

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-1484
(Opposition No. 91169175)

ROHIT PRAKASH,

Appellant,

v.

MAX ROHR, INC.,

Appellee.

Appeal from the United States Patent and Trademark Office,
Trademark Trial and Appeal Board.

ON MOTION

Before RADER, CLEVINGER, and DYK, Circuit Judges.

PER CURIAM.

ORDER

Max Rohr, Inc. moves to dismiss Rohit Prakash's appeal. Prakash opposes. Max Rohr replies.

Prakash appeals the Trademark Trial and Appeal Board's May 8, 2009 decision that, inter alia, denied his request for leave to amend his pleadings. In the May 8 order, the Board further indicated that there were genuine issues of material fact that required a trial and set forth deadlines for further proceedings.

Max Rohr argues that the May 8 decision was not a final, appealable decision pursuant to our decision in Copelands Enter., Inc. v. CNV, Inc., 887 F.2d 1064 (Fed. Cir.

1989) (en banc). Prakash argues that Copelands "is **irrelevant** because the leave to amend pleadings was not denied" (emphasis in original).

In Copelands, the court ruled that it would review decisions of the Trademark Trial and Appeal Board only if the decision "put an end to the litigation before the Board." In this case, the May 8 decision did not put an end to litigation before the Board and thus Prakash's appeal is premature. Prakash has not shown that the fact that Copelands did not involve the denial of a motion for leave to amend pleadings merits a different result in this case. Prakash's argument that his appeal is proper pursuant to Fed. R. Civ. P. 54(b) or 28 U.S.C. § 1292(b) is unavailing as those provisions apply to district court cases and not proceedings before the Trademark Trial and Appeal Board. Thus, the appeal is dismissed.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) Each side shall bear its own costs.

FOR THE COURT

NOV 09 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Rohit Prakash
Charles W. Grimes, Esq.

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ISSUED AS A MANDATE: _____

NOV 09 2009

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

NOV 09 2009

**JAN HORBALY
CLERK**