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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

ARISTA NETWORKS, INC.,
Plaintiff,
v.
CISCO SYSTEMS INC.,
Defendants.

Case No. [16-cv-00923-BLF](#)

**ORDER GRANTING DEFENDANT’S
MOTION TO STAY CASE AND
DENYING AS MOOT MOTION TO
DISMISS**

[Re: ECF 48]

Fighting a battle on two fronts, Defendant Cisco Systems, Inc. (“Cisco”) seeks a stay of this antitrust action until its copyright and patent infringement case resolves. Mot. ECF 48. Cisco asks this Court to halt this action until judgment is entered in *Cisco Systems, Inc. v. Arista Networks, Inc.*, No. 14-cv-05344-BLF (N.D. Cal. 2014) (the “CLI case”). Plaintiff Arista Networks, Inc. (“Arista”) opposes the motion, claiming that a stay would be prejudicial. Opp. ECF 60. As set forth below, the Court finds ample support for Cisco’s requested four-month stay and hereby GRANTS the motion.

I. BACKGROUND

Before the filing of the present antitrust action, Cisco had already brought in this Court a copyright and patent infringement action, the CLI case, against Arista. Trial of the CLI case is scheduled to occur in November 2016. CLI case, ECF 160. More than a year after Cisco filed its complaint in the CLI case, Arista requested leave to amend its answer and to add counterclaims based on information it learned from discovery relating to Cisco’s antitrust activities. *Id.*, ECF 1, 163. For reasons set forth in a previously issued order, this Court denied leave but allowed Arista to bring the present antitrust action separately. *Id.*, ECF 204. Soon thereafter, Arista filed the present action on February 24, 2016 and this Court granted its motion to relate the present case to the CLI case. *Id.*, ECF 214; *Arista Networks, Inc. v. Cisco Systems, Inc.*, No. 16-cv-00923-BLF (N.D. Cal. 2016), ECF 1. Trial of the present action is scheduled to occur in August 2018. ECF

1 75.

2 Cisco moves to stay this case until the conclusion of trial of the CLI case in November,
3 arguing that the outcome of that trial will either eliminate or simplify the issues in the present
4 antitrust case. Mot. ECF 48. Cisco further claims that Arista will also be deprived of its antitrust
5 standing when the exclusion orders from the International Trade Commissions (“ITC”) go into
6 effect in the near future. *Id.*

7 In response, Arista contends that this case requires speedy relief to address Cisco’s
8 anticompetitive conduct and the widespread harm on the market. Opp. ECF 60. Arista further
9 urges this Court not to prematurely determine Cisco’s antitrust liability based on ITC’s exclusion
10 orders. *Id.* Lastly, Arista argues that a stay is unwarranted in this case given Cisco’s prior urging
11 and ultimate success in having this antitrust action filed separately from the CLI case. *Id.*

12 **II. LEGAL STANDARD**

13 District courts have the “discretionary power to stay proceedings.” *Lockyer v. Mirant*
14 *Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005) (citing *Landis v. North Am. Co.*, 299 U.S. 248, 254
15 (1936)). This power is “incidental to the power inherent in every court to control the disposition
16 of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants.”
17 *Landis*, 299 U.S. at 254. The court may “find it is efficient for its own docket and the fairest
18 course for the parties to enter a stay of an action before it, pending resolution of independent
19 proceedings which bear upon the case.” *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*,
20 498 F.3d 1059, 1066 (9th Cir. 2007) (quoting *Levy v. Certified Grocers of Cal., Ltd.*, 593 F.2d
21 863-864 (9th Cir. 1979)).

22 In determining whether to grant a stay, “the competing interests which will be affected by
23 the granting or refusal to grant a stay must be weighed.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268
24 (9th Cir. 1962) (citing *Landis*, 299 U.S. at 254-55). “Among these competing interests are [1] the
25 possible damage which may result from the granting of a stay, [2] the hardship or inequity which a
26 party may suffer in being required to go forward, and [3] the orderly course of justice measured in
27 terms of the simplifying or complicating of issues, proof, and questions of law which could be
28 expected to result from a stay.” *Id.*

