

CAUSE NO. 199-596-97

DSC COMMUNICATIONS CORPORATION,

Plaintiff,

v.

EVAN BROWN,

Defendant.

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

199TH JUDICIAL DISTRICT

MOTION TO FIX AMOUNT OF SUPERSEDEAS BOND AND SUSPEND TEMPORARY INJUNCTION PENDING APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

Evan Brown, Defendant, in the above-entitled and numbered cause, requests that the Court fix the amount of a supersedeas bond and thereafter suspend execution of the portions of the court's Temporary Injunction Order commanding Defendant to disclose the Solution to DSC upon filing by Defendant of a supersedeas bond in the amount fixed by the Court, and states as follows:

I.

The Court granted Plaintiff's request for a temporary injunction in this cause on May 2, 1997. On May 8, 1997, Plaintiffs transmitted to Judge Caton of the 296th Judicial district court a proposed Temporary Injunction Order which she was asked to sign in Judge Roach's absence. Defendant believes that Judge Caton, in Judge Roach's absence, will sign Plaintiff's Temporary Injunction Order in the next few days. On issuance of such order, Defendant will file a cost bond or deposit of cash in lieu thereof in order to appeal to the Court of Civil Appeals, Fifth Supreme Judicial District. Pending the outcome of the appeal, Defendant is ready, willing, and able to post a supersedeas bond

FILED

Motion to Fix Amount of Supersedeas Bond and Suspend Temporary Injunction Pending Appeal: Page 1

CLERK OF COURT
BY *J.P.* DEPUTY

to suspend execution of the portion of the injunction requiring Defendant to make complete and full disclosure of the solution.

II.

Pending the outcome of the appeal, Defendant desires to suspend enforcement of the portions of the Court's Temporary Restraining Order which require Brown to disclose the solution to DSC and permit DSC to take actions related to the "solution", including filing an application for a patent. If such portions of the Temporary Injunction Order are not suspended pending appeal, the subject matter of Brown's appeal will be removed from the appellate court's jurisdiction before the appeal can be considered. Moreover, the relief sought by Defendant through his appeal will be rendered moot if Defendant is ordered to fully disclose the solution to DSC, and DSC is permitted to file a patent application relating to the solution, pending resolution of the appeal.

III.

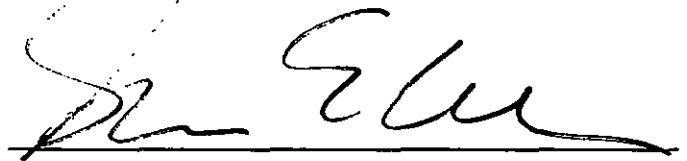
Rule 43(b) of the Texas Rules of Appellate Procedure gives this Court the power to suspend enforcement of the Temporary Injunction Order or portions thereof following the filing of security pursuant to Tex. R. App. P. 47. Contemporaneously herewith, Defendant has filed a Motion to Fix Amount of Supersedeas Bond so that Defendant can file a bond to suspend enforcement of the injunction. Defendant respectfully requests that the Court fix the amount of the bond, permit Defendant to file a supersedeas bond and suspend those portions of its Temporary Injunction Order set forth above pending appeal.

IV.

Plaintiff previously estimated the potential loss from issuance of the injunction to be five thousand and submitted a Temporary Injunction Order to be effective upon the execution and filing by DSC of a bond in the amount of five thousand dollars (\$5000.00). Defendant therefore submits that \$5000.00 is a fair and appropriate amount for a supersedeas bond suspending operation of a portion of the injunction pending appeal.

WHEREFORE, PREMISES CONSIDERED, Defendant requests that the Court fix the amount of the supersedeas bond at \$5,000.00 and thereafter suspend enforcement of the portions of the Court's Temporary Restraining Order which require Brown to disclose the solution to DSC and permit DSC to take actions related to the "solution", including filing an application for a patent pending Defendant's appeal.

Respectfully submitted,



STEVEN E. ALDOUS
State Bar No. 00982100
SAYLES & LIDJI, P.C.
1201 Elm Street
4400 Renaissance Tower
Dallas, Texas 75270
(214) 939-8700
Fax: (214) 939-8787

ATTORNEY FOR DEFENDANT

FIAT

This Motion is set for hearing on the _____ day of _____, 1997, at _____ o'clock, _____ m., before the Honorable _____, in the 101st District Court, Dallas County, Texas.

JUDGE

CERTIFICATE OF CONFERENCE

The undersigned certifies that he has spoken with counsel for Plaintiff regarding the relief sought herein, but no agreement could be reached. This Motion is therefore submitted to the Court for its consideration.



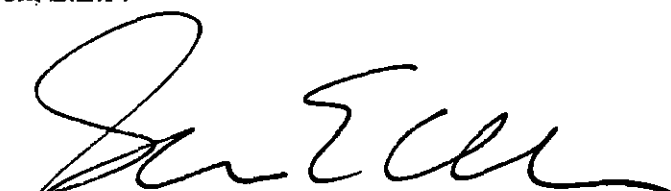
STEVEN E. ALDOUS

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the attorneys of record of all parties to the above cause in accordance with Rule 21a, Texas Rules of Civil Procedure, on this 9 day of May, 1997.

John Stooksberry, Esq.
Boyd Veigel
P.O. Box 1179
McKinney, Texas 75070

Eric W. Pinker, Esq.
Lynn Stodghill Melsheimer & Tillotson, L.L.P.
750 N. St. Paul Street
Suite 1400
Dallas, Texas 75201



STEVEN E. ALDOUS