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E-Filed 9/9/08

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

STMICROELECTRONICS, INC.,

Plaintiff,

v.

ELIYAHOU HARARI, et al.,

Defendants.

Case Number C 05-4691 JF (RS)

ORDER¹ DENYING DEFENDANTS'
MOTION FOR LEAVE TO FILE
MOTION FOR RECONSIDERATION
AND REQUEST TO STAY ORDER
GRANTING PLAINTIFF'S MOTION
TO REMAND

[re: doc. no. 118]

Defendants Eliyahou Harari and SanDisk Corporation (collectively, "Defendants") request leave to file a motion to reconsider this Court's order dated August 27, 2008 granting Plaintiff STMicroelectronics, Inc.'s motion to remand (the "Order"). In addition, Defendants request that the Order be stayed while the Court reviews the motion for reconsideration. For the reasons set forth below, Defendants' motion for reconsideration and request to stay the remand will be denied.

Defendants base the instant motion on Civ. L. R. 7-9(b)(3), which requires that a party

¹ This disposition is not designated for publication in the official reports.

1 seeking leave to file such a motion show “[a] manifest failure by the Court to consider material
2 facts or dispositive legal arguments which were presented to the Court before such interlocutory
3 order.” Here, Defendants argue that the Court’s Order erroneously found that a paper filed in a
4 separate but related suit could trigger the thirty-day removal period provided in 28 U.S.C. §
5 1446(b). Specifically, Defendants argue that such a ruling directly contravenes the reasoning of
6 the Ninth Circuit in *Eyak Native Village v. Exxon Corp.*, 25 F.3d 773, 779 (9th Cir. 1994).
7 Defendants also contend that the Court was incorrect in holding that resolution of Plaintiff’s
8 contractual claims was not dependent on federal law.

9 The Court already has considered these arguments, and it respectfully disagrees with
10 them. A party seeking leave to file a motion for reconsideration cannot justify such a motion by
11 merely repeating arguments already considered and rejected. *See* Civ. L. R. 7-9(c). Accordingly,
12 IT IS HEREBY ORDERED that

- 13 (1) Defendants’ motion for leave to file a motion for reconsideration of the Court’s
14 August 27, 2008 Remand Order is DENIED; and
- 15 (2) Defendants’ request to stay the Court’s August 27, 2008 Remand Order is
16 DENIED.

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21 DATED: 9/9/2008

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JEREMY FOGEL
United States District Court

1 This Order has been served upon the following persons:

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