

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

YOUTOO TECHNOLOGIES, LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:16-CV-00764-N
	§	
TWITTER, INC,	§	
	§	
Defendant.	§	

ORDER

This Order addresses Defendant Twitter, Inc.’s (“Twitter”) motion to compel document production [82] and Plaintiff Youtoo Technologies LLC’s (“Youtoo”) motion to lift stay on damages discovery [90].

I. ORIGINS OF THE DISPUTE

This case arises from the alleged infringement of U.S. Patent No. 8,464,304 (“the ’304 Patent”), U.S. Patent No. 8,601,506 (“the ’506 Patent”), and U.S. Patent No. 9,083,997 (“the ’997 Patent”). The patents cover a system of receiving and distributing user-generated video content for distribution on television broadcasts and the internet. In July 2015, the Court entered a Scheduling Order in this patent case that stayed “discovery regarding damages” until 30 days after the Court’s claim construction ruling is filed. *See* Order, July 25, 2015 [34]. In November 2016, the Court granted Twitter’s partial motion to dismiss, holding that the ’304 and ’506 Patents are invalid under section 101. *See* Order, November 10, 2016 [39].

Thus Youtoo's only remaining claim is for alleged infringement of the '997 Patent. The Parties have since submitted opening and responsive claim construction briefs. Twitter now moves to compel document production. Youtoo opposes the motion, and requests the Court lift the stay on damages discovery.

II. THE COURT GRANTS TWITTER'S MOTION TO COMPEL

The Federal Rules of Civil Procedure state “[i]f a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure.” FED. R. CIV. P. 37. Rule 26 allows parties to “obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.” FED. R. CIV. P. 26(b)(1). Relevancy “has been construed broadly to encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case.” *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). The party seeking discovery bears the initial burden to establish that the requested discovery is relevant. *See, e.g., Abraham v. Alpha Chi Omega*, 271 F.R.D. 556, 559 (N.D. Tex. 2010). Courts should consider a number of factors when determining whether discovery is proportional to the needs of the case, including “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” FED. R. CIV. P. 26(b)(1).

A district court has wide discretion to supervise discovery. *Landry v. Air Line Pilots Ass'n Int'l AFL-CIO*, 901 F.2d 404, 436 n.114 (5th Cir. 1990). It may limit discovery if the requested discovery would be unreasonably cumulative, duplicative, or could be obtained more easily from a different source, or if the burden or expense of the proposed discovery outweighs its potential benefit. FED. R. CIV. P. 26(b)(2)(C). However, after the party seeking discovery establishes relevance, the party resisting discovery has the burden to show why the requested discovery is irrelevant, overly broad, or unduly burdensome or oppressive. *See, e.g., Abraham*, 271 F.R.D. at 559.

Twitter requests production of documents relating to the '304 and '506 Patent, Youtoo's retention of AQUA Licensing, LLC ("AQUA") to assess and sell Youtoo's patent portfolio, the right and encumbrances on the '997 Patent, and patent licenses, product marking, and commercial success in connection to the '304, '506, and '997 Patents. *See* Mot. to Compel 1–2 [82]. As a threshold matter, Youtoo claims it agreed to produce documents related to the ownership of the '997 Patent, but to date it has not done so. Accordingly, Youtoo does not object to Twitter's request for production of documents related to ownership, including rights to or encumbrances on the '997 Patent. *See* Resp. in Opp. to Mot. to Compel 5–6 [88]. As for Twitter's other requests, Youtoo has not carried its burden to show that the requested documents are irrelevant, overly broad, or unduly burdensome or oppressive. *See Abraham*, 271 F.R.D. at 559. Youtoo's main argument is that the documents are related to damages, and damages discovery is stayed. Youtoo is correct that the line between discovery for liability and damages is necessarily blurred. But Twitter provides

valid explanations for each request and how the documents are relevant to liability. Accordingly the Court grants the motion to compel.

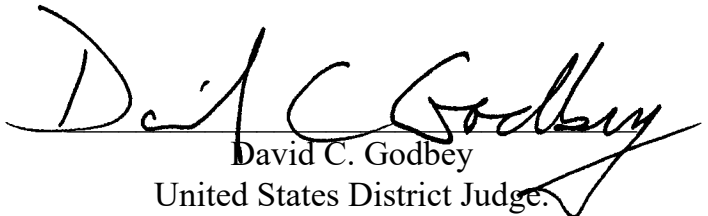
III. THE COURT GRANTS YOUTOO'S MOTION TO LIFT THE STAY ON DAMAGES DISCOVERY

The Court may modify the scheduling order for good cause. *See* FED. R. CIV. P. 16(b)(4). The Court considers “(1) the party’s explanation, (2) the importance of the requested relief, (3) potential prejudice in granting the relief, and (4) the availability of a continuance to cure such prejudice.” *Cartier v. Egana of Switzerland (Am.) Corp.*, 2009 WL 614820, at *3 (N.D. Tex. 2009) (citing *S & W Enters., L.L.C. v. South Trust Bank of Ala., N.A.*, 315 F.3d 533, 535 (5th Cir. 2003)). Youtoo requests the Court lift the stay on damages discovery. Twitter initially requested phased discovery to promote judicial efficiency and to allow the parties and the Court “to focus on issues most likely to impact claim construction leading up to the claim construction hearing.” *See* Joint Status Report 9 [32]. Youtoo opposed phased discovery. *Id.* The Court granted Twitter’s request for phased discovery, and stayed discovery regarding damages until thirty days from the date the Court’s claim construction ruling is filed. The Court does not find there would be any prejudice in lifting the stay on damages discovery, especially in light of granting Twitter’s motion to compel. There are currently no dispositive motions on the docket. Moreover because claim construction discovery and briefing is complete, there is no longer a need for the stay on damages discovery. Accordingly, Youtoo has shown good cause for the Court to grant its motion and lift the stay on damages discovery.

CONCLUSION

The Court orders Youtoo to produce all documents responsive to Twitter's discovery requests in accordance with this Order within fourteen (14) days of the date of this Order. The Court lifts the stay on damages discovery.

Signed May 30, 2017.


David C. Godbey
United States District Judge.