

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BABY JOGGER, LLC,)
)
Plaintiff,)
)
v.) C.A. No. 24-723-GBW
)
EVENFLO COMPANY, INC.,)
)
Defendant.)

**PLAINTIFF BABY JOGGER, LLC'S RESPONSE IN OPPOSITION TO
DEFENDANT EVENFLO COMPANY, INC.'S MOTION TO STAY**

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Dated: September 19, 2025

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I. NATURE AND STAGE OF THE PROCEEDINGS

Plaintiff Baby Jogger, LLC (“Baby Jogger”) filed its original Complaint for patent infringement on June 18, 2024, against Defendant EvenFlo Company, Inc. (“EvenFlo”). D.I. 1. Nearly a year after being served with the Complaint, EvenFlo filed petitions for *inter partes* review (“IPR”) against each of the Asserted Patents. EvenFlo now asks this Court to stay this case pending a resolution of these petitions, even though institution decisions are not expected until January 2026. For its part, Baby Jogger has filed briefs seeking discretionary denial of institution for each petition, and decisions on these briefs are expected by early November 2025. Given the high rate that petitions are denied at the discretionary denial stage, and the uncertainty as to whether any of the petitions will be instituted, EvenFlo’s premature request for a stay should be denied.

II. SUMMARY OF THE ARGUMENT

1. The first motion to stay factor does not support a stay because none of EvenFlo’s five IPR petitions have been instituted. Any potential for simplification of the issues is purely speculative, particularly given the high success rate of discretionary denials. *Invensas Corp. v. Samsung Elecs. Co.*, C.A. No. 17-1363-SRF, 2018 WL 4762957, at *2 (D. Del. Oct. 2, 2018); *Universal Secure Registry, LLC v. Apple Inc.*, C.A. No. 17-585-CFC-SRF, 2018 WL 4486379, at *2 (D. Del. Sept. 19, 2018); *TruePosition, Inc. v. Polaris Wireless, Inc.*, C.A. No. 12-646-RGA-MPT, 2013 WL 5701529, at *6 (D. Del. Oct. 21, 2013).

2. The second factor likewise does not support a stay. EvenFlo’s effort to shift blame for any delay is, at best, circular reasoning. A prime example is EvenFlo’s attempt to bootstrap its refusal to participate in a Rule 26(f) conference into an argument that a stay is warranted in view of a lack of progress in the case. Discovery should not be further delayed amid speculation that any of EvenFlo’s IPR petitions will be instituted.

3. In light of EvenFlo’s delay in filing its IPR petitions, the pre-institution status of the proceedings, and the direct competitive relationship between the Parties, granting a stay would unfairly prejudice Baby Jogger by unnecessarily prolonging this litigation and allowing a continued loss of market share. *Inpria Corp. v. Lam Rsch. Corp.*, C.A. No. 22-1359-CJB, 2024 WL 2111989, at *2 (D. Del. May 3, 2024); *Neste Oil OYJ v. Dynamic Fuels, LLC*, C.A. No. 12-1744-GMS, 2013 WL 3353984, at *2 (D. Del. July 2, 2013). This factor weighs against a stay.

III. STATEMENT OF FACTS

A. Status of the Instant Action

Baby Jogger filed its original Complaint on June 18, 2024 asserting claims of infringement of U.S. Patent No. 11,192,568 (“the ’568 Patent”), U.S. Patent No. 11,505,231 (“the ’231 Patent”), U.S. Patent No. 11,577,771 (“the ’771 Patent”), U.S. Patent No. 11,731,682 (“the ’682 Patent”), and U.S. Patent No. 11,878,729 (“the ’729 Patent”) (collectively, “the Asserted Patents”). *See* D.I. 1. Baby Jogger filed an Amended Complaint on September 16, 2024. D.I. 13. Following the Parties’ stipulation, Baby Jogger filed a Second Amended Complaint on October 15, 2024. D.I. 15, 16. EvenFlo filed its Answer on October 29, 2024. D.I. 17. Since that time, no scheduling conference has been set, nor has a scheduling order been entered.

