

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

YMAX COMMUNICATIONS, CORP.,
Plaintiff,
v.
AT&T CORP. and BELLSOUTH LONG
DISTANCE, INC.,
Defendants.

AT&T CORP. and BELLSOUTH LONG
DISTANCE, INC.,
Counter-Claimants,
v.
YMAX COMMUNICATIONS, CORP.,
Counter-Defendant,

No. C 10-04115 CW
ORDER DENYING
WITHOUT PREJUDICE
YMAX
COMMUNICATION
CORP.'S MOTIONS
TO DISMISS AT&T'S
COUNTERCLAIMS, TO
STRIKE AT&T'S
AFFIRMATIVE
DEFENSES, AND FOR
PARTIAL SUMMARY
JUDGMENT AND
GRANTING AT&T'S
MOTION TO STAY
(Docket Nos. 25
and 34)

As stated at the January 13, 2011 hearing on the parties' motions, the Court rules as follows.

The Court DENIES without prejudice Plaintiff and Counter-Defendant YMax Communication Corp.'s motions to dismiss Defendant and Counter-Claimant AT&T's counterclaims and strike AT&T's affirmative defenses. Pursuant to Federal Rule of Civil Procedure 56(d), the Court DENIES without prejudice YMax's motion for partial summary judgment. In accordance with the Case Management Order, YMax may move for summary judgment against AT&T on December 15, 2011.

The Court finds that the equities weigh in favor of staying this action pending the parties' proceedings before the Federal

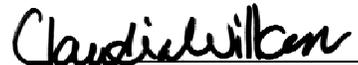
1 Communications Commission (FCC). The FCC's decision with respect
2 to AT&T's formal complaint will assist in resolving this action.
3 Accordingly, the Court GRANTS AT&T's motion to stay pending the
4 FCC's resolution of its formal complaint. Pursuant to its inherent
5 power to do so, the Court STAYS all proceedings in this action.
6 See Landis v. N. Am. Co., 299 U.S. 248, 254 (1936); Leyva v.
7 Certified Grocers of Cal., Ltd., 593 F.2d 857, 863-64 (9th Cir.
8 1979). The court-connected mediation, however, will go forward on
9 or before March 14, 2011.

10 On May 6, 2011, the parties shall file a joint status report,
11 briefing the Court on: (1) the status of YMax Communications, Corp.
12 v. MCI Communications Services, Inc. d/b/a Verizon Business
13 Services, Case No. C 10-4298 SBA (N.D. Cal.); (2) the status of the
14 FCC proceedings on AT&T's formal complaint and any anticipated
15 future proceedings on the matter; and (3) the impact of the FCC
16 proceedings on the timeline established in the Case Management
17 Order. In the alternative, any of the parties may file a motion to
18 lift the stay in this action if changed circumstances provide good
19 cause to do so, or the parties may stipulate to lift the stay.

20 When the stay is lifted, the dates set at the case management
21 conference will apply unless the Court changes them by motion or
22 stipulation of the parties.

23 IT IS SO ORDERED.

24 Dated: 1/14/2011


CLAUDIA WILKEN
United States District Judge

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