

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re EXPRESS MOBILE CASES

Case Nos. 3:19-cv-06559-RS
3:20-cv-06152-RS
3:20-cv-08297-RS
3:20-cv-08321-RS
3:20-cv-08335-RS
3:20-cv-08339-RS
3:20-cv-08461-RS
3:20-cv-08491-RS
3:20-cv-08492-RS
3:21-cv-01145-RS

**ORDER GRANTING IN PART AND
DENYING IN PART STAY MOTIONS**

In the interests of efficiency and to avoid delaying the parties' efforts to comply with the prior order directing them to coordinate claim construction in these matters, the motions to stay will be decided without reply briefing or oral argument. It is apparent there is a basis to treat the five patents at issue across these cases in two separate groups. The '397 patent and the '168 patent will hereinafter be referred to as the Rempel patents, after the sole named inventor. The '755 patent, the '287 patent, and the '044 patent will be referred to as the RCB patents, after the initials of the three named inventors.

The Rempel patents are presently subject to reexamination proceedings, and the one case in this court involving only those patents, *X.Commerce, Inc. (Magento) v. Express Mobile, Inc.*,

Case No. 17-cv-2605- RS, is temporarily stayed for that and other reasons. Claim construction proceedings as to the Rempel patents were completed in the *X.Commerce* matter.

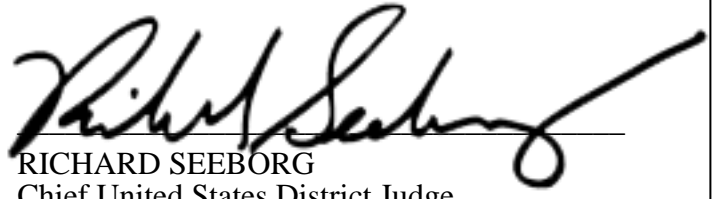
Good cause appearing, further claim construction of the Rempel patents will not go forward in any of these cases at the present time, and the stay motions are granted to that extent. The parties are relieved from any remaining deadlines relating to claim construction as to the Rempel patents only. The status of this stay will be reviewed on or before November 30, 2021 in conjunction with further consideration of the status in the *X.Commerce* matter. The parties need not separately file any status updates in these cases, however. Additionally, the parties should not assume the stays in these cases necessarily will remain tied to the status of the stay in *X.Commerce*, as some of the relevant considerations differ.

The stay motions are denied as to the RCB patents. The parties should proceed with the efforts to comply with the order requiring coordination of claim proceedings as to those patents. The parties may now presume that one joint claim construction hearing will be held as to the RCB patents, and that another joint claim construction hearing will be held as to the Rempel patents at a later time, after the stay has been lifted.

In both the RCB patents claim construction hearing and the subsequent Rempel patents claim construction hearing the parties will be expected to make every effort to comply with the ten terms limit—i.e., ten terms for the RCB patents and ten terms for the Rempel patents. Again, some flexibility may be available in the event differences among defendants' accused instrumentalities make different claim terms important to some defendants.

IT IS SO ORDERED.

Dated: April 2, 2021


RICHARD SEEBORG
Chief United States District Judge