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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
5

6 AT&T INTELLECTUAL PROPERTY I, et al.,

7 Plaintiffs,

8 vs.

9 TIVO, INC.,

10 Defendant.

Case No: C 10-01059 SBA

**ORDER REGARDING
DEFENDANT'S ADMINISTRATIVE
REQUEST FOR ORDER
SCHEDULING AN EARLIER
HEARING ON ITS MOTION TO
STAY PENDING REEXAMINATION**

Dkt. 64

11
12 Plaintiffs filed this patent infringement suit against Defendant on March 12, 2010. The
13 claim construction hearing in this matter is scheduled for January 27, 2011. Presently before
14 the Court is Defendant's Administrative Request for Order Scheduling an Earlier Hearing on
15 its Motion to Stay Pending Reexamination ("Request"), filed on December 6, 2010. Dkt. 64.
16 Defendant requests that the hearing on its Motion to Stay Pending Reexamination ("Motion to
17 Stay"), which Defendant filed simultaneously with its Request and noticed for hearing on
18 March 8, 2011, be set for hearing prior to the January 27, 2011 claim construction hearing, on
19 the ground that the Motion for Stay "seeks to save judicial resources that will be expended on
20 tasks that the reexaminations may render moot, including the claim construction hearing"
21 Id. at 2. In its Request, Defendant indicates that on December 3, 2010, it filed with the United
22 States Patent and Trademark Office petitions for reexamination of all four patents-in-suit.

23 The Court notes that Defendant filed its Request on the same day that Plaintiffs filed
24 their Opening Claim Construction Brief, and Defendant has failed to explain why it waited
25 until December 3, 2010 to file their reexamination petitions. As noted by Plaintiffs in their
26 opposition to Defendant's Request, Defendant's unexplained delay has forced it to seek an
27 expedited hearing on its Motion to Stay, in view of the upcoming claim construction hearing.
28


1 Nevertheless, if it is determined that Defendant's Motion to Stay has merit, it could obviate the
2 need to proceed with the claim construction hearing. Accordingly,

3 IT IS HEREBY ORDERED THAT:

- 4 1. Defendant's Administrative Request for Order Scheduling an Earlier Hearing on its
5 Motion to Stay Pending Reexamination is DENIED. Plaintiffs' opposition to
6 Defendant's Motion to Stay shall be filed by January 14, 2011. Defendant's reply in
7 support of its Motion to Stay shall be filed by January 21, 2011.
- 8 2. The March 8, 2011 motion hearing on Defendant's Motion to Stay is VACATED.
9 In the event the Court determines that a hearing on the motion is necessary, it will
10 notify the parties accordingly. Otherwise, this matter will be deemed under
11 submission on the date Defendant's reply is due.
- 12 3. The January 27, 2011 claim construction hearing is VACATED. After adjudication
13 of Defendant's Motion to Stay, the Court will schedule a further case management
14 conference, if necessary, to discuss a new hearing date for the claim construction
15 hearing. The January 7, 2011 deadline for Plaintiff to file its Reply Claim
16 Construction Brief remains unchanged.
- 17 4. This Order terminates Docket 64.

18 IT IS SO ORDERED.

19 Dated: December 29, 2010


SAUNDRA BROWN ARMSTRONG
United States District Judge