UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. 2:24-cv-08280 MWC-Ex Date: May 27, 2025

Title Electric Solidus, Inc. v. Proton Management LTD. *et al.*

Present: The Honorable: Michelle Williams Court, United States District Judge

T. Jackson	No Reporter
Deputy Clerk	Court Reporter / Recorder

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
N/A	N/A

Proceedings: (IN CHAMBERS) Order GRANTING the Individual Defendants' ex parte application to stay the case (Dkt. 208) and *SUA SPONTE* STAYING the case as to Proton; MOOTING the Individual Defendants' motion to stay (Dkt. 207); MOOTING Proton's motion to stay (Dkt. 206); VACATING Proton's motion to compel (Dkt. 194)

Before the Court is an ex parte application to stay the case filed by Defendants Thomas Patrick Furlong ("Furlong"), Ilios Corp., Michael Alexander Holmes ("Holmes"), Rafael Dias Monteleone ("Monteleone"), Santhiran Naidoo ("Naidoo"), Enrique Romualdez ("Romualdez"), and Lucas Vasconcelos ("Vasconcelos") (collectively, "Individual Defendants"). Dkt. # 208 ("*App.*"). Plaintiff Electric Solidus, Inc. d/b/a Swan Bitcoin's ("Swan") filed an opposition to the application. Dkts. # 213 ("*Opp.*"). The Court finds the matter appropriate for decision without oral argument. *See* Fed. R. Civ. P. 78; L.R. 7-15. Having considered the papers, the Court **GRANTS** the Individual Defendants' ex parte application to stay as to the Individual Defendants and ***SUA SPONTE* STAYS** the case as to Proton.

I. Background

This action stems from an alleged coordinated effort by Proton Management Ltd. ("Proton") and the Individual Defendants—former consultants of Swan—to steal Swan's entire Bitcoin mining business. Dkt. # 101 ("*FAC*"), ¶ 1. The Court has summarized the allegations underlying this case in a previous order, so it includes only those necessary for deciding the current motion. *See* Dkt. # 164 ("*Order*").

On September 25, 2024, Swan filed its original complaint against Proton and the Individual Defendants. Dkt. # 1. At the same time, Swan filed an application for a

temporary restraining order ("TRO") seeking to enjoin Proton and the Individual Defendants from, among other things, disclosing or using any Swan proprietary and confidential material or trade secrets. Dkt. # 8. Notably, in their opposition to the TRO, Proton and the Individual Defendants represented that, to the extent they were using Swan's proprietary information and trade secrets, they were using that information "solely for the benefit of 2040 Energy . . . and no others."[1] Dkt. # 29-1, 4:26–28. The Court denied Swan's request for relief on October 4, 2024, but nonetheless set a briefing schedule for preliminary injunction for November 8, 2024. Dkts. # 40, 41. On October 18, 2024, Swan withdrew its request for preliminary injunction without prejudice to being refiled after additional discovery. Dkt. # 55.

In the subsequent months, Proton and the Individual Defendants represented that they were using Swan's proprietary information and trade secrets "solely for the benefit of 2040 Energy . . . and no others," but Swan uncovered evidence that suggests Proton and the Individual Defendants have used Swan's proprietary information and trade secrets to further Bitcoin mining operations outside of 2040 Energy. *FAC* ¶¶ 181–99. Swan maintains that it has been, and continues to be, irreparably harmed by Proton's and the Individual Defendants' misconduct. *Id.* ¶¶ 202–07.

On January 27, 2025, Swan filed its first amended complaint ("FAC"). *See generally id*. Swan alleges the following causes of actions: (1) Trade Secret Misappropriation under the Defend Trade Secrets Act ("DTSA") (18 U.S.C. §§ 1836 *et seq.*) against Proton and the Individual Defendants; (2) Breach of Contract against the Individual Defendants; (3) Tortious Interference with Contractual Relations against Defendants Proton, Holmes, and Naidoo; (4) Aiding and Abetting Breach of Duty of Loyalty against Proton; (5) Unfair Competition (California Business & Professions Code § 17200) against Proton and the Individual Defendants; (6) Conversion against the Individual Defendants; and (7) Civil Conspiracy against Proton and the Individual Defendants. *See id.* Swan sought preliminary relief against the Individual Defendants pursuant to executed consulting agreements, which called for arbitration to "be the sole, exclusive, and final remedy for any dispute" but that "any party may also petition the court for injunctive relief where either party alleges or claims a violation of any

[1] 2040 Energy was a joint venture between Tether (a crypto currency company) and Swan that invested in Bitcoin mining opportunities, which is the subject of the alleged scheme executed by Proton and the Individual Defendants. *See FAC* ¶ 116.

agreement regarding intellectual property, confidential information or noninterference." *See FAC*, Exs. A–F § 12(C)–(D).

