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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BELL NORTHERN RESEARCH, LLC,
Plaintiff,
v.
COOLPAD TECHNOLOGIES, INC. and
YULONG COMPUTER
COMMUNICATIONS,
Defendants.

Case No.: 18-CV-1783-CAB-BLM

**ORDER GRANTING RENEWED
MOTION TO STAY PENDING
INTER PARTES REVIEW**

[Doc. No. 140]

COOLPAD TECHNOLOGIES, INC.,
Counter Claimant,
v.
BELL NORTHERN RESEARCH, LLC,
Counter Defendant.

Before the Court is a renewed motion to stay this patent infringement case during the pendency of an Inter Partes Review (“IPR”) filed by defendant Coolpad Technologies Inc. [Doc. No. 140]. Plaintiff Bell Northern Research (“BNR”) opposes the motion. [Doc. No. 147.] The Court finds this motion suitable for determination on the papers submitted

1 and without oral argument in accordance with Civil Local Rule 7.1(d)(1). Having
2 considered the submissions of the parties, the motion is **GRANTED**.

3 **I. Background**

4 On August 1, 2018, BNR filed a complaint against Coolpad alleging infringement
5 of five U.S. patents. Shortly thereafter, BNR dismissed its infringement claims for one of
6 the asserted patents with prejudice. [Doc. No. 42.] The remaining four patents proceeded
7 to claim construction and the court issued an order in August 2019. [Doc. No. 84.] At that
8 time Coolpad filed a motion for stay as petitions for IPR had been filed on the remaining
9 patents-at-issue. The Court denied the request for stay without prejudice and indicated
10 Coolpad could renew the request for stay if IPR was instituted on one or more of the
11 patents. [Doc. No. 86.]

12 Discovery proceeded and in October 2019, BNR dismissed with prejudice two more
13 of the patents asserted against Coolpad. [Doc No. 98.] On January 29, 2020, the PTAB
14 instituted IPR on the two patents remaining in this litigation, and Coolpad renewed its
15 motion for stay. [Doc. No. 140.]

16 **II. Legal Standard**

17 Courts have inherent power to manage their dockets and stay proceedings. *See Landis*
18 *v. N. Am. Co.*, 299 U.S. 248, 254 (1936). The party seeking a stay bears the burden of
19 showing that such a course is appropriate. *Id.* at 256. Courts generally consider three factors
20 in determining whether to impose a stay pending parallel proceedings before the Patent
21 Trial and Appeal Board (“PTAB”): (1) whether a stay will simplify the issues in question
22 and trial of the case; (2) whether discovery is complete and a trial date is set; and (3)
23 whether a stay would unduly prejudice or present a clear tactical disadvantage to the
24 nonmoving party. *TAS Energy, Inc., v. San Diego Gas & Elec. Co.*, 2014 WL 794215, at
25 *3 (S.D. Cal. Feb. 26, 2014). Judicial consideration is not limited to these factors, but
26 rather can include a review of the totality of the circumstances. *Am. GNC Corp. v. LG*
27 *Elects., Inc.*, 2018 WL 125876, at *2 (S.D. Cal. Mar. 12, 2018).

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1 A court's consideration of a motion to stay should be guided by "the liberal policy in
2 favor of granting motions to stay proceedings pending the outcome of USPTO
3 reexamination or reissuance proceedings." *ASCII Corp. v. STD Entm't USA, Inc.*, 844 F.
4 Supp. 1378, 1381 (N.D. Cal. 1994). The Court further recognizes that the IPR proceeding,
5 specifically tailored to patent validity adjudication, was created by Congress to provide a
6 more streamlined and therefore faster and less expensive alternative to litigation. See H.R.
7 Rep. No. 112-98(I) at 40 ("The legislation is designed to establish a more efficient and
8 streamlined patent system that will improve patent quality and limit unnecessary and
9 counterproductive litigation costs.").

10 III. Discussion

11 Coolpad initially moved for this stay in August 2019, upon the filing of the petitions
12 to institute IPR. The Court denied the motion as premature and indicated Coolpad could
13 renew the motion if institution was granted. Immediately upon notice that the PTAB is
14 instituting proceedings on the two patents remaining at issue in this litigation, Coolpad
15 renewed its motion for a stay. Consequently, the Court does not find any undue delay on
16 the part of the defendant. The IPR process ran its course and Coolpad moved promptly for
17 the relief it now seeks.

18 Since the claim construction order issued in August much has been accomplished.
19 Two of the patents in this litigation have been dismissed. Fact and expert discovery have
20 concluded and dispositive motions have been filed, although not on the issue of patent
21 validity. Motion practice has not concluded, pretrial disclosures have not been made and
22 a trial date has not been set. Further the parties are jointly seeking construction of an
23 additional claim term common to both the remaining two patents that may be significant
24 to the validity challenges and may require additional expert discovery/depositions on
25 invalidity opinions.

26 The PTAB's decision to institute on the two remaining patents will substantially
27 impact the scope of this case and streamline this litigation, as well as co-pending litigation
28 BNR has against ZTE Corp., in 18cv1786, in which BNR is asserting the same two patents.

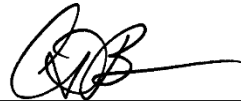
1 The issue of validity will be resolved along with the construction of the remaining claim
2 term.

3 On balance the Court finds that to stay this litigation pending PTAB's decision is
4 justified. Despite the advanced nature of this case, this step will resolve an important aspect
5 of the case and narrow the issues for a jury trial, and may avoid disparate invalidity findings
6 in the co-pending cases. Coolpad was directed to bring the PTAB decisions on institution
7 promptly to the Court's attention, which it did. Having considered the efficiencies of
8 proceeding in this litigation, the motion to stay [Doc. No. 140] is **GRANTED**, and this
9 case is **STAYED**. The parties shall provide notice to the Court when the proceedings
10 before the PTAB are complete.

11 In light of the foregoing, the pending motions to strike and for partial summary
12 judgment [Doc. Nos. 132, 133, 134] are deemed **WITHDRAWN**, and the Clerk of Court
13 is instructed to administratively close this case.

14 It is **SO ORDERED**.

15 Dated: February 18, 2020



Hon. Cathy Ann Bencivengo
United States District Judge