

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 10-cv-01221-PAB-CBS

WATER PIK, INC., a Delaware corporation,

Plaintiff,

v.

MED-SYSTEMS, INC., a Washington corporation,

Defendant.

ORDER

This matter is before the Court on the Motion to Stay Execution of the Judgment Pending Disposition of Appeal [Docket No. 296] filed by defendant Med-Systems, Inc. In its motion, Med-Systems requests that the Court stay execution of the Final Judgment [Docket No. 264] with respect to Water Pik's right to register and use the SinuSense trademark pending a ruling on its Motion to Alter Judgment [Docket No. 271/273] and, if necessary, an appeal to the Tenth Circuit. Docket No. 296 at 2. The motion is unopposed.

Rule 62(b) of the Federal Rules of Civil Procedure states:

On appropriate terms for the opposing party's security, the court may stay the execution of a judgment – or any proceedings to enforce it – pending disposition of the following motions:

- (1) under Rule 50, for judgment as a matter of law;
- (2) under Rule 52(b), to amend the findings or for additional findings;
- (3) under Rule 59, for a new trial or to alter or amend a judgment; or
- (4) under Rule 60, for relief from a judgment or order.

Fed. R. Civ. P. 62(b). Similarly, Rule 62(d) allows a party to stay execution of a judgment after an appeal upon filing a supersedeas bond. Fed. R. Civ. P. 62(d). In most cases, a court sets the amount of bond to cover the full judgment, including costs, interest, and damages for delay. See *Strong v. Laubach*, 443 F.3d 1297, 1299 (10th Cir. 2006).

The Court has denied [Docket No. 319] Med-Systems' Rule 59 motion [Docket No. 271/273] and Med-Systems has filed a notice of appeal [Docket No. 297]. The Court will grant the stay of the judgment and accepts Med-Systems' supersedeas bond in the amount of \$20,900.72.

Based on the foregoing, it is

ORDERED that Med-Systems' Motion to Stay Execution of the Judgment Pending Disposition of Med-Systems' Motion to Alter Final Judgment Pursuant to Federal Rule of Civil Procedure 59(e) and Med-Systems' Appeal [Docket no. 296] is **GRANTED**. It is further

ORDERED that, pursuant to Fed. R. Civ. P. 62, execution of the Final Judgment [Docket No. 264] shall be stayed pending resolution of Med-Systems' appeal. It is further

ORDERED that collection of the costs taxed against defendant Med-Systems, Inc. [Docket No. 293] by the Clerk of the Court shall be stayed upon Med-Systems posting a supersedeas bond in the amount of \$20,900.72.

DATED September 24, 2012.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge