NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

IN RE ORACLE CORPORATION, *Petitioner.*

2010-M935

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of Texas in case no. 08-CV-371, Judge T. John Ward.

ON PETITION FOR WRIT OF MANDAMUS

Before RADER, FRIEDMAN, and GAJARSA, *Circuit Judges.*

GAJARSA, *Circuit Judge.*

ORDER

Oracle Corporation (Oracle) petitions for a writ of mandamus to direct the United States District Court for the Eastern District of Texas to vacate its December 8, 2009 order denying Oracle's motion to transfer venue, and to direct the Texas district court to transfer the case to the United States District Court for the Northern District of California. Financial Systems Technology (Intell. Property) Pty. Ltd. et al. (FST) oppose. Oracle replies.

On December 9, 2009, a Magistrate Judge of the District Court for the Eastern District of Texas denied Oracle's motion to transfer pursuant to 28 U.S.C. § 1404(a). Pursuant to Rule 72 of the Federal Rules of Civil Procedure, Oracle moved the district court for reconsideration of the Magistrate Judge's order. Oracle filed this petition for a writ of mandamus before the district court issued a decision on the matter. It would be inappropriate for this court to consider the matter while it remains pending before the district court. We deny Oracle's petition for a writ of mandamus without prejudice to refiling.

Accordingly,

IT IS ORDERED THAT:

The petition is denied without prejudice.

FOR THE COURT

MAY 1 9 2010

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Elizabeth A. Howard, Esq.
Scott L. Cole, Esq.
Clerk, United States District Court for the Eastern District of Texas

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