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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

COLE HAAN LLC,

Plaintiff,

v.

TOP GLORY TRADING GROUP
INC. AND DP DREAM PAIRS INC.,

Defendants.

Case No. 2:25-cv-00176-ES-SDA

JURY TRIAL DEMANDED

**MEMORANDUM OF LAW IN
SUPPORT OF DEFENDANTS'
MOTION TO STAY PENDING
INTER PARTES REVIEW**

Motion Date: November 3, 2025

Documents Filed Electronically

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I. INTRODUCTION

Defendants Top Glory Trading Group Inc. and DP Dream Pairs Inc. (collectively, “Top Glory”) move to stay this proceeding pending the outcome of Top Glory’s petitions for *inter partes* review (“IPR”) before the United States Patent Trial and Appeal Board (“PTAB”). The IPRs ask the PTAB to invalidate every claim of the asserted patents: U.S. Patent Nos. 10,327,511 (“’511 Patent”), 10,443,163 (“’163”), 11,041,262 (“’262”), and D768,969 (“D’969”) (collectively, the “Asserted Patents”). *See* Exs. A-D. A stay at this stage of the litigation will simplify the issues and reduce the burden on the Court and the parties, if not entirely dispose of the case.

The case is in its early stages. Top Glory’s case-dispositive motion to dismiss (Dkt. No. 25) remains pending, discovery only recently opened, and no *Markman* or trial dates have been set. If the IPRs are instituted, the PTAB is likely to invalidate a significant number of asserted claims based on substantial evidence presented in the IPRs. This would greatly narrow the issues in this case. Plaintiff will not suffer undue prejudice, including because it delayed filing this action for nearly a year and did not seek a preliminary injunction. Considering the likelihood of simplification and the resulting efficiency to the Court and the parties, a stay should be granted.

II. STATEMENT OF THE FACTS AND PROCEDURAL HISTORY

Top Glory filed IPRs challenging the Asserted Patents between September 3 and September 9, 2025. Exs. A-D. The PTAB must issue its institution decisions by

early 2026—specifically, within three months of Plaintiff’s December 11 deadline to submit a preliminary response to each IPR petition. 35 U.S.C. § 314(b). Once instituted, the PTAB has a statutory requirement to render a validity determination within one year of institution—the first quarter of 2027. *Id.* § 316(a).

The Court’s scheduling order requires the parties to begin preliminary claim construction exchanges in late November 2025, with claim construction briefing extending through May 2, 2026. Dkt. No. 49. While a *Markman* hearing has not been set, this hearing would not occur until after the parties’ May 15, 2026 deadline to submit a proposal to the Court. *Id.* The close of fact and expert discovery is contingent upon the date of the Court’s *Markman* decision, and a trial date has not been set. *Id.*

III. LEGAL STANDARDS

A. IPRs Are an Efficient Way to Test Invalidity and Conserve District Court Resources

Inter partes review is a procedure that permits the PTAB to review the patentability of one or more claims of a patent under 35 U.S.C. §§ 102 and/or 103. 35 U.S.C. § 311(b). Congress established IPRs as an “effective and efficient alternative to often costly and protracted district court litigation.” *MCM Portfolio LLC v. Hewlett-Packard Co.*, 812 F.3d 1284, 1291–92 (Fed. Cir. 2015) (quoting H.R. Rep. No. 112–98, 2011 U.S.C.C.A.N. 67, 75, at 45). The AIA replaced the previous reexamination procedure with IPRs, establishing an adjudicatory process

that results in a final written decision regarding the patentability of the claims. *Celgene Corp. v. Peter*, 931 F.3d 1342, 1361 (Fed. Cir. 2019).

B. Motion to Stay Pending IPR Proceedings

A district court has the inherent authority to manage its docket and to stay an action pending IPR. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988). As numerous rulings of this Court make clear, the District of New Jersey “has recognized a generally liberal policy toward granting stays pending patent reexamination-type proceedings.” *Kirsch Rsch. & Dev., LLC v. GAF Materials, LLC*, No. 20-13683, 2021 WL 2434082, at *2 (D.N.J. June 15, 2021) (citing *Mondis Tech. Ltd. v. LG Elecs., Inc.*, 2015 WL 7012747, at *5 (D.N.J. Nov. 12, 2015) (recognizing “generally liberal policy toward granting stays pending patent reexamination by the PTO.”); *Sabert Corp. v. Waddington N. Am., Inc.*, 2007 WL 2705157, at *5-6 (D.N.J. Sept. 14, 2007) (same); *Cima Labs Inc. v. Actavis Grp. HF*, 2007 WL 1672229, at *9 (D.N.J. June 7, 2007) (same)).¹

Courts in this district generally consider three factors when determining whether to grant a stay: “(1) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether discovery is complete and

¹ Some of the cited cases in *Kirsch* predate IPR. But as the Court in *Kirsch* recognized, reference to “reexamination-type proceedings” includes IPR proceedings. See, e.g., *Celgene Corp. v. Peter*, 931 F.3d 1342, 1361 (Fed. Cir. 2019).

whether a trial date has been set.” *Gesture Tech. Partners, LLC v. LG Elecs. Inc.*, No. 21-19234, 2022 WL 1002101, at *2 (D.N.J. Apr. 4, 2022) (quoting *Stryker Trauma S.A. v. Synthes (USA)*, No. 01-3879, 2008 WL 877848, at *1 (D.N.J. Mar. 28, 2008)). To determine whether undue prejudice or an unfair tactical advantage results from a stay, this Court considers: “[(1)] the timing of the request for reexamination, [(2)] the timing of the request for [a] stay, [(3)] the status of the reexamination proceedings[,] and [(4)] the relationship of the parties.” *Depomed Inc. v. Purdue Pharma L.P.*, No. 13-571, 2014 WL 3729349, at *2 (D.N.J. July 25, 2014)) (citation omitted).

A stay is appropriate even if the PTAB institutes fewer than all four pending IPRs. *See, e.g., Nasdaq, Inc. v. IEX Grp., Inc.*, No. 18-3014, 2019 WL 8268544, at *6 (D.N.J. Sept. 13, 2019) (granting motion to stay “early in the discovery process” where “no trial date [was] set” and despite three of the patents-in-suit not under PTAB review); *see also Gesture Tech. Partners, LLC v. LG Elecs. Inc.*, No. 21-19234, 2022 WL 1002101, at *4 (D.N.J. Apr. 4, 2022) (granting a motion to stay prior to the PTAB granting Defendant’s joinder request for ongoing IPRs).

Likewise, district courts in the Third Circuit have stayed litigation prior to institution of IPRs. *See, e.g., Horizon Therapeutics, Inc. v. Lupin Ltd.*, No. 15-7624, Dkt. No. 42 (D.N.J. Aug. 4, 2016) (granting a motion to stay pre-institution where “little substantive work will be done before” the PTAB decides whether to institute

an IPR); *Neste Oil OYJ v. Dynamic Fuels, LLC*, No. CV 12-1744-GMS, 2013 WL 3353984, at *4 (D. Del. July 2, 2013) (granting motion pre-institution where no trial date had been set and no discovery had taken place); *Miics & Partners Am. Inc. v. Toshiba Corp.*, No. 14-803, 2015 WL 9854845, at *1 (D. Del. Aug. 11, 2015) (granting a pre-institution stay for post-grant review); *see also Neste Oil*, 2013 WL 3353984, at *4–5 (granting a pre-institution stay where the parties were indirect competitors); *Crossroads Sys., Inc. v. Dot Hill Sys. Corp.*, No. 13-1025, 2015 WL 3773014, at *3 (W.D. Tex. June 16, 2015) (explaining “even where parties are competitors, courts have found a [pre-institution] stay is not unduly prejudicial”).

IV. ARGUMENT

Top Glory’s Motion to Stay should be granted because the case is still in its infancy, and a stay would not unduly prejudice the Plaintiff. On the other hand, the Court’s time and resources would be wasted if the PTAB’s decision drastically “alter[s] the nature of the litigation.” *Kirsch Rsch.*, 2021 WL 2434082, at *2 (citing *WABCO Holdings, Inc. v. Bendix Com. Vehicle Sys.*, 2010 WL 2628335, at *2 n.2 (D.N.J. June 28, 2010)). A stay would prevent this. All three factors support the requested stay.

A. The IPR Petitions, If Granted, Will Simplify the Issues in This Case and Reduce the Burden on This Court and the Parties

Since Top Glory filed IPRs challenging every asserted claim, the IPRs have the potential to simplify this case, if not completely dispose of it.

This Court has recognized “several ways in which a stay pending IPR proceedings can simplify” a case:

(1) a review of all prior art presented to a court by the PTO, with its particular expertise; (2) the potential alleviation of numerous discovery problems relating to prior art by PTO examination; (3) the potential dismissal of a civil action should invalidity of a patent be found by the PTO; (4) encouragement to settle based upon the outcome of the PTO reexamination; (5) an admissible record at trial from the PTO proceedings which would reduce the complexity and length of the litigation; (6) a reduction of issues, defenses and evidence during pre-trial conferences; and (7) a reduction of costs for the parties and a court.

Canfield Sci., Inc. v. Drugge, No. 16-4636, 2018 WL 2973404, at *4 (D.N.J. June 13, 2018) (citing *Eberle v. Harris*, No. 03-5809, 2005 WL 6192865 (D.N.J. Dec. 8, 2005) (citation omitted)); *Eagle View Techs., Inc. v. Xactware Sols., Inc.*, No. 15-7025, 2016 WL 7165695, at *6 (D.N.J. Dec. 7, 2016) (citations omitted) (listing the same factors). The “‘issue simplification’ factor” does not require the invalidation of all asserted claims by IPR proceedings; simplification can occur even where “some or all of the claims are found not invalid.” *Depomed*, 2014 WL 3729349, at *5–6; see *Canfield Sci.*, 2018 WL 2973404, at *5 (“The more the scope of the litigation exceeds the scope of the IPR proceedings, the less likely the IPR proceedings and requested stay will simplify the issues.”).

Top Glory’s IPRs are likely case dispositive. Top Glory filed IPRs challenging all claims of the four Asserted Patents on multiple independent grounds—any one of which is likely to invalidate the asserted claims. And since the

Supreme Court mandates that PTAB must “address *every* claim the petitioner has challenged” for an instituted IPR, staying the case relieves the Court from costly and time-intensive invalidity proceedings. *SAS Inst., Inc. v. Iancu*, 584 U.S. 357, 363 (2018). A stay would also eliminate the risk of duplicative findings, which is especially great when all claims are challenged—like the 65 claims challenged in Top Glory’s IPRs. *See Canfield Sci.*, 2018 WL 2973404, at *4 (“Issue simplification can occur where the number of asserted claims and patents are reduced due to invalidation or the estoppel effect of the IPR proceedings.”). Thus, following the IPR proceedings, the Court would likely benefit from a reduced number of asserted claims to be litigated. *Princeton Digital*, 2014 WL 3819458, at *2.

The Court will further benefit from the parties litigating issues before the PTAB because Plaintiff’s statements become part of the patent’s prosecution history. These statements may ultimately affect claim construction, noninfringement, and invalidity. *See Aylus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1359–62 (Fed. Cir. 2017) (“[S]tatements made by a patent owner during an IPR proceeding can be considered during claim construction and relied upon to support a finding of prosecution disclaimer.”); *Batinkoff v. Church & Dwight Co.*, No. 3:18-cv-16388, 2020 WL 5627252, at *3–4 (D.N.J. Sept. 21, 2020) (granting a stay after the competitor-parties exchanged proposed claim constructions).

A stay would also prevent inconsistent results during claim construction. The

PTAB must issue institution decisions, which can address claim construction issues, by early 2026—this coincides with the deadlines for claim construction briefing in this litigation. As such, the risk of inconsistent results could be exacerbated. Staying the case pending resolution of the IPR, though, “allow[s] the PTO to adjudicate the validity of the claims before” claim construction, “reduces what otherwise could be duplication of effort,” and reduces “possibl[e] inconsistent results between the administrative agency and this Court.” *Ioengine, LLC v. PayPal Holdings, Inc.*, No. 18-452, 2019 WL 3943058, at *10 (D. Del. Aug. 21, 2019).

Moreover, if the PTAB institutes, Top Glory stipulated that it will not pursue in this action the grounds of invalidity asserted in the IPR, or any other ground that was raised or could have reasonably been raised in the IPR with respect to the claims of the Asserted Patents. *E.g.*, Ex. A, at 13. This will result in additional simplification of Top Glory’s forthcoming invalidity contentions and Plaintiff’s responses thereto, thereby justifying a stay of those deadlines to conserve party resources.

Accordingly, staying this case will simplify the issues, reduce the burden on the Court and the parties, and eliminate the potential for conflicting outcomes.

B. A Stay Is Appropriate Because Discovery Is in Its Infancy

This case is in its infancy, which favors a stay. “Courts are more willing to stay a case in its early stages pending IPR proceedings because it can advance judicial efficiency by conserving resources expended by the parties and the Court on

claims that may subsequently be found invalid.” *Eagle View Techs., Inc. v. Xactware Sols., Inc.*, No. 15-7025, 2016 WL 7165695, at *8 (D.N.J. Dec. 7, 2016); *see Canfield Sci.*, 2018 WL 2973404, at *5 (granting motion where “written discovery is still ongoing, depositions have not yet begun, and no trial date has been set”).

Courts in the Third Circuit often grant stays pending IPR after discovery has started and even after a trial date is set, so long as other major case events (i.e. depositions, claim construction briefing, and expert discovery) have not begun. *Canfield Sci.*, 2018 WL 2973404, at *5 (granting a motion to stay where “written discovery is still ongoing, depositions have not yet begun, and no trial date has been set” and “the bulk of the expenses and time to be invested by the parties in this matter is still to come.”); *see also Miics & Partners Am. Inc.*, 2015 WL 9854845, at *1 (“While discovery has started and there are trial dates, there have been no depositions, claim construction briefing has not started (although it is about to), and expert discovery is a long way off. The case is relatively young.”); *Cochlear Ltd. v. Oticon Med. AB*, No. 18-6684, 2019 WL 6309867, at *2 (D.N.J. Nov. 5, 2019) (granting a motion to stay where no trial date has been set and the PTAB plans to review 25 of the 48 asserted claims).

This case is still in its early stages: initial disclosures were served less than a month ago and non-infringement/invalidity contentions will not be served until late October. Written discovery propounded by Plaintiff is limited (consisting of only

one interrogatory and twelve requests for production), no depositions have occurred (or have been scheduled), and preliminary claim construction exchanges will not commence for over a month. These circumstances strongly favor a stay.

Indeed, judges in this district have stayed cases much further into discovery than this case. *See Batinkoff*, 2020 WL 5627252, at *3–4 (granting a stay after parties had exchanged proposed claim constructions); *Princeton Digital*, 2014 WL 3819458, at *3–4 (granting a stay despite having already held an early *Markman* on two claim terms, a motion to dismiss, and a discovery dispute). Other courts have stayed cases even later. *See, e.g., Ioengine*, 2019 WL 3943058, at *5 (granting a stay after claim construction briefing because “completing discovery, preparing expert reports, filing and responding to pretrial motions, preparing for trial, going through the trial process, and engaging in post-trial motions practice—all lie in the future”).

Thus, the limited development of this case strongly favors granting a stay.

C. A Stay Will Not Unduly Prejudice or Tactically Disadvantage Plaintiff

Plaintiff will not suffer undue prejudice or a tactical disadvantage if this case is stayed. Top Glory timely filed the IPR petitions and this Motion to Stay, leaving the PTAB to issue a decision within a few months. Any time elapsed between a stay and the PTAB’s decision would not harm Plaintiff’s business, and contrary arguments are rebutted by Plaintiff’s repeated delay in bringing suit and its decision to not seek an injunction at the beginning of the case.

1. Top Glory Diligently Filed the IPR Petitions

The timing of the IPR petitions' filing imposes no prejudice against Plaintiff. Top Glory diligently filed its petitions. "The more diligent a defendant is in seeking inter partes review, the less likely it is that the non-movant will be prejudiced by a stay or that the court will find the defendant's filing of the IPR petition to be a dilatory tactic." *Bonutti Skeletal Innovations, L.L.C. v. Zimmer Holdings, Inc.*, No. 12-cv-1107, 2014 WL 1369721, at *2 (D. Del. Apr. 7, 2014). Here, Top Glory filed four IPR petitions challenging 65 claims within eight months of the complaint's filing date, well before the one-year statutory deadline. *See, e.g., Depomed*, 2014 WL 3729349, at *3 (finding that an IPR filed two weeks shy of the one-year statutory deadline does not suggest gamesmanship); *Bio-Rad Lab 'ys Inc. v. 10X Genomics, Inc.*, No. 18-1679, 2020 WL 2849989, at *2 (D. Del. June 2, 2020) (finding that an IPR filed at the end of the one-year statutory deadline does not "weigh[] against granting a stay"). Indeed, once the Court informed the parties that it was proceeding to set a scheduling conference at the end of June while Top Glory's case dispositive motion to dismiss remained pending (which continues to have the potential to resolve the dispute in its entirety), Top Glory expedited its preparations and filed IPRs challenging all 65 claims of the asserted patents approximately two weeks after the scheduling conference. Top Glory's diligence supports a stay.

2. Top Glory Moved to Stay Litigation Within Weeks of Filing the IPR Petitions

Top Glory filed the instant motion to stay within weeks of filing the IPR petitions in good faith. These facts do not suggest “dilatory motive,” and thus favor granting a stay. *VirtualAgility Inc. v. Salesforce.com, Inc.*, 759 F.3d 1307, 1319 (Fed. Cir. 2014); *see Canfield*, 2018 WL 2973404, at *2 (explaining that “the Court does not find that the approximately three-month delay between Plaintiff’s assertion of its invalidity claim and the filing of its IPR petition or the less than two-month delay between the filing of the petition and the present motion [to stay] demonstrates a dilatory motive”); *see also Ioengine*, 2019 WL 3943058, at *6 (explaining that when a party files its IPR petition before the court rules on a pending motion to dismiss “the facts do not suggest a dilatory motive behind the timing of the petition”).

Indeed, Top Glory informed Plaintiff and the Court of its intention to stay the case during the August 15, 2025 scheduling conference. *Depomed*, 2014 WL 3729349, at *3 (“[Defendant] vocalized its intent to move to stay these proceedings pending IPR before the petitions were even filed. . . . Nothing about the timing of [Defendant’s] request for a stay indicates that it sought an improper tactical advantage over [Plaintiff] or that [Plaintiff] would be unduly prejudiced by a stay.”); *Neste Oil*, 2013 WL 3353984, at *2 (“Given the prompt filing of both the petition for inter partes review and the motion to stay, the court cannot discern an improper dilatory motive.”).

Given the lack of a dilatory motive, this factor weighs in favor of a stay.

3. The Status of the Review Proceedings Favors a Stay

Considering the speed at which IPR institutions and final written decisions are expected relative to the current case schedule, the potential for inconsistent findings if the litigation is not stayed favors granting a stay. If the IPR and district court litigation proceed in parallel, a “potential exists for an undesired duplication of effort and inconsistent outcomes from two different forums.” *RetailMeNot, Inc. v. Honey Sci. LLC*, No. 18-937, 2020 WL 373341, at *8 (D. Del. Jan. 23, 2020). Institution decisions on every IPR petition will be issued by early 2026, and final written decisions on any instituted IPRs will be issued no later than one year after the institution date. The parties here do not have trial or *Markman* hearing dates.

This factor, therefore, weighs in favor of granting a stay pending IPR.

4. The Relationship Between Top Glory and Plaintiff Does Not Weigh Against a Stay

Regardless of whether the parties compete and the extent of any such competition, a motion to stay is not defeated solely because the parties may compete—the Court must balance all the factors to reach a conclusion. *See, e.g., Thermolife Int’l, LLC v. Prosource Performance Prods.*, No. 15-2037, 2015 WL 9480023 (D.N.J. Dec. 29, 2015) (finding that the balance of all the stay factors weighs in favor of a stay even though the parties are direct competitors).

Moreover, “[t]he presence of multiple active [competitors] in the relevant market . . . decrease[s] the likelihood of [] harm befalling the plaintiff.” *Canfield*,

2018 WL 2973404, at *3. The footwear market is heavily diluted with numerous participants, which decreases the likelihood that a stay would harm Plaintiff. *See Depomed*, 2014 WL 3729349, at *4 (finding no prejudice against Plaintiff where the parties are direct competitors in a market where “a number of manufacturers sell[] [the] combination oxycodone-acetaminophen products in the market”).

Plaintiff also demonstrated it would not be harmed by a stay because it delayed filing suit for a year (*e.g.*, Dkt. No. 44 at 2-3) and did not seek a preliminary injunction. This Court looks to “whether the plaintiff sought a preliminary injunction” when weighing prejudice because a preliminary injunction suggests that “the parties, in fact, do compete and that real prejudice will flow from the imposition of a stay.” *Depomed*, 2014 WL 3729349, at *4 n.1; *MonoSol Rx, LLC v. BioDelivery Scis. Int’l, Inc.*, No. 10-5695, 2012 WL 762501, at *10 (D.N.J. Mar. 7, 2012) (granting a motion to stay pending IPR even where the parties were competitors, finding that Plaintiff’s “erosion of market share” arguments were negated by Plaintiff’s failure to seek a preliminary injunction).

Therefore, the relationship between the parties is at worst neutral and does not outweigh the other factors that are strongly in favor of staying this litigation.

V. CONCLUSION

Top Glory respectfully requests that the Court stay this case pending *inter partes* review of the Asserted Patents. Although Top Glory respectfully submits the

case should be stayed prior to the institution decisions, in the event this Court finds that a stay should not be granted prior to the institution decisions, Top Glory respectfully requests that the Court deny the motion without prejudice so Top Glory may renew its request after the PTAB institutes IPRs as to any asserted claim.

Dated: October 1, 2025

Respectfully submitted,

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