

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**CELSIS IN VITRO, INC.,**  
*Plaintiff-Appellant,*

v.

**CELLZDIRECT, INC. AND INVITROGEN  
CORPORATION,**  
*Defendants-Appellants.*

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2011-1337

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Appeal from the United States District Court for the  
Northern District of Illinois in case no. 10-cv-4053, Senior  
Judge Milton I. Shadur.

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**ON MOTION**

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Before RADER, *Chief Judge*, GAJARSA and PROST, *Circuit  
Judges.*

RADER, *Chief Judge.*

**O R D E R**

Celsis in Vitro, Inc. moves for an injunction pending  
disposition of this appeal. CellzDirect, Inc. and Invitro-  
gen Corporation oppose. Celsis replies.

Rule 8(a)(1)(C)(2) of the Federal Rules of Appellate Procedure authorizes this court to grant an injunction pending appeal. Similar to a motion to stay a judgment or injunction pending appeal, which is authorized under the same rule, our determination is governed by four factors, the first two of which are the most critical: (1) whether the stay applicant had made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent relief; (3) whether issuance of the order will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).

Based on the arguments in the motions papers, and without prejudicing the ultimate disposition of this case by a merits panel, we determine that Celsis has not met its burden.

Accordingly,

IT IS ORDERED THAT:

The motion is denied.

FOR THE COURT

JUL 1 2011

Date

/s/ Jan Horbaly

Jan Horbaly  
Clerk

cc: Jordan A. Sigale, Esq.  
Francis M. Wikstrom, Esq.

S24

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

JUL 01 2011

JAN HORBALY  
CLERK