

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-1258

VANDERBILT UNIVERSITY,

Plaintiff-Appellant,

v.

ICOS CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court for the District of Delaware
in case no. 05-CV-506, Judge Sue L. Robinson.

ON MOTION

Before MAYER, Circuit Judge.

ORDER

ICOS Corporation submits correspondence that the court treats as a motion to correct the due date for the filing of ICOS's brief.

ICOS states that the 40-day period for the filing of its brief ended on Saturday, June 27. Because Fed. R. App. P. 26(a)(3) provides that the last day of a period for filing is included unless it is a weekend or holiday, ICOS argues that the period for filing its brief ended on Monday, June 29. ICOS states that Vanderbilt University did not serve its brief by hand delivery and thus, pursuant to Fed. R. App. P. 26(c), three additional days should have been added, making ICOS's brief due on Thursday, July 2.

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is granted. ICOS's brief was due on July 2 and thus is timely.

FOR THE COURT

JUL 29 2009

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Robert S. Brennen, Esq.
Kevin M. Flowers, Esq.

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

JUL 29 2009

**JAN HORBALY
CLERK**