

1
2
3
4 UNITED STATES DISTRICT COURT
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA
6 OAKLAND DIVISION

7
8 IPVX PATENT HOLDINGS, INC., a
9 Delaware corporation,

10 Plaintiff,

11 vs.

12 8X8, INC., a Delaware corporation,

13 Defendant.

Case No: C 13-01707 SBA

ORDER

Docket 83

14 The parties are presently before the Court on Defendant 8x8, Inc.'s ("Defendant")
15 administrative motion to clarify the Court's directives regarding discovery. Dkt. 83.
16 Having read and considered the papers filed in connection with this matter and being fully
17 informed, the Court hereby STAYS all proceedings in this case until Defendant's motion to
18 disqualify Plaintiff's counsel is resolved.

19 **I. BACKGROUND**

20 On November 1, 2011, Plaintiff IPVX Patent Holdings, Inc. ("Plaintiff")
21 commenced the instant patent infringement action against Defendant in the Eastern District
22 of Texas. See Compl., Dkt. 1. On August 23, 2012, Defendant filed a motion to transfer
23 venue to either the District of Delaware or to the Northern District of California under 28
24 U.S.C. § 1404(a). Dkt. 25. An amended complaint was filed on September 25, 2012. Dkt.
25 31. On March 21, 2013, the district court in the Eastern District of Texas issued an order
26 transferring this case to the Northern District of California. Dkt. 40. On May 23, 2013, the
27 case was assigned to the undersigned. Dkt. 52.
28

1 On August 20, 2013, Defendant filed a motion to disqualify Plaintiff's counsel and a
2 motion to dismiss. Dkt. 71, 73. On August 21, 2013, the Court issued an order referring
3 the motion to disqualify Plaintiff's counsel to the Chief Magistrate Judge or her designee
4 for determination. Dkt. 75. On that same day, the Court also issued a minute order stating
5 that Defendant's motion to dismiss will be held in abeyance pending a ruling on
6 Defendant's motion to disqualify Plaintiff's counsel. Dkt. 76. The motion to disqualify
7 Plaintiff's counsel was subsequently assigned to Magistrate Judge Westmore and is
8 currently set for hearing on November 21, 2013. See Dkt. 82.

9 On October 7, 2013, Plaintiff propounded interrogatories and requests for production
10 of documents on Defendant which, among other things, seek "highly sensitive" financial
11 information as well as technical documents such as schematics, plans, manuals and
12 memorandums relating to Defendant's technology. Def.'s Mtn. at 3. On October 21, 2013,
13 Defendant filed an administrative motion to clarify the Court's directives regarding
14 discovery. Dkt. 83. Plaintiff filed a response on October 25, 2013. Dkt. 84.

15 **II. DISCUSSION**

16 The court has inherent authority to manage the cases before it. Landis v. N. Am.
17 Co., 299 U.S. 248, 254-255 (1936) ("[T]he power to stay proceedings is incidental to the
18 power inherent in every court to control the disposition of the causes on its docket with
19 economy of time and effort for itself, for counsel, and for litigants."). A "court may, for
20 good cause, issue an order to protect a party or person from annoyance, embarrassment,
21 oppression, or undue burden or expense," including forbidding discovery or specifying
22 terms, including time and place, for discovery. Fed.R.Civ.P. 26(c)(1). "The burden is upon
23 the party seeking the order to 'show good cause' by demonstrating harm or prejudice that
24 will result from the discovery." Rivera v. NIBCO, Inc., 364 F.3d 1057, 1063 (9th Cir.
25 2004). A stays of proceedings in federal court, including a stay of discovery, is committed
26 to the discretion of the trial court. Jarvis v. Regan, 833 F.2d 149, 155 (9th Cir. 1987); see
27 Little v. City of Seattle, 863 F.2d 681, 685 (9th Cir. 1988) (a district court had wide
28 discretion in controlling discovery).

1 In the instant motion, Defendant seeks clarification as to whether the Court intended
2 to stay all proceedings, including discovery, pending a determination of its motion to
3 disqualify Plaintiff's counsel, which is premised on the improper use and disclosure of
4 Defendant's confidential information by Plaintiff's co-counsel. Def.'s Mtn. at 1, 4.
5 According to Defendant, it "understands" the Court's August 21, 2013 minute order, which
6 states that Defendant's motion to dismiss will be held in abeyance pending a ruling on
7 Defendant's motion to disqualify Plaintiff's counsel, as staying this action "pending
8 determination of the disqualification issues." Id. Plaintiff disagrees, asserting that it does
9 not "understand" the Court's minute order as staying discovery in this case. Dkt. 84.

10 Having reviewed the record, the Court finds that the August 21, 2013 minute order
11 did not stay discovery in this case pending resolution of Defendant's motion to disqualify
12 Plaintiff's counsel. However, the Court finds that Defendant has shown good cause to stay
13 discovery until Defendant's motion to disqualify Plaintiff's counsel is resolved. Staying
14 discovery will avoid the possibility that the parties will unnecessarily expend time and
15 resources conducting discovery. If the motion to disqualify Plaintiff's counsel is granted,
16 the parties will have wasted time and resources propounding and responding to discovery
17 requests. Moreover, a limited stay of discovery is appropriate to prevent Plaintiff's counsel
18 from obtaining technical and financial information about Defendant before a determination
19 is made as to whether Plaintiff's counsel may continue to represent Plaintiff in this action.
20 Finally, Plaintiff has not shown that a limited stay of discovery will impose any unfair
21 prejudice on it.

22 In light of the forgoing, the Court hereby STAYS discovery in the instant action
23 until Defendant's motion to disqualify Plaintiff's counsel is resolved. To the extent
24 Defendant requests an order staying discovery pending resolution of its motion to dismiss,
25 the Court denies this request. Defendant has failed to demonstrate good cause to stay
26 discovery until its motion to dismiss is resolved.

27 **III. CONCLUSION**

28 For the reasons stated above, IT IS HEREBY ORDERED THAT:

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

1. Discovery is STAYED pending resolution of Defendant's motion to disqualify Plaintiff's counsel.

2. This Order terminates Docket 83.

IT IS SO ORDERED.

Dated: 11/12/2013


SAUNDRA BROWN ARMSTRONG
United States District Judge