

NOTE: This order is nonprecedential.

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

CIVIX-DDI, LLC,
Plaintiff-Appellant,

v.

HOTELS.COM GP, LLC AND HOTELS.COM, L.P.,
Defendants-Appellees.

2011-1599

Appeal from the United States District Court for the Northern District of Illinois in case no. 05-CV-6869, Judge Amy J. St. Eve.

ON MOTION

Before DYK, *Circuit Judge.*

O R D E R

Civix-DDI, LLC (Civix) moves for a stay of the appeal pending decisions by this court in *Akamai Technologies, Inc. v. Limelight Networks, Inc.*, No. 2009-1372 and *McKesson Technologies Inc. v. Epic Systems Corp.*, No. 2010-1291, both currently pending *en banc*. Hotels.com GP, LLC and Hotels.com, L.P. (collectively Hotels.com)

oppose. Civix replies. Hotels.com files a motion for leave to file a sur-reply and an accompanying proposed sur-reply, to respond to new issues raised by Civix's reply.

Civix asserts that the issues in this case share similarities with those presented in *Akamai* and *McKesson* with regard to the proper standards for joint infringement. Civix further argues that the district court relied on the now-vacated *Akamai* and *McKesson* panel opinions in granting summary judgment of non-infringement, the decision from which Civix now appeals, and that the outcomes of the *en banc* rehearings consequently may narrow the issues in this appeal. Hotels.com responds that the district court's judgment relied on other grounds and that *Akamai* and *McKesson* have "only potential and tangential relevance" to this appeal.

We note that oral arguments in *Akamai* and *McKesson* will be held on November 18, 2011.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) Civix's motion for a stay is denied.
- (2) Hotels.com's motion for leave to file a sur-reply is denied as moot.

FOR THE COURT

NOV 14 2011

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

NOV 14 2011

JAN HORBALY
CLERK

3

CIVIX-DDI V. HOTELS.COM

cc: Raymond P. Niro, Esq.
Atif N. Khawaja, Esq.

s23