

United States District Court
For the Northern District of California

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

U.S. ETHERNET INNOVATIONS, LLC,
Plaintiff,

v.

ACER, INC.; ACER AMERICA CORPORATION; APPLE, INC.; ASUS COMPUTER INTERNATIONAL; ASUSTEK COMPUTER, INC.; DELL, INC.; FUJITSU, LTD.; FUJITSU AMERICA, INC.; GATEWAY, INC.; HEWLETT PACKARD CO.; SONY CORPORATION; SONY CORPORATION OF AMERICA; SONY ELECTRONICS INC.; TOSHIBA CORPORATION; TOSHIBA AMERICA, INC.; and TOSHIBA AMERICA INFORMATION SYSTEMS, INC.,

Defendants,

INTEL CORPORATION; NVIDIA CORPORATION; MARVELL SEMICONDUCTOR, INC.; Atheros COMMUNICATIONS, INC.; and BROADCOM CORPORATION,

Intervenors.

No. C 10-3724 CW

ORDER SEVERING
THIRD-PARTY
PLAINTIFF APPLE
INC.'S CLAIMS
AGAINST THIRD-
PARTY DEFENDANT
ORACLE AMERICA,
INC. AND STAYING
THE ACTION UNTIL
THE UNDERLYING
CASE IS RESOLVED
(Docket No. 939)

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On December 13, 2013, Third-Party Plaintiff Apple, Inc. (Apple) and Third-Party Plaintiff Oracle America, Inc. (Oracle) submitted a joint request to stay the third-party action between Apple and Oracle until the underlying action between Apple and U.S. Ethernet Innovations, LLC (USEI) is resolved. Because the indemnification claims in the third-party action rest heavily on the outcome of the underlying action, the Court agrees that such a stay would serve the interests of judicial economy. The Court additionally finds that severance of the third-party action is

1 appropriate under Federal Rule of Civil Procedure 14. See Fed. R.
2 Civ. P. 14(4) ("Any party may move to strike the third-party claim,
3 to sever it, or to try it separately"); Id. Advisory Committee
4 Notes ("the court has discretion to strike the third-party claim
5 if it ... can only delay or prejudice the disposition of the
6 plaintiff's claim ... or accord it separate trial if confusion or
7 prejudice would otherwise result"). See also Sw. Administrators,
8 Inc. v. Rozay's Transfer, 791 F.2d 769, 777 (9th Cir. 1986).

9 Accordingly, IT IS HEREBY ORDERED that:

10 (1) The third-party action between Apple and Oracle shall be
11 severed from the underlying action. The Clerk of the
12 Court shall assign a new case number to the third party
13 action and transfer the third-party complaint,
14 counterclaim complaint, and any accompanying answers to
15 the new action's docket. The new action shall remain
16 assigned to the undersigned and shall not result in
17 statistical credit.

18 (2) Apple's claims and Oracle's counterclaims shall be
19 stayed completely in the new action, pending resolution
20 of the underlying action. Oracle shall not, however,
21 use the stipulation or stay to avoid discovery
22 propounded by Apple related to the patent infringement
23 claims in the underlying action.

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(3) As provided in their stipulation, neither Apple nor Oracle waive any rights, remedies, claims by stipulating to the stay; all such rights, remedies, and claims are preserved.

IT IS SO ORDERED.

Dated: 12/18/2013


CLAUDIA WILKEN
United States District Judge