UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FREEDOM SCIENTIFIC, INC.,

Plaintiff/Counter-Defendant,

vs. CASE NO. 8:11-CIV-1194-T-17-AEP

ENHANCED VISION SYSTEMS, INC.,

Defendant/Counter-Plaintiff.
_____/

ORDER GRANTING MOTION TO STAY

This cause is before the Court on Enhanced Vision Systems, Inc., (hereafter Defendant's) motion to stay pending reexamination by the United States Patent and Trademark Office (Doc. 16) and the response (Doc. 17) and reply (Doc. 20) thereto. For the reasons set out, the Court finds that the motion to stay should be granted.

This is a patent infringement action related to United States Patent No. 7,929,013, entitled Desktop Electronic Magnifier, the '013 patent. After the commencement of this action, the defendant requested *ex parte* reexamination of the '013 patent by the United States Patent and Trademark Office (PTO). This case is in the beginning of the discovery period and only limited discovery has been conducted.

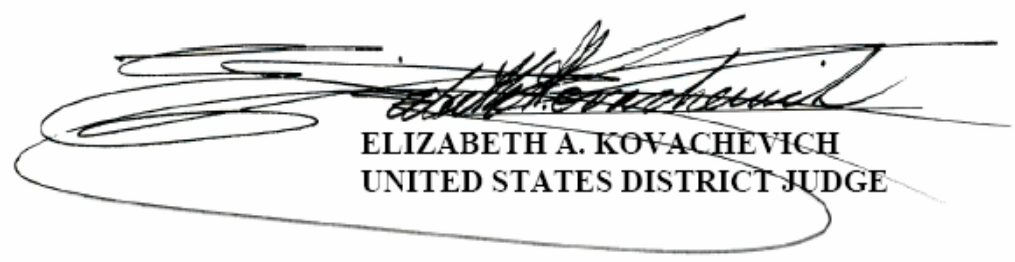
The defendant argues that reexamination by the PTO would benefit the parties and the Court by either disposing of or streamlining the cause of action and urges, in the interest of judicial economy, that the action should be stayed pending final resolution of the reexamination. This Court is imbued with the inherent power to control its docket and to stay proceedings as it believes warranted, this includes stay pending PTO reexamination. "There is a liberal policy in favor of granting motions to stay proceedings pending the outcome of the PTO reexamination proceedings." ***Freedom Scientific, Inc. v. GW Micro, Inc.,*** Case No. 8:08-CV-1365-VMC-AEP (M.D. Fla. July 29, 2009).

The Court has considered the arguments from both parties in light of factors to be considered: "(1) whether a stay will unduly prejudice or tactically disadvantage the non-moving party; (2) whether a stay will simplify the issues and streamline the trial, and (3) whether a stay will reduce the burden of litigation on the parties and on the court." ***Baxa Corp. v. Forhealth Techs., Inc.,*** 2006 WL 4756455, *1 (M.D. Fla. May 5, 2006). The Court finds, as in the *Freedom Scientific, Inc. v. GW Micro, Inc.* case, "that a stay will not unduly prejudice or disadvantage Plaintiff; will likely simplify the issues and streamline or obviate the need for a trial; and will reduce or eliminate the burden of litigation on the parties and on this Court." Accordingly, it is

ORDERED that the motion to stay pending reexamination by the United States Patent and Trademark Office (Doc. 16) be **granted and this action be stayed pending the conclusion of the reexamination proceedings**. The Clerk of Court is directed to **administratively close this case** pending the outcome of the reexamination. The case can be

reopened by either party, as appropriate, and the Defendant is directed to file a status report every ninety (90) days commencing on May 1, 2012.

DONE and ORDERED in Chambers, in Tampa, Florida, this 31st day of January, 2012.



Copies to: All parties and counsel of record