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18 THERABODY, INC.

19 **UNITED STATES DISTRICT COURT**

20 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

21
22 HYPER ICE, INC., and HYPERICE IP
SUBCO LLC,

23 Plaintiffs,

24 v.

25 THERABODY, INC.

26 Defendant.

CASE NO. 8:24-cv-00390-JWH-DFM

**SUPPLEMENTAL JOINT NOTICE
REGARDING THERABODY'S
MOTION TO STAY (DKT. 46)**

The Hon. John W. Holcomb

Hyper Ice, Inc. Ex. 1066 - Page 1
Hyper Ice, Inc. v. Therabody, Inc.
PGR2026-00051

1 Plaintiffs Hyper Ice, Inc. and Hyperice IP Subco, LLC (“Hyperice”) and
2 Defendant Therabody, Inc. (“Therabody”) (collectively, “the Parties”) submit this
3 Supplemental Joint Notice Regarding Therabody’s Motion to Stay (Dkt. 46). The
4 Parties now jointly move that the present action be stayed pending the Patent Trial
5 and Appeal Board’s (“PTAB”) resolution of instituted Post-Grant Reviews (“PGR”) of all claims that Hyperice asserts against Therabody in this action.

7 On April 21, 2025, the PTAB instituted PGR2024-00053 (“the ’482 PGR
8 Proceeding”), in which Therabody challenged the validity of all claims that
9 Hyperice alleges Therabody infringes from U.S. Patent No. 11,857,482 (“the ’482
10 Patent”). *See Hyper Ice Inc. v. Joicom Corporation*, Case No. 8:24-cv-00098-JWH-
11 DFM, Dkt. 68.¹ On May 12, 2025, Therabody moved to stay the present action
12 pending the PTAB’s completion of the ’482 PGR Proceeding. Dkt. 46. Hyperice
13 asked that the Court “delay ruling on Therabody’s motion to stay until the [PTAB]
14 issues its decision regarding whether to institute [PGR] proceedings for the ’082
15 Patent.” Dkt. 47 at 1. That Motion is currently scheduled for oral argument on July
16 18, 2025, at 9 a.m. Dkt. 49.

17 On July 2, 2025, the PTAB instituted PGR2025-00013 (“the ’082 PGR
18 Proceeding”), in which Therabody challenged the validity of all claims that
19 Hyperice alleges Therabody infringes from U.S. Patent No. 11,938,082 (“the ’082
20 Patent”). Dkt. 50. The Parties, having met and conferred following the institution
21 of the ’082 PGR Proceeding, have agreed that, for purposes of efficiency, the
22 present action should be stayed pending the PTAB’s resolution of the ’482 PGR
23 Proceeding and the ’082 PGR Proceeding.

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26 ¹ At the time, the present action was consolidated through the *Markman* hearing
27 with Hyperice’s cases against other competitors, including MerchSource and Bob &
28 Brad. *See* Case No. 8:24-cv-00098, ECF No. 26.

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2 The Parties respectfully submit that the current stage of this action, the
3 simplification of the issues in question and trial of this action, and the lack of undue
4 prejudice or clear tactical disadvantage to either party supports a stay. *See*
5 *Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943 F. Supp. 2d 1028,
6 1030–31 (C.D. Cal. 2013) (discussing factors courts in this District consider when
7 determining whether to stay a case). There are presently no impending deadlines in
8 this action. The Court has not yet issued a final claim construction order.²
9 Moreover, given the Parties’ agreement to align the deadlines in the ’482 PGR
10 Proceeding and the ’082 PGR Proceeding, the “totality of the circumstances” further
11 weighs in favor of a stay in this action. *Limestone v. Micron Tech.*, No. SACV 15-
12 0278 DOC (RNBx), 2016 WL 3598109, at *2 (C.D. Cal. Jan. 12, 2016).

13 Accordingly, the Parties respectfully request that the Court enter an order
14 staying the present action pending the PTAB’s resolution of the ’482 PGR
15 Proceeding and the ’082 PGR Proceeding.
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25 ² The Parties agree that the Court’s forthcoming final claim construction order in the
26 consolidated cases, *see* Case No. 8:24-cv-00098, ECF No. 26, will be applicable to
27 this case even if the Court issues the final claim construction order after this case is
28 stayed.

1 DATED: July 9, 2025

Respectfully Submitted,

2 **MILLER BARONDESS, LLP**

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5 By: /s/ Benjamin A. Herbert
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9 /s/

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1 DATED: July 9, 2025

Respectfully Submitted,

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SIGNATURE ATTESTATION

The other signatories listed, and on those behalf the filing is submitted,
concur in the filing's content and have authorized the filing.

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