

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADVANCED CONNECTION
TECHNOLOGY, INC.,

Plaintiff,

v.

TOSHIBA AMERICA INFORMATION
SYSTEMS, INC.,

Defendant.

No. C 12-6489 PJH
No. C 12-6496 PJH

**ORDER GRANTING MOTIONS TO
STAY LITIGATION**

ADVANCED CONNECTION
TECHNOLOGY INC.,

Plaintiff,

v.

CANON U.S.A. INC.,

Defendant.

Defendants' motions to stay litigation pending inter partes review came on for hearing before this court on November 27, 2013. Plaintiff Advanced Connection Technology, Inc. ("plaintiff") appeared through its counsel, Gene Cherng. Defendant Toshiba America Information Systems, Inc. ("Toshiba") appeared through its counsel, Scott Hall and Jeffry Nelson. Defendant Canon USA, Inc. ("Canon") appeared through its counsel, Kori Bagrowski and Martin Fineman. Having read the papers filed in conjunction with the motions and carefully considered the arguments and the relevant legal authority, and good cause appearing, the court hereby GRANTS defendants' motions, for the reasons stated at the hearing and as follows.

While this court, like many other district courts, is troubled by the potential for gamesmanship that arises from the availability of parallel proceedings for resolving the

United States District Court
For the Northern District of California

1 same dispute, the court also recognizes that “when a claim is cancelled” in any such
2 parallel proceeding, “the patentee loses any cause of action based on that claim, and any
3 pending litigation in which the claims are asserted becomes moot.” Fresenius USA, Inc. v.
4 Baxter Int’l, Inc., 721 F.3d 1330, 1340 (Fed. Cir. 2013). Thus, given the potential for this
5 case becoming moot, and given the fact that this case is still in its early stages, the court
6 hereby GRANTS Canon’s and Toshiba’s motions to stay this litigation pending inter partes
7 review. However, the stay shall be conditioned on the PTO granting Canon’s petition for
8 inter partes review, which will be decided by February 26, 2014. If the petition is granted,
9 the stay will remain in effect during the pendency of the inter partes review. If the petition is
10 denied, the stay shall be automatically lifted, and the parties shall contact the court to
11 schedule a case management conference.

12 **IT IS SO ORDERED.**

13 Dated: November 27, 2013



14 PHYLLIS J. HAMILTON
15 United States District Judge
16
17
18
19
20
21
22
23
24
25
26
27
28