

NOTE: This order is nonprecedential.

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

SETH ABRAHAMS,
Plaintiff-Appellant,

v.

HARD DRIVE PRODUCTIONS, INC.,
Defendant-Appellee.

2013-1126

Appeal from the United States District Court for the Northern District of California in case no. 12-CV-1006, Magistrate Judge Joseph C. Spero.

Before PROST, MOORE and O'MALLEY, *Circuit Judges.*

MOORE, *Circuit Judge.*

O R D E R

The court considers whether this appeal should be transferred to the United States Court of Appeals for the Ninth Circuit.

Seth Abrahams filed a notice of appeal in the United States District Court for the Northern District of California, requesting review by the United States Court of Ap-

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peals for the Ninth Circuit of a judgment dismissing his claim seeking declaratory relief for copyright infringement against Hard Drive Productions, Inc. for lack of subject matter jurisdiction.

The district court clerk's office transmitted the notice of appeal to this court. Fed. R. App. P. 3(d)(1) states that the clerk of the district court "must promptly send a copy of the notice of appeal and of the docket entries ... to the clerk of the court of appeals named in the notice." Because of the mandatory language of Rule 3(d)(1), we must transfer this appeal to the Ninth Circuit, i.e., the clerk of the district court was required to send the notice of appeal to that court.

Accordingly,

IT IS ORDERED THAT:

The appeal is transferred pursuant to 28 U.S.C. § 1631 to the United States Court of Appeals for the Ninth Circuit.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

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