

Motion To Stay Granted Based On Concurrently Pending *Inter Partes* Reexamination Proceedings (Farnan, J.)

In *Enhanced Security Research v. Cisco Systems*, 2010 U.S. Dist. LEXIS 63789 (D. Del. June 25, 2010), the Court granted a motion to stay based on pending *inter partes* and *ex parte* reexamination requests that were both filed after the complaint was filed. At the time the Court granted the motion, the case was in the early stages of litigation with no trial date set, and discovery not yet complete. However, fact witnesses were identified and document production was complete. The Court noted that all claims of both patents-in-suit were currently being reexamined and that the PTO had already issued an office action in the *inter partes* reexamination.

The result in this case is contrary to prior decisions by Judge Farnan, in which he has refused to stay litigation in light of pending reexamination requests. *See Voith Paper GmbH & Co.KG v. Johnsonfoils, Inc.*, 2008 U.S. Dist. LEXIS 28983 (D. Del. March 31, 2008); *St. Clair Intellectual Prop. Consultants, Inc. v. Sony Corp.*, 2003 U.S. Dist. LEXIS 27397 (D. Del. January 30, 2003).