UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

CONFORMIS, INC.,	*
	*
Plaintiff,	*
,	*
V.	*
	*
SMITH & NEWPHEW, INC.,	*
	*
Defendant.	*
	*
	*
SMITH & NEPHEW, INC., and	*
KINAMED, INC.,	*
	*
Counterplaintiffs,	*
-	*
V.	*
	*
CONFOMIS, INC.,	*
	*
Counterdefendant.	*

Civil Action No. 16-cv-10420-IT

ORDER

May 4, 2017

TALWANI, D.J.

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Defendant and Counterplaintiff Smith & Nephew, Inc. ("Smith & Nephew") filed a Motion to Stay Pending Inter Partes Review [#91]. After several rounds of briefing, and after the Patent Trial & Appeals Board ("PTAB") instituted inter partes review ("IPR") of all claims in the '953 patent, the court granted Smith & Nephew's request for oral argument, and temporarily stayed the case pending the court's decision on the Motion to Stay Pending Inter Partes Review [#91]. Order [#126].

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After hearing argument from the parties, and in view of the factors regarding whether to grant a stay, <u>see Murata Mach. USA v. Daifuku Co.</u>, 830 F.3d 1357, 1361 (Fed. Cir. 2016), the court hereby ORDERS that:

- The temporary stay will remain in effect while the PTAB considers whether to institute IPR on the '129 and '169 patents, and until further order of this court.
- The parties shall file by the close of business on May 10, 2017, a joint proposed schedule for the completion of discovery, including production of electronically stored information ("ESI") and financial disclosures, once the stay is lifted.

IT IS SO ORDERED.

Date: May 4, 2017

<u>/s/ Indira Talwani</u> United States District Judge