

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2006-1454, -1475

WINDY CITY INNOVATIONS, LLC,

Plaintiff-Appellant,

v.

AMERICA ONLINE, INC.
(now known as AOL LLC),

Defendant-Cross Appellant.

ON MOTION

Before RADER, Circuit Judge.

ORDER

The parties jointly move to remand this case to the United States District Court for the Northern District of Illinois, in district court case no. 04-CV-4240, so that the district court may consider their Fed. R. Civ. P. 60(b) motion to vacate the district court's judgment and dismiss the case. America Online, Inc. moves to reform the official caption.

We deem the better course in these circumstances is to grant a limited remand so that the district court may consider whether or not it would grant the motion but otherwise retain jurisdiction over the appeal. If the district court intends to grant the motion, it should so inform the parties and the parties may then promptly move to remand the case in its entirety. See, e.g., Brown v. United States, 976 F.2d 1104, 1110-11 (7th Cir. 1992) (citing Graefenhain v. Pabst Brewing Co., 870 F.2d 1198, 1211 (7th Cir. 1989)). The district court may deny the motion without a complete remand from this court.

Accordingly,

IT IS ORDERED THAT:

(1) The motion to remand is granted to the extent that we grant a limited remand for the purpose of allowing the district court to consider the Rule 60(b) motion. This court otherwise retains jurisdiction over the appeal. If the district court indicates that it is willing to grant the Rule 60(b) motion, then the parties should move in this court to remand the case to the district court.

(2) The motion to revise the official caption is granted. The revised official caption is reflected above.

(3) The briefing schedule is stayed. If no action is taken by the district court within 45 days of the date of filing of this order, the parties should file a status report with this court.

February 15, 2007

Date

/s/ Randall R. Rader

Randall R. Rader

Circuit Judge

cc: George P. McAndrews, Esq.
Robert J. Gunther, Jr., Esq.
United States District Court, Clerk
United States District Court, Judge

s8