On August 11, 2025, to facilitate progress in this litigation, Baby Jogger reached out to EvenFlo to request a Rule 26(f) conference, noting that a year had passed since the original Complaint was filed and that it was time to make some progress on this case by beginning initial discovery. Ex. A at 2. Baby Jogger also informed EvenFlo that if it were not willing to move forward on this case, it would contact the Court to request a scheduling conference. *Id.* EvenFlo declined Baby Jogger’s request for a Rule 26(f) conference and stated it intended to seek a stay pending resolution of its recently filed IPR petitions. *Id.* at 1. On August 26, 2025, the Parties filed a joint letter on this issue providing their respective positions. D.I. 19.

B. The *Inter Partes* Review Proceedings

Despite being served with the original Complaint on June 20, 2024 (D.I. 5), EvenFlo waited until just before the statutory deadline to file its IPR petitions. EvenFlo filed its first two petitions on June 6, 2025, a third on June 13, 2015, and its final two on June 16 and 17, 2025, just days before the deadline. *See* D.I. 21 at 3-4. Pursuant to the U.S. Patent and Trademark Office’s Interim Process for PTAB Workload Management (“Interim Process”),¹ Baby Jogger filed discretionary denial briefs with respect to each of the petitions filed by EvenFlo, seeking to have institution of each of the petitions denied. *See* Exs. B-F. As shown below, the Director is expected to issue discretionary denial decisions on each of the petitions in the first week of November 2025.² Institution decisions are not expected until January 2026.

IPR Case No.	Filing Date	Discretionary Denial Brief Filed	Discretionary Denial Decision Date	Institution Decision Date³
IPR2025-01100 (’568 Patent)	06/06/2025	09/02/2025	11/03/2025	01/02/2026
IPR2025-01095 (’231 Patent)	06/06/2025	09/02/2025	11/03/2025	01/02/2026
IPR2025-01120 (’729 Patent)	06/13/2025	09/02/2025	11/03/2025	01/05/2026
IPR2025-01122 (’682 Patent)	06/16/2025	09/08/2025	11/10/2025	01/07/2026
IPR2025-01140 (’771 Patent)	06/17/2025	09/08/2025	11/10/2025	01/07/2026

¹ <https://www.uspto.gov/patents/ptab/interim-director-discretionary-process>.

² The Director is expected to issue a decision on whether to exercise her discretion and deny institution within one month of the due date of EvenFlo’s opposition. *Id.*, § V.A.

³ *See* 35 U.S.C. § 314.

IV. LEGAL STANDARDS

District courts retain broad discretion to manage their dockets. *Elfar v. Twp. of Holmdel*, C.A. No. 24-1353, 2025 WL 671112, at *5 (3d Cir. Mar. 3, 2025). In addressing stay motions, “[c]ourts typically rely on three factors in determining whether a stay is appropriate: (1) whether a stay will simplify the issues for trial, (2) whether discovery is complete and a trial date has been set, and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party.” *Am. Axle & Mfg., Inc. v. Neapco Holdings LLC*, C.A. No. 15-1168-LPS, 2021 WL 616992, at *2 (D. Del. Feb. 17, 2021) (citing *Ethicon LLC v. Intuitive Surgical, Inc.*, C.A. No. 17-871-LPS, 2019 WL 1276029, at *1 (D. Del. Mar. 20, 2019)). While a court has discretionary authority in deciding whether to grant a motion to stay, it “must also be mindful of its responsibility to keep its docket moving, so that it can provide litigants with timely and effective resolution of their claims.” *Westinghouse Air Brake Techs. Corp. v. Siemens Mobility, Inc.*, C.A. No. 17-1687-LPS-CJB, 2019 WL 126192, at *1 (D. Del. Jan. 8, 2019); *see also* Fed. R. Civ. P. 1.

V. ARGUMENT

A. **EvenFlo Speculates that a Stay Will Simplify the Issues for Trial Despite No Institution Decisions**

The first factor does not support a stay because none of EvenFlo’s five petitions for *inter partes* review have been instituted. In this district, motions to stay pending IPR are routinely denied before an institution decision. *See, e.g., Earin AB v. Skullcandy Inc.*, C.A. No. 24-275-RGA, D.I. 46 (D. Del. May 2, 2025) (denying stay before institution decision); *Ddrops Co., et al. v. MOM Enters., LLC d/b/a Mommy’s Bliss*, C.A. No. 22-332-GBW, D.I. 108 (D. Del. Aug. 25, 2023) (same); *Invensas Corp. v. Samsung Elecs. Co.*, C.A. No. 17-1363-SRF, 2018 WL 4762957, at *2 (D. Del. Oct. 2, 2018) (same); *Universal Secure Registry, LLC v. Apple Inc.*, C.A. No. 17-585-CFC-SRF, 2018 WL 4486379, at *2 (D. Del. Sept. 19, 2018) (same); *TruePosition, Inc. v. Polaris*

Wireless, Inc., C.A. No. 12-646-RGA-MPT, 2013 WL 5701529, at *6 (D. Del. Oct. 21, 2013) (“Since the *inter parties* [sic] review request is still pending before the PTO . . . this motion is premature.”).

