

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-1087

BUSHNELL INC. and LASER TECHNOLOGY, INC.,

Plaintiffs-Appellees,

v.

THE BRUNTON COMPANY, LS GLOBAL LLC,
and LANSHUO PHOTOELECTRIC SCIENCE AND TECHNOLOGY COMPANY LTD.,

Defendants-Appellants.

Appeal from the United States District Court for the District of Kansas
in case no. 09-CV-2009, Judge Kathryn H. Vratil.

ON MOTION

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

SCHALL, Circuit Judge.

ORDER

The Brunton Company et al. (Brunton) move for a stay, pending appeal, of the preliminary injunction entered by the United States District Court for the District of Kansas. Bushnell Inc. et al. oppose. Brunton replies.

In deciding whether to stay an injunction, 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. Dupont 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). To prevail, a movant must establish a strong likelihood of success on the merits or, failing that, must demonstrate that it has a substantial case on the merits and that the harms factors militate in its favor. Hilton v. Braunskill, 481 U.S. 770, 778 (1987).

Without prejudicing the ultimate disposition of this case by the merits panel, we determine based upon the arguments raised in the motions papers that Brunton has not met its burden of demonstrating the requisites for a stay of the injunction, pending appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The temporary stay is lifted.
- (2) The motion for a stay pending appeal is denied.

FOR THE COURT

DEC 30 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

cc: J. Michael Huget, Esq.
Scott R. Brown, Esq.

s19

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

DEC 30 2009

JAN HORBALY
CLERK