

NOTE: This order is nonprecedential.

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

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**HIF BIO, INC.  
AND BIZBIOTECH CO., LTD.,**  
*Plaintiffs-Appellees,*

**v.**

**YUNG SHIN PHARMACEUTICALS INDUSTRIAL  
CO., LTD.  
(DOING BUSINESS AS YUNG SHIN  
PHARMACEUTICALS AND YUNG SHIN PHARM.  
IND. CO. LTD.),  
YUNG ZIP CHEMICAL CO., LTD., FANG-YU LEE,  
AND CHE-MING TENG,**  
*Defendants,*

**and**

**CARLSBAD TECHNOLOGY, INC.,**  
*Defendant-Appellant,*

**and**

**FISH AND RICHARDSON P.C.,  
AND Y. ROCKY TSAO,**  
*Defendants.*

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2006-1522

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Appeals from the United States District Court for the Central District of California in case no. 05-CV-07976, Judge Dean D. Pregerson.

ON PETITION FOR REHEARING

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Before MICHEL, *Chief Judge*,\* GAJARSA, *Circuit Judge*,  
and HOLDERMAN, *Chief District Judge*.\*\*

**ORDER**

Defendant-Appellant Carlsbad Technology, Inc. filed a combined petition for panel rehearing and rehearing en banc. The petition for panel rehearing was considered by the panel that heard the appeal. The panel grants the petition for panel rehearing for the limited purpose of amending page 16, lines 12-18 of the issued opinion.

Accordingly,

IT IS ORDERED THAT:

(1) The petition for panel rehearing is granted for the limited purpose of amending the following language on page 16, lines 12-18 of the issued opinion:

Because the second and fourth causes of action arise under § 1338(a), the district court abused its discretion in remanding ~~those causes of action~~ **the First Amended Complaint** to state court. *See Hunter Douglas, Inc.*, 153 F.3d at 1328; *Baker*, 387 F.3d at 656-57. However, on remand the district court should dismiss ~~both~~ **the second and fourth** causes of action under Rule 12(b)(6) because

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\* Paul R. Michel retired from the position of Chief Judge on May 31, 2010.

\*\* The Honorable James F. Holderman, Chief Judge, United States District Court for the Northern District of Illinois, sitting by designation.

plaintiffs have failed to state a claim upon which relief can be granted. **Pursuant to 28 U.S.C. § 1367(c), the district court has discretion to decide on remand whether to exercise supplemental jurisdiction over the remaining causes of action.** ~~Additionally, because the remaining state law claims do not arise under federal law, the district should remand them to California state court.~~

(2) The petition for panel rehearing is otherwise denied.

FOR THE COURT

June 14, 2010

/s/ Jan Horbaly

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jan Horbaly  
Clerk

cc: Bub-Joo S. Lee, Esq.  
Glenn W. Rhodes, Esq.