

NOTE: This order is nonprecedential.

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

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**MARSHALL PATENT HOLDINGS, LLC,**  
*Plaintiff-Appellant,*

v.

**U.S. SOUTH COMMUNICATIONS, INC.,**  
*Defendant-Appellee.*

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2011-1011

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Appeal from the United States District Court for the Eastern District of Texas in case no. 08-CV-0222, Judge Leonard Davis.

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**ON MOTION**

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Before GAJARSA, *Chief Judge.*

**ORDER**

Marshall Patent Holdings, LLC (Marshall) moves for leave to include additional materials in the joint appendix and extension of time to file the joint appendix. U.S. South Communications, Inc. opposes. Marshall replies.

Rule 10(a) of the Rules Federal Rules of Appellate Procedure provides that the record on appeal is generally

limited to the original papers and exhibits filed in the district court. *See also Wegner Mfg., Inc. v. Coating Mach. Sys., Inc.*, 239 F.3d 1225, 1236, n. 2 (Fed. Cir. 2001) (refusing to consider a reference that was not evidence before the district court and not part of the record on appeal). Although the Rules of Evidence authorize judicial notice of certain facts outside of the record, the court is not persuaded that such action is warranted here.

Accordingly,

IT IS ORDERED THAT:

(1) The motion for leave to include additional materials in the joint appendix is denied.

(2) The joint appendix shall be filed within 14 days from the date of filing of this order.

(3) Marshall's motion for an extension of time to file the joint appendix is now moot.

FOR THE COURT

JUN 01 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Michael P. Mazza, Esq.  
Robin L. McGrath, Esq.

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

JUN 01 2011

**JAN HORBALY**  
**CLERK**