

EXHIBIT 2008



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BY CM/ECF

The Honorable José R. Almonte, U.S.M.J.
Frank R. Lautenberg U.S. Post Office & Courthouse Building
2 Federal Square
Newark, NJ 07102

Re: *Happy Products, Inc. v. Ontel Products Corporation*, Case No. 2:24-cv-09819-EP-JRA

We, along with our co-counsel, ArentFox Schiff LLP, represent Defendant Ontel Products Corporation (“Defendant” or “Ontel”), in the above matter. In accordance with the Court’s Pretrial Scheduling Order (Dkt. No. 54 at ¶18) and Case Management Order (¶ 5a), we submit this Joint Letter with Plaintiff Happy Products, Inc. (“HPI”) regarding Ontel’s request for a stay of discovery on the patent counts in this litigation pending final disposition of Ontel’s petition for *inter partes* review (“IPR”) of the patent-in-suit, RE48,479 (“the ’479 patent”), being Case No. IPR2025-01536 filed on October 16, 2025 (hereinafter, “Ontel’s IPR”).¹ Ontel reached out to HPI on October 17 regarding Ontel’s stay request. The parties met and conferred on October 20, 2025. HPI opposes Ontel’s request for a stay at the pre-institution stage of Ontel’s IPR, and the parties have reached an impasse.

Defendant’s Position:

Ontel respectfully requests that the Court exercise its discretion to stay proceedings in this matter concerning HPI’s only patent. *See Power Surv., LLC v. Premier Util. Servs., LLC*, 124 F. Supp. 3d 338, 339 (D.N.J. 2015) (quoting *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)) (“[T]he 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.”); *In re Lumify*, No. 21-16766, Dkt. No. 462 at *4 (RK) (RLS) (D.N.J. Mar. 10, 2025) (citing *Kirsch Rsch. & Dev., LLC v. GAF Materials, LLC*, No. 20-13683, 2021 WL 2434082, at *2 (D.N.J. June 15, 2021) (collecting cases)); *PopSockets LLC v. Quest USA Corp.*, 17-cv-3653 (FB) (CLP), 2018 WL 5020172, at *2 (E.D.N.Y. Sept. 12, 2018), report and recommendation adopted, 2018 WL 4660374 (Sept. 28, 2018).

Courts in this District, like other courts, consider three factors: 1) whether staying the action pending review will simplify the issues in question and trial of the case; 2) how far the litigation has already progressed; and 3) whether there will be prejudice to the nonmoving party if a stay is issued. *Lumify*, No. 21-16766, Dkt. No. 462 at *4 (citing *Murata Mach. USA v. Daifuku*

¹ In the parties’ joint status report of September 9, 2025, Ontel had submitted that it intends to file an IPR and seek to stay the patent issues in this litigation pending final resolution. *See* Dkt. No. 80 at 3.

Co., 830 F.3d 1357, 1361 (Fed. Cir. 2016)). These factors are not exclusive, and courts may also consider the totality of the circumstances. *See Straight Path IP Grp., Inc. v. Verizon Commc'ns Inc.*, No. 16-cv-4236 (AJN), 2016 WL 6094114, at *2 (S.D.N.Y. Oct. 18, 2016). As demonstrated below, the three factors strongly favor a stay here because the IPR proceedings may simplify the patent issues, this case is in its early stages, there are pending motions to dismiss on multiple other counts, and there will be no undue prejudice to HPI. The balance of factors favors a stay at the pre-institution stage, and the Court should therefore grant this motion with the goal of “secur[ing] the just, speedy, and inexpensive determination of every action and proceeding.” *See* Fed. R. Civ. P. 1. On the other hand, having the patent issues progress in parallel with the IPR will not advance this goal.

HPI will not be unduly prejudiced or tactically disadvantaged by a stay.

A stay would not unduly prejudice or present a clear tactical disadvantage to HPI.² Courts consider four sub-factors to assess this factor: “(1) the timing of the request for [IPR]; (2) the timing of the request for a stay; (3) the status of [IPR] proceedings; and (4) the relationship of the parties.” *Gesture Tech. Partners, LLC v. LG Elecs. Inc.*, No. 21-19234, 2022 WL 1002101, at *3 (D.N.J. Apr. 4, 2022). A “delay inherent to the review process is, itself, insufficient to establish undue prejudice.” *Id.*

HPI cannot establish that it will suffer the kind of undue prejudice or tactical disadvantage here. The first two factors (timing of the request for review and timing of the request for a stay) both favor a stay. Ontel’s IPR was filed within the statutory deadline of within one year of service of a complaint for patent infringement. *See* 35 U.S.C. § 315(b). In fact, Ontel met the one-year deadline, even earlier, because Ontel’s retail customers in the Eastern District of Texas litigation, 24-cv-00915 [SDJ] were served prior to this litigation. There is no “dilatory intent,” nor is Ontel’s filing and stay request timing present a tactical disadvantage to HPI. *See Depomed Inc. v. Purdue Pharma L.P.*, No. 13-571 (JAP), 2014 WL 3729349, at *3 (D.N.J. July 25, 2014). HPI’s counsel was served with the IPR on October 16, and Ontel notified HPI of its intent to seek a stay of this litigation the next day (Exhibit 2, Email Correspondence between Counsel Regarding Motion to Stay). Ontel has diligently sought to bring its stay request before the Court, filing just one and a half weeks after the IPR was filed, taking account of discussions with HPI and HPI’s availability for this joint filing. No tactical advantage has been sought or worked by Ontel’s diligence and rapid timing of its request. *See, e.g., id.* at *4 (finding three weeks “not unreasonable,” and citing cases where “less than two-month delay” did not demonstrate dilatory motive). As explained below, the instant litigation is in the early stages of discovery. This Court has also recognized that “IPR petitions filed before any significant occurrences and proceedings in the underlying district court actions [are] timely.” *Id.* at *3 (prioritizing the one-year deadline for filing, even after an about nine-month gap from filing to joinder with the IPR).

The third factor (status of the IPR proceedings) also weighs in favor of a stay. The Director will determine whether to institute the IPR no more than 6 months from the date of filing and the

² HPI has stated that it will be filing a motion for discretionary denial of Ontel’s IPR which is due on December 22, 2025, to which Ontel’s response is due on January 22, 2026. A decision thereon will be issued by the Director by April 22, 2026. Exhibit 1, Ontel’s IPR, Paper 4 (Oct. 22, 2025).

Board will resolve patent validity challenges no more than 12 months of institution. AIA (codifying 35 U.S.C. § 314(b)); 37 C.F.R. § 42.100. Although some courts have held that a motion for a stay pending IPR as premature at the pre-institution stage, Courts have found that a stay may still serve judicial efficiency and avoid inconsistent results at this stage. *See Synkloud Techs., LLC v. Cartessa Aesthetics, LLC*, No. 21-4423, 2022 WL 1046261, at *4 (E.D.N.Y. Apr. 6, 2022); *Finjan, Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032, 1035, 1038 (N.D. Cal. 2015); *Smith Sport Optics, Inc. v. Burton Corp.*, 601 F. Supp. 3d 936, 938-39, 943 (D. Col. 2022). By contrast deferring the stay can result in duplicative, meaningless, and costly discovery. *See Synkloud Techs.*, 2022 WL 1046261, at *4; *NST Glob., LLC v. SIG Sauer Inc.*, No. 19-cv-792-PB, 2020 WL 1429643, at *4 (D.N.H. Mar. 24, 2020).

The fourth factor (relationship of the parties) does not weigh against a stay. HPI did not sue Ontel until October 2024 – over three years after the '479 patent issued – and did not file any motion for preliminary injunction. Moreover, there are many players in the market and the existence of multiple competitors undermines the risk of undue prejudice to HPI. *Synkloud Techs.*, 2022 WL 1046261, at *4. Further, Ontel has discontinued selling the accused product, and thus the parties are not direct competitors. Mere delay would not result in undue prejudice or tactical disadvantage to HPI, and this weighs in favor of granting a stay. *Batinkoff v. Church & Dwight Co., Inc.*, No. 3:18-cv-16388-BRM-LHG, 2020 WL 5627252, at *4 (D.N.J. Sept. 21, 2020); *Thermolife Int'l, LLC v. Prosource Performance Prods.*, No. 15-2037 (FLW)(LHG), 2015 WL 9480023, at *6 (D.N.J. Dec. 28, 2015) (granting a stay even where the parties' direct competition weighed against a stay). Further, "a stay does not diminish the monetary damages that Plaintiffs may recover in this lawsuit, 'it only delays realization of those damages.'" *Synkloud Techs.*, 2022 WL 1046261, at *4 (quoting *VirtualAgility Inc., v. Salesforce.com, Inc.*, 759 F.3d 1307, 1316 (Fed. Cir. 2014)).

Ontel's IPR will simplify the issues in question before this Court.

A stay of this matter will simplify the issues presented in this case and which may be litigated in a subsequent trial. Ontel's IPR challenges the validity of claims 1–2, 8–10, 12–13, 15–17, 19–21, and 27–29 of the '479 patent, which are the claims asserted by HPI in this litigation. The simplification of issues favors a stay because Ontel's IPR will not only reduce issues, but potentially dispose the patent counts altogether.³ If Ontel's IPR does not ultimately succeed, it can still narrow the patent issues in this litigation.

Depomed lists numerous advantages of a stay that may result in simplification of the issues, many weighing in favor of concluding a stay would simplify the issues here. *See Depomed*, 2014 WL 3729349, at *5. A primary consideration met by staying this litigation is the "reduction of issues, defenses, and evidence during pre-trial conferences." If in a final determination, the Board cancels the challenged claims, that would resolve the patent counts in their entirety. Moreover, it will reduce discovery issues, burdens and duplication of effort. It would reduce "costs for the parties and [the] court." *Depomed*, 2014 WL 3729349, at *5. Reducing the volume of litigation further conserves judicial resources, and minimizes the risk of inconsistent results on the same

³ Separately, Ontel's motion to dismiss the trade dress counts is fully briefed and pending. *See* Dkt. No. 40. The resolution of this motion is likely to further narrow the issues before the Court in this litigation.

claims. *See Lumify*, No. 21-16766, Dkt. No. 462 at *10, 12. Courts routinely find that where the IPR may result in cancellation of all or most of the asserted patent claims, e.g. when the PTAB has instituted IPR review of the claims, the matter is simplified for the Court. *See, e.g., Power Survey*, 124 F. Supp. at 340-41; *Depomed*, 2014 WL 3723949, at *5-6; *Lumify*, No. 21-16766, Dkt. No. 462 at *11; *Batinkoff*, 2020 WL 5627252, at *5; *Gesture Tech.*, 2022 WL 1002101, at *5-6. Further, if the challenged claims are found to be valid, there will be a narrowing of invalidity issues for trial. *See* 35 U.S.C. § 315(e)(2). Thus, granting a stay may greatly simplify the issues before this Court.

Many additional advantages would also result from a stay of this litigation. A stay would provide “encouragement to settle based upon the outcome of the PTO reexamination.” *Depomed*, 2014 WL 3723949, at *5. The parties have already indicated willingness to discuss settlement. *See* Dkt. No. 80 at 4.

Denying a stay runs the risk of wasting the Court’s time to analyze and decide issues that would otherwise be rendered moot. For all of these reasons, this factor favors a stay.

Whether discovery is complete and whether a trial date has been set.

This litigation is at an early stage in fact discovery before the parties expend time and resources on claim construction, fact and expert discovery, including the Court’s time and resources in resolving any disputes. Therefore, the status of this litigation factors strongly favors a stay.

In weighing this factor, courts consider the status of discovery, whether claim construction has occurred, and whether trial has been scheduled. *Batinkoff*, 2020 WL 5627252, at *5-6; *Synkloud Techs.*, 2022 WL 1046261, at *3; *Depomed*, 2014 WL 3723949, at *6. Here, the litigation is still in its early stages. HPI has served infringement contentions but was recently ordered to amend its infringement contentions by October 30, 2025. *See* Dkt. No. 92. Each party served interrogatories and requests for production, but no substantive document production has commenced. An ESI Order was entered on October 10, 2025 (Dkt. No. 91) and the parties’ disclosures as to email custodians and notices under this Order were due on Monday, October 27, 2025. Further the *Markman* process is underway but a *Markman* hearing date has not been set. *See* Dkt. No. 54 at ¶ III.17. Moreover, a close of fact discovery deadline is not set and remains open for forty-five (45) days after a *Markman* decision is rendered. *Id.* at ¶ III.2. No depositions have been noticed and the deadline for depositions is also forty-five (45) days after a *Markman* decision is rendered. *Id.* at ¶ III.4. No date for a pretrial conference or trial has been set. *Id.* at ¶ VIII.

Courts have held that when a case is in early discovery stages, it favors granting a request to stay. *Batinkoff*, 2020 WL 5627252, at *6 (granting a stay even after “twenty-one months” of litigation because discovery was still in its early stages.); *Depomed*, 2014 WL 3723949, at *6 (finding that even if a case is not in its “absolute infancy,” “a stay will promote judicial economy and efficiency by maximizing the use of the Court’s and the parties’ resources.”).

Accordingly, for at least the foregoing reasons, Ontel respectfully requests that the Court grant a stay of this litigation at this time and pending final disposition of Ontel’s IPR.

Plaintiff's Position:

The Court should deny Ontel's latest request to stay all proceedings in this case, this one based on their mere filing of a last-minute request for *inter partes* review ("IPR") of the '479 patent asserted in this case. In contrast to the typical stay request where IPR has been instituted, here the USPTO will not even decide whether to institute IPR ***until mid-April*** of next year. And moreover, Ontel's petition is unlikely to be granted. Importantly, Ontel's IPR addresses only two (2) of the nine (9) remaining Counts of the Amended Complaint. Thus, Ontel cannot carry its burden to demonstrate that a stay is appropriate under these circumstances (*see Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)); the minor and speculative benefits that might possibly result from a ***potential*** IPR proceeding concerning ***only*** the two patent Counts of this multifaceted IP infringement and unfair competition case do not outweigh the real prejudice and tactical disadvantage that would be imposed on HPI by a stay at this time.

I. Relevant Procedural History

HPI's '454 patent issued on May 9, 2017, with ten claims. Those ten claims remain unchanged in the '479 reissue patent asserted here, which added 18 additional claims when it issued on March 23, 2021.

The original complaint in this case was filed on October 15, 2024 (Dkt. 1) and was served on Ontel on October 22, 2024 (Dkt. 10). HPI filed a ten-count Amended Complaint on February 28, 2025 (Dkt. 34), of which nine counts against Ontel remain following the dismissal of the retailer defendants (Dkt. 70–71). Two of those nine counts involve patent infringement claims, and the remaining seven counts assert various state and federal unfair competition claims, federal false advertising claims under the Lanham Act, and state law business torts. Ontel still has not filed an Answer to the Amended Complaint.

Ontel served its invalidity contentions pursuant to L. Pat. R. 3.3 on June 30, 2025. Among other things, these contentions contained all of Ontel's prior art-based invalidity arguments, including charts identifying where specifically in each item of alleged prior art each recited claim limitation is to be found and an explanation of why the prior art purportedly rendered each asserted claim obvious. *See* L. Pat. R. 3.3(b)–(c).

Just days before its October 22, 2025 statutory deadline and nearly 4 months after disclosing its invalidity positions, Ontel filed its Petition for *Inter Partes* Review of the '479 patent on October 16, 2025.

II. A Stay Is Not Appropriate Under These Circumstances

Even ***after*** the Patent Office has instituted *inter partes* review—which has not happened here—"the decision to stay a patent case . . . rests within the sound discretion of the court." *Depomed Inc. v. Perdue Pharma L.P.*, No. 13-cv-00571 (JAP)(TJB), 2014 U.S. Dist. LEXIS 102109, at *5 (D.N.J. July 25, 2014).

In determining whether to stay a case pending *inter partes* review, courts in this District consider: (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) the status of the litigation. *See id.* at *6. HPI addresses each of those in turn.

A. A Stay Would Unduly Prejudice HPI and Present a Clear Tactical Disadvantage

While the delay inherent in the IPR process is, standing alone, insufficient to establish undue prejudice (*see Depomed* at *7), staying a case pending the completion of a co-pending IPR proceeding “naturally risks prolonging the final resolution of the pending case, and as such, may result in some inherent prejudice to the non-moving party.” *See id.* at *6–*7. That delay is only lengthened, and HPI further disadvantaged, because Ontel has sought a stay upon merely filing a request for an IPR when no IPR proceedings have been instituted (or indeed, are likely to be instituted at all).

A stay of this case pending IPR would delay this case by a minimum of 17.5 months even before appeals. Courts in this District have recognized that an IPR-induced stay could produce a delay of “one to two years, which is certainly substantial prejudice.” *Horizon Pharma Inc. v. Dr. Reddy’s Labs.*, C.A. No. 2:15-03324 (SRC), Dkt. 117 (D.N.J. July 25, 2018). Here, that prejudice is only increased because resolution of the seven non-patent counts at issue will also be delayed.

“In determining whether a stay will likely result in undue prejudice to the non-moving party or place it at a tactical disadvantage, the Court considers a number of additional factors including [1] the timing of the request for [IPR], [2] the timing of the request for [a] stay, [3] the status of the [USPTO] proceedings, and [4] the relationship of the parties.” *Depomed* at *7. Under the present circumstances, none of these factors favors a stay:

First, Ontel waited until less than a week before the statutory deadline to file its IPR petition. As discussed above, Ontel had its prior art-based invalidity arguments explained and charted in detail no later than June 30, 2025—nearly four months prior. And unlike in other cases where IPR petitions were filed two weeks before the statutory deadline because of recent case events such as dismissal of certain patents ten days prior (*see, e.g., Depomed* at *9), Ontel has offered no explanation for why it needed to wait until October to present to the USPTO a subset of the invalidity arguments it has provided here in June. This factor weighs against a stay.

Second, while Ontel did not meaningfully delay in seeking a stay of these proceedings **after filing its IPR petition**, that petition was, as just discussed, substantially delayed without any justification. This factor is at worst neutral.

Third, no review has been instituted—and as discussed in greater detail below, institution is unlikely. Without review actually being instituted, which if it occurs at all will not be known for nearly six months, this sub-factor militates against granting a stay.

Finally, it is undisputed that HPI and Ontel have been and continue to be direct competitors. Because “[c]ourts are hesitant to grant a stay in a matter where the parties are direct competitors” (*e.g., Depomed* at *11) this sub-factor favors denying a stay.

Overall, a stay under these circumstances would unduly prejudice HPI.

B. A Stay Would Not Simplify the Issues in Question

As an initial matter, that any purported simplification could possibly result from a stay is pure speculation at the present time. That is why “courts almost invariably deny requests for stays pending IPR proceedings when the stay requests are filed before the IPR is instituted.” *See British Telecommc’ns PLC v. IAC/InterActiveCorp.*, C.A. No. 18-366-WCB, 2019 U.S. Dist. LEXIS 166651, at *14 (D. Del. Sept. 27, 2019) (citing cases).

In addition, there have been a number of changes in the “petition stage” for IPRs earlier this year that have dramatically decreased the percentage of IPR petitions being instituted: from over 60% being institution to less than 40% being instituted.⁴ This has included a new focus on discretionary factors, such as settled expectations for claims that have been in force for longer than six years. And since Director Squires’s confirmation less than five weeks ago, he has promulgated a series of other changes to IPR handling that are generally considered to further decrease the likelihood of IPR institution.⁵

Even before this change in process and rates of institution, courts found that, “[g]enerally, the ‘simplification’ issue does not cut in favor of granting a stay prior to the time the PTAB decides whether to grant the petition for *inter partes* review.” *Beckman Coulter, Inc. v. Cytek Biosciences, Inc.*, No. 1:24-cv-00945-CFC, Dkt. 124, slip op. at 2 (D. Del. July 30, 2025) (internal quotation marks and citation omitted).

This was the rule in years past, when IPR petitions were instituted at a rate of 60–70%, because it was hardly a guarantee that a stay upon the mere filing of a petition would simplify the issues in question. And so courts did not (and do not) stay cases merely because an IPR is filed, when institution may never occur. *See Quantificare, Inc. v. Canfield Scientific, Inc.* No. 20-12305 (RMB/MJS), Dkt. 111, slip op. at 1 (D.N.J. Mar. 25, 2022) (finding that the factors favored a stay *after*, and “[p]articularly in light of” the fact of institution); *accord Earin AB v. Skullcandy Inc.*, No. 1:24-cv-00275, Dkt. 46 (D. Del. May 2, 2025) (denying motion to stay without prejudice to renewal after an institution decision because “institution and subsequent invalidation is too speculative”).

Recently, the chances of institution have been dropping, and they are presently below half of the historical rates (at most). According to RPX, IPRs were instituted on a mere 35% of petitions decided in Q3 2025—compared to 72% in Q3 2024.⁶ Using a different data set sourced from Docket Navigator, another report from Q3 2025 stated that “for IPR petitions filed since October 1, 2024, **72% have been denied**”—a 28% institution rate—“while IPR petitions filed between

⁴ See Memorandum from Chief Admin. Pat. Judge Scott R. Boalick to Members of the Pat. Trial and Appeal Bd. (Mar. 24, 2025) and Memorandum from Acting Under Secretary of Commerce for Intell. Prop. and Acting Dir. of the U.S. Pat. and Trademark Office Coke Morgan Stewart to All PTAB Judges (Mar. 26, 2025).

⁵ See <https://www.rpxcorp.com/data-byte/institution-rates-dropped-further-as-stewart-continued-discretionary-denial-expansion/> (Oct. 22, 2025).

⁶ See <https://www.rpxcorp.com/wp-content/uploads/sites/3/2025/10/RPX-Q3-in-Review-October-2025.pdf> at p. 8, published October 22, 2025.

January and August of that same year enjoyed a 61% institution rate.”⁷ Even if it were previously correct to assume that institution would be more likely than not to occur, that assumption clearly no longer holds today.

As Judge Burke explained, the Court “does not see the wisdom in staying a case in favor of the occurrence of an event (grant of an IPR petition and subsequent institution of an IPR) that has not happened and that has a significant chance of never happening.” *Hilti Aktiengesellschaft v. Specified Technologies, Inc.*, No. 1:22-cv-01248, Dkt. 154 (D. Del. Feb. 4, 2024). That same logic now applies all the more strongly given the recent bottoming-out in institution rates.

Moreover, any simplification that ***might eventually occur*** here will be minor relative to the overall case. Here, Ontel has not even filed an Answer, and so technically its potential invalidity defenses have not even been pleaded yet.

And unlike the typical cases that only (or primarily) involve patent issues, this litigation has ***seven counts*** that could not be simplified at all by Ontel’s requested stay pending IPR. Thus, the vast majority of the claims in this litigation do not pertain to patent issues at all. It is “well-settled that where the scope of the civil litigation exceeds the scope of the IPR proceedings, it is less likely that resolution of the IPR proceedings will simplify the civil litigation’s issues.” *Gesture Tech. Partners, LLC v. LG Elecs. Inc.*, No. 21-19234 (JMV) (MAH), Dkt. 50, at *10 (D.N.J. Apr. 4, 2022). Because only two of the nine remaining counts of the Amended Complaint involve the ’479 patent, the scope of this litigation vastly exceeds the scope of whatever IPR could possibly be instituted. As such, any simplification is both speculative and involves only a minority of the issues at play here.

This factor strongly favors denying Ontel’s stay request.

C. The Parties Have Already Expended Substantial Resources in Litigation

While no trial date has yet been set, substantial work has already been invested into this case. Unlike cases stayed in the “early stages of litigation,” the Court has already conducted a Rule 16(b)(2) scheduling conference, a scheduling order is in place, and discovery has taken place and remains ongoing. And while this case is not limited to the two patent counts, the parties have already completed their L. Pat. R. 4.1 and 4.2 exchanges, filed the L. Pat. R. 4.3 Joint Claim Construction and Prehearing Statement, and have begun work on their opening *Markman* briefs pursuant to L. Pat. R. 4.5, due in November.

In *Depomed*, the Court found that the “fact that the claim construction process has not yet begun” supported a stay after an IPR ***was already instituted***. 2014 U.S. Dist. LEXIS 102109, at *20. That is the mirror image of the current situation in this litigation. Here, the parties are well into the claim construction process, and will complete at least *Markman* briefing (if not also the to-be-scheduled *Markman* hearing) long before the April 16, 2026 deadline for the USPTO to decide whether to institute IPR on Ontel’s petition. Moreover, even in the unlikely event that

⁷ See <https://www.mintz.com/insights-center/viewpoints/2231/2025-08-28-ptab-pendulum-swings-how-ipr-denials-are-reshaping>, published August 28, 2025.

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institution were to occur, given the anticipated “petition phase” briefing, any decision to institute by Director Squires will be not made for approximately five and a half more months.

This factor does not militate towards granting Ontel’s stay request.

III. None of the Factors Favor Granting a Stay Under These Circumstances

As set forth above, none of the factors guiding this Court’s decision on whether to grant a stay based on Ontel’s mere filing of an IPR petition (which is unlikely to be instituted at all) favor staying these proceedings—which have seven counts that do not involve any patent issues. While the purported benefits of a stay are both minor and purely speculative, the harms they would impose on HPI are concrete, real, and substantial. Accordingly, the Court should deny Ontel’s request for a stay.

We thank the Court for its consideration and continued assistance in this matter.

Respectfully yours,

/s/ Katherine A. Escanlar

Katherine A. Escanlar

cc: Counsel of Record (by CM/ECF)