

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

**\*\* E-filed March 5, 2012 \*\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MARTIN REIFFIN,

No. C11-04625 HRL

Plaintiff,

**ORDER DENYING PLAINTIFF'S  
MOTIONS FOR HEARING AND TO  
VACATE JUDGMENT**

v.

BEVERLY HOEY,

**[Re: Docket No. 49, 54]**

Defendant.

\_\_\_\_\_/

Plaintiff Martin Reiffin sued Beverly Hoey, alleging that she committed “fraud” by “misrepresenting” federal patent law. Dkt. No. 16 (“First Amended Complaint” or “FAC”). Reiffin, a patent attorney, retained Hoey, an estate planning attorney, to prepare a “trust agreement” for plaintiff’s family. FAC ¶ 7. Reiffin alleges that Hoey did unnecessary legal work by structuring the agreement so as to protect the trust fund from potential tax liability in the event that Microsoft, with whom Reiffin has executed a patent infringement settlement agreement, delayed payment of damages that Reiffin intended to put into the trust fund. *Id.* ¶ 11. Reiffin alleges that this scenario would never arise because doing so would be bad for Microsoft’s business, and sued Hoey, arguing that her “misrepresentation” of patent law raised a federal question.

Hoey moved to dismiss for lack of subject matter jurisdiction, arguing that Reiffin had not raised a federal question and had instead pled only common law claims. Finding no federal question or other basis for jurisdiction, this court granted the motion to dismiss for lack of subject matter jurisdiction in its Order of January 1, 2012, and entered a judgment of dismissal. Dkt. Nos. 47, 48.

**United States District Court**  
For the Northern District of California

1 Now, plaintiff moves to vacate the judgment of dismissal. Dkt. No. 49. Defendant has opposed the  
2 motion. Dkt. No. 51. On February 28, over a month after he filed the motion, Reiffin belatedly  
3 requested that the court set a hearing on this matter for March 13, 2012. Dkt. No. 54. The matter is  
4 deemed suitable for decision on the papers, and no hearing is necessary. Civil L. R. 7-1(b). The  
5 court rules as follows.

6 “Reconsideration is appropriate if the district court (1) is presented with newly discovered  
7 evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an  
8 intervening change in controlling law.” Sch. Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th  
9 Cir. 1993).

10 Reiffin states that he moved to vacate judgment to “correct manifest errors of fact and law”  
11 and “incorporate newly-discovered evidence.” Dkt. No. 49, p. 1 (“Motion”). However, he presents  
12 no new evidence whatsoever, and instead merely reiterates the allegations he offered in his original  
13 complaint and his FAC. Reiffin contends that there is no contract at issue in this action, and that  
14 defendant’s “misrepresentations” of patent laws confer federal jurisdiction. Plaintiff fails to  
15 appreciate the distinction between his attempt to allege that the defendant misrepresented patent law  
16 and a genuine dispute about the meaning of some provision of patent law. Reiffin’s allegation that  
17 that Hoey unnecessarily planned for an unlikely scenario in which Microsoft delays payment of  
18 what it owes Reiffin has nothing to do with the meaning of any provision of patent law.

19 Plaintiff has not even come close to raising a federal question, and even if he were able to  
20 cite some provision of patent law relevant to the underlying dispute between the parties, this would  
21 not suffice to confer federal jurisdiction. “Federal courts have exclusive jurisdiction of all cases  
22 arising under the patent laws, but not of all questions in which a patent may be the subject matter of  
23 the controversy.” Boggild v. Kenner Products, Div. of CPG Products Corp., 853 F.2d 465, 468 (6th  
24 Cir. Ohio 1988) (citations omitted). As the plaintiff has reiterated many times, his complaint is that  
25 the defendant “misrepresented” the effect of patent law. Plaintiff’s claim is really for  
26 misrepresentation, and does not arise under the patent laws or any other federal law.

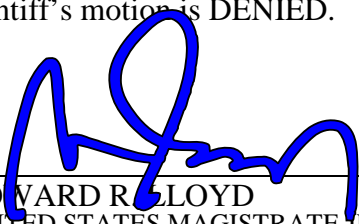
27  
28

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

It is clear that plaintiff has not presented and cannot present any of the elements that would justify this court's reconsideration of the judgment of dismissal, and accordingly, there is no basis for the court to vacate judgment. Therefore, plaintiff's motion is DENIED.

**IT IS SO ORDERED.**

Dated: March 5, 2012



---

HOWARD R. LOYD  
UNITED STATES MAGISTRATE JUDGE

1 **C11-04625 HRL Notice will be electronically mailed to:**

2 Martin Gardner Reiffin  
3 47 Pheasant Run Terrace  
4 Danville, CA 94506

5 Beverly M Hoey  
6 313 Ray Street  
7 Pleasanton, CA 94566

8 **Counsel are responsible for distributing copies of this document to co-counsel who have not**  
9 **registered for e-filing under the court's CM/ECF program.**

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31