

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

NEODRON LTD., <i>Plaintiff,</i>	§	
v.	§	CASE NO. 1-19-CV-00819-ADA
DELL TECHNOLOGIES INC., <i>Defendant.</i>	§	

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NEODRON, LTD., <i>Plaintiff,</i>	§	
v.	§	CASE NO. 1-19-CV-00873-ADA
HP INC., <i>Defendant.</i>	§	

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NEODRON LTD., <i>Plaintiff,</i>	§	
v.	§	CASE NO. 1-19-CV-00874-ADA
MICROSOFT CORPORATION, <i>Defendant.</i>	§	

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NEODRON, LTD., <i>Plaintiff,</i>	§	
v.	§	CASE NO. 1-19-CV-00898-ADA
AMAZON.COM, INC., <i>Defendant.</i>	§	

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NEODRON LTD., <i>Plaintiff,</i>	§	
-vs-	§	CASE NO. 1-19-CV-00903-ADA
SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., <i>Defendants.</i>	§	

## **ORDER DENYING MOTION TO STAY**

Before the Court are the motions to stay filed by Defendants Dell Technologies Inc. (“Dell”); HP Inc. (“HP”); Microsoft Corporation (“Microsoft”); Amazon.com, Inc. (“Amazon”); Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (“Samsung”). Dell ECF No. 21, HP ECF No. 22, Microsoft ECF No. 24, Amazon ECF No. 15, Samsung ECF No. 18. Plaintiff Neodron Ltd. (“Neodron”) filed a timely Response to all motions to stay on September 6, 2019. Dell ECF No. 32, HP ECF No. 31, Microsoft ECF No. 29, Amazon ECF No. 21, Samsung ECF No. 29. The arguments of the parties are relatively identical. As such, the Court will address and cite to the earliest case number as a general reference. The Court has considered the Motions, all relevant filings, and the applicable law. For the reasons set forth below, the Court finds that Defendants’ motions should be **DENIED**.

### **I. BACKGROUND**

Neodron filed suit against Dell, HP, Microsoft, Amazon, and Samsung alleging patent infringements on June 28, 2019. ECF No. 1. Neodron has additional claims filed against Defendants that are pending before the International Trade Commission (“ITC”). ECF No. 21 at 5. Defendants filed these motions to stay the above styled cases on the same date arguing that the legal factors weigh in favor of staying the case until the ITC resolves the other claims. *Id.* at 5–6. Neodron filed its response arguing the factors weigh against staying this case because the claims pending before the ITC are unrelated and staying the case would prejudice Neodron. ECF No. 38 at 4–5.

### **II. LEGAL STANDARD**

Whether to stay a case falls within the Court’s inherent discretionary authority. *In re Ramu Corp.*, 903 F.2d 312, 318 (5th Cir. 1990) (“The stay of a pending matter is ordinarily within the

trial court's wide discretion to control the course of litigation, which includes authority to control the scope and pace of discovery.") (citations omitted); *see also Clinton v. Jones*, 520 U.S. 681, 706 (1997). Determining whether to issue a discretionary stay "calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936). Ultimately, the proponent has the burden to "make out a clear case of hardship or inequity in being required to go forward if there is even a fair possibility that the stay for which he prays will work damage to someone else." *In re Davis*, 730 F.2d 176, 178 (5th Cir. 1984) (quoting *Landis*, 299 U.S. at 255). "[W]hen granting a stay pending resolution of another case, the court must consider the time expected for resolution of that case. The resultant stay must not be of immoderate or indefinite duration." *Clark v. Southwest Airlines Co.*, No. 1:16-CV-910-RP, 2017 WL 1435762, at \*2 (W.D. Tex. Apr. 21, 2017) (citations omitted). In determining whether a stay is proper, a district court should consider, among other factors, (1) the potential prejudice to the non-moving party; (2) the hardship and inequity to the moving party if the action is not stayed; and (3) judicial resources. *Yeti Coolers, LLC v. Home Depot U.S.A., Inc.*, No. 1:17-CV-342-RP, 2018 WL 2122868 (W.D. Tex. Jan. 8, 2018).