On February 14, 2025, Swan served Proton and the Individual Defendants with four targeted requests for production and five targeted interrogatories, *see* Dkts. # 114-2, 114-3, but Swan's efforts were frustrated by Proton and the Individual Defendants. Swan moved to compel initial disclosures, which was granted. Dkts. # 129, 156.

In late February 2025, the Individual Defendants filed (1) a motion to compel arbitration or, in the alternative, motion to dismiss for failure to state a claim; and (2) motion to stay pending "determination of threshold issues" in the UK proceeding. Dkts. # 122, 124. Proton filed a motion to dismiss for lack of personal jurisdiction or, in the alternative, motion to dismiss for failure to state a claim. Dkt. # 121. On March 28, 2025, the Court issued an order ("Order") addressing each motion. *See Order*. Specifically, the Court granted Individual Defendants' motion to compel arbitration as to the conversion claim but denied the motion to compel arbitration as to the remaining claims on the basis that those claims did not raise any question of arbitrability because Swan had tailored its claims to pray for pure interim relief. *See id.* The Court denied Individual Defendants' motion to dismiss for failure to state a claim. *See id.* The Court denied Proton's motion to dismiss for lack of personal jurisdiction and denied Proton's motion to dismiss for failure to state a claim as to all claims except civil conspiracy. *See id.* The Court denied Individual Defendants' motion to stay. *See id.*

On April 23, 2025, Swan moved to compel further responses to four requests for production and five interrogatories. Dkt. # 177. On April 25, 2025, pursuant to 9 U.S.C. § 16(a), the Individual Defendants appealed from the Order denying in substantial part the Motion to Compel Arbitration. Dkt. # 180. The Individual Defendants then filed a Notice of Automatic Stay, pursuant to *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023). Swan objected to that notice, Dkt. # 182, and the Individual Defendants responded to Swan's objection, Dkt. # 183.

On May 2, 2025, the Individual Defendants advised Magistrate Judge Charles F. Eick that, under *Coinbase*, there is "an automatic stay of district court proceedings" as to the Individual Defendants and the claims against them, pending the Ninth Circuit's resolution of the interlocutory appeal. Dkt. # 190 at 1 (quoting *Coinbase*, 599 U.S. at 741, 743). On May 7, 2025, Judge Eick ordered Proton and the Individual Defendants to respond to document production requests and interrogatories, but clarified that "[t]his

ruling is without prejudice to the right of Defendants (including the Individual Defendants) to seek a stay of discovery from the District Judge (under *Coinbase, Inc. v. Bielski*, 599 U.S. 736 (2023) or otherwise)." Dkt. # 205 at 2.

On May 23, the Ninth Circuit ordered that the opening brief is due June 18, 2025; the answering brief is due July 18, 2025; and the optional reply brief is due August 8, 2025. *See* Dkt. # 216, Ex. A. The Ninth Circuit further ordered that the case will be assigned to the next available panel upon the completion of briefing. *See id.*

II. Discussion

A. *Coinbase* Stay

The Individual Defendants move this Court to impose a *Coinbase* stay to ensure discovery and other proceedings are paused during the pendency of their appeal. *See App.* Swan argues that *Coinbase* does not apply to the circumstances of this case where the appeal does not involve an issue of arbitrability.[2] *See Opp.* 12:12–15:22. For the reasons set forth below, the Court grants the Individual Defendants' application.

[2] Swan also argues that the Individual Defendants' ex parte application is procedurally improper. *Opp.* 7:5–12:11. A party seeking an ex parte application for relief "must show that it 'will be irreparably prejudiced if the underlying motion is heard according to regular noticed motion procedures,' and that the moving party 'is without fault in creating the crisis that requires ex parte relief.'" *ELT Sight, Inc. v. EyeLight, Inc.*, No. CV 19-5545 JAK (RAOx), 2019 WL 7166063, at *2 (C.D. Cal. Oct. 29, 2019) (quoting *Mission Power Eng'g Co. v. Cont'l Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995)). The parties disagree whether a *Coinbase* stay is automatic as to the proceedings against the Individual Defendants, which involves the issue as to whether the Individual Defendants should have moved to stay at an earlier time. The Court acknowledges the Individual Defendants' confusion and finds that they are without fault in creating the crisis for ex parte relief. Moreover, while the burden of meeting discovery obligations typically does not constitute irreparable injury, ordering the Individual Defendants to engage in discovery here would constitute irreparable harm if the Ninth Circuit reverses the Order and the arbitrator does not allow the ongoing discovery requests—it is not a mere litigation expense under the circumstances of this case. *See Fraihat v. U.S. Immigr. & Customs Enf't*, No. EDCV 19-1546 JGB (SHKX), 2020 WL 6540441, at *3 (C.D. Cal. Oct. 30, 2020) ("[M]any courts have concluded that the burden of meeting discovery

"When a federal district court denies a motion to compel arbitration, the losing party has a statutory right to an interlocutory appeal." *Coinbase*, 599 U.S. at 738 (citing 9 U.S.C. § 16(a)). In *Coinbase*, the Supreme Court addressed the question "whether the district court must stay its *pre-trial and trial proceedings* while the interlocutory appeal is ongoing." *Id.* at 738 (emphasis added). "The answer is yes: The district court must stay its proceedings." *Id.* However, as the Supreme Court expressly acknowledged, an appeal does not compel a stay on "matters that are not involved in the appeal." *Id.* at 741 n. 2. Notably, "§ 16(a) grants jurisdiction to review *all* of the reasoning in an order denying a motion to compel arbitration." *Boshears v. PeopleConnect, Inc.*, 76 F.4th 858, 861–62 (9th Cir. 2023) (emphasis in original).

Swan contends that the question previously before the Court (and now on appeal) was not regarding arbitrability or any interpretation of the arbitration provision, but rather whether the relief Swan sought was preliminary relief. *Opp.* 14:4–6. According to Swan, this question does not pertain to arbitrability. *Id.* 13:27–14:22. Not so. The issue as to whether Swan's prayer for interim relief was a disguised request for permanent injunction relief goes directly to the question of arbitrability (i.e., whether this Court should have compelled arbitration). While this Court found that Swan's request did not raise any question of arbitrability, the Ninth Circuit may hold otherwise and that "divests th[is] [Court] of its control over [that] aspect[] of the case." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982); *see also Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 37 (1985) ("In general, filing of a notice of appeal confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal"). Indeed, the arbitrability issue in this case extends to this Court's authority to provide Swan interim relief in aid of arbitration as the underlying claims in the FAC are subject to the controversy on appeal. *See Pandolfi v. Aviagames, Inc.*, No. 23-CV-05971-EMC, 2024 WL 4951258, at *4 (N.D. Cal. Dec. 3, 2024) ("*Coinbase* mainly turned on two points: (1) an appeal divests the district court of *anything* covered by the appeal and (2) in the context of an appeal of an

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obligations does not constitute irreparable injury."); *Andrus v. D.R. Horton, Inc.*, No. 2:12-CV-00098-ECR, 2012 WL 1971326, at *3 (D. Nev. Jun. 1, 2012) ("If the motion to compel arbitration is granted and the dispute is arbitrable, responsibility for the conduct of discovery lies with the arbitrators." (internal quotation marks and citation omitted)). Accordingly, the Court finds that the Individual Defendants' ex parte application is procedurally sufficient to warrant review.

order denying a motion to compel arbitration, it makes particular sense to stay because allowing district court proceedings to continue pending appeal would effectively deprive the appealing party of the benefits of arbitration." (emphasis added)).

