

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Erithe Smith, Presiding
Courtroom 5A Calendar**

Friday, January 22, 2021

Hearing Room

5A

2:00 PM

8:00-00000

Chapter

#0.00 All hearings on this calendar will be conducted remotely, using ZoomGov video and audio.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided below.

Individuals may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Individuals may opt to participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate and no pre-registration is required. The audio portion of each hearing will be recorded electronically by the Court and constitutes its official record.

Meeting URL: <https://cacb.zoomgov.com/j/1611579022>

Meeting ID: 161 157 9022

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Judge Erithe A. Smith's Cases" on the Court's website at:
<https://www.cacb.uscourts.gov/judges/honorable-erithe-smith> under the
"Telephonic Instructions" section.

To assist in creating a proper record and for the efficiency of these
proceedings, please:

- Connect 10 minutes before your hearing time so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.

Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

Docket 0

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

- NONE LISTED -

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8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#1.00 CON'TD Hearing RE: Motion of Debtors Requesting (A) the Scheduling of an Auction and Sale Hearing in Connection with the Sale of the Specified Assets of the Debtors, (B) Approval of Bidding Procedures for Such Assets, (C) Approval of Purchase Agreement with Stalking Horse Bidder, (D) Approval of the Form and Scope of Notice of Auction and Sale Hearing, (E) Approval of Procedures for the Assumption, Assignment and Sale of Contracts and Leases to the Purchaser, and (F) Approval of Sale of the Debtors' Assets to the Purchaser
(Re: Sale of Inventory Portion of the Motion)

FR: 7-23-20; 8-27-20; 12-17-20

Docket 118

Courtroom Deputy:

- NONE LISTED -

Tentative Ruling:

August 27, 2020

The court is inclined to grant the Motion but is concerned about the possible transfer of inventory that may be include intellectual property of Motorola. Debtors need to address whether there is a way of excluding any such inventory. If not, this hearing may need to be postponed until a decision on the TRO/preliminary matter is adjudicated in District Court in Illinois.

The court notes that it does not share the UST's or Motorola's concerns about the independence of the Independent Director or the marketing efforts of Imperial.

December 17, 2020

Continue this hearing one final time to January 22, 2021 at 2:00 p.m.. By or before January 5, 2021, Debtors, Motorola, the Committee (and the UST at

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his option) shall meet and confer regarding a possible resolution of this motion with a focus on identifying agreed non-accused assets that may be sold. By or before January 7, 2021, Motorola shall file with the court a statement identifying all of the accused assets that are scheduled to be sold pursuant to the APA (Third Amended) and to which it objects as being within the scope of the pending Injunction Motion. By or before January 14, 2021, Debtors shall file a pleading in reply to Motorola's statement. In the event that an injunction order is entered by district court in Illinois prior to the continued hearing, Motorola shall file such order with this court within 24 hours of its issuance.

Basis for Tentative Ruling

1. This hearing was continue for the express purpose of allowing Motorola to obtain a ruling on its pending Injunction Motion. Nearly four months later, that has not happened and it is apparent to this court that a ruling may not be forthcoming any time soon, which is Judge Norgle's prerogative. Motorola's assertion that a ruling will be issued soon is not based on evidence or facts upon which this court can rely. Meanwhile, this chapter 11 case hangs in the balance.

2. Any injunction order will necessarily have to specifically identify the items that Debtors would be enjoined from selling or otherwise exploiting. Why can't Motorola identify such items *now*?

3. Debtors initially represented that the original APA did not include any accused items but has subsequently excluded many additional items. Absent some consensus with Motorola, Debtors will have to convince the court that the APA (Third Amended) is now "cleansed" of accused items.

4. Motorola complains that Debtors have included a caveat in the Third Amended APA as a precaution. Why? Such a caveat is for its benefit.

5. Any APA ultimately approved by this court must include a provision that the Buyer agrees to be bound by any injunction order issued by Judge Norgle.

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6. The bottom line is that the court is not 100% impressed with either Motorola or Debtors, but less so by Motorola. Debtors have at least made an effort to exclude potential accused items; Motorola just says no to everything.

January 22, 2021

Pursuant to the Notice of Agreed Proposed Order Regarding Sale of Non-Accused Inventory Pursuant to Initial Asset Purchase Agreement [dkt. 418], the agreed proposed order is approved. The hearing is off calendar. No appearances are necessary.

Party Information

Debtor(s):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark
Steptoe & Johnson

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8:20-11507 Hytera Communications America (West) Inc

Chapter 11

#2.00 CON'TD Hearing RE: Motion of Motorola Solutions, Inc. to Dismiss Chapter 11 Case Pursuant to 11 U.S.C. Section 1112 or Alternatively to Suspend Case Pending Resolution of District Court Matters Pursuant to 11 U.S.C. Section 305

FR:8-20-20; 8-27-20; 12-17-20

Docket 111

Courtroom Deputy:

Tentative Ruling:

August 20, 2020

Continue hearing to August 27, 2020 at 10:00 a.m., same date/time as the Sale Motion. (XX)

Note: Appearances at today's hearing are not required.

August 27, 2020

The court is inclined to continue the hearing on the Motion for six months until the disposition of the pending TRO/Preliminary Injunction matter is ruled on by the District Court in Illinois.

Basis for Continuance:

1. The court is not persuaded that Debtors' failure to seek or obtain an appeal bond for a \$700M+ judgment is a basis for dismissal of the case as there is no evidence that Debtors had the ability to post such a bond and the fact that its parent (or indirect) parent may have had the ability to do so is, in the court's view, irrelevant as such entity had no legal duty to post such an appeal bond on behalf of Debtors.

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2. The court is concerned, however, with the fact that Debtors may have continued to distribute products containing Motorola's source code or other protected intellectual property in the absence of the issuance of an injunction by the District Court. See Ms. Huang's 341a testimony. The court is not aware of any declaration testimony by Debtors directly addressing this issue.

3. The scope of any injunction, if granted, could directly impact the viability of Debtors' reorganization.

December 17, 2020

Continue the hearing to January 22, 2021 at 2:00 p.m. (XX)

Special note: The court's comments above for the August 27, 2020 hearing stand

January 22, 2021

In light of the court's approval of Debtors' sale motion (see cal. no. 1), the Motion to Dismiss is denied. The hearing is off calendar. No appearances are necessary.

Party Information

Debtor(s):

Hytera Communications America

Represented By
John W Lucas
Jason H Rosell
Victoria Newmark
Steptoe & Johnson