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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RICHARD SOWINSKI,  
Plaintiff,  
v.  
CALIFORNIA AIR RESOURCES  
BOARD,  
Defendant.

Case No. 18-CV-03979-LHK  
**ORDER DENYING PLAINTIFF’S  
MOTION FOR RECONSIDERATION**  
Re: Dkt. No. 19

In this lawsuit, Plaintiff asserts that the same party infringed the same patent through the same conduct as Plaintiff did in Plaintiff’s previously dismissed case. *Compare* ECF No. 13 at 6, ¶ 1 (Plaintiff’s complaint in previous case alleging that “[s]ince 2013” Defendant has conducted cap-and-trade auctions that “directly infringe[]” Plaintiff’s patent) *with* ECF No. 1, ¶ 1 (Plaintiff’s instant Complaint alleging that “[s]ince 2013” Defendant has conducted cap-and-trade auctions that “directly infringe[]” Plaintiff’s patent). In his motion for reconsideration, Plaintiff even acknowledges that the instant lawsuit is predicated on the same conduct as Plaintiff’s previous suit. ECF No. 19 at 2 (“Defendant violates the patent on a yearly basis when it runs the CARB Auction.”).

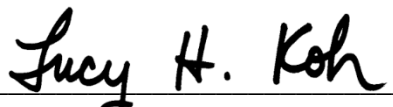
As a result, res judicata bars Plaintiff’s instant lawsuit. *See Senju Pharm. Co., Ltd. v.*

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*Apotex Inc.*, 746 F.3d 1344, 1349 (Fed. Cir. 2014) (“Claim preclusion will generally apply when a patentee seeks to assert the same patent against the same party and the same subject matter.”); *see also Single Chip Sys. Corp. v. Intermec IP Corp.*, 495 F. Supp. 2d 1052, 1062 (S.D. Cal. 2007) (dismissing as barred by res judicata a later-in-time suit “assert[ing] identical facts in the type of product and patent action” as the earlier suit). Therefore, the Court DENIES Plaintiff’s motion for reconsideration.

**IT IS SO ORDERED.**

Dated: January 18, 2019

  
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LUCY H. KOH  
United States District Judge