

United States District Court
For the Northern District of California

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
SAN JOSE DIVISION

THOMAS A. SIMONIAN,)	Case No.: 10-CV-05544-LHK
)	
Plaintiff,)	ORDER DENYING REQUEST TO
v.)	STAY CASE
)	
MONSTER CABLE PRODUCTS, INC.,)	
)	
Defendant.)	

On July 7, 2011, the parties submitted a stipulation in which they requested that the Court stay this action pending a final determination regarding the enactment of the America Invents Act of 2011. The parties agree that, if enacted, the America Invents Act would deprive Plaintiff of standing to bring the instant false patent marking action. The parties represent that the Senate passed a version of the Act on March 8, 2011, and the House passed a different version of the Act on June 23, 2011. However, the parties do not state that Congress is scheduled to vote on a reconciled bill in the near future, nor do they provide any other indication that the status of the Act will be resolved within a short, definite timeframe. It thus appears that the status of the Act might not be resolved until the end of 2012, when the current congressional session ends. Moreover, there is a possibility that the Act may never be enacted into law or that the enacted version of the Act may not deprive Plaintiff of standing. The Court is not inclined to grant a stay of such indefinite and potentially lengthy duration and uncertain outcome. Accordingly, the parties' request for a stay is DENIED. If the parties wish to conserve resources pending congressional

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

action, they may stipulate to dismiss the case without prejudice, with a tolling agreement, if warranted, to preserve Plaintiff's claims in the event that the bill does not become law.

Finally, given the timing of the parties' stipulated request, the Court will modify the schedule for briefing Defendant's motion to dismiss, as follows:

- (1) Plaintiff's response is due July 21, 2011;
- (2) Defendant's reply is due July 28, 2011;
- (3) The motion will be heard on September 22, 2011, as scheduled.

IT IS SO ORDERED.

Dated: July 14, 2011



LUCY H. KOH
United States District Judge