

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ADVANCED MICRODEVICES, INC. and
ATI TECHNOLOGIES ULC,

Plaintiffs,

v.

TCL INDUSTRIES HOLDINGS CO., LTD.;
TCL INDUSTRIES HOLDINGS (H.K.)
LIMITED; TCL ELECTRONICS
HOLDINGS LIMITED; TCL
TECHNOLOGY GROUP CORPORATION;
TTE CORPORATION; TCL HOLDINGS
(BVI) LIMITED; TCL KING ELECTRICAL
APPLIANCES (HUIZHOU) CO. LTD.;
SHENZHEN TCL NEW TECHNOLOGIES
CO., LTD.; TCL MOKA INTERNATIONAL
LIMITED; TCL SMART DEVICE
(VIETNAM) CO., LTD; MANUFACTURAS
AVANZADAS SA DE CV; TCL
ELECTRONICS MEXICO, S DE RL DE CV;
TCL OVERSEAS MARKETING LTD.; and
REALTEK SEMICONDUCTOR CORP.,

Defendants.

C.A. No. 2:22-cv-00134-JRG

JURY TRIAL DEMANDED

**DEFENDANT REALTEK SEMICONDUCTOR CORP.'S OPPOSITION TO
PLAINTIFFS' MOTION FOR DISCRETIONARY STAY PENDING FINAL
DETERMINATION BY THE ITC OF INVESTIGATION NO. 337-TA-1318**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. PLAINTIFFS SEEK TO STAY THIS CASE SO THEY CAN LITIGATE THE SAME CLAIMS TWICE—FIRST IN THE ITC, THEN LATER IN THIS COURT	2
A. Plaintiffs Move to Stay Their Own Litigation Based on a Parallel ITC Proceeding That Plaintiffs Also Initiated.....	2
B. Plaintiffs Seek a Stay of This Case So They Can Completely Relitigate the Same Claims in This Court If They Don’t Like the Result in the ITC—As Its Counsel Is Currently Doing in a Another Case Against Realtek.....	3
C. The Staggered Schedules in This Action and the ITC Proceeding Allow for The Same Efficiencies Advocated by AMD Without Requiring a Stay	4
D. Adjudication of Plaintiffs’ Claims Against Realtek Will Also Resolve the Merits of Plaintiffs’ Claims Against Downstream Reseller TCL.....	5
III. PLAINTIFF SHOULD NOT BE ALLOWED TO STAY THIS LITIGATION SO IT CAN LITIGATE THE SAME CLAIMS TWICE IN TWO FORUMS.....	6
A. Courts Have Denied Plaintiffs’ Requests to Stay District Court Litigation That They Initiated in View of ITC Proceedings That They Also Initiated	6
B. A Stay Will Not Simplify the Issues for Adjudication in This Case	7
1. The ITC Proceeding Has No Collateral Estoppel or Res Judicata Effect and Will Not Simplify this Litigation	8
2. By Refusing to Stipulate to Any Scope of Estoppel, AMD Seeks to Litigate the Same Claims Twice in Two Forums and Get Two Bites at the Apple.....	10
3. The Earlier Deadlines in the ITC for All Litigation Activities and Rulings Allow Any Efficiencies to be Achieved Without a Stay	11
4. There Is No Basis for Staying This Litigation as to the ’454 Patent, Which Is No Longer Asserted in the ITC Proceeding	12
5. Adjudicating AMD’s Claims Against Realtek First, While the Claims Against TCL are Stayed, Achieves Additional Efficiencies	13
C. A Stay That Allows AMD to Litigate Its Claims Twice—Once in the ITC and Again In This Court—Would Give AMD a Tactical Advantage and Prejudice Realtek	14
D. The Status of the Case Is a Neutral Consideration.	15
IV. CONCLUSION.....	15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Broadcom Corp. v. Qualcomm Inc.</i> , 2005 WL 8161480 (C.D. Cal. Aug. 16, 2005).....	13
<i>Clinton v. Jones</i> , 520 U.S. 681 (1997).....	6
<i>Datatreasury Corp. v. Wells Fargo & Co.</i> , 490 F.Supp.2d 749 (E.D. Tex. 2006).....	6
<i>Energetiq Technology, Inc. v. ASML Netherlands BV</i> , 2016 WL 11727302 (D. Mass. April 1, 2016).....	<i>passim</i>
<i>Exitechange Corp. v. Friendfinder Networks, Inc.</i> , 2014 WL 12616109 (E.D. Tex. March 31, 2014).....	6
<i>Google Inc. v. Creative Labs, Inc.</i> , 2016 WL 6947564 (N.D. Cal. Nov. 28, 2016)	9
<i>Graphic Props. Holdings v. Toshiba Am. Info. Sys.</i> 2014 WL 923314 (D. Del. March 5, 2014).....	9
<i>Humanscale Corp. v. CompX Int’l Inc.</i> , 2009 WL 1444312 (E.D. Va. May 21, 2009)	13
<i>Hyosung TNS Inc. v. Int’l Trade Comm’n</i> , 926 F.3d 1353 (Fed. Cir. 2019).....	8
<i>Intellectual Ventures II LLC v. Kemper Corp.</i> , 2016 WL 7634422 (E.D. Tex. Nov. 7, 2016)	11
<i>KIPB LLC v. Samsung Elec. Co.</i> , 2019 WL 6173365 (E.D. Tex. Nov. 20, 2019)	7
<i>LG Electronics, Inc. v. Eastman Kodak Co.</i> , 2009 WL 1468703 (S.D. Cal. May 26, 2009).....	13
<i>Micron Tech., Inc. v. Mosel Vitelic Corp.</i> , 1999 WL 458168 (D. Idaho March 31, 1999)	13
<i>In re Nintendo of America, Inc.</i> , 756 F.3d 1363 (Fed. Cir. 2014).....	13

