

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
DAVENPORT

NUHN INDUSTRIES LTD,

Plaintiff,

vs.

BAZOOKA FARMSTAR LLC,

Defendant.

3:22-cv-00015-SMR-HCA

ORDER GRANTING PLAINTIFF’S  
MOTON TO LIFT STAY

Before the Court is Plaintiff’s Motion to Lift the Stay. ECF No. 55. Defendant filed its Resistance to the Motion, ECF No. 56, and Plaintiff filed a Reply. ECF No. 57. The Court considers the Motion fully briefed and ready for ruling. The Court **grants** Plaintiff’s Motion to Lift Stay, ECF No. 55.

**I. BACKGROUND**

On June 13, 2022, the Court issued an order staying proceedings in this case pending final resolution of the reexamination proceedings pending before the United States Patent and Trademark Office (“USPTO”). ECF No. 47. Plaintiff now asks this Court to lift the stay because the USPTO has concluded its reexamination of the ‘557 Patent at issue in this case, with the patentability of claims 1–13, among others, being confirmed.

Defendant opposes lifting of the stay because Defendant intends to file a second request for *ex parte* reexamination to present a more fully developed factual record and additional prior art bearing on the validity of the ‘557 Patent.

## II. LEGAL STANDARD AND ANALYSIS

Federal courts have broad discretion to stay proceedings, as they have broad discretion in managing their dockets. *Landis v. North. Am. Co.*, 299 U.S. 248, 254–55 (1936). “[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Id.* at 254. “The district court’s power to stay proceedings has been drawn purposefully broad and is discretionary.” *Fisher Controls Co. v. Control Components, Inc.*, 443 F. Supp. 581, 581 (S.D. Iowa 1977); *see also Landis*, 299 U.S. at 254–55; *Sierra Club v. U.S. Army Corps of Eng’rs*, 446 F.3d 808, 816 (8th Cir. 2006). Factors courts consider when determining whether to grant a stay include: “(1) the potential prejudice to the non-moving party caused by the delay; (2) whether a stay will simplify the issues; (3) whether discovery is complete and a trial date set; and (4) the source of the governing law.” *Brown v. La.-Pac. Corp.*, No. 4:12-cv-00102-SMR-TJS, 2013 WL 11826550, at \*1 (S.D. Iowa June 14, 2013).

The parties agree that this Court has the power to lift the stay. The parties also agree that in deciding whether to lift the stay, the Court should use the same standard and analyze the same factors it applied in granting the stay. ECF No. 55-1 at 6–7; ECF No. 56 at 4–6. *See Middleton, Inc., v. Minn. Mining & Mfg.*, No. 4:03-cv-40493, 2004 U.S. Dist. LEXIS 16812, at \*11–12 (S.D. Iowa Aug. 24, 2004) (setting out the factors the court should consider in granting or lifting a stay).

Based upon the current record, the Court determines that the circumstances have changed, and it is now time to lift the stay. The USPTO has completed its reexamination of the ‘557 Patent in favor of Plaintiff. There is no current request for a second reexamination pending and no indication when such a request might be filed. Further Defendant has not provided an

adequate explanation as to why it did not present a more fulsome record during the recently completed reexamination process. Additionally, it is unclear whether the USPTO would grant a second reexamination request, or that a second reexamination would further simplify the issues pending in this Court.

This case has been pending in this district since March 17, 2022, and will soon celebrate its first birthday before this Court. It is now time for the parties to prepare a proposed discovery plan and scheduling order and proceed to a scheduling conference so that the Court may set case management deadlines in the case. Accordingly, the Motion to Lift Stay, ECF No. 55, is **granted**. By no later than January 27, 2023, the parties shall confer and file a proposed discovery plan and scheduling order. The Court will then set a telephonic scheduling conference with respective counsel so that pretrial and trial deadlines can be set in the case.

### III. CONCLUSION

For the aforementioned reasons, the Motion to Lift Stay, ECF No. 55, is **GRANTED**.  
IT IS SO ORDERED.  
DATED this 18th day of January, 2023.



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Helen C. Adams  
Chief U.S. Magistrate Judge