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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

POWER INTEGRATIONS, INC.,  
Plaintiff,  
v.  
CHAN-WOONG PARK,  
Defendant.

Case No. [5:16-cv-02367-EJD](#)

**ORDER DENYING DEFENDANT’S  
MOTION TO STAY DISCOVERY**

Re: Dkt. No. 33

Plaintiff Power Integrations, Inc. (“Plaintiff”) alleges in this action for intentional and negligent interference with contractual relations, intentional and negligent interference with prospective economic relations, trade libel, and violation of California Business and Professions Code § 17200 that one of its former employees, Defendant Chan-Woong Park, has obtained Korean patents using Plaintiff’s proprietary information and is using those patents to assert infringement claims against Plaintiff’s customers. In response to the Complaint, Park filed a motion to dismiss under Federal Rules of Civil Procedure 12(b)(1), 12(b)(2) and 12(b)(6). Park now moves to stay discovery pending resolution of that motion. Dkt. No. 33.

This matter is suitable for resolution without oral argument, and the hearing scheduled for October 27, 2016, is VACATED. Having considered the papers filed by both parties, the court finds, concludes and orders as follows:

1. Pursuant to Federal Rule of Civil Procedure 26(c)(1), “[a] party or any person from whom discovery is sought may move for a protective order in the court where the action is pending.” Upon such motion, “[t]he court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.” Fed. R. Civ. P.

1 26(c)(1). Generally speaking, the moving party may demonstrate good cause “by demonstrating  
2 harm or prejudice that will result from the discovery.” Rivera v. NIBCO, Inc., 364 F.3d 1057,  
3 1063 (9th Cir. 2004). “[A] party seeking to stay discovery carries the heavy burden of making a  
4 strong showing why discovery should be denied.” Kor Media Grp., LLC v. Green, 294 F.R.D.  
5 579, 581 (D. Nev. 2013).

6 2. Here, Park moves for a protective order staying all discovery during the pendency  
7 of a motion to dismiss. In those circumstances, federal district courts routinely apply a two-prong  
8 test to determine whether a stay should issue:

9 First, the pending motion must be potentially dispositive of the  
10 entire case, or must at least be dispositive on the issue to which the  
11 discovery is aimed. Second, the court must determine whether the  
12 potentially dispositive motion can be decided without the discovery.  
A protective order may issue if the moving party satisfies both  
prongs.

13 S.F. Tech. v. Kraco Enters. LLC, No. 5:11-cv-00355 EJD, 2011 U.S. Dist. LEXIS 59933, at \*7,  
14 2011 WL 2193397 (N.D. Cal. June 6, 2011).

15 Conversely, “if either prong of this test is negative, discovery proceeds.” Seven Springs  
16 L.P. v. Fox Capital Mgmt. Corp., No. S-07-0142 LKK GGH, 2007 U.S. Dist. LEXIS 32068, at \*4,  
17 2007 WL 1146607 (E.D. Cal. Apr. 18, 2007). Moreover, even if both prongs are satisfied, a  
18 motion to stay discovery may still be denied if a “preliminary peek” at the pending motion shows  
19 the moving party is unlikely to prevail or that there exists a reasonable dispute as to the motion’s  
20 merits. See, e.g., Cuadros v. State Farm Fire & Cas. Co., No. 2:16-cv-2025-JCM-VCF, 2016 U.S.  
21 Dist. LEXIS 146195, at \*3 (D. Nev. Oct. 20, 2016).

22 3. Park argues his motion to dismiss is potentially dispositive of the entire case  
23 because he has challenged subject matter jurisdiction as well as general and specific personal  
24 jurisdiction. He also argues these issues can be decided without discovery because motions to  
25 dismiss under Rules 12(b)(1), 12(b)(2) and 12(b)(6) are normally decided based on the pleadings.  
26 On these two points, the court agrees with Park to some extent; his motion can be decided without  
27 discovery and could be dispositive if granted on any of the jurisdictional arguments.



1 even if the cases are deemed related under Civil Local Rule 3-12. And in any event, the  
2 possibility for any convenience gained through relation of cases cannot be equated with the need  
3 for a protective order.

4 Based on the foregoing, the court finds that Park has not satisfied the “heavy burden”  
5 imposed on parties seeking an outright stay of discovery. His motion is therefore DENIED.

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7 **IT IS SO ORDERED.**

8 Dated: October 24, 2016

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EDWARD J. DAVILA  
United States District Judge

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