

NOTE: This order is nonprecedential.

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

AUTHENEX, INC.,
Plaintiff-Appellant,

v.

EMC CORPORATION,
Defendant-Appellee.

2011-1264

Appeal from the United States District Court for the
Central District of California in case no. 10-CV-1251,
Senior Judge Mariana R. Pfaelzer.

AUTHENEX, INC.,
Plaintiff-Appellant,

v.

EMC CORPORATION,
Defendant-Appellee.

2011-1398

Appeal from the United States District Court for the Central District of California in case no. 10-CV-1251, Senior Judge Mariana R. Pfaelzer.

Before NEWMAN, SCHALL, and DYK, *Circuit Judges*.

PER CURIAM.

ORDER

Authenex, Inc. responds to this court's order directing it to show cause why its appeal in 2011-1264 should not be dismissed as premature.

Appeal 2011-1264 was filed after the district court granted summary judgment of noninfringement but before the district court entered a final judgment or ruled on pending counterclaims of noninfringement and invalidity. Authenex states that the district court recently filed a final judgment resolving all claims in the case and Authenex filed another appeal, 2011-1398, seeking review of the final judgment.

Accordingly,

IT IS ORDERED THAT:

(1) Appeal 2011-1264 is dismissed as premature.

(2) Authenex's opening brief in 2011-1398 is due within 30 days of the date of filing of this order.

FOR THE COURT

JUL 7 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Jeremy S. Pitcock, Esq.
Chris R. Ottenweller, Esq.

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

JUL 07 2011

JAN HORBALY
CLERK