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

GARRITY POWER SERVICES LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 2:20-CV-00269-JRG
	§	
SAMSUNG ELECTRONICS CO. LTD, SAMSUNG ELECTRONICS AMERICA, INC.,	§	
	§	
Defendants.	§	

ORDER

Before the Court is Defendants Samsung Electronics Company, Ltd. ("SEC") and Samsung Electronics America, Inc.'s ("SEA") (collectively, "Defendants" or "Samsung") Motion to Stay Pending *Inter Partes* Review Proceedings (the "Motion"). (Dkt. No. 25). In the Motion, Samsung asks the Court to stay all action in the above-captioned matter pending the Patent Trial and Appeal Board's ("PTAB") *inter partes* review ("IPR") of the patent-in-suit.

Plaintiff Garrity Power Services LLC ("Plaintiff" or "GPS") has asserted one patent against Samsung: U.S. Patent No. 9,906,067 ("the '067 Patent" or "the Asserted Patent"). (Dkt. No. 1 at 4). Samsung has filed an IPR petition, effectively challenging the patentability of all claims asserted in this case. (Dkt. No. 25 at 2). The petition challenging the '067 patent was filed on December 31, 2020.[1] (*Id.*). The PTAB has not yet decided whether to institute *inter partes* review of the Asserted Patent.

The district court has the inherent power to control its own docket, including the power to stay proceedings. *Clinton v. Jones*, 520 U.S. 681, 706 (1997). How to best manage the court's

[1] IPR2021-389.

docket "calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936).

"District courts typically consider three factors when determining whether to grant a stay pending *inter partes* review of a patent in suit: (1) whether the stay will unduly prejudice the nonmoving party, (2) whether the proceedings before the court have reached an advanced stage, including whether discovery is complete and a trial date has been set, and (3) whether the stay will likely result in simplifying the case before the court." *NFC Techs. LLC v. HTC Am., Inc.*, Case No. 2:13-cv-1058-WCB, 2015 WL 1069111, at *2 (E.D. Tex. Mar. 11, 2015) (Bryson, J.). "Based on th[ese] factors, courts determine whether the benefits of a stay outweigh the inherent costs of postponing resolution of the litigation." *Id.*

Where a motion to stay is filed before the PTAB institutes any proceeding, courts often withhold a ruling pending action on the petition by the PTAB or deny the motion without prejudice to refiling in the event that the PTAB institutes a proceeding. *VirtualAgility Inc. v. Salesforce.com, Inc.*, 759 F.3d 1307, 1316 (Fed. Cir. 2014) (citing *Checkfree Corp. v. Metavante Corp.*, No. 12-cv-15, 2014 WL 466023, at *1 (M.D. Fla. Jan. 17, 2014)); *see also NFC Techs.*, 2015 WL 1069111, at *6. Indeed, this Court has a consistent practice of denying motions to stay when the PTAB has yet to institute post-grant proceedings. *Trover Group, Inc. v. Dedicated Micros USA*, No. 2:13-cv-1047-WCB, 2015 WL 1069179, at *6 (E.D. Tex. Mar. 11, 2015) (Bryson, J.) ("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.").

Considering these circumstances, the Court concludes that Samsung's motion is premature, and a stay of these proceedings in advance of the PTAB's decision on whether or not to institute *inter partes* review of the Asserted Patent should be denied. Accordingly, the Motion is

DENIED WITHOUT PREJUDICE to refiling of the same, which shall be permitted within fourteen (14) days following the PTAB's institution decision.

So ORDERED and SIGNED this 17th day of February, 2021.

RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE