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18 **UNITED STATES DISTRICT COURT**

19 **SOUTHERN DISTRICT OF CALIFORNIA**

20 INTREPID AUTOMATION, INC., a
21 Delaware Corporation;

22 Plaintiff,

23 v.

24 3D SYSTEMS CORPORATION, a
25 Delaware Corporation; and 3D
26 SYSTEMS, INC., a California
27 Corporation,

28 Defendants.

Case No.: 3:24-cv-02262-AGS-DDL

**JOINT SUBMISSION REGARDING
3D SYSTEMS CORPORATION'S
MOTION TO STAY PROCEEDINGS
PURSUANT TO THE COURT'S
APRIL 30, 2025, ORDER (DKT. 71)**

JOINT SUBMISSION REGARDING 3D SYSTEMS CORPORATION'S MOTION TO STAY
PROCEEDINGS PURSUANT TO THE COURT'S APRIL 30, 2025, ORDER (DKT. 71)

3:24-cv-02262-AGS-DDL

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JOINT SUBMISSION REGARDING 3D SYSTEMS CORPORATION'S MOTION TO STAY
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3:24-cv-02262-AGS-DDL

Pursuant to the Court’s April 30, 2025 Order directing the parties to “file a joint submission stating their positions regarding the summary-judgment order’s [from the Trade Secret Case] impact on the stay request,” ECF No. 71, the parties state as follows:

3DS’s Position

The Court’s summary judgment order in the Trade Secrets Case does not impact the viability of 3DS’s motion to stay the Patent Case. While the summary judgment order dismissed 3DS’s trade-secret misappropriation claims against Intrepid Automation (“IA”) and other defendants, it does not preclude 3DS from defending against IA’s counterclaims of misappropriation of trade secrets – and that defense is likely to have an impact on the Patent Case.

Specifically, in the Patent Case, IA accuses 3DS of infringing claims in two patents (the “Asserted Patents”) that disclose and claim a DLP multi-projector printer with edge blending and calibration capabilities and, in particular, four digital filters for adjusting the sub-images of the projectors. *See, e.g.*, ECF No. 1 at ¶ 22. Moreover, IA further explains that its patents

claim the use of multiple image projectors, each of which projects a sub-image, which sub-images are arranged in an array to form a single composite image. The properties of each sub-image and/or the composite image are adjusted by a display subsystem that employs a set of digital filters, comprising (i) an irradiance mask that normalizes irradiance, (ii) a gamma adjustment mask that adjusts sub-image energy based on the reactivity of the resin and/or maps pixel intensity values to the addressable range of reactivity values of the resin, (iii) a warp correction filter that provides geometric correction; and (iv) one or more blending bars to adjust pixel intensity at areas in which sub-images overlap.

Id. at ¶ 31. In other words, IA’s Asserted Patents disclose and claim inventions related to a DLP multi-projector printer—the same type of system at issue in the Trade Secrets Case in IA’s misappropriation counterclaim. *See, e.g.*, Trade Secrets Case, ECF No. 42 at

¶ 20. IA’s misappropriation counterclaim is based on the (faulty) assertion that 3DS stole IA’s “proof of concept” of IA’s DLP multi-projector “test bed”—technology that IA and the Architects (who previously were employed by 3DS) actually stole from 3DS. *See, e.g., Trade Secrets Case*, ECF No. 6, ¶¶ 20, 28-45. 3DS asserts that IA’s misappropriation counterclaim is based on DLP multi-projector technology—including the four filters identified in the Asserted Patents—that 3DS developed and owned and that predates the Asserted Patents. *See, e.g., Trade Secrets Case*, ECF No. 495 at 15 (Tenth Defense); *see also* ECF No. 27-1. If the jury ruling on IA’s misappropriation counterclaims in the Trade Secrets case agrees with 3DS that IA stole this information from 3DS (regardless of whether 3DS sufficiently identified it as a trade secret as part of its case-in-chief (which is under reconsideration)), that ruling is likely to have severe consequences for IA’s purported ownership of the Asserted Patents and, thus, its ability to enforce them against 3DS. *See, e.g., Ethicon Inc. v. US Surgical Corp.*, 135 F.3d 1456 (Fed. Cir. 1998). Moreover, a jury finding that Intrepid took the information from 3DS – or that 3DS individuals should be named as inventors or owners of the Asserted Patents – could render the patents unenforceable against 3DS. *See, e.g., Therasense, Inc. v. Becton, Dickinson and Co.*, 649 F. 3d 1276, 1288 (Fed. Cir. 2011) (“inequitable conduct regarding any single [patent] claim renders the entire patent unenforceable”); *see also Insulet Corp. v. EOFlow, Co., Ltd.*, -- F. Supp. 3d --, 2025 WL 1196055, at *4 (D. Mass. April 24, 2025) (reassigning to plaintiff patent applications owned by defendants who misappropriated plaintiff’s trade secrets and incorporated them in the applications); *Whiteside Biomechanics, Inc. v. Sofamor Danek Grp., Inc.*, 88 F. Supp. 2d 1009, 1018 (E.D. Mo. 2000), *aff’d sub nom.* 13 Fed. App’x 950 (Fed. Cir. 2001) (holding that “[t]he victim of trade secret misappropriation may be entitled to ownership of any patents obtained by the wrongdoer on the misappropriated trade secret”); *Ethicon Endo-Surgery, Inc. v. Crescendo Techs., LLC*, 2009 WL 1707805, at *8 (S.D. Ohio Aug. 24, 2009) (stating that “[e]quitable reassignment is appropriate for intellectual property that is

1 misappropriated in a patent application” to ensure that “the wrongdoer is not improperly
2 rewarded for its misappropriation”).

3 Moreover, in the Trade Secrets Case, 3DS accused IA of misappropriating aspects
4 of 3DS’s edge blending and calibration trade secrets (which are part of 3DS’s DLP multi-
5 projector project and trade secret), which incorporated the use of the same four filters
6 referenced in the Asserted Patents. *See* ECF No. 27-1 at ¶¶ 4-5, Exs. 2 (Response #3) – 3
7 (Response #12). In an effort to defeat 3DS’s misappropriation claim, IA’s own expert
8 asserted that those filters are “well-known and conventional” in the prior art. *See, e.g.*, ECF
9 No. 27-5 at 11-15 (“**Edge blending** has been well-known in multi-projector systems for
10 decades.”); 16-22 (“[T]he use of **blending bars** was known long before the individual
11 Defendants worked at 3DS.”); 26-29 (“**Warp correction** has been well-known in multi-
12 projector systems for many years.”); 29-32 (“Extensive **irradiance control** methods for
13 multi-projector visual imaging systems have been developed and employed for years [cites
14 several references].”; 32-41 (“**Gamma characterization and adjustment**, or compensation,
15 for multi-projector imaging systems, has been well known for decades.”) (emphasis added
16 in all). If 3DS’s motion for reconsideration is granted (Trade Secrets Case, ECF No. 653),
17 the jury will decide whether 3DS’s edge blending trade secret—including the four filters—
18 comprises publicly available information, as IA’s expert opines. Contrary to Intrepid’s
19 representation below, that trade secret does, in fact, include the four filters. *See, e.g.*, ECF
20 No. 27-3 at 11 (“3DS’s edge blending algorithms and methods comprise permutations of
21 proprietary forms of geometric distortion correction or digital filters or masks, such as warp
22 correction, edge blending bars, stitching, irradiance, and gamma adjustment”). If the jury
23 believes IA’s expert, IA will defeat that aspect of 3DS’s edge-blending trade secrets claim;
24 but, at the same time, that finding will likely render invalid the claims of IA’s Asserted
25 Patents. *See, e.g.*, *KSR*, 127 S.Ct. 1727, 1739 (2007) (finding patent invalid as obvious and
26 noting that “[t]he combination of familiar elements according to known methods is likely
27 to be obvious when it does no more than yield predictable results.”)

1 Accordingly, the motion to stay the Patent Case remains ripe for determination.
2 The summary judgment order and subsequent filings in the Trade Secrets Case does not
3 render it moot.

4 **Intrepid's Position**

5 Intrepid respectfully submits that the Court's summary judgment order in the Trade
6 Secret case (No. 21-cv-1141) definitively confirms that 3DS's motion to stay this Patent
7 Case (No. 24-cv-2262) should be denied. In its motion to stay, 3DS made two arguments
8 to support its contention that a stay was warranted. First, 3DS claimed that whether
9 Intrepid's patent filings incorporate 3DS's alleged trade secrets is directly at issue in the
10 Trade Secret case and that the determination of this issue is relevant to the validity and
11 enforceability of the Asserted Patents. Dkt. No. 27 at 2, 11. Second, 3DS claimed that the
12 Trade Secret case would address whether certain aspects of 3DS's alleged trade secrets —
13 which include the four filters recited in claim limitations of the Asserted Patents in this
14 case — are well-known and conventional which would bear on the validity of the Asserted
15 Patents. Dkt. No. 27 at 7, 11.

16 Although 3DS's motion to stay was meritless when it was filed, 3DS's arguments
17 are no longer viable. In the summary judgment order, the Court found that 3DS failed to
18 identify any of the claimed trade secrets. Based on the Court's ruling, Intrepid's patent
19 filings could **not** have incorporated non-existent trade secrets. Further, the summary
20 judgment ruling in the Trade Secret case has no bearing on whether the four filters that are
21 recited in claim limitations of the Asserted Patents are well-known or conventional; indeed,
22 the Court's opinion does not specifically discuss any of those filters. The only remaining
23 issues in the Trade Secrets case are Intrepid's counterclaims which allege that 3DS and
24 Kuester misappropriated ***Intrepid's*** trade secrets. Resolution of Intrepid's counterclaims in
25 the Trade Secret case will not address whether 3DS's PSLA 270 printer infringes the
26 Asserted Patents.

1 3DS's motion for reconsideration of the Court's summary judgment order and
2 motion for entry of partial judgment pursuant to Fed. R. Civ. P. 54(b) (together with a
3 motion to stay the Trade Secret case) do not change this result. Notably, 3DS's motion for
4 reconsideration is limited to only three of the twelve purported trade secrets 3DS originally
5 asserted. 3DS's motion for reconsideration does not even mention any of the four filters.
6 The concepts of warp or geometric correction, gamma adjustment, and irradiance
7 uniformity are not part of the three alleged trade secrets as to which 3DS seeks
8 reconsideration and, although the motion references edge-blending generally, it does not
9 discuss using blending bars, as recited by the Asserted Patents. In their opposition to 3DS's
10 motion for reconsideration, Defendants will show that the motion is a meritless attempt to
11 re-litigate issues this Court has already properly decided. But even in the exceedingly
12 unlikely event that reconsideration was granted, the resumed Trade Secret Case will be
13 limited to at most these three purported trade secrets which have no bearing on the validity
14 or infringement of the Asserted Patents.

15 3DS's claim that resolution of *Intrepid's* counterclaims affects the Patent Case
16 makes no sense. Setting aside the fact that 3DS tried and failed to establish that it had trade
17 secrets, 3DS still fails to explain how any of its defenses to the counterclaims has any
18 bearing on the patent case. They do not. Intrepid's counterclaim is based on specific
19 technology observed by Kuester during his January 26, 2021 tour of Intrepid, principally a
20 specific implementation of DLP multiprojection technology in a Test Bed. Intrepid alleges
21 that the DLP Test Bed proved concept and confirmed that its DLP multiprojection is
22 commercially viable. But Intrepid's trade secret is not specific software or a specific
23 approach to DLP multiprojection, as claimed in the Asserted Patents. Likewise, the
24 Asserted Patents are agnostic to implementation details: the number of projectors, the
25 orientation of the projectors, whether the printer is vat-based or membrane-based. Even if
26 the jury were to find that Intrepid's DLP multiprojection test bed were based on 3DS's

1 technology (as 3DS now alleges), there can be no “consequences” to such a determination
2 for the Patent Case.

3 3DS’s Rule 54(b) motion (and related motion to stay Intrepid’s counterclaims in the
4 trade secrets case pending appeal) further underscore why a stay of the Patent Case would
5 be improper. 3DS’s motion to stay the Patent Case speculated (without analysis) that any
6 stay would likely last no more than one year (*see* Dkt. No. 27 at 12) (“Even if trial will be
7 necessary, it is reasonable to expect that trial will be completed within a year following the
8 Court’s rulings on dispositive motions.”). But this speculation was predicated on the now
9 erroneous assumption that 3DS’s affirmative claims in the trade secret case would survive
10 summary judgment and proceed to trial. Now that 3DS has lost its trade secret claims, it
11 claims that the stay must endure through appeal, on remand (if applicable), and through
12 trial on the remanded case, and any subsequent appeals therefrom. In other words, 3DS
13 seeks an indefinite stay. *See Yong v. INS*, 208 F.3d 1116, 1119 (9th Cir. 1979) (requiring
14 an elevated burden to justify an indefinite stay); *In re P&G Corp. Securities Litigation*, 100
15 F.4th 1076, 1084 (9th Cir. 2024) (finding stay indefinite “because the end date is triggered
16 by the occurrence of an external event that is not time limited.”)¹ In the meantime, 3DS
17 would not only be able to sell its infringing PSLA 270 printer unfettered, but it also would
18 be able to introduce additional, in-development printers in a nascent market, causing
19 further irreparable harm to Intrepid. *See* Dkt. 39-2, Turner Decl. ¶¶18-22 (describing
20 3DS’s in-development DLP multiprojection printers); Dkt. 40-1, Wynne Decl. ¶¶ 12-35
21 (discussing Turner Declaration).²

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24 ¹ On 3DS’s best day, the Ninth Circuit could find that 3DS raised an issue of material fact
25 as to the existence of a trade secret relating to the four filters claimed in the Asserted
26 Patents. The case would then be tried upon remand. Regardless of the outcome, the final
27 judgment would be subject to a second appeal.

28 ² Finally, all of the reasons set forth in Intrepid’s opposition to 3DS’s motion to stay the
patent case still apply. *See* Dkt. 35. Intrepid is likely to suffer significant prejudice if the
stay issues. Dkt. 35 at 8-15. 3DS has not made a clear case of hardship or inequity in being
required to proceed. Dkt. 35 at 16-18. 3DS points to no concerns regarding the orderly
course of justice that would weigh in favor of a stay. Dkt. 35 at 18-20. And a stay under

1 Accordingly, Intrepid respectfully submits denial of 3DS's motion to stay the present
2 proceedings has be materially reinforced by the Court's summary judgment ruling.
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6 DATED: May 9, 2025

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26 the "first to file" rule should be denied for all the reasons set forth in Intrepid's opposition.
27 Dkt. 35 at 20-24.
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