

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

ADVANCED MICRO DEVICES, INC. ET  
AL.,

v.

TCL INDUSTRIES HOLDINGS CO., LTD.,  
ET AL.

§  
§  
§  
§  
§  
§

CASE NO. 2:22-cv-00134-JRG-RSP

---

**DEFENDANT REALTEK SEMICONDUCTOR  
CORP.’S MOTION FOR RELIEF FROM THE STAY**

Defendant Realtek Semiconductor Corp. (“Realtek”) respectfully moves for relief from the stay. Realtek seeks the Court’s permission to file a motion seeking an order striking Plaintiffs’ Second Amended Complaint for Patent Infringement; Declaratory Judgment of No Breach of Contract; and Declaratory Judgment of No License (“Second Amended Complaint”), and seeking an order to show cause.

1. Plaintiffs Advanced Micro Devices, Inc. and ATI Technologies ULC (collectively, “AMD”) filed the Second Amended Complaint on March 9, 2023, six months after this Court’s September 12, 2022 Order staying this case “in its entirety.” Dkt. 65 at 3. AMD cannot claim ignorance of the Court’s order because the Court entered it at AMD’s insistence, over Realtek’s objection. AMD has flouted the Court’s order by filing an amended complaint without first seeking an order lifting the stay. Indeed, AMD’s Second Amended Complaint contradicts the Court’s specific instructions within the order staying this case—which permit only one subsequent submission. AMD’s actions are doubly concerning because the license at issue in AMD’s new claims expressly requires parties to bring all claims arising out of the license in either Santa Clara

Superior Court or the Northern District of California. Realtek has met and conferred with AMD, in hopes of convincing it to withdraw the unauthorized and unjustified Second Amended Complaint, but AMD refuses to do so. Realtek therefore respectfully seeks relief from the stay to allow it to file a motion asking the Court to strike Defendant's Second Amended Complaint and to enter an order to show cause as to why AMD should not be held in contempt.

2. AMD filed this action against Realtek on May 5, 2022 alleging infringement of five U.S. patents. Dkt. 1. AMD filed a Motion for a Discretionary Stay, Dkt. 37, which Realtek opposed. Dkt. 43. The Court granted AMD's motion to stay, and ordered that this case "be stayed *in its entirety* until final resolution" of the parallel ITC proceeding on September 12, 2022. Dkt. 65 at 3 (emphasis added). The Court's stay order allows only a single subsequent filing: "a *joint* notice within 30 days from the resolution of the ITC Proceeding" that "inform[s] the Court of the outcome of the ITC Proceeding and whether the stay should be lifted in this case." *Id.* (emphasis added).

3. Realtek sent a letter to AMD on March 7, 2023, notifying AMD of its intention to bring an action in the Northern District of California against AMD for breaching a license that protects Realtek against AMD's claims.<sup>1</sup> Dkt. 69 Ex. C.

4. In the letter, Realtek explained that the License Agreement provides a license to companies, such as Realtek, in "the normal tiers of distribution" for Arm, including "resellers, distributors, dealers, and authorized manufacturers and others in the distribution channel." *Id.* at

---

<sup>1</sup> Realtek provided advance notice to AMD of its intention to bring claims pursuant to the notice provisions in the License Agreement and pursuant to the strong preference in the N.D. California for pre-suit letters. See [https://www.khronos.org/files/member\\_agreement.pdf](https://www.khronos.org/files/member_agreement.pdf) (cited in Dkt. 69 Ex. C, at 1 n.1); see also Dkt. 69 Ex. C at 2 n.2. As Judge Alsup has explained, "[c]ease-and-desist letters can efficiently lead to a resolution and save vast resources." *Sonos v. Google LLC*, No. C 21-07559 WHA, at 5 (N.D. Cal. Mar. 16, 2022).

2. The letter identified that AMD's infringement contentions target the Arm GPU that Realtek sells within its accused systems-on-a-chip ("SoCs"), and Realtek therefore has the benefit of Arm's license from AMD. *Id.*

5. Realtek's letter further informed AMD that it would bring claims against AMD in the Northern District of California, which has exclusive jurisdiction over such claims. In particular, the license agreement AMD has breached provides:

The parties hereby agree that *any dispute* regarding the interpretation or validity of, or otherwise arising out of, this Agreement shall be subject to the *exclusive jurisdiction* of the California state courts of Santa Clara, County (or if there is federal jurisdiction, the United States District Court for the Northern District of California, San Jose), and the parties agree to submit to the personal and *exclusive* jurisdiction and venue of these courts.

See [https://www.khronos.org/files/member\\_agreement.pdf](https://www.khronos.org/files/member_agreement.pdf) (cited in Dkt. 68 Ex. C, at 1 n.1) (emphasis added).

6. Two days after Realtek sent its letter, on March 9, 2023, AMD filed a Second Amended Complaint, in direct violation of the Court's Order staying this case "in its entirety." Dkt. 65 at 3. The filing also violated Federal Rule of Civil Procedure 15(a)(2).

7. The March 9, 2023 Second Amended Complaint adds facts, and two causes of action, all of which arise directly from the license Realtek identified in its March 7, 2023 letter.

8. Accordingly, the Second Amended Complaint not only violates the Court's stay order and Federal Rule of Civil Procedure 15(a)(2), but also contravenes the terms of the license agreement on which AMD bases its new claims.

9. Because AMD failed to seek relief from the stay before filing an unauthorized pleading, Realtek is left in the untenable position of not knowing when, if ever, it must respond. The Court's stay order prevents Realtek from filing any response, and even if a response were permitted without violating the Court's order, Realtek cannot determine when such response would

be due. The stay order supersedes the 14-day deadline ordinarily required by Federal Rule of Civil Procedure 15 as well as the April 11, 2023 deadline under the pre-stay DCO. Thus, AMD's unauthorized pleading puts Realtek in the impossible position of either violating the Court's order or risking default. Striking AMD's unauthorized Second Amended Complaint is the best way to resolve the dilemma that AMD created.

10. Accordingly, Realtek seeks limited relief from the stay in the form of an order allowing it to file a motion to strike and a reply in support of the motion.

Dated: March 21, 2023

Respectfully submitted,

By: /s/ G. Blake Thompson

**G. Blake Thompson**

State Bar No. 24042033

Blake@TheMannFirm.com

**J. Mark Mann**

State Bar No. 12926150

Mark@TheMannFirm.com

**MANN | TINDEL | THOMPSON**

112 E. Line Street, Suite 304

Tyler, Texas 75702

(903) 657-8540

(903) 657-6003 (fax)

Jeffrey L. Johnson

State Bar No. 24029638

**ORRICK, HERRINGTON & SUTCLIFFE LLP**

609 Main, 40<sup>th</sup> Floor

Houston, Texas 77002

Telephone: 713.658.6400

Facsimile: 713.658.6401

jj@orrick.com

Robert Benson

CA Bar No. 155971

**ORRICK, HERRINGTON & SUTCLIFFE LLP**

2050 Main Street, Suite 1100

Irvine, CA 92614

Telephone: 949.567.6700

Facsimile: 949.567.6710

rbenson@orrick.com

*Attorneys for Defendant Realtek  
Semiconductor Corporation*

# 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.