

Federal Circuit directed the litigants to file a motion to stay proceedings and for the district court to decide the motion to stay and a pending motion to transfer venue "before proceeding to any motion on the merits of the action." In re Fusion-IO, Inc., 489 Fed. App'x 465, 465 (Fed. Cir. 2012).

The instant case presents a similar set of circumstances. Plaintiff B.E. Technology, LLC, filed a patent-infringement action against Defendant on September 21, 2012. (ECF No. 1.) Defendant filed a Motion To Change Venue on December 18, 2012 (ECF No. 22), seeking transfer to the United States District Court for the Northern District of California, and its Answer on December 31, 2012 (ECF No. 25). Discovery will soon commence as Defendant's Non-Infringement Contentions are due under the Local Patent Rules by February 21, 2013. Staying the proceedings – including the Local Patent Rule disclosures and fact discovery – will allow the Court to properly decide the pending Motion to Change Venue in light of judicial economy and comity. See McDonnell Douglas Corp. v. Polin, 429 F.2d 30, 31 (3d Cir. 1970) ("Judicial economy requires that another district court should not burden itself with the merits of the action until it is decided that a transfer should be effected").

Therefore, the Court orders that all proceedings – including Local Patent Rule disclosures and fact discovery – are hereby stayed pending the outcome of Defendant’s Motion To Change Venue and further Order by the Court.

IT IS SO ORDERED this 11th day of February, 2013.

s/ Jon P. McCalla
CHIEF U.S. DISTRICT JUDGE