

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

LONGITUDE LICENSING LIMITED,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

and

WESTERN DIGITAL TECHNOLOGIES,
INC.,

Intervenor Defendant.

WESTERN DIGITAL TECHNOLOGIES,
INC.,

Counterclaimant,

v.

LONGITUDE LICENSING LIMITED,

Counterdefendant,

Case No. 8:23-cv-00039-JWH-DFMx

**ORDER DENYING MOTION TO STAY
PENDING IPR [ECF No. 54]**

I. SUMMARY OF DECISION

The instant motion of Intervenor Defendant and Counterclaimant Western Digital Technologies, Inc. (“WD”) to stay this case is **DENIED without prejudice**. Any simplification of the issues is purely speculative because the Patent Trial and Appeal Board (the “PTAB”) has not yet granted any of WD’s petitions for an *inter partes* review (“IPR”) of the patents in suit. WD may renew its request for a stay if and when the PTAB institutes review.

II. BACKGROUND

In December 2022 and January 2023, Plaintiff and Counterdefendant Longitude Licensing Limited filed patent infringement actions against the following six sets of Defendants:

- Dell Technologies, Inc. and Dell, Inc. (Case No. 8:22-cv-02312-JWH-DFM);
- ASUSTek Computer, Inc. and ASUS Computer International, Inc. (Case No. 8:23-cv-00033-JWH-DFM);
- Lenovo Group Limited and Lenovo United States, Inc. (Case No. 8:23-cv-00035-JWH-DFM);
- Acer, Inc. and Acer America Corp. (Case No. 8:23-cv-00036-JWH-DFM);
- HP Inc. (Case No. 8:23-cv-00038-JWH-DFM); and
- Amazon.com, Inc. (Case No. 8:23-cv-00039-JWH-DFM—the instant case).¹

Longitude alleged that WD supplies the Defendants in each of those six cases (collectively, the “Downstream Defendants”) with solid state drives (“SSDs”) and memory chips and that the Downstream Defendants incorporate those SSDs and memory chips into allegedly infringing products.² In light of the manufacturer-customer relationship between WD and the Downstream Defendants, in April 2023 WD moved to intervene in the instant action.³ The Court granted WD’s motion a month later.⁴

At the same time, each of the Downstream Defendants moved to stay their respective actions pending the resolution of Longitude’s infringement claims against WD

¹ See Compl. (the “Complaint”) [ECF No. 1].

² *Id.*

³ Motion to Intervene [ECF No. 30].

⁴ Order regarding Motion to Intervene (the “Intervention Order”) [ECF No. 42].

under the customer-suit exception.⁵ The Court also granted those motions in May 2023.⁶ Accordingly, the instant action is the only active matter.⁷

In this case, Longitude alleges that WD's SSDs infringe U.S. Patent Nos. 7,697,369 (the "369 Patent"); 9,379,233 (the "233 Patent"); RE43,539 (the "539 Patent"); and 9,207,701 (the "701 Patent") (collectively, the "Asserted Patents").⁸ In June through August 2023, WD filed the following IPR petitions with the PTAB, challenging each of the Asserted Patents:⁹

Proceeding	Challenged Patent	Accorded Filing Date	Institution Decision Deadline
IPR2023-01123	'233 Patent, Claims 1-4 (all claims)	June 29, 2023	December 29, 2023
IPR2023-01200	'369 Patent, Claims 1, 2, 6, 7, 10, 11, 14-19, and 25-57 (all independent claims)	July 14, 2023	January 14, 2024
IPR2023-01230	'701 Patent, Claims 1-18 (all claims)	July 20, 2023	January 20, 2024
IPR2023-01286	'539 Patent, Claims 1-12 (all independent claims)	August 8, 2023	February 8, 2024

⁵ See, e.g., Motion to Stay [ECF No. 23].

⁶ Order regarding Motion to Stay against Downstream Defendants (the "Stay Order") [ECF No. 43].

⁷ In the instant action, Longitude's claims with respect to WD are active, but its claims with respect to Amazon are stayed. See Stay Order.

⁸ See generally Complaint.

⁹ See WD's Motion to Stay Action pending *Inter Partes* Review (the "Motion") [ECF No. 54] 4:2-12.

In August 2023, WD moved to stay the instant action pending the resolution of its IPR petitions before the PTAB.¹⁰ WD's Motion is fully briefed.¹¹ The Court finds this matter appropriate for resolution without a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15.

III. LEGAL STANDARD

District courts have broad discretion to stay cases in the interests 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.") District courts may find entry of a stay efficient and fair. *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).

Three factors guide consideration of whether to stay an action pending 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 these factors and "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).

¹⁰ *Id.*

¹¹ Opp'n to the Motion (the "Opposition") [ECF No. 55]; Reply in Support of the Motion (the "Reply") [ECF No. 56].

IV. ANALYSIS

WD argues that the Court should grant a stay because (1) the case is in its early stages;¹² (2) a stay will simplify the issues before the Court;¹³ and (3) a stay would not unduly prejudice Amazon.¹⁴

The Court concludes that a stay is not appropriate here. Although this case is in its early stages,¹⁵ any simplification of the issues is speculative because the PTAB has not yet decided to institute review of WD's petitions. See *Purecircle USA, Inc. v. SweeGen, Inc.*, 2019 WL 3220021, at *2 (C.D. Cal. June 3, 2019). "[S]tay of a patent infringement action is not warranted when based on nothing more than the fact that a petition for *inter partes* review was filed." *Polaris Innovations Ltd. v. Kingston Tech. Co., Inc.*, 2016 WL 7496740, at *2 (C.D. Cal. Nov. 17, 2016). Presently, the Court can only speculate regarding whether the PTAB will grant review and the extent of any review, if granted. See *DiCon Fiberoptics, Inc. v. Preciseley Microtechnology Corp.*, 2015 WL 12859346, at *2 (N.D. Cal. Oct. 13, 2015) ("[T]he question of whether a stay will simplify and streamline the issues depends entirely on whether the PTAB decides to grant the IPR petition.") Accordingly, the Court **DENIES** Defendants' motion to stay the case. See *id.* at *1 ("A court is under no obligation to stay proceedings pending parallel litigation in the PTAB.").

The Court has considered the parties' arguments regarding each factor and still finds that the circumstances weigh against granting a stay pending the PTAB's decision on whether to institute IPR. On the one hand, this case is indeed in the early stages and WD's arguments regarding lack of prejudice appear persuasive.¹⁶ Additionally, WD

¹² Motion 6:11-14.

¹³ *Id.* at 8:3-4.

¹⁴ *Id.* at 12:14-17.

¹⁵ Although the Court ruled on two procedural motions, this case is still in its early stages. See Intervention Order; Stay Order. The parties have exchanged minimal discovery, and the *Markman* hearing is set for April 2024. *Id.* at 7:1-5. See *Wonderland Nurserygoods Co. v. Baby Trend, Inc.*, 2015 WL 1809309, at *3 (C.D. Cal. Apr. 20, 2015) (finding stage of litigation favored stay where fact discovery was not yet complete and where parties submitted claim construction briefs but the *Markman* hearing had not yet occurred). "[T]here is more work ahead of the parties and the Court than behind." *Realtime Data LLC v. Teradata Operations, Inc.*, 2017 WL 3453295, at *2 (C.D. Cal. Feb. 27, 2017) (internal citations omitted).

¹⁶ WD argues that a stay would not prejudice Longitude because: (1) WD diligently filed its IPR petitions and the instant Motion; (2) Longitude and WD are not direct competitors, and, in fact, Longitude is a non-practicing entity, (3) monetary damages would provide adequate redress for infringement, and (4) Longitude itself waited five years to bring this action after notifying WD about the alleged infringement. Motion at 12:23-14:16. Longitude argues that it would suffer prejudice due to if a stay is ordered due to general delay and related issues.

argues that it would face an undue hardship if this action were to move forward because of the expense associated with preparing invalidity contentions and claim construction materials.¹⁷ Nevertheless, the Court concludes that a lack of simplification outweighs those considerations at this juncture. *See DiCon Fiberoptics*, 2015 WL 12859346, at *2.

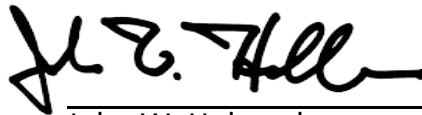
V. DISPOSITION

For the foregoing reasons, the Court hereby **ORDERS** as follows:

1. WD's instant Motion is **DENIED without prejudice**.
2. WD may renew its motion if and when the PTAB institutes review of WD's petitions.

IT IS SO ORDERED.

Dated: October 18, 2023 _____



John W. Holcomb
UNITED STATES DISTRICT JUDGE

Opposition at 8:2-9:189. If the PTAB institutes review of WD's petitions and WD renews its Motion, then the Court will consider those arguments afresh.

¹⁷ Motion 15:2-14.