UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNILOC 2017 LLC,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No. 19-cv-01904-WHO

ORDER GRANTING UNOPPOSED MOTION TO STAY

Re: Dkt. No. 86

Apple Inc. ("Apple") seeks to stay this patent infringement litigation until its *inter partes review* ("IPR") petitions are resolved before the Patent Trial and Appeal Board ("PTAB").[1] Dkt. No. 86. On January 21, 2020, the PTAB instituted IPR of all claims of the '999 patent, the sole-asserted patent in this case. According to Apple, a stay is appropriate because the IPR process might moot this litigation in its entirety if Apple's IPR is successful, and regardless of what the PTAB ultimately decides, the issues to be litigated will be simplified by, and I may gain guidance from, the PTAB's final written decision.

Uniloc 2017 LLC ("Uniloc") does not oppose the motion but notes that this case is far advanced. Dkt. No. 87. The earlier the stage of litigation, the more favored the stay. *See Telemac Corp. v. Teledigital, Inc.*, 450 F. Supp. 2d 1107, 1111 (N.D. Cal. 2006). Courts often weigh a stay

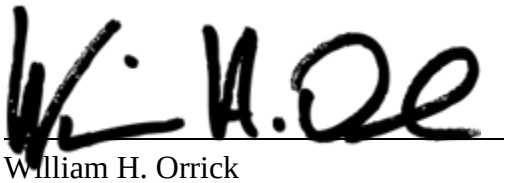
[1] Three factors are relevant in deciding whether a civil action should be stayed pending IPR proceedings: "(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay would simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party." *PersonalWeb Techs., LLC v. Apple Inc.*, 69 F. Supp. 3d 1022, 1025 (N.D. Cal. 2014) ("*PersonalWeb II*"). These factors are "general considerations that are helpful in determining whether to order a stay," but "ultimately the Court must decide stay requests on a case-by-case basis." *Asetek Holdings, Inc v. Cooler Master Co.*, Case No. 13–cv–00457–JST, 2014 WL 1350813, at *1 (N.D. Cal. Apr. 3, 2014).

for IPR proceedings considering whether: (i) "parties have engaged in costly expert discovery and dispositive motion practice;" (ii) "the court has issued its claim construction order;" and (iii) "the court has set a trial date." *PersonalWeb II*. I issued a scheduling order in this case on July 16, 2019, setting the claim construction hearing for February 21, 2020, the close of fact discovery for May 21, 2020, the close of expert discovery for August 15, 2020, and trial for October 26, 2020. Dkt. No. 58. Although I set a trial date, parties here have not engaged in costly discovery and a claim construction order has not been issued yet.

For these reasons, Apple's unopposed motion to stay pending IPR is GRANTED. All deadlines in this case are suspended pending further order of the court. Parties are ordered to file notify the court and to request a case management conference as soon as the IPR is decided.

IT IS SO ORDERED.

Dated: January 30, 2020



William H. Orrick
United States District Judge

United States District Court
Northern District of California