

1 defendants' filing a motion to dismiss. *See* JSR at 2–3, ECF No. 50 (listing thirteen bullet points).

2 Defendants request a stay of discovery until the court rules on its motion to dismiss. *See id.* at 6.

3 Both requests are premature for the same reason: Defendants have not filed their motion to
4 dismiss. B&G may be entitled to expedited discovery if its purportedly “sham” allegations raise
5 factual issues requiring discovery. *See Jarvis v. Regan*, 833 F.2d 149, 155 (9th Cir. 1987) (noting
6 district court did not abuse its discretion by denying discovery during pendency of motion to
7 dismiss when plaintiff’s claims did not raise factual issues that “required discovery for their
8 resolution”) (citation omitted). On the other hand, defendants may be entitled to a stay of discovery
9 if the court is “convinced” their impending motion to dismiss will dispose of the case. *See, e.g.*,
10 *GTE Wireless, Inc. v. Qualcomm, Inc.*, 192 F.R.D. 284, 286 (S.D. Cal. 2000) (noting court should
11 “take a preliminary peek at the merits of the allegedly dispositive motion to see if on its face there
12 appears to be an immediate and clear possibility that it will be granted” (citation omitted)); *Wood*
13 *v. McEwen*, 644 F.2d 797, 801 (9th Cir. 1981) (per curiam) (affirming district court’s stay of
14 discovery in light of a pending motion to dismiss where “there was a real question” whether
15 plaintiff’s claim had merit). Because both analyses presuppose defendants’ having filed their
16 dispositive motion, and because there is no dispositive motion pending in this case, the court **denies**
17 both requests as premature.

18 Defendants shall file their motion to dismiss within twenty-one days of this order. If in its
19 response to the motion plaintiff wishes to seek expedited discovery, it may do so through the
20 filing of an appropriate request or counter-motion. *See* Local Rule 230(e).

21 IT IS SO ORDERED.

22 DATED: August 1, 2022.



CHIEF UNITED STATES DISTRICT JUDGE