

MANDATE

S.D.N.Y.-N.Y.C.
07-cv-9931
Pauley, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 8th day of February, two thousand twelve,

Present:

Ralph K. Winter,
Reena Raggi,
Denny Chin,
Circuit Judges.

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: March 01, 2012**

EMI Al Gallico Music Corporation, *et al.*,

Plaintiffs-Appellees,

v.

11-3941-cv

Virgin Records America, Incorporated, *et al.*,

*Plaintiffs-Counter-
Defendants-Appellees,*

MP3tunes, Incorporated, Michael Robertson,

Defendants-Appellants,

MP3tunes, LLC,

*Defendant-Counter-
Claimant.*

Appellants, through counsel, move to stay their appeal pending final judgment by the district court. Appellees, through counsel, move to dismiss the appeal. Upon due consideration, it is hereby ORDERED that the Appellees' motion is GRANTED and the appeal is DISMISSED. This Court has determined that it lacks jurisdiction over this appeal because a final order has not

SAO-WYZ

MANDATE ISSUED ON 03/01/2012

been issued by the district court as contemplated by 28 U.S.C. § 1291 and no exception to that statute applies. *See Coopers & Lybrand v. Livesay*, 437 U.S. 463, 467 (1978). This Court will not exercise jurisdiction pursuant to the collateral order doctrine because the order appealed from is not completely separate from the merits of the action and is not “effectively unreviewable on appeal from a final judgment.” *In re World Trade Ctr. Disaster Site Litig.*, 521 F.3d 169, 179 (2d Cir. 2008). It is further ORDERED that the motion for a stay is DENIED as moot.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk

 

A True Copy

Catherine O’Hagan Wolfe, Clerk

SAO-WYZ

United States Court of Appeals, Second Circuit

 