

NOTE: This order is nonprecedential.

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

SOP SERVICES, INC. AND BEAR ARCHERY, INC.,
Plaintiffs-Appellees,

v.

VITAL HUNTING GEAR, INC.,
Defendant,

AND

ABBAS BEN AFSHARI,
Defendant-Appellant,

AND

JACK BOWMAN AND ESCALADE INCORPORATED,
Defendants.

2014-1309

Appeal from the United States District Court for the
Southern District of Indiana in No. 3:11-cv-00112-RLY-
WGH, Judge Richard L. Young.

ON MOTION

Before LOURIE, DYK, and REYNA, *Circuit Judges*.

PER CURIAM.

ORDER

Abbas Ben Afshari seeks interlocutory review of an order of the United States District Court for the Southern District of Indiana, partially resolving some of the claims at issue in the case. Because the appeal is premature, we grant SOP Services, Inc. and Bear Archery, Inc.'s (collectively, "Bear Archery") motion to dismiss.

In response to Bear Archery's suit against Vital Hunting Gear, Inc. and its owner Abbas Ben Afshari for, *inter alia*, patent and trademark infringement, Afshari counterclaimed for infringement of his own patent. After the district court disposed of the parties' motions for summary judgment on January 24, 2014, what appears to remain for trial, currently set for September 2014, are the induced patent infringement claim and trademark infringement claim against Afshari. Afshari appeals.

Section 1295(a)(1) of Title 28 authorizes this court to review "a final decision" of a district court in a patent infringement case, *i.e.*, those that "end[] the litigation on the merits and leave[] nothing for the court to do but execute the judgment." *Catlin v. United States*, 324 U.S. 229, 233 (1945). A decision disposing of some claims on summary judgment in a multi-claim litigation does not constitute a final judgment unless Fed. R. Civ. P. 54(b)'s requirements are met. The district court did not direct entry of judgment under Rule 54(b). Thus, Afshari's notice of appeal is clearly premature.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted.
- (2) Each side shall bear its own costs.

SOP SERVICES, INC. v. VITAL HUNTING GEAR, INC.

3

FOR THE COURT

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

s19

ISSUED AS A MANDATE: April 24, 2014