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

AGIS SOFTWARE DEVELOPMENT LLC,

Plaintiff,

V.

ASUSTEK COMPUTER INC., ASUS
COMPUTER INTERNATIONAL,

Defendants.

ORDER

Before the Court is the Unopposed Motion to Stay Action Pending ITC Determination (the "Motion") filed by Defendants ASUSTEK Computer Inc. ("ASUSTEK Computer") and ASUS Computer International ("ACI") (collectively, "ASUS"). (Dkt. No. 12.) In the Motion, ASUS appears specially in the case to move to stay all proceedings in the above-captioned matter until the determination of the United States International Trade Commission ("ITC") in a parallel proceeding becomes final. (*Id.* at 1.)¹ The ITC instituted an investigation, *In the Matter of Certain Location-Sharing Systems, Related Software Components Thereof, and Products Containing Same*, Investigation No. 337-TA-1347 (U.S. Int'l Trade Comm'n) (hereinafter, "ITC Action"), on December 22, 2022. (*Id.*) Plaintiff AGIS Software Development LLC ("AGIS") does not oppose the Motion. (*Id.*)

Under 28 U.S.C. § 1659, a District Court "shall stay" parallel litigation "until the determination of the Commission becomes final" if certain conditions are met.

¹ "ASUS appears specially to make this motion because AGIS has not yet served process on ASUS." (Dkt. No. 12 at 3.)



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28 U.S.C. § 1659(a). First, the civil action before the District Court must "involv[e] parties that

are also parties to a proceeding before the [ITC]." (Id.) Second, the claims for which the stay is

requested must "involve[] the same issues" as those before the ITC. (Id.) Third, the stay must be

requested by a respondent before the ITC within thirty days of being named as a respondent before

the ITC, or within thirty days of the District Court action being filed, whichever is later. (*Id.*)

The Court finds that all three requirements for a statutory stay have been met. First, the

ITC Action and the above-captioned matter involve the same parties because AGIS is the

complainant in the ITC Action and ASUS is named as a respondent. (Id. at 1-2.) Second, all

patents-in-suit—U.S. Patent Nos. 8,213,970, 9,445,251, 9,467,838, 9,749,829, and 9,820,123—

are the subject of AGIS's infringement allegations in the ITC Action. (Id. at 1.) Third, ASUS is a

respondent in the ITC Action and has filed its Motion within thirty days of the ITC's institution of

an investigation. (Id. at 2-3.) The statutory requirements for a stay having been met, the Court

finds that the Motion should be and hereby is **GRANTED**.

Accordingly, pursuant to 28 U.S.C. § 1659, it is **ORDERED** that all action in the

above-captioned matter is **STAYED** until further Order of this Court. It is further **ORDERED** that

the parties file a joint notice in this case with attached supporting copies of any dispositive or

partially dispositive action by the ITC.

So ORDERED and SIGNED this 18th day of January, 2023.

RODNEY GILSTRA

UNITED STATES DISTRICT JUDGE