



with oral argument made on the 27th day of October, 1986 by Dennis J. O'Grady, Esq., Riker, Danzig, Scherer, Hyland & Perretti, and Richard S. Last, Esq., Dunn & Zuckerman; and it appearing from all the papers that HCA recently closed a bank account in the approximate amount of \$69,000 and deposited the proceeds thereof in its safe, located at 2050 Center Avenue, Fort Lee, New Jersey; and it appearing that HCA may have transferred and may continue to transfer cash and negotiable instruments out of this safe in derogation of Gosco's rights, and in contravention to an understanding between the parties of October 24, 1986; and it further appearing that there is a bank account in the name of Han Yang Corporation over which HCA asserts control at the First National Bank of Fort Lee which contained, as of September 30, 1986, approximately \$4,499.00; and it further appearing that HCA may be acting in active concert and participation with Han Yang Corporation in liquidating and disposing of assets, in derogation of the rights of Gosco; and it further appearing that Gosco has a reasonable probability of success in having its foreign arbitration award against Han Yang Corporation confirmed pursuant to 9 U.S.C. §207 thereby entitling it to levy upon assets of or attributable to said defendant; and it further appearing that the aforesaid liquidation and disposition of assets will cause Gosco to suffer irreparable harm pending final judgment herein; and it further appearing that the relationship between HCA and Han Yang Corporation may be such



that this Court may "pierce the corporate veil"; and for reasons expressed in this Court's bench opinion of October 27, 1986 and other good cause shown,

IT IS, on this 29th day of October, 1986, ORDERED:

(1) that Han Yang Corporation as well as Han Yang Corporation of America, and all others encompassed within the terms of Fed.R.Civ.P. 65(d), be and the same hereby are PRELIMINARILY ENJOINED, from making any payments or expenditures of funds or from conveying or transferring any assets of the corporations, other than in the ordinary course of business, or from secreting any assets beyond the jurisdiction of this Court;

(2) that any cash, negotiable instruments, securities, or other assets present in Han Yang Corporation of America's safe at 2030 Center Avenue, Fort Lee, New Jersey, be and the same hereby are IMPOUNDED and that absolutely no expenditures or transfers may be made from the cash, negotiable instruments, or securities present within said safe as of Monday, October 27, 1986, at about 4:30 p.m., and

(3) that the bank account in the name of Han Yang Corporation, located at the First National Bank of Fort Lee, which as of September 30, 1986, had an approximate balance of approximately \$4,499 be and hereby is IMPOUNDED, and no expenditures whatsoever may be made from this account;

(4) that Mr. Choi as well as the attorneys for petitioner and Han Yang Corporation of America be present at the offices of Han Yang Corporation of America, 2030 Center Avenue, Fort Lee, New Jersey at ten o'clock a.m. on Wednesday, October 29, 1986,

together with a certified Court Reporter, and that Mr. Choi provide an inventory of the contents of Han Yang Corporation of America's safe on that date to be made a part of the record in this proceeding; and it is further

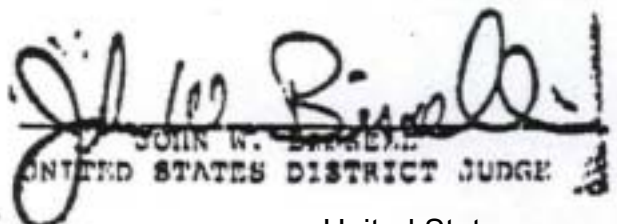
ORDERED THAT NOTWITHSTANDING the above IMPOUNDMENT of the cash, negotiable instruments, or securities within Han Yang Corporation of America's safe and the funds in the account at the First National Bank of Fort Lee, upon two (2) days' notice to plaintiff Gesco, Han Yang Corporation or Han Yang Corporation of America may appear before this Court, requesting an Order lifting said IMPOUNDMENT, after establishing that there is an urgent and compelling need therefor and it is further

