

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

AIRE TECHNOLOGY LTD.,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 6:21-cv-01101-ADA

JURY TRIAL DEMANDED

**DEFENDANT APPLE INC.'S REPLY IN SUPPORT OF ITS MOTION TO MODIFY
NOVEMBER 8, 2022 STAY ORDER**

INTRODUCTION

The purpose of Apple's Motion to Modify November 8, 2022 Stay Order ("Motion") is to inform the Court that *inter partes* reviews ("IPRs") have been instituted on all presently asserted claims of all three Asserted Patents in this litigation and to request leave to file a motion to stay this litigation in view of the instituted IPRs, "*so that the Court may manage its docket in view of all pertinent information.*" ECF No. 73 at 1 (emphasis added). Contrary to Aire's contentions in its Opposition (ECF No. 74), Apple is not insisting that the Court rule on the IPR Stay before deciding Apple's Motion to Transfer (ECF No. 24), nor is Apple's Motion in conflict with its transfer arguments or mandamus motion. Rather, Apple's Motion is intended to provide the Court with necessary information for the Court to manage its docket in light of recent relevant events.

ARGUMENT

Aire's Opposition misunderstands and overstates Apple's position. Apple recognizes that federal courts have "inherent power 'to manage their own affairs so as to achieve the orderly and

expeditious disposition of cases,” *Eng. v. Texas Farm Bureau Cas. Ins. Co.*, No. 6:17-cv-323-ADA-JCM, 2021 WL 2786668, at *3 (W.D. Tex. May 19, 2021) (quoting *Woodson v. Surgitek, Inc.*, 57 F.3d 1406, 1417 (5th Cir. 1995)). Accordingly, Apple’s motion is expressly intended to inform the Court that IPRs were instituted on all Asserted Patents “for purposes of managing [the Court’s] own workload and in determining the future schedule of this case” and to “allow the Court to manage its own docket based on full information.” ECF No. 73 at 1–2. Accordingly, Apple simply requested leave to timely file its IPR Stay motion (Ex. 1 to ECF No. 73) and for the Court to grant Aire a full opportunity to respond.

Notwithstanding Aire’s assertions to the contrary, Apple does not insist that the Court rule on its IPR Stay before the Court issues a decision on Apple’s Motion to Transfer. Likewise, Aire’s argument that Apple’s Motion “cannot be reconciled” with its recent petition for mandamus and Motion to Transfer is unavailing. ECF No. 74 at 1. Aire claims, incorrectly, that “Apple now wants this Court to lift the very stay it perpetuated through its Appeal and grant it relief for an indefinite stay of proceedings in the very District it has fought to escape.” *Id.* Not so. Apple is not seeking to lift the present stay or advance this litigation in this District. Rather, Apple seeks only to modify the current stay to permit it to timely pursue its IPR Stay motion. And, further, Apple continues to maintain that transfer should be given top priority; nothing in Apple’s Motion asserts otherwise. For example, the Court may decide to manage its docket by ruling on Apple’s transfer and IPR Stay motions concurrently. Or, should the Court decide to transfer this action, the Court may decide to leave to the transferee court a ruling on Apple’s IPR Stay motion. In sum, and as expressly stated in the present Motion, the objective of Apple’s Motion is to allow the Court to manage its docket in view of new information material to this litigation. This is by no means inconsistent with Apple’s position on transfer.

Furthermore, had Apple not promptly after institution of the IPRs moved for a stay of litigation, Aire might have argued that such motion was untimely. *See, e.g., Multimedia Content Mgmt. LLC v. Dish Network L.L.C.*, No. 6:18-cv-00207-ADA, 2019 WL 11706231, at *3 (W.D. Tex. May 30, 2019) (explaining the court considers whether the movant acted with reasonable dispatch in filing its motion for stay); *CyWee Grp. Ltd. v. Samsung Elecs. Co.*, No. 2:17-cv-140-WCB-RSP, 2019 WL 11023976, at *5 (E.D. Tex. Feb. 14, 2019) (considering whether defendants filed promptly after institution). For that reason, too, Aire's criticisms of Apple's Motion to modify the current stay, to permit Apple's filing of its IPR Stay motion to occur expeditiously, is not well founded.

While Aire gives a preview of its arguments against an IPR Stay, Apple believes that the substance of Apple's stay motion is better resolved when Aire has had a full opportunity to respond. Therefore, Apple will not address the merits of Aire's IPR Stay arguments in this Reply.

CONCLUSION

For the foregoing reasons, and the reasons explained in Apple's opening brief in support of this Motion, Apple respectfully requests that the Court grant Apple's Motion to permit the filing of Apple's IPR Stay motion.

Dated: February 2, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on February 2, 2023, to all counsel of record via the Court's CM/ECF system.

/s/ J. Stephen Ravel

J. Stephen Ravel