NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

PRESIDIO COMPONENTS, INC.,
Plaintiff-Cross Appellant,

v.

AMERICAN TECHNICAL CERAMICS CORP.,
Defendant-Appellant.

2010-1355, 2011-1089

Appeals from the United States District Court for the Southern District of California in case no. 08-CV-0335, Chief Judge Irma E. Gonzalez.

ON MOTION

Before LINN, *Circuit Judge.*

ORDER

American Technical Ceramics Corp. moves without opposition to stay the briefing schedule in 2010-1355 pending proceedings before the United States District Court for the Southern District of California and "entry of a comprehensive final judgment." American Technical also moves for an extension of time. American Technical

and Presidio Components, Inc. each respond to the court's order concerning whether 2010-1355 was premature.

American Technical's first notice of appeal, filed on May 10, 2010, indicates that American Technical sought review of the district court's April 13, 2010 order denying in part its motions for judgment as a matter of law and/or for a new trial. American Technical states that this order is considered an entry of judgment under Fed. R. Civ. P. 58 and that "[t]his order resolved all motions which were pending at that time. Thus, this appeal is not premature." American Technical asserts that for its appeal to be timely it was required to be filed within 30 days of entry of the order. American Technical concedes, however, that the case is "still active in the trial court and . . . may generate further appealable issues." Thus, American Technical requests that the court stay briefing in this case "until all other issues are resolved" in the district court. Presidio states that it believes the appeal is premature because "there are outstanding issues presently before, and awaiting final decision by, the trial court." We agree that the first appeal filed before entry of final judgment was premature.

On October 26, 2010, the district court entered judgment. On November 24, 2010, American Technical filed an "amended" notice of appeal seeking review of, inter alia, the final judgment. We treat this as a timely appeal of the judgment and leave it docketed under the appeal number assigned to American Technical's first appeal, 2010-1355. Presidio Components also filed a timely cross-appeal. Thus, we consolidate the appeals and resume the briefing schedule.

Accordingly,

IT IS ORDERED THAT:

(1) The stay of the briefing schedule is lifted. The motion to stay the briefing schedule and the motion for an extension of time are moot. The appellant's opening brief is due within 60 days of the date of filing of this order.

(2) The appeals are consolidated. The revised official caption is reflected above.

FOR THE COURT

JAN 31 2011
Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

cc: Brett A. Schatz, Esq.
Marvin S. Gittes, Esq.

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

JAN 31 2011

JAN HORBALY
CLERK