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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DISH NETWORK, L.L.C., *et al.*,

Plaintiffs,

v.

SONICVIEW USA, INC., *et al.*,

Defendants.

Civil No. 09-cv-1553-L(WVG)

**ORDER GRANTING DEFENDANTS’
EX PARTE APPLICATION TO STAY
ENFORCEMENT OF JUDGEMENT
[DOC. 183]**

_____ Pending before the Court is Defendants Sonicview USA, Inc., Roberto Sanz, Danial
Pierce, Alan Phu, and Duane Bernard’s *ex parte* application for a temporary extension of the
automatic stay preventing enforcement of the summary-judgment order against them pending the
outcome of anticipated post-judgment motions. Plaintiffs DISH Network L.L.C., EchoStar
Technologies L.L.C., and NagraStar L.L.C. oppose.

The factors governing the issuance of a stay under Federal Rule of Civil Procedure 62(b)
are: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the
merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance
of the stay will substantially injure the other parties interested in the proceeding; and (4) where

1 the public interest lies.” *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987). The first factor,
2 requiring a strong likelihood of success, is the “most important”. *Haggard v. Curry*, 631 F.3d
3 931, 935 (9th Cir. 2010). Furthermore, “[a]n unsecured stay is disfavored under Rule 62(b).” *In*
4 *re Apollo Grp. Inc. Sec. Litig.*, No. CV 04-2147, 2008 WL 410625, at *1 (D. Ariz. Feb. 13,
5 2008).

6 Here, Defendants argue that the first, second, and third factors favor granting the stay.¹
7 Specifically, they contend that Court did not correctly draw its inferences from the evidence
8 presented, including undisputed evidence, and that the parties’ financial status will only injure
9 Defendants and not Plaintiffs. (Defs.’ Appl. 4:21–5:3, 5:4–6:12.) In response, Plaintiffs argue
10 that all of the factors favor denying the stay. In particular, they contend that Defendants fail to
11 show that they are likely to succeed on the merits because they fail to identify a particular aspect
12 of the summary-judgment order that is erroneous, and Defendants merely put forth arguments
13 previously presented to the Court. (Pls.’ Opp’n 3:23–5:8.) Though the Court has reservations as
14 to whether Defendants made a strong enough showing that they are likely to succeed on the
15 merits, the remaining factors favor granting the stay. *See Hilton*, 481 U.S. at 776.

16 In light of the foregoing, the Court **GRANTS** Defendants’ *ex parte* application, and
17 hereby:

- 18 (1) **STAYS** the enforcement of the judgment against Defendants;
- 19 (2) **ORDERS** Defendants to provide a \$650,000 bond to secure Plaintiffs’ interest in
20 the judgment before they file any post-judgment motions;
- 21 (3) Defendants shall file any post-judgment motions under Federal Rules of Civil
22 Procedure 59 or 60 by **July 2, 2012**;
- 23 (4) Plaintiffs shall file their oppositions by **July 16, 2012**; and
- 24 (5) Defendants shall file their replies by **July 23, 2012**.

25 //

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28 ¹ Defendants do not address the fourth factor beyond stating that it is a “non-factor[]
because the public is not involved here.” (Defs.’ Appl. 5:2–3.)

1 The Court will consider any of these post-judgment motions on the papers submitted and
2 without oral argument. *See* Civ. L.R. 7.1(d.1). Furthermore, Defendants are warned that failure
3 to provide the bond or file a post-judgment motion by the aforementioned due date will result in
4 an order immediately lifting this stay.

5 **IT IS SO ORDERED.**

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7 DATED: June 19, 2012

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M. James Lorenz
United States District Court Judge

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