

NOTE: This order is nonprecedential.

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

XMTT, INC.,
Plaintiff-Appellant

v.

INTEL CORPORATION,
Defendant-Appellee

2023-1712

Appeal from the United States District Court for the District of Delaware in No. 1:18-cv-01810-MFK, Judge Matthew F. Kennelly.

SUA SPONTE

PER CURIAM.

O R D E R

On November 13, 2024, we entered an Order directing the parties to address whether there is an appealable judgment in this case. ECF No. 45. The parties have responded. ECF No. 46.

Having considered the parties' joint response, we deem the most appropriate course to be to dismiss the appeal to allow the district court to enter an order that dismisses

outstanding counterclaims without prejudice to reinstatement if the judgment dated and entered February 22, 2023 (District Court Docket No. 398) is disturbed on appeal.

Accordingly,

IT IS ORDERED THAT:

(1) This appeal is dismissed for lack of jurisdiction, but this court will reinstate the appeal under the same docket number without the payment of an additional filing fee if, no later than November 25, 2024, XMTT appeals from the entry of an appealable order entered by the district court.

(2) If the appeal is reinstated, it will be decided by this court based on the briefs already filed and the oral argument scheduled for December 3, 2024.

(3) Each side shall bear its own costs.

(4) The mandate shall issue forthwith.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

November 21, 2024
Date