

Samsung is not entitled to a stay pending a decision on its motion to transfer because Samsung unreasonably delayed in filing that motion. Samsung's motion to transfer was filed June 15, 2022, thirteen months after this case was filed, and briefing was completed July 27, 2022, less than one month ago. *See* Dkts. 59, 89. Samsung offers no explanation for its delay in filing its motion to transfer, but nonetheless relies on case law making prompt filing of a transfer motion a condition for obtaining a stay. *See In re Fusion-IO, Inc.*, 489 F. App'x 465, 466 (Fed. Cir. 2012). Samsung's reply concedes that *In re Fusion-IO* does not support its motion by failing to address this flaw in its motion on reply.

Samsung's reliance on reply on *In re SK hynix Inc.* and *In re Google Inc.* is unpersuasive for the same reason—the defendants had filed motions to transfer at the outset of the case. *See In re SK hynix Inc.*, 835 F. App'x 600 (Fed. Cir. 2021) (granting petition for mandamus where defendant moved to transfer two months after filing of the complaint and moved to stay proceedings nearly seven months after briefing was complete); *see also In re Google Inc.*, No. 2015-138, 2015 WL 5294800, at *1 (Fed. Cir. July 16, 2015) (where defendant filed its motion to transfer three months after filing of the complaint and remained pending eight months after briefing was complete). Samsung has presented no authority that a defendant which waits thirteen months to file a motion to transfer is entitled to a stay.

Rather than address the Fifth Circuit's stay factors analyzed in Jawbone's response in opposition, Samsung dismisses the factors as irrelevant in light of Federal Circuit mandamus decisions. Reply at 2. Jawbone submits that the stay factors control both of Samsung's stay motions and show that a stay of the proceedings is not warranted. *See* Dkt. 115. Accordingly, Jawbone respectfully requests that the Court deny Samsung's Motion.

I. CONCLUSION

For all the foregoing reasons, Jawbone respectfully requests that Samsung's Motion to Stay Pending Resolution of its Motion to Transfer Venue to the Northern District of California Pursuant to 28 U.S.C. § 1404(a) (Dkt. 90) be denied in its entirety.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 25, 2022, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Peter Lambrianakos _____

Peter Lambrianakos