ORDERED that Han Yang Corporation of America's Motions for dismissal, transfer and relief under Fed.R.Civ.P. 11 be and hereby are denied; and it is further

ORDERED that the preliminary injunction hereby imposed expires on the 17th of November, 1986, at five o'clock p.m., unless extended by further Order of this Court; and it is further

ORDERED that plaintiff post security pursuant to the requirements of Fed.R.Civ.P. 65(c) in the form of either cash or a bond secured by good and sufficient sureties in the sum of \$2,500; and it is further

ORDERED that a copy of this Order be served upon Han Yang Corporation, Han Yang Corporation of America, and the First National Bank of Fort Lee within three (3) days from the date of this Order.

  
JOHN W. BORGE  
UNITED STATES DISTRICT JUDGE



sent by

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WILLIAM T. WALSH  
CLERK

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ENTERED  
on THE DOCKET  
on 11/21/86  
By WILLIAM T. WALSH, CLERK  
(Docket)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

GESCO LIMITED,

Plaintiff,

vs.

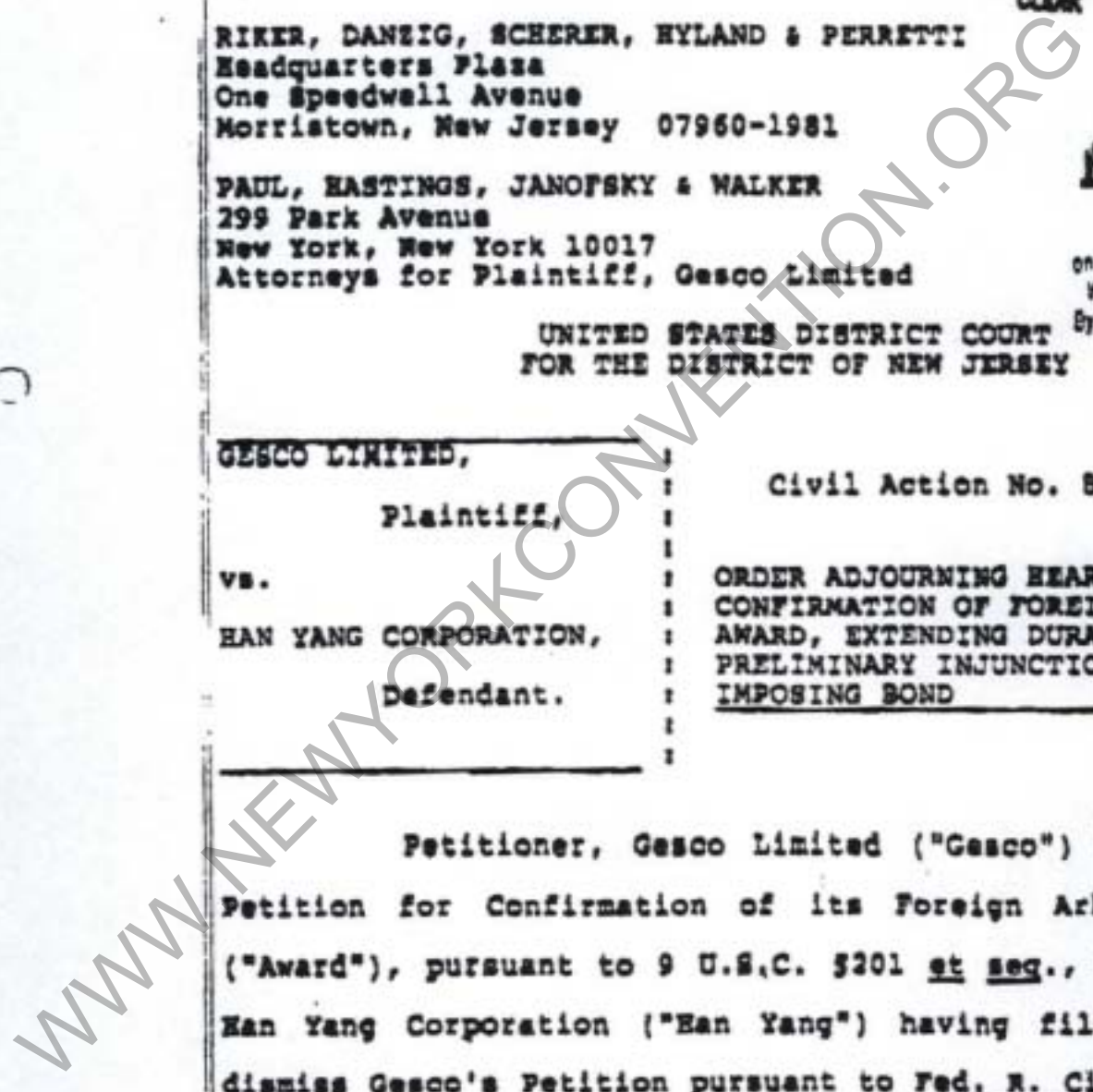
HAN YANG CORPORATION,

Defendant.

Civil Action No. 86-4074

ORDER ADJOURNING HEARING ON  
CONFIRMATION OF FOREIGN ARBITRATION  
AWARD, EXTENDING DURATION OF  
PRELIMINARY INJUNCTION AND  
IMPOSING BOND

Petitioner, Gasco Limited ("Gasco") having filed  
Petition for Confirmation of its Foreign Arbitration Award  
("Award"), pursuant to 9 U.S.C. 5201 et seq., and respondent  
Han Yang Corporation ("Han Yang") having filed a Motion to  
dismiss Gasco's Petition pursuant to Fed. R. Civ. P. 12(b)  
(2), (3), (5) and (6) and the Court having considered  
pleadings filed in support of and in opposition to the Petition  
and the Motion, including various memoranda of law, supporting  
affidavits, deposition testimony and the exhibits thereto;  
