IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

STRATOS LIGHTWAVE, INC.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 03-917 JJF
	:	
PICOLIGHT, INC.,	:	
	:	
Defendant.	:	

Melanie K. Sharp, Esquire of YOUNG CONAWAY STARGATT & TAYLOR, LLP, Wilmington, Delaware.
Of Counsel: Alan L. Barry, Esquire, Patricial Kane Schmidt, Esquire, and Jason A. Engel, Esquire of BELL. BOYD & LLOYD LLC, Chicago, Illinois.
Attorneys for Plaintiff.

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Attorneys for Defendant.

MEMORANDUM OPINION

March 23, 2005
Wilmington, Delaware

Farnan, District Judge.

Presently before the Court is the Motion To Dismiss Due To Prior Pending Action, Or, In The Alternative, For Stay Pending Resolution Of Prior Action (D.I. 35) filed by Defendant Picolight, Inc. ("Picolight"). For the reasons discussed, the Court will deny the Motion.

BACKGROUND

Plaintiff Statos Lightwave, Inc. ("Stratos") filed a lawsuit ("Stratos I") against Picolight in this Court on June 4, 2002, alleging that Picolight's optoelectronic products infringe eight of Stratos's patents: U.S. Patent No. 36,820; 5,717,533; 5,734,558; 5,864,468; 5,879,173; 6,201,704; 6,220,878; and 6,267,606. The Court's case number is 02-cv-478-JJF.

On March 20, 2003, Stratos filed a second lawsuit ("Stratos II") in the U.S. District Court for the Northern District of Illinois, alleging that Picolight's optoelectronic products infringe four other patents: 6,430,053; 36,491; 5,812,582; and 6,108,114.

The Northern District of Illinois transferred the second case to this District by Order dated September 12, 2003. The case was assigned case number 03-cv-917-JJF and is the instant case.

PARTIES' CONTENTIONS

By its Motion, Picolight contends that Stratos II is barred by the doctrine of "claim splitting," due to the pendency of a prior

action involving the same parties, accused products, legal theories, and possible relief, and should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6). Picolight further contends that that the patents asserted in Stratos II could have been asserted in Stratos I. In the alternative, Picolight moves to stay Stratos II until the Court resolves Stratos I because Picolight contends that a final judgment in Stratos I will bar Stratos II pursuant to the doctrine of res judicata.

In response, Stratos contends that it need not have sued Picolight on all its patents in Stratos I because each patent asserted raises an independent and distinct cause of action. Stratos further contends that the doctrine of res judicata will not apply to Stratos's claims in Stratos II, and that Stratos II should not be stayed because there is no identity of issues between the two cases.

LEGAL STANDARD

A motion to dismiss tests the legal sufficiency of the complaint. Conley v. Gibson, 355 U.S. 41, 45-56 (1957). In reviewing a motion to dismiss pursuant to Rule 12(b)(6), courts "must accept as true the factual allegations in the [c]omplaint and all reasonable inferences that can be drawn therefrom." Langford v. Atlantic City, 235 F.3d 845, 847 (3d Cir. 2000). A court will grant a motion to dismiss only when it appears that a plaintiff could prove no set of facts that would entitle him or her to relief. Id.

A court has the inherent power to stay an action in the

interests of efficient and fair resolution of the disputed issues. See Texaco, Inc. v. Borda, 383 F.2d 607, 608 (3d Cir. 1967).

DISCUSSION

The Court concludes that Stratos II should not be dismissed or stayed.

In support of its Motion To Dismiss, Picolight relies first on the doctrine of "claim splitting," which "prohibits a party from seeking to avoid the effects of res judicata by splitting a cause of action into separate grounds of recovery and then raising the separate grounds in successive lawsuits." American Stock Exchange, LLC v. Mopex, Inc., 215 F.R.D. 87, 91 (S.D.N.Y. 2002).

The Court finds that the doctrine of "claim splitting" does not apply to the circumstances of this case. Stratos is asserting different patents in Stratos II than in Stratos I, not different claims of the same patents. "Each patent asserted raises an independent and distinct cause of action." Kearns v. General Motors Corp., 94 F.3d 1553, 1555 (Fed. Cir. 1996).

Further, the Court is not persuaded that the two causes of action should have been litigated together. Res judicata does not automatically apply to claims that might have been included in the prior complaint; it must be shown that they necessarily were included in the judgment, and that the interests of justice are not disserved by applying the doctrine of res judicata to claims that were never presented for adjudication. See Brown v. Felsen, 442 U.S. 127, 132 (1979). The Court finds that Picolight has not made such a showing.

With regard to staying Stratos II, because infringement must be separately proved as to each patent, Picolight cannot show that identical issues are presented by the eight patents litigated in Stratos I and the four patents asserted in Stratos II.

CONCLUSION

For these reasons, the Court concludes that it must not dismiss or stay Stratos II. Accordingly, the Motion To Dismiss Due To Prior Pending Action, Or, In The Alternative, For Stay Pending Resolution Of Prior Action (D.I. 35) filed by Defendant Picolight will be denied.

An appropriate Order will be entered.

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PICOLIGHT, INC.,	:	
	:	
Defendant.	:	

O R D E R

At Wilmington, this 23 day of March 2005, for the reasons set forth in the Memorandum Opinion issued this date,

IT IS HEREBY ORDERED that the Motion To Dismiss Due To Prior Pending Action, Or, In The Alternative, For Stay Pending Resolution Of Prior Action (D.I. 35) filed by Defendant Picolight, Inc. ("Picolight") is **DENIED**.

Joseph J. Farnan

UNITED STATES DISTRICT JUDGE