

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

MAXELL, LTD.,

*Plaintiff,*

v.

APPLE INC.,

*Defendant.*

Case No. 5:19-cv-00036-RWS

**JURY TRIAL DEMANDED**

PUBLIC VERSION

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**MAXELL, LTD.'S OPPOSITION TO APPLE INC.'S  
RENEWED MOTION TO STAY PENDING DETERMINATION OF *INTER PARTES*  
REVIEW OF THE PATENTS-IN-SUIT**

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The Court rightfully denied Apple's first premature motion to stay this case after the filing of Apple's petitions for *inter partes* review. In doing so, the Court held that each factor considered weighed against a stay, specifically making the following findings:

- **Undue Prejudice:** “[T]he time allowed for the IPR decision as well as a potential appeal could cause a lengthy delay that would significantly prejudice Maxell.”
- **Stage of the Proceedings:** “The case is not in its infancy and is far enough along that a stay would interfere with ongoing proceedings.”; “Apple has not sufficiently explained its delay in filing the petitions.”
- **Simplification of Issues:** “[A]ny finding at this time as to the likelihood of simplification would be pure speculation.”

D.I. 298 at 3, 4, 6.

The factors weigh even more against a stay now. Since the Court's first ruling on the issue, the case has progressed even further, with summary judgment and *Daubert* briefing now complete, and the PTAB has now denied a majority of Apple's IPR petitions for which institution decisions have been rendered. Thus, the factors of undue prejudice and stage of the proceedings still unquestionably weigh against a stay. As to likely simplification, some speculation has now been removed. Specifically, it is now clear that the IPR proceedings cannot simplify issues for at least half of the Asserted Patents. In contrast, the amount of simplification that could arise with respect to the four patents subject to instituted IPRs and the one patent whose institution decision remains outstanding, remains questionable.

The timing of the IPRs was completely within Apple's control. Though it could have filed its petitions when the case was in its earlier stages, and thereby limit in part the potential prejudice to Maxell from a stay pending resolution of the proceedings, it chose instead to wait. As the Court observed in its last denial of Apple's stay request: “Apple has not sufficiently explained its delay in filing the [IPR] petitions. Apple filed its first wave of petitions nine months after Maxell filed suit and six months after Maxell served its initial infringement contentions.” D.I. 298 at 4-5. The

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