Opticurrent, LLC v. Power Integrations, Inc.,
2016 WL 9275395 (E.D. Tex. Oct. 19, 2016)13

Realtime Data, LLC v. Hewlett Packard Enterprise Co.,
2017 WL 3712916 (E.D. Tex. Feb. 3, 2017)11

Saint Lawrence Comms. LLC v. Apple Inc.,
2017 WL 3712912 (E.D. Tex. July 12, 2017)13

Tex. Instruments Inc. v. Cypress Semiconductor Corp.,
90 F.3d 1558 (Fed. Cir. 1996).....8

Tex. Instruments, Inc. v. U.S. Int'l Trade Comm'n,
851 F.2d 342 (Fed. Cir. 1988).....8

Uniloc 2017 LLC v. Samsung Elec. America, Inc.,
2020 WL 1433960 (E.D. Tex. March 24, 2020).....11

Statutes

28 U.S.C. §1659..... *passim*

I. INTRODUCTION

Plaintiffs' motion for a stay is not intended to achieve judicial efficiency, nor will it simplify the issues in this case. Counsel for Plaintiffs have an established practice of litigating infringement claims in the ITC, then modifying their theories and relitigating their claims in the district court. This is what they intend to do here as well, as demonstrated by the fact that Plaintiffs refuse to be bound by any adverse determinations in the pending ITC proceeding as a condition of a stay. Plaintiffs' motion should be denied.

In September 2020, counsel for Plaintiffs, Mintz Levin ("Mintz") concurrently initiated proceedings in the ITC and the District of Delaware asserting infringement of four patents against a group of defendants that included Realtek. Realtek and the other defendants requested a mandatory stay of the Delaware cases under 28 U.S.C. § 1659. The ITC subsequently held that Realtek's products did not infringe on at least two independent grounds. Instead of appealing this decision to the Federal Circuit and obtaining a definitive ruling on claim construction, Mintz asked the district court to lift the stay and proposed a scheduling order that includes infringement and invalidity contentions, claim construction briefing, and a *Markman* hearing, to be followed by fact and expert discovery. Mintz apparently believes that it is not bound by any of the Commission's rulings and intends to relitigate the entire case in the District of Delaware, modifying the theories that lost in the ITC in an attempt to achieve a different outcome.

Mintz has now again initiated parallel infringement proceedings, in this Court and in the ITC, asserting a new salvo of patents against Realtek and TCL. This time, having learned from recent history, Realtek declined to opt into the mandatory stay under § 1659. But Mintz—determined to still get its two bites at the infringement apple—responded by filing the present motion for a discretionary stay, so it can take its shot in the ITC, and when it loses there, embark on a second attempt to prove infringement in this Court under different theories.

There is precedent for preventing this type of gamesmanship. In other contexts, such as reexamination and IPR proceedings, when a party moves to stay litigation pending the outcome of a parallel proceeding before an administrative agency (such as the PTO or the ITC), this Court

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.