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11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**

15
16 INARI MEDICAL, INC.,

17 Plaintiff,

18 v.

19 IMPERATIVE CARE, INC.,

20 Defendant.
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Civil Action No. 5:24-cv-03117-EKL-SVKx

**IMPERATIVE CARE, INC.'S REPLY IN
SUPPORT OF MOTION TO STAY
PENDING INTER PARTES REVIEW**

Hearing Date: July 16, 2025

Time: 10:00 a.m.

Courtroom: 7

Hon. Eumi K. Lee

1 Congress created IPRs as a more efficient system to challenge patents compared to
2 district court litigation. Thus, stays of patent cases pending IPRs are liberally granted. The
3 Patent Office has now instituted two IPRs against Inari's patents. Shortly after Imperative
4 Care filed this Motion, the PTAB instituted the second IPR against Inari's '012 Patent.
5 Imperative Care has two additional IPRs pending and will file several more.

6 The '012 patent claims (like the '011 patent already subject to IPR) cover a valve
7 having a "filament" that wraps around a tube to open and close the tube. In both Institution
8 Decisions, the Board determined that at least two prior-art combinations, Schaffer and
9 Hartley or Schaffer and Eller, are likely to render these valve claims *invalid* for obviousness.
10 Dkt. #101-5 (Ex. 5) at 41; Stowell Decl., Ex. 8 at 48 (the "Supp. Stowell Decl.").

11 Inari ignores that determination and its impact on this case. Inari has asserted **over 80**
12 **claims** on a valve that are very similar to the claims in the instituted IPRs, including all the
13 claims in the asserted '012, '921, '291, and '384 patents. If the Board confirms its
14 preliminary invalidity decision, that should resolve most, if not all, of these 80 claims.

15 Inari also incorrectly argues that, if this Court denies Inari's preliminary injunction
16 motion (PI Motion), "particularly" on the likelihood-of-success factor, "there is a greater need
17 for an earlier trial on the merits." Opp. at 1. If true, that argument would encourage frivolous
18 PI Motions to avoid stays pending IPRs. And it ignores that this Court might agree with the
19 Board's decision that the prior art is likely to invalidate the two valve claims asserted on the
20 PI Motion. Moreover, no expedited trial will change the characteristics of Symphony. It
21 never has had a "second clot aspiration assembly" including "a second pressure source" as
22 required by the third claim asserted in the PI Motion. And if this Court were to find no
23 irreparable harm, that would also show no need for an earlier trial on the merits. Thus, the
24 mere filing of a PI motion **cannot** possibly cause courts to "routinely deny motions for a stay"
25 as Inari represents. *Id.* The stay factors warrant a stay pending all the IPR decisions.

26 **I. INARI IGNORES THE IMPORT OF THE INSTITUTED IPRS**

27 Inari attempts to minimize the IPRs by ignoring key aspects of the proceedings. First,
28 Inari argues "it is undisputed that only one of the asserted patents is subject to an instituted

1 IPR.” Opp. at 2. But this ignores the ’011 patent IPR. Inari cannot dismiss that IPR by a
 2 footnote representing it dropped the patent “to avoid distraction.” *Id.* at 3 n.1. The claims in
 3 the ’011 patent IPR are similar to over 80 valve claims in the remaining asserted patents. *See*,
 4 *e.g.*, Dkt. #89 at 4 (comparing claims of the ’011 patent with the ’921 patent). Inari also
 5 ignores that the same prior art relied on by the Board in the ’011 patent IPR should render
 6 Inari’s other valve claims invalid due to the similarities of those 80 claims. Given these facts,
 7 Inari’s argument that that the ’011 patent IPR “is no longer relevant to the issues in dispute
 8 here” is frivolous. Opp. at 6-7. Inari’s decision to drop the ’011 patent shortly after
 9 institution of the IPR confirms the simplifying effect of the IPRs.

10 Second, Inari also attempts to minimize the IPRs by arguing “that institution means, at
 11 most, that Imperative Care established it is likely to prove at least one of the claims—the
 12 broadest claim—is invalid.” Opp. at 3. Yet, the statistics cited by Inari show that the Board
 13 invalidated **all** patent claims in **70%** of the IPRs proceeding to a Final Written Decision in
 14 2024 and invalidated some of the claims in another 15% of IPRs. Dkt. #106-2 (Ex. 1) at 10.
 15 Inari misleadingly represents that “only 14% of patents **with proceedings** ending in 2024
 16 were fully invalidated.” Opp. at 2 (citing Dkt. #106-2 (Ex. 1) at 14).¹ But that statistic
 17 includes much more than just IPRs with a Final Written Decision, like we will have in this
 18 case. Rather, it includes **all** petitions resulting in “settlements, dismissals, requests for
 19 adverse judgment, and **denials of institution.**” Dkt. #106-2 (Ex. 1) at 14.

