

Astar Assets Frozen by California Federal Court for Philips

Keats McFarland & Wilson LLP

\$80 Million Bond for Patent Infringement of Philips DVD Products

Koninklijke Philips Electronics N.V. v. KXD Technology, Inc., et al.
Case No. CV 05-1532 RLH (GWF)

In an action for patent infringement, U.S. Philips Corporation filed a lawsuit in the U.S. District Court for the Central District of California against defendants Astar Electronics, Inc., Shenzhen Kaixinda Electronics Co. Ltd., Shenzhen KXD Multimedia Co. Ltd., KXD Technology, Inc., and KXD Digital Entertainment Ltd., and Jingyi "James" Luo, among others, based on their unauthorized sale and distribution of DVD players incorporating Philips' patented technology. On August 3, 2007, after already striking the defendants' answers and entering default, the court ordered the defendants to post a prejudgment bond in the amount of \$80 million. The court's order required that all of the defendants' assets, including any real property and bank accounts located in the United States, be immediately frozen until the bond is posted. This order is a significant victory for patent owners that need to ensure the defendants' assets are available at the time of judgment.

Description of Prejudgment Bond:
Prejudgment Bond

List of KXD Assets and Accounts Frozen:
Assets and Accounts Frozen

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

U.S. PHILIPS CORPORATION,

Plaintiff,

v.

KXD TECHNOLOGY, INC.;
ASTAR ELECTRONICS, INC.;
SHENZHEN KAIXINDA
ELECTRONICS CO., LTD.;
SHENZHEN KXD MULTIMEDIA
CO., LTD.; KXD DIGITAL
ENTERTAINMENT LTD., and
JINGYI LUO

Defendant.

Case No. ^{CV} ~~CR~~ 05-8953 ER (PLAx)

**AMENDED ORDER GRANTING
PLAINTIFF'S EX PARTE
APPLICATION FOR PREJUDGMENT
BOND AND ASSET FREEZE**

**Hearing Scheduled for:
Monday, August 27, 2007 at 10:00 a.m.**

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Plaintiff filed an ex parte application to impose an \$80 million dollar
prejudgment security bond on Defendants and to freeze Defendants' assets until
they post the bond. Good cause having been shown, the Court hereby GRANTS
Plaintiff's ex parte application and ORDERS the following:

Prejudgment Bond

Defendants are ordered to post a bond in the amount of \$80 million dollars
within seven days of the date of this Order. Because Defendants are in the process

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1 of liquidating and concealing their assets, this Court finds the bond necessary to
2 protect Plaintiff from being unable to recover on a potential judgment.

3 **Asset Freeze**

4 Until Defendants post this prejudgment bond:

5 1) Defendants and their officers, directors, affiliates, agents, employees, and
6 attorneys, their successors and assigns and all persons in active concert or
7 participation with any of the KXD defendants, and all banks, financial
8 institutions, brokerages, or others in possession or control of their assets are
9 hereby enjoined from directly or indirectly transferring (except to Plaintiff as set
10 forth herein), concealing, secreting, distributing, disposing of, shipping in any way
11 or otherwise hiding assets and making unavailable to Plaintiff or their officers,
12 agents, employees, and attorneys any funds in Defendants' possession, control or
13 in the possession or control of others on behalf of Defendants including, but not
14 limited to:

15 a. KXD Technology, Inc.'s bank account (authorized agent, Jingyi Luo, aka
16 James Luo), account numbers 080312408, 80312424, and 0080312309, located at
17 East West Bank, 2601 N. Broadway, Los Angeles, CA 90031;

18 b. Astar Electronics, Inc. and KXD Technology, Inc.'s bank account,
19 account numbers 765-029699 and 765255773, located at Bank of the West at the
20 South Pasadena Office #765 and 1833 N. Atlantic Blvd., #765;

21 c. Jingyi Luo aka James Luo's bank account at Downey Savings Bank,
22 17120 Colima Road, Hacienda Heights, CA 91745; and

23 d. Any other bank or other financial accounts under the names KXD
24 Technology, Inc.; Astar Electronics Co., Ltd.; Shenzhen KXD Multimedia Co.,
25 Ltd.; Shenzhen Kaixinda Electronics Co., Ltd.; KXD Digital Entertainment, Ltd.;
26 Astar Electronics USA, Inc.; Jingyi Luo, a/k/a James Luo, including variations of
27 the foregoing names and alias;

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SCANNED

1 2) The known and unknown accounts are hereby frozen, except that Defendants
2 may pay ordinary and necessary business expenses, with respect to the foregoing
3 accounts of KXD Technology, Inc.; Astar Electronics, Inc.; Jingyi Luo aka James
4 Luo. Ordinary expenses referred to herein may be paid as follows:

5 a. Rent or mortgage in the amount normally paid as required in any lease or
6 loan on any premises, upon presentation of said lease or loan document to Plaintiff
7 and verification thereof;

8 b. Ordinary and regular salaries to any bona fide employees, other than any
9 salaries of the Defendants themselves and Fusheng Liu, or any relatives or
10 dependents thereof, to the extent that such salaries are not excessive; provided,
11 however, that such salaries shall be paid to persons on the payroll of Defendants as
12 of the first day of July 2007, and such salaries do not exceed prior month's level
13 and further provided that Defendants shall first present to Plaintiff's counsel
14 written documentation identifying and verifying all individuals proposed to be
15 paid and the particular of the salaries proposed therefor;

16 c. Ordinary and necessary bills for utilities; and

17 d. Payments of any amounts less than Two Thousand Dollars (\$2,000), not
18 to exceed an aggregate of more than Five Thousand Dollars (\$5,000) per month,
19 for ordinary business expenses (or ordinary personal expenses for Jingyi Luo aka
20 James Luo), which shall be documented and such documents shall be provided to
21 Plaintiff's counsel within ten calendar days following the end of each month.

22 3) Jingyi Luo, aka James Luo is enjoined from selling or otherwise encumbering
23 his personal residence at 16178 Wedgeworth Drive, Hacienda Heights, CA 91745,
24 and any other residence Mr. Luo owns;

25 4) Defendants are ordered to serve upon Plaintiff's attorneys within 13 calendar
26 days of the date of this Order, copies of all accountant's reports, bank statements,
27 certificates of deposit, notes, bonds, checking accounts, money market accounts,
28 saving accounts, or other financial institution records showing investments or

1 deposits, and documents indicating title to any real or personal property in
2 Defendants' actual or constructive possession or control, in whole or in part, or
3 which they otherwise have an interest, whether domestic or foreign, and
4 documents relating to any encumbrances of any property or assets in which
5 Defendants have any interest.

SCANNED

6 **Plaintiff's Bond**

7 Pursuant to Fed. R. Civ. P. 65(c), the injunction and order to freeze assets
8 set forth herein is subject to the execution and delivery to the Clerk of the Court
9 by Plaintiff of security in the form of a surety bond or undertaking or deposit
10 according to law in the amount of \$50,000.

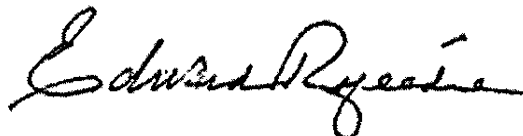
11 **Hearing**

12 Defendants shall show cause on **Monday, August 27, 2007, at 10:00 a.m.**,
13 why an order should not be entered granting Plaintiff a preliminary injunction in
14 the terms of the temporary restraining order issued above, or otherwise restricting
15 the transfer of Defendants' assets. Defendants shall file and serve a response on
16 Plaintiff, if any, by August 14, 2007. Plaintiff shall file and serve any reply on
17 Defendants by August 21, 2007.

18
19 IT IS SO ORDERED.

20 IT IS FURTHER ORDERED that the Clerk of the Court shall serve, by United
21 States mail or by telefax or by email, copies of this Order on counsel in this matter.

22
23 Dated: August 3, 2007



24
25 _____
26 EDWARD RAFEEDIE
27 Senior United States District Judge
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