

1 Joseph R. Re (SBN 134,479)  
joe.re@knobbe.com  
2 Joshua J. Stowell (SBN 246,916)  
joshua.stowell@knobbe.com  
3 KNOBBE, MARTENS, OLSON & BEAR, LLP  
2040 Main Street, 14th Floor  
4 Irvine, CA. 92614  
(949) 760-0404 Telephone  
5 (949) 760-9502 Facsimile

6 Nicholas A. Belair (SBN 295,380)  
nick.belair@knobbe.com  
7 KNOBBE, MARTENS, OLSON & BEAR, LLP  
333 Bush St., 21st Fl.  
8 San Francisco CA 94104  
415-217-8399 - Telephone

9 *Attorneys for Defendant*  
10 Imperative Care, Inc.

11  
12 **IN THE UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN JOSE DIVISION**

15  
16 INARI MEDICAL, INC.,  
17 Plaintiff,  
18 v.  
19 IMPERATIVE CARE, INC.,  
20 Defendant.

Civil Action No. 5:24-cv-03117-EKL-SVKx

**IMPERATIVE CARE, INC.’S NOTICE  
OF MOTION AND MOTION TO STAY  
PENDING *INTER PARTES* REVIEW**

Hearing Date: July 16, 2025  
Time: 10:00 a.m.  
Courtroom: 7  
Hon. Eumi K. Lee

*Imperative Care v. Inari Medical*  
U.S. Patent 11,974,910  
**Imperative Care Ex. 1048**

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1 case will be further narrowed. And, even if some claims survive IPR, this case would be  
2 simplified because (a) Imperative Care would be estopped from presenting certain invalidity  
3 arguments, and (b) Stryker/Inari's arguments in the IPR and any claim-construction issues  
4 addressed by the PTO would aid this Court in performing its own claim-construction analysis.

5 Finally, a stay would not cause undue prejudice to Stryker/Inari. Stryker/Inari cannot  
6 show it would be prejudiced by having to wait for legal or equitable relief. Regarding  
7 monetary relief, Stryker/Inari has unlimited resources following its acquisition by Stryker,  
8 one of the world's largest medical device companies, so it cannot claim any economic  
9 hardship. Plus, prejudgment interest can compensate Stryker/Inari for any delayed recovery.  
10 Regarding equitable relief, Imperative Care proposes the Court decide the pending PI Motion  
11 before issuing a stay so Stryker/Inari will have an opportunity for equitable relief. Imperative  
12 Care welcomes the upcoming hearing so it can clear the unfair cloud Stryker/Inari has cast  
13 over its business. Presumably, Stryker/Inari selected its three best patent claims to assert in  
14 that motion. Thus, a denial of the PI Motion would confirm that Stryker/Inari is unlikely to  
15 prevail on the merits and/or could not show irreparable harm or hardships for an injunction.  
16 Conversely, in the unlikely event the Court were to grant the PI, Stryker/Inari would probably  
17 welcome a stay because Symphony Thrombectomy System ("Symphony") would be off the  
18 market, satisfying its primary goal for filing suit.

19 Courts in this district routinely stay patent cases pending IPRs on the asserted patents.  
20 And they do so without waiting for the PTO's institution decision. Accordingly, the Court  
21 should stay this case during the pendency of the IPR proceedings concerning all the patents  
22 which Stryker/Inari may assert against the sale of Symphony.

## 23 **II. FACTUAL BACKGROUND**

### 24 **A. Stryker/Inari Asserts a Growing Number of Patents Against Imperative Care**

25 On May 22, 2024, Stryker/Inari filed its initial Complaint, which accused Imperative  
26 Care's manufacture and sale of Symphony of infringing eight patents, including U.S. Patent  
27 No. 11,697,011 ("the '011 Patent"). Dkt. 1. On July 9, 2024, Stryker/Inari filed a First  
28 Amended Complaint, which added a ninth patent to the lawsuit. Dkt. 20.

1 On July 24, 2024, Stryker/Inari filed its PI Motion to enjoin the sale of Symphony,  
2 asserting three claims from two of the eight patents. Dkt. 24.

3 On February 7, 2025—the deadline to amend the pleadings (Dkt. 54)—Stryker/Inari  
4 filed a Second Amended Complaint, withdrawing the '011 Patent (shortly after the PTO  
5 instituted an IPR on that patent) and adding two new patents. Dkt. 68. Stryker/Inari also  
6 served supplemental infringement contentions, which identified 181 asserted claims from the  
7 ten patents asserted in the Second Amended Complaint. Ex. 1.

8 On March 5, 2025, Stryker/Inari filed a Motion for Leave to File a Third Amended  
9 Complaint (“Motion to Amend”). Dkt. 88. That Motion, pending for hearing on May 28,  
10 seeks to add an eleventh patent to this case. *Id.* Imperative Care conditionally opposed that  
11 motion, requesting that the Court vacate the schedule to allow Stryker/Inari to obtain and  
12 assert all its patents against Symphony. Dkt. 98. Also on March 5, 2025, Stryker/Inari  
13 served more supplemental infringement contentions, which identified 21 asserted claims from  
14 this eleventh patent. Ex. 2. Stryker/Inari has presently identified 202 asserted claims from  
15 these eleven patents in an apparent attempt to overwhelm its early-stage competitor.

16 Stryker/Inari has threatened to add even more patents and claims to this litigation. On  
17 February 18, 2025, Stryker/Inari sent a letter to Imperative Care identifying an additional five  
18 patents and 82 patent claims to “consider ... before attempting to commercialize any blood  
19 return system” for use with the Symphony system. Ex. 3. On March 14, 2025, Stryker/Inari  
20 moved to compel the production of information about an unaccused blood-return device  
21 developed by Imperative Care that has never been commercialized and has not yet received  
22 FDA approval. In its motion Inari even admitted that it was seeking the discovery to develop  
23 new infringement claims to assert in this case. Dkt. 94. Then, in correspondence concerning  
24 its Motion to Amend, Stryker/Inari again confirmed its intent to continue to expand this case  
25 by asserting new patents. Ex. 4.

26 **B. Imperative Care Continues to File IPR Petitions on the Asserted Patents**

27 An IPR is a proceeding for challenging the validity of an issued patent at the PTO. 35  
28 U.S.C. §§ 311-319. To initiate an IPR, a party files a petition requesting that the PTO cancel

1 one or more claims of the patent under 35 U.S.C. § 102 (lack of novelty) or 35 U.S.C. § 103  
2 (obviousness) based on prior-art patents and printed publications. 35 U.S.C. § 311(b). The  
3 filing fee for each IPR is \$51,875. 37 C.F.R. § 42.15(a)(1)-(2).

4 On July 8, 2024, Imperative Care filed its first IPR petition against the '011 patent.  
5 Dkt. 24-35. Imperative Care argued that the claims of the '011 patent were invalid because  
6 they did not describe a new and nonobvious invention in view of prior art references that the  
7 PTO did not consider when it allowed that patent. *Id.* at 1-6. Imperative Care has since filed  
8 IPR petitions challenging four other Stryker/Inari patents asserted in this case. Stowell Decl.,  
9 ¶ 2. Imperative Care is also preparing IPR petitions for the remaining asserted patents and  
10 expects to file several of those petitions before the hearing on this Motion. *Id.*, ¶ 3. For the  
11 remaining more recently issued patents, Imperative Care must wait to file its petitions until  
12 nine months after the patent issuance date. *See* 35 U.S.C. § 311(c)(1).

13 On January 23, 2025, the PTAB instituted the '011 Patent IPR, finding Imperative  
14 Care was likely to show invalidity. Ex. 5. On February 7, the PTAB declined to institute IPR  
15 of the '691 Patent for reasons unrelated to any of the other asserted patents. Ex. 6; Dkt. 89 at  
16 8-9. That day, Stryker/Inari withdrew the '011 Patent from this litigation, showing how IPRs  
17 can simplify this case. Since then, the Court has allowed the parties to submit supplemental  
18 briefs over the relevance to the PI Motion of those two institution decisions and Stryker  
19 Corporation's ("Stryker") recent acquisition of Inari. Dkt. 89; Dkt. 97. This Court will hear  
20 argument on both the PI Motion and the Motion to Amend on May 28, 2025.

21 By statute, the PTAB must issue its final written decision on the '011 Patent IPR by  
22 January 2026. 35 U.S.C. § 316(a)(11). Because the PTAB must decide whether to institute  
23 an IPR within about six months of filing, its institution decisions on its pending IPR petitions  
24 will issue between May and September 2025.

### 25 **III. LEGAL STANDARD**

26 Congress established IPRs to provide "a more efficient system for challenging patents  
27 that should not have issued" and to reduce "unwarranted litigation costs." H.R. Rep. No.  
28 112-98, at 39-40 (2011). The Federal Circuit's affirmance of a PTAB decision canceling a

1 patent “has an immediate issue-preclusive effect on any pending or co-pending actions  
2 involving the patent,” *XY, LLC v. Trans Ova Genetics, L.C.*, 890 F.3d 1282, 1294 (Fed. Cir.  
3 2018), and the Federal Circuit will vacate a district court’s judgment in the patentee’s favor  
4 once it affirms an IPR decision invalidating a patent, *Soverain Software LLC v. Victoria’s*  
5 *Secret Direct Brand Mgmt., LLC*, 778 F.3d 1311, 1313, 1320 (Fed. Cir. 2015).

6 District courts have inherent power to stay a patent case in view of a co-pending IPR.  
7 *Murata Mach. USA v. Daifuku Co.*, 830 F.3d 1357, 1361 (Fed. Cir. 2016). There is “a liberal  
8 policy in favor of granting motions to stay” in view of pending PTO proceedings. *Finjan,*  
9 *Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032, 1035 (N.D. Cal 2015) (internal quotes and  
10 citation omitted). Courts in this district routinely stay patent cases where the PTAB has  
11 instituted IPR on one or more asserted patents, or even where institution of the IPRs is still  
12 pending. *See, e.g., Google LLC v. EcoFactor, Inc.*, No. 21-cv-03220-HSG, 2022 WL  
13 6837715 (N.D. Cal. Oct. 11, 2022) (IPRs instituted for three of four asserted patents); *IXI*  
14 *Mobile (R & D) Ltd. v. Samsung Elecs. Co Ltd*, No. 15-CV-03752-HSG, 2015 WL 7015415  
15 (N.D. Cal. Nov. 12, 2015) (three pending IPRs petitions); *Speir Techs. Ltd. v. Apple, Inc.*, No.  
16 5:23-CV-00095-EJD, 2023 WL 2714931 (N.D. Cal. Mar. 30, 2023) (similar).

17 Three factors guide the stay inquiry: “(1) whether discovery is complete and a trial  
18 date has been set; (2) whether a stay will simplify the issues in question and trial of the case;  
19 and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the  
20 nonmoving party.” *PersonalWeb Techs., LLC v. Apple Inc.*, 69 F. Supp. 3d 1022, 1025 (N.D.  
21 Cal. 2014). Courts can also consider other factors in assessing a stay. *See Murata*, 830 F.3d  
22 at 1362 (“Attendant to the district court’s inherent power to stay proceedings is the court’s  
23 discretionary prerogative to balance considerations beyond those captured by the three-factor  
24 stay test.”). All factors favor granting a stay in this case.

#### 25 **IV. ARGUMENT**

##### 26 **A. This Case Is In Its Early Stages**

27 In analyzing the first stay factor, “the proper time to measure the stage of litigation” is  
28 “the date of the filing of the motion to stay.” *VirtualAgility Inc. v. Salesforce.com, Inc.*, 759

1 F.3d 1307, 1316 (2014). “Issues for consideration include whether the parties have engaged  
2 in costly expert discovery and dispositive motion practice, whether the parties have fully  
3 briefed the issue of claim construction, attended a *Markman* hearing and received a claim  
4 construction order, and whether a court has set a trial date.” *HD Silicon Solutions LLC v.*  
5 *Microchip Tech. Inc.*, No. 21-cv-08295-SK, 2022 WL 3084315 \*2 (N.D. Cal. Aug. 3, 2022).  
6 Grant of a “stay is particularly appropriate for cases in the initial stages of litigation or in  
7 which there has been little discovery.” *Finjan, Inc. v. Symantec Corp.*, 139 F. Supp. 3d 1032,  
8 1035 (N.D. Cal. 2015).

9 Here, the parties agree that “discovery is at an early stage ....” Dkt. 88 at 2. Outside  
10 of limited discovery as part of the PI Motion, the parties have not engaged in any costly  
11 expert discovery or filed dispositive motions. The parties have also not briefed the issue of  
12 claim construction and are not due to file their Joint Claim Construction & Prehearing  
13 Statement until April 28, 2025. Nor are they scheduled to participate in the claim-  
14 construction hearing until July 24, 2024. Dkt. 54. Finally, the Court has not set a trial date or  
15 dates for the close of fact or expert discovery. *Id.*

