IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

SAMER AL-AZEM and PETROHAB LLC,	*	C.A. No. 25-CV-417
	*	
	*	JUDGE ROBERT R. SUMMERHAYS
Plaintiffs,	*	
	*	MAGISTRATE JUDGE DAVID J. AYO
v.	*	
	*	
SAFE ARC TECHNOLOGY, L.L.C.,	*	**PATENT CASE**
	*	
Defendant.	*	

****

MEMORANDUM IN SUPPORT OF DEFENDANT SAFE ARC TECHNOLOGY, L.L.C.'S MOTION TO STAY PENDING *INTER PARTES* REVIEW

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A	Declaration of Expert Witness David Brookstein
B	Petition for *Inter Parties* Review IPR2025-01214
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I. INTRODUCTION

Plaintiffs filed this lawsuit against Defendant Safe Arc Technology, L.L.C. ("Safe Arc"), accusing Safe Arc of infringing claims 1-12 of U.S. Patent No. 9,545,775 (the '775 patent), directed to connection mechanics for modular panels used to form pressurized welding enclosures. However, on July 2, 2025, Safe Arc filed an early *inter partes* review ("IPR") petition with the United States Patent and Trademark Office's Patent Trial and Appeal Board ("PTAB"). In the IPR, Safe Arc asks the PTAB to invalidate ***all*** claims of the '775 patent based on known technology that predates Plaintiff's '775 patent. Safe Arc respectfully moves this Court to stay this action pending the final written decision by the PTAB. As explained below, the factors typically considered by this Court when deciding whether to exercise discretion to stay a case pending PTAB review overwhelmingly weigh in favor of staying this case.

First, granting the requested stay will not prejudice Plaintiffs or result in tactical disadvantage. Although a stay might arguably delay Plaintiffs' potential monetary recovery, it is well established that such delay "does not constitute undue prejudice." *Kirsch Rsch. and Dev., LLC v. Tarco Specialty Prods., Inc.*, No. 6:20-cv-00318-ADA, 2021 WL 4555804, at *2 (W.D. Tex. Oct. 4, 2021) (quoting *Crossroad Sys., Inc. v. Dot Hill Sys. Corp.*, No. A-13-CA-800-SS, 2015 WL 3773014, at *2 (W.D. Tex. June 16, 2015) (Sparks, J.)). Defendant gains no unfair or improper tactical advantage from a stay.

Second, and most importantly, the IPR will simplify the issues for this Court regardless of whether the PTAB decides to institute the IPR and proceed to final written decision. Notably, the PTAB need only find that ***one challenged claim*** is likely to be invalid in order to justify institution. If the PTAB institutes the IPR and determines that

all of Plaintiffs' asserted patent claims are invalid, then this action will be moot. Moreover, even if less than all of the asserted patent claims are invalidated, it will improve efficiency of this action by narrowing the potential disputes. And even if the PTAB declines to institute the IPR, the pre-institution portion of the IPR demands substantial briefing from both parties on the merits of the challenges, and this briefing will likely assist the Court in understanding the scope of the asserted claims along with the prior art that existed prior to Plaintiffs '775 patent.

Defendant's counsel has conferred with Plaintiffs' counsel regarding consent for the requested stay pending resolution of the IPR; Plaintiffs oppose this requested stay. However, Plaintiffs cannot justify moving forward with this case when the pending IPR proceeding poses risks of duplicating efforts, wasting time and resources, and increasing the likelihood of inconsistent results.

Third, this case is still in its infancy. Plaintiffs filed an Amended Complaint on June 20, 2025. The deadline for responding to the Amended Complaint is the same date as the filing date of this motion; Defendant has not yet filed its responsive pleadings in connection with the Amended Complaint. No Scheduling Order has been issued, no hearings have been held, and the case has not otherwise progressed. Essentially, this proceeding is in its earliest stages and the entire case is yet to be litigated.

The totality of the circumstances in this case thus clearly favors a stay.

