

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FERRARI S.P.A., an Italian corporation,

Plaintiff - Appellant,

and

FERRARI IDEA, S.A., a Swiss  
corporation,

Plaintiff,

v.

EXOTO, INC.,

Defendant - Appellee.

No. 08-56092

D.C. No. 2:99-cv-10205-R-CT

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Argued and Submitted September 30, 2009  
Pasadena, California

Before: PREGERSON, REINHARDT and WARDLAW, Circuit Judges.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Ferrari S.P.A. and Ferrari Idea, S.A. (collectively, “Ferrari”) appeal the district court’s denial of their motion to enforce a settlement agreement between Ferrari and Exoto, Inc. We have jurisdiction pursuant to 28 U.S.C. § 1291. We reverse and remand.

The district court’s denial of Ferrari’s motion based upon Ferrari’s “ability to file a new suit” was error. *See Arata v. Nu Skin Int’l, Inc.*, 96 F.3d 1265, 1268-69 (9th Cir. 1996) (noting that where a district court confers upon itself jurisdiction to enforce a settlement agreement, the court may not divest itself of jurisdiction until the parties have satisfied their obligations under the agreement). The district court retained jurisdiction to enforce the settlement agreement when it issued the order approving it. The purpose for doing so was to ensure compliance without the necessity of filing a new lawsuit. Accordingly, the district court was required to hold enforcement proceedings. *See id.* at 1269.

Without determining whether the currently assigned district court judge would be able to proceed impartially upon remand, we grant the request for reassignment to a different judge as appropriate to preserve the appearance of justice, especially given the basis for the denial of the enforcement motion. We therefore direct the Clerk of the District Court for the Central District of California to reassign this case to a different judge upon remand.

**REVERSED and REMANDED.**