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

ADVANCED MICRO DEVICES, INC., ET AL., Plaintiffs, v. TCL INDUSTRIES HOLDINGS CO., LTD.; ET AL., Defendants.	**Case No.: 2:22-cv-00134--JRG-RSP** **JURY TRIAL DEMANDED**

PLAINTIFFS' OPPOSITION TO DEFENDANT REALTEK SEMICONDUCTOR CORP.'S MOTION FOR RELIEF FROM THE STAY (DKT. NO. 70)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Plaintiffs Advanced Micro Devices, Inc. and ATI Technologies ULC (collectively, "AMD" or "Plaintiffs") submit this Opposition to Defendant Realtek's Motion for Relief from the Stay (Dkt. No. 70).

I.   INTRODUCTION

Realtek's motion should be denied in its entirety. Realtek does not need relief from the stay because there is no obligation for Realtek to file a responsive pleading at all to AMD's Second Amended Complaint until the stay in this case is lifted, which will occur upon "final resolution of [the ITC] Investigation 337-TA-1318." *See* Dkt. No. 65 at 3 (Sept. 12, 2022). Further, no relief from the stay is warranted because Realtek's concurrent motion (Dkt. No. 71) can, and likely will, be raised by Realtek and adjudicated at the appropriate time upon final resolution of the 337-TA-1318 ITC Investigation ("ITC Action").

By contrast, during the pendency of the stay, the TCL co-defendants[1]—who are also co-respondents with Realtek in the co-pending ITC Action—appear to have fully understood that no response to AMD's Second Amended Complaint was required within the 14-day time period that Realtek alleges might apply here (*see* Dkt. No. 70 at 4), because none of them sought to file a responsive pleading (nor to seek to sanction AMD for filing it). Realtek simply misunderstands what is meant for this action to be "stayed." For example, Realtek's concurrent motion (Dkt. No. 71) relies on a misunderstanding of "stay" from *Tesfamichael*, which involves "a stay of removal [of immigrant petitioners] pending [the District Court's] consideration, on the merits, of their

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[1] 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, and TCL Smart Device (Vietnam) Co., Ltd, Manufacturas Avanzadas SA de CV, TCL Electronics Mexico, S de RL de CV, and TCL Overseas Marketing Ltd. (together, "TCL").

petition for review of the decision of the Board of Immigration Appeals ('BIA')." *Tesfamichael v. Gonzales*, 411 F.3d 169, 170 (5th Cir. 2005); *see also id.* at 172 (quoting *Weng v. United States AG*, 287 F.3d 1335, 1338 (11th Cir. 2002) (quoting Black's Law Dictionary 529 (6th ed. 1990))). That case, in turn, was later cited by the Supreme Court in *Nken v. Holder*, 556 U.S. 418 (2019). In *Nken*, the Court stated "[a] stay 'simply suspend[s] judicial alteration of the *status quo*'" and "[b]y contrast, instead of directing the conduct of a particular actor [such as an injunction], a stay operates upon the judicial proceeding itself." *Nken v. Holder*, 556 U.S. 418, 428, 129 S. Ct. 1749, 1758 (2009) *Id.*

Thus even if the articulation in *Tesfamichael* applies (notwithstanding the fact that it was an immigration case), that articulation of "stay" does not mean that parties are foreclosed from amending pleadings *in this action*, particularly in accordance the Court's Docket Control Order. To the contrary, AMD's Second Amended Complaint was filed in accordance with the Docket Control Order's directive that "*[i]t is not necessary to seek leave of Court to amend pleadings prior to this deadline [March 28, 2023] unless the amendment seeks to assert additional patents*" (Dkt. No. 52 at 4 (Aug. 24, 2022) (emphasis added)). Unlike other cases relied upon by Realtek, the stay order *in this case* (Dkt. No. 65) contained no prohibition on filing amended pleadings. Indeed, as discussed further herein, several parties in other cases (including in E.D. Tex.) have amended complaints without seeking to lift a stay. *See, e.g.*, *Thompson v. Hartford Life & Accident Ins. Co.*, 270 F.R.D. 277, 278-79 (W.D. Ky. 2010); *RAI Strategic Holdings, Inc. et al v. Altria Client Services LLC et al*, 1:20-cv-00393-LMB-WEF, Dkt. No. 54 (E.D. Va. 2020); *T-Netix, Inc. v. MCI Worldcom, Inc.*, Case No. 01-cv-00189, Dkt. No. 200 (E.D. Tex. Mar. 4, 2003).

Realtek's motion for relief (Dkt. No. 70) also faults AMD for "creat[ing]" a "dilemma" (Dkt. No. 70 at 4), and while responses to those comments are not required in order to oppose

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