

NOTE: This order is nonprecedential.

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

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IN RE HEWLETT-PACKARD COMPANY,  
*Petitioner.*

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Miscellaneous Docket No. 124

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On Petition for Writ of Mandamus to the United States  
District Court for the Eastern District of Texas in case no.  
11-CV-90, Judge Rodney Gilstrap.

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ON PETITION

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Before NEWMAN, LOURIE, and O'MALLEY, *Circuit Judges.*  
NEWMAN, *Circuit Judge.*

**ORDER**

Hewlett-Packard Company ("HP") petitions for a writ of mandamus to direct the United States District Court for the Eastern District of Texas to vacate its order denying HP's motion to sever and transfer. Lodsys, LLC and Lodsys Group, LLC ("Lodsys") oppose.

In *In re EMC*, \_\_ F.3d \_\_, 2011-M100 (Fed. Cir. May 4, 2012), we recently set forth the standard for assessing a

motion to sever under Federal Rule of Civil Procedure 21(a).

We deem it the better course for HP to first move the district court for reconsideration of its order denying HP's motion to sever and transfer in light of our decision in *In re EMC*. We therefore deny HP's petition for a writ of mandamus without prejudice to refileing.

Accordingly,

IT IS ORDERED THAT:

The petition for a writ of mandamus is denied.

FOR THE COURT

JUN 21 2012

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Sean C. Cunningham, Esq.  
Christopher M. Huck, Esq.  
Clerk, United States District Court for the Eastern  
District of Texas

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

**JUN 21 2012**

**JAN HORBALY**  
**CLERK**