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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SPEEDTRACK, INC.,  
Plaintiff,  
v.  
AMAZON.COM, INC., et al.,  
Defendants.

Case No. [4:09-cv-04479-JSW](#) (KAW)  
**ORDER REGARDING 6/5/18 JOINT  
DISCOVERY LETTERS**  
Re: Dkt. Nos. 324 & 325

On March 30, 2018, the district court adopted the parties proposed deadline of May 21, 2018 for Defendants’ Invalidation Contentions and accompanying document production pursuant to Patent Local Rules 3-3 and 3-4. (Dkt. Nos. 298 & 300.) On June 5, 2018, the parties filed two joint letters concerning whether Defendants are required to provide their Patent L.R. 3-4(a) disclosures before the undersigned resolves their pending Motion to Strike SpeedTrack’s Infringement Contentions and Stay Discovery, which is currently set for hearing on July 5, 2018. (See Joint Letter #1, Dkt. No. 324 at 2; Joint Letter #2, Dkt. No. 325.) Specifically, one joint letter pertains to Plaintiff’s attempt to compel the production (Joint Letter #1), while the other seeks a protective order pending the resolution of the motion to strike (Joint Letter #2).

As an initial matter, these matters should have been addressed in a single joint letter, because they concern the same issue, as they are truly two sides of the same coin.

Notwithstanding, while the Court understands Defendants’ apprehension to engage in further discovery prior to the service of what they believe are rule-compliant infringement contentions, Plaintiff’s infringement contentions have not yet been found insufficient. In the absence of a stay, Plaintiffs are correct that Defendants are not relieved of their discovery obligations. *Apple Inc. v. Eastman Kodak Co.*, No. CV 10-04145 JW PSG, 2011 WL 334669, at

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\*2 (N.D. Cal. Feb. 1, 2011) (Until a stay is granted, the parties are required to conduct discovery as if no motion to stay had been filed.) To find otherwise would effectively allow a party to grant itself a stay of discovery. *Id.* Indeed, it is possible that the pending motion to strike will be denied.

Accordingly, Defendants are ordered to complete its Patent L.R. 3-4(a) production within 14 days of this order. Plaintiff's request for sanctions in connection with these letters is denied.

IT IS SO ORDERED.

Dated: June 14, 2018

  
KANDIS A. WESTMORE  
United States Magistrate Judge