

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **EDCV 25-0271 JGB (SPx)** Date November 5, 2025

Title ***Nanjing Nutrabuilding Bio-Tech Co., Ltd. v. Bonerge Lifescience (Hunan) Co., Ltd.***

Present: The Honorable **JESUS G. BERNAL, UNITED STATES DISTRICT JUDGE**

MAYNOR GALVEZ

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

Proceedings: Order (1) DENYING Defendant’s Motion to Stay (Dkt. No. 30); and (2) VACATING the November 10, 2025, Hearing (IN CHAMBERS)

Before the Court is Defendant Bonerge Lifescience (Hunan) Co., Ltd.’s (“Bonerge” or “Defendant”) motion to stay this case pending Defendant’s petition for *Inter Partes* Review (“IPR”) challenging all asserted claims of the asserted patent before the Patent Trial and Appeal Board (“PTAB”). (“Motion,” Dkt. No. 30.) The Court finds this matter appropriate for resolution without a hearing. See Fed. R. Civ. P. 78; L.R. 7-15. After considering the papers filed in support of and in opposition to the matter, the Court **DENIES WITHOUT PREJUDICE** Defendant’s Motion. Defendant is free to file a new motion to stay in the event that PTAB initiates IPR. The hearing set for November 10, 2025, is **VACATED**.

I. BACKGROUND

On January 31, 2025, Plaintiff Nanjing Nutrabuilding Bio-Tech Co., Ltd. (“NNB” or “Plaintiff”) filed a complaint alleging infringement of United States Patent 10,278,961 (the “’961 Patent”). (“Complaint,” Dkt. No. 1.) Defendant answered on April 4, 2025, and filed an amended answer on April 24, 2025. (Dkt. Nos. 14, 17.) On August 20, 2025, the Court issued a civil trial scheduling order setting trial in this case for April 20, 2027. (Dkt. No. 23.) On October 12, 2025, Defendant filed this Motion. (Mot.) Plaintiff filed its opposition on October 20, 2025. (“Opposition,” Dkt. No. 31.) Defendant responded on October 27, 2025. (“Reply,” Dkt. No. 32.)

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II. LEGAL STANDARD

A. IPR Process

IPR is a procedure by which a party can challenge a patent's validity with the United States Patent and Trademark Office ("PTO"). The PTAB evaluates such petitions and, if IPR is instituted, conducts that process. After a party has filed a petition requesting IPR, the patent owner has three months to file a preliminary response opposing the request. See 35 U.S.C. § 313; 37 C.F.R. § 42.107(b). Within three months of the time set for the patent owner's response, PTAB will grant the IPR request if "there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a). This standard for granting review is more stringent than the previous "substantial new question of patentability" standard. Universal Electronics, Inc. v. Universal Remote Control, Inc., 943 F. Supp. 2d 1028, 1030 (C.D. Cal. 2013).

If PTAB grants review, a final determination must be issued "not later than 1 year" after the petition is granted. 35 U.S.C. § 316(a)(11). The one-year period may be extended for good cause by not more than six months, id., but "[e]xtensions of the one-year period are anticipated to be rare." 77 Fed. Reg. at 48,695. The patent owner has an opportunity to add or amend claims during IPR. 35 U.S.C. § 318(b). After review concludes, the petitioner is estopped from asserting that a claim is invalid "on any ground that the petitioner raised or reasonably could have raised during that inter partes review." 35 U.S.C. § 315(e)(2).

The statute also seeks to limit the abuse of IPR as a tool for tactical litigation delay by requiring that a defendant petition for review within one year after being served with the complaint. 35 U.S.C. § 315(b). This one-year limit sets a ceiling on PTAB's ability to commence IPR where there is ongoing litigation.

Additionally, within two months of PTAB starting the clock on the patent owner's preliminary response deadline, patent owners can file a discretionary denial brief with PTAB requesting that the PTO decline to institute IPR based on a number of "non-substantive" factors, including the timing of the district court case relative to PTAB's proceedings. (See Opp'n at 5.) NNB intends to file such a brief. (Id.)

Here, the deadline for a decision on whether to grant Defendant's IPR petition is April 7, 2026. (Opp'n at 1.) Defendant seeks a stay of the case pending the outcome of its IPR petition, where IPR has not yet been granted. (Mot. at 2.)

B. Motion to Stay Pending IPR

"Courts have inherent power to manage their dockets and stay proceedings, including the authority to order a stay pending conclusion of a PTO reexamination." Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1426-27 (Fed. Cir. 1988) (internal citations omitted). While the case law enumerates several general considerations that are helpful in determining whether to order a stay,

ultimately “the totality of the circumstances governs.” Universal Electronics, Inc., 943 F. Supp. 2d at 1031.