### III. ANALYSIS

At issue in this case is whether defendants meet their burden to establish a clear harm or inequity should the cases proceed. The Court first considers the potential prejudice to the non-moving party. Defendants argue Neodron would not be unduly prejudiced if the Court granted the motion to stay. ECF No. 21 at 9–11. Among the five defendants, there are two primary arguments regarding this factor. The first argument is Neodron is creating its own harm by filing these actions separately, and therefore is not prejudiced by the proponent's motion. *Id.* The second argument is the only harm is the delay of monetary damages. *Id.* Defendants point to other district courts who

held the delay of monetary damages does not rise to prejudice. *Id.* However, none of the cited cases are controlling, and thus only serve as examples of other courts exercising discretion.

Neodron responds that a delay would prejudice Neodron's interest in obtaining an expeditious resolution to its claim. ECF No. 32 at 10–11. Additionally, Neodron also argues the estimated fourteen-month delay does not account for the possibility of a longer delay from an appeal of the ITC holding should the ITC find in favor of defendants. *Id.* Neodron further argues that a delay might risk loss of evidence and witnesses. *Id.*

After careful consideration of the parties' arguments, the Court finds Defendants' arguments are not persuasive. There is a distinct possibility for an extended and immoderate delay should any party appeal the final judgment from the ITC. Rather than a fourteen-month delay, the case would likely be stayed for a period of more than two years, which is one-tenth of a patent's term. While Neodron's argument that witnesses and evidence might be lost is tenuous, extended delay would likely prejudice Neodron's interests in protecting its patents and an expeditious resolution to the litigation.

In light of the possibility of harm to Neodron, Defendants must show a clear hardship or inequity should the case proceed. *Davis*, 730 F.2d at 178. Defendants argue that they would suffer hardship due to the difficulty of defending two fronts in what Defendants consider parallel and duplicative proceedings. ECF No. 21 at 11. This, however, seems to be an overgeneralization. The more probable scenario is the claims would be handled individually or in small clusters rather than being consolidated into one action. While Neodron's claims before the Court involve the same products as its claims before the ITC, the patents are not the same. ECF No. 32 at 7–9. The inventors are not the same. *Id.* In fact, only one out of five inventors overlaps with the ITC claims. *Id.* Thus, Defendants will have to defend separate actions regardless of whether a stay is granted,

the only difference being the timing of the litigation. Further, Neodron offers and agrees to a cross-use agreement for discovery which would alleviate the Defendants' duplicative discovery concerns. *Id.* at 9. For at least these reasons, the Defendants fail to show a clear hardship or inequity in defending the present claims.

Finally, the Court considers the Defendants' arguments regarding judicial economy. Defendants allege continuing without a stay risks duplicative litigation and inconsistent rulings. ECF No. 21 at 12–14. Neodron argues there is no risk of duplicative litigation because the present claims involve different patents, terms, witnesses, and inventors. *Id.* at 7–9. And, as described above, to minimize the risk of duplicate discovery, Neodron proposes a cross-use agreement. ECF No. 32 at 9. Neodron also argues a stay will not save the Court or parties time or expense because the Court will still have to conduct claim construction because the ITC claims are different claims. *Id.* Therefore, the Court concludes that it is unlikely that staying the above styled cases would result in a more efficient and economical process.

Considering the above, the Court concludes that neither the facts of these cases nor relevant case law support granting Defendants' motions to stay. It seems apparent that granting the motion would both work prejudice against Neodron and compromise judicial economy. Further, none of the Defendants have demonstrated a clear hardship or inequity in allowing the case to proceed.

#### IV. CONCLUSION

Based on the foregoing, Defendant's Motion to Stay is **DENIED**.

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