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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JENS ERIK SORENSEN, As Trustee of SORENSEN RESEARCH AND DEVELOPMENT TRUST,

Plaintiff,

v.

EMERSON ELECTRIC CO., a Missouri Corporation; ONE WORLD TECHNOLOGIES, INC., a Delaware corporation; RIDGE TOOL COMPANY, an Ohio Corporation; RIDGID, INC., a Delaware corporation; and DOES 1-100

Defendants.

CASE NO. 3:08-cv-00060-BTM-CAB

NOTICE OF MOTION AND DEFENDANT'S MOTION TO STAY THE LITIGATION PENDING THE OUTCOME OF REEXAMINATION PROCEEDINGS

Date: May 16, 2008
Time: 11:00 a.m.
Courtroom: 15
Hon. Barry Ted Moskowitz

NO ORAL ARGUMENT UNLESS REQUESTED BY THE COURT

NOTICE IS HEREBY GIVEN that on May 16, 2008, or as soon as thereafter as the matter may be heard by the above-entitled Court, located at 940 Front Street, San Diego, CA 92101, Defendant One World Technologies, Inc. ("OWT") will and hereby respectfully moves for a stay of the above-captioned proceeding pending the reexaminations of the patent-in-suit, U.S. Patent No. 4,935,184 ("the '184 Patent"), in the United States Patent & Trademark Office ("PTO"). Defendant's counsel conferred with Plaintiff's counsel regarding a stay prior to filing this motion, but Plaintiff has refused to consent to a stay.

This case is in its initial stages. On January 10, 2008, Sorensen Research Development and Trust ("SRDT") sued OWT for alleged infringement of the '184 Patent. Defendant filed an answer and counterclaims on March 5, 2008. SRDT responded to the counterclaims on March 12, 2008. There has been no other activity in this case. In particular, there has not been a Rule 16 conference, the parties have not exchanged Rule 26 disclosures, an early neutral evaluation has not been scheduled (let alone even discussed), there has not been a scheduling conference, and there is no scheduling order or trial date set.

A stay will avoid the risk of unnecessary discovery and litigation, will permit the clarification of issues for trial, and will not unduly prejudice Plaintiff. Moreover, a stay of the present litigation is further warranted given that this Court has stayed at least five cases relating to the same '184 Patent. It would be a waste of judicial resources for this Court to proceed with this case while granting stays in related cases.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities in Support of the Motion, the Declaration of Robert S. Mallin (all of which have been filed and served concurrently with this Notice of Motion and Motion), on the papers and records on file in this action, and on such other and further oral and documentary evidence as the Court may consider at the time of hearing.

For the reasons set forth in greater detail in the supporting memorandum, Defendant respectfully requests that the Court order this case stayed pending completion of the PTO's ongoing reexaminations of the '184 Patent.

Date: March 24, 2008

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