

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-1597

LABORATORY CORPORATION OF AMERICA HOLDINGS
(doing business as LabCorp),

Plaintiff-Appellee,

v.

METABOLITE LABORATORIES, INC.,

Defendant-Appellant.

Appeal from the United States District Court for the District of Colorado in case no. 04-CV-1662, Senior Judge Zita L. Weinshienk.

ON MOTION

Before PROST, Circuit Judge.

ORDER

Laboratory Corporation of America (LabCorp) moves to dismiss for lack of jurisdiction Metabolite Laboratories, Inc.'s appeal from the United States District Court for the District of Colorado's August 15, 2008 final judgment and August 21, 2008 amended judgment. Alternatively, LabCorp moves to transfer this appeal to the United States Court of Appeals for the Tenth Circuit. Metabolite opposes dismissal. LabCorp replies.

We deem it the better course to deny the motion without prejudice to the parties raising the jurisdictional issues in their briefs.

Accordingly,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

FEB 2 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

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

cc: Gregory A. Castanias, Esq.
Glenn K. Beaton, Esq.

FEB 02 2009

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JAN HORBALY
CLERK