

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2010-1146

BORGWARNER, INC.,

Plaintiff-Appellee,

v.

DORMAN PRODUCTS, INC.,

Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of Michigan
in case no. 09-CV-11602, Senior Judge John Corbett O'Meara.

ON MOTION

Before MAYER, LOURIE, and BRYSON, Circuit Judges.

BRYSON, Circuit Judge.

ORDER

Dorman Products, Inc. moves for a stay, pending disposition of this appeal, of the preliminary injunction entered by the United States District Court for the Eastern District of Michigan and for requests expedited consideration of the motion. BorgWarner, Inc. opposes. Dorman replies.

To obtain a stay, pending appeal, a movant must establish a strong likelihood of success on the merits or, failing that, nonetheless demonstrate a substantial case on the merits provided that the harm factors militate in its favor. Hilton v. Braunskill, 481 U.S. 770, 778 (1987). In deciding whether to grant a stay, 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. du Pont 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).

Based on the arguments in the motions papers, and without prejudicing the ultimate disposition of this case by a merits panel, we determine that Dorman has met its burden to obtain a stay of the preliminary injunction.

Accordingly,

IT IS ORDERED THAT:

The motion is granted.

FOR THE COURT

APR 15 2010

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Steven W. Hays, Esq.
Anthony S. Volpe, Esq.

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

APR 15 2010

JAN HORBALY
CLERK