

**IN THE UNITED STATES COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 13-cv-01284-CMA-MJW

KÄRCHER NORTH AMERICA, INC.,
a Delaware corporation,

Plaintiff,

v.

NILFISK-ADVANCE, INC.,
a Minnesota corporation,

Defendant.

**ORDER GRANTING DEFENDANT'S MOTION
TO STAY LITIGATION PENDING PATENT REEXAMINATIONS**

This matter comes before the Court on the parties' Joint Submission of Supplemental Brief Regarding Defendant Nilfisk-Advance, Inc.'s Motion to Stay Litigation Pending Patent Reexaminations. (Doc. # 102.)

On October 22, 2013, Defendant Nilfisk-Advance, Inc. ("Nilfisk") filed its motion to stay this action pending the outcome of two *ex parte* patent reexamination petitions it filed with the United States Patent and Trademark Office ("USPTO") regarding Plaintiff Kärcher North America, Inc.'s ("Kärcher") U.S. Patent Nos. 7,533,435 ("the '435 Patent") and 8,528,142 ("the '142 Patent"). (Doc. # 55 ("the Motion").) The Motion has been fully briefed, oral argument has been heard, and the Motion is now pending before this Court.

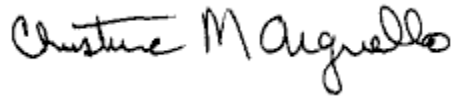
Although Kärcher expected the USPTO to issue initial office actions in both reexaminations proceedings by the end of January 2014, that did not occur. Rather, on March 14, 2014, the USPTO issued a first office action in connection only with the pending reexamination of the '142 Patent, rejecting all pending claims thereof. On March 26, 2014, Nilfisk filed its Status Report Regarding the Motion to Stay, advising the Court of the USPTO's office action regarding the '142 Patent. (Doc. # 100.) On March 26, 2014, the Court issued a *sua sponte* Order, requesting the parties' positions and further briefing in light of the USPTO's recent action. (Doc. # 101.) To the Court's knowledge, a first office action in the reexamination proceeding related to the '435 Patent has not yet been issued by the USPTO.

Based on the above facts and the parties' agreements set forth in the Joint Submission, the Court hereby ORDERS that Defendant's Motion to Stay Litigation (Doc. # 55) is GRANTED, and this action shall be and hereby is STAYED until further order of the Court. The Court further ORDERS that Kärcher shall notify the Court once claims from either the '142 or '435 Patents that it believes are infringed by Nilfisk are allowed by the USPTO, or, alternatively, Kärcher shall advise the Court once it becomes clear that no such claims exist or will exist due to finality of the reexamination proceedings and that the case should thus be dismissed. Within two (2) weeks of Kärcher's filing of a notice that allegedly infringed claims have been allowed by the USPTO, the parties shall jointly advise the Court whether the stay should be lifted and, if so, suggest a new case schedule which addresses the parties' then-existing factual and legal positions. If the parties cannot agree as to whether the stay should be lifted, then the parties shall so advise the Court, and Kärcher shall then have an additional two (2) weeks to prepare

and file a motion seeking to lift the stay, which will be briefed and decided under the Court's standard procedures for motion practice.

DATED: April 04, 2014

BY THE COURT:

A handwritten signature in black ink, reading "Christine M. Arguello". The signature is written in a cursive, flowing style.

CHRISTINE M. ARGUELLO
United States District Judge