

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ADVANCED MICRODEVICES, INC. and  
ATI TECHNOLOGIES ULC,

Plaintiffs,

v.

TCL INDUSTRIES HOLDINGS CO., LTD.;  
TCL INDUSTRIES HOLDINGS (H.K.)  
LIMITED; TCL ELECTRONICS  
HOLDINGS LIMITED; TCL  
TECHNOLOGY GROUP CORPORATION;  
TTE CORPORATION; TCL HOLDINGS  
(BVI) LIMITED; TCL KING ELECTRICAL  
APPLIANCES (HUIZHOU) CO. LTD.;  
SHENZHEN TCL NEW TECHNOLOGIES  
CO., LTD.; TCL MOKA INTERNATIONAL  
LIMITED; TCL SMART DEVICE  
(VIETNAM) CO., LTD; MANUFACTURAS  
AVANZADAS SA DE CV; TCL  
ELECTRONICS MEXICO, S DE RL DE CV;  
TCL OVERSEAS MARKETING LTD.; and  
REALTEK SEMICONDUCTOR CORP.,

Defendants.

**C.A. No. 2:22-cv-00134-JRG**

**JURY TRIAL DEMANDED**

**DEFENDANT REALTEK SEMICONDUCTOR CORP.'S OPPOSITION TO  
PLAINTIFFS' MOTION FOR DISCRETIONARY STAY PENDING FINAL  
DETERMINATION BY THE ITC OF INVESTIGATION NO. 337-TA-1318**

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## I. INTRODUCTION

Plaintiffs' motion for a stay is not intended to achieve judicial efficiency, nor will it simplify the issues in this case. Counsel for Plaintiffs have an established practice of litigating infringement claims in the ITC, then modifying their theories and relitigating their claims in the district court. This is what they intend to do here as well, as demonstrated by the fact that Plaintiffs refuse to be bound by any adverse determinations in the pending ITC proceeding as a condition of a stay. Plaintiffs' motion should be denied.

In September 2020, counsel for Plaintiffs, Mintz Levin ("Mintz") concurrently initiated proceedings in the ITC and the District of Delaware asserting infringement of four patents against a group of defendants that included Realtek. Realtek and the other defendants requested a mandatory stay of the Delaware cases under 28 U.S.C. § 1659. The ITC subsequently held that Realtek's products did not infringe on at least two independent grounds. Instead of appealing this decision to the Federal Circuit and obtaining a definitive ruling on claim construction, Mintz asked the district court to lift the stay and proposed a scheduling order that includes infringement and invalidity contentions, claim construction briefing, and a *Markman* hearing, to be followed by fact and expert discovery. Mintz apparently believes that it is not bound by any of the Commission's rulings and intends to relitigate the entire case in the District of Delaware, modifying the theories that lost in the ITC in an attempt to achieve a different outcome.

Mintz has now again initiated parallel infringement proceedings, in this Court and in the ITC, asserting a new salvo of patents against Realtek and TCL. This time, having learned from recent history, Realtek declined to opt into the mandatory stay under § 1659. But Mintz—determined to still get its two bites at the infringement apple—responded by filing the present motion for a discretionary stay, so it can take its shot in the ITC, and when it loses there, embark on a second attempt to prove infringement in this Court under different theories.

There is precedent for preventing this type of gamesmanship. In other contexts, such as reexamination and IPR proceedings, when a party moves to stay litigation pending the outcome of a parallel proceeding before an administrative agency (such as the PTO or the ITC), this Court

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