

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

3  
4 MIDLAND INNOVATIONS, NV,

No. C 07-80257 CW

5                                    Plaintiff,

ORDER REGARDING  
THIRD PARTY

6                                    v.

WEIPING CHEN'S EX  
PARTE APPLICATION  
FOR EMERGENCY  
RELIEF

7 WEILAND INTERNATIONAL, INC; WEN  
8 WANG,

9                                    Defendants.

(Docket No. 90)

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11                                    This case arises from a default judgment entered against  
12 Judgment Debtor Wen Wang for patent infringement damages, the  
13 amount of which has accumulated to a sum exceeding \$1.2 million.  
14 On January 14, 2008, Judgment Creditor Midland Innovations, NV  
15 recorded an Abstract of Judgment on the property of Wen Wang and  
16 his spouse, Third Party Weiping Chen. On March 24, 2014, the  
17 undersigned referred the post-judgment matters and collections to  
18 Magistrate Judge Vadas. Docket No. 10. On August 22, 2014, Judge  
19 Vadas issued four orders regarding the property: (1) Order  
20 Enjoining the Levying Officer From Releasing Real Property Levied  
21 Under a Writ of Execution (Docket No. 86); (2) Order Denying Third  
22 Party Claim of Weiping Chen (Docket No. 87); (3) Order Sustaining  
23 Objection to Undertaking Filed by Third Party Weiping Chen and  
24 Order for New Undertaking (Docket No. 88); and (4) Order for Sale  
25 of Dwelling (Docket No. 89).

26                                    Chen now moves ex parte for emergency relief from these  
27 orders on several grounds, including that Judge Vadas lacked the  
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1 authority to issue dispositive orders granting injunctive relief.  
2 See Estate of Connors by Meredith v. O'Connor, 6 F.3d 656, 659  
3 (9th Cir. 1993) (citing Columbia Record Prods. v. Hot Wax Records,  
4 Inc., 966 F.2d 515, 516 (9th Cir.1992)). Although the magistrate  
5 judge may not decide dispositive matters without the consent of  
6 the parties, Chen concedes that under § 636(b)(1)(B) he may  
7 conduct evidentiary hearings and submit a report and  
8 recommendation to the district judge. Accordingly, the Court  
9 STAYS Judge Vadas' four orders regarding the property and  
10 considers the orders as report and recommendations on the  
11 underlying motions. Because the report and recommendations will  
12 not have any injunctive effect unless they are adopted by the  
13 undersigned, there is no reason to brief the motion on an  
14 expedited schedule.<sup>1</sup> Pursuant to Civil Local Rule 72-3, Chen may  
15 file a motion for de novo determination of dispositive matter  
16 referred to magistrate judge. Any motion must not exceed twenty-  
17 five pages, to be filed within fourteen days of the issuance of  
18 this order. Midland may file a response not exceeding twenty-five

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<sup>1</sup> As noted by Midland, Judge Vadas enjoined the levying officer (the United States Marshals Service) from selling the property until further court order. See Docket No. 86 at 6. Thus, even at the filing of this motion, sale of the property was not imminent. The Court's stay of all four orders, including the later-filed Order for Sale of Dwelling (Docket No. 89), provides further assurance that the property will not be sold until the matter has been reviewed by the undersigned.

1 pages, due fourteen days later. Chen may file a reply not  
2 exceeding fifteen pages, due seven days later. The motion will be  
3 decided on the papers.

4 IT IS SO ORDERED.

5 Dated: 8/27/2014

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7 CLAUDIA WILKEN  
8 United States District Judge  
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