1 **III. DISCUSSION**

2 **A. Possible Damage from Granting Stay**

3 The Court first considers the possible damage that could arise from granting the stay. *Id.*
4 Arista argues that a stay would permit Cisco to perpetuate its monopoly power, harming
5 consumers and competitors in the technology sector as a result. Opp. ECF 60 at 16-17. Arista
6 further asserts that given the long sales cycle for the products at issue, delay and uncertainty in the
7 resolution of the case would lead to lost sales and would be ultimately prejudicial to Arista. *Id.*
8 Cisco responds that a brief stay “until the conclusion of the CLI trial in November 2016” will not
9 prejudice Arista. Mot. ECF 48 at 13; Reply ECF 76 at 2. Rather, the brief stay allows the Court
10 and the parties to conserve resources because the claims at issue in this case could be impacted by
11 the CLI case. *Id.* The Court agrees with Cisco and finds that Arista has not sufficiently shown
12 that it would face hardship or inequity as a result of a four-month stay. Given that trial in this
13 action is not set until August 2018, the Court finds that a stay until December 2016 will not affect
14 the trial date and thus will not significantly delay Arista’s remedy, if at all. ECF 75.

15 **B. Possible Hardship or Inequity from Denying Stay**

16 The Court next considers the possible damage that could arise from going forward.
17 *CMAX*, 300 F.2d at 268. Cisco argues that denial of the stay would force it to devote resources to
18 the present action, duplicating efforts for the CLI case. Mot. ECF 48 at 8, 13. Arista contends
19 that the burdens typically associated with litigation are carried by both parties. Opp. ECF 60 at
20 17. Recognizing the potential burden for both parties, the Court finds that the potential hardship
21 from denying the stay weighs slightly in favor of granting it.

22 **C. Orderly Course of Justice**

23 The Court finds the third interest—whether a stay will complicate or simplify the issues
24 before it—to be most instructive in this case. Cisco argues that the issues greatly overlap between
25 the two cases and whether Arista prevails on its defenses in the CLI case could also eliminate or
26 simplify the issues in the present action. Mot. ECF 48 at 8; Reply ECF 76 at 5-6. Specifically,
27 Cisco’s conduct toward the industry supposedly underlies both the affirmative defenses asserted
28 by Arista in the CLI case and the antitrust claims of the present action. Mot. ECF 76 at 5-6.

1 ITC's exclusion orders could also determine Arista's ability to sell either current or future
2 products, and in turn would affect the antitrust claims. Mot. ECF 48 at 9-12. In addition, Cisco
3 cites to several cases in this District, where antitrust litigation had been stayed pending related
4 intellectual property litigation. *Id.* at 9.

5 Arista argues that the CLI case might not determine substantial factual issues in the case
6 because whether those issues will get adjudicated and precluded from the present case remain
7 unknown. Opp. ECF 60 at 19-20. Further, the antitrust allegations on bundling of SMARTnet
8 services and Cisco's intimidation are not implicated in the CLI case. *Id.* at 17-18.

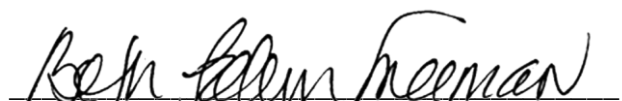
9 Given the differences between the two cases, the Court cannot agree with Cisco that the
10 CLI case will "eliminate" Arista's antitrust allegations. However, the Court finds that resolution
11 of the CLI case is likely to "bear upon" this case. *See Leyva*, 593 F. 2d at 863-4. The CLI case's
12 finding regarding infringement and Arista's affirmative defenses will impact the scope and
13 viability of certain antitrust allegations. Accordingly, the Court finds that the third factor weighs
14 in favor of granting the stay.

15 **IV. ORDER**

16 Based on the likely simplification of issues, unlikely harm to the parties from granting the
17 stay, and the limited length of the stay, the Court GRANTS Defendant's Motion to Stay until the
18 Court enters judgment in *Cisco Systems, Inc. v. Arista Networks, Inc.*, 14-cv-05344-BLF, which is
19 anticipated to occur by December 22, 2016. The stay will not be extended to include post-trial
20 motions or appeal. If a judgment has not been entered by December 22, 2016, the parties may
21 request a brief continuance of the stay. The trial, final pretrial conference, and final hearing date
22 for dispositive motions in the present action will remain set on the dates previously ordered by the
23 Court. *See* ECF 75. Further, a case management conference is set on January 5, 2017 at 11 a.m.
24 In light of the stay, the Court DENIES without prejudice Defendant's Motion to Dismiss the
25 Complaint.

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Dated: August 23, 2016


BETH LABSON FREEMAN
United States District Judge