

1 CHHABRA LAW FIRM, PC
2 ROHIT CHHABRA (SBN 278798)
3 Email: rohit@thelawfirm.io
4 257 Castro Street Suite 104
5 Mountain View, CA 94041
6 Telephone: (650) 564-7929

7 **Attorney for Plaintiffs**
8 Open Source Security Inc. &
9 Bradley Spengler

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

10 OPEN SOURCE SECURITY INC. and)
11 BRADLEY SPENGLER)

12 Plaintiff,)

13 v.)

14 BRUCE PERENS, and Does 1-50,)

15 Defendants.)

) Case No.: 3:17-cv-04002-LB

) **UNOPPOSED MOTION TO STAY
EXECUTION OF THE JUDGMENT
PENDING APPEAL AND TO APPROVE
SUPERSEDEAS BOND;
JOINT STATEMENT BY PARTIES**

) Hearing Date:
) Time:
) Location: Courtroom C, 15th Floor
) Judge: Hon. Laurel Beeler
)
)
)

19
20
21 On June 9, 2018, this Court entered an order granting Defendant attorneys’ fees in the amount
22 of \$ 259,900.50 and costs in the amount of and \$2,403.12. Subsequently, a notice of appeal was filed
23 on June 11, 2018 (Appeal No. 18-16082). Plaintiffs request that the court stay execution of the
24 judgment/order pending appeal and approve supersedeas bond, attached hereto as Exhibit A, in the
25 amount of \$300,000, to cover the judgment and potential appeal fees/costs incurred by Defendant.
26
27 Federal Rules of Civil Procedure, Rule 62(b) provides that “[o]n appropriate terms for the opposing

1 party's security, the court may stay the execution of a judgment ... pending disposition" of post-trial
2 motions for judgment as a matter of law and/or for a new trial. Fed. R. Civ P. 62(b). In turn,
3 Fed.R.Civ.P. 62(d), which governs the procedure by which a stay is issued during the pendency of
4 appeal provides, in relevant part:

5 Stay with Bond on Appeal. If an appeal is taken, the appellant may obtain
6 a stay by supersedeas bond,.... The bond may be given upon or after filing
7 the notice of appeal or after obtaining the order allowing the appeal. The
8 stay takes effect when the court approves the bond.

8 Plaintiffs now request approval of its supersedeas bond in the amount of \$300,000, which will
9 stay execution of the judgment pending appeal.

10 During discussions between the parties, Defendant agreed that he would not oppose the
11 approval of a bond in this amount as security supporting a stay of execution of the judgment, without
12 waiving any rights in any additional amount above \$300,000 to which he may be entitled upon
13 conclusion of Plaintiffs' appeals, including post-judgment interest calculated at 2.23% (as of June 1,
14 2018) pursuant to 28 USC § 1961, computed daily to the date of payment, and compounded annually,
15 and reasonable fees and costs incurred in connection with Appeal Nos. 18-15189 and 18-16082.
16

17 A joint statement by the parties is attached herewith.
18

19 **CONCLUSION**
20

21 For the foregoing reasons, Plaintiffs respectfully request that the Court grant this Motion to stay
22 execution of the June 9, 2018 Order and approve Plaintiffs' supersedeas bond in the amount of
23 \$300,000 and for all other just and proper relief.
24

25 Respectfully submitted,
26
27

Dated: June 22, 2018

CHHABRA LAW FIRM, PC

By: /s/ Rohit Chhabra

Rohit Chhabra

Attorney for Plaintiffs Open Source Security, Inc.
and Bradley Spengler

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JOINT STATEMENT BY THE PARTIES

The parties met and conferred regarding the possibility of filing a supersedeas bond and stay of execution of judgment from June 11, 2018 to June 20, 2018. During this time period numerous options were discussed to find an amicable solution acceptable to both parties, while reducing the burden to this Court by eliminating any further motion practice.

The parties agreed that Plaintiffs would file a \$300,000 (three hundred thousand dollars) bond as security supporting a stay of execution of judgment. Plaintiffs indicated that filing a bond over \$300,000 would be impracticable and would be financially detrimental for Plaintiffs to perform their business operations. Defendant courteously agreed that he would not oppose the approval of a \$300,000 bond as security supporting a stay of execution of judgment. In so agreeing, Defendant reserves the right to recover any additional amount above \$300,000 to which he may be entitled upon conclusion of Plaintiffs’ appeals, including post-judgment interest calculated at 2.23% (as of June 1, 2018), pursuant to 28 USC § 1961, computed daily to the date of payment, and compounded annually, and reasonable fees and costs incurred in connection with Appeal Nos. 18-15189 and 18-16082. Defendant agreed not to execute the judgment before the filing of this motion or while this motion is pending.

Respectfully submitted,

<p>Date: June 22, 2018</p> <p>MELODY DRUMMOND HANSEN HEATHER J. MEEKER CARA L. GAGLIANO O’MELVENY & MYERS LLP</p> <p>By: <u>/s/ Melody Drummond Hansen</u> Melody Drummond Hansen Attorneys for Defendant Bruce Perens</p>	<p>Date: June 22, 2018</p> <p>CHHABRA LAW FIRM, PC</p> <p>By: <u>/s/Rohit Chhabra</u> Rohit Chhabra Attorney for Plaintiffs Open Source Security Inc. & Bradley Spengler</p>
--	--

**CERTIFICATION AS TO THE SOURCE OF COLLATERAL TO SECURE THE
SUPERSEDEAS BOND**

I, Rohit Chhabra, attorney for Plaintiffs in this matter declare and certify that the collateral required to secure the supersedeas bond was provided by Plaintiffs. I further certify that no attorney funds were used to secure the attached supersedeas bond.

Respectfully submitted,

Dated: June 22, 2018

CHHABRA LAW FIRM, PC

By: /s/ Rohit Chhabra

Rohit Chhabra

Attorney for Plaintiffs Open Source Security, Inc.
and Bradley Spengler