

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

AGIS SOFTWARE DEVELOPMENT LLC,

Plaintiff,

v.

ONEPLUS TECHNOLOGY (SHENZHEN)
CO., LTD.,

Defendant.

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CIVIL ACTION NO. 2:22-CV-00446-JRG

ORDER

Before the Court is the Unopposed Motion to Stay Action Pending ITC Determination (the “Motion”) filed by Defendant OnePlus Technology (Shenzhen) Co., Ltd. (“OnePlus”). (Dkt. No. 11.) In the Motion, OnePlus 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. 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

¹ OnePlus appears specially in the case “because AGIS has not yet served process on OnePlus.” (Dkt. No. 11 at 3.)


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 OnePlus is named as a respondent. (Dkt. No. 11 at 1.) 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.*) Third, OnePlus 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.) 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 this

Jan 17, 2023



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE