

## United States District Court

For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

MSHIFT, INC., a Delaware corporation,

Plaintiff,

v.

No. C 10-00710 WHA

DIGITAL INSIGHT CORPORATION, a Delaware corporation, COMMUNITY TRUST FINANCIAL CORPORATION, a Louisiana corporation, and COMMUNITY TRUST BANK, a Louisiana corporation, MOBILE MONEY VENTURES, LLC, a Delaware Limited Liability corporation, MERITRUST CREDIT UNION, a Kansas corporation, PROFESSIONAL FEDERAL CREDIT UNION, an Indiana corporation, SANFORD INSTITUTION FOR SAVINGS, a Maine corporation, FORT WORTH COMMUNITY CREDIT UNION, a Texas corporation, USE CREDIT UNION, a California corporation, GATE CITY BANK, A Minnesota corporation, BUSEY BANK, an Illinois corporation, DENSON STATE BANK, a Kansas corporation, FIDELITY BANK, a Massachusetts corporation, FIRST INTERNET BANK OF INDIANA, an Indiana corporation, and VISION BANK, a Florida corporation,

Defendants,

and SK C&amp;C CO., LTD.,

Defendant-Intervenor.

AND RELATED COUNTERCLAIMS AND  
COUNTERCLAIMS-IN-REPLY.


**ORDER DISMISSING  
WITHOUT PREJUDICE  
AND REMITTING ALL  
REMAINING STATE  
LAW CLAIMS TO  
STATE COURT**

1 The undersigned judge has reviewed the parties' responses to the order to show cause why  
2 the remaining state law claims should not be dismissed without prejudice and remitted to state  
3 court. Both sides agree that the undersigned judge has discretion to remit the remaining claims to  
4 state court pursuant to 28 U.S.C. 1367(c)(3) now that all federal claims and counterclaims have  
5 been either resolved or dismissed. The only argument presented by plaintiff to exercise  
6 supplemental jurisdiction is that some of the state claims might potentially require resolution of a  
7 substantial question of federal patent law. The presence of underlying federal issues or  
8 affirmative defenses arising under federal law, however, are insufficient to grant original federal  
9 jurisdiction. Given the early resolution of the federal claims in this dispute, the undersigned  
10 judge declines to exercise supplemental jurisdiction over the remaining state claims.

11 Accordingly, all remaining state law claims, counterclaims, and counterclaims-in-reply in  
12 this action are hereby **DISMISSED** without prejudice and **REMITTED** to state court. Judgment will  
13 be entered accordingly.

14  
15 **IT IS SO ORDERED.**

16  
17 Dated: October 18, 2010.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE