

NOTE: This order is nonprecedential.

## United States Court of Appeals for the Federal Circuit

2009-1342

ILIGHT TECHNOLOGIES, INC.,

Plaintiff-Appellee,

v.

FALLON LUMINOUS PRODUCTS CORPORATION,

Defendant-Appellant.

Appeal from the United States District Court for the Middle District of Tennessee in  
case no. 2:06-CV-0025, Judge William J. Haynes, Jr.

ON MOTION

Before MICHEL, Chief Judge, LOURIE and BRYSON, Circuit Judges.

BRYSON, Circuit Judge.

### ORDER

Fallon Luminous Products Corporation moves for a stay, pending appeal, of the permanent injunction issued by the United States District Court for the Middle District of Tennessee. iLight Technologies, Inc. opposes. Fallon replies. iLight moves for leave to file a sur-reply.

iLight filed this suit asserting that Fallon infringed various claims of iLight's patents relating to illumination devices. Following a jury trial, Fallon was found to infringe six of the claims and awarded \$3 million in compensatory and increased damages. Fallon was also awarded a permanent injunction against iLight. Fallon appeals and now seeks a stay of the injunction, pending appeal. To the extent Fallon

may also be seeking a stay of enforcement of any monetary judgment, pending appeal, Fallon has not adequately presented its arguments in that regard.

In deciding whether to stay an injunction, pending appeal, this court "assesses the movant's chances of success on the merits and weighs the equities as they affect the parties and the public." E.I. Dupont de Nemours & Co. v. Phillips Petroleum Co., 835 F.2d 277, 278 (Fed. Cir. 1987); see also Standard Havens Prods. V. Gencor Indus., 897 F.2d 511 (Fed. Cir. 1990). To prevail, a movant must establish a strong likelihood of success on the merits or, failing that, must demonstrate that it has a substantial case on the merits and that the harms factors militate in its favor. Hilton v. Braunskill, 481 U.S. 770, 778 (1987).

Without prejudicing the ultimate disposition of this case by the merits panel, we determine based upon the arguments raised in the motions papers that Fallon has not met its burden of showing the requisite likelihood of success to obtain a stay of the injunction pending appeal. In addition, Fallon has not demonstrated in the motions papers that the harm factors weigh strongly in its favor. Thus, we deny the motion to stay the district court's injunction pending the disposition of this appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion for a stay of the injunction is denied.
- (2) The motion for leave to file a sur-reply is granted.

**JUL 01 2009**

Date

2009-1342

FOR THE COURT

/s/ Jan Horbaly

Jan Horbaly  
Clerk

**FILED**  
U.S. COURT OF APPEALS FOR  
THE FEDERAL CIRCUIT

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**JUL 01 2009**

**JAN HORBALY  
CLERK**

cc: Alexandra T. MacKay, Esq.  
C. Mark Kittredge, Esq.

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