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

I. INTRODUCTION

The Court should deny Defendant Tesla, Inc.'s Motion to Stay (Dkt. No. 25 ("Motion")), consistent with the Court's prior cases and long-standing practice of denying stays prior to institution of *inter partes* review proceedings ("IPRs"). *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 fails to acknowledge, or to provide any compelling reason to deviate from, this consistent practice.

Even aside from this practice, the factors that this Court considers when deciding whether to stay litigation pending the outcome of IPRs weigh against a stay here. First, a stay would unduly prejudice Plaintiff Perceptive Automata LLC ("Perceptive") by delaying the timely adjudication of its patent rights. A stay pending resolution of the IPRs could result in a delay of over a year and a half, depriving Perceptive of a timely jury trial. Second, this case is not in its infancy, with activities already ongoing and proceeding towards resolution. Lastly, because there has been no decision on institution of Tesla's request for IPR, Tesla cannot show that a stay would simplify any issues or otherwise promote judicial economy and efficiency.

Tesla's Motion should be denied.

II. BACKGROUND

On July 23, 2025, Perceptive filed suit against Tesla, Inc. ("Tesla") asserting five patents: U.S. Patent No. 10,614,344 (the "'344 patent"), U.S. Patent No. 11,126,889 (the "'889 patent"), U.S. Patent No. 11,467,579 (the "'579 patent"), U.S. Patent No. 11,520,346 (the "'346 patent"), and U.S. Patent No. 11,753,046 (the "'046 patent"), collectively, the "Asserted Patents." (Dkt. No. 1 at 1.) Tesla has filed five IPR petitions, challenging the patentability of all claims. (Dkt. No. 25 at 1-2.) IPR2025-01573 has been accorded a filing date of September 30, 2025, IPR2025-01574

has been accorded a filing date of October 2, 2025, IPR2025-01575 has been accorded a filing date of October 1, 2025, IPR2025-01576 has been accorded a filing date of October 9, 2025, and IPR2025-01577 has been accorded a filing date of October 10, 2025. (Dkt. No. 25 at 2.)

Perceptive served its infringement contentions on September 30, 2025. (Dkt. No. 37.) The parties attended the Court's case management conference on September 30, 2025. (Dkt. No. 20.) The parties have negotiated and entered into initial case management stipulations and the Court has issued its Docket Control Order, Discovery Order, and First Amended Docket Control Order based thereon. (Dkt. Nos. 21, 42, 45.) The parties have also served initial and additional disclosures. (Dkt. Nos. 38, 39.) In addition, Tesla has filed a motion to dismiss, raising arguments concerning patentable subject matter under § 101 as well as venue related challenges. (Dkt. No. 30.) Concurrently herewith, Perceptive is filing an amended complaint. Perceptive has begun producing documents. (Ginnings Decl., ¶ 3.)[1] Tesla's invalidity and subject matter eligibility contentions are also due within the next month. (Dkt. No. 45 at 5.)

Under the Court's First Amended Docket Control Order, a claim construction hearing is set for November 12, 2026 and jury selection and trial are set for May 17, 2027. (Dkt. No. 45 at 1, 4.)

III. TESLA'S MOTION SHOULD BE DENIED AS ALL THREE FACTORS WEIGH AGAINST A STAY

District courts typically consider three factors when determining whether to grant a stay pending IPRs: (1) whether the stay will unduly prejudice the nonmoving party, (2) whether the proceedings before the court have reached an advanced stage, and (3) whether the stay will likely result in simplifying the case before the court. *Nanoco Techs*, 2021 U.S. Dist. LEXIS 134729, at *3-4.

[1] "Ginnings Decl." refers to the concurrently-filed Declaration of C. Austin Ginnings in Support of Plaintiff's Response in Opposition to Defendant's Motion to Stay.

This Court has a consistent practice of denying motions to stay when the PTAB has yet to institute post-grant proceedings. *Id.* at *4 ("Indeed, this Court has a consistent practice of denying motions to stay when the PTAB has yet to institute post-grant proceedings."); *see also Trover Group, Inc. v. Dedicated Micros USA*, No. 2:13-cv-1047-WCB, 2015 U.S. Dist. LEXIS, at *17 (E.D. Tex. Mar. 11, 2015) ("In this district, that is not just the majority rule; it is the universal practice. This Court's survey of cases from the Eastern District of Texas shows that when the PTAB has not yet acted on a petition for *inter partes* review, the courts have uniformly denied motions for a stay."). Indeed, Tesla's Motion does not identify any Eastern District of Texas court decisions granting a pre-institution stay.

Considering this Court's consistent practice, Tesla's Motion should be denied on this basis alone. However, Tesla's Motion should also be denied because all three factors weigh against a stay, as shown below.

A. A Stay Would Unduly Prejudice Perceptive

Perceptive has an undeniable and legitimate interest in the timely enforcement of its patent rights, consistent with the guiding purpose of the Federal Rules to promote a just and speedy determination. *See, e.g.*, *Pers. Audio LLC v. Google, Inc.*, 230 F. Supp. 3d 623, 627 (E.D. Tex. 2017) ("This court routinely upholds a plaintiff's interest in timely enforcement of its patent rights."). This holds true when the patent holder has not sought an injunction, *see, e.g.*, *3rd Eye Surveillance, LLC v. Stealth Monitoring, Inc.*, No. 6:14–cv–162–JDL, 2015 U.S. Dist. LEXIS 4213, at *5-6 (E.D. Tex. Jan. 14, 2015) ("[T]he fact that 3rd Eye did not to seek a preliminary injunction does not automatically rule out the possibility that it will suffer prejudicial harm if a stay is granted."), or is a non-practicing entity, s*ee, e.g.*, *Rembrandt Wireless Techs., LP v. Samsung Elecs. Co.*, No. 2:13-cv-213-JRG-RSP, 2015 U.S. Dist. LEXIS 20303, at *9 (E.D. Tex. Jan. 29, 2015).

The PTAB will not decide whether to institute all the IPR proceedings in this case until about April 2026 (approximately six months after the last October 2025 accorded filing date). And even if the Board were to institute proceedings on one or all the Petitions, the Board would not issue a final written decision until about April 2027, which can be extended another six months to October 2027. As trial is currently set for May 17, 2027, staying this case pending resolution of the IPRs could result in a delay of over a year and a half, depriving Perceptive of a timely jury trial. In addition, any Federal Circuit appeals of the final written decision would delay this case even further. As this Court has found in analogous cases, such a delay will result in significant prejudice to Perceptive, and therefore, this factor weighs against a stay. *See Saxon Innovations, LLC v. Palm, Inc.*, No. 6:09-cv-272, 2009 U.S. Dist. LEXIS 105928, at *2 (E.D. Tex. Nov. 4, 2009) (finding prejudice where delay would be eight months); *Realtime Data LLC v. Actian Corp.*, No. 6:15-cv-463-RWS-JDL, 2016 U.S. Dist. LEXIS 77566, at *13 (E.D. Tex. June 14, 2016); *Chrimar Sys., Inc. v. Adtran, Inc*., No. 6:15-cv-618-JRG-JDL, 2016 U.S. Dist. LEXIS 99935, at *15-16 (E.D. Tex. Aug. 1, 2016).

Finally, a stay risks the loss of testimonial and documentary evidence potentially valuable to Perceptive's case. *See Allvoice Devs. US, LLC v. Microsoft Corp.*, No. 6:09-cv-366, 2010 U.S. Dist. LEXIS 148397, at *10 (E.D. Tex. June 4, 2010) (holding that a stay of ten months would "create a substantial delay that could cause prejudice by preventing Plaintiff from moving forward with its infringement claims and by risking the loss of evidence as witnesses become unavailable and memories fade").

Accordingly, this factor weighs against a stay.

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B. A Stay at This Stage in the Litigation Would Interfere with Proceedings that are Already Underway

Perceptive acknowledges that this case is not at a late stage of the proceedings. It is far enough along, however, that a stay would disrupt the currently underway and ongoing activities.

This action has proceeded deliberately toward resolution. The parties attended the Court's case management conference on September 30, 2025. (Dkt. No. 20.) The parties have negotiated regarding the operative Docket Control Order and Discovery Order and the forthcoming Protective Order, and have exchanged initial and additional disclosures and infringement contentions. (Dkt. Nos. 37, 38,39, 42, 45.) A claim construction hearing and trial date have also been set. (Dkt. No. 45.) Party discovery is underway. (Ginnings Decl., ¶ 3.) Tesla has already engaged in substantive motion to practice by filing a motion to dismiss for improper venue and for failure to state a claim, raising § 101 challenges as to all Asserted Patents. (Dkt. No. 30.)

The only argument Tesla puts forth regarding the stage of the case is that Tesla filed its IPR petitions before its deadline to respond to the complaint, and as such, staying the case now would supposedly "avoid all the costs of potentially duplicative litigation." (Mot. at 4.) Tesla has responded to the complaint by filing a motion to dismiss for improper venue and for failure to state a claim, raising § 101 challenges as to all Asserted Patents. (Dkt. No. 30.) And, while Perceptive's concurrently-filed amended complaint will moot that motion to dismiss, it is Perceptive's expectation that Tesla will again move to dismiss.

Halting the proceedings now—based only on Tesla's speculative hopes about its just-filed and as-yet un-instituted Petitions—would disrupt the already-in-place plan for this litigation and would unduly delay the timely and efficient resolution of its claims. Even if the IPRs are not instituted, it would take many months to get this litigation back on track.

Accordingly, this factor also weighs against a stay.

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C. Tesla Provides No Basis Supporting that a Stay Will Simplify the Issues

Tesla's Motion states that "The IPRs Will Simplify or Eliminate Issues, Reducing the Burden on the Parties and This Court." (Mot. at 5.) But "[i]t is far too early to determine that a stay *will*—rather than *may*—simplify the issues in the case." *Robert Bosch, LLC v. Westport Fuel Sys. Canada Inc.*, No. 2:23-cv-00038-JRG-RSP (Dkt. No. 56) (E.D. Tex. Feb. 11, 2023) (denying Defendant's motion to stay) (emphasis in original).

PTAB proceedings have not been, and may never be, instituted. Tesla provides no analysis or argument for how "the issues for claim construction, expert discovery, dispositive motions briefing and, ultimately, trial" will allegedly be simplified. (*See* Mot. at 5-6.) As courts in this District have repeatedly held, "[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).

While Tesla has submitted a Notice of Broadened *Sotera* Plus Stipulation (Dkt. No. 47), its stipulation is limited to the following:

> Tesla hereby stipulates that, if the PTAB institutes any of the above listed IPRs (and does not subsequently vacate institution or otherwise terminate the IPR without a Final Written Decision), then, with respect to the patent being challenged in the instituted IPR, Tesla will not assert or otherwise argue at trial that any claim of the patent is invalid on the basis of: (i) the specific grounds raised in the instituted IPR, (ii) any other grounds that could have reasonably been raised before the PTAB in that instituted proceeding (i.e., any ground that could have reasonably been raised under §§ 102 or 103 on the basis of prior art patents or printed publications), or (iii) any ground based on a combination of system prior art and the references asserted as part of a ground raised in the corresponding instituted IPR.

(*Id.* at 2.) Notably, in its stipulation, Tesla does not forego all §§ 102/103 invalidity theories, but by omission appears to be reserving the right to assert (1) §§ 102/103 theories based on system

prior art, and (2) §§ 102/103 theories based on system prior art in combination with prior art other than the references specifically used as grounds in its IPR petitions. Thus, Tesla is still seeking to be able to have a second bite at the §§ 102/103 invalidity apple before this Court even if its IPRs are instituted. Doing so does not simplify the issues before this Court. Moreover, Tesla's motion to dismiss (Dkt. No. 30) makes clear that Tesla intends to pursue § 101 invalidity theories, including early in this case—an additional lack of simplification. Tesla has additionally indicated that it intends to pursue inequitable conduct claims in this case (Ginnings Decl., ¶ 4), and while Tesla has not served its invalidity contentions, to the extent Tesla raises any § 112 defenses, this Court will be burdened by having to decide those issues as well—a further lack of simplification.

According, this factor also weighs against a stay. The Court should apply the foregoing three-factor analysis and deny Tesla's Motion.

IV. CONCLUSION

Perceptive respectfully requests that the Court follow its and the District's established practice of denying requests for pre-institution stays, and deny Tesla's Motion to Stay in its entirety.

Dated: November 14, 2025

Respectfully submitted,

/s/ C. Austin Ginnings

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 14, 2025, the foregoing document was served by e-mail on all counsel of record.

/s/ C. Austin Ginnings

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