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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: TFT-LCD (FLAT PANEL) ANTITRUST LITIGATION No. M 07-1827 SI
MDL. No. 1827

This Order Relates to:
ALL CASES

ORDER DENYING THE TOSHIBA ENTITIES' MOTION TO STAY DISCOVERY PENDING RESOLUTION OF PETITION FOR WRIT OF MANDAMUS

United States District Court
For the Northern District of California


The Toshiba entities have filed a motion to stay discovery pending the Ninth Circuit's resolution of the Toshiba entities' petition for writ of mandamus. Plaintiffs oppose the motion.

The Court has reviewed the parties' papers and DENIES the motion. (Docket No. 735). The Court finds that Toshiba has not demonstrated a likelihood of success on the merits because mandamus is generally not available to challenge discretionary decisions such as the Court's November 19, 2008 order denying Toshiba's motion for a protective order. *See Kmart Corp. v. Aronds*, 123 F.3d 297 (5th Cir. 1997).

The Toshiba entities have also not demonstrated that the balance of hardships tips sharply in its favor. Toshiba asserts that discovery will be extremely burdensome. However, as plaintiffs note, the burden associated with certain categories of documents – such as those already produced by Toshiba to the Department of Justice – should be minimal. All other defendants have agreed to the discovery schedule set forth in the May 2008 order, and staying discovery as to Toshiba will disrupt the efficient administration of this complex multidistrict litigation.

IT IS SO ORDERED.

Dated: December 5, 2008


SUSAN ILLSTON
United States District Judge