

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-1141, -1155

INTERACTIVE HEALTH, LLC (now known as HUMAN TOUCH, LLC)
and DAITO DENKI KOGYU K.K.
(doing business as Daito Electric Machine Industry Company, Ltd.),

Plaintiffs-Appellants,

v.

KING KONG USA, INC., AMERICAN LIGHTING INDUSTRY, INC.,
and BERNARD KOAY,

Defendants-Appellees,

and

WFO IMPORTS LLC,

Defendant-Cross Appellant,

and

BLAIR HAYES,

Defendant-Appellee,

and

HEALTHFIRST LLC,

Defendant.

Appeals from the United States District Court for the Central District of California in case
no. 2:06-CV-1902, Judge Valerie Baker Fairbank.

ON MOTION

Before LINN, Circuit Judge.

ORDER

King Kong USA, Inc. et al. (King Kong) move to dismiss or transfer portions of this appeal to the United States Court of Appeals for the Ninth Circuit. Interactive Health, LLC et al. (Interactive Health) oppose. King Kong replies. King Kong moves for judicial notice of certain documents filed in the United States District Court for the Central District of California in the proceedings underlying these appeals. Interactive Health moves without opposition to reform the caption and to stay briefing pending disposition of the motion to dismiss or transfer. The court considers whether a special briefing schedule is warranted.

With respect to the motion to dismiss, the parties may, if they wish, include arguments concerning this court's jurisdiction in the briefs. With respect to King Kong's motions for judicial notice, documents filed in the district court in this case are part of the record on appeal. Thus, judicial notice is not necessary.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss or transfer is denied.
- (2) The motions for judicial notice are denied as moot.
- (3) The motion to reform the caption is granted. The revised official caption is reflected above.
- (4) The motion to stay briefing pending disposition of the motion to dismiss or transfer is moot.
- (5) Interactive Health's brief is due within 30 days of the date of filing of this order. WFO Imports LLC's principal and response brief, which shall be combined with Blair Hayes' brief, is due within 40 days of the date of service of Interactive Health's

principal brief. King Kong's brief is due within 40 days of the date of service of the combined brief of WFO and Hayes. Interactive Health's response and reply brief is due within 14 days of the date of service of King Kong's brief. WFO's reply brief is due within 14 days of the date of service of Interactive Health's response and reply brief.

FOR THE COURT

APR 14 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

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

cc: David A. Dillard, Esq.
Leslie F. Vandale, Esq.
Peter J. Korneffel, Jr., Esq.

APR 14 2009

**JAN HORBALY
CLERK**

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