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

RAYTHEON COMPANY, *Plaintiff,* v. SAMSUNG ELECTRONICS CO., LTD., et al., *Defendants.*	Case No. 2:15-CV-341-JRG-RSP **LEAD CASE**
RAYTHEON COMPANY, *Plaintiff,* v. SONY KABUSHIKI KAISHA, et al., *Defendants.*	Case No. 2:15-CV-342-JRG-RSP Consolidated Case

DEFENDANTS' MOTION TO STAY CASES PENDING INTER PARTES REVIEW

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I. INTRODUCTION

Defendants Sony Corporation, Sony Corporation of America, Sony Electronics Inc., Sony Mobile Communications (USA) Inc., Sony Semiconductor Corporation, Sony EMCS Corporation, Sony Mobile Communications Inc., Sony Mobile Communications AB, (collectively, "Sony defendants"), OmniVision Technologies, Inc. ("OmniVision"), and Apple Inc. (an indemnitee of Sony and OmniVision) ("Apple"), Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Semiconductor Inc. (collectively, "Samsung") (Sony defendants, OmniVision, Apple, and Samsung collectively, "Defendants") hereby move to stay these cases until the U.S. Patent and Trademark Office ("PTO") Patent Trial and Appeal Board ("PTAB") concludes the *Inter Partes* Review ("IPR") of U.S. Patent No. 5,591,678 ("the '678 patent").

As explained below, a stay of these cases pending the conclusion of the IPR is warranted under controlling law. Indeed, all three of the relevant stay factors weigh in favor of granting this motion. First, Raytheon will not suffer any undue prejudice from a stay because the '678 patent expired more than a year before Raytheon filed its complaints in these cases, its recovery is limited to monetary damages, and any delay resulting from the stay can be redressed adequately through the award of prejudgment interest. Second, both of these cases are still in their early stages: no claim construction briefs have been filed, no depositions have been noticed, and no expert discovery has taken place. Third, a stay likely will simplify the issues in these cases (if not entirely eliminate them). The PTAB has instituted IPR with respect to all claims of the '678 patent — the sole patent asserted in both cases — because it found a reasonable likelihood those claims are invalid over prior art. A finding of invalidity for one or more of those claims will simplify or eliminate the issues in these cases, result in substantial savings to the parties, and conserve judicial resources.

II. FACTUAL BACKGROUND

A. Procedural Background

Raytheon filed its complaints in March 2015, accusing Defendants of infringing the '678 patent through their alleged importation, sale, offer for sale or use in the United States of certain image sensors, and products incorporating those image sensors. (-341 Dkt. No. 1; -342 Dkt. No. 1). The Court consolidated these cases for pretrial purposes in June 2015. (Dkt No. 029.)[1] Raytheon served its infringement contentions on each Defendant, in July 2015, identifying claims 1, 5, 6–10, 13, and 18 as the asserted claims. (Dkt. No. 31, Stringfield Decl. ¶ 2). The Court entered a docket control order in August 2015. (Dkt. No. 60). It scheduled a *Markman* hearing for February 26, 2016 and the close of fact discovery on April 19, 2016. (Dkt. No. 60). Trial is scheduled for September 6, 2016. (*Id.*).

B. Overview of IPR Proceedings

The Sony defendants filed a petition for *inter partes* review in May 2015, roughly two months after Raytheon filed its complaints and before Raytheon served its infringement contentions. The petition, now assigned case number IPR2015-1201, alleges that claims 1-18 of the '678 patent are invalid over prior art. (Billah Decl. at ¶ 4.) The PTAB instituted review, on December 2, 2015, on all grounds of invalidity that were presented in the petition. (Billah Decl. at ¶ 5.) Under 35 U.S.C. § 316 (a)(11), this IPR proceeding must conclude by December 2, 2016, absent an extension up to six months for good cause.

The Sony defendants filed a second petition for *inter partes* review on November 18, 2015. The second petition, now assigned case number IPR2016-0209, alleges that claims 1-18 of the '678 patent are invalid over a second set of prior art. The PTAB has yet to institute this more recent IPR, but a decision on institution is expected in the spring of 2016. (Billah Decl. at ¶ 6.) If it does, the final determination would be due in spring 2017. 35 U.S.C. § 316 (a)(11).

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[1] Unless otherwise indicated, "Dkt. No." refers to the docket numbers in the -341 case.

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