

.NOTE: This order is nonprecedential.

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

**PACESETTER, INC., (DOING BUSINESS AS ST.
JUDE MEDICAL CRMD),**
Plaintiff-Appellee,

v.

SURMODICS, INC.,
Defendant-Appellant.

2012-1096

Appeal from the United States District Court for the
Central District of California in Case No. 11-CV-3964,
Judge Ronald S.W. Lew.

ON MOTION

Before RADER, *Chief Judge*, GAJARSA and REYNA, *Circuit
Judges.*

REYNA, *Circuit Judge.*

O R D E R

Pacesetter, Inc. (St. Jude) moves to dismiss Surmod-
ics, Inc.'s appeal for lack of jurisdiction, or in the alterna-

tive, to transfer to the United States Court of Appeals for the Ninth Circuit. Surmodics opposes. St. Jude replies.

St. Jude filed a declaratory judgment action at the United States District Court for the Central District of California relating to a royalty provision in St. Jude's license agreement with Surmodics. The district court held that the license was unambiguous in that St. Jude only owed royalties to Surmodics on products that were actually sold during the term of the agreement. The court granted St. Jude's motion for summary judgment and denied Surmodics's cross-motion for summary judgment. This appeal followed.

This is a court of limited jurisdiction. 28 U.S.C. § 1295. Based on our review, the district court's jurisdiction did not arise in whole or in part under the laws governing this court's appellate jurisdiction. The license dispute does not require the resolution of a related question of patent law, such as inventorship, infringement, invalidity, or unenforceability. *See Lab. Corp. of America Holdings v. Metabolite Labs., Inc.*, 599 F.3d 1277, 1283-84 (Fed. Cir. 2010).

St. Jude asks that, as an alternative to dismissal, the case be transferred to the United States Court of Appeals for the Ninth Circuit pursuant to 28 U.S.C. § 1631. The court agrees that transfer is appropriate.

Accordingly,

IT IS ORDERED THAT:

The motion is granted to the extent that the appeal is transferred to the United States Court of Appeals for the Ninth Circuit.

FOR THE COURT

MAR 08 2012

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: James A. Gale, Esq.
 Jake M. Holdreith, Esq.

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Issued As A Mandate: MAR 08 2012

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

MAR 08 2012

JAN HORBALY
CLERK