

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 19-01805-DOC-JDE

Date: August 27, 2020

Title: PINN, INC. v. APPLE, INC.

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Kelly Davis
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR
DEFENDANT:
None Present

**PROCEEDINGS (IN CHAMBERS): ORDER DENYING DEFENDANT’S
MOTION TO STAY PENDING POST
GRANT REVIEW PROCEEDINGS
[145]**

Before the Court is Defendant Apple, Inc.’s (“Defendant”) Motion to Stay Pending Post Grant Review Proceedings (“Motion”) (Dkt. 145). The Court finds this matter appropriate for resolution without oral argument. *See* Fed. R. Civ. P. 78; C.D. Cal. R. 7-15. Having reviewed the parties’ moving papers, the Court DENIES Defendant’s Motion.

I. Background

This case arises out of a dispute over three asserted patents between Plaintiff Pinn, Inc. (“Plaintiff”) and Defendant. Defendant filed for *inter partes* review of two of the asserted patents on June 11, 2020, and filed the instant Motion with this Court on June 12, 2020, asking the Court to stay the action pending *inter partes* review.

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II. Legal Standard

“Courts have inherent power to manage their dockets and stay proceedings, including the authority to order a stay pending conclusion of a PTO reexamination.” *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426-27 (Fed. Cir. 1988) (citations omitted). “To be sure, a court is under no obligation to delay its own proceedings by yielding to ongoing PTAB patent reexaminations—even if the reexaminations are relevant to the infringement claims before the Court.” *Robert Bosch Healthcare Sys., Inc. v. Cardiocom, LLC*, No. C-14-1575 EMC, 2014 WL 3107447, at *3 (N.D. Cal. July 3, 2014); *see also Viskase Corp. v. Am. Nat’l Can Co.*, 261 F.3d 1316, 1328 (Fed. Cir. 2001).

To determine whether to stay a case pending reexamination or *inter partes* review, courts in this district typically consider three factors: “(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the nonmoving party.” *Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943 F. Supp. 2d 1028, 1030-31 (C.D. Cal. 2013). The three factors “are not exhaustive, however, as the decision whether to order a stay must be based on the totality of the circumstances.” *Polaris Innovations Ltd. v. Kingston Tech. Co., Inc.*, No. 8:16-cv-00300-CJC-RAO, 2016 WL 7496740, at *1 (C.D. Cal. Nov. 17, 2016) (citing *Universal Elecs., Inc.*, 943 F. Supp. 2d at 1030-31).

III. Discussion

In support of the instant Motion, Defendant argues that a stay is appropriate because discovery is in its early stages, reexamination will potentially limit or dispose of the issues in this action, and a stay will not unduly disadvantage Plaintiff. *See generally* Mot. Plaintiff disagrees on every element. *See generally* Opp’n.

First factor: discovery and trial date. According to Defendant, “the parties have taken no depositions and propounded no expert discovery, and the Court has not issued any claim construction orders.” Mot. at 5. Plaintiff responds that discovery closed in early August and that the case is rapidly progressing towards its January trial date. Opp’n at 1, 7-8. Plaintiff also observes that Magistrate Judge Early has noted the advanced stage of this litigation. *Id.* at 8-9.

To analyze this factor, courts in the Central District of California often consider whether “there is more work ahead of the parties and the Court than behind the parties and the Court.” *Limestone v. Micron Tech.*, Nos. SA CV 15-0278-DOC (RNBx) et al.,

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2016 WL 3598109, at *3 (C.D. Cal. Jan. 12, 2016) (quoting *Semiconductor Energy Lab. Co., Ltd. v. Chimei Innolux Corp.*, No. SA CV 12-21-JST (JPRx), 2012 WL 7170593, at *2 (C.D. Cal. Dec. 19, 2012)). Here, given the number of hearings held by the Court, the fact that Technical Special Master Keyzer has presented the Court with a Report and Recommendation on Claim Construction (Dkt. 159), and the amount of discovery already conducted, the Court finds that this case is further along than would merit a stay. The Court therefore finds that this factor weighs against staying the case.

Second factor: simplification of issues. Here, Defendant has filed for *inter partes* review against two of the three patents at issue. The PTO has until December 2020 to decide whether to institute the *inter partes* review proceedings. This is long after the close of discovery in this case and the motion cutoff date of November 17, 2020. Additionally, trial in this matter is scheduled for January 26, 2021. While the outcome of *inter partes* review could partially simplify the issues for summary judgment and/or trial, *inter partes* review would also interfere with the timeline of this litigation and the Court's calendar. The Court finds that the potential savings of judicial resources are outweighed by the need to delay the proceedings and find new dates in the Court's busy calendar. As such, this factor weighs against staying the case.

Third factor: undue prejudice. Defendant argues that Plaintiff will not be injured because Plaintiff does not compete with Defendant and seeks only money damages. Plaintiff responds that a stay could potentially extend this litigation for years, given the additional time needed to exhaust appeals of the *inter partes* review.

Plaintiff correctly notes that, if this litigation is postponed for potentially years, it will become more difficult to prove its case, as “witnesses may become available, their memories may fade, and evidence may be lost.” Opp'n at 13. Given the resources the Court and the parties have already invested in this case, the Court finds that the increased difficulty of proving its case after the stay is lifted will be especially prejudicial to Plaintiff.

Considering the totality of the circumstances, and guided by the factors established in our case law, the Court finds that a stay pending *inter partes* review is not warranted.

IV. Disposition

For the reasons set forth above, the Court DENIES Defendant's Motion to Stay Pending Post Grant Review Proceedings.

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The Clerk shall serve this minute order on the parties.

MINUTES FORM 11

Initials of Deputy Clerk: kd

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