II. FACTUAL AND PROCEDURAL BACKGROUND

Defendant Safe Arc is a Lafayette-based service company that provides pressurized welding enclosures ("PWE"). The Safe Arc PWE are temporary structures designed to permit hot work (such as, for example, welding, grinding, torching, and cutting) to be

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conducted in hazardous environments like refineries and offshore oil and gas facilities. Generally, multiple fabric panels are joined together to form a tent-like enclosure that is supported by a tubular framework or scaffolding. At least one high-capacity blower creates a controlled, pressurized environment within the enclosure to prevent the intrusion of flammable gas into the PWE.

Plaintiffs Samer Al-Azem ("Al-Azem") and PetroHab, LLC ("PetroHab") filed a complaint entitled "PETROHAB'S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT" (Rec. Doc. 1.0) accusing Defendant Safe Arc of patent infringement. Specifically, Plaintiffs assert that the fabric panels used to construct Safe Arc's PWEs infringe U.S. Patent No. 9,545,775 ("the '775 Patent"). On June 17, 2025, Safe Arc filed a COMBINED MOTION TO DISMISS PURSUANT TO RULE 12(B)(1) (FOR LACK OF SUBJECT MATTER JURISDICTION) AND RULE 12(B)(6) (FOR FAILURE TO STATE A CLAIM) (Rec. Doc. 11). Rather than opposing Safe Arc's Rule 12 motion, on June 20, 2025, Plaintiffs instead filed PETROHAB'S FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT ("Amended Complaint") (Rec. Doc. 16). On July 2, 2025, Safe Arc filed the IPR with the PTAB.

This case is still in the earliest stages. The deadline for Safe Arc to file an Answer or other pleading in response to Plaintiff's Amended Complaint is the same date as the filing date of this motion. No such responsive pleading to the Amended Complaint has been filed yet. Furthermore, no proposed scheduling order has been entered, and no trial date has been set. Discovery, claim construction and all motion practice still lie ahead.

Most importantly, the IPR is likely to greatly simplify the issues before the Court in this proceeding. Defendant Safe Arc's IPR directly addresses and seeks to invalidate

all claims of the '775 Patent asserted by Plaintiff PetroHab in this lawsuit. In the event that the PTAB rules in favor of Defendant Safe Arc and invalidates the '775 Patent, then this entire proceeding will be rendered moot. Even if all claims of the '775 Patent are not invalidated by the PTAB, the IPR record will likely clarify claim construction positions for the parties, raise estoppel issues, and otherwise aid this Court in resolving this dispute. And even if the PTAB declines to institute the IPR, the pre-institution portion of the IPR demands substantial briefing from both parties on the merits of the challenges, and this briefing will shine a spotlight on the scope of the asserted claims, and any alleged differences between the asserted claims and the prior art that existed prior to Plaintiffs '775 patent.

III. LEGAL STANDARD

A. The Court Has Inherent Authority to Stay the Litigation

District courts have the power to control their own dockets - within that control is the discretion to stay proceedings. *Scarborough v. Integricert, LLC*, 2014 WL 12662272, at *2 (W.D. La. 2014)*; Clinton v. Jones*, 520 U.S. 681, 706 (1997) ("The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket."). The court's discretion extends to the authority to order a stay pending conclusion of an administrative proceeding by the United States Patent & Trademark Office challenging the validity of an asserted patent. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426-1427 (Fed. Cir. 1988) citing *Landis v. North American Co.*, 299 U.S. 248 (1936) ("Apart, however, from any concession, the power to stay proceedings 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."); see also *Gould v. Control Laser Corp.*, 705 F.2d

1340, 1342 (Fed. Cir. 1983); *Soverain Software LLC v. Amazon.com, Inc.*, 356 F.Supp.2d 660, 662 (E. D. Tex. 2005). Likewise, this discretionary authority also extends to a stay of a patent infringement lawsuit when an IPR is filed challenging the validity of the asserted patent. *See Kirsch*, 2021 WL 4555804, at *1 (citing *Multimedia Content Mgmt. LLC v. Dish Network LLC*, 2019 WL 11706231, at *1 (W.D. Tex. 2019)).

It is well established that a stay is justified when "the outcome of a PTO proceeding is likely to assist the court in determining patent validity or eliminate the need to try infringement issues." *See, Scarborough*, 2014 WL 12662272, at *2 (W.D. La. 2014); *NFC Tech. LLC v. HTC Am., Inc., 2015 WL 1069111, at *1 (E.D. Tex. 2015); see also Evolutionary Intelligence, LLC v. Millennial Media, Inc., 2014 WL 2738501, at *2 (N.D. Cal. 2014); 3rd Eye Surveillance, LLC v. Stealth Monitoring, Inc., 2015 WL 179000, at *1 (E.D.Tex. 2015); Surfast, Inc. v. Microsoft Corp., 2014 WL 6388489, at *2 (D.Me. 2014); Norman IP Holdings, LLC v. TP–Link Techs. Co., 2014 WL 5035718, at *2 (E.D.Tex. 2014); Air Vent, Inc. v. Owens Corning Corp., 2012 WL 1607145, at *3 (W.D.Pa. 2012); Gould v. Control Laser Corp., 705 F.2d 1340, 1342 (Fed.Cir.1983).*

B. The Factors Considered in Weighing a Stay

In determining whether to stay litigation pending the outcome of a PTAB proceeding "courts typically consider: (1) whether a stay will unduly prejudice or present a clear tactical disadvantage to the nonmoving party, (2) whether a stay will simplify the issues in question and trial of the case, and (3) whether discovery is complete and whether a trial date has been set." *Scarborough*, 2014 WL 12662272, at *2 (W.D. La. 2014) quoting *Soverain Software*, 356 F.Supp.2d at 662; *ASCII Corp. v. STD Entertainment USA, Inc.*, 844 F.Supp 1378, 1380 (N.D. Ca. 1994). Courts have a "liberal policy in favor of granting

motions to stay proceedings pending the outcome of [PTAB] proceedings." *Scarborough*, 2014 WL 12662272, at *2 (W.D. La. 2014) quoting *ASCII Corp.*, 844 F.Supp at 1381. "Essentially, courts determine whether the benefits of a stay outweigh the inherent costs based on these factors." *Kirsch*, 2021 WL 4555804 at *2 (citing *NFC Techs*., 2015 WL 1069111, at *2).

IV. ARGUMENT

A. Factor 1: A stay will not unduly prejudice Plaintiffs.

Granting the requested stay will not unduly prejudice Plaintiffs. A final written decision by the PTAB is expected approximately eighteen months after an IPR petition is filed. It is well established that delay caused by the IPR process, without more, does not justify denying a stay. *See e-Watch*, 2013 WL 6334372, at *9 ("[T]he mere fact and length of any delay does not demonstrate prejudice sufficient to deny a request for a stay."). Indeed, IPR's are "designed to create efficiencies and proceed in a timely fashion." *Micrografx, LLC v. Google, Inc*., No. 3:13-cv-3595-N, 2014 WL 12580455, at *1 (N.D. Tex. 2014). Any delay arising from a stay would be reasonable here, particularly in view of the PTAB's decision regarding the validity of all claims of the sole patent asserted by Plaintiffs

Further, a stay does not pose any unique risk regarding loss of testimonial and/or documentary evidence potentially valuable to Plaintiffs' case. *See Kirsch*, 2021 WL 4555804, at *2. No such risk exists in this matter. Safe Arc's headquarters and relevant documentary evidence are all located in Lafayette, Louisiana. Similarly, Safe Arc's witnesses and other key personnel are also present in this district, and there is no reason to

believe that any of the foregoing will change or be at risk of loss during pendency of the IPR. Plaintiffs are also entitled to conduct discovery as part of the IPR process.

Moreover, Plaintiffs pled for relief in the form of monetary damages and a permanent injunction, but they have not moved for a preliminary injunction, and have not suffered and will not suffer irreparable harm. *See e-Watch, Inc*., 2013 WL 6334372, at *8. In such cases, "the weight of [Plaintiffs]'s interest in timely enforcement is diminished … where a stay would merely delay [Plaintiffs]'s potential monetary recovery." *Kirsch*, 2021 WL 4555804, at *2. As previously noted, such a potential delay in recovery of monetary damages "does not constitute undue prejudice." *Id*. The proposed stay would also not present any tactical disadvantage to Plaintiffs in this matter.

B. Factor 2: A stay will greatly simplify the issues.

"The most important factor bearing on whether to grant a stay in [a] case is the prospect that the *inter partes* review proceeding will result in simplification of issues before the Court." *Kirsch*, 2021 WL 4555804, at *3 (citing *NFC Techs*., 2015 WL 1069111, at *4). This is clearly true in the present case because Safe Arc's early IPR addresses many identical issues that will be before the Court in this proceeding.

The PTAB is a tribunal within the United States Patent and Trademark Office. The PTAB was specifically created for the purpose of adjudicating challenges to the validity of issued patents. The PTAB consists of administrative patent judges, all of whom have significant experience in patent law, such as litigation and/or prosecution of patent applications before the USPTO. The administrative patent judges are required to have at least a bachelor's degree in an engineering or scientific discipline, and many are former patent examiners. Thus, the PTAB is highly qualified and uniquely suited to consider

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detailed patent matters including, without limitation, patent claim invalidity issues that are central to this case.

A stay will greatly simplify the issues before the Court in this lawsuit. In the event that the PTAB rules in favor of Safe Arc and invalidates all claims of the '775 Patent, then this entire proceeding will be moot. However, even if the PTAB does not invalidate all claims of the '775 Patent, the PTAB's final decision will provide critical claim construction analysis to supplement the existing record that this Court could ultimately consider in deciding claim construction and/or validity issues. And as noted above, even the pre-institution portion of the IPR demands substantial briefing from both parties on the merits of the challenges. If Plaintiffs desire to have the IPR petition denied at the institution phase, they will need to convince the PTAB that the scope of all asserted claims differ from the known prior art that existed prior to Plaintiffs '775 patent. This is because the PTAB's standard for instituting the IPR requires only a showing that one claim—not all 12 challenged claims—is likely to be invalid. Simply put, if any one challenged claim is likely to be invalid, the PTAB institutes as to all challenged claims.

Related to the potential simplification resulting from staying this case while the IPR is pending, the IPR process allows patent owners to amend the claims. Therefore, the claims that depart IPR may differ substantially from the claims as they currently exists. Even if no amendments are submitted, Plaintiffs are likely to make statements regarding the '775 Patent claims in the IPR that will affect how the claims of the asserted patent should be construed by this Court. *See Evolutionary Intelligence, LLC v. Apple, Inc*., No. C 13-04201-WHA, 2014 WL 93954, at *3 (N.D. Cal. 2014) (The IPR record "may also

clarify claim construction positions for the parties, raise estoppel issues, and encourage settlement.").

This Court has previously granted a stay due to a parallel proceeding in the PTAB, explaining:

> The second factor, whether a stay will result in a simplification of the issues, weighs heavily in favor of granting the stay. Reexamination [by the PTAB] has the potential to eliminate most and sometimes, all, of the issues pending in litigation. Even if all claims are not rejected by the Patent Office, the reexamination will likely result in at least a narrowing and simplification of the issues before this Court. In addition, the expertise provided by the reexamination proceeding can be helpful to the Court on any issues that remain. (citations omitted)
>
> *Scarborough,* 2014 WL 12662272, at *3 (W.D. La.2014)

A favorable determination from the PTAB will resolve this case entirely. However, even if the PTAB only invalidates certain claim(s) of the '775 Patent or otherwise clarifies the scope and terms of any claim(s), the matters at issue before this Court will necessarily change. Thus, this factor also heavily weighs in favor of a stay.

C. Factor 3: The early stage of this case favors a stay.

This case is in the earliest pleading stage. Plaintiffs filed their original Complaint a few months ago. In response, Defendant filed a Rule 12 Motion to Dismiss. Rather than opposing Defendant's motion to dismiss, Plaintiffs elected to file the Amended Complaint. Defendant has not yet filed an Answer or other pleading in response to the Amended Complaint.

Claim construction and fact discovery have not commenced, no trial date has been set, and no scheduling order has been entered. Even in cases where the litigation is much further along and the parties have gone through a *Markman* (claim construction) hearing, courts have found that "it makes no sense for the Court to proceed in parallel with the

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PTAB" because "[t]he finality of any judgment rendered by this Court will be dubious so long as the PTAB retains authority to review, and therefore invalidate, the asserted claims . . . ." *Crossroad*, 2015 WL 3773014, at *4; *see also Kirsch*, 2021 WL 4555804, at *2 (granting a stay while noting "[t]he early stages of this case are long behind us"). This case is in a significantly earlier stage than those post-*Markman* cases where a stay was granted.

The Court has not expended any meaningful resources on this case, and a stay would preserve judicial resources on claim construction and validity matters that will be addressed by the PTAB in its final written decision on the '775 Patent. *See e-Watch*, 2013 WL 6334372, at *7 ("[C]ontinuing to prosecute this case is likely to result in the unnecessary expenditure of the parties' and the Court's resources on claims and issues that could be resolved or changed as a result of the IPR proceedings."). By contrast, denying Safe Arc's requested stay could lead to inconsistent results as the parties litigate in parallel with the IPR, including conflicting invalidity determinations and inconsistent claim constructions. This factor, too, weighs in favor of a stay.

D. The totality of the circumstances weighs in favor of a stay in this case.

All three factors (including the "most important factor," *Kirsch*, 2021 WL 4555804, at *3) weigh in favor of granting a stay. Any alleged undue prejudice is mitigated by the following: (i) Plaintiffs' right to post-trial remedies are protected; (ii) this case is in the earliest stage; and (iii) a stay will greatly simplify the litigation before the Court. In sum, a stay is warranted because proceeding with this lawsuit could prove to be extraordinarily wasteful of both the parties' resources and the Court's resources.

There is "little benefit to be gained from having two forums review the validity of the same claims at the same time." *Evolutionary*, 2014 WL 93954, at *3. The issue

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simplification and judicial efficiencies described above will substantially reduce the burdens on the Court and the parties in the event that any litigation after the stay is necessary. Further, the parties and the Court may avoid wasting resources on claims that the PTAB eventually invalidates or that Plaintiffs may amend through the IPR process.

In *Scarborough*, this Court granted a stay pending a PTAB proceeding to consider patent claim invalidity. This Court weighed the factors outlined above, namely: (1) whether a stay will unduly prejudice or present a clear tactical disadvantage to the nonmoving party, (2) whether a stay will simplify the issues in question and trial of the case, and (3) whether discovery is complete and whether a trial date has been set. *Scarborough*, 2014 WL 12662272, at *2. In *Scarborough*, this Court had even held a claim construction hearing, so that proceeding was much further along than the present case. Nonetheless, after considering the above factors, this Court granted a stay of the litigation.

Similarly, in *Performance Sols. LLC v. Sea Ties, LLC* the district court for the Middle District of Louisiana also granted a requested stay based on a parallel proceeding before the PTAB, explaining "the viability of Plaintiffs' patent infringement causes of action has now been strongly called into question. By the same token, the potential that [the defendant] will be unduly prejudiced by having to defend those patent infringement causes of action has grown. The [PTAB proceeding] appears likely to simplify some issues, and this case is still in a relatively early stage…. In the current procedural posture, the Court deems it efficacious to grant [defendant's] Motion to Stay." *Performance Sols. LLC v. Sea Ties*, LLC, 2022 WL 501389, at *3 (M.D. La. 2022).

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V. CONCLUSION

Safe Arc respectfully requests the Court to stay this case in its entirety until the PTAB resolves the pending IPR contesting validity of all claims of the '775 Patent. Safe Arc further requests the Court direct the parties to file a joint status report within ten (10) business days of the PTAB's ultimate resolution of the IPR and, if warranted, allow the parties to seek a further stay or such other relief as may be appropriate.

Dated: July 7, 2025

Respectfully submitted,

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