

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CANVS CORPORATION,

Plaintiff,

v.

Case No: 2:14-cv-99-FtM-38DNF

NIVISYS, LLC,

Defendant.

ORDER¹

This matter comes before the Court on Defendant Nivisys, LLC's Motion to Stay Case Pending (1) Final Judgment in Parallel Proceedings in the U.S. Court of Federal Claims; and (2) *Inter Partes* Review of Patent-In-Suit Before Patent Trial and Appeal Board ([Doc. #16](#)) filed on July 3, 2014. Plaintiff CANVS Corporation filed an Opposition to Motion to Stay (Doc #23) on July 21, 2014. Thus, this matter is ripe for review.

Plaintiff is the holder of U.S. Patent No. 6,911,652 ("652 Patent"), which is a seven-claim patent for a low light imaging device. ([Doc. #1 at ¶ 8](#)). On February 19, 2014, Plaintiff commenced this patent infringement action against Defendant for it allegedly manufacturing and selling products that infringe on one or more claims of the '652 patent. ([Doc. #1 at ¶ 9](#)).

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Since 2010, Plaintiff has been litigating a similar patent infringement action against the federal government in the United States Court of Federal Claims ("COFC"). See CANVS Corp. v. United States, 116 Fed. Cl. 294 (Fed. Cl. 2014). The COFC has found Claims 1, 2, 3, 6, and 7 of the '652 patent to be invalid, but has not made a dispositive ruling on the validity of Claims 4 and 5. Id. In addition, CANVS is litigating another '652 patent infringement case against FLIR Systems, Inc. See CANVS Corp. v. FLIR Sys., Inc., No. 2:14-cv-00180-SPC-CM (M.D. Fla. June 10, 2014). In that case, the defendant has filed a petition for *inter partes* review ("IPR") with the United States Patent and Trademark Office ("USPTO") to challenge the validity of '652 patent. The defendant's IPR petition is still pending acceptance by the USPTO. As a result of these outstanding matters, Defendant requests this Court stay this case pending the earlier of either (1) a final judgment in the COFC proceedings or (2) the conclusion of IPR. ([Doc. #16 at 10](#)).

Upon review and in its discretion, the Court find a stay is inappropriate at this stage of the proceedings. If the USPTO grants an *inter partes* review, Defendant may file a renewed motion to stay for the Court's consideration at that time.

Accordingly, it is now **ORDERED**:

Defendant Nivisys, LLC's Motion to Stay ([Doc. #16](#)) is **DENIED without prejudice**.

DONE and **ORDERED** in Fort Myers, Florida this 31st day of July, 2014.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record