

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THE OHIO WILLOW WOOD COMPANY,

Plaintiff,

v.

Case No. 2:05-cv-1039

JUDGE SARGUS

Magistrate Judge Kemp

ALPS SOUTH CORPORATION,

Defendant.

ORDER

This matter is before the Court for consideration of The Ohio Willow Wood Company's ("Plaintiff") Motions for Relief from Stay (docs. 30 and 38)¹, Motion for Preliminary Injunction (doc. 41), Motion to Seal Portions of the Motion for Preliminary Injunction (doc. 39), Motion for Preliminary Conference (doc. 42), and ALPS South Corporation's ("Defendant") Motion to Strike the Motion for Preliminary Injunction (doc. 45).


This matter was stayed by the Court pending reexamination of the patent at issue. (February 9, 2007 Order, doc. 29). Plaintiff has moved for relief from the stay, contending that the reexamination process is now complete, and has filed a motion for preliminary injunction seeking a judgment on the merits of its claim for patent infringement. Defendant has indicated that it will oppose the motion to lift the stay, and has moved to strike the motion for preliminary injunction on the grounds that the case is currently stayed. Defendant also seeks a judgment for attorneys fees.

¹Plaintiff's initial Motion for Relief from Stay (doc. 30) was filed on March 14, 2008, before the Patent Office issued the most recent reexamination certificate. Due to the issuance of the reexamination certificate, and Plaintiff's subsequent second Motion for Relief (doc. 38), the earlier Motion for Relief from Stay (doc. 30) is hereby DENIED as MOOT.

Defendant is hereby DIRECTED to file its response in opposition to Plaintiff's Motion for Relief from Stay (doc. 38) on or before January 29, 2009. Plaintiff may file a reply memorandum in support on or before February 3. Briefing on Plaintiff's Motion for Preliminary Injunction (doc. 41) is hereby STAYED pending resolution of the Plaintiff's Motion for Relief from Stay. The Court will also consider Defendant's Motion to File Under Seal and Motion for Preliminary Conference (docs. 39, 42) after the Motion for Relief from Stay has been resolved. Defendant's Emergency Motion to Strike Motion for Preliminary Injunction (doc. 45) and request for attorneys fees is DENIED, without prejudice, and no further briefing is required on the Motion to Strike unless ordered by the Court.

IT IS SO ORDERED.

1-22-2009
DATE


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE