

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

No. C 09-02664 WHA

v.

ORDER TO STAY PROCEEDING

ONE HEWLETT PACKARD PAVILION
LAPTOP (SERIAL NO. CNF75237NC),
ADAPTOR, AND VISUAL DEPICTIONS ON
THE HARD DRIVE,
Defendant.

INTRODUCTION

In this civil forfeiture suit, claimant Andrew Samuel Hanson moves unopposed to stay all proceedings in this case pursuant to 18 U.S.C. 981(g). As there is a high degree of similarity between the parties of this case and a related criminal investigation such that it is impossible to proceed with this civil forfeiture action without burdening the rights and abilities of the claimant, the motion is **GRANTED**.

STATEMENT

The government alleges in this action that defendant properties contained images of child pornography, and thus are subject to forfeiture under 18 U.S.C. 2251 as properties used to promote the sexual exploitation of children. The government has commenced a criminal

1 investigation regarding the alleged images, to determine whether to proceed with criminal
2 allegations against claimant as the owner of the properties.

3 **ANALYSIS**

4 As the government is conducting a criminal investigation in which the properties and
5 claimant are involved, claimant has requested a stay of the proceedings which the government
6 does not oppose. Under 18 U.S.C. 981(g)(2):

7 Upon the motion of a claimant, the court shall stay the civil
8 forfeiture proceeding with respect to that claimant if the court
determines that--

9 (A) the claimant is the subject of a related criminal investigation or
10 case;

11 (B) the claimant has standing to assert a claim in the civil forfeiture
proceeding; and

12 (C) continuation of the forfeiture proceeding will burden the right
13 of the claimant against self-incrimination in the related
investigation or case.

14 The Court finds that claimant is the subject of a criminal investigation related to this
15 civil forfeiture action, and has standing to assert a claim to the properties at issue. The Court
16 also finds that civil discovery in this action directed to claimant will burden his rights against
17 self-incrimination in the related criminal investigation. Without a stay in this action, claimant
18 as the owner of the properties will likely be forced to choose between complying with discovery
19 in this matter and exercising his privilege against self-incrimination in the criminal
20 investigation. For good cause appearing, it is therefore ordered that this civil forfeiture action
21 be stayed pursuant to 18 U.S.C. 981(g).

22 This stay, however, will not be for an indefinite amount of time but for only 180 days, as
23 the Supreme Court has held that stays which are indefinite will not be upheld. *Landis v. North*
24 *American Co.*, 299 U.S. 248, 257 (1936). The Court will continue to monitor the litigation and
25 ensure that it proceeds in a timely manner.

26 **CONCLUSION**

27 For the reasons stated above, the unopposed motion to stay all proceedings in this case is
28 **GRANTED** and all proceedings herein are hereby stayed until **MARCH 19, 2010**. A case

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management conference will be held on **MARCH 18, 2010, AT 11:00 A.M.** The parties will be required to file a joint case management conference statement by **MARCH 11, 2010.**

IT IS SO ORDERED.

Dated: September 21, 2009



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE