



Joint Motion to Vacate EDVA's Judgment in *Tafas v. Kappos* Denied

11.16.2009

In a surprising [decision](#) in *Tafas v. Kappos* on November 13, 2009, the Federal Circuit granted the parties' joint motion to dismiss the appeal as moot, but denied the parties' joint motion to vacate the judgment of the Eastern District of Virginia. The court reasoned that dismissal of the appeal was proper as moot because the USPTO had rescinded the rules that formed the basis for the litigation. However, the court also reasoned that *vacatur* of the Eastern District of Virginia's judgment was not proper because the mootness arose due to a unilateral act of the USPTO in rescinding the rules. In contrast, *vacatur* of the EDVA's decision would have been proper if the mootness had arisen from an external cause over which the parties had no control - that was not the case. Accordingly, the EDVA's decision stands.

The *Tafas v. Doll* decision has been previously reported on the blog [here](#).

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