

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

STOLLE MACHINERY CO., LLC,

:

Plaintiff,

v.

:

Case No. 3:10-cv-155

SHU AN and SUZHOU SLAC
PRECISION EQUIPMENT CO.

JUDGE WALTER H. RICE

LTD.,

:

Defendants.

DECISION AND ENTRY SUSTAINING PLAINTIFF'S MOTION FOR FED.
R. CIV. P. 54(b) CERTIFICATION OF PARTIAL FINAL JUDGMENT
AND STAY OF PROCEEDINGS PENDING APPEAL (DOC. #77);
ADMINISTRATIVELY PROCESSING CASE

On July 12, 2013, the Court issued a Decision and Entry ruling on cross-motions for summary judgment filed by Plaintiff Stolle Machinery Company, and the only two remaining defendants, Shu An ("An") and Suzhou SLAC Precision Equipment Company, Ltd. ("SLAC"). Doc. #75. The Court granted summary judgment in favor of Defendant SLAC on all remaining claims, and granted summary judgment in favor of Defendant An on all remaining claims except Plaintiff's claim of copyright infringement.

Pursuant to Federal Rule of Civil Procedure 54(b), Plaintiff has now filed a Motion for Certification of Partial Final Judgment and Stay of Proceedings Pending

Appeal. Doc. #77. Defendants have indicated that they do not oppose Plaintiff's motion. Doc. #78. Rule 54(b) provides as follows:

When an action presents more than one claim for relief . . . or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.

Fed. R. Civ. P. 54(b).

In this case, there is no just reason to delay the entry of final judgment as to the claims on which the Court granted summary judgment in favor of Defendants.¹ The July 12, 2013, Decision and Entry disposed of all remaining claims against SLAC, and disposed of all remaining claims against An except a claim of copyright infringement. The factual and legal issues surrounding that one remaining claim do not overlap to any significant degree with those surrounding the now-dismissed claims of misappropriation of trade secrets, conspiracy, tortious interference with prospective business relationships, and deceptive trade practices.

Notably, the remaining copyright infringement claim is quite narrow and self-contained. It involves only two tooling drawings that were allegedly copied in February of 2003. The Court has already found that there is no evidence of any infringing activity after that date. In contrast, the other claims encompass a much wider scope of intellectual property and involve activities that took place over a much longer period of time. In the Court's view, there is very little chance that

¹ Plaintiff does not appear to seek certification of partial final judgment on the claims of conversion and unfair competition that were previously dismissed by the Court in December of 2011. Doc. #30.

any subsequent appeal of the copyright infringement claim against An would require the appellate court to revisit the same issues.

Entering partial final judgment now will also alleviate hardship for the parties and conserve judicial resources. If the copyright infringement claim against SLAC happens to be reinstated on appeal, the Court will not need to try that claim twice and risk inconsistent verdicts. The Court also notes that many of the witnesses live in China. If the Court moves forward on the copyright infringement claim against An, without allowing the parties to immediately appeal the disposition of the other claims, there is a risk that these witnesses will have to travel to the United States for a second trial.

Finally, because the vast majority of Plaintiff's claims have been dismissed by this Court, an immediate appeal may well facilitate settlement. The Court also notes that many of those claims stem from events that occurred more than one decade ago when An still worked for Plaintiff. The longer that Plaintiff has to wait to try those claims – if, in fact, they are ultimately reinstated -- the greater the chance that relevant evidence will no longer be available.

For the reasons set forth above, the Court SUSTAINS Plaintiff's Motion for Federal Rule of Civil Procedure 54(b) Certification of Partial Final Judgment and Stay of Proceedings Pending Appeal. Doc. #77.

Because the Court finds no just reason for delay, the Clerk of Courts is DIRECTED to enter final judgment on the following claims fully disposed of in the Court's July 12, 2013, Decision and Entry ruling on cross-motions for summary judgment: (1) copyright infringement (against SLAC only); (2) misappropriation of trade secrets (against An and SLAC); (3) conspiracy to misappropriate trade secrets (against An and SLAC); (4) tortious interference with prospective business relations (against An and SLAC); and (5) deceptive trade practices (against An and SLAC).

All proceedings with respect to the one remaining claim – Plaintiff's claim of copyright infringement against Defendant An – are STAYED pending appeal. The Clerk of Court is directed to ADMINISTRATIVELY PROCESS this case.

Date: August 20, 2013



WALTER H. RICE
UNITED STATES DISTRICT JUDGE