

**ENTERED**

April 01, 2020

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

HEWLETT-PACKARD COMPANY,

Plaintiff,

v.

QUANTA STORAGE INC. *and*  
QUANTA STORAGE AMERICA  
INC.,

Defendants.

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Civil Action No. H-18-762

ORDER

Pending before the Court are Plaintiff’s Emergency Motion Re-Urging its Motion for Post-Judgment Relief in Aid of Enforcing its Judgment (Document No. 421) and Plaintiff’s Motion Re-Urging its Motion for Writ of Execution (Document No. 422). Having considered the motions, submissions, and applicable law, the Court determines the motion for post-judgment relief should be granted in part and denied in part and the motion for writ of execution should be granted.

Plaintiff HP Inc. (formerly known as Hewlett-Packard Company) (“HP”) renews its motions for post-judgment relief to enforce the judgment and for a writ of execution against Defendant Quanta Storage, Inc. (“Quanta Storage”). Specifically, HP requests: (1) appointment of Randy W. Williams as Receiver to obtain, sell, license, transfer, or dispose of Quanta Storage non-exempt property,

including Quanta Storage's patents, trademarks, and copyrights; (2) order Quanta Storage to turn over all documentary evidence of its non-exempt property, including documents relating to licensing, sale, or other disposition of Quanta Storage's patents, trademarks, or copyrights; (3) order Quanta Storage to turn over all Quanta Storage's non-exempt property, including any patents, trademarks, and copyrights, and all licensing and revenue related to its patents to the Receiver; and (4) enter a restraining order preventing Quanta Storage from disposing non-exempt property, including all patents, trademarks, and copyrights, pending the sale by the Receiver. Quanta Storage contends HP's execution on the amended judgment will severely impair Quanta Storage's business.

“To enforce a judgment, judgment creditors must file a writ of execution in accordance with the ‘practice and procedure of the state in which the district court is held.’ ” *Andrews v. Roadway Exp. Inc.*, 473 F.3d 565, 568 (5th Cir. 2006) (quoting Fed. R. Civ. P. 69(a)(1)). Under Texas law, after a judgment is finalized, the prevailing party may execute on the judgment by securing a writ of execution from the clerk of the court that issued the judgment. *See* Tex. R. Civ. P. 627. In addition, the Texas Turnover Statute allows the Court to, *inter alia*, “order the judgment debtor to turn over non-exempt property in the debtor's possession or that is subject to the debtor's control, together with all documents or records related to the property . . . for execution.” Tex. Civ. Prac. & Rem. Code § 31.002(b)(1). The Texas Turnover

statute also permits the appointment of a receiver “to take possession of the nonexempt property, sell it and pay proceeds to the judgment creditor to the extent required to satisfy the judgment.” *Id.* § 31.002(b)(3). However, “[r]eceivership is an extraordinary remedy that should be employed with the utmost caution and is justified only where there is a clear necessity to protect a party’s interest in property, legal and less drastic equitable remedies are inadequate, and the benefits of receivership outweigh the burdens on the affected parties.” *Netsphere, Inc. v. Baron*, 703 F.3d 296, 305 (5th Cir. 2012) (internal citations omitted).

To prevent execution on a judgment by the judgment creditor, the judgment debtor must post a supersedeas bond or other security. Fed. R. Civ. P. 62(b). The supersedeas bond is usually for “the whole amount of the judgment remaining unsatisfied, costs on appeal, interest, and damages for delay.” *Poplar Grove Planting and Refining Co., Inc. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1191 (5th Cir. 1979). However, “if a judgment debtor’s present financial condition is such that posting of a full bond would impose an undue financial burden, the court is . . . free to exercise a discretion to fashion some other arrangement for substitute security through an appropriate restraint on the judgment debtors financial dealings, which would furnish equal protection to the judgment creditor.” *Id.*

On March 5, 2020, the Court conducted a hearing (the “Hearing”) on HP’s original motion for post-judgment relief, including the temporary restraining order,

and Quanta Storage's motion to stay execution on the amended judgment. At the Hearing, HP produced evidence of Quanta Storage's declining stock. Quanta Storage also produced financial records showing Quanta Storage's assets are valued at less than the full amount of the judgment.<sup>1</sup> On March 12, 2020, the Court, after finding Quanta Storage objectively demonstrated posting the full supersedeas bond would pose an undue financial hardship, entered injunctive relief as agreed to by both parties and ordered Quanta Storage to post a reduced supersedeas bond in the amount of \$85,000,000 within fifteen days of the Order to stay execution of the amended judgment.<sup>2</sup>

Quanta Storage failed to post the required bond within the fifteen-day deadline. In response to HP's renewed motions, Quanta Storage alleges, three days after the deadline, it is unable to secure the reduced bond due to restrictions on nonessential businesses put in place by the Taiwanese government in light of the COVID-19 pandemic. Quanta Storage fails to produce any documentation showing restrictions on its business. Based on the motions, representations made at the Hearing, and Quanta Storage's failure to post the reduced supersedeas bond, the Court finds HP is entitled to post-judgment relief and a writ of execution to enforce

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<sup>1</sup> *Quanta Storage, Inc.'s Motion for Stay of Execution and Opposition to HP's Motion for Writ of Execution*, Document No. 412, Exhibit 1-A (*Financial Statements*).

<sup>2</sup> *Order*, Document No. 418.

the amended judgment. However, the Court further finds it not been shown: (1) there is a clear necessity for appointment of a receiver; (2) legal or less drastic remedies are inadequate or unavailable; and (3) the benefits of receivership outweigh burdens on the affected parties. *See Netsphere*, 703 F.3d at 305. Accordingly, the Court hereby

**ORDERS** that Plaintiff's Emergency Motion Re-Urging its Motion for Post-Judgment Relief in Aid of Enforcing its Judgment (Document No. 421) is **GRANTED IN PART** and **DENIED IN PART**. The motion is granted as to the temporary restraining order, the turnover of all Quanta Storage's non-exempt property, and the turnover of documentary evidence of Quanta Storage's non-exempt property. The motion is denied at this time as to the request for the appointment of a receiver. The Court further

**ORDERS** that Plaintiff's Motion Re-Urging its Motion for Writ of Execution (Document No. 422) is **GRANTED**.

SIGNED at Houston, Texas, on this   1   day of April, 2020.



DAVID HITTNER  
United States District Judge