

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

CENTRIPETAL NETWORKS, INC.

Plaintiff,

v.

Civil Action No. 2:21-CV-00137 (EWH)

PALO ALTO NETWORKS, INC.,

Defendant.

ORDER

This matter is before the Court on Centripetal Networks, Inc.’s (“Plaintiff” or “Centripetal”) Motion to Lift the Stay of the Case as to Six Asserted Patents that are Not the Subject of IPR Proceedings (“Motion”) (ECF No. 301). For the reasons stated below, Plaintiff’s Motion is DENIED.

This is a patent infringement action brought by Centripetal against Palo Alto Networks, Inc. (“Defendant” or “PAN”). Centripetal asserts twenty-six causes of action arising out of the alleged infringement of thirteen patents. Am. Compl. ¶¶ 78–468, ECF No. 65. On July 9, 2021, PAN filed a Motion to Stay pending resolution of *inter partes* review (“IPR”) proceedings before the Patent Trial and Appeal Board (“PTAB”). ECF No. 67 (“PAN’s Stay Motion”). Centripetal opposed PAN’s Stay Motion, and the parties provided updates regarding the status of proceedings before the PTAB. ECF Nos. 100, 274. On March 1, 2022, the Court granted PAN’s Stay Motion, ordering that the case be stayed pending PTAB review. ECF No. 286. Seven weeks after the Court’s order instituting the stay, Centripetal filed this Motion requesting the Court lift the stay. Given the limited time between Centripetal’s Motion and the Court’s order staying the case, as well as the similarity of Centripetal’s arguments in the instant motion and regarding PAN’s Stay

Motion, the Court will treat the Motion as a request for reconsideration under Rule 54(b) of the Federal Rules of Civil Procedure.

Rule 54(b) provides a district court with the discretion to “reconsider and modify its interlocutory judgments . . . at any time prior to final judgment when such is warranted.” *Am. Canoe Ass’n v. Murphy Farms, Inc.*, 326 F.3d 505, 514–15 (4th Cir. 2003). The Court may exercise this discretion as justice requires. *Id.* at 515. However, district courts generally do not depart from their prior rulings unless:

the Court has patently misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension. . . . [Or] a controlling or significant change in the law or facts since the submission of the issue to the Court [has occurred].

Above the Belt, Inc. v. Mel Bohannon Roofing, Inc., 99 F.R.D. 99, 101 (E.D. Va. 1983); accord *McAfee v. Boczar*, No. 3:11cv646, 2012 WL 2505263, at *2 (E.D. Va. June 28, 2012). Here, the central inquiry is whether there has been a significant change in facts to warrant reconsideration of the Court’s Order granting a stay.

There have been two changes in fact since the Court’s order which could be considered significant: (1) the Patent and Trademark Office instituted review of claims related to two additional patents; and (2) Centripetal offered to dismiss without prejudice its claims related to the seven instituted patents. The Court finds that these facts do not warrant reconsideration.

First, when the Court granted the stay, the Director of the Patent and Trademark Office had instituted IPR proceedings on claims related to five of the thirteen patents asserted by Centripetal. Mem. Op. 3, ECF No. 285. The Court explained that while the PTAB had “yet to decide on two petitions. . . . [e]ven if the PTAB were to only review the five petitions currently instituted, it would still simplify the issues in this action.” Mem. Op. 9. Since then, the Director granted the two remaining petitions, bringing the total number of instituted patents to seven. PAN’s Seventh Notice

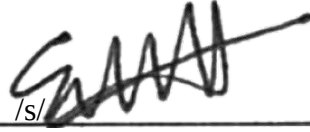
of Issuance of IPR Decisions 2, ECF No. 290. As this Court previously recognized, “PTAB review has the potential to greatly streamline this action and reduce the expense of this litigation.” Mem. Op. 9. The addition of the two remaining petitions thus further weighs in favor of continuing the stay.

Second, Centripetal indicates that it is willing to dismiss the seven instituted patents from the case. Pl.’s Mem. in Supp. of its Mot. to Lift the Stay 1, ECF No. 302. That fact alone does not warrant departure from the Court’s previous ruling. Even if the seven instituted patents are voluntarily dismissed from this proceeding, a stay would still simplify the issues before the Court. The PTAB’s findings during IPR proceedings of the instituted patents may assist the Court when construing claims in a *Markman* hearing on related non-instituted patents. *See IOENGINE, LLC v. PayPal Holdings, Inc.*, 18-452-WCB, 2019 WL 3943058, at *9 (Del. D. Aug. 21, 2019) (“PTAB’s judgment with respect to the proper construction of the claims of the [instituted patent] and its assessment of the art will likely be instructive in the district court litigation.”). Further, Centripetal’s proposed dismissal is without prejudice, permitting it to refile claims on the instituted patents after IPR proceedings conclude. This outcome would reduce judicial efficiency and burden the court. *See Murata Machinery USA. v. Daifuku Co., Ltd.*, 830 F.3d 1357, 1362 (Fed. Cir. 2016) (holding that the district court may consider the burden the litigation places on the court when deciding whether to grant a stay based on looming IPR proceedings). Conversely, maintaining the stay until the resolution of IPR proceedings will allow the Court to address the patent claims as a convenient unit. As a result, the Court finds that none of the additional facts presented to the Court warrant a reconsideration of the Court’s decision granting the stay at this time.

For these reasons, Plaintiff’s Motion to Lift the Stay (ECF No. 301) is DENIED.

Also pending before the Court is Plaintiff's Amended Motion to Compel discovery (ECF No. 281). The Court DENIES WITHOUT PREJUDICE Plaintiff's Amended Motion. If Plaintiff wishes to proceed with this motion, it may refile the motion after the stay is lifted.

It is SO ORDERED.

A handwritten signature in black ink, appearing to read 'E. Hanes', written over a horizontal line.

Elizabeth W. Hanes
United States District Judge

Norfolk, Virginia
Date: November 7, 2022