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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

J & K IP ASSETS, LLC,
Plaintiff,
v.
ARMASPEC, INC.,
Defendant.

Case No. [3:17-cv-07308-WHO](#)

**ORDER STAYING CASE PENDING
INTER PARTES REVIEW**

Re: Dkt. No. 56

On April 24, 2019, I denied without prejudice defendant Armaspec, Inc.’s motion for a stay because the Patent Trial and Appeal Board had not made a decision on whether to institute *inter partes* review. Dkt. No. 45. On August 21, Armaspec gave notice that the PTAB had instituted IPR and renewed its request for a stay of this case. Dkt. No. 56. On September 9, plaintiff and patent owner J & K IP Asserts, LLC opposed the request for a stay. Dkt. No. 59. It asserts that while the PTAB’s decision might simplify the issues in this case, a stay is not warranted because trial is set for ten months from now and “the risk of harm and prejudice to J&K is great” given that the parties are competitors.

A district court has inherent power to manage its own docket and stay proceedings, “including the authority to order a stay pending conclusion of a PTO reexamination.” *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426–27 (Fed. Cir. 1988). Three factors are relevant in deciding whether a civil action should be stayed pending IPR proceedings: “(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay would 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 non-moving party.” *PersonalWeb Techs., LLC v. Apple Inc.*, 69 F.

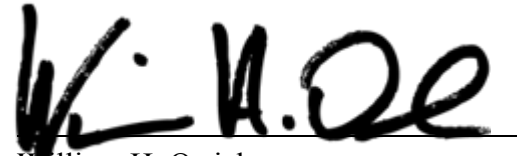
Supp. 21-1022, 1025 (N.D. Cal. 2014) (internal quotation marks and citations omitted). These

1 factors are “general considerations that are helpful in determining whether to order a stay,” but
2 “ultimately the Court must decide stay requests on a case-by-case basis.” *Asetek Holdings, Inc. v.*
3 *Cooler Master Co.*, No. 13–cv–00457–JST, 2014 WL 1350813, at *1 (N.D. Cal. Apr. 3, 2014).

4 On these facts, a stay is appropriate. A ruling from the PTAB could simplify the issues
5 before me, and a stay will avoid inconsistent results. Discovery has not closed, and the mere fact
6 that the parties are competitors is not sufficient to show that a stay would prejudice J&K.
7 Accordingly, this case is STAYED pending resolution of the IPR. The parties shall file a joint
8 notice within two weeks of the PTAB’s final written decision.

9 **IT IS SO ORDERED.**

10 Dated: September 12, 2019

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13 William H. Orrick
14 United States District Judge
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United States District Court
Northern District of California