

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

DUNCAN KITCHEN GRIPS, INC.,
Plaintiff-Appellant,

v.

BOSTON WAREHOUSE TRADING CORP.,
Defendant-Appellee.

2011-1321

Appeal from the United States District Court for the
Central District of California in case no. 09-CV-1328,
Judge Cormac J. Carney.

ON MOTION

Before LOURIE, MOORE, AND REYNA, *Circuit Judges.*
LOURIE, *Circuit Judge.*

ORDER

The parties jointly move to remand this case to the
United States District Court for the Central District of
California.

Duncan Kitchen Grips, Inc. appeals from the district
court's ruling, inter alia, that Boston Warehouse Trading

Corp. does not infringe claim 1 of its patent. The parties state that they have settled the case, conditioned upon the district court's grant of a Fed. R. Civ. P. 60(b) motion to vacate the underlying rulings and judgment, and move to remand so that the district court can consider such a motion. We grant the motion to remand to the extent that we remand for the limited purpose of the district court's consideration of the parties' motions. *Ohio Willow Wood Co. v. Thermo-Ply, Inc.*, 629 F.3d 1374, 1375 (Fed. Cir. 2011). We retain jurisdiction so that any of the parties may seek appellate review by notifying the clerk of the court within thirty days of entry of the district court's decision on remand. The appeal is held in abeyance pending the resolution of the motions by the district court. The parties should promptly inform this court of the district court's ruling on the motion and should propose how they believe the appeal should proceed in light of the district's ruling.

Upon consideration thereof,

IT IS ORDERED THAT:

The motion to remand is granted to the limited extent explained above. The court retains jurisdiction over the appeal at this time.

FOR THE COURT

SEP 06 2011

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: David Hong, Esq.
Edward R. Schwartz, Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

SEP 06 2011

JAN HORBALY
CLERK