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6
7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9 SAN FRANCISCO DIVISION

10
11 TECHNOLOGY PROPERTIES LIMITED
12 LLC, et al.,

13 Plaintiffs,

14 vs.

15 BARNES & NOBLE, INC.,

16 Defendant.

CASE NO. 3:12-cv-03863-VC

**UNOPPOSED MOTION OF DEFENDANT
BARNES & NOBLE, INC. FOR
TRANSMISSION OF THE ITC RECORD
TO THE DISTRICT COURT**

17 Pursuant to 28 U.S.C. § 1659(b), Defendant Barnes & Noble, Inc., moves the Court to
18 order the U.S. International Trade Commission (“ITC”) to transmit to this Court the complete
19 record from *Certain Wireless Consumer Electronics Devices and Components Thereof*, Inv. No.
20 337-TA-853.

21
22 Shortly after this action was filed, the Court stayed it pursuant to 28 U.S.C. § 1659(a) and
23 its inherent authority. The stay was pending final resolution of an ITC companion action
24 involving one of the same patents at issue in this case, U.S. Patent No. 5,809,336 (“the ‘336
25 Patent”). The companion ITC action has been fully resolved, with the ITC determining that the
26 Barnes & Noble products at issue did not infringe any of the asserted claims of the ’336 Patent.
27 This Court has now dissolved the stay.
28

1 The same statute that provides for stays of district court actions pending the resolution of
 2 ITC investigations also requires that the ITC record be transmitted to the appropriate district court
 3 following the ITC investigation. *See* 28 U.S.C. § 1659(b) (“[A]fter dissolution of a stay under
 4 subsection (a), the record of the proceeding shall be transmitted to the district court and shall be
 5 admissible in the civil action, subject to such protective order as the district court determines
 6 necessary[.]”) But the ITC will only forward the record upon the request of this Court. *See* 19
 8 C.F.R. 210.39(b) (“[A]fter the determination of the Commission becomes final and the stay is
 9 dissolved, the Commission shall certify to the district court such portions of the record as the
 10 district court may request.”). Barnes & Noble asks that the Court issue an order providing for
 11 transmission of the record, and has attached a draft order to that effect.

12 There is no protective order currently in place in this action. Until this Court enters such
 13 protective order as it sees fit, Barnes & Noble will treat the ITC record as subject to the terms of
 14 the ITC Protective Order. Barnes & Noble recommends that the Court order all parties to treat the
 15 ITC record in a similar manner, and has incorporated such a provision into the attached draft
 16 order. All the parties to this action were previously party to the ITC Investigation and signed the
 17 Protective Order from that investigation.

18 Barnes & Noble has contacted Plaintiffs regarding this motion, and Plaintiffs’ counsel has
 19 represented that Plaintiffs will not oppose this motion.
 20

21
 22 DATED: August 6, 2014

Respectfully submitted,

23 QUINN EMANUEL URQUHART &
 24 SULLIVAN, LLP

25
 26 By /s/ David Eiseman

27 David Eiseman

Attorneys for Defendant Barnes & Noble, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TECHNOLOGY PROPERTIES LIMITED
LLC, et al.,

Plaintiffs,

vs.

BARNES & NOBLE, INC.,

Defendant.

CASE NO. 3:12-cv-03863-VC

**ORDER GRANTING UNOPPOSED
MOTION OF DEFENDANT BARNES &
NOBLE, INC. FOR TRANSMISSION OF
THE ITC RECORD TO THE DISTRICT
COURT**

Pursuant to 28 U.S.C. § 1659(b), the undersigned hereby orders the complete record of the proceedings before the U.S. International Trade Commission in *Certain Wireless Consumer Electronics Devices and Components Thereof*, Inv. No. 337-TA-853, to be transmitted to the United States District Court for the Northern District of California, Case No. 3:12-cv-03863-VC. To the extent the Commission record contains confidential information, the parties are ordered to handle such information under the terms of the ITC Protective Order in the '853 Investigation, pending entry of a superseding protective order by this Court.

IT IS SO ORDERED.

Dated: August __, 2014

VINCE CHHABRIA
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that, on August 6, 2014, I caused the foregoing document to be served on
Plaintiffs' counsel via the Court's CM/ECF system.

DATED: August 6, 2014

By /s/ David Eiseman