

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-1143

JUNIPER NETWORKS, INC.,

Plaintiff-Appellee,

v.

GRAPHON CORPORATION and
VERTICAL MARKETING, INC.,

Defendants-Appellants.

Appeals from the United States District Court for the Eastern District of
Virginia in case no. 09-CV-0287, Judge Gerald Bruce Lee.

ON MOTION

Before BRYSON, Circuit Judge.

ORDER

GraphOn Corporation and Vertical Marketing, Inc. (GraphOn) move for judicial notice of "certain facts and occurrences" in submitted documents. Juniper Networks, Inc. opposes. GraphOn replies.

With regard to the documents submitted as Exhibits 1 and 2 to GraphOn's motion, we agree with Juniper that judicial notice is not appropriate. Because GraphOn cites to those documents in its brief, the court determines GraphOn must file a new opening brief that does not discuss or cite to the documents. Judicial notice of the papers filed in Misc. Docket No. 919 is appropriate.

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted in part to allow GraphOn to cite to papers filed in Misc. Docket No. 919 and is denied in part with regard to Exhibit 1 and Exhibit 2.

(2) The previously filed briefs are rejected. GraphOn is directed to file a corrected opening brief within 21 days of the date of filing of this order that does not reference the documents attached to its motion as Exhibit 1 and Exhibit 2. The due date for Juniper's brief should be calculated from the date of filing of GraphOn's corrected brief.

FOR THE COURT

APR 02 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Richard L. Rainey, Esq.
Michael D. Rounds, Esq.

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

APR 02 2010

JAN HORBALY
CLERK