

NOTE: This order is nonprecedential.

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

**LAKIM INDUSTRIES, INC., doing business as
Quali-Tech Manufacturing Company,
*Plaintiff-Appellant,***

v.

**LINZER PRODUCTS CORPORATION,
*Defendant-Appellee.***

2013-1225

Appeal from the United States District Court for the
Central District of California in No. 12-CV-4976, Judge
Margaret M. Morrow.

ON MOTION

Before LOURIE, BRYSON, AND MOORE, *Circuit Judges.*

LOURIE, *Circuit Judge.*

ORDER

Lakim Industries, Inc. moves without opposition to stay proceedings so that it may “seek from the District Court entry of a final judgment addressing the Defendant/Appellee’s counterclaims, an express determination

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that there is no just reason for delay of an appeal of the Order Granting Motion for Summary Judgment (District Court Docket No. 63) pursuant to Federal Rule of Civil Procedure 54(b), or other guidance as to the disposition of the matter below pursuant to the Judgment (District Court Docket No. 64) entered January 21, 2013.”

Lizner Products Corporation’s counterclaim of invalidity of the patent at issue has not been decided. As there is a pending claim, there is no final judgment and this appeal is premature. *See Nystrom v. TREX Co.*, 339 F.3d 1347, 1350 (Fed. Cir. 2003) (“If a case is not fully adjudicated as to all claims for all parties and there is no express determination that there is no just reason for delay or express direction for entry of judgment as to fewer than all of the parties or claims, there is no final decision ... and therefore no jurisdiction.”). Pursuant to *Pause Technology LLC v. TiVo Inc.*, 401 F.3d 1290, 1295 (Fed. Cir. 2005), this appeal is dismissed for lack of jurisdiction, subject to reinstatement under the same docket number without the payment of an additional fee if, within 60 days of the date of this order, the district court enters a final judgment or certification under Rule 54(b) and, within 30 days of entry of judgment or certification, Lakim files another notice of appeal.

Accordingly,

IT IS ORDERED THAT:

(1) The appeal is dismissed for lack of jurisdiction, subject to reinstatement under the same docket number without the payment of an additional filing fee if, within 60 days of the date of this order, the district court either enters final judgment or enters a proper certification under Rule 54(b).

(2) All other motions are denied as moot.

(3) Each side shall bear its own costs.

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FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

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