

NOTE: This order is nonprecedential.

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

RES DEVELOPMENT CORPORATION,
Plaintiff-Appellant,

v.

MOMENTIVE PERFORMANCE MATERIALS, INC.,
Defendant-Appellee.

2013-1008

Appeal from the United States District Court for the Middle District of Florida in No. 09-CV-0491, Judge Timothy J. Corrigan.

ON MOTION

Before DYK, PROST and O'MALLEY, *Circuit Judges.*
PROST, *Circuit Judge.*

O R D E R

The parties jointly move to remand this case to the United States District Court for the Middle District of Florida.

RES Development Corporation appeals from the district court's grant of summary judgment that the patent

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PERFORMANCE MATERIAL

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in suit was invalid. The parties state that they have now settled the case and requested an indicative ruling from the district court, pursuant to Fed. R. Civ. P. 62.1, whether the district court would defer, deny, or grant a motion to vacate the underlying judgment if the case were remanded. The district court indicated pursuant to Rule 62.1(a)(3) that it would grant the motion.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The motion is granted. The case is remanded to the district court for further proceedings as may be appropriate.
- (2) Each side shall bear its own costs.

FOR THE COURT

/s/ Daniel E. O'Toole
Daniel E. O'Toole
Clerk

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ISSUED AS A MANDATE: July 18, 2013