

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

SOFTEX, LLC,

Plaintiff,

vs.

LENOVO (SHANGHAI) ELECTRONICS)
TECHNOLOGY CO. LTD. ET AL.,)

Defendants.)

5:23-CV-90-BO

AUGUST 23, 2023
MOTION HEARING
BEFORE THE HONORABLE TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 accused of any Windows functionality infringement is the 649.
2 The IPR has been filed in the 649. It should be resolved at
3 the patent office. We have a motion to stay pending IPR which
4 are done incredibly commonly throughout courts across the
5 United States. IPR's are commonly instituted. I think the
6 number is somewhere between 50 and 70 percent depending on what
7 year you look at it. And an IPR is not taking at a minimum 18
8 months. It is 18 months period. The entire structure that set
9 IPR's up was to make sure that it was an efficient way to get
10 to the issue of invalidity to take that away essentially from
11 district courts so that there would be another body that could
12 deal with that issue. And here, Lenovo, has agreed to be bound
13 by the results of the Microsoft IPR.

14 So again, there would be nothing left to do here and
15 that's why this is an absolutely perfect application of the
16 customer suit exception. And I think if Your Honor reads the
17 In re Google case you will see that it really is on all fours
18 with this case.

19 MR. JACOBS: Let me just clarify. This IPR only
20 impacts one of six patents that are asserted in this case. So
21 to say that this makes a perfectly clean application of the
22 customer suit exception, it's not fair, Your Honor. It's just
23 one patent and it very well could be denied at the patent
24 office, and they're asking essentially, based on speculation,
25 to freeze this case for 18 months when it is a case that was

1 THE COURT: Yeah. Yeah, but that's not a bad model.
2 All right. We will try to do some justice. Thank you.

3 MR. JACOBS: Thank you, Your Honor.

4 (Proceedings concluded at 2:55 p.m.)

5
6 (END OF TRANSCRIPT.)
7

NORTH CAROLINA
JOHNSTON COUNTY

I CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT
OF SAID PROCEEDINGS.

/s/ CAROLYN E. HIGH 09/11/22
CAROLYN E. HIGH DATE
Contract Court Reporter