

NOTE: This order is nonprecedential.

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

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**EVERYMD,**  
*Plaintiff-Appellant,*

v.

**RICK SANTORUM, MITT ROMNEY, AND NEWT  
GINGRICH,**  
*Defendants-Appellees,*

AND

**GOLDMAN, SACHS, & CO. AND JPMORGAN CHASE  
BANK, N.A.,**  
*Defendants-Appellees,*

AND

**YAHOO, INC., AOL, INC., MICROSOFT, INC., AND  
GOOGLE, INC.,**  
*Defendants-Appellees,*

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2012-1491

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Appeal from the United States District Court for the  
Central District of California in case no. 12-CV-1623,  
Judge Mariana R. Pfaelzer.

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**O R D E R**

The court considers whether this appeal should be dismissed for lack of jurisdiction.

EveryMD appears to be appealing from an order of the United States District Court for the Central District of California staying proceedings in this patent infringement action pending inter partes reexamination of the patent-in-suit.

Ordinarily, only a final decision of a district court may be appealed, i.e., one that “ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.” *Catlin v. United States*, 324 U.S. 229, 233 (1945); see 28 U.S.C. §§ 1291, 1295(a); see also *Spread Spectrum Screening LLC v. Eastman Kodak Co.*, 657 F.3d 1349 (Fed. Cir. 2011) (stay of patent infringement suit pending reexamination proceedings not a final judgment and not appealable); *Gould v. Control Laser Corp.*, 705 F.2d 1340, 1341-42 (Fed. Cir. 1983) (because a stay pending reexamination normally does not foreclose review on the merits by a federal court such orders are only appealable if the stay “effectively disposes of the district court action.”). Based only on our review, it appears that the district court’s stay order may not be appealable at this time.

Accordingly,

IT IS ORDERED THAT:

- (1) The parties are directed to respond within 21 days from the date of filing of this order concerning whether this petition should be dismissed.
- (2) The briefing schedule is stayed.

FOR THE COURT

AUG 08 2012

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Frank Michael Weyer, Esq.  
John N. Zarian, Esq  
Edward Daniel Robinson, Esq.  
Stefani E. Shanberg, Esq.

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

**AUG 08 2012**

**JAN HORBALY**  
**CLERK**