This is logical because any potential for simplification of the issues remains entirely speculative until the PTAB decides whether to institute review. If the PTAB does not institute review on any of the petitions, the very basis for EvenFlo’s Motion disappears. *See Advanced Microscopy Inc. v. Carl Zeiss Microscopy, LLC*, C.A. No. 15-516-LPS-CJB, 2016 WL 558615, at *1 (D. Del. Feb. 11, 2016); *NuVasive, Inc. v. Neurovision Med. Prods., Inc.*, C.A. No. 15-286-LPS-CJB, 2015 WL 3918866, at *2 (D. Del. June 23, 2015). Instead, the proper time for filing a motion to stay is “shortly after the PTAB issue[s] its decisions to proceed with a validity trial on all of the Asserted Claims.” *454 Life Scis. Corp. v. Ion Torrent Sys., Inc.*, C.A. No. 15-595-LPS, 2016 WL 6594083, at *4 (D. Del. Nov. 7, 2016). Only then can the potential for simplification of the issues be evaluated. Here, EvenFlo’s Motion is premature as there undeniably will be no simplification of the issues until the PTAB decides whether to institute review.

Moreover, because of the recently adopted Interim Processes, the likelihood of institution of any petition is low, while institution of all five petitions is extremely unlikely. This is in part the result of the bifurcation of decisions on whether to institute between (i) discretionary considerations and (ii) merits and other non-discretionary statutory considerations. Baby Jogger recently filed discretionary denial briefs for each of the petitions filed by EvenFlo. Exs. B-F. Decisions on those briefs are expected in the first week of November 2025. Objective data show that since the establishment of the Interim Process, approximately 63.5% of discretionary denial requests are granted. Ex. G at 12, 20. This further demonstrates that, at this stage, the potential for simplification of the issues that could result from the IPRs is highly speculative. Even if one or

more of the petitions are instituted, this still does not ensure that the issues will be sufficiently simplified as to warrant a stay. This factor cannot be appropriately addressed before decisions on institution.

EvenFlo’s Motion provides no basis to deviate from the well-established policy of denying stays before an institution decision. Instead, it assumes—without support—that not only will its five petitions be instituted, but that they will result in the cancellation of all or some of the asserted claims. D.I. 21 at 6-8. But any discussion as to whether there *could* be a simplification of issues necessarily presupposes that institution will be granted, which has not occurred. And as noted, approximately two-thirds of petitions are denied at the discretionary denial stage.

And while EvenFlo contends that the Parties will “expend significant resources” if the case proceeds before an institution decision (D.I. 21 at 6), in reality, it would not be a burden on either party to move this case forward with the initial stages of discovery. *Invensas*, 2018 WL 4762957, *4 (“As a practical matter, putting the case on hold until the PTAB decides whether to institute IPR proceedings is likely less efficient than continuing on track through claim construction and discovery.”). Because a decision on discretionary denial is expected in early November 2025, and an institution decision is expected in January 2026, these decisions will come before the Parties engage in the more time-consuming and costly aspects of discovery. *NuVasive*, 2015 WL 3918866, at *2 (“even if the PTO ultimately institutes the IPR proceeding, and Defendant then renews its motion to stay thereafter, having proceeded forward with initial discovery in the meantime will not unduly prejudice Defendant or be unduly harmful to the efficient management of these proceedings.”).

