

NOTE: This order is nonprecedential.

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

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**ABBOTT GMBH & CO. KG,**  
*Petitioner-Appellee,*

v.

**YEDA RESEARCH AND DEVELOPMENT CO., LTD.,**  
*Defendant-Appellant.*

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2010-1444

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Appeal from the United States District Court for the  
District of Columbia in 00-CV-1720, Judge Ricardo M.  
Urbina.

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**ON MOTION**

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Before PROST, MAYER, and MOORE, *Circuit Judges.*  
MOORE, *Circuit Judge.*

**ORDER**

Abbott GmbH & Co., KG moves to dismiss Yeda Research and Development Co., Ltd.'s appeal for failure to prosecute and for lack of jurisdiction. Yeda opposes in

part. Yeda moves to withdraw its appeal without prejudice. Abbott opposes. Yeda replies.

Yeda failed to file its brief by the brief due date. Yeda does not contest that it did not file a brief. Yeda also agrees that its notice of appeal should be dismissed because it seeks review of a nonfinal order of the United States District Court for the District of Columbia. Yeda requests that this court designate any dismissal as being without prejudice "in an abundance of caution." This court does not ordinarily designate appeals as being dismissed with or without prejudice. We see no reason to do so here.

Accordingly,

IT IS ORDERED THAT:

- (1) Yeda's motion is granted. The appeal is dismissed.
- (2) Each side shall bear its own costs.
- (3) All other pending motions are denied as moot.

FOR THE COURT

MAR 04 2011

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: James R. Ferguson, Esq.  
Roger L. Browdy, Esq.

Issued As A Mandate: MAR 04 2011

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

**MAR 04 2011**

**JAN HORBALY  
CLERK**