Yoon S. Choi, an employee and/or agent of Han Yang and/or



Yang Corporation of America ("HCA"), and the documents made into evidence as Exhibits P-1 through P-5, and P-17 through P-18, at the hearing conducted thereon, together with oral argument presented on the 18th day of November, 1986, by Dennis O'Grady, Esq., of Riker, Danzig, Scherer, Hyland & Perini, attorneys for Gesco and Richard S. Last, Esq. of Duker Zuckerman, attorneys for Han Yang and HCA, and this Court having made findings of fact and conclusions of law at the conclusion of said hearing as follows:

(1) That this Court possesses subject matter jurisdiction over Gesco's petition pursuant to 9 U.S.C. §5203, and the Convention for the Recognition and Enforcement of Foreign Arbitral Awards, codified at 9 U.S.C. §201, et seq.

(2) That this Court possesses personal jurisdiction over Han Yang as a foreign Corporation duly authorized to transact business in New Jersey with a registered agent in New Jersey known as Corporate Trust Company;

(3) That Han Yang has never properly withdrawn from the jurisdiction of New Jersey nor has the authority of its registered agent, Corporate Trust Company, to receive service of process in the State of New Jersey been revoked pursuant to N.J.S.A. 14A:13-8;

(4) That Gesco effected personal service on Han Yang through the Corporation Trust Company on October 23, 1986;

(5) That, because this Court exercises in personam jurisdiction over Han Yang, this proceeding is properly venue in the District of New Jersey, notwithstanding the pendency



a similar action is the United States District Court for Southern District of New York;

(6) That Gesco has supplied the proofs required confirmation of its Award under Article IV of the Convention for the Recognition and Enforcement of Foreign Arbitral Awards codified at 9 U.S.C. §201;

