

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-1032

I-FLOW CORPORATION,

Plaintiff-Appellee,

v.

WOLF MEDICAL SUPPLY, INC.
and FIRST MEDICAL SOURCE,

Defendants-Appellants.

Appeal from the United States District Court for the Central District of California
in case no. 09-CV-0762, Judge Andrew J. Guilford.

ON MOTION

Before MICHEL, Chief Judge, LINN, and PROST, Circuit Judges.

LINN, Circuit Judge.

ORDER

Wolf Medical Supply, Inc. and First Medical Source (Wolf) move for a stay, pending disposition of this appeal, of the preliminary injunction entered by the United States District Court for the Central District of California. I-Flow Corporation opposes. Wolf 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. 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. v. Gencor Indus., 897 F.2d 511 (Fed. Cir. 1990).

Based on the arguments in the motions papers, and without prejudicing the ultimate disposition of this case by a merits panel, we determine that Wolf has met its burden to obtain a stay of the preliminary injunction.

Accordingly,

IT IS ORDERED THAT:

The motion is granted.

FOR THE COURT

DEC 17 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Norbert Stahl, Esq.
Steven J. Nataupsky, Esq.

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

DEC 17 2009

JAN HORBALY
CLERK