

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

AIRE TECHNOLOGY LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-01101-ADA

JURY TRIAL DEMANDED

**AIRE TECHNOLOGY LTD.'S OPPOSITION TO APPLE INC.'S
MOTION TO MODIFY STAY ORDER**

TABLE OF CONTENTS

I. INTRODUCTION 1

II. LEGAL STANDARD 2

III. ARGUMENT..... 2

 A. The Court should resolve Apple’s transfer motion prior to considering a
 motion to stay pending resolution of Apple’s IPRs 2

 B. The Court should provide Aire with the opportunity to provide a full
 response to Apple’s stay motion 2

IV. CONCLUSION 4

TABLE OF AUTHORITIES

Cases

Invensys Sys., Inc. v. Emerson Elec. Co.,
No. 6:12-CV-00799, 2014 WL 4477393 (E.D. Tex. July 25, 2014).....4

Cheetah Omni, LLC v. Level 3 Commc'ns, Inc.,
No. 5:06-CV-101, 2011 WL 13244215 (E.D. Tex. May 12, 2011)2

Clinton v. Jones,
520 U.S. 681 (1997)2

Endotach LLC v. Cook Med. Inc.,
No. 1:13-CV-01135-LJM, 2014 WL 852831 (S.D. Ind. Mar. 5, 2014).....3

Lennon Image Techs., LLC v. Macy's Retail Holdings, Inc.,
No. 2:13-CV-00235-JRG, 2014 WL 4652117 (E.D. Tex. Sept. 18, 2014).....4

Sonrai Memory Ltd. v. LG Elecs. Inc.,
No. 6:21-CV-00168-ADA, 2022 WL 2307475 (W.D. Tex. June 27, 2022).....4

Statutes and Rules

35 U.S.C. § 1123

I. INTRODUCTION

In Apple's recent petition for mandamus, it requested that the Federal Circuit "grant mandamus to ensure that *transfer motions receive the priority they deserve*."¹ *In re Apple*, No. 22-162, at 4. Consequently, the Federal Circuit issued a mandate that the Court "postpone fact discovery and other substantive proceedings until after consideration of Apple's motion for transfer." Dkt. No. 70 at 6. The Court then issued an order that "the proceedings, including all deadlines in the above captioned matter are STAYED as of the date of this Order, pending resolution of the Motion to Transfer at ECF No. 24." Dkt. No. 71. To that end, the instant stay is in place precisely for the purpose of affording the Court the ability to rule on Apple's pending Motion to Transfer.

Apple's rigorous attempts to transfer out of this Court cannot be reconciled with its current request that this Court provide it with an indefinite stay of proceedings *in this District*. Rather than prioritize its Motion to Transfer to the Northern District of California, Apple now wants this Court to lift the very stay it perpetuated through its Appeal and grant it relief for an indefinite stay of proceedings in the very District it has fought to escape. Either the parties are litigating in this Court (as Aire maintains), or the parties are litigating in the Northern District of California (as Apple urges). Depending on the Court's determination of the appropriate venue, Apple can then raise its arguments concerning its petitions for *inter partes* review. But Apple's pending Motion to Transfer should be decided first. Accordingly, Apple's motion to modify the November 8, 2022 Stay Order (Dkt. No. 73, "Mot.") should be denied.

¹ All emphasis added unless stated otherwise.

II. LEGAL STANDARD

District courts possess an inherent power to manage their own docket, including the power to stay proceedings. *Clinton v. Jones*, 520 U.S. 681, 706 (1997). “[T]he Court also has the discretion to lift a stay when circumstances have changed such that the Court’s reasons for imposing the stay no longer exist or are inappropriate.” *Cheetah Omni, LLC v. Level 3 Commc’ns, Inc.*, No. 5:06-CV-101, 2011 WL 13244215, at *1 (E.D. Tex. May 12, 2011).

III. ARGUMENT

A. The Court should resolve Apple’s transfer motion prior to considering a motion to stay pending resolution of Apple’s IPRs

The institution of Apple’s petitions for *inter partes* review does not bear on the purpose of the current stay—for the Court to rule on Apple’s Motion to Transfer. Apple argues that the institution of its petitions for *inter partes* review is important to the Court “for purposes of managing its own workload and in determining the future schedule of this case.” Mot. at 1-2. But Apple seeks to have this case transferred to the Northern District of California, which undoubtedly impacts the Court’s “workload” and “future schedule of this case.” Given Apple’s repeated insistence that its Motion to Transfer be decided before any further action in this case, the Court should first determine whether to grant Apple’s request to transfer to the Northern District of California (it should not). Depending on that ruling, either this Court or the transferee court may then address Apple’s request to indefinitely stay these proceedings pending complete resolution of all three petitions for *inter partes* review.

B. The Court should provide Aire with the opportunity to provide a full response to Apple’s stay motion

Apple requests that Aire be afforded an opportunity to formally respond to Apple’s IPR Stay Motion after the Court rules on its motion to lift the stay. Mot. at 3. Aire agrees. Should the

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.