

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

SITEPRO, INC.	§	
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	Civil Action No. 6:24-CV-643-XR-DTG
	§	
TANKLOGIX, LLC	§	JURY DEMANDED
	§	
<i>Defendant.</i>	§	
	§	
	§	

DEFENDANT TANKLOGIX’S MOTION TO STAY

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I. INTRODUCTION

Defendant TankLogix, LLC (“TankLogix”) respectfully moves this Court to stay this case pending resolution of (1) the pending Motion to Dismiss (ECF No. 18, the “Motion to Dismiss”) for failure to state a claim because the Asserted Patents¹ are directed to ineligible subject matter, and (2) the four petitions for *inter partes* review² (the “IPRs”) of the asserted claims of SitePro’s Asserted Patents.³ SitePro will not be unduly prejudiced by a stay, and the IPRs are likely to simplify the proceedings before this court, which remain in their infancy.

First, SitePro cannot credibly complain about prejudice or any tactical advantage. The Motion to Dismiss and the IPRs were filed very early in the case.

Second, it is likely that the Motion to Dismiss will dispense entirely with this case, and if the case is not dismissed, it is also likely that the IPR proceedings will simplify this case by resolving or significantly limiting the claims and defenses at issue. If the IPR petitions are successful, the PTAB would cancel some or all of the asserted claims as being obvious and therefore unpatentable. In addition, any statements made by SitePro in the IPR proceedings would become part of the Asserted Patents’ file histories and, as a result, could substantially impact the construction of any claims that survive. And if the PTAB issues final written decisions, TankLogix would be estopped from raising certain invalidity grounds in this litigation. Thus, it would conserve judicial and party resources for the Court to stay the case until the PTAB has addressed the invalidity arguments, including through any appeal.

¹ U.S. Patent Nos. 9,342,078 (the “’078 Patent”); 10,488,871 (the “’871 Patent”); 11,294,403 (the “’403 Patent”); and 12,019,461 (the “’461 Patent”) (collectively, the “Asserted Patents”).

² IPR2025-00649, IPR2025-00650, IPR2025-00652, and IPR2025-00761.

³ TankLogix is filing substantially similar motions in both the related 6:24-CV-00642 and -643 Cases.

Third, this case is at an early stage. The parties have not begun discovery, or any claim construction activities.

As courts in this Circuit have recognized, Congress designed the IPR process “in large measure to simplify proceedings before the courts and to give the courts the benefit of the expert agency’s full and focused consideration of the effect of prior art on patents begin asserted in litigation.” *NFC Tech. LLC v. HTC Am., Inc.*, No. 2:13-cv-1058-WCB, 2015 WL 1069111, at *4 (E.D. Tex. Mar. 11, 2015) (Bryson, J.). And here, a stay in this case serves the IPR proceedings’ very purpose of “establish[ing] a more efficient and streamlined patent system that will improve patent quality and limit unnecessary and counterproductive litigation costs.” *Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and Transitional Program for Covered Business Method Patents*, 77 Fed. Reg. 48,680 (Aug. 14, 2012) (codified at 37 C.F.R. §§ 42.100 et seq.).

Accordingly, TankLogix requests that this Court employ its inherent discretion to stay this litigation until after the Court’s decision on the Motion to Dismiss and/or the IPR proceedings are resolved.

II. BACKGROUND

SitePro filed two lawsuits against TankLogix on December 20, 2024. This one and 6:25-CV-00642. Each of the two lawsuits accused the same instrumentality. Each of the two lawsuits asserted four patents. Each of the eight patents are entitled “Remote Control of Fluid-Handling Devices,” and share a common specification. TankLogix moved to dismiss (ECF No. 15) under patentability grounds on February 27, 2025. SitePro filed a First Amended Complaint (ECF No. 16, or “FAC”) on March 13, 2025. TankLogix again moved to dismiss (ECF No. 18) under patentability grounds on March 21, 2025. TankLogix’s Motion to Dismiss is currently pending.

TankLogix filed three of the IPRs on February 28, 2025. TankLogix filed IPR2025-00761 on April 11, 2025.

III. LEGAL STANDARD

“District courts have broad discretion to manage their dockets, including the power to grant a stay of proceedings.” *Allure Energy Inc. v. Honeywell Int’l, Inc.*, No. 1-15-CV-079-RP, 2015 WL 4207243, at *1 (W.D. Tex. July 2, 2015) (citing *P & G v. Kraft Foods Global, Inc.*, 549 F.3d 842, 848-849 (Fed. Cir. 2008)). This discretion includes the power to stay proceedings pending inter partes review by the USPTO of an asserted patent. *Allure Energy*, 2015 WL 4207243, at *2.

Courts generally consider three factors when determining whether to stay patent litigation: “(1) whether a stay would unduly prejudice or present a clear tactical disadvantage to the nonmoving party; (2) whether a stay will simplify the issues in question; and (3) the status of the litigation at the time a stay is requested.” *Bell Semiconductor, LLC v. NXP Semiconductors, N.V.*, No. 1:20-cv-611-LY, 2022 WL 1447948, at *1 (W.D. Tex. Feb. 7, 2022); *see also Kirsch Rsch. & Dev., LLC v. IKO Indus., Inc.*, No. 6:20-cv-00317-ADA, 2021 WL 4555610, at *2 (W.D. Tex. Oct. 5, 2021) (citing *NFC Tech. 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 those factors, courts determine whether the benefits of a stay outweigh the inherent costs of postponing resolution of the litigation. *CyWee Grp. Ltd. V. Samsung Elecs. Co.*, No. 2:17-cv-00140-WCB, 2019 WL 11023976, at *2 (E.D. Tex. Feb. 14, 2019) (Bryson, J.). A stay is particularly justified when the outcome of the proceeding is likely to assist the court in determining patent validity or eliminate the need to try infringement issues. *Id.* at *1.

IV. ARGUMENT

Each of the three factors to be considered favor a stay pending final resolution of the IPRs.

A. SitePro Will Not be Prejudiced by a Stay

SitePro will suffer no substantial prejudice if a stay is implemented and judgment in this case is delayed. “A stay will not diminish the monetary damages to which [SitePro] will be entitled if it succeeds in its infringement suit—it only delays realization of those damages.” *VirtualAgility Inc. v. Salesforce.com, Inc.*, 759 F.3d 1307, 1318 (Fed. Cir. 2014). A “mere delay in collecting . . . damages does not constitute undue prejudice.” *Crossroads Sys., Inc. v. Dot Hill Sys. Corp.*, No. A-13-ca-800, 2015 WL 3773014, at *2 (W.D. Tex. June 16, 2015).

Further, the absence of seeking early injunctive relief further weighs in favor of finding that SitePro will not be unduly prejudiced. *See VirtualAgility*, 759 F.3d at 1319 (finding that failure to request a preliminary injunction weighed against finding undue prejudice caused by a stay); *Stingray Music USA, Inc. v. Music Choice*, No. 2:16-cv-00586-JRG, 2017 WL 9885167, at *2 (E.D. Tex. Dec. 12, 2017) (“And here, as in *VirtualAgility*, the plaintiff did not move for a preliminary injunction, which contradicts Music Choice's assertion it cannot wait for a decision on infringement.”).

Finally, in the event the Court denies the Motion to Dismiss and the PTAB Board denies instituting the IPRs, the case will be stayed for only a short time, with little impact on the case and no undue prejudice to SitePro. *See Anza Tech., Inc. v. Avant Tech., Inc.*, No. A-17-cv-01193-LY, 2018 WL 11314191, at *2 (W.D. Tex. Nov. 15, 2018). Accordingly, this factor weighs in favor of a stay.

B. A Stay Will Simplify the Triable Issues

“The most important factor bearing on whether to grant a stay” is whether the stay is likely to simplify the issues at trial. *Kirsch*, 2021 WL 4555610, at *3. Here, staying the case pending the PTAB’s decision to institute the IPRs will simplify the issues and promote judicial economy in several ways.

1. A Stay Will Likely Narrow the Scope of the Case

The Motion to Dismiss may determine that one or more, or possibly all, of the Asserted Patents, or one or more of the asserted claims, are invalid as unpatentable, thereby simplifying or terminating this case. A stay pending that decision is within the Court’s discretion here. *Bickford v. Boerne Indep. Sch. Dist.*, No. 5:15-CV-1146-DAE, 2016 WL 1430063, at *1 (W.D. Tex. Apr. 8, 2016) (quoting *Petrus v. Bowen*, 833 F.2d 581, 583 (5th Cir. 1987)). Indeed, a stay of discovery or other case activities may be appropriate where (a) a pending motion is to be decided on the contents of the complaint, without regard to facts obtained during discovery, and (b) the disposition of a motion to dismiss might preclude the need for the discovery altogether thus saving time and expense. *See, e.g., Landry v. Air Line Pilots Ass’n Int’l*, 901 F.2d 404, 436 (5th Cir. 1990); *Primesource Bldg. Prods., Inc. v. Lee Grp. Int’l, Inc.*, No. 3:19-CV-02878-X, 2020 WL 6140462, at *2 (N.D. Tex. Aug. 12, 2020) (Starr, J.).

Furthermore, the IPR proceedings are likely to result in cancellation of some or all of the asserted claims of the Asserted Patents, thereby simplifying or eliminating major components of the case. Indeed, even if less than all four IPR petitions are instituted or only some of the asserted claims are determined not unpatentable in the IPR proceedings, the issues before the Court will be simplified by reducing the issues and streamlining the district court proceedings. For example, if only some of the asserted claims are found unpatentable, the parties’ disputes in this case will be more focused, the prior-art-related discovery significantly limited, the number of dispositive

motions on invalidity reduced, and the length of the trial shortened. *See, e.g., LS Cloud Storage Techs., LLC v. Google, LLC*, No. 1:22-CV-00853-RP, 2023 WL 5004870, at *2 (W.D. Tex. July 25, 2023) (“Even if only some claims related to only the ’092 patent are resolved, the number of claims the district court would have to evaluate in determining the issues would be decreased.”); *Bell Semiconductor*, 2022 WL 1447948 at *2 (finding that although four of the seven patents at issue were not subject to IPR proceedings, the potential resolution of three patent disputes through IPRs would significantly reduce the number of claims that proceed to trial). Moreover, the PTAB’s assessment of the claims will necessarily lead to estoppel attaching after a final written decision in the IPR proceedings and a subsequent appeal. *See* 35 U.S.C. § 315(e). This estoppel provision narrows the invalidity arguments TankLogix could pursue in this case.

2. A Stay Will Conserve Judicial Resources and May Offer the District Court the Benefit of Guidance from the PTAB

A stay of the case to await the outcome of TankLogix’s Motion to Dismiss will conserve both the parties’ resources and judicial resources, allowing the Court to focus on resolving the Motion to Dismiss, instead of diverting resources to case management functions.

Further, while simplification of the issues is not guaranteed before the PTAB issues its institution decisions, a brief stay to await the PTAB’s decisions nevertheless promotes judicial efficiency and would not unduly prejudice SitePro. *See Netlist, Inc. v. Micron Tech., Inc.*, No. 1:22-cv-00134-LY, Dkt. 68 at 3 (W.D. Tex. May 11, 2022) (granting a motion to stay pending institution decisions where the parties had completed claim construction briefing but hearing had not yet been held); *Anza Tech., Inc. v. Avant Tech., Inc.*, No. 1:17-CV-01193-LY, 2018 WL 11314191, at *2 (W.D. Tex. Nov. 15, 2018) (finding that a short stay of proceedings before an institution decision would not cause undue prejudice). For example, staying this case while the IPRs proceed also will permit this Court to benefit from the expertise of the PTAB judges who

will evaluate the prior art references cited in the IPR petitions and determine the validity of SitePro’s patents. *See CyWee*, 2019 WL 11023976, at *10; *E-Watch, Inc. v. Lorex Can., Inc.*, No. H-12-3314, 2013 WL 5425298, at *2 (S.D. Tex. Sept. 26, 2013) (“At a minimum, even assuming that all the patents-in-suit survive the reexamination intact, the USPTO’s insight and expertise regarding the validity of the patents would be of invaluable assistance to this court.”). And, “if some of the asserted claims survive that review, then statements and reasoning by the [Board] may be persuasive as this court construes the parties’ disputed claim terms.” *Anza*, 2018 WL 11314191, at *2.

As another example, statements “made by a patent owner during an IPR proceeding, *whether before or after an institution decision*, can be considered for claim construction and relied upon to support a finding of prosecution disclaimer.” *Aylus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1362 (Fed. Cir. 2017) (emphasis added). Here, SitePro’s preliminary responses to the IPR petitions will be due in a few months, and SitePro may take positions that affect claim interpretation in this action—particularly given that the PTAB now construes patent claim terms under the same legal standards applied by the district court. *See* 37 C.F.R. § 42.100(b); *Pulse Elecs., Inc. v. U.D. Elec. Corp.*, 860 F. App’x 735, 737 (Fed. Cir. 2021).

In contrast, if the Court were to allow the case to proceed, there is a substantial risk that both the Court and the parties will needlessly expend valuable resources in determining the validity of patent claims that are ultimately cancelled or amended by the USPTO. *See Crossroads Sys.*, 2015 WL 3773014, at *3; *see Kirsch*, 2021 WL 4555610, at *3 (“The Court finds that, given the number of grounds that PTAB instituted IPR upon, there is a good chance the PTAB will invalidate the . . . patent, rendering continued litigation of this case wasteful.”). For example, if the Court does not grant a stay, progress in this case may be undermined by

claim amendments made during the IPR or by a conflicting claim construction ruling by the PTAB. *See, e.g., VirtualAgility*, 759 F.3d at 1314 (noting that a patent owner’s claim amendments at the PTAB could make claim construction “a moving target.”).

Because a stay in this case presents great potential for simplification and saving of judicial and party resources, this factor weighs strongly in favor of a stay.

C. The Case is in its Infancy

Finally, the early stage of this case favors a stay. The parties have not initiated discovery or claim construction activities.

Other than TankLogix’s Motion to Dismiss, little has happened in the case. Accordingly, the early stage of the case favors a stay. *See, e.g., VirtualAgility*, 759 F.3d at 1317 (noting that a case “was still at its infancy” when “discovery had not yet begun,” which favors granting a stay); *Bell Semiconductor*, 2022 WL 1447948, at *2; *Anza*, 2018 WL 11314191, at *2.

V. CONCLUSION

Each of the stay factors favors granting a stay. Accordingly, TankLogix respectfully requests the Court enter a stay to remain in effect until the Court resolves TankLogic’s Motion to Dismiss and/or TankLogix’s IPRs are finally resolved, including any appeals of the decisions.

DATED: April 16, 2025

Respectfully submitted,

/s/Robert D. Katz

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CERTIFICATE OF CONFERENCE

In a good-faith attempt to resolve the matter by agreement pursuant to CV-7(G), I contacted Plaintiff's counsel concerning the relief requested in this motion. Plaintiff's counsel indicated that Plaintiff is opposed to the relief sought herein.

/s/Robert D. Katz

Robert D. Katz