

**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 TO STRIKE PLAINTIFFS' SECOND AMENDED COMPLAINT
AND AN ORDER TO SHOW CAUSE AS TO WHY PLAINTIFFS SHOULD NOT BE
HELD IN CONTEMPT (DKT. NO. 71)**

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. FACTUAL BACKGROUND.....	4
III. LEGAL STANDARDS	6
IV. ARGUMENT AND AUTHORITIES.....	8
A. Realtek Misunderstands the “Stay” in This Case	8
B. Should This Court Grant Realtek’s Motion for Relief (Dkt. No. 70), This Court Should Deny Realtek’s Motion To Strike the Second Amended Complaint (Dkt. No. 71)	8
1. Realtek’s Cited Authority Is Distinguishable	10
C. Should This Court Grant Realtek’s Motion for Relief (Dkt. No. 70) This Court Should Deny Realtek’s Motion for a Show Cause Order (Dkt. No. 71)	12
1. Realtek’s Cited Authority Is Distinguishable	15
V. CONCLUSION.....	15

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Am. S. Ins. Co. v. Buckley</i> , 748 F. Supp. 2d 610 (E.D. Tex. 2010).....	6
<i>Arismendy v. United States Comm’r</i> , No. 4:17-1139, 2018 U.S. Dist. LEXIS 228223 (S.D. Tex. Mar. 29, 2018)	7
<i>Augustus v. Bd. of Pub Instruction of Escambia Cnty., Fla.</i> , 306 F.2d 862 (5th Cir. 1962)	6
<i>Beverly v. Beverly</i> , Case No. 1:16-cv-2978, 2017 U.S. Dist. LEXIS 134132 (N.D. Ohio Aug. 22, 2017)	13
<i>Cypress Lake Software, Inc. v. Samsung Electronics Am., Inc.</i> , No. 6:18-cv-30-JDK, Dkt. No. 318 (E.D. Tex. Aug. 9, 2019)	15
<i>Edmiston v. Nevada ex rel. Nevada Dep’t of Corr.</i> , No. 320-CV-00559, 2022 WL 168214 (D. Nev. Jan. 19, 2022).....	11, 12, 13
<i>Ellison Framing, Inc. v. Zurich Am. Ins. Co.</i> , No. CIV. S-11-0122 LKK, 2013 WL 6499058 (E.D. Cal. Dec. 11, 2013)	11
<i>Farac v. Sundown Energy, LP</i> , No. CIV.A. 06-7147, 2009 WL 2241329 (E.D. La. July 23, 2009). Dkt. No. 71.....	15
<i>Gibson Brands, Inc. v. Armadillo Distrib. Enter.</i> , No. 4:19-cv-00358, 2023 U.S. Dist. LEXIS 35905 (E.D. Tex. Mar. 3, 2023)	7, 13
<i>Gibson v. Dzurenda</i> , No. 3:18-CV-00190, 2019 WL 3573667 (D. Nev. Aug. 6, 2019).....	11, 12
<i>Hitters v. Hitters</i> , No. 1:20-CV-00167-RP, 2021 U.S. Dist. LEXIS 257004 (W.D. Tex. July 29, 2021).....	7
<i>Implicit, LLC v. Imperva, Inc.</i> , No. 2:19-cv-0040-JRG-RSP, 2020 WL 10356908 (E.D. Tex. Apr. 22, 2020).....	11
<i>In re Thomason</i> , No. 21-40435-JMM, 2021 Bankr. LEXIS 3172 (Bankr. D. Idaho Nov. 17, 2021)	14, 15

James v. FLH Holdings of Florida, LLC, et al.,
 No. 1:16-cv-0033-MCR-GRJ, Dkt. 37 (N.D. Fla. Aug. 11, 2017).....14

Martin v. Trinity Indus., Inc.,
 959 F.2d 45 (5th Cir. 1992)7

Motorola Mobility, Inc. v. Microsoft Corp.,
 No. 11-3136 SC, 2011 U.S. Dist. LEXIS 134080 (N.D. Cal. Nov. 21, 2011)3, 9, 10

Nichia Corp. v. Mary Elle Fashions, Inc.,
 No. 2:16-CV-615-JRG, 2016 WL 9558954 (E.D. Tex. Dec. 22, 2016).....12

Nken v. Holder,
 556 U.S. 418 (2019).....1, 8

Pavlic v. Kauffman,
 Civil Action No. 15 - 916, 2017 U.S. Dist. LEXIS 21431 (W.D. Pa. Feb. 15,
 2017)13

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).....2, 8

SEC v. Res. Dev. Int’l LLC,
 217 F. App’x 296 (5th Cir. 2007)7

Software Publishers Ass’n v. Scott & Scott, LLP,
 No. 3:06-cv-0949-G, 2007 U.S. Dist. LEXIS 59814 (N.D. Tex. Aug. 15,
 2007)7

T-Netix, Inc. v. MCI Worldcom, Inc.,
 Case No. 01-cv-00189, Dkt. No. 200 (E.D. Tex. Mar. 4, 2003).....2, 8

Tesfamichael v. Gonzales,
 411 F.3d 169 (5th Cir. 2005)1

Thompson v. Hartford Life & Accident Ins. Co.,
 270 F.R.D. 277 (W.D. Ky. 2010).....2, 8

Trontech Licensing v. Thomson, Inc.,
 2007 U.S. Dist. LEXIS 117676 (E.D. Tex. Nov. 7, 2007)3

Yovan v. Lithia Motors, Inc.,
 Case No. 3:01-cv-03082, Dkt. No. 40 (Aug. 25, 2004).....14

Plaintiffs Advanced Micro Devices, Inc. and ATI Technologies ULC (collectively, “AMD” or “Plaintiffs”) submit this Opposition to Defendant Realtek’s Motion To Strike and for an Order to Show Cause (Dkt. No. 71).

I. INTRODUCTION

Realtek’s motion should be denied in its entirety. A “stay” of this case does not prohibit amended pleadings. 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 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 “**it 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 Realtek cites in Dkt. No. 71, the stay order *in this case* (Dkt. No. 65) contained no prohibition on filing amended pleadings. Indeed, as discussed further in AMD’s opposition to Dkt. No. 70, several parties in other cases

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.