

FILED

UNITED STATES COURT OF APPEALS

MAY 09 2012

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ORACLE CORPORATION, a Delaware
corporation; et al.,

Plaintiffs - Appellees,

v.

TERRY M. MYERS,

Intervenor - Appellant,

v.

SAP AG, a German corporation; et al.,

Defendants - Appellees.

No. 12-15482

D.C. No. 4:07-cv-01658-PJH
Northern District of California,
Oakland

ORDER

Before: THOMAS and CALLAHAN, Circuit Judges.

Appellant's March 30, 2012 amended notice of appeal and appellant's April 16, 2012 motion to reopen are construed as motions for reconsideration of this court's March 28, 2012 order limiting the scope of this appeal to review of the January 12, 2012 order. So construed, the motions are denied.

Appellant's motion to proceed in forma pauperis is denied because we find that the appeal is frivolous. Within 21 days after the date of this order, appellant

SM/Pro Se

shall pay \$455.00 to the district court as the docketing and filing fees for this appeal and file proof of payment with this court. Failure to pay the fees will result in the automatic dismissal of the appeal by the Clerk for failure to prosecute, regardless of further filings. *See* 9th Cir. R. 42-1.

No motions for reconsideration, clarification, or modification of the denial of appellant's in forma pauperis status shall be filed or entertained.

If appellant pays the fees as required and files proof of such payment in this court, appellant shall simultaneously show cause why the order challenged in this appeal should not be summarily affirmed. *See* 9th Cir. R. 3-6. If appellant elects to show cause, a response may be filed within 10 days after service of appellant's filing. If appellant pays the fees but fails to file a response to this order, the court will determine whether to summarily affirm the order in this appeal based on the appellant's March 30, 2012 and April 16, 2012 responses to this court's March 28, 2012 order.

If the appeal is dismissed for failure to comply with this order, the Clerk shall not file or entertain any motion to reinstate the appeal that is not accompanied by proof of payment of the docketing and filing fees.

Appellant's April 16, 2012 motion for sanctions and April 26, 2012 motion

for leave to file motion to reopen time to appeal are denied.

Briefing is suspended pending further order of this court.