UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.:	2:24-cv-04056-AB-SSC	Date:	May 1, 2025

Title: *Milestone Entertainment, LLC v. Activision Blizzard, Inc.*

Present: The Honorable	**ANDRÉ BIROTTE JR., United States District Judge**
Daniel Tamayo Deputy Clerk	N/A Court Reporter
Attorney(s) Present for Plaintiff(s): None Appearing	Attorney(s) Present for Defendant(s): None Appearing

Proceedings: [In Chambers] ORDER GRANTING DEFENDANT'S MOTION TO STAY PENDING INTER PARTES REVIEW [48]

Before the Court is Defendant Activision Blizzard, Inc.'s ("Defendant") Motion to Stay Pending Inter Partes Review ("Motion," Dkt. No. 42). Plaintiff Milestone Entertainment, LLC ("Plaintiff") filed an opposition and Defendant filed a reply. The Court **GRANTS** the Motion.

I. BACKGROUND

This action for patent infringement involves 6 patents-in-suit and 90 asserted claims. Plaintiff filed this case in May 2024. In August 2024, Defendant moved to dismiss the action under 35 U.S.C. § 101. The motion was fully briefed on October 18, 2024, and set to be heard on November 1, 2025. The Court continued the motion twice, held a hearing on February 28, 2025, and on March 24, 2025 denied the motion without prejudice.

On March 25 and 26, 2025, Defendant filed six petitions for *inter partes* review ("IPR") challenging all of the claims of all of the patents in suit. The U.S.

Patent Trial and Appeal Board ("PTAB") has not yet made institution decisions. Institution decisions are expected in less than 6 months, by October 17, 2025.

Immediately after filing its petitions, Defendant filed the instant motion to stay. Plaintiff opposes.

II. LEGAL STANDARD

"A district court has the inherent power to stay its proceedings. The power to stay 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.'" *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1360 (C.D. Cal. 1997) (*quoting Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936))

District courts generally apply three factors to requests to stay pending IPR: "(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the nonmoving party." *Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943 F.Supp.2d 1028, 1030-31 (C.D. Cal. 2013) (quotations omitted); *see also, e.g.*, *Finjan, Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032, 1035 (N.D. Cal. 2015). "Another consideration is the Court's ability to control its docket to ensure that cases are managed in the interest of justice." *Universal Elecs.*, 943 F. Supp. 2d at 1035. In the end, "the totality of the circumstances governs." *Id.* at 1031. The party seeking a stay bears the burden to demonstrate that a stay is warranted. *See Finjan*, 139 F. Supp. 3d at 1035.

III. DISCUSSION

The Court has considered all of the above factors, and for the reasons well-explained in the moving and reply briefs, concludes that the totality of circumstances favor staying this case pending *inter partes* review.

A. Stage of the Proceedings

This factor considers "whether discovery is complete and whether a trial date has been set." *See Universal Elecs.*, 943 F. Supp. 2d at 1030-31. This case is indisputably in its very early stages. It has been pending for a year, but pursuant to the parties' stipulation, the case was stayed in December 2024 pending resolution of the motion to dismiss, which was denied in late March 2025. No party discovery

has occurred, and no case schedule has been entered. That no case schedule was entered was the result of the time it took to resolve the Motion to Dismiss, and the subsequent filing of this Motion to Stay: it made little sense to enter a schedule while this motion was pending. The Court therefore rejects Plaintiff's suggestion that Defendant obstructed setting a schedule. Even had the Court entered a schedule, that would have occurred only within the last few weeks and would have had no impact on the analysis, as substantively, the case would still be at a very early stage. In December 2024, Plaintiff served infringement contentions, but Defendant has disputed the sufficiency of those contentions, and it appears that that dispute remains unresolved.

That this case is in its very early stages weighs in favor of a stay.

B. Simplification of the Issues

This factor considers "whether a stay will simplify the issues in question and trial of the case." *Aten Int'l Co. Ltd. v. Emine Tech. Co., Ltd.*, No. 8:09-cv-00843 AG (MLGx), 2010 WL 1462110, at *6 (C.D. Cal. April 12, 2010). Because this is a pre-institution motion, whether simplification will *actually* occur is speculative. *See Purecircle USA, Inc., v. SweeGen, Inc.*, SACV 18-1679 JVS (JDEx), 2019 WL 3220021, at *2 (C.D. Cal. June 3, 2019).

Nevertheless, "courts in this District have adopted the majority position that even if an IPR has not yet been instituted, the simplification factor may still weigh in favor of a stay." *Purecircle*, 2019 WL 3220021 at *3; *accord Doc. Sec. Sys., Inc. v. Seoul Semiconductor Co.*, SACV 17-00981 JVS (JCGx), 2018 WL 10670109, at *4 (C.D. Cal. Mar. 26, 2018); *but see JBF Interlude 2009 Ltd. v. Quibi Holdings LLC*, No. 2:20-CV-02250-CAS (SKx), 2020 WL 6203555, at *7 (C.D. Cal. Oct. 19, 2020) (citing *Polaris Innovations Ltd. v. Kingston Tech. Co., Inc.*, No. SACV 16-00300-CJC-RAOx, 2016 WL 7496740, at *2 (C.D. Cal. Nov. 17, 2016)). Also, "the risk of delay attending an unnecessary stay is minimal relative to the risk of unnecessary expenditure of resources should the stay be denied and an IPR subsequently commence." *Wonderland Nurserygoods Co. v. Baby Trend, Inc.*, No. EDCV 14-01153-VAP (SPx), 2015 WL 1809309, at *3 (C.D. Cal. Apr. 20, 2015).

As noted, the PTAB has not decided whether to institute any of Defendant's petitions, so potential simplification speculative. Still, Defendant challenges all 90 asserted claims of all 6 asserted patents. Thus, if the PTAB were to find even some claims of some patents invalid, the decision would provide simplification. *See*

Core Optical Techs., LLC v. Fujitsu Network Commc'ns, Inc., 2016 WL 7507760, at *2 (C.D. Cal. Sept. 12, 2016) ("If the PTAB cancels or narrows a portion of the asserted claims, the scope of this litigation may be significantly reduced.") The Court also gives the potential for any simplification meaningful weight because of the number of asserted claims (90) and patents (6). *See Mediatek, Inc. v. NXP Semiconductors N.V.*, No. CV 21-4969-GW-AFMX, 2022 WL 17185976, at *3 (C.D. Cal. June 21, 2022) ("Given the number of asserted and cross-asserted patents and claims, as well as the number of filed petitions and cross-petitions, even if the PTO institutes only some proceedings, the degree of likely simplification supports a minimal stay.")

Even if the PTAB does not invalidate any claims, simplification is still possible if the PTAB institutes review. *See, e.g., Realtime Data LLC v. Teradata Operations, Inc.*, 2017 WL 3453295, at *2 (C.D.Cal., 2017) (finding that a stay provides "a richer prosecution history upon which to base necessary claim construction determinations"); *Core Optical Techs.*, 2016 WL 7507760, at *2 ("Even if no patent claim is eliminated, the intrinsic record developed during the IPR may inform on issues like claim construction."). Further, Defendant will be bound to any grounds raised or that reasonably could have been raised during the IPR, streamlining the invalidity portion of the case. 35 U.S.C. § 315(e)(2).

Finally, because all of the patents in suit all expired, Plaintiff won't be able to amend any claims in response to the PTAB's decisions. This increases the likelihood that the PTAB proceedings will simplify the case. 37 CFR § 1.530(j); *see Robern, Inc. v. Glasscrafters, Inc.*, No. CV 16-1815 (JMV), 2017 WL 132841, at *4 (D.N.J. Jan. 13, 2017) ("In fact, the likelihood for cancellation of one or more of the claims may be increased due to the fact that the '884 patent is expired and not subject to amendment in the *ex parte* reexamination proceedings.")

The Court therefore finds that the potential for simplification of the issues weighs in favor of a stay.

C. Potential Undue Prejudice

When considering prejudice or a clear tactical disadvantage to the patentee, courts consider "(1) the timing of the petition for review; (2) the timing of the request for the stay; (3) the status of the review proceedings; and (4) the relationship of the parties." *Telesign Corp. v. Twilio, Inc.*, 2016 WL 6821111, at *4 (C.D. Cal. 2016) (quoting *E. Digital Corp. V. Dropcam, Inc.*, No. 14-cv-04922-JST, 2016 WL 658033, at *4 (N.D. Cal. 2016)). "Courts have repeatedly found no

undue prejudice unless the patentee makes a specific showing of prejudice beyond the delay necessarily inherent in any stay." *PersonalWeb Techs. V. Apple, Inc.,* 69 F. Supp. 3d 1022, 1029 (N.D. Cal. 2014); *see also Wonderland*, 2015 WL 1809309, at *4 ("The general prejudice of having to wait for resolution is not a persuasive reason to deny the motion for stay.")

Here, Plaintiff has not made a specific or persuasive showing of prejudice, and the Court concludes that a stay would not unduly prejudice or tactically disadvantage Plaintiff. Defendant filed its IPR petitions within 4 months of receiving Plaintiff's infringement contentions, and filed this motion immediately thereafter. These filings were timely and caused Plaintiff no prejudice. As noted above, the PTAB has not instituted review on any petition, but this does not foreclose a stay. Finally, nothing about the relationship of the parties would cause a stay to prejudice Plaintiff: Plaintiff is a non-practicing entity and it does not allege that it is a competitor to Plaintiff or that it has any competing products. Nor does Plaintiff seek injunctive relief, which tends to reinforce that money damages would be adequate for any damages and that the passage of time from a stay would not prejudice Plaintiff.

That Plaintiff would not suffer undue prejudice favors a stay.

IV. CONCLUSION

For the foregoing reasons, the Court **GRANTS** Defendant's Motion to Stay Pending Inter Partes Review (Dkt. No. 48). This action is **STAYED** at least pending institution decisions from the PTAB. The parties shall file a joint status report with their collective and/or respective positions concerning case management within 10 days of the PTAB's institution decisions for all pending IPR petitions.

IT IS SO ORDERED.