

PRESS RELEASE

U.S. District Court Grants Motion to Dismiss for Wiley Rein Client Deutsche Telekom in Contractual Dispute with Cogent Communications

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Washington, DC—On Friday, May 13, the U.S. District Court for the Eastern District of Virginia granted Deutsche Telekom AG's motion to dismiss in connection with a dispute about Internet connection point upgrades in *Cogent Communications Inc. v. Deutsche Telekom AG*. U.S. District Judge Leonie M. Brinkema said that "this case does not belong here," but rather in Germany; she cited a forum selection provision in a contract between the two companies addressing "peering" locations on their networks that requires litigation to take place in Bonn, Germany.

Wiley Rein LLP represents Deutsche Telekom in the matter, having filed motions to dismiss the plaintiff's amended complaint in two separate memorandums, one for failure to state a claim and lack of personal jurisdiction, and the other for *forum non conveniens*. The Wiley Rein team was led by Attison L. Barnes III, co-chair of the Litigation Practice, along with partner Stephen J. Obermeier and associate Adrienne J. Kosak.

In its central motion argument, Wiley Rein argued: "Two large, sophisticated companies sharing internet interconnections in countries across the United States and Europe, negotiated the 2003 Agreement

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to govern those interconnections, and agreed to litigate any claims arising therefrom in Germany. In its initial Complaint, Cogent ignored the contract's very existence, presumably to avoid the parties' forum selection clause. Confronted with the 2003 Agreement in DT's initial Motion to Dismiss, Cogent now tries in its Amended Complaint to escape the forum selection provision by arguing that the 2003 Agreement applied only to [DT subsidiary T-Systems International GmbH] and is somehow irrelevant. This is nothing more than forum-shopping, because Cogent is well-aware that German regulators previously rejected Cogent's claim. The parties' forum selection clause should be enforced, and the case should be dismissed for *forum non conveniens*."

The court agreed, dismissing Cogent's claims in the matter. At oral argument, Judge Brinkema also suggested that she agreed with Wiley Rein that Cogent's claims were untimely. The case was reported on in *Law360*; to read the story, please [click here](#) (subscription required).

Wiley Rein has effectively advocated on behalf of its clients' interests in federal and state courts across the country for more than three decades. The firm's litigation strength is considerable—more than half of the firm's 250 attorneys are seasoned litigators, forming a group that includes four former clerks to the Supreme Court of the United States; more than 40 former clerks to courts of appeals, district, and other courts; former United States prosecutors; former general counsels of federal agencies; and senior government officials. Wiley Rein's litigators are distinguished in their field and routinely recognized nationwide for their outstanding achievements.