

NOTE: This order is nonprecedential.

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

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**ST. JUDE MEDICAL, CARDIOLOGY DIVISION,  
INC., ST. JUDE MEDICAL SYSTEMS AB, FKA Radi  
Medical Systems AB, AND ST. JUDE MEDICAL S.C.,  
INC.,**  
*Plaintiffs-Appellants,*

v.

**VOLCANO CORPORATION,**  
*Defendant-Appellee.*

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2013-1681

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Appeal from the United States District Court for the  
District of Delaware in No. 1:10-CV-00631-RGA-MPT,  
Judge Richard G. Andrews.

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**ON MOTION**

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Before RADER, *Chief Judge*, and LOURIE and TARANTO,  
*Circuit Judges.*

RADER, *Chief Judge.*

**O R D E R**

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St. Jude Medical, Cardiology Division, Inc., et al., (“St. Jude”) move for deactivation of this appeal pending an upcoming district court trial. Volcano Corporation responds and argues that the appeal should be dismissed. St. Jude replies.

Some but not all patents at issue in this case have been adjudicated. St. Jude candidly states that “[t]he district court has not entered a final judgment in the case under Federal Rule of Civil Procedure 54(b) or otherwise.” St. Jude's defense of unenforceability concerning one of the patents at issue has not been resolved. Thus, the proper course of action is to dismiss this premature appeal. St. Jude may file a notice of appeal after the district court enters an appealable judgment.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motion to deactivate the appeal is denied. The appeal is dismissed.

(2) Each side shall bear its own costs.

FOR THE COURT

s/ Daniel E. O’Toole  
Daniel E. O’Toole  
Clerk of Court

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