

NOTE: This order is nonprecedential.

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

2010-1072, -1089

MM&R PRODUCTS, INC. and TRE MILANO, LLC,

Plaintiffs-Cross Appellants,

v.

STITCH N' GENIUS, INC., ELIAS AMKIE, and DOES 1-10, INCLUSIVE,

Defendants-Appellants.

Appeal from the United States District Court for the Central District of California  
in case no. 09-CV-4082, Judge Valerie Baker Fairbank.

### **ORDER**

Upon review of Stitch N' Genius, Inc. et al.'s (Stitch) recently docketed notice of appeal, the court considers whether the parties should be directed to show cause why this appeal and cross-appeal of an order of the United States District Court for the Central District of California should not be dismissed.

On November 6, 2009, Stitch filed a notice of appeal seeking review of the district court's September 18, 2009 order granting in part the MM&R Products, Inc. and Tre Milano, LLC's (MM&R) motion to strike and dismiss Stitch's counterclaims and granting a request for attorney fees. MM&R filed a protective cross-appeal. It appears that there are still claims pending before the district court and that the district court has not entered final judgment. Thus, the appeal and cross-appeal may be premature.

Accordingly,

IT IS ORDERED THAT:

(1) The parties are directed to respond within 21 days of the date of filing of this order why this appeal and cross-appeal should not be dismissed as premature.

(2) The briefing schedule is stayed.

FOR THE COURT

DEC 11 2009

\_\_\_\_\_  
Date

\_\_\_\_\_  
/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Jeffrey G. Sheldon, Esq.  
Robert E. Lyon, Esq.

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**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

DEC 11 2009

JAN HORBALY  
CLERK