

NOTE: This order is nonprecedential.

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

TODD S. GLASSEY, MICHAEL E. MCNEIL,
Plaintiffs-Appellants

v.

MICROSEMI INC.,
Defendant-Appellee

**SYMMETRICOM, INC., DIGITAL DELIVERY INC.,
ERIK VAN DER KAAJ, MARK HASTINGS,**
Defendants

**INTERNET ENGINEERING TASK FORCE, THE
INTERNET SOCIETY, UNITED STATES,**
Defendants-Appellees,

**PRESIDENT OF THE UNITED STATES, JERRY
BROWN, the Governor of the State of California,
STATE OF CALIFORNIA,**
Defendants

**APPLE INC., CISCO INC., EBAY INC., PAYPAL,
INC., GOOGLE INC., JUNIPER NETWORKS,
MICROSOFT CORP., ORACLE INC.,**
Defendants-Appellees

THALES GROUP,
Defendant

NETFLIX, INC.,

Defendant-Appellee

AMANO, BANCOR DIVISION,
Defendants

2015-1326

Appeal from the United States District Court for the Northern District of California in No. 3:14-cv-03629-WHA, Judge William H. Alsup.

ON MOTION

Before DYK, TARANTO, and CHEN, *Circuit Judges*.

PER CURIAM.

O R D E R

The appellees move to dismiss this appeal for lack of jurisdiction or, in the alternative, to transfer the appeal to the United States Court of Appeals for the Ninth Circuit. The appellants move for leave to file documents using the court's electronic filing system.

The appellants' operative complaint, to the extent we can make out its allegations, asserts patent infringement but recognizes that the appellants do not own the patent in question and seeks on various non-patent grounds to void the settlement agreements that had transferred any ownership interest they had in the patent to Microsemi Inc. After the United States District Court for the Northern District of California entered judgment against the appellants, they filed a notice of appeal that the district court transmitted to this court. (The notice sought review in the United States Court of Appeals for the District of

GLASSEY v. MICROSEMI INC.

3

Columbia Circuit, but the parties appear to agree that the intent was to appeal to this court.)

As relevant here, 28 U.S.C. § 1295(a)(1) gives this court jurisdiction over a case arising under the patent laws. Our longstanding precedent has held that this court lacks jurisdiction under that provision where the complaint, while asserting patent infringement, acknowledges that the plaintiff lacks ownership of the patent and presents non-patent claims that would have to be resolved at the threshold to give the plaintiff ownership of the asserted patent. *See Jim Arnold Corp. v. Hydrotech Sys., Inc.*, 109 F.3d 1567, 1571-72 (Fed. Cir. 1997). We have been shown no reason to conclude that this case falls outside that precedent.

An appeal from the district court's judgment at issue here is already docketed at the Ninth Circuit as 2014-17574. The Ninth Circuit has denied a motion to transfer (to the District of Columbia Circuit) "without prejudice to renewing the arguments in the opening brief." Because an appeal is pending in the Ninth Circuit, there is no need to transfer this appeal to that court.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is granted. The appeal is dismissed.
- (2) The appellants' motion is denied.
- (3) Each side shall bear its own costs.

FOR THE COURT

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

4

GLASSEY v. MICROSEMI INC.

s26

ISSUED AS A MANDATE: June 10, 2015