

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BINYAM MOHAMED; ABOU ELKASSIM
BRITEL; AHMED AGIZA; MOHAMED
FARAG AHMAD BASHMILAH; BISHER
AL-RAWI,

Plaintiffs-Appellants,

v.

JEPPESEN DATAPLAN, INC.,

Defendant-Appellee,

UNITED STATES OF AMERICA,

Intervenor-Appellee.

No. 08-15693
D.C. No.
5:07-CV-02798-JW
ORDER

Filed October 27, 2009

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judges Reinhardt, McKeown, Gould, Bybee, Milan D. Smith, Jr. and Ikuta did not participate in the deliberations or vote in this case.

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