20 Third, Inari attempts to minimize the ’012 patent IPR by arguing “the PTAB **adopted**
 21 Inari’s proposed claim construction for ‘filament.’” Opp. at 3 (emphasis in original). Yet,
 22 the Board did **not** adopt Inari’s construction of “filament.” Stowell Decl., Ex. 8 at 15. The
 23 Board made a preliminary determination that “filament” requires only flexibility (not all the
 24 other limitations Inari sought). *Id.*

25 The Board is currently wrestling with the meaning of “filament” in the IPRs and has
 26 preliminarily adopted different constructions in the ’011 and ’012 patent IPRs. *Compare* Dkt.

27
 28 ¹ All emphasis added unless noted otherwise.

1 #101-5 (Ex. 5) at 19 *with* Stowell Decl., Ex. 8 at 21. Inari also ignores that, in the Joint Claim
 2 Construction Statement, the Parties agreed the Court should construe “filament.” Dkt. #107
 3 at Exhibit A, pp.1-2. That term appears in the IPR claims and in **41** asserted claims spanning
 4 **9 out of 11 asserted patents**, as well as the claims of the ’12-333 patent that Inari has moved
 5 to add to this case. *Id.* Inari cannot genuinely dispute that the Board’s final determination
 6 concerning the proper construction of “filament” will simplify issues for this Court.

7 Inari also argues that the Board “rejected five of the seven grounds Imperative Care
 8 raised, including arguments that it made in the preliminary injunction motion.” Opp. at 3.
 9 But what matters is that the Board found for the second time, over Inari arguing to the
 10 contrary, that Inari’s valve claims are likely invalid based on Schaffer and Hartley or Schaffer
 11 and Eller. Stowell Decl., Ex. 8 at 34-48. Inari’s failure to acknowledge this key decision, or
 12 **even submit it to the Court**, shows it cannot diminish the importance of this decision. Inari’s
 13 demand that the Court duplicate the work already being done in the IPRs is highly inefficient.

14 **II. THE STAY FACTORS SUPPORT A STAY, NOT INARI**

15 **A. Inari Does Not Meaningfully Dispute this Case is in its Early Stages**

16 In a footnote, Inari admits it does not “focus” on this stay factor and alleges that the
 17 factor is “likely neutral” due to the preliminary injunction activities. Opp. at 5, n.2. Yet, well
 18 after those activities, Inari argued to this Court in its pending Motion for Leave to File a Third
 19 Amended Complaint that the proceedings were in their early stages. Dkt. #88 at 2. With the
 20 pleading stage ongoing, Inari cannot genuinely dispute that the first factor favors a stay.

21 **B. The Potential for a Stay to Simplify the Issues is Not “Speculative”**

22 Inari argues that whether Imperative Care’s IPR petitions will simplify the issues “is
 23 speculative.” Opp. at 1, 5. Inari is wrong. As explained above, the Board will construe
 24 “filament” and determine whether the prior art renders Inari’s valve claims invalid. *See also*
 25 Mot. at 7. Moreover, the IPRs will simplify the issues even if the Board does not cancel the
 26 claims because the Board’s final decision will construe filament, determine the impact of the
 27 prior art references, **and** preclude Imperative Care from raising the same invalidity grounds in
 28 this Court. *Id.* (citing *IXI Mobile*, 2015 WL 7015415 at *3).

1 Rather than address the instituted IPRs, Inari focuses on the pending or soon-to-be
 2 filed IPRs, arguing that “it is unclear whether or to what extent any IPRs will be instituted,”
 3 and speculates that “recent changes at the PTAB” may reduce its IPR institution rate. Opp. at
 4 5-6. Inari ignores that, even if the Board does not institute another IPR, the instituted IPRs
 5 will substantially impact this case. Because IPRs have already been instituted, Inari’s list of
 6 cases denying motions to stay where **no IPR had been instituted against any asserted patent**
 7 are inapplicable. Further, the cases uniformly recognize that the potential for simplification
 8 increases as IPRs are instituted. See *Int’l Test Sols., Inc. v. Mipox Int’l Corp.*, No. 16-CV-
 9 00791-RS, 2017 WL 1316549, at *3 (N.D. Cal. Apr. 10, 2017) (“If IPR proceedings are
 10 instituted on any of the three patents at issue in this case, the potential for simplification
 11 would increase.”); *SAGE Electrochromics, Inc. v. View, Inc.*, No. 12-CV-06441-JST, 2015
 12 WL 66415, at *3 (N.D. Cal. Jan. 5, 2015) (similar). Thus, this factor supports a stay.

13 C. A PI Motion Between Competitors Does Not Circumvent the Stay Factors

14 Inari argues “Courts are reluctant to grant stays where parties are direct competitors,
 15 and they consistently deny motions to stay where the plaintiff is seeking a preliminary
 16 injunction.” Opp. at 7. Inari is wrong on both counts. First, as Imperative Care explained in
 17 its Motion, even where the parties are direct competitors, the question of “whether the
 18 patentee will be unduly prejudiced by a stay in the district court proceedings ... focuses on
 19 the patentee’s need for an expeditious resolution of its claim.” Mot. at 9 (citing
 20 *VirtualAgility*, 759 F.3d at 1318). Regardless of how the Court rules on the PI Motion, no
 21 reason justifies wasting Court or party resources litigating patent claims that will be
 22 significantly impacted by the IPRs.

23 Inari repeats its incorrect argument that courts “consistently **deny** motions for stays
 24 pending IPRs where the plaintiff has filed a preliminary injunction.” Opp. at 4 (emphasis in
 25 original). None of the cases Inari cites considered the impact of a PI Motion on a stay
 26 motion, let alone deny a motion to stay merely because a PI Motion was filed. In fact, Inari
 27 cites only one case involving a PI Motion, *OrthoAccel Techs., Inc. v. Propel Orthodontics,*
 28 *LLC*, No. 17-cv-03801-RS, 2018 WL 1989561, at *1 (N.D. Cal. Jan. 19, 2018). But there the

1 Court denied the motion to stay ***without prejudice*** because the Board had not yet instituted
2 ***any*** IPRs. *Id.* And the Court invited the defendant to “renew the motion if the PTAB
3 institutes IPR proceedings.” *Id.* Thus, this case undermines Inari’s argument.

4 **III. THE COURT SHOULD STAY THE ENTIRE CASE**

5 Inari also argues the Court “can stay proceedings as to patents subject to an instituted
6 IPR, while allowing the case to proceed on patents not subject to such institution.” Opp. at 6.
7 But, as demonstrated above, the issues raised in the IPRs, such as the proper construction of
8 “filament,” impact almost all the asserted patents. Thus, a partial stay would not be efficient.
9 Further, Inari’s cited cases establish that a partial stay is warranted in only very narrow
10 circumstances that are not applicable here.

11 In *Asetek Danmark A/S v. Coolit Sys., Inc.*, No. 19-cv-00410-EMC, ECF No. 380
12 (N.D. Cal. Feb. 10, 2022), the court granted a partial stay because the Court had already
13 issued two claim construction orders, fact discovery had closed, expert discovery was nearly
14 complete, and trial was less than six months away (having already been postponed twice).
15 None of those circumstances exist here.

16 In *GoPro, Inc. v. C&A Mktg., Inc.*, No. 16-cv-03590-JST, 2017 WL 2591268, at *4
17 (N.D. Cal. June 15, 2017), the Defendant sought IPR of one of two asserted patents, but the
18 PTAB had not yet instituted the IPR. In denying the stay, the court found that the
19 unchallenged patent was directed to different subject matter. *Id.* Thus, the court found that,
20 even if the PTO instituted the IPR, it would not simplify any issues with respect to the
21 unchallenged patent. *Id.* Here, the already-instituted IPRs will impact at least ***nine*** of the
22 asserted patents, demonstrating the heavy overlap in subject matter across the patents.
23 Further, Imperative Care has filed or will file IPRs against all asserted patents. Thus, a partial
24 stay is not warranted here.

25 **IV. CONCLUSION**

26 The instituted IPRs will significantly impact the scope of this case (as will additional
27 IPRs). For this reason, and those set forth in the Motion, Imperative Care requests that the
28 Court stay the case pending final decisions in the IPRs.

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Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 7, 2025

By: /s/ Joshua J. Stowell

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