

NOTE: This order is nonprecedential.

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

In re: PIETRO PASQUALE ANTONIO SGROMO,
Petitioner

2020-107

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of Texas in No. 2:19-cv-00060-JRG-RSP, Judge J. Rodney Gilstrap.

ON PETITION

PER CURIAM.

O R D E R

Pietro Pasquale Antonio Sgromo petitions for a writ of mandamus to compel the United States District Court for the Eastern District of Texas to reverse its dismissal of the case and grant injunctive and other relief.

Mr. Sgromo filed a complaint in the district court, alleging, inter alia, infringement of two patents and one trademark. On September 25, 2019, the district court entered judgment dismissing the case. On October 23, 2019, Mr. Sgromo filed this petition in the district court.

Mandamus is not available to Mr. Sgromo because he could have obtained review of the district court's decision

through direct appeal. *See In re Pollitz*, 206 U.S. 323, 331 (1907) (“[M]andamus cannot . . . be used to perform the office of an appeal.”). However, we may construe a petition as a notice of appeal if filed within the filing deadline. Those are the circumstances here. We therefore construe the petition as a timely notice of appeal and direct the clerk to docket the appeal in the usual course.

Accordingly,

IT IS ORDERED THAT:

The petition for writ of mandamus is denied because the matter is treated as a timely notice of appeal. The clerk is directed to docket the case as an appeal.

FOR THE COURT

January 31, 2020
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court