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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**

14 WAG Acquisition, L.L.C, a New Jersey
15 limited liability company,

16
17 Plaintiff,

18 v.

19 DISNEY STREAMING SERVICES
20 LLC, a Delaware limited liability
21 company, DISNEY STREAMING
22 TECHNOLOGY LLC, a Delaware
23 limited liability company, DISNEY
24 PLATFORM DISTRIBUTION, INC., a
25 Delaware corporation, BAMTECH, LLC,
26 a Delaware limited liability company,
27 ESPN, INC., a Delaware corporation, and
28 HULU LLC, a Delaware limited liability
company,

Defendants.

Case No. 2:21-cv-08230-JAK-E

JOINT STATUS REPORT

Honorable John A. Kronstadt

Pursuant to the Court’s Order Granting Defendants’ Motion to Stay Pending IPR (Dkt. 104), Plaintiff WAG Acquisition L.L.C. (“Plaintiff” or “WAG”) and Defendants Disney Streaming Services LLC, Disney Streaming Technology LLC, Disney Platform Distribution, Inc., BAMTECH, LLC, ESPN, Inc., and Hulu LLC (collectively, “Defendants”), respectfully submit this joint report on (1) the status of the IPR proceedings for the three patents-in-suit and (2) the parties’ agreed position that the current stay pending IPR remain in effect.

I. REPORT ON *INTER PARTES* REVIEW PROCEEDINGS

At the time the Court granted the stay, certain of the Defendants had filed IPR petitions challenging all asserted claims of the ’824, ’636, and ’594 patents.¹ The PTAB has since issued institution decisions on each of these petitions. On February 3, 2023, the PTAB instituted Defendants’ IPR petition on all asserted claims of the ’636 patent, and on February 6, 2023, the PTAB instituted Defendants’ IPR petition on all asserted claims of the ’824 patent. On March 10, 2023, the PTAB denied institution of Defendants’ IPR petition for the ’594 patent.

In addition to Defendants’ IPR petitions, Google and Amazon (defendants in related WAG actions in other districts) have also each filed IPR petitions on the patents-in-suit. The PTAB has issued institution decisions on those six petitions. On March 13, 2023, the PTAB instituted Google’s IPR petition on the ’594 patent, which includes all claims that WAG asserts against Defendants. On March 23, 2023, the PTAB instituted Google’s Petitions on the ’824 and ’636 patents. With respect to Amazon, the PTAB instituted Amazon’s IPR petitions for the ’636 and ’824 patents, and denied institution of Amazon’s IPR petition for the ’594 patent.

The table below summarizes the status of the nine IPR petitions challenging the asserted claims of the three patents-in-suit:

¹ For the ’824 and ’594 patent, Defendants filed the IPR petitions along with third party Netflix, a defendant in a related WAG action in the Northern District of California.

Petition No.	Petitioner	Patent	Challenged Claims	Institution Decision
IPR2022-01227	Defendants	'636	1-12 (all asserted claims)	Granted (Feb. 3, 2023)
IPR2022-01228	Defendants/ Netflix	'824	1-12 (all asserted claims)	Granted (Feb. 6, 2023)
IPR2022-01346	Defendants/ Netflix	'594	1-17 (all asserted claims)	Denied (March 10, 2023)
IPR2022-01412	Google	'636	1-12 (all asserted claims)	Granted (March 23, 2023)
IPR2022-01413	Google	'824	1-12 (all asserted claims)	Granted (March 23, 2023)
IPR2022-01411	Google	'594	1-17 (all asserted claims)	Granted (March 13, 2023)
IPR2022-01433	Amazon	'636	1-12 (all asserted claims)	Granted (March 10, 2023)
IPR2022-01430	Amazon	'824	1-12 (all asserted claims)	Granted (March 10, 2023)
IPR2022-01429	Amazon	'594	1-17 (all asserted claims)	Denied (March 10, 2023)

As a result of the nine institution decisions that the PTAB has issued on the IPR petitions for the patents-in-suit, all claims that WAG asserts against Defendants are currently under PTAB review in one or more IPR proceedings.

II. PARTIES' POSITION ON THE EXISTING STAY

The parties have met and conferred about the developments in the IPR proceedings for the patents-in-suit, and have made certain representations regarding future actions in those IPR proceedings:

- By April 12, 2023, Defendants will file a request for joinder in the IPR proceedings on Google's petition for the '594 patent (IPR2022-01411).
- Defendants' request for joinder will be substantively identical to Google's petition for the '594 patent.

- In their request for joinder, Defendants will indicate that they intend to be an understudy to Google's IPR, meaning that Defendants will not actively participate in the proceedings unless and until Google stops actively participating in the IPR.
- WAG will not oppose Defendants' request for joinder in Google's IPR on the '594 patent.
- In the event that the PTAB denies Defendants' request for joinder in the Google IPR on the '594 patent, Defendants agree to be bound by the estoppel provision of 35 U.S.C. § 315(e) to the same extent as if their request for joinder had been granted.

In light of the institution decisions and the representations set forth above, the parties have agreed to continue the stay of this case through the issuance of final written decisions in the instituted IPR proceedings.

Dated: March 24, 2023

DLA PIPER LLP (US)

By: /s/ Michael Jay

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ATTESTATION REGARDING SIGNATURES

I, Michael Jay, attest that all signatories listed, and on whose behalf the filing is submitted, concur in the filing's contents and have authorized the filing.

Dated: March 24, 2023

/s/ Michael Jay

Michael Jay

DLA PIPER LLP (US)

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on March 24, 2023, I authorized the electronic filing of the foregoing with the Clerk of Court using the CM/ECF system which will send notifications of such filing to the email through the Court's Notice of Electronic Filing System.

/s/ Michael Jay

Michael Jay