

NOTE: This order is nonprecedential.

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

SEED RESEARCH EQUIPMENT SOLUTIONS, LLC,
Plaintiff-Appellee,

v.

GARY W. CLEM, INC.
(doing business as ALMACO),
Defendant-Appellant.

2013-1310

Appeal from the United States District Court for the
District of Kansas in No. 09-CV-1282, Judge Eric F.
Melgren.

ON MOTION

Before DYK, MOORE, and TARANTO, *Circuit Judges.*
DYK, *Circuit Judge.*

ORDER

The parties jointly move to remand this case to the
United States District Court for the District of
Kansas due to settlement.

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Gary W. Clem, Inc. appeals from the district court's grant of summary judgment that the patent was invalid. The parties have stated that they have now settled the case and requested an indicative ruling from the district court, pursuant to Fed. R. Civ. P. 62.1, whether the district court would defer, deny, or grant a motion to vacate the underlying judgment if the case were remanded. The district court indicated pursuant to Rule 62.1(a)(3) that it would grant the motion.

We grant the motion to the extent that we remand for the limited purpose of the district court's consideration of the parties' motions. *See Ohio Willow Wood Co. v. Thermo-Ply, Inc.*, 629 F.3d 1374, 1375 (Fed. Cir. 2011). In granting this motion, this court takes no position on the propriety or necessity of vacatur, leaving it to the district court to apply the principles enunciated in *U.S. Bancorp Mortg. Co. v. Bonner Mall P'ship*, 513 U.S. 18, 29 (1994).

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted. The case is remanded to the district court for further proceedings consistent with this order.

(2) Each side shall bear its own costs.

FOR THE COURT

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

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ISSUED AS A MANDATE: October 3, 2013