

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

In re: APPLE INC.,
Petitioner

2022-163

On Petition for Writ of Mandamus to the United States District Court for the Western District of Texas in No. 6:21-cv-00620-ADA, Judge Alan D. Albright.

ON PETITION AND MOTION

Before DYK, REYNA, and TARANTO, *Circuit Judges*.
REYNA, *Circuit Judge*.

O R D E R

Apple Inc. petitions this court for a writ of mandamus directing the United States District Court for the Western District of Texas to vacate its scheduling order, promptly rule on Apple's pending transfer motion, and stay all proceedings on the merits until transfer is resolved. Apple also moves for this court to stay the district court proceedings pending resolution of Apple's petition. XR Communications, LLC opposes the petition and the motion.

In another Order issued today, we granted Apple's petition to vacate a similar scheduling order on the ground

that it was a clear abuse of discretion to force the parties to expend additional resources litigating substantive matters, until the completion of fact discovery, and re-briefing while Apple's motion lingered unnecessarily on the docket, particularly when there were readily available, less time-consuming, and more cost-effective means for the court to resolve the motion. *In re Apple Inc.*, 2022-162 (Fed. Cir. Nov. 8, 2022). We deem it the proper course here to vacate the district court's scheduling order and for the district court to reconsider its decision in light of our reasoning in No. 2022-162.

Accordingly,

IT IS ORDERED THAT:

The petition and motion are granted to the extent that the district court's scheduling order is vacated, and the case is remanded for further proceedings consistent with this Order.

FOR THE COURT

November 8, 2022

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner
Clerk of Court