(7) That Gesco is the proper party seeking a judgment on the Award, and that there are no other necessary parties thereto, as evidenced by both: (a) Exhibit P-6, a certified copy of the assignment of all rights under Sa Establishment for Commerce's ("Sahar") contract with Han Y. to Gesco; and (b) Exhibit P-2 the Final Arbitration Award--merits of which this Court is not empowered to reopen--is the terms thereof made "payable to Gesco", the arbitral tribunal having found that an assignment of rights from Sa and Resources Technology Limited to Gesco was valid and enforceable;

(8) That the pendency of an Austrian action to set aside the Award filed by Han Yang in the Austrian Court November 13, 1986, does not affect the finality and enforceability of the Award; and

(9) That Han Yang Corporation has not established any defenses to the Award as provided by Article V of the Convention for the Recognition and Enforcement of Foreign Arbitral Awards, codified at 9 U.S.C. §201, et seq.

(10) That Han Yang has assets in the New York Metropolitan area in the approximate amount of ~~\$100,000~~ <sup>\$75,000</sup>

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consisting in part of a bank account at Bankers Trust in New York City in the approximate amount of \$80,000, a bank account at First National Bank of Fort Lee in the approximate amount of \$4,500, cash in a safe at 2050 Center Avenue, Fort Lee in the approximate amount of \$3,350, as well as furniture, equipment and other property at the same address.

(11) That adjournment of the decision herein on the enforcement of the Award, pursuant to Article VI of said Convention, presently appears appropriate.

As a result of the aforementioned findings, as well as for other reasons expressed in this Court's bench opinion of November 18, 1986, and for other good cause shown,

IT IS, on this 20th day of November, 1986, ORDERED:

(1) That Han Yang's Motions to Dismiss the Petition, pursuant to Fed. R. Civ. P. 12(b)(1), (2), (3), (5) and (6) or for a change of Venue, be and the same hereby are DENIED; and

(2) That the decision on enforcement of Gasco's Award is adjourned to 11:30 a.m. on Wednesday, November 26, 1986, pursuant to Article VI of the aforesaid Convention; and

(3) That, pursuant to said Article VI, Han Yang is directed to post security in the form of either cash, a bond secured by good and sufficient sureties, or other suitable security accepted by this Court or its Clerk, in the amount of \$100,000 (representing the appropriate \$90,000 in assets, plus potential interest, costs and attorney fees liabilities that may be established hereafter) by Wednesday, November 26, 1986 at 11:30 a.m.; and



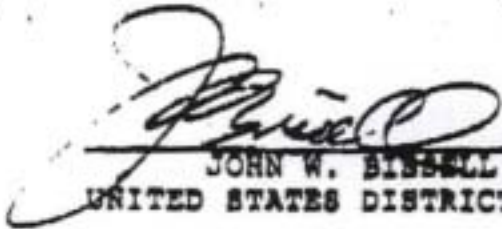
(4) That Gesco's attorney shall be given advance oral notice of the date and time when said security is to be posted, in order that he may review the documentation reflecting that security; and

(5) That, upon the posting of such security in the aforementioned amount by that date, this Court's decision on enforcement of Gesco's Award may be further adjourned without date, pursuant to said Article VI, pending a final decision in the action commenced collaterally attacking the Award in the Courts of Austria by Han Yang on November 13, 1986; and

ORDERED that the PRELIMINARY INJUNCTION previously issued on October 29, 1986, as amended on November 17, 1986, is hereby continued to Wednesday, November 26, 1986 at 1:00 p.m., unless extended or previously terminated by further Order of this Court; and it is further

ORDERED that the Court will adjourn its decision on petitioner's claim for attorney's fees without prejudice to a date to be noticed by the petitioner; and it is further

ORDERED that a copy of this Order be served upon Han Yang Corporation, Han Yang Corporation of America and The First National Bank of Fort Lee within two (2) business days from the date of this Order.

  
JOHN W. BISSELL  
UNITED STATES DISTRICT JUDGE