

NOTE: This order is nonprecedential.

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

**INTERACTIVE HEALTH, LLC (NOW KNOWN AS
HUMAN TOUCH, LLC) and DAITO DENKI KOGYU
K.K. (DOING BUSINESS AS DAITO ELECTRIC
MACHINE INDUSTRY COMPANY, LTD.),**
Plaintiffs-Appellants,

v.

**KING KONG USA, INC., AMERICAN LIGHTING
INDUSTRY, INC., and BERNARD KOAY,**
Defendants-Cross Appellants,

and

WFO IMPORTS LLC,
Defendant-Cross Appellant,

and

BLAIR HAYES,
Defendant-Appellee,

and

HEALTHFIRST LLC,
Defendant.

2009-1141, -1155, -1401

Appeals from the United States District Court for the Central District of California in case no. 06-CV-1902, Judge Valerie Baker Fairbank.

ON MOTION

Before NEWMAN, SCHALL, and PROST, *Circuit Judges*.
NEWMAN, *Circuit Judge*.

O R D E R

The parties move jointly to dismiss and to remand to the United States District Court for the Central District of California due to settlement.

The parties state that the settlement agreement contemplates the vacatur of certain district court orders and amendment of the judgment and that they "are presently filing a joint motion with the District Court for such vacatur and amendment." The parties request that the court remand the case to the district court with instructions to consider their motion.

The court cannot both dismiss and remand the appeal. Because the parties indicate that they seek further proceedings in the district court, the court remands to allow such proceedings as the district court deems proper.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to dismiss is denied.
- (2) The motion to remand is granted.
- (3) Each side shall bear its own costs.

FOR THE COURT

JUL 02 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Leslie F. Vandale, Esq.
Peter J. Korneffel, Jr., Esq.
David A. Dillard, Esq.

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ISSUED AS A MANDATE: JUL 02 2010

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

JUL 02 2010

JAN HORBALY
CLERK