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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SOUTHERN DIVISION

POLARIS POWERLED TECHNOLOGIES, LLC,

Plaintiff,

v.

WESTERN DIGITAL CORPORATION, WESTERN DIGITAL TECHNOLOGIES, INC.,

Defendants.

CASE NO. 24-02864-ODW(MARx)

WESTERN DIGITAL'S NOTICE OF MOTION AND MOTION TO STAY ACTION PENDING *INTER PARTES* REVIEW; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: March 3, 2025
Time: 1:30 P.M.
Ctrm: 5D

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT, on March 3, 2025, at 1:30 p.m., or as soon thereafter as this matter may be heard before the Honorable Otis D. Wright II, in Courtroom 5D of the United States District Court for the Central District of California, located at 350 W. 1st Street, Los Angeles, CA 90012, Defendants Western Digital Corporation and Western Digital Technologies, Inc. (collectively, "Western Digital") will and hereby does move this Court for an order staying the above-captioned action ("Action") pending final resolution of the three petitions for *inter partes* review ("IPR") that Western Digital filed before the Patent Trial and Appeal Board ("PTAB" or "Patent Office") challenging the validity of the patent claims asserted against Western Digital in this Action.

As more fully set forth in the attached Memorandum of Points and Authorities, this Motion is made on the grounds that a stay will promote the interests of judicial efficiency and economy and preserve the resources of this Court and of the parties.

The Motion is based upon this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the Declaration of David Clark filed in support, the pleadings on file with the Court, and such arguments and authorities as may be presented at or before the hearing.

This Motion is made following conferences of counsel pursuant to Local Rule 7-3, which took place on January 24, 2025.

DATED: February 3, 2025

HAYNES AND BOONE, LLP

By: */s/* David B. Clark
Kenneth G. Parker
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WESTERN DIGITAL CORPORATION and WESTERN DIGITAL TECHNOLOGIES, INC.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This patent litigation involves three patents asserted by Plaintiff Polaris PowerLED Technologies, LLC ("Polaris") against Defendants Western Digital Corporation and Western Digital Technologies, Inc. (collectively, "Western Digital"). Western Digital has petitioned the Patent Office for *inter partes* review ("IPR") of each of the three Patents-in-Suit. In those IPRs, Western Digital challenges the validity of all claims currently asserted against Western Digital for each patent-in-suit. Western Digital's pending IPRs will streamline this multi-patent litigation, simplify the issues before this Court, and result in no cognizable prejudice to Polaris. Western Digital accordingly requests a stay of this litigation pending resolution of its three IPR petitions.

All three factors typically considered by courts for stay requests weigh heavily in favor of this Court issuing a stay pending the outcome of Western Digital's IPRs. First, this case is in its early stages. Minimal time and resources have been invested by the parties or the Court at this stage—discovery is far from completed, and the parties are months away from any claim construction hearing. A stay pending the outcome of the IPRs will avoid unnecessary expenditures and duplicative work on these tasks and many others.

Second, Western Digital's IPRs will likely be dispositive of, and at the very least greatly simplify, complicated issues such as infringement, validity, and claim interpretation. Indeed, with Western Digital challenging *all* asserted claims across three patents, it is highly likely that one or all asserted claims will be invalidated. Moreover, while it is unlikely that *none* of the 52 challenged claims across the three Patents-in-Suit is ultimately invalidated, a stay would still narrow and simplify the issues at hand even under that scenario. For example, such an outcome would likely illuminate various issues including claim construction and the universe of assertable published art while also potentially estopping Western

Digital from pursuing the same invalidity grounds in the District Court litigation.

Third, a stay would not prejudice or tactically disadvantage Polaris. Polaris is a non-practicing entity ("NPE") and does not compete in the market at all, let alone directly with Western Digital. Polaris therefore will be adequately compensated via monetary damages for any successful infringement claim it manages to maintain. On the other hand, absent a stay Western Digital faces hardship by, among other things, being forced to participate in costly and potentially unnecessary discovery on patent claims that could very well be rendered invalid.

Polaris will likely argue that a stay should not be granted because there is no guarantee that any of the three IPRs will be instituted. But particularly because Western Digital is challenging *all* asserted claims for *all three Patents-in-Suit*, and because the PTAB's IPR institution rate remains high; the chances that *no* IPR proceedings ultimately take place are remote at best. Under these circumstances, it is most efficient and fair to stay these proceedings now, so that Western Digital's pending IPR petitions may be resolved.

II. BACKGROUND

A. This Case is in its Early Stages

Non-practicing entity Polaris filed the present case in this district on April 9, 2024, asserting infringement of U.S. Patent Nos. 8,554,968 (the "'968 patent"), 8,601,346 (the "'346 patent"), and 9,183,085 (the "'085 patent") (collectively, "Patents-in-Suit") against Western Digital and a number of Western Digital's customers. (Dkt. 1.) Upon an unopposed motion by Western Digital, the Court severed and dismissed the suit against Western Digital's customers. (Dkt. 50.) The allegations of infringement remain pending as to Western Digital.

The Court issued its Scheduling and Case Management Order on January 27, 2025. (Dkt. 54.) To date, limited discovery has occurred—Polaris served its First Sets of Requests for Production and Interrogatories on October 2, 2024, and

Western Digital responded in November. Although the parties exchanged contentions, the Court recently set a deadline of February 18, 2025 to serve Infringement Contentions and April 4, 2025 to serve Invalidity Contentions. Meanwhile, as of the filing of this Motion, claim construction briefs have not been exchanged, the Claim Construction Hearing is currently set for August 2025, no depositions have been noticed or taken, expert discovery has not begun, summary judgment motions have not been filed, and a trial will not occur until at least June 2026.

B. Western Digital Diligently Filed IPRs on Every Patent-in-Suit.

As the chart below illustrates, Western Digital filed its three IPRs before the filing of this Motion, two before the Court issued its Scheduling Order. (Clark Decl. ¶¶ 2–4, Exhs. A-C.) Moreover, the IPRs challenge every claim that Polaris has currently asserted in its Complaint.

Patent and IPR No.	Challenged Claims[1]	Date Filed with PTAB[2]	PO Prelim Response	Institution Decision
'085 Patent IPR	1–2, 4–7, 14–17, 18, 22–25, 29–30	January 29, 2025	May 2025	August 2025
'346 Patent IPR	1–11, 13-18	January 23, 2025	May 2025	August 2025
'968 Patent IPR	1–18	January 24, 2025	May 2025	August 2025

The PTAB must make an institution decision within six months of the filing of an IPR petition. 35 U.S.C. §§ 313–314. This places the timing for the PTAB's

[1] Western Digital challenges all Asserted Claims for each of the Patents-in-Suit in addition to some claims which have not been asserted.

[2] Western Digital has not yet received its Notice of Filing Date Accorded to the IPR but estimates the accorded date to be February 1, 2025, at the latest, if in line with typical PTAB procedure. Western Digital will provide updated information in its Reply. (Clark Decl. ¶¶ 2-4, Exhs. A-C).

institution decisions for each of the three IPRs at no later than August 2025. Once review is granted, the PTAB must issue its final determinations within one year, absent any statutory extensions based on good cause. 37 C.F.R. § 42.100(c); 35 U.S.C. § 316(a)(11).

III. LEGAL STANDARD

Congress enacted the Leahy-Smith America Invents Act ("AIA") in 2011 to improve and replace the former *inter partes* reexamination procedure with the new *inter partes* review proceeding. *See Wonderland Nursery Goods Co., Ltd. v. Baby Trend, Inc*., No. 14-cv-01153-VAP, 2015 WL 1809309, *1 (C.D. Cal. Apr. 20, 2015). A goal of the new proceeding is "to minimize duplicative efforts by increasing coordination between district court litigation and inter partes review." *Id.* "Courts have broad discretion to stay cases, including staying discovery therein, in the interests of judicial economy and to ensure the orderly and efficient management of litigation." *See Landis v. North American Co.,* 299 U.S. 248, 254 (1936) ("The power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants."); *see also* Fed. R. Civ. Proc. 26(b)(2)(C)(iii) ("On motion or on its own, the court must limit the frequency or extent of discovery otherwise allowed . . . if it determines that the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the case, the amount in controversy . . . .").

This Court has the authority to stay this Action pending the IPRs, which is "particularly justified where the outcome of a PTO proceeding is likely to assist the court in determining patent validity or eliminate the need to try infringement issues." *Evolutionary Intelligence, LLC v. Millennial Media, Inc*., 2014 WL 2738501, at *2 (N.D. Cal. Jun. 11, 2014); *see also Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426-27 (Fed. Cir. 1988). In determining whether to grant a stay pending IPR, courts generally consider three factors: "(1) whether discovery is complete

and whether a trial date has been set; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the nonmoving party." *Caravan Canopy Int'l, Inc. v. Home Depot U.S.A., Inc.*, No. 19-CV-1072-PSG (ADSx), 2020 WL 5834297, at *1 (C.D. Cal. Aug. 19, 2020) (citations omitted) (granting pre-institution stay). Ultimately, "the totality of the circumstances governs." *See Vivint, Inc. v. Skybell Techs., Inc*., No. 21-cv-9472-GW, 2022 WL 18587113, at *1 (C.D. Cal. Nov. 9, 2022).

Courts in this District routinely stay cases shortly after IPRs are filed and ***before*** institution. *See, e.g.*, *Micropairing Techs. LLC v. Am. Honda Motor Co*., 2022 WL 17219084 (C.D. Cal. June 24, 2022) (granting stay pending resolution of IPR before institution).[3] Indeed, in light of the Supreme Court's decision in *SAS Institute, Inc. v. Iancu*, 138 S. Ct. 1348, 1354 (2018), which held that once the PTO grants review of a petition for IPR, it is "statutorily required to address every claim" petitioner raised in its petition, even courts that had previously found the simplification factor to be speculative have reversed course and ruled in favor of issuing pre-institution stays. *See Lund Motion Products, Inc. v. T-Max Hangzhou Technology Co., Ltd.*, No. SACV 17-01914-CJC-JPR, 2019 WL 116784, at *2 (C.D. Cal. Jan. 2, 2019) (Carney, J.).

[3] For additional case law confirming this practice of courts in this District, *see also Mediatek, Inc. v. Semiconductors N.V.*, 2022 WL 17185976 (C.D. Cal. June 21, 2022) (same); *Weserve Drone, LLC v. Sz Dji Tech. Co*., 2020 WL 4373365, at *4 (C.D. Cal. Mar. 17, 2020) (same); *Caravan Canopy Int'l, Inc. v. Home Depot U.S.A., Inc.,* 2020 WL 5834297, at *1 (C.D. Cal. Aug. 19, 2020) (citations omitted) (same); *One-E-Way, Inc. v. Apple Inc.,* 2021 WL 4932518, at *4 (C.D. Cal. Mar. 16, 2021) (same); *Sleep Number v. Sizewise Rentals*, 2019 WL 1091335, at *3–4 (C.D. Cal. Feb. 12, 2019) (same); *SCA Hygiene Prods. Aktiebolag v. Tarzana Enters.,* No. 17-4395, 2017 WL 5952166, at *6 (C.D. Cal. Sep. 27, 2017) (same); *Core Optical Techs., LLC v. Fujitsu Network Commc'ns, Inc.*, 2016 WL 7507760, at *2 (C.D. Cal. Sept. 12, 2016) (same).

IV. ARGUMENT

A. A Stay is Favored Given the Early Stage of the Case

The early stage of this Action greatly weighs in favor of a stay, since there is undoubtedly "more work ahead of the parties and the Court than behind." *Polaris PowerLED Techs., LLC v. LG Elecs., Inc.*, 2020 WL 6064964, at *2 (C.D. Cal. Aug. 26, 2020) (internal citations and quotations omitted). In particular, courts in this District apply a "liberal policy in favor of granting motions to stay proceedings pending the outcome of re-examination, especially in cases that are still in the initial stages of litigation and where there has been little or no discovery." *Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943 F. Supp. 2d 1028, 1031 (C.D. Cal. 2013) (internal quotation marks omitted).

