Proskauer

Battery Technology Trade Secret Theft Runs Out of Juice

Proskauer on Trade Secrets on **May 7, 2024**

A recent complaint alleging trade secret misappropriation in the Eastern District of New York demonstrates the importance of combing an alleged trade secret misappropriator's social media for subtle – and not-so-subtle – evidence of their wrongdoing.

The United States has charged Klaus Pflugbeil and Yilong Shao with conspiring to convey a trade secret without authorization within the Eastern District of New York. Pflugbeil has been arrested, while Shao remains at large.

Pflugbeil and Shao are former employees of a Canadian manufacturing company that was acquired by Tesla[1] in 2019. Pflugbeil served as the head of the company's office in China from 1997 to 2009. Shao worked for the company in China as a Sales and Service Technician from 2010 to 2020. The Canadian manufacturer produced precision dispensing pumps, a component used in producing battery assembly lines. The assembly lines using this technology are notable because they employ continuous motion assembly (the "Battery Assembly Trade Secret"), which allows manufacturers to run battery production lines at high speeds without pauses. This enables manufacturing of five to ten times more parts per minute than with competing technology.

Tesla acquired the Canadian manufacturer, and the Battery Assembly Trade Secret, in 2019. It later stopped selling pumps and battery assembly lines directly to consumers, and instead licensed the Battery Assembly Trade Secret to a single company in Japan. Around this time, Shao proposed to Pflugbeil that the two go into business together to sell competing products. The two exchanged numerous documents reflecting the Battery Assembly Trade Secret, and in one email, Shao stated explicitly that the documents should not look "like a copy." Their business began selling precision dispensing pumps and battery assembly lines reflecting the Battery Assembly Trade Secret information in 2020.

In addition to their emails and the documents they exchanged, prosecutors discovered a significant amount of evidence against the Defendants on social media pages set up by Pflugbeil. In one instance, Pflugbeil posted on his LinkedIn account that it was "great to see that the [Tesla]-style pumps are getting the full attention they deserve in South America! The [Business-1][2] team is ready to supply spare parts and the completely new [Business-1] precision pumps." He also posted a video on YouTube with the caption, "[Business-1] Systems Canada produces precision metering pumps. These used to be sold by a company called [Canadian Manufacturer] (no longer in business). We are introducing [Business-1] Canada in this video." One commenter on the YouTube video wrote, "I thought that this pump assembly business was taken over by [the Licensee], Japan." Pflugbeil responded to this comment in a manner that indicated his knowledge of this fact.

Perhaps most ironically, Pflugbeil had chosen the below photo as the header for his LinkedIn page:

The investigation into Pflugbeil and Shao's alleged theft culminated with a visit by Pflugbeil to Long Island in New York, where he met with undercover agents posing as businessmen and attempted to convey the trade secret information to them.

The case against the Defendants remains in early stages, and they are presumed innocent until proven guilty. However, their social media missteps are a powerful lesson in monitoring and evidence-gathering for companies guarding against misappropriation of their trade secrets: sometimes, relevant evidence won't be hidden, but rather will be flaunted for all to see.

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[1] The Complaint identifies the company only as Victim Company-1. Bloomberg News has obtained and reviewed information confirming Victim Company-1 refers to Tesla. *Source:* "Stolen Tesla Battery Technology Peddled on YouTube, US Says."

[2] The name of the Defendants' business is not disclosed in the Complaint.

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