Swan forwards that a *Coinbase* stay pending an appeal of a denial of a motion to compel arbitration is not per se automatic. *Opp.* 12:15–16. In support, Swan highlights that *Coinbase* did not explicitly address the ability of a district court to issue injunctive relief pending an appeal under the FAA. *Opp.* 12:24–13:14 (citing *Columbia Gas Transmission, LLC v. RDFS, LLC*, No. 5:23-CV-364, 2024 WL 973114, at *3 (N.D.W. Va. Feb. 27, 2024)). Swan also relies on *In re financialright claims GmbH* for the proposition that *Coinbase* is inapplicable where there "never were, and never could have been, pre-trial or trial proceedings in [the action]." No. CV 23-1481-CFC, 2025 WL 82246, at *2 (D. Del. Jan. 13, 2025). Swan's argument misses the mark. "The common practice in § 16(a) cases . . . is for a district court to stay its proceedings while the interlocutory appeal on arbitrability is ongoing. That common practice reflects common sense." *Coinbase*, 599 U.S. at 742–43. Even if this Court found that Swan's request for preliminary relief does not constitute a pre-trial or trial proceeding (it does not), any continued proceeding related to the Individual Defendants in this Court pending appeal could lead to entirely wasted resources if arbitration is ordered on appeal. *See id.* at 742 (quoting 15B C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure § 3914.17, p. 7 (2d ed., Supp. 2022) ("The treatise explains that a 'complete stay of district-court proceedings pending appeal from a refusal to order arbitration is desirable' because '[c]ontinued trial-court proceedings pending appeal could lead to an entirely wasted trial if arbitration is ordered on appeal.'")). Above all, it is not clear that this Court had authority to consider any request for preliminary relief before considering the issue of arbitration as the issues are intrinsically intertwined here. *Cf. Cunningham v. Lyft, Inc.*, No. 1:19-CV-11974-IT, 2020 WL 2616302, at *4 (D. Mass. May 22, 2020) ("[A] district court may exercise its traditional equitable powers to grant preliminary injunctive relief even while arbitrability is unsettled because whether the dispute is arbitrable is irrelevant to the pending preliminary injunction. If the court has authority to consider a motion for preliminary relief before addressing the motion to compel arbitration, it certainly has authority to consider that same motion after denying the motion to compel arbitration, despite Defendants' appeal."), *aff'd*, 17 F.4th 244 (1st Cir. 2021).

Accordingly, the Court **GRANTS** Individual Defendants' application to stay the case as to the Individual Defendants' pending appeal of the Order.

B. Discretionary Stay

The Court now considers whether to extend the stay as to Proton. "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *see also Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979) ("A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case."). "This inherent authority bestows courts with 'the power to consider stays *sua sponte*.'" *Dzhanpolatov v. United States Citizenship & Immigr. Servs. (USCIS)*, No. 2:24-CV-05618-MCS-E, 2024 WL 5379592, at *1 (C.D. Cal. Nov. 27, 2024) (citation omitted).

Under *Landis*, a court deciding whether to stay proceedings weighs three competing interests: (1) "the possible damage which may result from the granting of a stay;" (2) "the hardship or inequity which a party may suffer in being required to go forward;" and (3) "the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay." *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)).

Damage and hardship are neutral at this juncture. The Court recognizes that Swan may suffer damage and hardship from a stay if it cannot expeditiously pursue their case against Proton. *See In re Prime Healthcare ERISA Litig.*, No. 8:20-cv-01529-JLS-JDE, 2022 WL 2102992, at *2 (C. D. Cal. Jan. 7, 2022) (denying a motion to stay where, after a year and a half, "[p]laintiffs will be prejudiced if they cannot expeditiously pursue their case"). However, any harm stemming from Swan's inability to expeditiously pursue its case is offset by the need to preserve the rights of the Individual Defendants and Proton. While the Individual Defendants' participation would ultimately be limited as Swan can only seek interim relief against them (assuming the Ninth Circuit affirms the Order), continued litigation against Proton may evoke issues decided by this Court (whether legal or factual) that could affect the Individual Defendants without their opportunity to be heard in a timely fashion. *See Pandolfi*, 2024 WL 4951258, at *6.

The Court further finds that judicial efficiency weighs in favor of a stay, as the *Coinbase* stay creates a practical dilemma where judicial resources may be wasted

considering the substantial overlap between operative facts, witnesses, and legal issues, which threatens duplicative discovery and conflicting rulings.

Accordingly, the Court ***SUA SPONTE*** **STAYS** the case as to Proton pending the Individual Defendants' appeal of the Order.

III. Conclusion

For the reasons set forth above, the Court **GRANTS** the Individual Defendants' ex parte application to stay, and ***SUA SPONTE*** **STAYS** the case as to Proton pending the Individual Defendants' appeal of the Order. The Court further **MOOTS** the Individual Defendants' motion to stay and Proton's motion to stay, and **VACATES** Proton's motion to compel arbitration.

IT IS SO ORDERED.

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