This litigation is undoubtedly in its initial stages. The case schedule was just set by the Court on January 27, 2025. (Dkt. 54.) Limited discovery has been conducted, a claim construction hearing will not take place until August 22, 2025, and a trial will not occur until at least June 2026. *Id.* Neither the parties nor the Court have "invested substantial time and effort in [the] case." *C.R. Laurence Co. v. Frameless Hardware Co. Ltd. Liab. Co.*, 2022 WL 2035952, at *6 (C.D. Cal. Feb. 14, 2022). Courts in this District have often granted stays in cases that have progressed much further than this one, including after *Markman* and depositions. *See Vivint, Inc. v. Skybell Techs., Inc.,* 2022 WL 18587113, at *2 (C.D. Cal. Nov. 9, 2022) (finding that "more work ahead of the parties and the Court than behind them" even though the parties had already completed "exchanging initial disclosures, serving written discovery, noticing depositions, exchanging final infringement and invalidity contentions, and entering a claim construction order."); *see also PersonalWeb Techs., LLC v. Facebook, Inc.*, 2014 WL 116340, at *3 (N.D. Cal. Jan. 13, 2014) (granting a stay despite "the close of fact discovery [] fast approaching" because "a substantial portion of the work—expert discovery, summary judgment, pre-trial preparation, and trial itself—lies ahead").

Issuing a stay at this early stage would conserve judicial and party resources by appropriately employing IPRs as an efficient, cost-effective alternative to district court litigation. *Universal Elecs.*, 943 F. Supp. 2d at 1031 ("The Court's expenditure of resources is an important factor in evaluating the stage of the proceedings."); *see also Realtime Data LLC v. Teradata Operations, Inc.*, 2017 WL 3453295, at *3 (C.D. Cal. Feb. 27, 2017) ("discovery in this case hasn't progressed much beyond some initial disclosure and interrogatories, the Court hasn't held a Markman hearing or issued a claim construction order, and trial is still over a year away . . . . Given the general progression of patent cases, it's clear the parties and the Court have not exerted much effort or used significant resources here.").

B. A Stay will Simplify the Issues

Western Digital's IPRs will "simplify the issues in question and the trial of the case," a factor that also greatly weighs in favor of a stay. *Universal Elecs.*, 943 F. Supp. 2d at 1032. Between October 2023 and September 2024, 69% of "Electrical/Computer" patent IPRs were instituted—i.e., of the 732 petitions that were filed in that technology category, the PTAB granted approximately 507 for review. (Clark Decl., ¶ 5; Ex. D). Given those institution rates and the fact that Western Digital filed IPRs challenging each of the three Patents-in-Suit, the statistical probability that the PTAB institutes IPR for one or more of them is remarkably high, greater than 97 percent.[4]

Simplification is also especially likely here, where Western Digital has filed petitions challenging *all* of the asserted claims in the Patents-in-Suit. *See Limestone v. Micron Tech.*, 2016 WL 3598109, at *4 (C.D. Cal. Jan. 12, 2016) ("Because Defendants have petitioned for review of nearly all claims asserted in this action, the outcome of the IPR has the potential to significantly narrow the

[4] Assuming statistical independence between the three decisions, $1 - (.31)^3 = 0.9702$.

scope and complexity of the litigation"). The fact that a number of patents are at play "weighs even more heavily in favor of a stay because the IPR proceedings have the potential save an even greater amount of judicial resources." *Masimo Corp. v. Apple Inc.*, No. SACV 20-48 JVS (JDEx), 2020 U.S. Dist. LEXIS 217483, at *6 (C.D. Cal. Oct. 13, 2020).

The IPRs will therefore simplify and streamline proceedings before this Court. *See Sonics, Inc. v. Arteris, Inc.*, 2013 WL 503091, at *3 (N.D. Cal. Feb. 8, 2013) ("[R]egardless of the outcome of the reexamination proceedings, the Court's interest in simplifying the proceedings by waiting for the PTO to reexamine six of the seven patents-in-suit weighs in favor of granting a stay."). Even if just a *portion* of the challenged claims are instituted and ultimately cancelled, the scope of litigation would be significantly reduced. *See Core Optical Techs., LLC v. Fujitsu Network Commc'ns, Inc.*, 2016 WL 7507760, at *2 (C.D. Cal. Sept. 12, 2016) ("If the PTAB cancels or narrows a portion of the asserted claims, the scope of this litigation may be significantly reduced."); s*ee also Aire Tech., Ltd. v. Garmin Int'l, Inc.*, 2022 WL 19076660, at *3 (C.D. Cal. Aug. 16, 2022) (reasoning that "simplification will likely result" if IPR is instituted on *just one* claim.).

Meanwhile, in the highly unlikely event that none of the three separate petitions is instituted, the review process would still streamline litigation by providing a more developed record and clarifying for the Court Plaintiff's positions on its own patents. *See Aylus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1362 (Fed. Cir. 2017) ("[S]tatements made by a patent owner during an IPR proceeding, whether before or after an institution decision, can be considered for claim construction and relied upon to support a finding of prosecution disclaimer."); *see also Micropairing Techs,* 2022 WL 17219084, at *1 ("Any records that the PTAB provides—whether it grants Honda's IPR petitions or not—could aid in the claim construction process."); *Realtime Data*, 2017 WL 3453295, at *2 (a stay at least provides "a richer prosecution history upon which to base necessary claim

construction determinations"); *Core Optical Techs*, 2016 WL 7507760, at *2 ("Even if no patent claim is eliminated, the intrinsic record developed during the IPR may inform on issues like claim construction.").

In addition, potential estoppel under 35 U.S.C. § 315(e)(2) would also aid in narrowing the invalidity positions available to Western Digital during litigation on any patent claims for which the PTAB issues a Final Written Decision. *Purecircle United States, Inc. v. SweeGen, Inc.*, 2019 WL 3220021, at *3 (C.D. Cal. June 3, 2019) ("In addition, Defendants would be estopped under 35 U.S.C. § 315(e)(2) from raising in this litigation arguments which were raised, or reasonably could have been raised, in the IPR. Accordingly, the parties' and Court's resources are likely to be conserved, in addition to the stay being relatively short."); *Polaris PowerLED Techs,* 2020 WL 6064964, at *3 ("Additionally, if IPR is instituted and the PTAB issues a final written decision, [defendant] will be estopped from asserting invalidity based on any ground it 'raised or reasonably could have raised' during the IPR.").

Courts in this District routinely adopt the "the majority position that even if IPR has not yet been instituted, the simplification factor may still weigh in favor of a stay," and they do so even while acknowledging the somewhat speculative nature implicit in raising assertions about simplification before the PTAB has even instituted an IPR. *Purecircle*, 2019 WL 3220021, at *3 (collecting cases); *see also Caravan Canopy Int'l v. Home Depot U.S.A.*, 2020 WL 5834297, at *3 (C.D. Cal. Aug. 19, 2020) (when considering the simplification factor before an IPR is instituted "many courts have ultimately decided that saving scarce judicial resources sways the analysis in favor of a stay, especially when a stay will be relatively short") (internal citation and quotations omitted).

For example, in *Core Optical Techs., LLC v. Fujitsu Network Commc'ns, Inc.*, the court granted a stay before the relevant IPRs had been instituted and rejected the plaintiff's argument that "'potential simplification is mere speculation'

because the PTAB has not yet decided if it will institute *inter partes* review" explaining that "[t]his argument likely applies in all stay motions, and thus proves too much. Certainly, that the petition has not yet been granted makes it difficult to predict whether the issues will be simplified. But even if the IPRs are not instituted, the stay will be relatively short and the action can continue with minimal delay. Further, as noted, a stay will simplify the issues for trial in most scenarios." 2016 WL 7507760 at *2; *see also Weserve Drone, LLC v. Sz Dji Tech. Co*., 2020 WL 4373365, at *2–3 (C.D. Cal. Mar. 17, 2020) (rejecting the argument that "the decision as to whether to *institute* the IPR will not simplify anything" in finding that the "IPR Petition has the potential to fully resolve—if not significantly simplify—Plaintiff's patent infringement claims"). Indeed, "PTAB proceedings may simplify trial by cancelling claims ***or*** may streamline future litigation by providing a richer prosecution history and possible file history estoppel." *Ravgen, Inc. v. Quest Diagnostics, Inc.*, 2022 WL 2047615, at *3 (C.D. Cal. Feb. 2, 2022) (emphasis added).

Indeed, this Court has previously granted a stay prior to any institution decision by the PTAB where, like here, the litigation was at an early stage, the potential existed for streamlining the proceedings before this Court, and no hardship or inequity would have resulted from the stay. *Tire Hanger Corp. v. My Car Guy Concierge Services Inc.*, No. 5:14-cv-00549-ODW(MANx), 2015 WL 857888, at *2 (C.D. Cal. Feb. 27, 2015) (Wright, J., presiding) ("[T]he IPR [] will at the very least simplify the issues and streamline the litigation by reducing claim construction disputes and minimizing the number of claims that the parties need to address."); *see also*, *Dennis Fernandez v. Toyota Motor Corporation et al*, No. 2:11-cv-09605, Order Granting Defendant's Motion to Stay, ECF No. 60 (C.D. Cal. Nov. 27, 2012) (Wright, J., presiding) (granting stay pending *inter partes* reexam before institution).

Finally, it should also be emphasized that regardless of the PTAB's

decisions, a stay here will be "relatively short," and the case can continue afterwards "with minimal delay." *Purecircle*, 2019 WL 3220021 at *2; *Polymer Tech. Sys. v. Jant Pharmacal*, 2015 WL 12860482, at *4 (C.D. Cal. Aug. 20, 2015) ("A brief stay of this action, i.e., until the USPTO determines whether it will institute *inter partes* review proceedings, would be most efficient."). If all three petitions are ultimately denied, the stay will only last until approximately mid-2025 while still providing the benefits highlighted above.

In short, a stay pending the IPRs will simplify this Action, and this factor weighs in favor of a stay. *Caravan Canopy,* 2020 WL 5834297, at *3 ("[T]he Court finds this factor weighs in favor of a stay because the IPR challenges all of the claims in a single patent, which means the scope of this suit is likely to be substantially narrowed if the Patent Office agrees with Defendant.").

C. A Stay Will Not Prejudice or Tactically Disadvantage Plaintiff

A stay would not prejudice or tactically disadvantage Plaintiff in any way. On the contrary, a stay would benefit the parties and the Court by allowing various issues to proceed first before the PTAB, thus preserving litigation and Court resources.

When considering prejudice or a tactical disadvantage to the non-moving party, courts consider "(1) the timing of the petition for review; (2) the timing of the request for the stay; (3) the status of the review proceedings; and (4) the relationship of the parties." *TeleSign Corp. v. Twilio, Inc*., 2016 WL 6821111, at *4 (C.D. Cal. Mar. 9, 2016) (internal citation omitted).

Western Digital diligently filed all three petitions by January 29, 2025, with two of the petitions filed before the Court issued its Scheduling Order and the third shortly after. In the same fashion, Western Digital brings this Motion promptly after those filings and before any extensive discovery, urging the Court to stay the proceedings in light of the IPRs. *Polaris PowerLED Techs.,* 2020 WL 6064964, at *2 (finding that there was no undue prejudice where "[defendant] acted diligently

in filing the IPR and has moved to stay the case shortly after filing its IPR petition"). And courts repeatedly find no undue prejudice "unless the patentee makes a specific showing of prejudice beyond the delay necessarily inherent in any stay." *One-E-Way, Inc. v. Apple Inc.*, 2021 WL 4932518, at *3 (C.D. Cal. Mar. 16, 2021); *see also Wonderland Nurserygoods Co.*, 2015 WL 1809309, at *4 (C.D. Cal. Apr. 20, 2015) ("The general prejudice of having to wait for resolution is not a persuasive reason to deny the motion for stay."); *Realtime Data*, 2017 WL 3453295, at *3 ("The mere possibility of delay, inherent in all proceedings, is insufficient to constitute undue prejudice.").

