

.NOTE: This order is nonprecedential.

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

**ATLANTIC RESEARCH MARKETING SYSTEMS,
INC.,**
Plaintiff-Appellee,

v.

**STEPHEN P. TROY, JR. AND TROY INDUSTRIES,
INC.,**
Defendants-Appellants.

2011-1447

Appeal from the United States District Court for the
District of Massachusetts in case no. 07-CV-11576, Judge
Patti B. Saris.

ON MOTION

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

LOURIE, *Circuit Judge.*

O R D E R

Atlantic Research Marketing Systems, Inc. (ARMS)
moves to dismiss this appeal for lack of jurisdiction.

Stephen P. Troy, Jr. and Troy Industries, Inc. (Troy) oppose. ARMS replies.

Troy's appeals focuses on two decisions by the magistrate judge concerning discovery matters. Troy argues that such decisions are immediately appealable to this court under 28 U.S.C. § 636(c)(1). That section allows, in relevant part:

Upon consent of the parties, a full-time United States magistrate judge or a part-time United States magistrate judge who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves.

The docket in this case does not indicate that this case was referred to a magistrate judge for judgment under Section 636(c)(1) and judgment has not been entered. This section is inapplicable.

Because there are pending claims, there is no final judgment and this appeal is premature. *See Nystrom v. Trex Co.*, 339 F.3d 1347, 1350 (Fed. Cir. 2003) ("If a case is not fully adjudicated as to all claims for all parties and there is no express determination that there is no just reason for delay or express direction for entry of judgment as to fewer than all of the parties or claims, there is no final decision . . . and therefore no jurisdiction.") Any adversely affected party may, of course, file a notice of appeal after the district court claims disposes of all claims and enters final judgment.

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted.

(2) Each side shall bear its own costs.

FOR THE COURT

SEP 06 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Paul J. Hayes, Esq.
Damian R. LaPlaca, Esq.

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ISSUED AS A MANDATE: SEP 06 2011

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

SEP 06 2011

JAN HORBALY
CLERK