

NOTE: This order is nonprecedential.

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

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**RCN TELEVISION, S.A.,**  
*Appellant,*

v.

**RCN TELECOM SERVICES, INC.,**  
*Appellee.*

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2011-1112  
(Cancellation Nos. 92051509 and 92052167)

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Appeal from the United States Patent and Trademark  
Office, Trademark Trial and Appeal Board.

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**ON MOTION**

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Before RADER, *Chief Judge*, NEWMAN and BRYSON, *Circuit  
Judges.*

BRYSON, *Circuit Judge.*

**O R D E R**

RCN Telecom Services, LLC (RCN Telecom) moves to  
dismiss RCN Television, S.A. (RCN Television)'s appeal  
from the Trademark Trial and Appeal Board (TTAB) as

premature and moves for sanctions. RCN Television moves for an extension of time to file its opposition, and opposes. RCN Telecom replies.

RCN Television appeals the TTAB's August 26, 2010 decision that, *inter alia*, dismissed claims to cancel eighteen registered trademarks of RCN Telecom due to allegations of fraud. The Board has not disposed of the portion of RCN Television's petition for cancellation that asserts fifteen of those trademarks should be canceled pursuant to Section 2(d) of the Lanham Act.

RCN Telecom contends that the August 26, 2010 decision is not a final, appealable decision pursuant to this court's decision in *Copelands' Enter., Inc. v. CNV, Inc.*, 887 F.2d 1065 (Fed. Cir. 1989) (*en banc*). We agree. In *Copelands*, this court held that it would review decisions of the TTAB only if the decision "put an end to the litigation before the Board." 887 F.2d at 1068. Thus, a party dissatisfied with a TTAB determination "must await and raise all claims of error in a single appeal." *Id.* Because RCN Television prematurely seeks to appeal from a TTAB decision that does not put an end to the litigation before the Board, we grant RCN Telecom's motion. RCN Telecom may appeal these issues after the Board rules on all claims.

Accordingly,

IT IS ORDERED THAT:

- (1) RCN Television's motion for an extension of time is granted.
- (2) RCN Telecom's motion to dismiss is granted.
- (3) RCN Telecom's motion for sanctions is denied.

(4) Each side shall bear its own costs.

FOR THE COURT

APR 06 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Gary H. Fechter, Esq.  
Kevin Mark Flannery, Esq.

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

APR 06 2011

**JAN HORBALY**  
**CLERK**