

NOTE: This order is nonprecedential.

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

CORE OPTICAL TECHNOLOGIES, LLC,
Plaintiff-Respondent

v.

JUNIPER NETWORKS, INC.,
Defendant-Petitioner

2022-120

On Petition for Permission to Appeal pursuant to 28 U.S.C. Section 1292(b) from the United States District Court for the Northern District of California in No. 3:21-cv-02428-VC, Judge Vince Chhabria.

ON PETITION

Before PROST, REYNA and CUNNINGHAM, *Circuit Judges*.
CUNNINGHAM, *Circuit Judge*.

O R D E R

Juniper Networks, Inc. petitions for permission to appeal from an interlocutory order of the United States District Court for the Northern District of California denying Juniper's motion to dismiss, which the district court

2 CORE OPTICAL TECHNOLOGIES, LLC v. JUNIPER NETWORKS, INC.

certified pursuant to 28 U.S.C. § 1292(b). Core Optical Technologies, LLC opposes the petition.

Under § 1292(b), a district court may certify that an order that is not otherwise appealable is one involving a controlling question of law as to which there is substantial ground for difference of opinion and for which an immediate appeal may materially advance the ultimate termination of the litigation. Ultimately, this court must exercise its own discretion in deciding whether to grant permission to appeal an interlocutory order. *See In re Convertible Rowing Exerciser Pat. Litig.*, 903 F.2d 822, 822 (Fed. Cir. 1990). In this case, we conclude that we should not permit an interlocutory appeal.

Accordingly,

IT IS ORDERED THAT:

The petition for permission to appeal is denied.

FOR THE COURT

April 5, 2022
Date

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