

NOTE: This order is nonprecedential.

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

ROBERT BOSCH LLC,
Plaintiff-Appellant,

v.

PYLON MANUFACTURING CORP.,
Defendant-Cross Appellant.

2011-1363, -1364

Appeals from the United States District Court for the District of Delaware in case no. 08-CV-0542, Judge Sue L. Robinson.

ON MOTION

Before PROST, *Circuit Judge.*

O R D E R

Robert Bosch LLC moves for reconsideration of this court's denial of Bosch's motion to dismiss the appeals. Pylon Manufacturing Corp. opposes. Bosch replies.

On August 1, 2011, this court denied Bosch's motion to dismiss the appeals for lack of jurisdiction. That order explained that this court has jurisdiction under 28 U.S.C.

§ 1292(c)(2) when the underlying case is final except for an accounting.

Bosch's motion urges the court to draw a distinction between an "accounting" under 28 U.S.C. § 1292(c)(2) and a "jury trial... on the issues of damages and willfulness." Such a distinction, however, is inconsistent with this court's precedent. Section 1292(c)(2) does not divest the district court of jurisdiction to proceed with a damages trial. As this court has stated, the purpose of § 1292(c)(2) "allowing interlocutory appeals in patent cases was to permit a stay of a damages trial." *In re Calmar, Inc.*, 854 F.2d 461, 464 (Fed. Cir. 1988). In fact, "this court has repeatedly denied, in unpublished opinions, motions to stay damages trials during appeals in patent cases." *Id.*

Accordingly,

IT IS ORDERED THAT:

The motion for reconsideration is denied.

FOR THE COURT

OCT 24 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Mark A. Pals, Esq.
Mark A. Hannemann, Esq.

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

OCT 24 2011

JAN HORBALY
CLERK