16 Moreover, Stryker/Inari is still amending the pleadings to assert additional patents.  
17 For example, on February 7, 2025, Stryker/Inari filed a Second Amended Complaint, which  
18 asserted two additional patents in the case. Dkt. 68. On March 5, 2025, Stryker/Inari sought  
19 leave to file a Third Amended Complaint, which would add yet another patent to the case.  
20 Dkt. 88. Stryker/Inari has also threatened to continue to add even more patents to this case  
21 against a pre-commercial, developmental-stage blood-return device it believes could be used  
22 with Symphony. Ex. 3; Dkt. 94 at 6. If the Court allows Stryker/Inari to add patents, the  
23 parties will be forced to engage in a seemingly never-ending cycle of contentions, claim-  
24 construction proceedings, and discovery, which will extend the case schedule significantly.  
25 Accordingly, the first factor weighs heavily in favor of a stay because the parties agree the  
26 case is in its early stages.

27 **B. A Stay Will Simplify This Case**

28 “Staying the case pending the outcome of IPR could simplify the case by rendering

1 some or all of [Stryker/Inari’s] infringement claims moot, estopping [Imperative Care] from  
2 asserting any arguments they raised or reasonably could have raised in the IPR[s], and  
3 providing the Court with [the] PTAB’s expert opinion on the claims at issue.” *IXI Mobile*,  
4 2015 WL 7015415 at \*3. Thus, this factor also favors a stay.

5 Imperative Care has already sought IPR of all the asserted claims of five of  
6 Stryker/Inari’s asserted patents. Although the PTAB declined to institute IPR of the ’691  
7 Patent (while instituting on the ’011 Patent), it has not yet issued institution decisions for the  
8 other three pending IPR petitions. Stowell Decl., ¶ 2. Courts in this district grant stays under  
9 similar circumstances. *See, e.g., EcoFactor*, 2022 WL 6837715 at \*2 (granting stay despite  
10 PTAB declining to institute IPR on one of several asserted patents).

11 Moreover, because they appear to be invalid in view of the prior art, Imperative Care  
12 intends to file IPR petitions challenging all the asserted claims for each of the remaining  
13 asserted patents. Stowell Decl., ¶ 3. If the PTAB institutes any of those IPRs and invalidates  
14 the asserted claims, it would significantly simplify the issues. *See Speir Techs.*, 2023 WL  
15 2714931 at \*2 (“even a single PTAB decision has the potential to streamline the case  
16 significantly”); *see also EcoFactor*, 2022 WL 6837715 at \*2) (granting stay where “53 of 70  
17 claims” were “subject to potential invalidation” at PTAB). Under these circumstances, a stay  
18 “effectuates the intent of the AIA by allowing the agency with expertise to have the first  
19 crack at cancelling any claims that should not have issued in the patents-in-suit before costly  
20 litigation continues.” *Software Rts. Archive, LLC v. Facebook, Inc.*, No. C-12-3970 RMW,  
21 2013 WL 5225522, \*6 (N.D. Cal. Sept. 17, 2013).

22 The PTAB has already instituted IPR of the ’011 Patent, which Stryker/Inari admits  
23 caused it to withdraw the ’011 Patent from this lawsuit. *See* Dkt. 97 at 2, n.1. Four asserted  
24 patents share a virtually identical specification with the ’011 Patent, include many of the  
25 same claim limitations, and are invalid based on the same prior art. For example, nine of  
26 Stryker/Inari’s asserted patents use the term “filament,” which is currently in dispute in the  
27 ’011 Patent IPR. Ex. 5. Thus, many of the issues the PTAB considered in its institution  
28 decision—and will resolve in a final written decision—are common among these patents.

1 Accordingly, Imperative Care expects the PTAB will institute IPRs against each of these  
2 related patents. If Stryker/Inari withdraws any of those patents after the PTAB issues its  
3 institution decision—as it did with the '011 Patent—no reason justifies wasting precious  
4 judicial resources and Imperative Care’s limited resources litigating those patents now.

5 Alternatively, “[e]ven if all the asserted claims survive [IPR], the case could still be  
6 simplified because [Imperative Care] would be bound by the estoppel provisions ... and thus  
7 could not raise before this Court any arguments it raised, or reasonably could have raised, at  
8 the PTO in its petitions.” *Neodron, Ltd. v. Lenovo Group, Ltd.*, No. 19-cv-05644-SI, 2020  
9 WL 5074308 \*2 (N.D. Cal., Aug. 27, 2020). Such an outcome “would assist in streamlining  
10 the presentation of evidence and benefit the trier of fact by providing the expert opinion of the  
11 PTO.” *PersonalWeb Techs.*, 2014 WL 116340 at \*4. This “heavily tips the scale in favor of  
12 granting the stay.” *Software Rts. Archive*, 2013 WL 5225522 at \*4.

13 **C. A Stay Will Not Unduly Prejudice or Tactically Disadvantage Stryker/Inari**

14 Courts “address four considerations when evaluating undue prejudice: (1) the timing  
15 of the IPR petition; (2) the timing of the stay request; (3) the status of review; and (4) the  
16 relationship of the parties.” *Apple Inc. v. AliveCor, Inc.*, No. 22-cv-07608-HSG, 2023 WL  
17 9187388 \*3 (N.D. Cal. Dec. 29, 2023). Courts in this district “have repeatedly found no  
18 undue prejudice unless the patentee makes a specific showing of prejudice beyond the delay  
19 necessarily inherent in any stay.” *PersonalWeb Techs.*, 69 F. Supp. 3d at 1029 (collecting  
20 cases). Stryker/Inari cannot make such a showing.

21 First, Stryker/Inari cannot assert any undue prejudice based on the timing of  
22 Imperative Care’s IPR petitions. Congress granted defendants the right to file an IPR petition  
23 within a year of being served with a patent infringement complaint. 35 U.S.C. § 315(b).  
24 Imperative Care has acted diligently to file IPR petitions against Stryker/Inari’s asserted  
25 patents within the statutory window. Imperative Care’s timely exercise of its statutory right  
26 does not suggest any dilatory motive. *See IXI Mobile*, 2015 WL 7015415 at \*4. Further,  
27 Imperative Care is required by statute to wait until at least nine months after the issue date of  
28 an asserted patent to file an IPR. 35 U.S.C. § 311(c)(1). Stryker/Inari has repeatedly

1 amended its complaint to add newly issued patents, which has restricted when Imperative  
2 Care can file its IPR petitions. For example, Imperative Care cannot file an IPR on the  
3 recently added '669 Patent until September 2025.

4 Second, Stryker/Inari cannot assert any undue prejudice or surprise based on the  
5 timing of this motion. During the Court's initial case management conference, Imperative  
6 Care notified the Court that it would seek a stay once the PTAB started issuing institution  
7 decisions. Ex. 7 at 31:1-3. The Court responded that it was "very clear" to the Court already.  
8 *Id.* at 31:4. Under these circumstances, Stryker/Inari can claim no prejudice or surprise. *See*  
9 *Delphix Corp. v. Actifio, Inc.*, No. 13-cv-04613-BLF, 2014 WL 6068407 \*3 (N.D. Cal. Nov.  
10 13, 2014) (finding potential prejudice not significant where stay would allow more orderly  
11 claim construction if new patents were added to suit).

12 Third, the PTAB has already instituted one IPR, and did so on grounds that suggest  
13 other IPRs will also be instituted. The next institution decisions are due between May and  
14 September 2025.

15 Finally, the relationship between the parties is not a source of undue prejudice. Even  
16 where the parties are direct competitors, the question of "whether the patentee will be unduly  
17 prejudiced by a stay in the district court proceedings ..., like the irreparable harm-type  
18 inquiry, focuses on the patentee's need for an expeditious resolution of its claim."  
19 *VirtualAgility*, 759 F.3d at 1318. Presumably, Stryker/Inari presented its best case for  
20 expeditious resolution of its claims in its PI Motion. Yet, Stryker/Inari's evidence is woefully  
21 deficient and cannot support a finding of undue prejudice that might weigh against a stay.

22 Stryker/Inari argued that Imperative Care's sale of the Symphony will irreparably  
23 harm Stryker/Inari's market position. Dkt. 24 at 30-33. Yet, Stryker/Inari has presented no  
24 evidence on the PI Motion that Imperative Care is causing it irreparable harm. The sales of  
25 the accused Symphony remain minimal, especially when compared to Stryker/Inari and other  
26 larger competitors, such as Penumbra. The overwhelming evidence indicates that Penumbra,  
27 and not Imperative Care, is taking sales from Stryker/Inari. Dkt. 34-5 at 30-31.  
28 Stryker/Inari's further speculation that Imperative Care's future sales of Symphony to treat

1 pulmonary embolisms (“PE”) may cause irreparable harm is, at best, premature because the  
2 FDA has not even cleared Symphony for treating PE. *Id.* at 1. Thus, Stryker/Inari has not  
3 shown it is entitled to expedited equitable relief.

