

SONY CORPORATION, SONY CORPORATION OF AMERICA, SONY ELECTRONICS INC., SONY MOBILE COMMUNICATIONS AB, AND SONY MOBILE COMMUNICATIONS (USA) INC.,

Defendants.

**REPLY BRIEF IN SUPPORT OF DEFENDANTS' MOTION TO STAY LITIGATION
PENDING THE OUTCOME OF *INTER PARTES* REVIEW OF THE PATENTS-IN-SUIT**

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because IPR will address “only a small handful of patent claims” (Op. at 2) is incorrect. The “small handful” of claims challenged in Sony’s IPR petitions includes *every* patent claim that HumanEyes had ever asserted against Sony, including in the International Trade Commission (“ITC”) Investigation, until HumanEyes responded to Sony’s stay motion. HumanEyes had every opportunity, with the benefit of what it contends was complete liability fact discovery, to assert additional claims either by seeking to amend its ITC complaint or by notifying Sony of its intent to do so in this action. Yet, it did so only in reaction to this motion. Because HumanEyes has now added claims (Op. at 13-14), Sony intends to submit petitions for IPR of those new claims and seek joinder with its previously-filed petitions. Therefore, the arguments in Sony’s opening brief that IPR will simplify the issues still apply with equal force.

Second, HumanEyes’ decision to assert additional claims contradicts its assertion that the ITC proceedings have moved this case to an advanced stage. Even assuming for the sake of argument that liability fact discovery is “complete”—it is not—the addition of previously unasserted claims adds infringement, validity and claim construction issues that were never litigated in the ITC. HumanEyes admits that fact discovery on damages and willfulness issues remains, as well as claim construction and expert discovery (Op. at 10-12), not to mention potential dispositive motions, pre-trial proceedings, and the yet-to-be-scheduled trial itself.

¹ “Op.” refers to HumanEyes’ Answering Brief in Opposition to Sony’s Motion to Stay (D.I. 34). “Sony Br.” refers to Sony’s Opening Brief in support of its Motion to Stay (D.I. 30).

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