

NOTE: This order is nonprecedential

**United States Court of Appeals
for the Federal Circuit**

B-K LIGHTING, INC.,
Plaintiff-Appellant,

v.

FRESNO VALVES & CASTINGS, INC.,
Defendant-Appellee.

2010-1135

Appeal from the United States District Court for the
Central District of California in case no. 06-CV-2825,
Judge Margaret M. Morrow.

ON MOTION

Before NEWMAN, SCHALL, and PROST, *Circuit Judges.*
NEWMAN, *Circuit Judge.*

O R D E R

B-K Lighting, Inc. (B-K) moves without opposition to vacate the order of the United States District Court for the Central District of California that granted the motion of Fresno Valves & Castings, Inc. (Fresno Valves) for

attorney fees, and to remand the matter for further proceedings.

In the order underlying this appeal, the district court awarded Fresno Valves attorney fees pursuant to 28 U.S.C. § 285 on the basis that it was the prevailing party below. We stayed proceedings in this appeal pending disposition of No. 2008-1537, B-K's earlier appeal from the district court's order granting summary judgment on the merits.

On April 28, 2010, this court issued its decision in the earlier appeal, vacating the district court's grant of summary judgment with respect to some of the asserted patent claims and remanding to the district court for further proceedings. So that the district court may have the opportunity to consider the appropriateness of attorney fees in light of these subsequent developments, we vacate the court's order awarding attorney fees and remand the case for further proceedings as may be appropriate.

Upon consideration thereof,

IT IS ORDERED THAT:

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

FOR THE COURT

JUL 02 2010

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

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

JUL 02 2010

JAN HORBALY
CLERK

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cc: Steven E. Shapiro, Esq.
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ISSUED AS A MANDATE: JUL 02 2010