

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 17-250(DSD/FLN)

Orbital ATK, Inc. a Delaware
corporation, and Alliant Techsystems
Operations LLC, a Delaware limited
liability company,

Plaintiffs,

v.

ORDER

Heckler & Koch GmbH, a German
limited liability company,

Defendants.

This matter is before the court upon the appeal by defendant Heckler & Koch GmbH of Magistrate Judge Franklin L. Noel's October 6, 2017, order denying its motion to stay proceedings pending appeal (Order). After a review of the Order, and based on the file, record, and proceedings herein, the court denies the appeal.

The standard of review applicable to an appeal of a magistrate judge's order on nondispositive matters is "extremely deferential." Reko v. Creative Promotions, Inc., 70 F. Supp. 2d 1005, 1007 (D. Minn. 1999). The court will reverse such an order only if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); D. Minn. LR 72.2(a)(3). "A finding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." Chakales v. Comm'r of Internal Revenue, 79 F.3d 726, 728 (8th Cir. 1996) (citations and internal quotation marks omitted). "A decision is contrary to law when it

fails to apply or misapplies relevant statutes, case law or rules of procedure." Knutson v. Blue Cross & Blue Shield of Minn., 254 F.R.D. 553, 556 (D. Minn. 2008) (citation and internal quotation marks omitted).

The court is satisfied that the magistrate judge properly exercised its discretion in determining that the interests of justice and judicial economy do not weigh in favor of a stay. The magistrate judge reasonably determined that defendant has not established a likelihood of success on appeal or that it will suffer irreparable harm if the stay is denied, and thus the Order is not clearly erroneous in this regard. See McLeod v. Gen. Mills, Inc., No. 15-494, 2015 WL 7428548, at *2 (D. Minn. Nov. 20, 2015) (holding that the court assesses the following factors when determining whether to issue a stay pending an appeal: "(1) the likelihood that the stay applicant will succeed on the merits of its appeal; (2) whether the denial of a stay will irreparably harm the moving party; (3) whether issuance of a stay will substantially injure the non-moving party; and (4) the public interest").

Nor is the court able to determine that the magistrate judge erred in determining that the law does not require an automatic stay of this case pending appeal. The court is constrained by the standard of review, and its review is limited to determining whether the magistrate judge's ruling was contrary to law. As set forth in the Order, although there is a split of authority on

this issue throughout the federal judiciary, the Eighth Circuit has yet to decide the issue. Under these circumstances, the court cannot hold that the Order is contrary to law. See Hormel Foods Corp. v. Cereol, S.A., No. 01-2245, 2003 WL 21402601, at *2 (D. Minn. June 16, 2003) (rejecting the argument that the court should choose sides in a circuit split on an appeal of a magistrate judge's order because in that procedural context "the Court's role is not to decide which rule is more persuasive or appropriate").

Accordingly, **IT IS HEREBY ORDERED** that the appeal [ECF No. 72] is denied.

November 6, 2017

s/David S. Doty
David S. Doty, Judge
United States District Court