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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CYWEE GROUP LTD.,  
  
Plaintiff,  
  
v.  
  
HTC CORPORATION, et al.,  
  
Defendants/Third-Party Plaintiffs,  
  
v.  
  
CYWEE MOTION GROUP LTD.,  
  
Third-Party Defendant.

CASE NO. C17-0932JLR  
  
ORDER ON THIRD-PARTY  
DEFENDANT'S MOTION FOR  
SUMMARY JUDGMENT AND  
ON CROSS-MOTIONS FOR  
STAY

~~PROVISIONALLY FILED~~  
~~UNDER SEAL~~

**I. INTRODUCTION**

Before the court are three motions. First, Third-Party Defendant CyWee Motion Group Ltd. ("CyWee Motion") moves for summary judgment against Defendants and Third-Party Plaintiffs HTC Corporation ("HTC Corp.") and HTC America, Inc. ("HTC America") (collectively, "HTC"). (MSJ (Dkt. # 107).) HTC opposes CyWee Motion's

1 summary judgment motion. (Resp. (Dkt. ## 112 (redacted), 113 (sealed).) Second,  
2 Plaintiff CyWee Group Ltd. (“CyWee Group”) and CyWee Motion (collectively,  
3 “CyWee”) move for a partial stay of this matter pending *inter partes* review (“IPR”)  
4 proceedings. (CyWee MTS (Dkt. # 123).) Third, HTC cross-moves for a complete stay  
5 pending IPR proceedings. (HTC MTS (Dkt. # 126).) The court has considered the  
6 motions, the parties’ submissions concerning the motions, the relevant portions of the  
7 record, and the applicable law. Being fully advised,<sup>1</sup> the court DENIES CyWee Motion’s  
8 motion for summary judgment without prejudice to refile according to the timeline set  
9 forth herein. The court further GRANTS in part and DENIES in part CyWee’s motion  
10 for a partial stay and GRANTS in part and DENIES in part HTC’s motion for a complete  
11 stay.

## 12 II. BACKGROUND

13 This case features patent infringement and other disputes between technology  
14 companies. The court identifies the parties before summarizing the factual and  
15 procedural background.

### 16 A. The Parties

17 CyWee Group provides products and services in the areas of “motion processing,  
18 wireless high definition video delivery, and facial tracking technology.” (SAC (Dkt.  
19

20  
21 <sup>1</sup> CyWee Motion and HTC request oral argument on CyWee Motion’s summary  
22 judgment motion (*see* MSJ at Title Page; Resp. at Title Page), and HTC requests oral argument  
on its cross-motion for a complete stay (*see* HTC MTS at Title Page), but the court finds that oral  
argument is unnecessary to its disposition of the motions, *see* Local Rules W.D. Wash. LCR  
7(b)(4).

1 # 61) ¶ 2.) CyWee Group owns two patents protecting technology that detects, measures,  
2 and calculates the movements of machines: United States Patent No. 8,441,438 and  
3 United States Patent No. 8,552,978 (collectively, “the Patents-in-Suit”). (*Id.* ¶¶ 15,  
4 20-22, 122-24.) CyWee Motion, which is “affiliated” with CyWee Group, specializes in  
5 “wireless streaming, facial tracking, and motion processing technology solutions for  
6 home entertainment and mobile devices.” (CyWee Motion Am. Countercl. (Dkt. # 104)  
7 ¶ 7.)

8 HTC Corp. manufactures consumer electronics, including mobile phones and  
9 tablets. (SAC ¶ 3; Answer to SAC (Dkt. # 62) ¶ 3.) HTC America, a wholly-owned  
10 subsidiary of HTC Corp., imports and sells HTC Corp.’s mobile phones and tablets in the  
11 United States. (SAC ¶ 4; Answer to SAC ¶ 4.)

12 **B. Factual Background**

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]

20  
21 <sup>2</sup> HTC also filed a sealed copy of the License Agreement. (*See* Yoon Decl. (Dkt.  
22 # 112-1) ¶ 14, Ex. 3 (sealed).) When citing the License Agreement, the court cites specific  
paragraph numbers, where applicable. Where no paragraph number corresponds to the cited  
material, the court cites the Bates number at the bottom-right corner of the document.

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED] CyWee

9 Motion, Inc. is a wholly-owned subsidiary of CyWee Motion. (Liou Decl. (Dkt. # 107-2)

10 ¶ 2.)  
11 [REDACTED]  
12 [REDACTED]

13 [REDACTED] Specifically, HTC  
14 integrated into its mobile phones STM sensor hub modules with CyWee Software. (*Id.*  
15 ¶ 4.) Whenever HTC required new sensor fusion functionalities, “HTC would request the  
16 support from CyWee Motion to develop the new functionalities in the CyWee Software.”

17 (*Id.* ¶ 6.) [REDACTED]  
18 [REDACTED]

19 [REDACTED] HTC asserts that “CyWee Motion provided each

20  
21 <sup>3</sup> Both CyWee Motion and HTC imply that that the [REDACTED]  
22 [REDACTED]. (See CyWee Motion Am. Countercl. ¶ 9; HTC MTS at 2.)  
As discussed below, however, on the record before the court, the relationship between the  
Patents-in-Suit and the CyWee Software remains unclear. See *infra* § III.B.2.

1 version of the CyWee Software directly to HTC in binary form” and “did not place any  
2 restrictions on HTC’s use of the CyWee Software in HTC devices.” (*Id.* ¶¶ 7-8.) HTC  
3 further contends that it understood that CyWee Motion was compensated for the CyWee  
4 Software [REDACTED] and that CyWee  
5 Motion “has never requested payment from HTC for the integration and use of CyWee  
6 Software in HTC devices.” (*Id.* ¶ 8.)

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 The same day, CyWee Motion notified HTC [REDACTED]  
15 [REDACTED] (CyWee Motion Am. Countercl. ¶ 18, Ex. B at 1.<sup>5</sup>) CyWee Motion  
16 demanded that HTC “immediately cease and desist any use of [the CyWee S]oftware”  
17 and “immediately return any and all copies of the software to CyWee Motion.” (*Id.*)  
18 //

20 <sup>4</sup> Although CyWee Motion’s amended counterclaims authenticate Exhibit A, the exhibit  
21 is appended to CyWee Motion’s counterclaims. (*See* CyWee Motion Countercl. (Dkt. # 102)  
22 ¶ 17, Ex. A.)

<sup>5</sup> Although CyWee Motion’s amended counterclaims authenticate Exhibit B, the exhibit  
is appended to CyWee Motion’s counterclaims. (*See* CyWee Motion Countercl. ¶ 18, Ex. B.)

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