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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ENTROPIC COMMUNICATIONS, LLC, Plaintiff, v. COX COMMUNICATIONS, INC., *et al.*, Defendants.	Case No. 2:23-cv-01049-JWH-KES (Lead Case) Case No. 2:23-cv-01050-JWH-KES (Related Case) **JOINT REPORT**
COX COMMUNICATIONS, INC., *et al.*, Counter-Claimants, v. ENTROPIC COMMUNICATIONS, LLC, MAXLINEAR INC., AND MAXLINEAR COMMUNICATIONS LLC, Counter-Defendants.	

ENTROPIC EXHIBIT 2016
Comcast v. Entropic
IPR2025-00185

ENTROPIC COMMUNICATIONS, LLC,

Plaintiff,

v.

COMCAST CORPORATION, *et al.*,

Defendants.

JOINT REPORT

Pursuant to the Court's February 26, 2025, Order (ECF No. 369), Plaintiff Entropic Communications, LLC ("Entropic") and Defendants Comcast Corporation; Comcast Cable Communications, LLC; Comcast Cable Communications Management, LLC (collectively, "Comcast"); Cox Communications, Inc.; Coxcom, LLC; Cox Communications California LLC (collectively, "Cox"), and Counter-Defendants MaxLinear, Inc. and MaxLinear Communications LLC (collectively, "MaxLinear") met and conferred on March 6, 2025, regarding the parties' respective positions on a severance or stay in case numbers 2:23-cv-01049-JWH-KES and 2:23-cv-01049-JWH-KES. The Parties hereby submit the following Joint Report:

Entropic's Position:

Entropic would be amenable to the deconsolidation of the -1049 and -1050 cases as follows:

Cox (-1049) – Entropic proposes that the -1049 action proceed in full. Cox has indicated that it intends to seek a stay of at least part of the -1049 action. Entropic does not agree to such a stay or to Cox's description of the cases or issues below; if Cox intends to seek such relief from the Court, it should file a motion and the parties can brief the issues at that time.

With respect to the pleadings, Entropic filed a Motion to Amend its Complaint against Cox. (ECF No. 114.) The Special Master issued a Report and Recommendation on March 6, 2024, recommending that Entropic's Motion to Amend be granted. (ECF No. 277.) Cox did not file objections to the Special Master's March 6 R&R. Upon adoption of that R&R by the Court, Entropic will file its Amended Complaint.

Comcast (-1050) – Entropic states there is not currently a stay in place. The Court ordered a stay conditioned on Cox's agreement to be bound, but Cox did not agree. (Dkt. 366 at 11.) Entropic submits that the -1050 matter should proceed towards resolution of the outstanding issues at the pleading stage. Entropic is amenable to a stay of discovery as to Comcast, pending the Final Written Decisions

in the IPRs, in order to prioritize resolution of those issues, which include jurisdictional challenges.

With respect to the pleadings, Comcast has previously moved to dismiss Entropic's pleadings on the grounds that the Court lacks subject matter jurisdiction. (ECF Nos. 175 & 180 (sealed).) Because subject matter jurisdiction is a threshold issue, Entropic submits that the resolution of that jurisdictional question should not be delayed by any stay pending IPR. Further, because not all asserted patents are subject to IPR, the Court will need to resolve the jurisdictional question regardless of the outcome of the IPRs. This fact also distinguishes Comcast's cited cases, which involved stays pending proceedings that could fully resolve the matters before the court. And Entropic submits that it is inappropriate for Comcast to seek relief from the Court that is tied to the merits, such as a stay based on simplification of the merits, while delaying resolution of an attack on the Court's jurisdiction to resolve the merits in the first instance.

Comcast has indicated that it intends to move again to dismiss Entropic's pleadings. While it couches this as a challenge to the sufficiency of Entropic's willfulness allegations, Comcast apparently intends to argue that if the willfulness allegations are insufficient that Entropic's pleadings would need to be dismissed for lack of subject matter jurisdiction. A delay in resolution of these threshold issues would be highly prejudicial to Entropic and its ability to seek appellate review in a timely fashion, if needed. By contrast, Comcast faces no prejudice from Entropic's proposal because Entropic proposes that discovery remain stayed as to Comcast.

Procedurally, Entropic has filed motions to amend its pleadings. (ECF Nos. 131, 143.) Comcast has filed a Notice of Non-Opposition to Entropic's motions. (ECF No. 248.) The Special Master's March 6, 2024 R&R recommended granting Entropic's motions. (ECF No. 277.) Upon adoption of that R&R by the Court, or else by stipulation of the parties, Entropic will file a Third Amended Complaint. At

that time, Comcast can file its Rule 12 motion, and the parties can focus their resources on resolving the pleadings issues.

Entropic further states that the Court need not delay issuance of its pending *Markman* ruling in either action, as it is applicable to both.

Comcast's Position:

Entropic's case against Comcast, (-1050), should remain stayed for all the reasons stated in Comcast's motion to stay (Dkt. Nos. 345, 351) and found in the Court's Order. Dkt. No. 366 (the "Order"). Seven of the eight asserted patents are subject to *inter partes* review and all of the asserted patents relate to the same technology and will involve overlapping discovery and witnesses. Thus, keeping the Comcast case stayed in full avoids the need for unnecessary and recursive discovery arising from piecemeal litigation. Order at 7 (proceeding piecemeal "complicat[es] the proceedings" and "many facts weigh against" doing so).

Entropic's suggestion that it be permitted to amend its pleadings and the parties then brief Comcast's motion to dismiss is both unnecessary and wasteful. The Court already held that it has subject matter jurisdiction over claims of willful patent infringement. *Entropic Commc'ns, LLC v. Comcast Corp.*, 702 F. Supp. 3d 954, 963 (C.D. Cal. 2023). Thus, Comcast's motion to dismiss any further amended complaint would challenge the adequacy of Entropic's willfulness allegations under Rule 12(b)(6) and courts routinely stay cases prior to deciding Rule 12(b)(6) motions. *See, e.g.*, *Spertus v. Ins. Co. of the State of Penn.*, 2015 WL 13357666, at *2 (C.D. Cal. Aug. 6, 2015) (staying the case and declining to rule on motion to dismiss because it would be "inefficient"); *Cooper v. Blum Collins, LLP*, 2024 WL 4403878, at *2 (C.D. Cal. June 5, 2024) (staying case "on its own motion" and declining to rule on pending motion to dismiss). Entropic's suggestion that it would be prejudiced from waiting on appellate review is "not a persuasive reason" to lift the stay because it is merely part of "[t]he general prejudice of having to wait for a resolution." Order at 8-9 (holding that any prejudice to Entropic from a full stay would be minimal).

Indeed, maintaining the stay will be particularly efficient here given that Comcast's covenant not to sue expires in August, before the likely Final Written Decision dates in the *inter partes* reviews.

Finally, Comcast takes no position as to how, if at all, Entropic's case against Cox, Case No. 23-cv-01049, should proceed. However, regardless of whether any part of the Cox case goes forward, Comcast's case should remain stayed in its entirety. *See, e.g.*, *PowerLED Techs., LLC v. TCL Corp.*, 2020 WL 11710631, at *2 (C.D. Cal. July 24, 2020) (granting motion to stay as to one defendant while proceeding with other cases against different defendants).[1] However, Comcast and Cox are differently situated both in terms of the procedural posture of their cases generally and with regards to MaxLinear specifically such that Comcast will be required to conduct its own discovery of MaxLinear separate from Cox. Having sold the asserted patents to Entropic for assertion in litigation against multiple parties in which MaxLinear maintains a financial interest, MaxLinear cannot be heard to complain about the potential for multiple depositions.

Cox's Position:

Cox believes the Court should deconsolidate the Cox case (-1049) and Comcast case (-1050), stay all aspects of the case against Cox that overlap with litigation Entropic brought against Cox's vendor, Vantiva S.A. (the "Vantiva Case"), and sever Entropic's claims asserting U.S. Patent Nos. 10,135,682 and 9,866,438[2], which are not asserted in the Vantiva Case.

After Comcast's Motion to Stay (Dkt. 345) was filed, Entropic filed a duplicative suit against Vantiva SA in the Eastern District of Texas for infringement of U.S. Patent Nos. 8,223,775; 8,792,008; 9,825,826; 11,318,866; 11,399,206; and

[1] The Court consolidated the Cox and Comcast cases only "through the date of the *Markman* hearing," Dkt. No. 95 at 2, such that the two cases are not presently consolidated in any event.

[2] U.S. Patent No. 9,866,438 was not asserted in Entropic's original complaint against Cox. However, Entropic later filed a Motion to Amend (Dkt. 114), seeking to add U.S. Patent No. 9,866,438 to the Cox case, and Special Master Keyzer recommended Entropic's Motion be granted. Special Master Keyzer's Report and Recommendation (Dkt. 277) has not been ruled on by the Court.

11,785,275 in the case entitled *Entropic Communications, LLC v. Vantiva SA*, Case No. 2-24-cv-00912 (the "Vantiva Case"). Thereafter, on February 10, 2025, Entropic served Vantiva. Each of the patents asserted the Vantiva Case have also been asserted by Entropic against Cox[3] in the instant litigation and Entropic accuses of infringement Vantiva's customer premises equipment, including cable modems and set top boxes. All of the cable modems, and nearly all of the set top boxes, accused of infringement in the Vantiva Case are also accused of infringement in the instant case. Vantiva, in fact, supplies Cox with cable modems and set top boxes that are accused of infringement in this case, as well as the Vantiva Case.

The case against Cox involving the patents asserted against Vantiva should thus be stayed pending resolution of the Vantiva Case under the customer suit exception. The customer-suit exception "stay[s] earlier-filed litigation against a customer while a later-filed case involving the manufacturer proceeds in another forum." *Spread Spectrum Screening LLC v. Eastman Kodak Co*., 657 F.3d 1349, 1357 (Fed. Cir. 2011). The doctrine aims to relieve "the burdens of trial on the customer, for it is the manufacturer who is generally the 'true defendant' in the dispute," *In re Nintendo of Am., Inc*., 756 F.3d 1363, 1365 (Fed. Cir. 2014), and implement the "strong preference" for avoiding simultaneous litigation by two district courts on the same issues of liability (infringement and invalidity), *In re Google Inc*., 588 F. App'x 988, 990 (Fed. Cir. 2014). Those policies apply squarely to this case because resolution of the Vantiva Case will be dispositive. *See, e.g., Wok & Pan, Ind., Inc. v. Staples*, Inc., 2015 WL 13949651 (C.D. Cal. Aug. 25, 2015) ("Because this customer-suit rule operates as an exception to the first-to-file rule, the manufacturer's suit will take priority over the customer suit even though the customer suit was filed first."); *Xiaohua Huang v. Open-Silicon, Inc.*, 2018 WL 5099275, at

[3] U.S. Patent No. 11,785,275 was not asserted in Entropic's original complaint against Cox. However, Entropic later filed a Motion to Amend (Dkt. 114), seeking to add U.S. Patent No. 11,785,275 to the Cox case, and Special Master Keyzer recommended Entropic's Motion be granted. Special Master Keyzer's Report and Recommendation (Dkt. 277) has not been ruled on by the Court.

*4 (N.D. Cal. Aug. 27, 2018) (A stay with respect to Open-Silicon is appropriate under the customer-suit doctrine to spare it the burdens of trial while eSilicon litigates Mr. Huang's infringement claims with respect to its technology."); *Katz v. Lear Siegler, Inc*., 909 F.2d 1459, 1464 (Fed. Cir. 1990) (similar).

Finally, because U.S. Patent Nos. 10,135,682 and 9,866,438 are not asserted in the Vantiva case and consistent with Entropic's prior proposal (Dkt. 349), Cox suggests the Court sever those patents and proceed with resolving the parties' dispute concerning those patents. Should the Court desire, Cox is happy to fully brief this issue.

MaxLinear's Position:

MaxLinear is subject only to counterclaims brought by Cox, and the Special Master's recommendation that those counterclaims be dismissed with prejudice is ready for the Court's review if that case moves forward. (*See* ECF No. 302 at 74.) Accordingly, MaxLinear takes no position on the timing with which claims proceed in this case. MaxLinear wishes to note, however, the potential for deconsolidation of the cases to result in discovery inefficiencies. In particular, MaxLinear expects that defendants may seek the depositions of current or former MaxLinear employees on issues relating to the patent claims, and placing these cases on different schedules risks subjecting individuals to duplicative depositions. Accordingly, should the Court separate the -1049 and -1050 case schedules, MaxLinear respectfully requests that the Court also order the parties to confer on deposition scheduling and use reasonable, good faith efforts to avoid subjecting the same individual to more than one deposition.

Dated: March 7, 2025

Respectfully submitted,

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SIGNATURE CERTIFICATION

Pursuant to L.R. 5-4.3.4(a)(2)(i), I, Rachel Berman, attest that all other signatories listed herein and on whose behalf the filing is submitted concur in the filing's content and have authorized the filing.

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