

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BESTWAY (USA), INC., et al.,
Plaintiffs,
v.
PIETRO PASQUALE-ANTONI SGROMO,
et al.,
Defendants.

Case No. [17-cv-00205-HSG](#)

**ORDER DENYING MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Re: Dkt. No. 138

Defendants and Cross-Claimants Leonard Gregory Scott and Eureka Inventions LLC brought this motion on March 27, 2019, seeking a temporary restraining order and preliminary injunction to prohibit Defendant Pietro Pasquale-Antoni Sgromo “and his related entities from prosecuting the patent matter recently filed in . . . the Eastern District of Texas . . . captioned Pietro Pasquale Antonio Sgromo (a/k/a Peter Anthony Sgromo), et al. v. Bestway Enterprise Co. Ltd., et al., No. 2:19-cv-60-JRG.” See Dkt. No. 138 (“Mot.”) at 1. This is the third time that Scott and Eureka have run to this Court attempting to prevent Sgromo from pursuing his claims in other forums. See Dkt. Nos. 119, 130. According to Scott and Eureka, a temporary restraining order and preliminary injunction are necessary this time around because “Sgromo is seeking to effectively relitigate the same issues” that were resolved by this Court and an arbitrator. *Id.* at 3; see also Dkt. No. 138-8 (Sgromo’s amended complaint in Eastern District of Texas). Rather than filing an opposition brief addressing the merits of this motion, Sgromo submitted what he deemed an “informal response.” See Dkt. No. 141.

A temporary restraining order is an “extraordinary remedy” that the court should award only upon a clear showing that the party is entitled to such relief. See *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). A temporary restraining order or preliminary injunction may

1 be issued only where the moving party has established: (1) a likelihood of success on the merits;
2 (2) a likelihood of irreparable harm in the absence of preliminary relief; (3) the balance of equities
3 tips in the movant’s favor; and (4) that an injunction is in the public interest. See *id.* at 22.

4 Scott and Eureka have not established that they will be irreparably harmed if Sgromo is not
5 enjoined from prosecuting his suit in the Eastern District of Texas. They argue that they will be
6 forced to spend money defending against Sgromo’s suit in this new jurisdiction and face the
7 possibility of “inconsistent and/or contradictory rulings.” See Mot. at 10–11. Scott and Eureka
8 cite to the Ninth Circuit’s unpublished decision in *Jones v. Mendocino County* as supporting their
9 position. See Mot. at 11. However, in affirming the entry of an injunction against a vexatious
10 litigant who had filed fifteen prior lawsuits, the Ninth Circuit in *Jones* confirmed the general rule:
11 that “litigiousness alone is no reason to enjoin future litigation” and that injunctions against the
12 filing of related lawsuits in federal courts “are generally unnecessary, as *res judicata* and collateral
13 estoppel are usually more than adequate to protect defendants against repetitious litigation.” See
14 895 F.2d 1417 (9th Cir. 1990) (internal quotation omitted).

15 The Court does not see a reason to diverge from that general rule at this time. Because the
16 “doctrines of collateral estoppel and *res judicata* ordinarily provide adequate assurance that one
17 court’s resolution of a controversy will be respected by other courts,” *Wood v. Santa Barbara*
18 *Chamber of Commerce, Inc.*, 705 F.2d 1515, 1524 (9th Cir. 1983), there will not be any
19 irreparable harm absent the entry of a restraining order or preliminary injunction. Scott and
20 Eureka should present their relitigation arguments to the court in the Eastern District of Texas. If
21 they are correct that Sgromo is merely attempting to relitigate issues that have already been
22 decided by this Court, then that action will be barred by *res judicata*, with little expense incurred.
23 See, e.g., *Taylor v. Sturgell*, 553 U.S. 880, 892 (2008) (explaining mechanics and policy of claim
24 preclusion and issue preclusion, “which are collectively referred to as ‘*res judicata*’”).

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Because Scott and Eureka cannot establish irreparable harm, the Court need not discuss the other Winter factors and the motion for a temporary restraining order and preliminary injunction is **DENIED.**

IT IS SO ORDERED.

Dated: 4/10/2019


HAYWOOD S. GILLIAM, JR.
United States District Judge