

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MICROGRAFX, LLC,

Plaintiff,

v.

SAMSUNG TELECOMMUNICATIONS
AMERICA, LLC, *et al.*,

Defendants.

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Civil Action No. 3:13-CV-3599-N

ORDER

This Order addresses Defendants Samsung Telecommunications America, LLC, Samsung Electronics America, Inc., and Samsung Electronics Co., Ltd.’s (collectively, “Samsung”) motion to stay proceedings pending *inter partes* review of three patents involved in the suit [Doc. 66]. The Court grants the motion and stays the case pending a decision from the U.S. Patent and Trademark Office (“PTO”).

I. THE PATENT DISPUTE

In September 2013, Plaintiff Micrografx, LLC (“Micrografx”) initiated this lawsuit against Samsung alleging that Samsung infringed on U.S. Patent Nos. 6,057,854, 6,552,732, and 5,959,633. Micrografx asserted the same patents against Google Inc. (“Google”) and Motorola Mobility LLC (“Motorola”) in a separate lawsuit. *See Micrografx LLC v. Google Inc.*, No. 13-CV-3595 (N.D. Tex. filed Sep. 9, 2013).

On March 24, 2014, Google and Samsung filed three petitions for *inter partes* review. The PTO has not yet ruled on the petitions. Samsung now asks the Court to stay this case pending a decision from the PTO on the petitions.

II. THE COURT STAYS THE CASE

The Court weighs three factors in deciding whether to stay litigation pending examination by the PTO:

1) whether a stay will unduly prejudice or present clear tactical disadvantage to the nonmoving party, 2) whether a stay will simplify the issues in question and the trial of the case, and 3) whether discovery is complete and whether a trial date has been set.

BarTex Research, LLC v. FedEx Corp., 611 F. Supp. 2d 647, 649–650 (E.D. Tex. 2009).

The Court finds that each factor supports granting a stay in this case.

A. A Stay Will Not Unduly Prejudice Micrografx

First, a stay will not unduly prejudice Micrografx. Micrografx generally asserts that witnesses, evidence, and memories will be less readily available due to delay. Micrografx Resp. 7 [67]. But this is speculative and does not show prejudice. *See Evolutionary Intelligence LLC v. Sprint Nextel Corp.*, 2014 WL 819277, at *4 (N.D. Cal. 2014). A delay caused by the *inter partes* review process, without more, does not justify denial of a stay. *See, e.g., E-Watch, Inc. v. Lorex Canada, Inc.*, 2013 WL 5425298, at *2 (S.D. Tex. 2013); *Semiconductor Energy Lab. Co., Ltd. v. Chimei Innolux Corp.*, 2012 WL 7170593, at *3 (C.D. Cal. 2012); *Tierravision, Inc. v. Google, Inc.*, 2012 WL 559993, at *3 (S.D. Cal. 2012). Rather, the *inter partes* review was designed to create efficiencies and “proceed in a timely

fashion.” *Lorex Canada*, 2013 WL 5425298, at *2. Thus, the length of the *inter partes* review alone does not establish prejudice.

Micrografx argues that the delay would be especially prejudicial because the patents-in-suit will expire in 2016 and 2017. *See* Micrografx Resp. 8. But it is not clear how the stay would be prejudicial. Micrografx does not seek injunctive relief and does not practice the patents-in-suit. *Id.* at 8–9. Thus, Micrografx’s damages would be primarily monetary. Micrografx’s right to monetary damages for the period of infringement will not be affected by the expiration of the patent. Thus, a stay will not unduly prejudice Micrografx.

The Court concludes that this factor weighs in favor of a stay.

B. A Stay May Simplify the Issues in the Case

Next, waiting for the PTO’s decision might clarify the scope of issues in this case and could eliminate the need for a trial altogether. *Semiconductor*, 2012 WL 7170593, at *2 (“[W]aiting for the outcome of the reexamination could eliminate the need for trial if the claims are cancelled or, if the claims survive, facilitate trial by providing the court with expert opinion of the [US]PTO and clarifying the scope of the claims.” (alterations in original) (quoting *Target Therapeutics, Inc. v. SciMed Life Sys., Inc.*, 1995 WL 20470, at *2 (N.D. Cal 1995))). “Although there is a chance the patent claims will emerge from the reexamination process unchanged, the statistics indicate that is unlikely.” *Tierravision*, 2012 WL 559993, at *2. If the PTO grants Google and Samsung’s petitions, continuing the litigation will result in the unnecessary duplication of efforts and expenses to resolve the same issues. If the PTO denies the petition, the stay will be short and Defendants would be

estopped from asserting invalidity “on any ground that the petitioner raised or reasonably could have raised during that *inter partes* review.” 35 U.S.C. § 315(e)(2); *see also ACTi Corp.*, 2013 WL 6334372, at *7.

Further, Micrografx has asserted the same patents against Google and Motorola in a related case. *See Google Inc.*, No. 13-CV-3595. Not only will a ruling from the PTO simplify issues in this case, but it will simplify issues in a related case as well. Thus, if the Court continued without a stay and the PTO accepted the petitions, the unnecessary expenditures associated with litigation would be twofold.

The Court finds that this factor also weighs in favor of a stay.

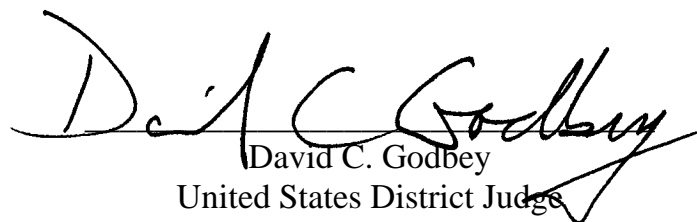
C. The Case is in the Early Stages of Litigation

Finally, the parties have not completed discovery, nor has a trial date been set. The Court has not issued a scheduling order, and no discovery has taken place. The parties have not yet filed claim construction briefs. “If the stay is unlikely to prejudice the plaintiff and the motion for stay comes early in the case, courts generally look favorably on granting stays pending reexamination.” *BarTex*, 611 F. Supp. 2d at 650. The Court finds that this factor also favors a stay.

CONCLUSION

As each of the three factors favors a stay, the Court grants Samsung’s motion and stays the case pending a decision from the PTO.

Signed July 9, 2014.


David C. Godbey
United States District Judge