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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

AMERICAN GNC CORP.,  
  
Plaintiff,  
  
v.  
  
GOPRO, INC.,  
ROBERT BOSCH GMBH, AND  
BOSCH SENSORTEC GMBH,  
  
Defendants.

Case No. 18-cv-00968-BAS-BLM  
  
**ORDER DENYING WITHOUT  
PREJUDICE DEFENDANT  
GOPRO, INC.’S MOTION TO  
STAY THE PROCEEDINGS**  
  
[ECF No. 16]

**I. BACKGROUND**

On May 16, 2018, Plaintiff American GNC Corp. (“AGNC”) filed this patent infringement suit against Defendants GoPro, Inc. (“GoPro”), Robert Bosch GMBH and Bosch Sensortec GMBH (the latter are collectively the “Bosch Defendants”). (ECF No. 1.) Although GoPro was served with the Complaint on May 22, 2018 (ECF No. 7), AGNC has yet to serve the two Germany-based Bosch Defendants in accordance with the Hague Convention. (ECF No. 9.) GoPro requested a forty-five day extension of its deadline to respond to the Complaint, which the Court granted on June 7, 2018. (ECF No. 15.) GoPro now seeks to stay all proceedings in this case and its deadline to respond to the Complaint “because the other two defendants have not been served.” (ECF No. 16.) AGNC opposes. (ECF No. 17.) For the reasons

1 herein, the Court denies GoPro’s motion without prejudice.

2 **II. LEGAL STANDARD**

3 A district court has the “power to stay proceedings” as part of its inherent  
4 power “to control the disposition of the causes on its docket with economy of time  
5 and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S.  
6 248, 254 (1936). In determining whether to stay an action, courts must weigh  
7 competing interests that will be affected by the granting of or refusal to grant a stay.  
8 *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). In determining whether to  
9 stay proceedings, a court considers: (1) judicial economy, (2) the moving party’s  
10 hardship, and (3) potential prejudice to the non-moving party. *Single Chip Sys. Corp.*  
11 *v. Intermec IP Corp.*, 495 F. Supp. 2d 1052, 1057 (S.D. Cal. 2007). “The proponent  
12 of a stay bears the burden of establishing its need.” *Clinton v. Jones*, 520 U.S. 681,  
13 708 (1997) (citing *Landis*, 299 U.S. at 255). “[I]f there is even a fair possibility that  
14 the stay . . . will work damage to someone else[,]” the party seeking the stay “must  
15 make out a clear case of hardship or inequity in being required to go forward.”  
16 *Landis*, 299 U.S. at 255.

17 **III. DISCUSSION**

18 The crux of GoPro’s motion to stay the proceedings centers on the possibility  
19 that all Defendants might file a motion to transfer this litigation to another venue at  
20 some later point. The Court is not persuaded that this provides a sufficient reason to  
21 impose a stay at this time.

22 GoPro contends that imposing a stay now will serve judicial efficiency because  
23 without a stay, the Court “may need to consider multiple pleadings and venue-related  
24 motions from GoPro and then similar motions from the Bosch Defendants, instead of  
25 dealing with all of these motions at once, after the Bosch Defendants have been served  
26 and appeared in the case.” (ECF No. 16-1 at 3.) GoPro further contends that it would  
27 face hardship by having to proceed alone on a “different track” because the Bosch  
28 Defendants “likely possess information relevant to any transfer or other pleading-

1 related motions” and “possess significantly more information concerning the  
2 operation of the accused Bosch sensors.” (ECF No. 16-1 at 3.)<sup>1</sup> GoPro does not  
3 provide any concrete evidence to support these assertions.

4 Even if GoPro’s contentions might provide a proper basis for a stay of the  
5 proceedings at a later point in time, they do not provide a persuasive basis to do so  
6 now. Unsubstantiated speculation about the actions of other yet-to-be-served parties  
7 is insufficient to impose a stay. Even assuming that GoPro has raised a valid point  
8 that judicial efficiency would be served in the event that all Defendants would move  
9 to transfer venue at a later point, GoPro fails to persuasively argue why it cannot  
10 respond to AGNC’s allegations against it.<sup>2</sup> As GoPro acknowledges, AGNC’s  
11 allegations against it concern “*GoPro’s use of Bosch sensors in GoPro’s products.*”  
12 (ECF No. 16-1 at 3 (emphasis added).) The Court does not find that the presence of  
13 the Bosch Defendants is necessary for GoPro to respond to the Complaint, whether  
14 through an answer or a motion to dismiss because (1) any answer turns on GoPro’s  
15 own knowledge (or lack thereof) regarding the Complaint’s allegations and (2) any  
16 motion to dismiss turns on the sufficiency of AGNC’s allegations and claims.

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18 <sup>1</sup>Although GoPro asserts that it will face harm from being placed on a “different  
19 track,” it fails to show how being required to answer the Complaint now or participate  
20 in any discovery specific to it constitutes harm for which a stay of all proceedings  
21 would be proper. To the extent GoPro would be placed on a “different” trial track by  
22 litigating before the Bosch Defendants have been served, that issue can be addressed  
23 through an appropriate Case Management Order that harmonizes all deadlines in  
24 which the participation of all parties would serve judicial economy. AGNC has  
25 expressly “has agreed that the case schedule should be common to all Defendants.”  
26 (ECF No. 17 at 3.)

27 <sup>2</sup> Requests to alter court deadlines, including deadlines to respond to pleadings,  
28 are subject to a good cause standard. *See* Fed. R. Civ. P. 6(b). The Court cannot find  
that good cause exists to extend the deadline for GoPro to respond to the Complaint,  
particularly when (1) the deadline would have no definite point and (2) GoPro has  
already received a 45-day extension. GoPro has had ample to prepare an answer or a  
motion to dismiss the Complaint with which it was served nearly 2 months ago.

1           Lastly, GoPro argues that a delay in the proceedings alone cannot constitute  
2 “undue prejudice” to AGNC. (ECF No. 16-1 at 3.) In making this assertion, GoPro  
3 cites authorities which considered the propriety of a stay pending examination of  
4 patents-in-suit by the United States Patent and Trademark Office (“PTO”). *See Coho*  
5 *Licensing LLC v. Glam Media*, No. C 14–01576 JSW, 2014 WL 4681699, at \*1 (N.D.  
6 Cal. Sept. 17, 2014) (considering stay pending PTO’s decision on whether to grant or  
7 deny petitions for *inter partes* review); *Dataquill Ltd. v. High Tech Computer Corp.*,  
8 No. 08-cv-543-IEG-LSP, 2009 WL 1391537, at \*1 (S.D. Cal. May 14, 2009)  
9 (considering stay pending the PTO’s *ex parte* reexamination of the patents-in-suit).  
10 These authorities are inapposite to the posture of the present proceedings because  
11 there is no evidence of a PTO examination of any patents-in-suit.

12           In opposition, AGNC identifies delay in the progression of this case as a  
13 potential harm it would suffer if the case is stayed. (ECF No. 17 at 3.) The Court  
14 does not find this to be a harm sufficient to preclude entry of a stay—in the event a  
15 properly supported and more persuasive request is made by GoPro. As GoPro  
16 observes, AGNC seeks only money damages as opposed to relief that would be  
17 harmed by delay, such as injunctive relief. (ECF No. 16-1 at 3.) Even so, because  
18 GoPro has not persuasively argued that a stay is warranted at this time, the Court does  
19 not find that the absence of an identifiable harm to AGNC itself would otherwise  
20 warrant entry of a stay of all proceedings.

#### 21 **IV. CONCLUSION & ORDER**

22           For the foregoing reasons, the Court **DENIES** GoPro’s motion to stay the  
23 proceedings. (ECF No. 16.) **GoPro shall answer or otherwise respond to the**  
24 **Complaint in accordance with the existing deadline.** This order is without  
25 prejudice to GoPro seeking a stay of the proceedings at a later point.

26           **IT IS SO ORDERED.**

27 **DATED: July 18, 2018**

  
28 **Hon. Cynthia Bashant**  
**United States District Judge**