In determining whether to stay a case pending IPR, courts generally consider the following 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 non-moving party. Id. at 1030-31.

As to the third factor, undue prejudice and tactical advantage, “[i]n weighing the prejudice to the non-moving party, courts consider four sub-factors: (1) the timing of the petition for review; (2) the timing of the request for the stay; (3) the status of review proceedings; and (4) the relationship of the parties.” Olati LLC v. Haas Automation, Inc., 2020 WL 8512303, at *4 (C.D. Cal. Dec. 23, 2020) (internal citations omitted).

Though a stay is never required, it may be “particularly justified where the outcome of the reexamination would be likely to assist the court in determining patent validity and, if the claims were cancelled in the reexamination, would eliminate the need to try the infringement issue.” In re Cygnus Telecomms. Tech., LLC, Patent Litig., 385 F. Supp. 2d 1022, 1023 (N.D. Cal. 2005) (citing Gould v. Control Laser Corp., 705 F.2d 1340, 1342 (Fed. Cir. 1983)). Indeed, “an auxiliary function [of the IPR] is to free the court from any need to consider prior art without the benefit of the PTO’s initial consideration.” In re Etter, 756 F.2d 852, 857 (Fed. Cir. 1985). Thus, while “[t]here is no per se rule that patent cases should be stayed pending reexaminations,” Tokuyama Corp. v. Vision Dynamics, LLC, 2008 WL 4452118, at *2 (N.D. Cal. Oct. 3, 2008), there is a “liberal policy in favor of granting motions to stay proceedings pending the outcome of re-examination.” Universal Electronics, 943 F. Supp. 2d at 1031.

III. DISCUSSION

Defendant argues that a stay is warranted in this case because discovery had just begun and claim construction has not started. (Mot. at 6-7; Reply at 1.) Additionally, because all claims of the ’961 Patent are the subject of the pending IPR petition, if that process is initiated it has the potential to resolve all issues in this case. (Mot. at 7-8.) Finally, Defendant contends that Plaintiff will not be unduly prejudiced by a stay because Plaintiff has not pled that Defendant is its direct competitor in the Complaint and that, in any event, the market is crowded with others also selling the product Plaintiff alleges is the infringing on its patent. (Mot. at 9-10.)

Plaintiff responds that this case is not in its infancy because a trial date has been set and discovery has commenced; the Court does not know if IPR will be instituted and institution rates are lower than they have been in the past, along with high discretionary denial rates; and Defendant is acting for tactical advantage and is a direct competitor with NNB. (See Opp’n.)

“[T]he Court can only speculate as to whether the PTAB will institute IPR and would not find a stay warranted until the PTAB does so.” Ancora Techs., Inc. v. TCT Mobile (US), Inc.,

2020 WL 13900673, at *3 (C.D. Cal. Nov. 12, 2020). The parties have begun the discovery process and many months still remain until a decision may be rendered to initiate IPR. While the case is not exceptionally far along and an actual IPR process would simplify this Court's proceedings, both of which tend to weigh in favor of a stay, staying this case at this point would be premature. The Court is skeptical that Plaintiff adequately pled direct competition in its Complaint, but in any event other considerations weigh against a stay at this juncture. Prejudice would result to Plaintiff by allowing the case to lie dormant for up to six months while Defendant is purportedly continuing to infringe Plaintiff's patent, at which point it is possible no IPR proceedings will commence and this case would have been set back for no reason. Courts have also found that a Defendant's delay in filing a petition for IPR—even when still within the allowed window—weighs against a stay. *See, e.g., Nike, Inc. v. Skechers U.S.A., Inc.*, 2020 WL 8512299, at *1 (C.D. Cal. Dec. 30, 2020); *Toshiba Tec Corp. v. Katun Corp.*, 2016 WL 9137646, at *5 (C.D. Cal. Sept. 21, 2016). Here, Defendant waited nearly nine months to file its IPR petition, weighing against a stay; this outweighs Defendant's promptness in filing its Motion after its IPR petition. (Mot. at 3-4; Reply at 8.)

As such, the Court **DENIES WITHOUT PREJUDICE** Defendant's Motion. The parties are ordered to provide a status report to the Court within seven days of a decision by PTAB on whether to initiate IPR. At that time, if IPR is initiated, Defendant is free to again move for a stay.

IT IS SO ORDERED.