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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SHANGHAI TYRON SEMICONDUCTOR  
EQUIPMENT CO., LTD.,

Plaintiff,

v.

CAPITAL ASSET EXCHANGE AND  
TRADING, LLC,

Defendant.

Case No. [5:24-cv-08551-EJD](#)

**ORDER DENYING EX PARTE  
MOTION FOR TEMPORARY  
RESTRAINING ORDER**

Re: Dkt. No. 11

Before the Court is an ex parte motion for a temporary restraining order (“TRO”) filed by Petitioner Shanghai Tyron Semiconductor Equipment Co., LTD (“Tyron”) against Respondent Capital Asset Exchange and Trading, LLC (“CAET”). Mot., ECF No. 11. For the reasons stated below, Tyron’s motion is **DENIED**.

**I. BACKGROUND**

Tyron, a Chinese semiconductor company, seeks to enforce an emergency arbitral award issued in China that bars CAET, a commodity trading firm, from dissipating its assets while the two companies arbitrate a \$5.4 million dispute over a breach of contract in China. Pet., ECF No. 6. In the underlying dispute, Tyron alleges that the parties entered into two contracts under which Tyron agreed to purchase from CAET two hand lithography machines totaling \$4,610,000. Tyron alleges that it sent CAET the money, but CAET never delivered. Pursuant to their contracts, Tyron initiated arbitration in China and secured an emergency award on October 24, 2024, restraining CAET from dissipating \$5,366,500 of its assets. This emergency injunction is in effect today.

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1 Tyron subsequently filed a petition in this Court to enforce the foreign arbitration award on  
2 November 27, 2024. Approximately one week later, Tyron filed an ex parte motion for a TRO.  
3 The Court set a status conference for December 13, 2024, to discuss Tyron’s motion. Both parties  
4 appeared at the status conference. CAET did not deny that it has not performed on a valid contract  
5 but indicated that it felt it could not send the equipment or refund the money because it may be  
6 restricted from doing so under U.S. law. After the parties entered into their contracts but prior to  
7 delivery of the equipment, CAET claims that the U.S. government imposed stricter regulations  
8 prohibiting end use of semiconductor equipment from the U.S. to China. This appeared to be new  
9 information to Tyron at the status conference, and the parties expressed interest in discussing these  
10 circumstances further. Accordingly, the Court stayed all deadlines to allow the parties to meet and  
11 confer regarding government regulatory issues, possible resolution, and a briefing schedule (if  
12 necessary). The Court scheduled another status conference for January 30, 2025, to discuss the  
13 parties’ progress. The parties have informed the Court that they met and conferred and are  
14 currently engaging in settlement discussions.

15 **II. LEGAL STANDARD**

16 The purpose of a temporary restraining order is to “preserv[e] the status quo and prevent[]  
17 irreparable harm just so long as is necessary to hold a hearing, and no longer.” *Granny Goose*  
18 *Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974). Any  
19 temporary restraining order, therefore, is a temporary measure to protect the applicant’s rights  
20 until a hearing can be held. A temporary restraining order is “not a preliminary adjudication on  
21 the merits but rather a device for preserving the status quo and preventing the irreparable loss of  
22 rights before judgment.” *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th  
23 Cir. 1984) (citation omitted).

24 Under Federal Rule of Civil Procedure 65(a), an applicant is entitled to a temporary  
25 restraining order upon demonstrating four factors: (1) the applicant “is likely to succeed on the  
26 merits”; (2) the applicant “is likely to suffer irreparable harm in the absence of preliminary relief”;  
27 (3) the balance of equities favors the requested preliminary relief; and (4) the “injunction is in the

1 public interest.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

2 **III. DISCUSSION**

3 The Court finds that Tyron has failed to show it will likely suffer an immediate and  
4 irreparable harm absent a TRO. *Blackburn v. Washington Dep't of Soc. & Health Servs.*, 472 F.  
5 App'x 569, 570–71 (9th Cir. 2012) (declining to examine remaining factors where petitioner failed  
6 to establish harm); *Leiva-Perez v. Holder*, 640 F.3d 962, 966 (9th Cir. 2011) (same); *All. for the*  
7 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011) (same).

8 Tyron originally argued that CAET would immediately dissipate its assets upon learning of  
9 this action unless there was a TRO in place. Specifically, Tyron contended that, “should  
10 Respondent be alerted to Petitioner’s enforcement efforts without an operative TRO in place, any  
11 dissipative conduct by Respondent would render Petitioner’s ongoing arbitration against  
12 Respondent meaningless, as assets would not be preserved for recovery.” Mot. 6. However,  
13 CAET is now aware of this action, it has not dissipated its assets or indicated any intention to  
14 dissipate its assets, and the parties have been engaging in productive settlement discussions  
15 regarding the regulatory issues underlying their contract dispute. *See* Joint Status Report, ECF  
16 No. 17. Therefore, the purpose of seeking the extraordinary relief of a TRO is no longer present.

17 Further, while it is true that the dissipation of CAET’s assets would likely cause irreparable  
18 harm if Tyron receives a monetary award in the Chinese arbitration proceedings, there is no  
19 evidence that dissipation is likely. For example, Tyron raised concerns regarding CAET’s silence  
20 in the six months prior to initiating this action, CAET’s failure to appear in the Chinese arbitration  
21 proceedings, CAET’s business model as a middleman, and CAET’s participation as a defendant in  
22 numerous other breach of contract cases. However, these speculations are insufficient to show  
23 that Tyron is more likely to dissipate its assets than any other litigant facing multiple lawsuits for  
24 similar conduct. The Court also notes that Tyron took over one month to file this case after the  
25 emergency arbitration award was issued, further weakening its argument that dissipation is likely  
26 or imminent.

27 Therefore, Tyron’s motion for a TRO is **DENIED**. Given that Tyron’s underlying petition  
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1 to enforce a foreign arbitration award for a preliminary injunction is, in Tyron’s words, “in  
2 essence, a motion for a preliminary injunction,” Mot. 1, the Court will proceed with examining  
3 Tyron’s underlying petition rather than continue to examine this case under Rule 65 in a  
4 preliminary injunction hearing. The Court will discuss a schedule for briefing and a hearing on  
5 Tyron’s petition at the January 30, 2025, status conference.

6 **IV. CONCLUSION**

7 Based on the foregoing, the Court **DENIES** Tyron’s motion for a TRO.

8 **IT IS SO ORDERED.**

9 Dated: January 29, 2025



EDWARD J. DAVILA  
United States District Judge

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