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8 *Attorneys for Defendant Tesla, Inc.*

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

11 GRAPHITE CHARGING COMPANY LLC,

12 Plaintiff,

13 v.

14 TESLA, INC.,

15 Defendant.
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Case No. 3:24-cv-02717-VC

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER REGARDING
STAY PENDING RESOLUTION OF
PETITIONS FOR *INTER PARTES*
REVIEW AND MANDAMUS **AS
AMENDED****

1 Plaintiff Graphite Charging Company LLC’s (“Graphite”) and Defendant Tesla, Inc.
2 (“Tesla”) (collectively “Parties”), by and through their attorneys, stipulate and respectfully request,
3 on the terms set forth below, a stay of the proceedings in the above-captioned pending action:

4 WHEREAS, Graphite and Tesla are parties to the above-captioned case;

5 WHEREAS, in the above-captioned case, Graphite alleges that Tesla infringes one or more
6 claims of U.S. Patent Nos. 8,103,391 (the “391 Patent”) and 8,291,243 (“243 Patent”)
7 (collectively, the “Asserted Patents”), and Tesla denies infringement thereof;

8 WHEREAS, Tesla filed two petitions for *inter partes* review (“IPR”) in early February
9 2024 challenging the patentability of all asserted claims of the Asserted Patents (IPR2024-00387
10 & IPR2024-00388), and Graphite filed Patent Owner Preliminary Responses in May 2024;

11 WHEREAS, given the statutory deadlines for taking certain actions in IPRs, the Parties
12 expect resolution of its IPRs no later than according to the following timeline:

Patent	Proceeding	Notice of Filing Date	Expected Institution	Expected Final Written Decision
8,103,391	IPR2024-00387	February 1, 2024	August 1, 2024	August 1, 2025
8,291,243	IPR2024-00388	February 14, 2024	August 14, 2024	August 14, 2025

16 WHEREAS, on April 25, 2024, this case was transferred to this Court from the Western
17 District of Texas (“WDTX”) (Dkt. 61);

18 WHEREAS, an Initial Case Management Conference following transfer has not yet
19 occurred, and currently no case schedule has issued;

20 WHEREAS, a Joint Case Management Statement is due on June 21, 2024, and an Initial
21 Case Management Conference is set for June 28, 2024 (Dkt. 71);

22 WHEREAS, Graphite indicated it intends to file a petition for a writ of mandamus directing
23 this case be transferred back to WDTX, and Tesla intends to oppose;

24 WHEREAS, Tesla indicated it intends to move to stay this case pending resolution of the
25 IPR proceedings, and Graphite indicated it does not oppose a stay in light of its forthcoming petition
26 for writ of mandamus;

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1 WHEREAS, this case is in its infancy as the parties have not yet engage in any merit-based
2 case activities, have not served or responded to any non-venue written discovery, have not exchanged
3 contentions, did not perform any claim construction exchanges, have not taken any non-venue
4 discovery, Tesla has not yet answered, and courts in this district routinely stay patent litigation matters
5 involving pre-institution PTAB proceedings (*see, e.g., iQar Inc. v. Tesla, Inc.*, No. 24-CV-01337-
6 VC, Dkt. 76 (N.D. Cal. May 21, 2024) (Chhabria, J.); *DDC Tech., LLC v. Google LLC*, No. 23-CV-
7 01160-VC, Dkt. 163 (N.D. Cal. May 10, 2023) (Chhabria, J.); *Uniloc 2017, LLC v. Apple Inc.*, No.
8 3-19-cv-01697-VC, Dkt. No. 112 (N.D. Cal. Jan. 22, 2020) (Chhabria, J.); *Oyster Optics, LLC v.*
9 *Ciena Corp.*, No. 17-cv-05920, 2018 WL 6972999 (N.D. Cal. Jan. 29, 2018); *Evolutionary*
10 *Intelligence, LLC v. Facebook, Inc.*, No. 13-cv-04202-SI, 2014 WL 261837 (N.D. Cal. Jan. 23,
11 2014); *Finjan, Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032 (N.D. Cal. 2015));

12 WHEREAS, in the interest of avoiding unnecessary motion practice, and to conserve
13 judicial resources, the Parties agree to stay this case pending final resolution of the IPR proceedings
14 and Graphite's forthcoming petition for writ of mandamus, whichever is resolved later; and

15 WHEREAS, Courts in this District have previously approved joint stipulations to stay a
16 case pending resolution of IPR proceedings (*see, e.g., NetSkope, Inc., v. Fortinet, Inc.*, No. 22-cv-
17 01852-TLT, Dkt. 73, (N.D. Cal. Jan. 9, 2023); *Take2 Tech. Ltd. v. Pac. Biosciences of Cal. Inc.*,
18 No. 23-cv-04166, Dkt. 111 (N.D. Cal. May 3, 2024); *Monarch Networking Sols., LLC v. Juniper*
19 *Networks, Inc.*, No. 23-cv-05076, Dkt. 119 (N.D. Cal. Mar. 18, 2024); *CloudofChange, LLC v.*
20 *Clover Network, Inc.*, No. 3:23-cv-03005, Dkt. 132 (N.D. Cal. Aug. 17, 2023) (Martinez-Olguin,
21 J.); *Mullen Indus. LLC v. Apple Inc.*, No. 3:23-cv-00437, Dkt. 118 (N.D. Cal. Aug. 2, 2023)).

22 IT IS HEREBY STIPULATED by the Parties, subject to approval of the Court, that:

23 1. All proceedings in the above-captioned action shall be STAYED pending resolution,
24 including any appeal(s), of Tesla's IPR proceedings on the Asserted Patents and Graphite's
25 forthcoming petition for writ of mandamus, whichever is resolved later;

26 2. The Parties shall file a Joint Status Report within 10 days of the later of: (i) the last of
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1 the Institution Decisions in the IPR proceedings, (ii) dismissal or other resolution of the IPR
2 proceedings, including any appeal(s) thereof; or (iii) resolution of Graphite's forthcoming petition
3 for writ of mandamus.

4 DATED this 30th day of May, 2024.

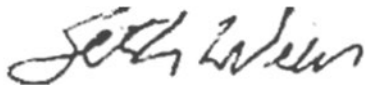
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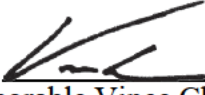
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1 ~~PROPOSED~~ ORDER GRANTING JOINT STIPULATION
2 REGARDING STAY PENDING RESOLUTION OF PETITIONS
3 FOR INTER PARTES REVIEW AND MANDAMUS

4 PURSUANT TO STIPULATION, IT IS SO ORDERED. In addition to the joint status
5 reports discussed above, the parties shall also file a joint status report every 6 months.

6 DATED: May 31, 2024

7 By: 
8 Honorable Vince Chhabria
9 U.S. District Court Judge