

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

WALTER KIDDE PORTABLE  
EQUIPMENT, INC.

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Plaintiff/  
Counter-Defendant

\*

vs.

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CIVIL ACTION NO. MJG-08-2202

UNIVERSAL SECURITY INSTRUMENTS  
INC., and USI ELECTRIC, INC.

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Defendants/  
Counter-Plaintiffs

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vs.

\*

UNITED TECHNOLOGIES CORPORATION

\*

Third-Party Defendant

\*

\* \* \* \* \*

MEMORANDUM AND ORDER

The Court has before it Kidde and UTC's Joint Motion to Stay The Litigation Pending Completion Of Reexamination Proceedings [Document 68] and the materials submitted relating thereto. The Court finds that a hearing is unnecessary.

In this case, filed August 21, 2008, Plaintiff Walter Kidde Portable Equipment, Inc. sued Universal Security Instruments, Inc. and other Defendants for infringement of United States Patent No. 6,791,453 ("the '453 Patent"). In addition to presenting certain defenses, Defendants counterclaimed against

Plaintiff and sued Third Party Defendant United Technologies Corporation ("UTC") on antitrust claims and other theories.

On April 5, 2009, this Court, by Judge Davis, issued a Scheduling Order. The Court deferred discovery centered solely on antitrust-related claims, until after resolution of summary judgment motions relating to patent validity.

Kidde has, effective April 9, 2009, filed an ex parte request for reexamination of the '453 Patent with the USPTO. By the instant motion, filed May 28, 2009, Kidde and UTC seek a stay of the instant case pending conclusion of the aforesaid reexamination proceedings. Defendants oppose the stay.

At the present time there is no pending reexamination. What is pending is a request by Plaintiff to the USPTO that it commence reexamination proceedings. Thus, at some time in the future - be it a week, a month or more from now - there might be a reexamination proceeding.

The instant case is, pursuant to the Scheduling Order, presently on track for a Markman hearing on October 9, 2009, less than four months from this date. Defendants wish to have the case proceed expeditiously.

Under the circumstances, the Court will not now, over the Defendants objections, stay this case. In the event that the

USPTO commences a reexamination proceeding, Kidde and UTC may renew their motion for stay upon the occurrence of that event. Such a motion would be considered in light of the status of the instant litigation at that time and such other relevant considerations as may be appropriate. However, absent agreement of the parties or an Order granting a stay, the case will not be delayed and shall proceed apace toward the scheduled Markman hearing.

Accordingly:

1. Kidde and UTC's Joint Motion to Stay the Litigation Pending Completion of Reexamination Proceedings [Document 68] is DENIED.
2. This action is without prejudice to renewal of the motion should the USPTO commence reexamination proceedings.
3. If the USPTO commences reexamination proceedings, absent agreement the parties shall, nevertheless, continue to proceed in compliance with existing scheduling unless and until a stay is granted.

SO ORDERED, on Friday, June 19, 2009.

\_\_\_\_\_/s/  
Marvin J. Garbis  
United States District Judge