

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-81726-CIV-SINGHAL

SYSTEM STORMSEAL PTY LTD and
STORMSEAL USA, LLC,

Plaintiffs,

v.

ABC SUPPLY CO., INC., MULE-HIDE
PRODUCTS CO., INC., and STRUCTURAL
WRAP, LLC,

Defendants.

ORDER

THIS CAUSE is before the Court upon Structural Wrap's Expedited Motion to Stay Pending *Inter Partes* review of U.S. Patent No. 11,168,484. (DE [57]). For the reasons set forth below, the Motion is denied.

Courts generally enjoy broad discretion in deciding how best to manage the cases before it. See *Johnson v. Bd. of Regents of Univ. of Georgia*, 263 F.3d 1234, 1269 (11th Cir. 2001) ("[A]ccord[ing] district courts broad discretion over the management of pre-trial activities, including discovery and scheduling."). Generally, district courts consider three factors in determining whether to grant a stay pending *inter partes* review: "(1) whether the stay will unduly prejudice or present a clear tactical disadvantage to the nonmoving party; (2) whether the stay will simplify issues in question and trial of the case; and (3) whether discovery is complete and whether a trial date has been set." *Targus Int'l LLC v. Grp. III Int'l, Inc.*, 2021 WL 542675, at *2 (S.D. Fla. Jan. 8, 2021). Courts, however, routinely deny stays that are sought before the Patent Trial and Review Board ("PTAB") even institutes *inter partes* review. See, e.g., *DataQuill Ltd. v. Blu Prod., Inc.*, 2020 WL

6135795, at *2 (S.D. Fla. Apr. 10, 2020); *InVue Sec. Prod. v. Vanguard Prods. Group*, 2019 WL 3958272, at *1 (M.D. Fla. Aug. 22, 2019).

Here, Structural Wrap requests a stay even though the PTAB has yet to institute *inter partes* review of U.S. Patent No. 11,168,484 (“484 patent”). More importantly, it is undisputed that a final decision from the PTAB regarding the validity of the ‘484 patent would not come until, at the earliest, May 2025. Discovery is set to end in March 2024 with trial set to begin in July 2024. Whether or not the final decision from the PTAB actually simplifies trial—a point the parties heavily dispute—it is not efficient to stay the case for eighteen months only to then restart the discovery process. This is especially so when it appears that Structural Wrap could have filed for *inter partes* review as early as eighteen months ago; meaning, we could have already had a final decision from the PTAB regarding the validity of the ‘484 patent. In reality, granting Structural Wrap’s request for a stay would mean trial would begin, at the earliest, in 2026. Such an extreme delay is not warranted under the circumstances.

Relatedly, and contrary to Structural Wrap’s assertions, this case is not in the early stages of discovery. Though a substantial amount of discovery may be left, a substantial amount has already been completed. The parties have nearly completed written discovery, exchanged hundreds of pages of detailed infringement and invalidity contentions setting out their positions as to their respective patents, and are beginning fact depositions and expert discovery. Much of that work would likely be wasted if a stay is granted, as the parties would likely have to update discovery when they stay is lifted. The Court is not willing to waste all that hard work and effort when the parties are closer to the finish line than the starting point. Accordingly, it is hereby

ORDERED AND ADJUDGED that Structural Wrap's Expedited Motion to Stay Pending *Inter Partes* review of U.S. Patent No. 11,168,484 (DE [57]) is **DENIED**. All pretrial deadlines remain in effect.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 22nd day of November 2023.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF