IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

PERCEPTIVE AUTOMATA LLC, Plaintiff, v. TESLA, INC., Defendant.	CIVIL ACTION NO. 2:25-cv-00742-JRG JURY TRIAL DEMANDED

PLAINTIFF'S SUREPLY IN OPPOSITION TO
DEFENDANT'S MOTION TO STAY PENDING *INTER PARTES* REVIEW

The Court should deny Tesla's Motion to Stay, consistent with its long-standing practice of denying stays prior to institution. *See, e.g.*, *Nanoco Techs. v. Samsung Elecs. Co.*, No. 2:20-cv-38-JRG, 2021 U.S. Dist. LEXIS 134729, at *4 (E.D. Tex. Jan. 8, 2021) ("Indeed, this Court has a consistent practice of denying motions to stay when the PTAB has yet to institute post-grant proceedings."). Tesla's attempts to justify deviation from the Court's standard practice fail. Notably, Tesla does not identify a single case in support of its assertion that "this case is an exception that warrants a stay," instead acknowledging that "courts in this District do not typically enter a stay pending institution of IPRs." Dkt. No. 56 ("Reply") at 2. The same should hold true here.

I. A STAY UNDULY PREDJUDICES PERCEPTIVE

Tesla's reliance on *Cellular Commc'ns Equip., LLC v. Samsung Elecs. Co., Ltd.*, a case from a different Division, is misplaced. The court there concluded that the prejudice factor actually "cuts slightly against a stay" and acknowledged that "CCE's interest in proceeding in a timely manner should be given weight in this analysis, as it is in every patent case." No. 6:14-cv-759-KNM, 2015 U.S. Dist. LEXIS 179517, at *9 (E.D. Tex. Dec. 16, 2015). Moreover, as the Court further explains "it is important to acknowledge that the PTAB actually granted *inter partes* review as to the asserted claims in the '174 patent and three of the '8923 claims at issue" in that case. *Id.* at *11. And even still, the Court granted only a partial stay as to the patents for which IPR had been instituted. *See id.* at *15.

Tesla's attempts to distinguish *Allvoice Devs. US, LLC v. Microsoft Corp.* also fail. *See* Reply at 2-3. In its decision denying a stay, this Court held that "although this case is in its early stages, the parties have conducted some discovery and exchanged infringement and invalidity contentions . . . *the merits of a stay do not outweigh the potential prejudice to Plaintiff*." No. 6:09-cv-366, 2010 U.S. Dist. LEXIS 148397, at *10 (E.D. Tex. June 4, 2010) (emphasis added). The

same is true here. Perceptive served infringement contentions, Tesla will serve its invalidity contentions in two weeks, and the parties are engaged in discovery. Further, Tesla's attempt to distinguish *Allvoice* by declaring that an inventor in that case had "died in the previous few years" (Reply at 4) falls flat as one of the inventors to the '579 patent-in-suit, Jacob Reinier Maat, passed away in October 2021. *See*, https://memori.nl/wijkbij%20duurstede/wijkbij%20duurstede/jacob-reinier-maat-98702 (translated using Google Translate). This only reinforces the fact that a stay risks the loss of testimonial and documentary evidence. Tesla cannot support its conclusory assertion that Perceptive is not prejudiced by a stay, and Tesla's Motion to Stay should be denied.

II. TESLA MISINTERPRETS THE COURT'S PRIOR HOLDINGS

Tesla perplexingly cites to *Customedia Techs., LLC v. DISH Network Corp.* to support its position that "the stage of the proceedings — i.e., the filing of IPRs challenging every claim before Tesla responded to the Complaint" weighs in favor of a stay because "this court has granted stays at later stages of a case." Reply at 4. But Tesla ignores that in *Customedia*, this Court initially "denied DISH's original motion without prejudice to refiling 'within 14 days following the PTAB's last institution decision regarding the Asserted Patents.'" No. 2:16-cv-129-JRG, 2017 U.S. Dist. LEXIS 167972, at *3 (E.D. Tex. Aug. 9, 2017). Specifically, the Court held that the motion was "premature, and a stay of these proceedings in advance of the PTAB's decision on whether or not to grant the petitions for CBM and IPR review should be denied." *Customedia Techs., LLC v. DISH Network Corp.*, No. 2:16-cv-129-JRG, 2017 U.S. Dist. LEXIS 215188, at *3-4 (E.D. Tex. Apr. 27, 2017). In short, the Court waited until nearly two months *after* the PTAB instituted review of all asserted claims before granting a stay. *See* 2017 U.S. Dist. LEXIS 167972 at *3, 5. As such, *Customedia* is not analogous and supports denial of Tesla's Motion to Stay.

Tesla also understates the stage of litigation claiming that "[t]he only activity that Perceptive identifies is a motion to dismiss, which Tesla filed *after* moving to stay." Reply at 3-4 (emphasis in

original). Tesla filed its Motion to Dismiss *on the very same day* that it filed its Motion to Stay and simply chose to file its Motion to Stay earlier in the day. *See* Dkt. Nos. 25, 30. Tesla's decision to file its Motion to Dismiss hours after its Motion to Stay does not render Tesla's Motion to Dismiss irrelevant to the stay analysis.

In sum, Tesla fails to identify a single decision from this District where the court granted a pre-institution stay. A stay of the proceedings now would unduly delay the timely and efficient resolution of the claims in this case and, as such, Tesla's motion should be denied.

III. TESLA STILL PROVIDES NO CONCRETE SUPPORT THAT A STAY WILL LIKELY RESULT IN SIMPLIFYING THE CASE

The PTAB proceedings at issue here have not been, and may never be, instituted. Courts in this District have repeatedly held that "[p]rior to institution, it is too speculative to determine whether the outcome of a non-instituted IPR will even present any alternative to litigation." *Rapid Completions LLC v. Baker Hughes, Inc.* No. 6:15-cv-724, 2016 U.S. Dist. LEXIS 70938, at *6-7 (E.D. Tex. June 1, 2016). This has never been truer than now, where the majority of PTAB proceedings are being denied institution.

Tesla's Reply offers nothing to bolster its highly speculative claims of simplification. *See* Reply at 4. Instead, Tesla expressly acknowledges that "this Court typically finds pre-institution arguments about potential simplification to be uncertain" and only suggests that the other factors outweigh that. *Id.* Moreover, Tesla's arguments about its *Sotera* Plus stipulation create even more uncertainty about any simplification that may result from Tesla's IPRs. Specifically, Tesla appears to suggest that its stipulation would only be binding "in parallel to instituted IPRs, *without* a stay." *Id.* (emphasis in original). But its stipulation is not conditioned on this Court granting a stay. *See* Dkt. No. 47.

Tesla's myriad of hypotheticals that it alleges "could resolve this proceeding" do not change the fact that these hypothetical situations are just that—hypothetical, and speculative. Tesla has not, and cannot, meet its burden, pre-institution, of establishing that a stay *will likely result in* simplifying the case before the court. *See Nanoco Techs*, 2021 U.S. Dist. LEXIS 134729, at *3-4. As such, the Court should follow its standard practice and deny Tesla's Motion to Stay.

IV. CONCLUSION

Perceptive respectfully requests that the Court deny Tesla's Motion to Stay in its entirety.

Dated: December 1, 2025

Respectfully submitted,

/s/ Timothy E. Grochocinski
Patrick J. Conroy (lead counsel)
Texas Bar No. 24012448
Jonathan H. Rastegar
Texas Bar No. 24064043
Nelson Bumgardner Conroy PC
2727 N. Harwood St., Suite 250
Dallas, Texas 75201
Tel: (214) 446-4950
pat@nelbum.com
jon@nelbum.com

Timothy E. Grochocinski
Illinois Bar No. 6295055
C. Austin Ginnings
Illinois Bar No. 6343678
Taryn N. Trusty
Illinois Bar No. 6344409
Nelson Bumgardner Conroy PC
745 McClintock Drive, Suite 340
Burr Ridge, Illinois 60527
Tel: (708) 675-1974
tim@nelbum.com
austin@nelbum.com
taryn@nelbum.com

Andrea L. Fair
Texas Bar No. 24078488
Miller Fair Henry, PLLC
1507 Bill Owens Pkwy
Longview, TX 75604
Tel: (903) 757-6400
andrea@millerfairhenry.com

Attorneys for Plaintiff
Perceptive Automata LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 1, 2025, a true and correct copy of the foregoing was filed electronically using the CM/ECF filing system of the court, which will serve all counsel of record who have consented to electronic service.

/s/ Timothy E. Grochocinski