

NOTE: This order is nonprecedential.

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

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**ANVIK CORPORATION,**  
*Plaintiff-Respondent,*

v.

**SHARP CORPORATION AND  
SHARP ELECTRONICS CORPORATION,**  
*Defendants-Petitioners.*

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Miscellaneous Docket No. 965

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On petition for Permission to Appeal pursuant to 28 U.S.C. 1292(b) from the United States District Court for the Southern District of New York in case no. 07-CV-0825, Judge Stephen C. Robinson.

ON PETITION

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

**O R D E R**

Sharp Corporation and Sharp Electronics Corporation (Sharp) petition for permission to appeal the order certified by the United States District Court for the Southern

District of New York in *Anvik Corp. v. Sharp Corp.*, No. 1:07-CV-0825, as one involving a controlling question of law as to which there is substantial ground for difference of opinion and for which an immediate appeal may materially advance the ultimate termination of the litigation. 28 U.S.C. §§ 1292(b) and (c). Nikon Corporation moves for leave to file a brief amicus curiae in support of the petition. Anvik opposes. Nikon replies.

Anvik filed lawsuits alleging patent infringement under 35 U.S.C. § 271(g) against Nikon and eleven of Nikon's customers, including Sharp, related to the use of Nikon's scanning lithography equipment. Sharp filed a motion for summary judgment asserting inter alia, that because Anvik's asserted patent claims are method of use, as opposed to method of manufacturing claims, these claims cannot serve as a basis of liability under section 271(g). In an order dated August 11, 2010, the district court denied the motion. The district court also denied Sharp's motion for reconsideration, but certified the August 11 order for interlocutory appeal.

The decision whether to grant a petition for permission to appeal is within this court's discretion. *See In re Convertible Rowing Exerciser Patent Litigation*, 903 F.2d 822 (Fed. Cir. 1990). In this case, we conclude that interlocutory appeal is not warranted.

Accordingly,

IT IS ORDERED THAT:

- (1) The petition for permission to appeal is denied.
- (2) Nikon's motion for leave to file a brief amicus curiae is denied.

FOR THE COURT

JUL 8 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Christopher Chad Johnson, Esq.  
Robert W. Adams, Esq.  
Matthew M. D'Amore, Esq.

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

JUL 08 2011

JAN HORBALY  
CLERK