



Court Denies Stay Pending Inter Partes Review in Light of Previous Unsuccessful Petition Filed by Third-Parties

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On May 9, 2014, CTP Innovations, LLC (“Plaintiff”) filed a complaint accusing VG Reed and Sons, Inc. (“Defendant”) of infringing two patents directed to publishing and printing technology. A thirdparty, Printing Industries of America (PIA) had previously filed inter partes review petitions challenging the validity of the patentsinsuit. In December 2013, the Board denied those petitions, finding that PIA had not demonstrated that there was a reasonable likelihood it would prevail with respect to invalidating at least one claim of the patentsinsuit.

Thereafter, on May 20, 2014, other thirdparties (i.e., Eastman Kodak Co., Agfa Corp., Esko Software BVBA and Heidelberg, USA) filed four more *inter partes* review petitions directed to the two patentsinsuit (two petitions for each patent). Based on these four inter partes review petitions, Defendant moved to stay the district court litigation pending a final written decision by the Board. The court denied the motion after considering the totality of the circumstances, including the following three factors: (1) whether the stay will unduly prejudice the nonmoving party; (2) whether the stay will allow for simplification of the issues in the litigation and/or clarify some of the issues; and (3) whether the particular stage in the litigation makes a stay convenient. Although the stay motion was filed early in the litigation (i.e., one month after filing of the complaint), the court stated that a stay would unfairly prejudice Plaintiff because the inter partes review proceedings could stretch as far as November 2015 and because the previous denial to institute inter partes review makes it “seem even less likely that the current petition[s] would succeed.” The court did note, however, that it could potentially review its denial of a stay if the Board were to issue a decision that changes any of the court’s assumptions or the status of the overall dispute.

Categories

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Inter Partes Review

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