4 Similarly, Stryker/Inari has not shown a need for expedited monetary relief.  
5 Stryker/Inari has unlimited resources following its acquisition by Stryker, a company with  
6 annual sales exceeding \$20 billion. *See* Dkt. 89 at 9. As part of this international  
7 conglomerate, Stryker/Inari can no longer claim the types of irreparable harm that might  
8 result from Imperative Care’s relatively minor sales of Symphony. *Id.* at 9-10.

9 **D. Imperative Care Would Be Unfairly Prejudiced Without A Stay**

10 In addition to the three common factors, this Court should exercise its discretion to  
11 consider the harm to Imperative Care without a stay. *See Murata*, 830 F.3d at 1362.  
12 Stryker/Inari is determined to expand the scope of this case indefinitely, thereby forcing the  
13 parties to re-engage in discovery and re-litigate claim construction every time the PTO issues  
14 a new Stryker/Inari patent. Dkt. 98 at 1-2. Simultaneously, Stryker/Inari has shown a  
15 tendency to drop patents once the PTO institutes an IPR. Thus, the Imperative Care will be  
16 forced to repeat case activities as new patents are added and waste resources litigating patents  
17 that will never reach trial. In addition, the large number of patents has caused Imperative  
18 Care to incur significant attorney’s fees and filing fees to prepare and file its IPR petitions.  
19 Further, as Imperative Care explained in its opposition to the Motion to Amend,  
20 Stryker/Inari’s strategy of serially asserting patents as they issue from the PTO prejudices  
21 Imperative Care because it impairs this Court’s ability to finally determine if Imperative Care  
22 can sell Symphony. *Id.* For that reason, Imperative Care urged the Court to vacate the case  
23 schedule to allow Stryker/Inari to assert all the patents it wants against Symphony. Granting  
24 this motion would also stay discovery and further conserve judicial and party resources.

25 **V. CONCLUSION**

26 For the foregoing reasons, this Court should stay this case until final written decisions  
27 issue in all of the IPRs concerning the asserted patents.

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Respectfully Submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: April 2, 2025

By: /s/ Joshua J. Stowell

Joseph R. Re

Joshua J. Stowell

Nicholas A. Belair

*Attorneys for Defendant*

Imperative Care, Inc.

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**U.S. District Court**

**California Northern District**

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The following transaction was entered by Stowell, Joshua on 4/2/2025 at 4:59 PM and filed on 4/2/2025

**Case Name:** Inari Medical, Inc. v. Imperative Care, Inc., et al  
**Case Number:** [5:24-cv-03117-EKL](#)  
**Filer:** Imperative Care, Inc.  
**Document Number:** [100](#)

**Docket Text:**

**MOTION to Stay filed by Imperative Care, Inc.. Motion Hearing set for 7/16/2025 10:00 AM in San Jose, Courtroom 7, 4th Floor before Judge Eumi K Lee. Responses due by 4/16/2025. Replies due by 4/23/2025. (Attachments: # (1) Proposed Order Granting Imperative's Motion to Stay)(Stowell, Joshua) (Filed on 4/2/2025)**

**5:24-cv-03117-EKL Notice has been electronically mailed to:**

Amanda Tessar atessar@perkinscoie.com, Atessar-efile@perkinscoie.com, katerose@perkinscoie.com

Daniel Tyler Keese DKeese@perkinscoie.com, docketpor@perkinscoie.com, KFlores@perkinscoie.com, smarquand@perkinscoie.com

Joseph Robert Re jre@kmob.com, KnobbeAdmin@ecf.courtdrive.com, litigation@kmob.com

Joshua Jan Stowell joshua.stowell@knobbe.com, KnobbeAdmin@ecf.courtdrive.com

Nicholas Andrew Belair nick.belair@knobbe.com

Ramsey M. Al-Salam ralsalam@perkinscoie.com, docketsea@perkinscoie.com, jstone@perkinscoie.com

Ruben Tyler Kendrick rkendrick@perkinscoie.com, docketSEA@perkinscoie.com, ypoletaeva@perkinscoie.com

Trevor Jonathan Bervik tbervik@perkinscoie.com, docketden@perkinscoie.com, vbiernacke@perkinscoie.com

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**Document description:**Main Document

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[STAMP CANDStamp\_ID=977336130 [Date=4/2/2025] [FileNumber=22281453-0]

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1c60cabe7761bdf6f7c6fabd6d029be9d2ad0df2b55c77b99eb3d815ba7]]

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