UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES – GENERAL

JS-6

Case No.	**2:23-cv-02540-MCS-AS**	Date	June 5, 2023
Title	***Netgear Inc. v. TP-Link Techs. Co., Ltd.***		

Present: The Honorable Mark C. Scarsi, United States District Judge

Stephen Montes Kerr	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendant(s):
None Present	None Present

Proceedings: (IN CHAMBERS) ORDER RE: MOTION TO STAY PENDING ITC PROCEEDING (ECF NO. 21) (JS-6)

Defendants TP-Link Technologies Co., Ltd., TP-Link Corp. Ltd., T-Link USA Corp., and TP-Link Research Institute USA Corp. move to stay this patent infringement lawsuit pursuant to 28 U.S.C. § 1659(a). Defendants represent that on the same day Plaintiff Netgear Inc initiated this action, it filed a complaint with the U.S. International Trade Commission ("ITC") alleging a violation of Section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, based on infringement of the patents in suit. The ITC investigation, *In the Matter of Certain Wi-Fi Routers, Wi-Fi Devices, Mesh Wi-Fi Network Devices, and Hardware and Software Components Thereof*, Investigation No. 337-TA-1361, is ongoing. (Mot. 1–2, ECF No. 21.)

Although Defendants' papers do not present a statement of compliance with Local Rule 7-3, defense counsel represents that the motion is unopposed, (Nguyen Decl. ¶ 5, ECF No. 21-1), and the deadline to oppose the motion lapsed, (*see* Initial Standing Order § 9(b), ECF No. 19), so the Court considers the motion on its merits. The Court deems the motion appropriate for decision without oral argument and vacates the hearing set for June 26, 2023. Fed. R. Civ. P. 78(b); C.D. Cal. R. 7-15. The Court grants the motion in substantial part.

28 U.S.C. § 1659(a) provides:

> In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—
> (1) 30 days after the party is named as a respondent in the proceeding before the Commission, or
> (2) 30 days after the district court action is filed,
> whichever is later.

A stay is mandatory if the requirements of § 1659(a) are met. *See In re Princo Corp.*, 478 F.3d 1345, 1355 (Fed. Cir. 2007).

A stay is required here. The parties here are the parties to the ITC investigation, which involves substantially the same issues regarding alleged infringement of six U.S. patents. (*Compare* Nguyen Decl. Ex. 1, ECF No. 21-2, *with* Compl., ECF No. 1.) Defendants timely brought this motion within 30 days after they were named as respondents in the ITC's notice of investigation. *See* 88 Fed. Reg. 29,693 (May 8, 2023).

Defendants also ask that the Court extend their deadline to respond to the Complaint until 30 days after the stay lifts. (Mot. 3.) Defendants fail to present any cause to provide an extended response period, especially given that the litigation posture may change significantly depending on the result of the ITC investigation. This component of the motion is denied without prejudice to renewal after the stay.

The case is stayed until the determination of the ITC in Investigation No. 337-TA-1361 becomes final. For case administration purposes only, the Court directs the Clerk to remove the case from the Court's active caseload until further application by the parties or order of this Court. The parties shall file a joint status report within 120 days, and a further report every 120 days thereafter. Each report must state on the cover page the date the next report is due. Additionally, the parties must notify the Court within seven days after the determination of the investigation becomes final.

IT IS SO ORDERED.