IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

ORCKIT CORPORATION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 2:22-CV-00276-JRG-RSP
	§	
CISCO SYSTEMS, INC.,	§	
	§	
Defendant.	§	

ORDER

Before the Court is Defendant Cisco Systems, Inc.'s Motion to Stay Pending *Inter Partes* Review Proceedings on All Four Asserted Patents. **Dkt. No. 55**. On January 22, 2022 Orckit filed this suit alleging that Cisco infringes U.S. Patents Nos. 6,680,904 ("the '904 Patent"), 7,545,740 ("the '740 Patent"), 8,830,821 ("the '821 Patent"), and 10,652,111 ("the '111 Patent") (collectively, "the Asserted Patents"). Dkt. No. 1 at 1. On January 9, 2023, Cisco filed *Inter Partes* review (IPR) petitions as to the '740 Patent and the '821 Patent. Dkt. No. 55 at 8. On February 21, 2023, Cisco filed an IPR as to the '111 Patent. *Id.* On March 14, 2023, Cisco filed an IPR as to the remaining '904 Patent. *Id.* Cisco now seeks to stay this action pending resolution of the IPRs. For the following reasons, the motion is **DENIED**.

"The decision of whether to extend a stay falls solely within the court's inherent power to control its docket." *Pers. Audio LLC v. Google, Inc.*, 230 F. Supp. 3d 623, 626 (E.D. Tex. 2017) (citation omitted); *accord Clinton v. Jones*, 520 U.S. 681, 706 (1997) ("The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.") (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). In the context of IPR proceedings, whether a stay "will result in simplification of the issues before a court is viewed as the most

important factor when evaluating a motion to stay." *Uniloc USA, Inc. v. Acronis, Inc.*, No. 6:15-CV-1001-RWS-KNM, 2017 WL 2899690, at *3 (E.D. Tex. Feb. 9, 2017) (citations omitted). "Simplification of the issues depends on whether the PTAB decides to grant the petition." *Id.* (citations omitted).

In its motion, Cisco notes that the claim construction hearing is just over six months away and will occur within about a week of the first two institution decisions. *Id.* at 12. Thus, Cisco impliedly admits that the Patent Trial and Appeal Board (PTAB) will not even issue an institution decision as to the '111 Patent or the '904 Patent until *after* the claim construction hearing. The claim construction hearing is set for September 7, 2023 and jury selection is set for March 4, 2024. Dkt. No. 46 at 1, 3. Even if the PTAB decides to institute Cisco's IPRs, the PTAB likely would not issue any final written decisions until September 2024 at the earliest.

It is far too early to determine that a stay *will* simplify the issues in the case. Therefore, the Motion to Stay (Dkt. No. 55) is **DENIED**.

SIGNED this 28th day of March, 2023.

ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE