

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

JAWBONE INNOVATIONS, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.,

Defendants.

CASE NO. 2:21-cv-00186-JRG

JURY TRIAL DEMANDED

DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION TO STAY

As set forth in Samsung's motion to stay (Dkt. 90), the Federal Circuit fully expects a party to promptly request transfer and to seek to stay proceedings pending disposition of the transfer motion. *In re Fusion-IO, Inc.*, 489 F. App'x 465, 466 (Fed. Cir. 2012). Further, the Federal Circuit fully expects "the district court to act on those motions before proceeding to any motion on the merits of the action." *Id.* More recently, the Federal Circuit has stated that "once a party files a transfer motion, disposing of that motion should unquestionably take top priority." *In re SK hynix Inc.*, 835 F. App'x 600, 601 (Fed. Cir. 2021) (quoting *In re Apple Inc.*, 979 F.3d 1332, 1337 (Fed. Cir. 2020)); *see also id.* (requiring district court to "stay all proceedings concerning the substantive issues of the case and all discovery until such time that [the district court] has issued a ruling on the motion" to transfer); *In re Google Inc.*, No. 2015-138, 2015 WL 5294800, at *1-2 (Fed. Cir. July 16, 2015) (directing district court to stay all proceedings and rule on a transfer motion even though the Court had previously conducted a *Markman* hearing, fact discovery had closed, and the Court had conducted hearings on several discovery disputes).

Because the Federal Circuit has clearly stated that a stay should be granted until a transfer motion can be resolved, Plaintiff's arguments in opposition to Samsung's motion are beside the point. *See* Dkt. 115 at 3-6 (arguing that Plaintiff will be prejudiced by a stay, that denial of a stay will not result in undue hardship on Samsung or duplicative litigation, and that the stage of the case weighs against granting a stay). Rather than being relevant to this motion, Plaintiff's arguments are more properly addressed in the context of Samsung's motion to stay pending *inter partes* review. *See* Dkt. 106 (filed August 8, 2022). In that motion, Samsung has explained that a stay pending *inter partes* review is warranted because (1) Plaintiff will not be prejudiced by such a stay; (2) a significant amount of work remains to be completed in this case; and (3) a stay will conserve judicial resources and simplify or eliminate issues in this case. *See id.* at 6-9. Plaintiff's response to Samsung's motion to stay pending *inter partes* review is due August 22, 2022, and Samsung will file its reply on August 29, 2022.

In light of the Federal Circuit's guidance and upcoming substantive case deadlines—including but not limited to the close of fact discovery on September 5, 2022 and the exchange of opening expert reports on September 12, 2022—Samsung respectfully requests that the Court immediately stay further proceedings pending a ruling by the Court on Samsung's Motion to Transfer Venue.

DATE: August 18, 2022

Respectfully submitted,

/s/ Jin-Suk Park

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, on this 18th day of August, 2022.

/s/Melissa R. Smith

Melissa R. Smith