

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2007-1095, -1166

F & G RESEARCH, INC.,

Plaintiff-Appellant,

v.

PATEN WIRELESS TECHNOLOGY, INC.,

Defendant-Cross Appellant.

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2007-1206

F & G RESEARCH, INC.,

Plaintiff-Appellant,

v.

PATEN WIRELESS TECHNOLOGY, INC.,

Defendant-Appellee.

ON MOTION

Before BRYSON, Circuit Judge, FRIEDMAN, Senior Circuit Judge, and PROST, Circuit Judge.

PROST, Circuit Judge.

### ORDER

F & G Research, Inc. and Paten Wireless Technology, Inc. each respond to the court's orders concerning whether appeal nos. 2007-1095 and 2007-1166 should be dismissed as premature. Paten moves to dismiss 2007-1095 and 2007-1166. F & G responds. Paten replies.

F & G filed a patent infringement suit against Paten. F & G Research, Inc. v.

Paten Wireless Tech., Inc., No. 06-CV-60292 (S.D. Fla.). Paten did not file an answer and the district court entered a default judgment. Paten filed a notice of appeal directed to the United States Court of Appeals for the Eleventh Circuit, which was later transferred to this court and docketed as 2007-1166. The district court subsequently reinstated the case. F & G filed a petition to reinstate the default judgment. The district court denied the petition on October 27, 2006, and F & G appealed. That appeal was docketed as 2007-1095. On February 14, 2007, the district court determined that it lacked personal jurisdiction over Paten and dismissed the case. F & G appealed, and that appeal was docketed as 2007-1206.

Paten states that it does not wish to pursue its appeal, 2007-1166. F & G opposes but does not sufficiently explain the basis for its opposition. Therefore, we dismiss Paten's appeal, 2007-1166.

F & G's first appeal, 2007-1095, seeks review of the district court's order denying F & G's petition to reinstate the default judgment. Because proceedings were ongoing in the district court at the time F & G filed this appeal, it was filed prematurely and thus is dismissed. See 28 U.S.C. § 1295 (a)(1); 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 under 28 U.S.C. § 1295 (a)(1) and therefore no jurisdiction").

Accordingly,

IT IS ORDERED THAT:

(1) Paten's motion to dismiss 2007-1095 and 2007-1166 is granted.

- (2) Each side shall bear its own costs for 2007-1095 and 2007-1166.
- (3) The revised official caption for 2007-1206 is reflected above.
- (4) F & G's brief in 2007-1206 is due within 30 days of the date of filing of this

order.

FOR THE COURT

April 4, 2007

Date

/s/ Sharon Prost

Sharon Prost  
Circuit Judge

cc: Allen D. Brufsky, Esq.  
Alexander Y. Thomas, Esq.

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ISSUED AS A MANDATE (for 2007-1095 and 2007-1166 only): April 4, 2007