

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 14-1645-GW(MRWx)	Date	September 24, 2014
Title	<i>Fontem Ventures, B.V., et al. v. NJOY, Inc., et al.</i>		

Present: The Honorable	GEORGE H. WU, UNITED STATES DISTRICT JUDGE		
Javier Gonzalez	None Present		
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:		
None Present	None Present		

PROCEEDINGS (IN CHAMBERS): ORDER DENYING DEFENDANT’S MOTION TO STAY PENDING RESOLUTION OF *INTER PARTES* REVIEWS (WITHOUT PREJUDICE) [30]

On September 22, 2014, Defendants NJOY, Inc. (CV14-01645), CB Distributors, Inc. and DR Distributors LLC (CV14-1649), Vapor Corp. (CV14-1650), FIN Branding Group, LLC and Victory Electronic Cigarettes Corporation (CV14-1651), Ballantyne Brands, LLC (CV14-1652), Spark Industries, LLC (CV14-1653), Logic Technology Development LLC (CV14-1654), and VMR Products, LLC (CV14-1655) (collectively, “Defendants”) filed a motion to stay this action pending resolution of *inter partes* reviews that various Defendants have requested or plan to request concerning four of the five patents in suit (“Motion”). Docket No. 30. Plaintiffs oppose the Motion. Notice of Mot., Docket No. 30 at 1. The Court finds the Motion suitable for decision without oral argument, and without the need for an opposition brief. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15.

In this litigation, Plaintiff asserts that Defendants infringe five patents: 8,365,742 (“the ‘742 Patent”), 8,375,957 (“the ‘957 Patent”), 8,393,331 (“the ‘331 Patent”), 8,490,628 (“the ‘628 Patent”), and 8,689,805 (“the ‘805 Patent”). Am. Compl., Docket No. 14. Defendant NJOY filed a petition seeking *inter partes* review of the ‘331 Patent on August 14, 2014, and a petition seeking *inter partes* review of the ‘628 Patent on August 15, 2014. Mot., Docket No. 30 at 2. Defendant CB Distributors filed a petition seeking *inter partes* review of the ‘805 Patent on September 22, 2014. *Id.* Defendant Logic Technology intends to file a petition seeking *inter partes* review of the ‘957 Patent within the next few weeks. *Id.*

Defendants do not represent that they intend to seek *inter partes* review of the ‘742 Patent, but note that the ‘742 patent resulted from a divisional application of the application that resulted in U.S. Patent No. 8,156,944 (“the ‘944 Patent”), which has been asserted in separate litigation against some of the Defendants.

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Id. That litigation has been stayed pending *inter partes* review of the '944 Patent. *Id.* Defendants further note that only two of the '742 Patent's three claims are asserted in this litigation against most defendants, out of more than 35 asserted claims. *Id.* at 5.

While it has discretion to do so, absent the stipulation of the parties, the Court will not stay this action based on the mere filing of petitions for *inter partes* review. Instead, Defendants may renew the Motion when and if the United States Patent and Trademark Office grants the requested *inter partes* reviews. Should the Motion be renewed, Defendants shall specify whether, as a condition of the requested stay, the non-requesting parties will agree to be bound by the results of the *inter partes* reviews to the same extent the requesting parties are bound. The Court will consider any such renewed Motion in light of the status of the case at that time. In the meantime, the litigation will proceed apace.

The Motion is DENIED without prejudice.

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