

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

STRECK, INC.,
Plaintiff-Appellee,

v.

**RESEARCH & DIAGNOSTIC SYSTEMS, INC. and
TECHNE CORPORATION,**
Defendants-Appellants.

2011-1044

Appeal from the United States District Court for the
District of Nebraska in case no. 06-CV-0458, Chief Judge
Joseph F. Bataillon.

ON MOTION

Before RADER, *Chief Judge*, FRIEDMAN and LINN, *Circuit
Judges.*

FRIEDMAN, *Circuit Judge.*

ORDER

Research & Diagnostic Systems, Inc. and Techne Cor-
poration (collectively "Research & Diagnostic Systems")
move for a stay, pending disposition of this appeal, of the

permanent injunction entered by the United States District Court for the District of Nebraska. Streck, Inc. opposes. Research & Diagnostic Systems replies.

To obtain a stay, pending appeal, a movant must establish a strong likelihood of success on the merits or, failing that, nonetheless demonstrate a substantial case on the merits provided that the harm factors militate in its favor. *Standard Havens Prods. v. Gencor Indus.*, 897 F.2d 511, 513 (Fed. Cir. 1990) (citing *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)). In deciding whether to grant a stay, pending appeal, this court "assesses the movant's chances of success on the merits and weighs the equities as they affect the parties and the public." *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 835 F.2d 277, 278 (Fed. Cir. 1987); see also *Standard Havens Prods.*, 897 F.2d at 513.

Based on the arguments in the motions papers, and without prejudicing the ultimate disposition of this case by a merits panel, we determine that Research & Diagnostic Systems has not met its burden to obtain a stay of the permanent injunction.

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is denied. Any other pending motions are denied as moot.

FOR THE COURT

JAN 18 2011

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Kurt J. Niederluecke, Esq.
Floyd R. Nation, Esq.

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

JAN 18 2011

**JAN HORBALY
CLERK**