Also important to previous court analyses is the fact that Polaris is an NPE. As a non-practicing entity, Polaris does not manufacture or sell products that embody any of the asserted claims of the Asserted Patents, does not compete in the market, and does not compete with Western Digital. Polaris only requests monetary damages, not injunctive relief, and does not risk losing (nonexistent) sales. Any statutory damages that might arise from a stay can be justly compensated for any claims that might survive the IPRs and successfully prove infringement. Courts consistently hold that a party is not prejudiced in comparable circumstances. *Evolutionary Intelligence, LLC v. Sprint Nextel Corp.*, 2014 WL 4802426, at *5 (N.D. Cal. Sep. 26, 2014) ("[B]ecause [the parties] are not competitors ([Plaintiff] does not market any products or services practicing the patents-in-suit), [Plaintiff] does not risk irreparable harm by defendants' continued use of the accused technology and can be fully restored to the status quo ante with monetary relief."); *Affinity Labs of Texas LLC v. Samsung Elecs. Co.*, 2014 WL 3845684, at *4 (N.D. Cal. Aug. 1, 2014) ("[T]he absence of market competition between [the parties] further supports the impression that [plaintiff] will suffer no undue prejudice from staying this litigation while the PTO reviews [] the validity of [the] asserted patents."); *Apple Inc. v. IXI IP, LLC*,, 2021 WL 389214, at *3 (N.D. Cal. Jan. 26, 2021) ("[C]ourts have consistently found that where[] the

parties are not direct competitors, [Plaintiff] do[es] not risk irreparable harm by [Defendant]'s continued use of the accused technology."); *Weserve Drone,* 2020 WL 4373365, at *3 ("While delay alone is not sufficient to deny an otherwise meritorious stay request, it can support the denial of a stay where the parties compete with each other.").

In light of Western Digital's diligence, the lack of competition between the parties and Polaris' NPE status, this factor also supports granting a stay.

D. Western Digital Faces Undue Hardship Absent a Stay

In assessing whether a stay is appropriate, the district court may balance the parties' competing interests, which include "the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (quoting *CMAX, Inc. v. Hall,* 300 F.2d 265, 268 (9th Cir. 1962)).

As discussed throughout this motion, Western Digital would face undue hardship absent a stay, while Polaris faces no potential prejudice should a stay be issued. Briefly, Polaris is a NPE that acquires intellectual property and then licenses it—as explained, Polaris does not risk loss of sales or prejudice if this Action is stayed. On the other hand, absent a stay both parties would necessarily incur substantial expenditures in addressing issues of validity (and by extension, infringement) and claim interpretation in simultaneous proceedings. *Shankar v. Jaddou*, 2023 WL 2412785, at *3 (N.D. Cal. Mar. 8, 2023) (finding that "duplication of efforts and the risk of inconsistent rulings . . . weigh heavily in favor of a stay."). Moreover, a stay prevents the waste of judicial resources on claims that may ultimately be canceled. Upon a balancing of interests, the IPRs would simplify, not complicate, the issues at stake and provide the most efficient

path forward.

V. Conclusion

Because all factors favor a stay, and in light of the liberal policy favoring stays pending IPRs, Western Digital respectfully requests that the Court stay this case pending the outcome of Western Digital's IPRs.

DATED: February 3, 2025

HAYNES AND BOONE, LLP

By: */s/* David Clark
Kenneth G. Parker
David B. Clark
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Caroline W. Fox
Marron E. Frith

WESTERN DIGITAL CORPORATION and WESTERN DIGITAL TECHNOLOGIES, INC.

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Western Digital certifies that this brief contains 4398 words, which complies with the word limit of L.R. 11-6.1

DATED: February 3, 2025

HAYNES AND BOONE, LLP

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