**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF TEXAS**
**MARSHALL DIVISION**

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|---|---|
| KEYLESS LICENSING LLC,<br><br>Plaintiff,<br><br>v.<br><br>SAMSUNG ELECTRONICS AMERICA, INC., and SAMSUNG ELECTRONICS CO., LTD.,<br><br>Defendants. | Civil Action No.: 2:24-cv-00464-JRG<br><br>JURY TRIAL DEMANDED |

**PLAINTIFF'S OPPOSITION TO SAMSUNG'S MOTION TO STAY PENDING *INTER PARTES* REVIEW (DKT. 47)**

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## I. INTRODUCTION

Consistent with this Court's standard practice, the Court should deny Defendants Samsung Electronics America, Inc. and Samsung Electronics Co., Ltd.'s (collectively, "Samsung") premature motion to stay this case. Samsung's motion to stay was filed well before the Patent Trial and Appeal Board (PTAB) will decide in October 2025 whether to institute any of Samsung's recently filed *inter partes* review petitions (IPR) challenging the validity of the three patents asserted by Plaintiff Keyless Licensing LLC ("Keyless").

No IPRs have been instituted for any of the three patents-in-suit. The PTAB's decisions on whether to institute Samsung's four IPR petitions will not be made until October 9, 2025. In contrast, this case is already at a mature stage. It has progressed into discovery, with infringement and invalidity contentions exchanged, and a trial date set for April 20, 2026. This trial date is nearly six months *before* the PTAB's Final Written Decisions would be due, even if any IPRs were to be instituted, which is unlikely. Moreover, the USPTO Acting Director's new Discretionary Denial protocol, implemented in March 2025, is likely to increase the chances that Samsung's IPR petitions will be denied at an early stage. *See* Ex. A.[1] This highlights why staying the case would be premature. Further, a stay is unlikely to simplify the issues presented to this Court because Samsung's invalidity theories in this case encompass prior art beyond the scope of IPR proceedings. Granting a stay would unduly prejudice Keyless through significant delay, increased costs, and the risk of losing evidence and licensing opportunities.

Samsung's arguments that a stay will simplify the issues are, at best, premature and speculative. This Court's precedent acknowledges this reality by regularly denying motions to stay filed before the PTAB institutes an IPR. There is no reason to deviate from that sound practice.

[1] https:// law360.com/articles/2339744/ptab-ramps-up-fintiv-denials-after-withdrawal-of-memo

## II. BACKGROUND

On June 20, 2024, Keyless filed suit for patent infringement against Samsung asserting U.S. Patent Nos. 9,304,602 ("the '602 patent"), 10,976,922 ("the '922 patent"), and 11,503,144 ("the '144 patent") (collectively, the "Patents-in-Suit"). Keyless contends that the '602 patent, '922 patent, and '144 patent—which were all filed by the same inventor—are entitled to priority dates of no later than December 20, 2009, February 17, 2013, and April 18, 2003, respectively. *See* Dkt. 47-1 at 9.

The patented technology pertains to the design and functionality of Samsung smartphones and tablets. The '602 patent includes capturing input from the edges of a mobile device's touch-sensitive display, enhancing user interaction on devices with limited-size touchscreens. It discloses a system for receiving and processing user input in a flexible, efficient, and user-friendly manner. The '922 patent addresses systems for managing user input on mobile devices, specifically enabling the simultaneous use of multiple applications on a touchscreen with an on-screen keyboard. The '144 patent encompasses both the physical design and input-processing technology of mobile devices, describing a rectangular-shaped housing with seamlessly integrated components and a system for handling user input flexibly and efficiently.

Contrary to Samsung's assertion, this case is well advanced. On October 9, 2024, Keyless served its Disclosure of Asserted Claims and Infringement Contentions under P.R. 3-1 and 3-2. Dkt. 47-1. On November 22, 2024, Keyless propounded its first set of interrogatories, and Samsung responded on January 13, 2025. On January 29, 2025, Samsung served its Preliminary Invalidity Contentions and document production pursuant to P.R. 3-3 and 3-4, along with its Subject Matter Eligibility Contentions. Ex. C. The parties are scheduled to exchange proposed claim construction terms on June 13, 2025, with a Markman hearing set for October 17, 2025, and trial scheduled for April 20, 2026. Dkt. 43.

Regarding Samsung's IPR petitions, Keyless will file a Discretionary Denial Brief on June 9, 2025, urging the USPTO Director to deny institution under the March 26, 2025, USPTO memorandum outlining interim PTAB workload management procedures (Process Memorandum). Ex. B.[2] The Process Memorandum bifurcates IPR institution decisions into (i) discretionary considerations and (ii) merits-based and non-discretionary factors. Under this framework, the Director, in consultation with at least three PTAB judges, evaluates discretionary denial. If denial is warranted, the Director issues a decision rejecting institution. If not, the Director refers the petition to a three-member PTAB panel, which addresses the merits and other statutory requirements in the standard course. This interim procedure is expected to further increase IPR petition denials compared to prior USPTO practices. *See* Ex. A. On July 9, 2025, Keyless will file its Patent Owner Preliminary Response (POPR) for each Samsung IPR petition, provided the Director has not already denied institution. The PTAB must issue institution decisions by October 9, 2025. If instituted—though unlikely—Final Written Decisions are due by October 9, 2026, nearly six months after the scheduled trial in this case on April 20, 2026.

## III. LEGAL STANDARD

"The district court has the inherent power to control its own docket, including the power to stay proceedings." *Luminati Networks Ltd. v. Teso LT*, *UAB*, No. 2:19-cv-00395-JRG, 2020 WL 6803255, at *1 (E.D. Tex. Oct. 30, 2020) (citing *Clinton v. Jones*, 520 U.S. 681, 706 (1997)). "How to best manage the court's docket 'calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.'" *Id*. (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936)).

[2] https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf

District courts ordinarily evaluate three factors when determining whether to grant a stay pending IPR: "(1) whether the stay will unduly prejudice the nonmoving party, (2) whether the proceedings before the court have reached an advanced stage, including whether discovery is complete and a trial date has been set, and (3) whether the stay will likely result in simplifying the case before the court." *Id*. (quoting *NFC Techs. LLC v. HTC Am., Inc.*, No. 2:13-cv-1058-WCB, 2015 WL 1069111, at *2 (E.D. Tex. Mar. 11, 2015)) (Bryson, J.). "'Based on th[ese] factors, courts determine whether the benefits of a stay outweigh the inherent costs of postponing resolution of the litigation.'" *Id*. Where the defendant files a motion to stay before the PTAB institutes an IPR, courts often "withhold a ruling pending action on the petition by the PTAB or deny the motion without prejudice to refiling in the event that the PTAB institutes a proceeding. *Id*. (citing *VirtualAgility Inc. v. Salesforce.com, Inc.*, 759 F.3d 1307, 1316 (Fed. Cir. 2014)).

## IV. ARGUMENT

### A. The Court consistently denies motions to stay before the PTAB issues a decision whether to institute an IPR because arguments that a stay will simplify a case at this stage are premature and speculative.

The simplification of issues factor weighs heavily against a stay because the PTAB's institution decisions on the four IPRs will not issue until October 9, 2025, and—in the unlikely event the petitions are instituted—the PTAB's Final Written Decisions are not due until October 9, 2026—which is nearly six months after trial is scheduled in this case.

For many reasons, Samsung's arguments that a stay will simplify the issues in this case are, at best, premature and speculative. For example, the potential estoppel effect on the scope of prior art is likely to have minimal impact, offering little to no efficiency gains. In Samsung's invalidity contentions served on January 29, 2025, Samsung identified 17 products ("system prior art") that allegedly anticipate or render the patents-in-suit obvious. *See* Ex. C at 27. However, under 35 U.S.C. § 311(b), IPR proceedings may only consider prior art consisting of patents or

printed publications. Consequently, the PTAB cannot consider Samsung's system prior art, yet Samsung's invalidity contentions in this litigation include numerous system prior art references, detailed in hundreds of pages of claim charts, beyond the scope of its IPR petitions. Thus, even if Keyless prevails in the IPRs, this Court must address this broader system prior art, rendering a stay pending IPR inefficient. This Court has previously recognized the speculative nature of IPR estoppel in similar cases involving system prior art and denied motions to stay. *See FlatFrog Lab'ys, AB v. Chemtronics Co.*, No. 2:23-cv-0306-JRG-RSP, 2024 WL 3014621, at *2 (E.D. Tex. June 14, 2024) (the court "fully anticipates Defendants will prepare significant alternative invalidity theories mitigating any simplification on the account of IPR estoppel.").

Indeed, this Court has consistently denied motions to stay filed before the PTAB has issued its decision whether to institute an IPR proceeding. And Samsung is well aware of those results given its prior unsuccessful efforts to stay cases in this District under similar circumstances. *See*, *e.g.*, *Image Processing Techs., LLC v. Samsung Elecs. Co.*, No. 2:16-cv-505-JRG, 2017 WL 10185855, at *1 (E.D. Tex. Feb. 17, 2017) ("[T]his Court has a consistent practice of denying motions to stay when the PTAB has yet to institute post-grant proceedings. 'This Court's survey of cases from the Eastern District of Texas shows that when the PTAB has not yet acted on a petition for *inter partes* review, the courts have uniformly denied motions for a stay.'") (quoting *Trover Grp., Inc. v. Dedicated Micros USA*, No. 2:13-cv-1047-WCB, 2015 WL 1069179, at *6 (E.D. Tex. Mar. 11, 2015)); *Nanoco Techs. Ltd. v. Samsung Elecs. Co.*, No. 2:20-cv-00038-JRG, 2021 WL 3027335, at *2 (E.D. Tex. Jan. 8, 2021) ("[T]he Court concludes that Samsung's motion is premature, and a stay of these proceedings in advance of the PTAB's decision on whether or not to institute *inter partes* review of any of the Asserted Patents should be denied."); *Snik LLC v. Samsung Elecs. Co.*, No. 2:19-cv-00387-JRG, 2020 WL 9076438 (E.D. Tex. Oct. 5, 2020) (same);

*Acorn Semi, LLC v. Samsung Elecs. Co.*, No. 2:19-cv-00347-JRG, 2020 WL 10284981 (E.D. Tex. Sept. 14, 2020); *Polaris PowerLED Techs., LLC v. Samsung Elecs. Am., Inc.*, No. 2:17-cv-00715-JRG, 2018 WL 11508221 (E.D. Tex. Sept. 5, 2018); *Polaris Power Techs., LLC v. Samsung Elecs. Co.*, No. 2:22-cv-0469-JRG, 2023 WL 12065780 (E.D. Tex. Aug. 18, 2023); *Headwater Rsch. LLC v. Samsung Elecs. Co.*, No. 2:22-cv-00422-JRG-RSP, 2024 WL 2723870 (E.D. Tex. May 27, 2024) .

Motions to stay pending IPR institution decisions have likewise been consistently denied in cases not involving Samsung. *See*, *e.g.*, *FlatFrog Lab'ys, AB*, 2024 WL 3014621; *Customedia Techs., LLC v. Dish Network Corp.*, No. 2:16-cv-129-JRG, 2017 WL 3836133 (E.D. Tex. Apr. 27, 2017); *Shoes by Firebug LLC v. Stride Rite Children's Grp.*, *LLC*, No. 4:16-cv-00899, 2017 WL 4770629 (E.D. Tex. Oct. 18, 2017); *Varta Microbattery GmbH v. Costco Wholesale Corp.*, No. 2:20-cv-00029-JRG, 2020 WL 9173097 (E.D. Tex. Oct. 6, 2020); *Luminati Networks Ltd.*, 2020 WL 6803255; *Intell. Ventures I LLC v. T Mobile USA, Inc.*, No. 2:17-cv-00577-JRG, 2018 WL 11363371 (E.D. Tex. Oct. 2, 2018); *Huawei Techs. Co. v. Verizon Commc'ns, Inc.*, No. 2:20-cv-00030-JRG, 2020 WL 7134088 (E.D. Tex. Nov. 10, 2020); *Saint Lawrence Commc'ns LLC v. ZTE Corp.*, No. 2:15-cv-349-JRG, 2016 WL 7338600 (E.D. Tex. July 15, 2016); *Rapid Completions LLC v. Baker Hughes Inc.*, No. 6:15-cv-724, 2016 WL 3079509 (E.D. Tex. June 1, 2016); *Freeny v. Apple, Inc.*, No. 2:13-cv-00361-WCB, 2014 WL 3611948 (E.D. Tex. July 22, 2014); *Promethean Insulation Tech. LLC v. Sealed Air Corp.*, No. 2:13-cv-1113-JRG-RSP, 2014 WL 12638075 (E.D. Tex. Nov. 21, 2014); *3rd Eye Surveillance, LLC v. Stealth Monitoring, Inc.*, No. 6:14-cv-162-JDL, 2015 WL 179000 (E.D. Tex. Jan. 14, 2015).[3]

[3] The Court has noted that although "some district courts have granted stays even before the PTAB has granted the petition for review, the majority of courts that have addressed the issue have postponed ruling on stay requests or have denied stay requests when the PTAB has not yet acted

Further, the cases cited by Samsung for the simplification factor are readily distinguishable. *See Norman IP Holdings, LLC v. TP-Link Techs., Co.*, No. 6:13-cv-384-JDL, 2014 WL 5035718 (E.D. Tex. Oct. 8, 2014) (plaintiff did not file opposition to motion to stay, and IPR already instituted); *CyWee Grp. Ltd. v. Samsung Elecs. Co.*, No. 2:17-cv-00140-WCB-RSP, 2019 WL 11023976 (E.D. Tex. Feb. 14, 2019) (plaintiff consented to stays in five of the six cases, and IPR already instituted); *Corel Software, LLC v. Microsoft Corp.*, No. 2:15-cv-528-JNP-PMW, 2016 WL 4444747 (D. Utah Aug. 23, 2016) (District of Utah applies a different standard regarding IPR stays than the Eastern District of Texas); *Huawei Techs. Co. v. T-Mobile US, Inc.*, No. 2:16-cv-00052-JRG-RSP, 2017 WL 4385567 (E.D. Tex. Sept. 9, 2017) (IPR already instituted); *NFC Tech. LLC*, 2015 WL 1069111 (IPR already instituted).

**B. Samsung's reliance on PTAB statistics is misplaced and untethered from the merits of Samsung's IPR.**

Based on PTAB statistics, Samsung speculates that it is likely that the PTAB will institute Samsung IPRs and invalidate claims. Dkt. 47 at 6. But this Court, properly, has given little weight to PTAB statistics in this context because "the likelihood of invalidation depends entirely on the particulars of the patents and claims in dispute." *Trover Group, Inc.*, 2015 WL 1069179, at *4. As has been recognized, "it would be speculative for the Court to extrapolate from the statistics and conclude that it is likely that the PTAB will institute *inter partes* review in this case and invalidate some or all of the claims" asserted in this case. *Id.*; *see also Promethean Insulation*, 2014 WL 12638075, at *1 ("The record here does not suggest that the PTAB has granted the petition to institute, and it is not apparent that a grant of the petition is forthcoming. Thus, the potential for simplification of issues is—at this stage—entirely speculative."); *FlatFrog Lab'ys, AB*, 2024 WL

on the petition for review." *Trover Group*, 2015 WL 1069179, at *5 (citations omitted). And "[i]n this district, that is not just the majority rule; it is the universal practice." *Id.* at *6.

3014621, at *2 n.2 ("While the parties have presented statistics that they treat as giving exact chances, these are highly speculative and it would be improper to blindly apply them to any individual case."); *Rapid Completions LLC*, 2016 WL 3079509, at *2 ("Prior to institution, it is too speculative to determine whether the outcome of a non-instituted IPR will even present any alternative to litigation."); *Saint Lawrence Communications LLC*, 2016 WL 7338600, at *1 ("[I]t would be speculative for the Court to extrapolate from the cited statistics and conclude that the PTAB will institute *inter partes* review in this case and then go further to invalidate some or all of the claims of the challenged patents."); *Lennon Image Techs., LLC v. Macy's Retail Holdings, Inc.*, Nos. 2:13-cv-00235-JRG, 2:13-cv-00239-JRG, 2014 WL 4652117, at *3 (E.D. Tex. Sept. 18, 2014) ("Although the Defendants contend that PTAB is virtually guaranteed to grant the IPR, this is no guarantee that the claims will be amended or cancelled during the IPR."); *Ramot at Tel Aviv University Ltd. v. Cisco Systems, Inc.*, No. 2:19-cv-00225-JRG, Dkt. 205 (E.D. Tex. Nov. 23, 2020) ("[W]hile the [IPRs] have the *potential* to simplify the issues in question and the trial of this case, such simplification is currently more speculative than factual.").

Rather than relying on general PTAB statistics, a substantive analysis of the present IPRs is necessary. Here, Keyless has asserted infringement of three patents in this case, and Samsung's IPR petitions are weak, predicated upon a spurious combination of multiple prior art references. Therefore, any predictions on whether the PTAB will institute Samsung's IPRs based on general statistics regarding the PTAB's overall institution and claim cancellation rates is pure speculation that should be afforded little weight.

**C. A stay will unduly prejudice Keyless.**

A stay will unduly prejudice Keyless by delaying the resolution of this litigation. If the case is stayed at this time and the PTAB does not institute Samsung's IPRs, then the progress made by Keyless thus far will be needlessly disrupted, additional resources and efforts will be expended

to wind down and ramp back up the case, and the schedule will have been unnecessarily delayed. Therefore, this factor also weighs against a stay. Keyless has an interest in the timely enforcement of its patents, which should not be delayed by Samsung's requested stay. *See*, *e.g.*, *Unifi Sci. Batteries, LLC v. Sony Mobile Commc'ns AB*, No. 6:12-cv-221-LED-JDL, 2014 WL 4494479, at *2 (E.D. Tex. Jan. 14, 2014) ("The Court has an obligation 'to secure the just, speedy, and inexpensive determination of every action.' Fed. R. Civ. P. 1."); *Voltstar Techs., Inc. v. Superior Commc'ns, Inc.*, No. 2:12-cv-00082-JRG, 2013 WL 4511290, at *2 (E.D. Tex. Aug. 22, 2013) ("[A] stay may unduly prejudice the patentee, who has 'an interest in the timely enforcement of its patent right.'"). This principle applies even though Keyless is not a direct competitor of Samsung. *See*, *e.g.*, *ThinkOptics, Inc. v. Nintendo of Am., Inc.*, No. 6:11-cv-455, 2014 WL 4477400, at *1 (E.D. Tex. Feb. 27, 2014) ("ThinkOptics has an interest in timely enforcing its patents. This remains true regardless [of] whether the parties' products directly compete."); *Unifi Scientific Batteries, LLC*, 2014 WL 4494479, at *2 (finding undue prejudice to patentee weighed against a stay where the patentee was a non-practicing entity); *Rembrandt Wireless Techs., LP v. Samsung Elecs. Co.*, No. 2:13-cv-213-JRG-RSP, 2015 WL 627887, at *2 (E.D. Tex. Jan. 29, 2015) ("However, the mere fact that Rembrandt is not currently practicing the patents does not mean that . . . it is not prejudiced by a substantial delay of an imminent trial date.").

A stay would also prejudice Keyless because if the case is stayed, "witnesses may become unavailable, their memories may fade, and evidence may be lost." *Voltstar Technologies*, 2013 WL 4511290, at *2; *Parthenon Unified Memory Architecture LLC v. HTC Corp. & HTC Am., Inc.*, No. 2:14-cv-00690-RSP, 2016 WL 3365855, at *2 (E.D. Tex. June 17, 2016). The potential for the loss of evidence is especially acute within Samsung, which is a huge organization with many employees who may have relevant knowledge now but who potentially will have moved to

different departments within Samsung or have left the company altogether by the time any stay is lifted. Imposing a stay has the potential to compound the loss of additional evidence relevant to Keyless' claims in this case. Moreover, a stay may also negatively affect Keyless' ability to license its patents to others. *LG Elecs., Inc. v. Toshiba Samsung Storage Tech. Korea Corp.*, No. cv-12-1063-LPS-CJB, 2015 WL 8674901, at *7 (D. Del. Dec. 11, 2015) (noting that a stay will harm patentee's ability to license its patents); *Affinity Labs of Texas v. Apple Inc.*, No. 09-cv-04436-CW, 2010 WL 1753206, at *2 (N.D. Cal. Apr. 29, 2010) (concluding that a stay pending reexamination would prejudice patentee because it would "not be able to enforce and license its patents until the litigation is resolved"); *Parthenon Unified Memory Architecture LLC*, 2016 WL 3365855, at *2.

**D. Keyless has already invested considerable resources at this stage of the litigation.**

At this stage, Keyless has undertaken substantial analysis in preparation of its infringement contentions and in analyzing Samsung's voluminous invalidity contentions.

Keyless has already invested considerable resources, time and effort in litigating this case to date. Keyless' technical consulting experts, for example, have spent significant hours reviewing the accused Samsung smartphones and tablets. In sum, the case will move forward efficiently, and the stage of the case factor does not weight in favor of a stay.

In addition, the IPRs are expected to have minimal impact on claim construction because Samsung contends in all four petitions that no explicit construction is necessary for resolution of the IPRs. *See* Dkt. 47-2 at 9, Dkt. 47-3 at 11, Dkt. 47-4 at 21, Dkt. 47-5 at 14 ("Here, no terms need construction to resolve the controversy in this forum."). Accordingly, Samsung's argument regarding conservation of judicial and party resources is weak.

## V. CONCLUSION

For at least the foregoing reasons, Samsung's Motion to Stay should be denied.

Dated: May 15, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel of record who are deemed to have consented to electronic service on May 15, 2025.

*/s/ Robert F. Kramer*