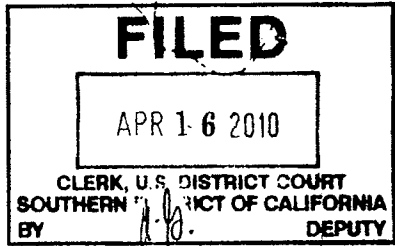


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EHOSTAR SATELLITE L.L.C.,
EHOSTAR TECHNOLOGIES
CORPORATION, and NAGRASTAR L.L.C.,

Plaintiffs,

v.

VIEWTECH, INC., JUNG KWAK, and DOES
1-10,

Defendants.

Case No. 07-CV-01273 W (WVG)

**ORDER GRANTING
PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING
ORDER TO FREEZE
DEFENDANT JUNG KWAK'S
ASSETS [DOC. 126]**

On March 26, 2010, Plaintiffs EchoStar Satellite L.L.C., EchoStar Technologies Corporation, and NagraStar LLC (collectively, "Plaintiffs") filed a Motion for Temporary Restraining Order to Freeze Defendants' Assets (the "Motion"). (Doc. 126.) Plaintiffs' Motion requested an expedited briefing schedule.

On March 29, 2010, this Court issued a scheduling order for Plaintiffs' Motion (the "Order"). (Doc. 129.) Under the Order, Defendants' opposition was due on or before April 1, 2010, and Plaintiffs' reply was due on or before April 5, 2010.

On April 1, 2010, a "Response by Former Attorneys for Defendants to Court's Scheduling Order on Plaintiffs' Motion for Temporary Restraining Order and Expedited Briefing" ("Defendants' Response") was filed. (Doc. 131.)

On April 2, 2010, Defendant Viewtech, Inc. filed a Notice of Filing of Bankruptcy by Defendant Viewtech, Inc., and Automatic Stay. (Doc. 132.)

1 On April 9, 2010, Plaintiffs filed a Response to Notice of Filing of Bankruptcy by
2 Defendant Viewtech, Inc. and Automatic Stay (the "Reply"). (Doc. 135.)

3 Having reviewed the Motion and supporting papers, Defendants' Response, the Reply,
4 and Defendant Viewtech's notice of bankruptcy filing, the Court finds as follows:

5 (a) Plaintiffs are likely to succeed in showing that Defendants are providing to the
6 public or have provided to the public Viewsat branded receivers, software files, and support
7 services that are designed for, marketed for, and primarily of use in circumventing the DISH
8 Network security system and intercepting DISH Network satellite television programming;

9 (b) Plaintiffs have pled claims sounding in equity, and Plaintiffs have an equitable
10 financial interest in all of Defendants' assets. The Plaintiffs have suffered and continue to suffer
11 immediate and irreparable injury due to lost profits and subscribers, as well as loss of reputation
12 and goodwill;

13 (c) Plaintiffs' damages are not readily calculable, and even if they were it is highly
14 unlikely Plaintiffs will ever collect the full amount of monetary damages because damages will
15 likely be far in excess of Defendants' resources, given Defendant Jung Kwak's incarceration and
16 Defendant Viewtech, Inc.'s dissolution;

17 (d) The resulting harm to Plaintiffs in not granting the temporary restraining order
18 outweighs any injury this relief will cause to Defendants;

19 (e) The public interest will be served by entering the temporary restraining order; and

20 (f) Only Defendant Viewtech, Inc. filed for bankruptcy protection, and thus this case
21 is not stayed as to Defendant Jung Kwak individually. Accordingly, a temporary restraining
22 order freezing Jung Kwak's assets will not violate the automatic stay imposed by 11 U.S.C. §
23 362(a).

24 **THEREFORE**, it is hereby, **ORDERED** that:

25 (1) Pending a preliminary injunction hearing to be held as set forth below, Defendant
26 Jung Kwak, and those acting in active concert or participation with him who receive actual notice
27 of this Order are enjoined and must restrain from directly or indirectly:
28

1 (a) transferring, removing, encumbering, or permitting withdrawal of any assets or
2 property belonging to Jung Kwak wherever located, whether real or personal, tangible or
3 intangible, including cash, bank accounts of any kind, stock accounts (including but not limited to
4 any stock interest Jung Kwak may possess in the entity Sonicview, Inc.), bonds, accounts
5 receivable, inventory (including all Viewsat branded receivers and their component parts and
6 accessories), membership interests, and title to Jung Kwak's business property; and

7 (b) destroying, hiding, or altering any books or records, whether in hard copy or
8 electronic form, concerning the satellite receiver business or finances of Jung Kwak, including
9 invoices, purchase orders, receipts, shipping records, banking or investment records, or any other
10 documents that identify Jung Kwak's assets;

11 **IT IS FURTHER ORDERED** that no later than five (5) court days following service of
12 this Order, Jung Kwak must provide Plaintiffs a written accounting of all assets and property
13 belonging to him, which in the case of any bank account shall include the account name, number,
14 current balance, and location of the bank or other custodian holding such account;

15 Plaintiffs shall not be required to post a bond;

16 **IT IS FURTHER ORDERED** that Jung Kwak shall show cause before this Court in
17 Courtroom 7, located at 940 Front Street, San Diego, California 92101, on **May 6, 2010 at 10:30**
18 **a.m.**, or as soon thereafter as counsel can be heard, why an order should not be entered granting
19 Plaintiffs a preliminary injunction in the above form and continuation of Jung Kwak's assets
20 being frozen; and

21 **IT IS FURTHER ORDERED** that Jung Kwak's answering papers shall be filed with the
22 Court and served on Plaintiffs before **April 26, 2010**, and that Plaintiffs shall file and serve any
23 reply **no later than 12:00 p.m. on May 3, 2010**.

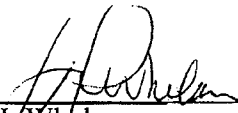
24 In light of Jung Kwak's incarceration, if additional time is needed to respond to the order
25 to show cause, Jung Kwak may file an ex parte application seeking a continuance of the May 6,
26 2010 hearing. The application should specify the amount of additional time needed.
27 Additionally, a continuance will only be granted if Jung Kwak agrees to continue this temporary
28

1 restraining order pending resolution of the preliminary injunction hearing.

2 Jung Kwak is warned that any act by him in violation of any of the terms of this Order
3 after proper notice to him may be considered and prosecuted as contempt of this Court.

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5 **IT IS SO ORDERED.**

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7 DATED: April 16, 2010

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10 Thomas J. Whelan
11 United States District Judge
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