

United States District Court
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASETEK HOLDINGS, INC., *et al.*,

No. C-12-4998 EMC

Plaintiffs,

v.

**ORDER DENYING DEFENDANT’S
MOTION TO STAY**

COOLIT SYSTEMS, INC.,

(Docket No. 20)

Defendant.

Currently pending before the Court is CoolIT’s motion to stay proceedings pending reexamination of the ‘764 patent. Having considered the parties’ briefs and accompanying submissions,¹ as well as the oral argument of counsel, the Court **DENIES** the motion without prejudice for the reasons stated on the record and as supplemented herein.

A district court has the discretion to stay judicial proceedings pending reexamination of a patent. *See Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426-27 (Fed.Cir.1988). In determining whether to grant a stay pending reexamination, courts generally consider: “(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party.” *Telemac Corp. v. Teledigital, Inc.*, 450 F.Supp.2d 1107, 1110 (N.D. Cal. 2006) (Wilken, J.).

¹ This includes Asetek’s sur-reply. Asetek’s motion for leave to file a sur-reply is granted.

