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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

5 **SOLAREEDGE TECHNOLOGIES INC., ET AL.,**

6 Plaintiffs,

7 vs.

8 **ENPHASE ENERGY, INC.,**

9 Defendant.

CASE NO. 17-cv-04047-YGR

**ORDER DENYING PLAINTIFFS' MOTION  
TEMPORARY RESTRAINING ORDER;  
SETTING EXPEDITED SCHEDULE FOR  
PRELIMINARY INJUNCTION**

Re: Dkt. No. 8

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11 Plaintiffs SolarEdge Technologies Inc. and SolarEdge Technologies Ltd. have filed their  
12 ex parte motion for a temporary restraining order (Dkt. No. 10), seeking to enjoin defendant  
13 Enphase Energy, Inc. from continued use of a certain advertisement, which purports to compare  
14 the technologies produced by each company. Plaintiffs aver that they have served notice on  
15 defense counsel via email and intend to send physical copies of the same as soon as is practicable.  
16 (Dkt. No. 8-2 at 3–4.) The Court understands that counsel Charles P. Guarino has accepted  
17 service on behalf of defendant in this action.

18 Requests for temporary restraining orders are governed by the same general standards that  
19 govern the issuance of a preliminary injunction. *See New Motor Vehicle Bd. v. Orrin W. Fox Co.*,  
20 434 U.S. 1345, 1347 n.2 (1977); *Stuhlberg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc.*, 240  
21 F.3d 832, 839 n. 7 (9th Cir. 2001). Preliminary injunctive relief, whether in the form of a  
22 temporary restraining order or a preliminary injunction, is an “extraordinary and drastic remedy,”  
23 that is never awarded as of right. *Munaf v. Geren*, 553 U.S. 674, 689-690 (2008) (internal  
24 citations omitted). In order to obtain such relief, a plaintiff must establish four factors: (1) he is  
25 likely to succeed on the merits; (2) he is likely to suffer irreparable harm in the absence of  
26 preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public  
27 interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008).  
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1 Here, with respect to the request for a temporary restraining order in advance of a hearing  
 2 for a preliminary injunction, plaintiffs have wholly failed to establish a likelihood of immediate  
 3 irreparable harm to justify the issuance of a temporary restraining order at this time. In addition to  
 4 the issues regarding the alleged improper use of marketing materials between competitors,  
 5 plaintiffs' central concern revolves around the possibility of defendant airing the allegedly  
 6 improper video at a Solar Power International conference scheduled for September 10–13, 2017.  
 7 Given the Court's ability to hold an expedited hearing, plaintiffs' showing with respect to  
 8 immediate harm fails. *See Carribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th  
 9 Cir. 1988) ("A plaintiff must do more than merely allege imminent harm sufficient to establish  
 10 standing; a plaintiff must *demonstrate* immediate threatened injury as a prerequisite to preliminary  
 11 injunctive relief.). As such, the Court need not address the remaining factors at this time. *See*  
 12 *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1172 (9th Cir. 2009) (holding that a plaintiff must  
 13 demonstrate a likelihood of irreparable harm in the absence of preliminary relief in every case).  
 14 According, and for the foregoing reasons, the Court **DENIES** plaintiffs' motion for a temporary  
 15 restraining order.

16 In light of plaintiffs' representations, however, the Court **FINDS** that an expedited schedule  
 17 for a preliminary injunction is appropriate. The Court hereby **SETS** the following briefing and  
 18 hearing schedule on the same: Defendant must file its opposition to a preliminary injunction no  
 19 later than **Wednesday, July 26, 2017**. Plaintiffs' reply to defendant's opposition shall be due on  
 20 **Monday, July 31, 2017**. The hearing on plaintiffs' motion for a preliminary injunction shall be  
 21 held on **Friday, August 4, 2017 at 10:00 a.m.** in the Federal Building, 1301 Clay Street, Oakland,  
 22 California, Courtroom 1.

23 Plaintiffs shall serve this Order on defendant by email **immediately**. Plaintiffs must also  
 24 serve defendant by overnight mail no later than **July 20, 2017**. Proof of such service shall be filed  
 25 no later than **July 21, 2017**.

26 **IT IS SO ORDERED.**

27 Dated: July 19, 2017

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**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**