EvenFlo’s Motion relies heavily on *Brit. Telecomms., PLC v. IAC/InterActiveCorp.*, but in that case, the PTAB had already granted institution. C.A. No. 18-366-WCB, 2019 WL 4740156,

*1, *5 (D. Del. Sept. 27, 2019). Because there has been no institution decision here, this case does not apply. EvenFlo relies on just a single case—an unpublished oral order in *Arch Chemicals, Inc. v. Sherwin-Williams Co., et al.*—to support its request for a pre-institution stay. C.A. No. 18-2037-LPS, D.I. 48 (D. Del. Nov. 5, 2019). That outlier case involved only a single asserted patent and parties who were not direct competitors. *Id.*; see Ex. H at ¶¶ 1, 38-45. And even there, the Court emphasized that “every motion for a stay must be evaluated based on the particular facts and circumstances with and in which it arises.” *Id.* This isolated order in a very different case provides no basis to depart from the overwhelming weight of authority denying stays before institution.

Denial of this motion without prejudice to renew *if* any of the petitions are instituted will also allow for a more fully developed record to evaluate this factor properly. *Advanced Microscopy*, 2016 WL 558615, at *2; *Copy Prot. LLC v. Netflix, Inc.*, C.A. No. 14-365-LPS, 2015 WL 3799363, at *1 (D. Del. June 17, 2015) (“Generally, the simplification issue does not cut in favor of granting a stay prior to the time the PTAB decides whether to grant the petition for inter partes review.”). This case should move forward with discovery, and a stay can be revisited if any of the petitions are instituted. This factor does not favor a stay.

B. Discovery In This Litigation Should Not Be Further Delayed

The original Complaint was filed on June 18, 2024. D.I. 1. The Parties later stipulated to the filing of the Second Amended Complaint, which was filed on October 15, 2024. D.I. 15, 16. Since that time, this case has been effectively stayed. Now, fifteen months after this case was filed, EvenFlo seeks to delay this litigation even further by requesting a stay. While it is true that discovery has not yet begun and no scheduling order has been issued, that is precisely why Baby Jogger requested a Rule 26(f) conference and opposes EvenFlo’s Motion. EvenFlo’s attempt to shift blame onto Baby Jogger for not requesting a Rule 26(f) conference sooner is misplaced. D.I. 21 at 8. It is routine practice for parties to wait until the Court sets a scheduling conference or

requests a scheduling order to hold a discovery conference. *See* Fed. R. Civ. P. 26(f)(1). EvenFlo’s argument is especially disingenuous given its rejection of Baby Jogger’s attempt to initiate discovery on August 11, 2025. Ex. A at 1. EvenFlo should not be permitted to use its own refusal to conduct a Rule 26(f) conference as leverage for a stay. Nor should discovery be further delayed amid speculation that any of EvenFlo’s IPR petitions will be instituted.

Discovery in this case should no longer be delayed, and this factor does not favor a stay.

C. Further Delay of This Litigation Would Unduly Prejudice Baby Jogger

In assessing whether the requested stay would prejudice Baby Jogger, the Court may consider: “(1) the timing of the IPR request and motion for stay; (2) the status of the IPR proceeding; and (3) the relationship of the parties.” *Invensas*, 2018 WL 4762957, at *5 (citations omitted).

Here, EvenFlo waited until the very last moment to file its IPR petitions, filing its first two petitions on June 6, 2025, a third on June 13, 2015, and its final two petitions on June 16 and 17, 2025, just days before the statutory deadline. D.I. 21 at 3-4; *see also* 35 U.S.C. § 315(b). EvenFlo then waited to request a stay until Baby Jogger attempted to move this case forward by requesting a Rule 26(f) conference. *See* Ex. A at 1-2. *Neste Oil OYJ v. Dynamic Fuels, LLC*, C.A. No. 12-1744-GMS, 2013 WL 3353984, at *2 (D. Del. July 2, 2013) (“Courts have expressed reluctance to grant a stay where the timing of the request for PTO review or reexamination suggests a dilatory intent on the movant’s part.”); *Belden Techs. Inc. v. Superior Essex Commc’ns LP*, C.A. No. 08-63-SLR, 2010 WL 3522327, at *2 (D. Del. Sept. 2, 2010) (“A request for reexamination made well after the onset of litigation followed by a subsequent request to stay may lead to an inference that the moving party is seeking an inappropriate tactical advantage.”). These delays suggest dilatory intent on EvenFlo’s part and weigh against a stay.

EvenFlo again attempts to manufacture some delay on the part of Baby Jogger, arguing that because EvenFlo introduced its “Shyft Dualride” product in 2018, Baby Jogger should have brought this action sooner. D.I. 21 at 8. But the Shyft Dualride is not an accused product—and does not even appear to be a single-to-double stroller.⁴ Assuming this was an unintentional error, and that EvenFlo meant to reference that the accused products⁵ were introduced in 2018, this still does not suggest any delay by Baby Jogger. The ’568 Patent, the oldest of the Asserted Patents, did not issue until December 7, 2021, and the most recent, the ’729 Patent, did not issue until January 23, 2024. D.I. 16, ¶¶ 11, 35; D.I. 16-1 at 2; D.I. 16-5 at 2. Baby Jogger filed the original Complaint on June 18, 2024—just five months after issuance of the ’729 Patent—eliminating any suggestion of delay by Baby Jogger.

As discussed in detail above, the status of the IPR proceedings likewise favors denial of a stay since none of the petitions have been instituted. *See supra* Part V.A. Because any institution decisions are still months away, coupled with the delay that would result should any petition be instituted, the lengthy delay increases the risk of prejudice to Baby Jogger, militating against a stay. *Neste Oil*, 2013 WL 3353984, at *2.

It is also beyond dispute that Baby Jogger and EvenFlo are direct competitors. Each targets the same market with the same type of product—specifically, single-to-double baby strollers. EvenFlo itself acknowledged this in its Answer. D.I. 17, ¶ 76. Further delay of this litigation would compound the prejudice to Baby Jogger because it would continue to lose valuable market share to its competitor, EvenFlo. *Inpria Corp. v. Lam Rsch. Corp.*, C.A. No. 22-1359-CJB, 2024 WL

⁴ <https://www.evenflo.com/pages/shyft-dualride-infant-car-seat-stroller-combo> (last accessed September 17, 2025).

⁵ The products accused of infringement include at least the EvenFlo Pivot Xpand Travel System, as well as its Pivot Xpand Second Toddler Seats. *See, e.g.*, D.I. 16, ¶ 3.

2111989, at *2 (D. Del. May 3, 2024) (reasoning further delay could harm plaintiff in ways that would be difficult to remedy with monetary damages); *Kaavo Inc. v. Cognizant Tech. Sols. Corp.*, C.A. No. 14-1192-LPS-CJB, 2015 WL 1737476, at *3 (D. Del. Apr. 9, 2015) (“so long as plaintiff and defendant were joint market participants and engaged in some demonstrated level of competition, our Court has tended to find that some amount of potential undue prejudice was at play.”); *Nexans Inc. v. Belden Inc.*, C.A. No. 12-1491-SLR-SRF, 2014 WL 651913, at *3 (D. Del. Feb. 19, 2014) (“Courts are hesitant to grant a stay in a matter where the parties are direct competitors.”). And while not seeking an injunction *may* weigh in favor of a stay, it is not dispositive. *TruePosition*, 2013 WL 5701529, at *5.

Further, the delay from an additional stay of this litigation could be substantial, as this case has already been effectively stayed for fifteen months. Delaying this litigation any longer, merely on the speculative hope that some of the IPR petitions might be instituted, would only compound the prejudice to Baby Jogger. *RideShare Displays, Inc. v. Lyft, Inc.*, C.A. No. 20-1629-RGA-JLH, 2021 WL 7286931, at *1 (D. Del. Dec. 17, 2021) (“delay inherently harms a non-moving party by prolonging resolution of the dispute”). This could ultimately result in a stay of this litigation for two and a half years, without any discovery having occurred.⁶

Finally, EvenFlo’s unsupported claim that the PTAB has “specialized expertise” in determining a patent’s priority date provides no basis for a stay. D.I. 21 at 9. This argument lacks merit and, in any event, does nothing to suggest that a stay would not prejudice Baby Jogger, and thus is misplaced. In fact, determining the proper priority date for a patent is a factual question that a district court is just as well-equipped to resolve as the PTAB. *Augustine Med., Inc. v. Gaymar*

⁶ Assuming, *arguendo*, that any of the petitions for *inter partes* review are instituted, a final written decision is not expected until January 2027.

Indus., Inc., 181 F.3d 1291, 1303 (Fed. Cir. 1999) (holding a decision on the proper priority date is a question of fact).

Because further delay of this case will unduly prejudice Baby Jogger, this factor weighs against a stay.

VI. CONCLUSION

For the foregoing reasons, including the absence of any institution decisions and the premature and speculative nature of the Motion, Baby Jogger respectfully requests that the Court deny EvenFlo's Motion to Stay.

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