, the New York Supreme Court dismissed that litigation in its entirety. IBM then moved to dismiss the federal action based on (a) statute of limitations, (b) failure to state a claim, (c) lack of personal jurisdiction, and (d) *res judicata* in light of the dismissal of the state court action. The District Court dismissed the federal action, agreeing with IBM on its first three arguments. The court, however, rejected IBM’s argument that *res judicata* precluded litigation over the DTSA claim because that cause of action had not been asserted in the state action. Following the dismissal, Beijing Neu Cloud appealed.

On appeal, the Second Circuit focused solely on the *res judicata* argument, finding it dispositive of the appeal. According to the appellate court, the question was not whether Beijing Neu Cloud *did* bring the DTSA claim in the state court but rather whether it *could have* brought that claim. The Second Circuit concluded that state courts are permitted to hear federal DTSA claims, so Beijing Neu Cloud could have asserted the claim in state court. Based on that holding, the appellate court held *res judicata* applied to bar the federal action in its entirety.

Having found that Beijing Neu Cloud could have brought its DTSA claims in its action before the New York Supreme Court, the Second Circuit quickly dismissed Beijing Neu Cloud’s arguments that *res judicata* should not apply because the actions involved different facts and evidence. The Second Circuit aptly noted that in New York, the question is whether the actions arise from the same conduct and/or transactions. Applying this standard, the Second Circuit found that Beijing Neu Cloud’s “different shadings

of the facts” and evidentiary burden of proof were insufficient and affirmed the dismissal of the action.

Takeaway

Jurisdictional assumptions can be costly. Just because a claim arises under a federal statute does not mean it must be litigated in federal court. Carefully reviewing the specific jurisdictional provisions of each statute is crucial to avoid unnecessary litigation, save costs, and ensure that claims are filed in the correct forum.