

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

RFCYBER CORP.,	§	
	§	
v.	§	CASE NO. 2:20-CV-274-JRG
	§	[LEAD CASE]
GOOGLE LLC, GOOGLE PAYMENT CORP.	§	
_____	§	
RFCYBER CORP.,	§	
	§	
v.	§	CASE NO. 2:20-CV-335-JRG
	§	[MEMBER CASE]
SAMSUNG ELECTRONICS CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC.	§	
	§	

**ORDER**

Before the Court is Defendants’ Motion to Stay Pending Inter Partes Review of U.S. Patent Nos. 8,448,855, 8,118,218, 9,189,787, and 9,240,009 and Post-Grant Review of U.S. Patent No. 10,600,046 (the “Motion to Stay”) filed by Defendants Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., Google LLC and Google Payment Corp. (collectively, “Samsung”).<sup>1</sup> (Dkt. No. 65). In the Motion to Stay, Samsung moves to stay the above-captioned case pending completion of the Patent Trial and Appeal Board’s (“PTAB”) *inter partes* review (“IPR”) of all claims asserted through United States Patent Nos. 8,448,855 (“855 Patent”), 8,118,218 (“218 Patent”), 9,189,787 (“787 Patent”), and 9,240,009 (“009 Patent”), as well as the post grant review (“PGR”) of all claims asserted through United States Patent No. 10,600,046 (“046 Patent”) (collectively, the “Asserted Patents”).

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<sup>1</sup> Google LLC and Google Payment Corp. have since been dismissed. (See Dkt. Nos. 72–73, 127, 129).

## I. BACKGROUND

Plaintiff RFCyber Corp. (“RFCyber”) filed this action on August 21, 2020, asserting infringement by Samsung of the Asserted Patents. (Dkt. No. 1). Samsung filed the Motion to Stay after filing its IPR petitions challenging the asserted claims of the Asserted Patents, but before the PTAB decided whether to institute with respect to the same. (*See* Dkt. No. 65 at 7). Since the filing of the Motion to Stay, the PTAB instituted review with respect to the ’787 and ’009 Patents but denied institution with respect to the ’855 and ’218 Patents. (Dkt. Nos. 164, 183). Although the parties have not provided an update regarding the status of the PGR petitions as to the ’046 Patent, RFCyber did not elect any claims from the ’046 Patent in its election of asserted claims filed on September 15, 2021 (Dkt. 110-1). Thus, the ’046 Patent is no longer relevant to the present Motion to Stay. Samsung has offered to withdraw its Motion to Stay with respect to the ’855 and ’218 Patents, while reiterating its request for a stay pending completion of the IPRs with respect to the ’787 and ’009 Patents. (Dkt. No. 183). This case has already completed claim construction and is set for trial on March 21, 2022. (Dkt. Nos. 63, 147).

## II. DISCUSSION

The district court has the inherent power to control its own docket, including the power to stay proceedings. *Clinton v. Jones*, 520 U.S. 681, 706 (1997). How to best manage the court’s docket “calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936). “District courts typically consider three factors when determining whether to grant a stay pending *inter partes* review of a patent in suit: (1) whether the stay will unduly prejudice the nonmoving party, (2) whether the proceedings before the court have reached an advanced stage, including whether discovery is complete and a trial date has been set, and (3) whether the stay will likely result in simplifying the


case before the court.” *NFC Techs. LLC v. HTC Am., Inc.*, 2015 WL 1069111, at \*2 (E.D. Tex. Mar. 11, 2015). “[The] most important factor bearing on whether to grant a stay in this case is the prospect that the *inter partes* review proceeding will result in simplification of the issues before the Court.” *Id.* at \*4.

Here, the PTAB has declined to institute regarding two of the four remaining Asserted Patents. Thus, a stay will not simplify the case with respect to the non-instituted ’855 and ’218 Patents. Although a stay could in theory simplify the remaining validity issues with respect to the instituted ’787 and ’009 Patents, the PTAB would not render its final written decision until approximately December 2022—9 months after this Court’s March 21, 2022 trial date. Samsung’s offer to withdraw its Motion to Stay with respect to the non-instituted ’855 and ’218 Patents would in effect require the Court to hold two entirely separate trials—potentially more than a year apart—when considering both the instituted and non-instituted patents. Such an approach would create significant inefficiencies that would more than offset any simplification gained through the IPR process. Accordingly, “[t]he most important factor bearing on whether to grant a stay” weighs heavily against granting a stay. *Id.* The Court need not address the remaining factors.

### III. CONCLUSION

For these reasons, the Court concludes that the Motion to Stay should be and hereby is **DENIED**.

**So ORDERED and SIGNED this 4th day of January, 2022.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE