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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13

14 Neodron Ltd.,
15 Plaintiff,
16 v.
17 Lenovo Group, Ltd., et al.,
18 Defendants.
19

Case No. 3:19-cv-05644-SI

**Plaintiff Neodron Ltd.'s Notice of Motion
and Motion to Lift Stay**

Date: November 13, 2020
Time: 10:00 AM
Judge: Hon. Susan Illston
Courtroom: 1, 17th Floor

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NOTICE OF MOTION

TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on November 13, 2020, by telephone conference, or soon thereafter as the matter may be heard before the Honorable Susan Illston, Plaintiff Neodron Ltd. (“Neodron”) will and hereby moves to lift the stay in this case. Defendants indicated that they oppose lifting of the stay. D.I. 108 at 3-4.

STATEMENT OF RELIEF

Plaintiff Neodron respectfully requests that the Court lift the stay of this proceeding.

I. INTRODUCTION

The Court previously entered an Order staying this case because there were pending *Inter Partes Review* (“IPR”) proceedings against a subset of the seven patents asserted in this case. However, based on developments since this Court’s Order, the justification for the stay no longer exists. *First*, with respect to one of the asserted patents (‘502 patent), the “request for rehearing” regarding Defendants’ denied IPR petition was also ultimately denied, shortly after this Court’s Order. That development leaves four of the seven patents—the ‘502 patent, the ‘286 patent, the ‘237 patent, and the ‘770 patent—with no pending IPR. And notably, Defendants are time-barred from filing any additional IPR petitions now and are precluded by law from appealing any and all denials of their petitions. *Second*, in the interest of proceeding toward a resolution of its rights, Neodron has elected to proceed in this case with only these four patents and none of the other three patents. Accordingly, there is no justification for staying this case, and Neodron is unfairly prejudiced by continuing the stay. The stay should be lifted.

II. STATEMENT OF FACTS

Plaintiff Neodron initially asserted seven patents in this case: United States Patent Nos. 8,102,286 (“the ‘286 patent”); 8,451,237 (“the ‘237 patent”); 8,502,547 (“the ‘547 patent”); 8,946,574 (“the ‘574 patent”); 9,086,770 (“the ‘770 patent”); 10,088,960 (“the ‘960 patent”); and 7,821,502 (“the ‘502 patent) (collectively, the “Asserted Patents”).

On August 27, 2020, the Court granted Defendants’ stay motion because “[t]he ‘547 and ‘960 patents have already been granted *inter partes* review, while the defendants’ petition for the ‘574 patent is still pending,” and because “[t]he petition for the ‘502 patent, though already denied by the PTO, is also pending decision through a request for rehearing.” D.I. 106 at 1-2.

As the Court’s stay order recognized, “[t]he remaining three patents have either been denied *inter partes* review (the ‘286 patent) or have not as of yet been petitioned by defendants (the ‘237 and ‘770 patents).” *Id.*

On September 15, 2020, the PTAB denied Samsung’s request for rehearing and denied Defendants’ petition to institute IPR as to the ‘502 patent. *See* D.I. 108 (Joint Status Report) at 2.

1 On September 17, 2020, Neodron notified Defendants that it will elect to proceed only
2 with the four patents which have no instituted IPRs pending, i.e., the ‘286 patent, the ‘237 patent,
3 the ‘770 patent, and the ‘502 patent. *See* D.I. 108 (Joint Status Report) at 3.

4 **III. ARGUMENT**

5 **A. No Simplification Can Result from Continuing a Stay Because There Are No** 6 **Instituted IPRs Pending For the Four Patents Now Remaining At Issue In** 7 **This Case.**

8 All IPR proceedings that formed the basis of the Court’s stay here are no longer at issue
9 in this case. On September 17, 2020, Neodron notified Defendants that it will elect to proceed
10 only with the four patents which have no instituted IPRs pending, i.e., the ‘286 patent, the ‘237
11 patent, the ‘770 patent, and the ‘502 patent. *See* D.I. 108 (Joint Status Report) at 3.

12 Three of the four IPR proceedings that formed the basis of the stay—those involving the
13 ‘547, ‘960, and ‘574 patents—are no longer relevant to this case, as the ‘547, ‘960, and ‘574
14 patents are no longer asserted here by Neodron. *See* D.I. 108 (Joint Status Report) at 3.

15 As to the fourth IPR proceeding, the Court in its stay order stated that “[t]he petition for
16 the ‘502 patent, though already denied by the PTO, is also pending decision through a request for
17 rehearing.” D.I. 106 at 1-2. Shortly after the Court’s stay order, on September 15, 2020, the
18 PTAB denied Samsung’s request for rehearing and denied Defendants’ petition to institute IPR
19 as to the ‘502 patent. *See* D.I. 108 (Joint Status Report) at 2.

20 While there is an IPR petition that Apple Inc. filed against the ‘502 patent on July 29,
21 2020 (IPR2020-01331),¹ Neodron expects that petition to be denied institution, just like the other
22 IPR petition against the ‘502 patent. But even if this new IPR petition is instituted, the final
23 written decision is not expected until February 2022 (1 year after the deadline for institution
24 decision in February 2021). Moreover, Defendants have not requested to join this petition.
25 Accordingly, the possibility of this petition simplifying this case is remote at best because (1) the
26 petition is unlikely to be instituted; (2) even if it is instituted, the final written decision in that

27 _____
28 ¹ Samsung filed a joinder IPR petition on September 10, 2020 (IPR2020-01610), that seeks to
join Apple’s petition regarding the ‘502 patent, asserting identical arguments as Apple.

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