

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

INTERNET PATENTS CORPORATION,

Plaintiff,

No. C 12-06505 JSW

v.

TREE.COM, INC.,

ORDER OF DISMISSAL

Defendant.

In a related matter pending before this Court, Case No. 12-5036 JSW, the Court dismissed the suit based on the finding that Plaintiff's claims fail as a matter of law because the asserted patent, United States Patent No. 7,707,505 ("the '505 Patent") entitled "Dynamic Tabs for a Graphical User Interface" is invalid under 35 U.S.C. § 101 for lack of patent-eligible subject matter. On October 24, 2013, Plaintiff in that matter noticed its appeal of that decision.

It "is the duty of the court to dismiss a patent infringement suit whenever it appears that the patent is invalid." *Barkeij v. Lockheed Aircraft Corp.*, 201 F.2d 1, 2 (9th Cir. 1954) (citations omitted). Accordingly, this Court issued an order to show cause to Plaintiff as to why this related matter premised upon the same patent should not be dismissed. In response, the Court received essentially an improper motion for reconsideration of its opinion re invalidity.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Court finds the response to the order to show cause unpersuasive. This matter is dismissed as it is premised upon the assertion of a patent the Court has determined to be invalid.

IT IS SO ORDERED.

Dated: October 25, 2013



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE