UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ENTROPIC COMMUNICATIONS, LLC, Plaintiff, v. COX COMMUNICATIONS, INC. COXCOM, LLC; and COX COMMUNICATIONS CALIFORNIA, LLC, Defendants.	Case No. 2:23-cv-01049-JWH-KES [Lead Case] **ORDER CONDITIONALLY GRANTING COMCAST'S MOTION TO STAY [ECF No. 345]**
ENTROPIC COMMUNICATIONS, LLC, Plaintiff, v. COMCAST CORPORATION; COMCAST CABLE COMMUNICATIONS, LLC; and COMCAST CABLE COMMUNICATIONS MANAGEMENTS, LLC, Defendants.	Case No. 2:23-cv-01050-JWH-KES [Consolidated]

Before the Court is the motion of Defendants Comcast Cable Communications, LLC; Comcast Cable Communications Management, LLC; and Comcast Corporation (collectively, "Comcast") to the stay the case filed by Plaintiff Entropic Communications LLC ("Entropic") pending *inter partes* review ("IPR") before the U.S. Patent and Trademark Office Patent Trial and Appeal Board (the "PTAB").[1] Defendants Cox Communications, Inc.; CoxCom, LLC; and Cox Communications California, LLC (collectively, "Cox") indicate that they do not oppose Comcast's Motion and request that, to the extent that the Court enters a stay, these cases be stayed as a whole.[2] Entropic opposed Comcast's Motion and responded to Cox's statement of non-opposition.[3] Counterdefendants MaxLinear, Inc. and MaxLinear Communications LLC (jointly, "MaxLinear") also opposed Comcast's Motion.[4] Comcast replied.[5]

The Court concludes that this matter is appropriate for resolution without a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15. After considering the papers filed in support and in opposition, the Court **GRANTS** Comcast's instant Motion—subject to Cox's agreement to be bound—for the reasons set forth below.

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[1] Comcast's Mot. to Stay (the "Motion") [ECF No. 345].

[2] Cox's Statement of Non-Opp'n to the Motion [ECF No. 346].

[3] Entropic's Opp'n to the Motion [ECF No. 349]; Entropic's Response to Cox [ECF No. 348].

[4] MaxLinear's Opp'n to the Motion [ECF No. 347]. MaxLinear is a counterdefendant in other patent cases filed by Entropic that are pending before this Court.

[5] Comcast's Reply in Supp. of the Motion (the "Reply") [ECF No. 351].

I. BACKGROUND

In February 2023, Entropic filed complaints commencing patent infringement actions against Cox and Comcast.[6] Those matters are now consolidated.[7] Specifically, Entropic alleges that Defendants infringe U.S. Patent Nos. 8,223,775 (the "'775 Patent"); 8,284,690 (the "'690 Patent"); 8,792,008 (the "'008 Patent"); 9,210,362 (the "'362 Patent"); 9,825,826 (the "'826 Patent"); 10,135,682 (the "'682 Patent"); 11,381,866 (the "'866 Patent"); 11,399,206 (the "'206 Patent"); 11,785,275 (the "'275 Patent"); and 9,866,438 (the "'438 Patent").[8]

Comcast moves for a stay pending the resolution of several petitions for IPR filed by Comcast. The following table lists the status of each patent in suit:

Patent	Challenges	Status
'775 Patent	IPR2024-00446 (Claims 1-20)	review instituted
'690 Patent	IPR2024-00430 (Claims 1-24)	review instituted
'008 Patent	IPR2024-00441 (Claims 1-18)	review instituted
'362 Patent	IPR2024-00432 (Claims 1-20); IPR2024-00433 (Claims 1-20); IPR2024-00434 (Claims 1-20)	review instituted as to IPR2024-00432 only
'826 Patent	IPR2024-00442 (Claims 1-18)	review instituted
'682 Patent	IPR2024-00578 (Claims 1-4, 6, 8, & 9)	institution denied
'866 Patent	IPR2024-00435 (Claims 1-82); IPR2024-00436 (Claims 1-82); IPR2024-00437 (Claims 1-82)	review instituted as to IPR2024-00435 only

[6] *See* Compls. [ECF No. 1 in Case Nos. 2:23-cv-01049 and 2:23-cv-01050].

[7] *See* Order Granting Joint Stip. to Consolidate Cases [ECF No. 95].

[8] Second Amended Complaint [ECF No. 128 in Case No. 2:23-cv-01049] ¶ 1. Entropic also filed a motion to supplement its Second Amended Complaint to assert U.S. Patent No. 9,866,438 (the "'438 Patent") [ECF No. 143]. That motion is pending.

Patent	Challenges	Status
'206 Patent	IPR2024-00438 (Claims 1-76); IPR2024-00439 (Claims 1-76); IPR2024-00440 (Claims 1-76)	review instituted as to IPR2024-00438 only
'275 Patent	not challenged	
'438 Patent	not challenged	not yet asserted in any operative pleading

II. LEGAL STANDARDS

A district court has broad discretion to stay a case in the interest of judicial economy and to ensure the orderly and efficient management of litigation. *See Clinton v. Jones*, 520 U.S. 681, 706 (1997); *see also Landis v. North American Co.*, 299 U.S. 248, 254 (1936) ("The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants."). A district court may find the entry of a stay to be efficient and fair. *See Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).

Three factors guide the consideration of whether to stay a patent case pending an 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." *Aten Int'l Co., Ltd v. Emine Tech. Co., Ltd.*, 2010 WL 1462110, at *6 (C.D. Cal. Apr. 12, 2010) (quoting *Telemac Corp. v. Teledigital, Inc.*, 450 F. Supp. 2d 1107, 1111 (N.D. Cal. 2006)). The inquiry, however, is not limited to those factors: "the totality of the circumstances governs." *Allergan Inc. v. Cayman Chem. Co.*, 2009 WL 8591844, at *2 (C.D. Cal. Apr. 9, 2009) (citation omitted). "The moving party bears the burden of

demonstrating that a stay is appropriate." *Finjan, Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032, 1035 (N.D. Cal. 2015) (internal citations omitted).

III. ANALYSIS

A. Stage of Litigation

The stage of the litigation is assessed at the time that a motion for stay is filed. *See VirtualAgility Inc. v. Salesforce.com, Inc.*, 759 F.3d 1307, 1317 (Fed. Cir. 2014). This case is at an early stage.

Discovery is in its early stages. Although the parties have exchanged documents, the parties have not taken any depositions nor started expert discovery. *See Locata LBS, LLC v. Yellowpages.com, LLC*, 2014 WL 8103949, at *2-*3 (C.D. Cal. July 11, 2014) (the case was in its early stages when neither party had requested nor taken any depositions and expert discovery had not yet commenced); *see also Pi-Net Int'l, Inc. v. Hertz Corp.*, 2013 WL 7158011, at *2 (C.D. Cal. June 5, 2013). Also, discovery is not complete, and no trial date has been set. *See Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943 F. Supp. 2d 1028, 1031 (C.D. Cal. 2013) (considering "whether discovery is complete and whether a trial date has been set") (internal quotations and citations omitted).

Although discovery is in the early stages, the parties and the Court have invested a significant amount of resources in claim construction proceedings. The Court conducted a claim construction hearing in July 2024.[9] The parties filed opening and responsive claim construction briefs before the hearing and supplemental briefing after the hearing.[10] The claim construction order has not yet issued. Despite those significant efforts, there is still "more work ahead of the parties and the Court than behind." *Polaris PowerLED Techs., LLC v. LG*

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[9] Minutes of Claim Construction Hearing [ECF No. 337].

[10] Claim Construction Briefing [ECF Nos. 325, 332, & 333].

Elecs., Inc., 2020 WL 6064964, at *2 (C.D. Cal. Aug. 26, 2020) (internal citations and quotations omitted). For this reason, courts in this district often find cases in the early stages despite significant claim construction progress. *See, e.g.*, *RJ Tech. LLC v. Apple Inc.*, 2023 WL 8188475, at *2 (C.D. Cal. Oct. 4, 2023) ("Even though a trial date has been set and this Court issued its Claim Construction Order, the Court finds that this factor weighs in favor of a stay" because "fact discovery is not yet complete and expert discovery has not yet begun.").

The parties have also filed many procedural and pleading-stage motions, and the Court has invested significant resources in resolving those motions, but none of those motions has significantly advanced the stage of the litigation. *See Universal Elecs.*, 943 F. Supp. 2d at 1031 ("[T]he Court's expenditure of resources is an important factor in evaluating the stage of the proceedings."). Moreover, the Court and parties have significant substantive work ahead, including completing discovery, potentially adjudicating summary judgment motions, and conducting trial. *See PowerLED*, 2020 WL 6064964, at *2.

For the foregoing reasons, this factor favors a stay.

B. Simplification of the Issues

"There is a 'near uniform line of authority [reflecting the principle that] after the PTAB has instituted review proceedings, the parallel district court litigation ordinarily should be stayed.'" *Versata Software, Inc. v. Configit A/S*, 2022 WL 3598158, at *3 (C.D. Cal. Apr. 27, 2022) (citing *NFC Tech. LLC v. HTC America, Inc.*, 2015 WL 1069111, at *6–*7 (E.D. Tex. Mar. 11, 2015)). In this case the PTAB instituted review of the petitions challenging seven out of 10 patents.[11] Those petitions thus challenge most of the claims that are asserted or

[11] *See supra* Part II.

will be asserted in this action, and a stay will likely offer at least some simplification.

Moreover, simplification is likely even though the PTAB will not address all of the claims of all of the asserted patents. *See Versata Software*, 2022 WL 3598158, at *3 (citing *British Telecom. PLC v. IAC/InteractiveCorp*, 2019 WL 4740156, at * 7 (D. Del. Sept. 27, 2019)) (finding that a stay was appropriate even when the PTAB instituted review on fewer than all asserted patent claims). The PTAB denied institution of the petition challenging seven claims of the '682 Patent, Comcast did not challenge the '275 Patent, and Comcast has not yet challenged the '438 Patent, so the parties may need to litigate those claims.[12] But the petitions pertaining to the other seven patents challenge 258 claims in total.[13] The scope of that review far outweighs the claims that the PTAB will not address.

The Court also declines to sever the '682 and '438 Patents at this stage. Entropic has not filed a separate motion to sever these patents. Further, beyond complicating the proceedings, many facts weigh against severance of those two patents. For example, all patent claims in this case arise from MaxLinear's sale of patents to Entropic, the patents relate to the same technology, at least at a high level, and trial of the patent claims will involve overlapping witnesses and documentary proof.

In the event that the PTAB invalidates any challenged patent claim, some simplification is guaranteed because that decision will eliminate that claim. *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.").

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[12] *Id.*

[13] *Id.*

Proceeding with further litigation and finalizing a claim construction ruling now may involve work that ultimately proves unnecessary.

Simplification is also possible even if the PTAB does not invalidate any claims. *See, e.g.*, *Realtime Data*, 2017 WL 3453295, at *2 (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."). To the extent that any asserted patent claim remains after the completion of IPR proceedings, the estoppel provisions of 35 U.S.C. § 315(e)(2) will apply with respect to Comcast and will prevent the assertion of waived invalidity arguments. The Court further conditions the stay upon Cox's agreement to be bound to the estoppel provisions. To the extent that Cox does not agree to be bound, Cox is **DIRECTED** to file a notice so indicating.

For those reasons, this factor favors a stay.

C. The Risk of Undue Prejudice

When considering prejudice or a clear tactical disadvantage to the patentee, a court considers: "(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. Mar. 9, 2016) (quoting *E. Digital Corp. v. Dropcam, Inc.*, 2016 WL 658033, at *4 (N.D. Cal. Feb. 18, 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., LLC v. Apple Inc.*, 69 F. Supp. 3d 1022, 1029 (N.D. Cal. 2014); *see also Wonderland Nurserygoods Co.*, 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.").

First, the timing of the petitions and the stay request are not prejudicial. Entropic filed this action in February 2023, and Comcast timely filed its petitions within the statutory period. *See* 35 U.S.C. § 315(b). Comcast first moved for a stay in September 2024, at a time when the PTAB would soon finish rendering institution decisions on all pending IPR requests. In view of both the complexity here and the Court's preference not to grant stays before the PTAB institutes review, this timeline does not suggest any prejudice.

Second, the status of the review proceedings does not, standing alone, pose undue prejudice. Here, the PTAB should issue its final written decision in the three instituted proceedings within 18 months of their institution dates. *See* 35 U.S.C. § 316(a)(11). Although 18 months is a substantial period of time in the life of a patent case, it is also a finite, statutory period. *See id.* "Protracted delay is always a risk inherent in granting a stay . . . [and the] general prejudice of having to wait for resolution is not a persuasive reason to deny the motion for stay." *Wonderland Nurserygoods Co.*, 2015 WL 1809309, at *4 (quoting *Sorensen* ex rel. *Sorensen Research and Development Trust v. Black & Decker Corp.*, 2007 WL 2696590, at *4 (S.D. Cal. Sept. 10, 2007)).

Third, the relationship of the parties favors a stay. Entropic is a non-practicing entity, and it would not risk losing sales to alleged infringers during a stay. *See Cannarella v. Volvo Car USA LLC*, 2016 WL 9450451, at *14 (C.D. Cal. Dec. 12, 2016); *Evolutionary Intelligence LLC v. Yelp Inc.*, 2013 WL 6672451, at *8 (N.D. Cal. 2013). A stay likely would not prejudice Entropic, a licensor, because monetary damages provide adequate redress for infringement. *See id.* Additionally, there is no risk of irreparable harm because Entropic does not practice the invention. *See id.*

Finally, the Court does not find any gamesmanship here. Entropic argues that Cox acted improperly by requesting that the Court stay the whole action, as opposed to only Case No. 2:23-cv-01050, even though Cox chose not to file its

own, separate stay motion. The Court need not review two separate stay motions to decide whether staying the entire action here is appropriate. Because all of the consolidated cases involve the same set of asserted patents, and because the PTAB considers only questions of validity under 35 U.S.C. §§ 102 and 103 for those patents during IPR proceedings, the Court finds that its analysis of the three discretionary factors would not vary greatly for each individual Defendant. For this reason, too, the parties' arguments concerning the Vendor Support Agreement issue, which pertains only to Comcast, are unpersuasive.[14] The simplification factor focuses on patent validity based upon the prior art, which is a separate issue.

Further, the Court approaches Comcast's request in a way that mitigates prejudice. First, the Court analyzed the propriety of a stay separately for Case Nos. 23-cv-01043 and 23-cv-01049, which involve different asserted patents. *See Document Sec. Sys., Inc. v. Nichia Corp.*, 2020 WL 4529613, at *2 (C.D. Cal. June 15, 2020) ("the results in a different case regarding different unrelated patents and prior art says nothing of the likelihood of simplification" in another case). Second, the Court conditions the stay upon Cox's agreement to be bound to the estoppel provisions appliable to Comcast under 35 U.S.C. § 315(e)(2).

Because the Court finds little, if any, risk of undue prejudice to Entropic, the Court declines to balance the parties' competing interests. Accordingly, this factor favors a stay.

IV. DISPOSITION

On balance, considering the totality of the circumstances, a stay is appropriate. Thus, the Court hereby **ORDERS** as follows:

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[14] *See generally* Order re Motion to Dismiss under Rules 12(b)(10 and 12(b)(6) [ECF No. 175 in Case No. 23-cv-01043].

1. Comcast's instant Motion [ECF No. 345] is **CONDITIONALLY GRANTED**.

2. This action is **STAYED** pending the resolution of the instituted IPR proceedings identified above, subject to Cox's agreement to be bound. Any party may make a motion at any time to modify or vacate the stay, for good cause shown.

3. The stay is **CONDITIONED** upon Cox's agreement to be bound to the estoppel provisions applicable to Comcast under 35 U.S.C. § 315(e)(2). If Cox does ***not*** agree to be bound, then Cox is **DIRECTED** to file no later than February 21, 2025, a notice so indicating. If Cox ***does*** agree to be bound, it need not take any further action.

4. The parties are **DIRECTED** to file no later than May 16, 2025, and every 90 days thereafter, a Joint Report regarding the posture of the IPR proceedings.

5. Within 10 days of the issuance of final written decisions in the pending IPRs, the parties are **DIRECTED** file a Joint Report providing their collective or respective positions regarding the propriety of lifting the stay.

IT IS SO ORDERED.

Dated: February 13, 2025

John W. Holcomb
UNITED STATES DISTRICT JUDGE