

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Shenzhen Shokz Co., Ltd.,

Plaintiff,

v.

Shenzhen Wenming Technology Co., Ltd.,
guizhoushengxinhongshengshangmaoyouxiang
ongsi, Shenzhen Youbo Technology Co., Ltd.,
Shanghai Kushi Information Technology Co.,
Ltd., Suzhou Mojawa Intelligent Electronic Co.,
Ltd., MRNEIO LLC

Defendants.

Case No. 1:24-cv-06717

JURY TRIAL DEMANDED

**DEFENDANT SUZHOU MOJAWA INTELLIGENT ELECTRONIC CO., LTD.'S
REPLY IN SUPPORT OF ITS MOTION TO STAY PENDING RESOLUTION OF IPR
PROCEEDINGS**

I. INTRODUCTION

Shokz's Opposition (Dkt. No. 69) to Mojawa's Motion to Stay (Dkt. No. 59) misrepresents the status of the case while largely disregarding this District's case law that supports staying this case even prior to PTAB institution. Regardless of Shokz's best efforts, each of the relevant stay factors favors granting a stay.

First, Shokz has not and cannot deny that if the IPRs are instituted, a stay will simplify the case. Shokz argues that any simplification is speculative since the IPRs have yet to be instituted. However, this argument ignores numerous cases in this District that has stayed cases pre-institution of IPRs. Similarly, Shokz ignores Mojawa's arguments regarding the effect of the PTAB decisions and related briefing on the scope of the claims and the case even if the IPRs are not instituted. Simplification to some degree is all but certain.

Second, Shokz attempts to overstate the work conducted in this case thus far, but even Shokz acknowledges that the case is still in the midst of discovery and claim construction has yet to begin. The parties have not taken any depositions, conducted any expert discovery, and no trial date has been set. Shokz has even identified new accused products that require additional discovery efforts by both parties. Staying the case now has the benefit to limit resource expenditure while also reducing the scope of the claims of the case, which includes another co-defendant and cross-claimant in MRNEIO who would likewise benefit from a reduction of claims at issue.

Third, Shokz's claims of prejudice are diminished due to the existence of additional competitors in the market and by Shokz's failure to seek a preliminary injunction. Additionally, the delay associated with the IPR process does not weigh against staying the case. As Shokz will

not suffer any undue prejudice by staying the case, this factor weighs in favor of granting the stay.

Given all factors favor staying the case, Mojawa respectfully requests the Court grant its Motion until the Patent Office proceedings related to the IPRs are completed.

II. ARGUMENT

A. Factor No. 1: Shokz Cannot Deny the Simplification Associated with Staying the Case.

In its Opposition, Shokz argues that simplification is uncertain since the IPRs have not yet been instituted. However, Shokz's claim that simplification of the case is "too speculative" to grant a stay overlooks this District's history in granting pre-institution motions to stay. Motion at 5-6 (collecting cases where case is stayed prior to institution of IPRs). Despite the recent changes at the USPTO regarding discretionary denials, it is far too early to conclude what impact this change may bring, and Shokz's reliance on preliminary statistics is similarly speculative. Shokz's presumption that the petitions will be discretionarily denied rings especially hollow given that Shokz failed to file any briefing in support of a discretionary denial. See Shaobin Decl. at ¶ 3. Indeed, Shokz's neglect to take Mojawa's IPR petitions seriously is telling.

Shokz attempts to downplay the potential for simplification because the IPRs do not challenge all asserted claims and the lack of estoppel for MRNEIO or the system prior art cited by Mojawa in its contentions. However, Mojawa's IPR petitions challenge the validity of all asserted claims except three claims (i.e., claim 11 of the '084 Patent and claims 13 and 15 of the '582 Patent). Also, estoppel would still apply to Mojawa to some degree with regard to the paper prior art references cited in its petitions. More importantly, the inquiry in assessing this factor is

“whether review would simplify the issues in question, not whether it could eliminate every issue in the case.” *Black & Decker*, 2013 WL 5718460, at *2; *Kolcraft Enters., Inc. v. Graco Children's Prods. Inc.*, No. 15-CV-7950, 2016 WL 11940531, at *3 (N.D. Ill. Aug. 22, 2016). Admittedly, Mojawa’s IPRs cannot dispel all issues in this litigation; however, the IPRs can narrow the issues at hand. For example, the IPRs can eliminate asserted claims against both Mojawa and MRNEIO and allow the parties to dedicate more focus and resources to certain claims and specific issues, including recent cross-claims brought by MRNEIO. Dkt. No. 62 at 18-23. In addition, Shokz fails to acknowledge the added benefit of intrinsic evidence and arguments provided by the PTAB and patentee during the IPR process. These statements can speak to the scope of the claims and provide clarification for matters such as claim construction, further simplifying the issues of the case. *Krippelz v. Ford Motor Co.*, 667 F.3d 1261, 1266 (Fed. Cir. 2012) (holding that a “patentee's statements during reexamination can be considered during claim construction, in keeping with the doctrine of prosecution disclaimer.”); *see also Am. Piledriving Equip., Inc. v. Geoquip, Inc.*, 637 F.3d 1324, 1336 (Fed. Cir. 2011).

B. Factor No. 2: The Stage of Litigation Supports Staying the Case and Preserving Resources.

Shokz relies on two cases to support its claim that this case is no longer in the early stages. The first case cited by Shokz includes an unpublished opinion where the court denied staying a case that had already advanced to the point where claim terms had been exchanged and fact discovery was to be completed 5 days after the defendant filed its motion to stay - a stark difference from the present case where no parties have exchanged claim terms or otherwise engaged in claim construction at the time of this filing and fact discovery is not scheduled to close for months. *Riddell, Inc. v. Xenith, LLC*, 1:16-cv-04498, Dkt. 47 (N.D. Ill. Mar. 12, 2017),

Opp. at Ex. J, p. 7. The other case Shokz relies upon included parties that had “engaged in significant discovery.” *RR Donnelley & Sons Co. v. Xerox Corp.*, No. 12–CV–6198, 2013 WL 6645472, at *4 (N.D. Ill. Dec. 16, 2013).

In contrast, Shokz and Mojawa have only served a few sets of discovery requests and co-defendant/cross-claimant MRNEIO has yet to serve any discovery requests on either Shokz or Mojawa. Moreover, Shokz recently accused a new Mojawa product of infringing the asserted patents and identified another Mojawa product, alleging similarities to the accused products. Mojawa is still in the process of collecting documents for production and needs to answer discovery requests for these newly identified products, further demonstrating that there is still a great deal of fact discovery that has yet to be conducted. Certainly, this case is far behind the two cases Shokz relies upon to support its incorrect conclusion that this case is no longer in the early stages.

Additionally, Shokz mistakenly endeavors to mischaracterize the progress in claim construction by vaguely claiming the “parties are *in the process of beginning* the claim construction process.” Opp. at 10 (emphasis added). However, the truth is that no preliminary claim terms have been identified by either party at the time of this filing, no claim constructions have been offered, and neither party has exchanged any related claim construction briefing. Although the parties exchanged contentions, the fact remains that this case is in the early stages, as evident by (1) discovery being open for another 6 months; (2) no depositions or expert discovery has been taken; (3) the claim construction process has yet to begin; and (4) no trial date has been set. This District has stayed cases that have advanced farther than this case. *See, e.g., Genzyme Corp. v. Cobrek Pharms., Inc.*, No. 10-CV-00112, 2011 WL 686807, at *2 (N.D. Ill. Feb. 17, 2011) (staying the case where “only limited discovery has been conducted, no

depositions have been taken, and no trial date has been set.”); *Emhart Indus., Inc. v. Sankyo Seiki Mfg. Co.*, No. 85 C 7565, 1987 WL 6314, at *3 (N.D. Ill. Feb. 2, 1987) (granting stay even where “significant, costly discovery has already taken place,” but where “substantially no trial preparations have been carried out”). Oddly enough, Shokz contends the case is no longer at a point that would warrant a stay while simultaneously claiming that Mojawa’s Motion was filed too soon in the case. Opp. at 9 (labeling Mojawa’s Motion as “premature” and alleging the Motion should have been filed months from now). Shokz’s counterarguments against itself fall flat as a majority of this litigation still lies ahead.

Further, Shokz fails to acknowledge the conservation of resources if this case is stayed – a consideration that courts take into account when weighing this factor. *See, e.g., Ignite USA, LLC v. Pac. Mkt. Int’l, LLC*, No. 14 C 856, 2014 WL 2505166, at *4 (N.D. Ill. May 29, 2014) (granting pre-institution stay because “simultaneous proceedings present[ed] substantial risks that the parties and this court would expend resources unnecessarily”); *see also Jab Distribs., LLC v. London Luxury, LLC*, No. 09 C 5831, 2010 WL 1882010, at *5 (N.D. Ill. May 11, 2010) (“if this litigation proceeds, in tandem with the [PTAB] reexamination proceedings, the parties will have wasted their resources that ultimately may be mooted by the [PTAB]’s findings.”). Shokz’s failure to address this argument is no mistake. It cannot dispute that staying the case would conserve resources of the parties and this Court.

C. Factor No. 3: Shokz Will Not Be Unduly Prejudiced By a Stay.

Shokz’s primary argument for this factor is that it will suffer prejudice because it alleges Shokz and Mojawa are direct competitors. Opp. at 12. Assuming *arguendo* that Shokz’s labeling of the parties as competitors is correct, this District has previously found that “[t]his argument is insufficient to demonstrate undue prejudice.” *Medline Indus., Inc. v. C.R. Bard*,

Inc., No. 14 C 3618, 2015 WL 13955997, at *1 (N.D. Ill. Feb. 11, 2015) (finding no undue prejudice despite the parties being direct competitors in the marketplace). Also, Shokz neglects to mention that there are other competitors in the bone conduction headphone market. *See* Decl. of Shaobin Zhu at ¶ 4. Courts in this District have recognized that the existence of other competitors in the market undermines an assertion of undue prejudice. *See, e.g., Ignite USA*, 2014 WL 2505166, at *3 (finding that other competitors' existence "undermines [Plaintiff's] argument that it will lose market share due to [Defendant's] alleged infringement"); *Neste Oil Oyj v. Dynamic Fuels, LLC*, No. CIV.A. 12-662-GMS, 2013 WL 424754, at *3 (D. Del. Jan. 31, 2013) (granting a stay where parties were direct competitors because of the existence of other competitors in the market); *Black & Decker Inc. v. Positec USA, Inc.*, No. 13 C 3075, 2013 WL 5718460, at *2 (N.D. Ill. Oct. 1, 2013) (granting stay even though the parties were direct competitors).

While Shokz tries to minimize its failure to seek a preliminary injunction, it cannot dispute that courts consider whether a party has sought a preliminary injunction when weighing this factor. *Medline Indus.*, 2015 WL 13955997, at *1; *Ignite USA*, 2014 WL 2505166, at *3 (“Additionally, [Plaintiff] has not sought a preliminary injunction in this litigation, which further supports the absence of [Plaintiff's] concern regarding a pressing threat to [Plaintiff's] market share”); *Neste Oil*, 2013 WL 424754, at *3 (“Where the question of ‘direct competition’ remains unanswered, courts have sometimes considered whether the plaintiff sought a preliminary injunction”); *Visual Interactive Phone Concepts, Inc. v. Samsung Telecommunications Am., LLC*, No. 11-12945, 2012 WL 1049197, at *3 (E.D. Mich. Mar. 28, 2012) (“Plaintiff has not moved for injunctive relief, which further supports a finding that a stay would not be unduly prejudicial.”)

D. CONCLUSION

For the foregoing reasons, the Court should stay this case pending a decision from the PTO on whether to institute *inter partes* review of the Asserted Patents.

Dated: July 11, 2025

Respectfully submitted,

By: /s/ Shaobin Zhu

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CERTIFICATE OF SERVICE

I, Shaobin Zhu, hereby certify that on July 11, 2025, a copy of the foregoing
DEFENDANT SUZHOU MOJAWA INTELLIGENT ELECTRONIC CO., LTD.'S REPLY IN
SUPPORT OF ITS MOTION TO STAY PENDING RESOLUTION OF IPR PROCEEDINGS
was filed electronically. Notice of this filing will be served on Plaintiff's counsel via the CM/ECF
system.

/s/ Shaobin Zhu