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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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11 ENTROPIC COMMUNICATIONS,
12 LLC,

13 Plaintiff,

14 v.

15 DISH NETWORK CORPORATION,
16 DISH NETWORK LLC,
17 DISH NETWORK SERVICE, LLC,
and
DISH NETWORK CALIFORNIA
SERVICE CORPORATION.

18 Defendants.

Case No. 2:23-cv-01043-JWH-KES
[Lead Case]

**ORDER DENYING COMCAST'S
MOTION TO STAY [ECF
No. 535]**

19 ENTROPIC COMMUNICATIONS,
20 LLC,

21 Plaintiff,

22 v.

23 COX COMMUNICATIONS, INC.,
24 COXCOM, LLC, and
COX COMMUNICATIONS
CALIFORNIA, LLC,

25 Defendants.
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Case No. 2:23-cv-01047-JWH-KES
[Consolidated]

ENTROPIC COMMUNICATIONS,
LLC,

Plaintiff,

v.

COMCAST CORPORATION,
COMCAST CABLE
COMMUNICATIONS, LLC, and
COMCAST CABLE
COMMUNICATIONS
MANAGEMENTS, LLC,

Defendants.

Case No. 2:23-cv-01048-JWH-KES
[Consolidated]

ENTROPIC COMMUNICATIONS,
LLC,

Plaintiff,

v.

DIRECTV, LLC, and
AT&T SERVICES, INC.,

Defendants.

Case No. 2:23-cv-05253-JWH-KES
[Consolidated]

1 Before the Court is the motion of Defendants Comcast Cable
2 Communications, LLC; Comcast Cable Communications Management, LLC;
3 and Comcast Corporation (collectively, “Comcast”) to the stay the Entropic-
4 Comcast Cases¹ filed by Plaintiff Entropic Communications LLC pending *inter*
5 *partes* review (“IPR”) before the U.S. Patent and Trademark Office Patent Trial
6 and Appeal Board (the “PTAB”).² Defendants DISH Network Corporation;
7 DISH Network L.L.C.; DISH Network Service L.L.C.; and DISH Network
8 California Service Corporation (collectively, “DISH”), Cox Communications,
9 Inc.; CoxCom, LLC; and Cox Communications California, LLC (collectively,
10 “Cox”), and DirecTV, LLC and AT&T Services, Inc. (jointly, “DirecTV”) do
11 not oppose Comcast’s Motion. DISH, Cox, and DirecTV request that, to the
12 extent that the Court enters a stay, these cases be stayed as a whole.³ Entropic
13 opposes Comcast’s instant Motion, and Entropic responded to DISH, Cox, and
14 DirecTV’s respective statements of non-opposition.⁴ MaxLinear, Inc. and

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19 ¹ The Entropic-Comcast Cases are Case No. 2:23-cv-01048 (now
20 consolidated through the claim construction stage with Case No. 2:23-cv-01043)
21 and Case No. 2:23-cv-01050 (now consolidated with Case No. 2:23-cv-01049
22 through the claim construction stage). Due to the differences in asserted patents
between the two cases, the Court addresses whether a stay is appropriate in each
case via separate order, filed in each respective lead case.

23 ² Comcast’s Motion to Stay (the “Motion”) [ECF No. 535].

24 ³ DISH’s Statement of Non-Opposition to the Motion [ECF No. 536];
25 Cox’s Statement of Non-Opposition to the Motion [ECF No. 537]; DirecTV’s
26 Statement of Non-Opposition to the Motion [ECF No. 538].

27 ⁴ Entropic’s Opp’n to the Motion (“Entropic’s Opposition”) [ECF
28 No. 541]; Entropic’s Response to DISH [ECF No. 542]; Entropic’s Response to
Cox [ECF No. 543]; Entropic’s Response to DirecTV [ECF No. 544].

1 MaxLinear Communications LLC (jointly, “MaxLinear”) also oppose
2 Comcast’s Motion.⁵

3 The Court concludes that this matter is appropriate for resolution without
4 a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15. After considering the papers filed in
5 support and in opposition, the Court **DENIES** the Motion for the reasons set
6 forth below.

7 I. BACKGROUND

8 In February 2023, Entropic filed complaints commencing actions against
9 DISH, Cox, and Comcast.⁶ Entropic later filed an action against DirecTV.⁷ All
10 of these matters are now consolidated.⁸

11 In its Complaints, Entropic alleges that Defendants’ activities infringe
12 U.S. Patent Nos. 7,295,518 (the “’518 Patent”); 7,594,249 (the “’249 Patent”);
13 7,889,759 (the “’759 Patent”); 8,085,802 (the “’802 Patent”); 9,838,213 (the
14 “’213 Patent”); 10,432,422 (the “’422 Patent”); 8,631,450 (the
15 “’450 Patent”); 8,621,539 (the “’539 Patent”); 8,320,566 (the “’0566 Patent”);
16 10,257,566 (the “’7566 Patent”); 8,228,910 (the “’910 Patent”); and 8,363,681
17 (the “’681 Patent”).⁹

21 ⁵ MaxLinear’s Opp’n to the Motion (“MaxLinear’s Opposition”) [ECF
22 No. 539]. MaxLinear is a counterdefendant in other patent cases filed by
23 Entropic that are pending before this Court.

24 ⁶ *See* Compls. [ECF No. 1 in Case Nos. 2:23-cv-01043, 2:23-cv-01047, &
2:23-cv-01048].

25 ⁷ *See* Compl. [ECF No. 1 in Case No. 2:23-cv-05253].

26 ⁸ *See* Order Granting Joint Stip. to Consolidate Cases [ECF No. 129].

27 ⁹ Second Am. Compl. (the “MoCA Amended Complaint”) [ECF No. 190]

28 ¶ 5.

Comcast moves for a stay pending the resolution of three petitions for IPR filed by Comcast and DISH. The following table lists the status of each patent in suit:

Patent	Challenges	Status
'518 Patent	IPR2024-00393 (Claims 1 & 3); IPR2024-00431 (Claims 1-4); 35 U.S.C. § 101 challenge	review instituted in both proceedings; § 101 challenge pending
'249 Patent	IPR2024-00373 (Claims 1-17)	review instituted
'759 Patent	IPR2024-00462 (Claims 1-3); IPR2024-00452 (Claims 1-23); 35 U.S.C. § 101 challenge	institution denied in both proceedings; § 101 challenge pending
'802 Patent	35 U.S.C. § 101 challenge	pending
'213 Patent	35 U.S.C. § 101 challenge	pending
'422 Patent	35 U.S.C. § 101 challenge	pending
'450 Patent	IPR2024-00560 (Claims 23-38)	institution denied
'539 Patent	IPR2024-00546 (Claims 1-7); 35 U.S.C. § 101 challenge	institution denied; § 101 challenge pending
'0566 Patent	IPR2024-00555 (Claims 1-6 & 12)	institution denied
'7566 Patent	35 U.S.C. § 101 challenge	granted ¹⁰
'910 Patent	35 U.S.C. § 101 challenge	granted ¹¹
'681 Patent	35 U.S.C. § 101 challenge	pending

¹⁰ Order on DISH Defs.' Motion to Dismiss under 35 U.S.C. § 101 [ECF No. 103].

¹¹ *Id.*

II. LEGAL STANDARD

A district court has broad discretion to stay a case in the interest of judicial economy and to ensure the orderly and efficient management of litigation. *See Clinton v. Jones*, 520 U.S. 681, 706 (1997); *see also Landis v. North American Co.*, 299 U.S. 248, 254 (1936) (“The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants.”). A district court may find the entry of a stay to be efficient and fair. *See Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).

Three factors guide the consideration of whether to stay an action pending an IPR: “(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the nonmoving party.” *Aten Int’l Co., Ltd v. Emine Tech. Co., Ltd.*, 2010 WL 1462110, at *6 (C.D. Cal. Apr. 12, 2010) (quoting *Telemac Corp. v. Teledigital, Inc.*, 450 F. Supp. 2d 1107, 1111 (N.D. Cal. 2006)). The inquiry, however, is not limited to those factors: “the totality of the circumstances governs.” *Allergan Inc. v. Cayman Chem. Co.*, 2009 WL 8591844, at *2 (C.D. Cal. Apr. 9, 2009) (citation omitted). “The moving party bears the burden of demonstrating that a stay is appropriate.” *Finjan, Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032, 1035 (N.D. Cal. 2015) (internal citations omitted).

III. ANALYSIS

A. Stage of Litigation

The stage of the litigation is assessed at the time that a motion for stay is filed. *See VirtualAgility Inc. v. Salesforce.com, Inc.*, 759 F.3d 1307, 1317 (Fed. Cir. 2014). This case is at an early stage. The Court has not yet conducted a claim construction hearing nor issued a claim construction order. *See Wonderland*

1 *Nursery Goods Co. v. Baby Trend, Inc.*, 2015 WL 1809309, at *3 (C.D. Cal.
2 Apr. 20, 2015) (finding that a stay was warranted when the parties had
3 submitted claim construction briefs, but no claim construction hearing had
4 occurred). When Comcast filed the instant Motion, the parties had not yet filed
5 their claim construction briefs, and the claim construction hearing—originally
6 set for September 17, 2024—had been vacated.¹²

7 Discovery is also still in its early stages. Although the parties have
8 exchanged documents and have proposed claim constructions, the parties have
9 not taken any depositions nor undertaken expert discovery for issues other than
10 claim construction. *See Locata LBS, LLC v. Yellowpages.com, LLC*, 2014 WL
11 8103949, at *2-*3 (C.D. Cal. July 11, 2014) (the case was in its early stages when
12 neither party had requested nor taken any depositions and expert discovery had
13 not yet commenced); *see also Pi-Net Int'l, Inc. v. Hertz Corp.*, 2013 WL 7158011,
14 at *2 (C.D. Cal. June 5, 2013). Also, discovery is not complete, and no trial date
15 has been set. *See Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943
16 F. Supp. 2d 1028, 1031 (C.D. Cal. 2013) (considering “whether discovery is
17 complete and whether a trial date has been set”) (internal quotations and
18 citations omitted).

19 Additionally, “there is more work ahead of the parties and the Court than
20 behind.” *Polaris PowerLED Techs., LLC v. LG Elecs., Inc.*, 2020 WL 6064964, at
21 *2 (C.D. Cal. Aug. 26, 2020) (internal citations and quotations omitted). The
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23 ¹² Order on Stipulation for Interim Stay of Cases Pending Institution of
24 Petitions for *Inter Parties* Review [ECF No. 532]. The parties have since filed
25 their respective claim construction briefs. *See* Defs.’ Opening Claim
26 Construction Brief [ECF No. 558]; Entropic’s Opening Claim Construction
27 Brief [ECF No. 559]; Defs.’ Responsive Claim Construction Brief [ECF
28 No. 562]; Entropic’s Responsive Claim Construction Brief [ECF No. 563]. A
claim construction hearing is set for February 25, 2025. Order on Joint
Stipulation Setting Claim Construction Schedule [ECF No. 549].

1 parties have filed many procedural and pleading-stage motions, and the Court
2 has invested significant resources in resolving those motions, but none of those
3 motions has significantly advanced the stage of the litigation. *See Universal*
4 *Elecs.*, 943 F. Supp. 2d at 1031 (“[T]he Court’s expenditure of resources is an
5 important factor in evaluating the stage of the proceedings.”). Moreover, the
6 Court and the parties have significant substantive work ahead, including the
7 claim construction process and summary judgment.

8 For the foregoing reasons, this factor slightly favors a stay.

9 **B. Simplification of the Issues**

10 “There is a ‘near uniform line of authority [reflecting the principle that]
11 after the PTAB has instituted review proceedings, the parallel district court
12 litigation ordinarily should be stayed.’” *Versata Software, Inc. v. Configit A/S*,
13 2022 WL 3598158, at *3 (C.D. Cal. Apr. 27, 2022) (citing *NFC Tech. LLC v.*
14 *HTC America, Inc.*, 2015 WL 1069111, at *6–*7 (E.D. Tex. Mar. 11, 2015)). But
15 in this case there are 10 pending patents in suit,¹³ and the PTAB instituted
16 review for only the ’518 and ’249 Patents.¹⁴ The PTAB proceedings thus cannot
17 offer any possible simplification with respect to eight of the 10 remaining
18 patents.¹⁵ While simplification is possible even when the PTAB will not address
19 all asserted claims, *see id.* (citing *British Telecom. PLC v. IAC/InteractiveCorp*,
20 2019 WL 4740156, at * 7 (D. Del. Sept. 27, 2019)) (finding a stay appropriate
21 even when the PTAB instituted review on fewer than all asserted claims), the
22 amount of potential simplification is too minor to justify a stay.

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25 ¹³ MoCA Amended Complaint ¶ 5. Entropic initially asserted 12 patents;
26 however, two patents were found ineligible under 35 U.S.C. § 101. *See supra*,
27 Part I.

28 ¹⁴ *See supra*, Part II.

¹⁵ *Id.*

Concerns regarding piecemeal litigation do not change this outcome. Comcast argues that Entropic asserts patents both subject to, and not subject to, IPR proceedings against the same accused products, leading to discovery overlap.¹⁶ But infringement and invalidity are separate legal concepts, and the PTAB will not resolve any infringement issues during the IPR proceedings. Thus, whether or not the PTAB invalidates any patents through the IPR proceedings, the Court will need to consider infringement issues and the accused products. In fact, because Entropic identified the same accused products for patents both subject to and not subject to an IPR, the parties and Court will need to consider those products regardless of the outcome of the IPR proceedings. Accordingly, the savings here are not significant enough to warrant a stay.

Similarities between the two Entropic-Comcast Cases are also insufficient to support a stay because the amount of potential simplification between those two cases is different. In this case, the amount of potential simplification is limited, as discussed above, because the PTAB will consider only two asserted patents. Even if the PTAB finds all claims unpatentable, the Court and the parties will still need to proceed on eight of the 10 remaining patents.

For the foregoing reasons, this factor weighs against a stay. Because the Court finds that there is insufficient potential simplification to support a stay here, the Court need not consider the estoppel and RAND issues that Entropic raises.

C. The Risk of Undue Prejudice

When considering prejudice or a clear tactical disadvantage to the patentee, a court considers “(1) the timing of the petition for review; (2) the timing of the request for the stay; (3) the status of the review proceedings; and

¹⁶ Motion 9:24-10:10.

(4) the relationship of the parties.” *TeleSign Corp. v. Twilio, Inc.*, 2016 WL 6821111, at *4 (C.D. Cal. Mar. 9, 2016) (quoting *E. Digital Corp. v. Dropcam, Inc.*, 2016 WL 658033, at *4 (N.D. Cal. Feb. 18, 2016)). “Courts have repeatedly found no undue prejudice unless the patentee makes a specific showing of prejudice beyond the delay necessarily inherent in any stay.” *PersonalWeb Techs., LLC v. Apple Inc.*, 69 F. Supp. 3d 1022, 1029 (N.D. Cal. 2014); *see also Wonderland Nurserygoods Co.*, 2015 WL 1809309, at *4 (“The general prejudice of having to wait for resolution is not a persuasive reason to deny the motion for stay.”).

First, the timing of the petitions and the stay request are not prejudicial. Entropic filed this action in February 2023, and DISH and Comcast timely filed their petitions within the statutory period. *See* 35 U.S.C. § 315(b). Comcast first moved for a stay in September 2024, at a time when the PTAB would soon finish rendering institution decisions on all pending IPR requests. In view of both the complexity here and the Court’s preference not to grant stays before the PTAB institutes review, this timeline does not suggest any prejudice.

Second, the status of the review proceedings does not, standing alone, pose undue prejudice. Here, the PTAB should issue its final written decision in the three instituted proceedings within 18 months of their institution dates. *See* 35 U.S.C. § 316(a)(11). Although 18 months is a substantial period of time in the life of a patent case, it is also a finite, statutory period. *See id.* “Protracted delay is always a risk inherent in granting a stay . . . [and the] general prejudice of having to wait for resolution is not a persuasive reason to deny the motion for stay.” *Wonderland Nurserygoods Co.*, 2015 WL 1809309, at *4 (quoting *Sorensen ex rel. Sorensen Research and Development Trust v. Black & Decker Corp.*, 2007 WL 2696590, at *4 (S.D. Cal. Sept. 10, 2007)).

Third, the relationship of the parties favors a stay. Entropic is a non-practicing entity, and it would not risk losing sales to alleged infringers during a

1 stay. *See Cannarella v. Volvo Car USA LLC*, 2016 WL 9450451, at *14 (C.D.
2 Cal. Dec. 12, 2016); *Evolutionary Intelligence LLC v. Yelp Inc.*, 2013 WL 6672451,
3 at *8 (N.D. Cal. 2013). A stay likely would not prejudice Entropic, a licensor,
4 because monetary damages provide adequate redress for infringement. *See id.*
5 Additionally, there is no risk of irreparable harm because Entropic does not
6 practice the invention. *See id.*

7 Finally, the Court does not find any gamesmanship here. Entropic argues
8 that the non-moving Defendants engaged in gamesmanship by requesting that
9 the Court stay the whole action, as opposed to only Case No. 2:23-cv-01048,
10 even though the non-moving Defendants chose not to file their own, separate
11 stay motions.¹⁷ The Court need not review four separate stay motions to decide
12 whether staying the entire action here is appropriate. Because all of the
13 consolidated cases involve the same set of asserted patents, and because the
14 PTAB considers only questions of validity under 35 U.S.C. §§ 102 and 103 for
15 those patents during IPR proceedings, the Court finds that its analysis of the
16 three discretionary factors would not vary greatly for each individual Defendant.

17 For this reason, too, Comcast's arguments concerning its Vendor Support
18 Agreement (the "VSA") are not persuasive. The Court previously concluded
19 that Comcast's VSA runs with the patents and, thus, that Entropic lacks
20 standing to assert claims of direct infringement against Comcast.¹⁸ The VSA
21 includes a carveout for willful infringement.¹⁹ Comcast argues that Entropic's
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25 ¹⁷ Entropic's Opposition 17:22-18:24.

26 ¹⁸ *See generally* Order re Motion to Dismiss under Rules 12(b)(10 and
27 12(b)(6) [ECF No. 175].

28 ¹⁹ *Id.*

1 direct infringement claims will not become ripe until the VSA terminates this
2 summer, which further supports a stay here.²⁰

3 The Court disagrees with Comcast for three reasons. First, the
4 simplification factor focuses on patent validity based upon the prior art, which is
5 a separate issue. Second, the VSA issue pertains only to Comcast and none of
6 the other Defendants. Thus, considering the totality of the circumstances, the
7 potential for simplification is limited. Finally, Entropic's willful infringement
8 claims against Comcast are still pending. Currently, there is no motion to
9 dismiss those allegations, although the Court understands that Comcast will file
10 one if Entropic is granted leave to amend and supplement its pleadings.
11 Accordingly, the VSA issue does not support a stay here.

12 Because the Court finds little, if any, risk of undue prejudice to Entropic,
13 the Court declines to balance the parties' competing interests. This factor
14 slightly favors a stay.

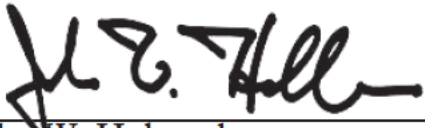
15 IV. DISPOSITION

16 On balance, the Court regards the simplification-of-the-issues factor—or,
17 more properly here, the absence of the potential for any significant
18 simplification—as the most important factor. In view of its analysis set forth
19 above, the Court hereby **ORDERS** as follows:

- 20 1. Comcast's instant Motion [ECF No. 535] is **DENIED**.
21 2. The claim construction hearing will proceed as scheduled.

22 **IT IS SO ORDERED.**

23
24 Dated: February 13, 2025

25 
26 John W. Holcomb
27 UNITED STATES DISTRICT JUDGE

28 ²⁰ Comcast's Motion 11:26-12:5.