Proskauer

Employee Mobility and Trade Secrets in the Golden Era of Life Sciences Innovation

Proskauer on Trade Secrets on **May 21, 2024**

The life sciences sector is in its “golden era” of innovation with the convergence of disciplines—including genetics, immunology, cell biology, and artificial intelligence—changing the speed, efficiency, and cost at which innovation occurs.

With this era has come a fierce market for talent, resulting in the frequent movement of professionals between life sciences companies. Employee mobility in this space has not, however, gone unnoticed by the affected companies. Over the past decade, there has been a steady increase in the number of lawsuits brought by life sciences companies against former employees for trade secrets misappropriation.

While some of these lawsuits have led to astronomical awards for plaintiffs, not all plaintiffs have had such positive outcomes. Most recently, on April 26, 2024, a Pennsylvania jury awarded $26.6 million in damages on breach-of-contract and breach-of-fiduciary duty counterclaims to five scientists, who were accused of stealing trade secrets from SigmaPharm Laboratories LLC (“SigmaPharm”), a maker of generic and brand name drugs that treat a variety of conditions including psoriasis and hepatitis B.

The legal saga began in late 2014 when SigmaPharm sued the scientists, its former employees, for $849 million in damages. Spiridon Spireas, SigmaPharm’s Chief Executive Officer, apparently had recruited these scientists—all of whom worked for him in graduate school—to join his new venture when he founded the company in 2005.

Among SigmaPharm’s specific allegations were that one of the scientists had improperly arranged a potential deal in India involving SigmaPharm’s materials, and that another of the scientists was allegedly working with a competing company to produce vaccines in his home country using SigmaPharm’s proprietary information. The scientists’ counterclaims were based on allegations that SigmaPharm improperly withheld stock in the company that was promised to them when they joined the CEO at the start of the company.

After the scientists' work computers and emails were seized contemporaneously with their firing, SigmaPharm purportedly did not find sufficient evidence to ultimately support its allegations. This dearth of evidence is what ultimately struck a big blow to SigmaPharm's case, with the jury finding against it on all claims.

SigmaPharm filed a motion for a new trial to challenge the verdict. While the outcome of this motion is yet to be seen, one thing is certain: life science companies need to understand not only how to protect their trade secrets, but also how to marshal convincing circumstantial evidence to prove a case for trade secret theft.

Because those who misappropriate trade secrets generally keep their actions hidden, it can be difficult to find direct evidence of theft. Often, plaintiffs must prove their case with circumstantial evidence. It is important, though, to keep in mind that there is a real difference between permissible inference and impermissible speculation.

As the life sciences landscape continues to grow, so too will the use of trade secrets and the lawsuits involving allegations of misappropriation of such secrets.

View original.

Related Professionals

- **Joseph Drayton**
  Partner
- **Michelle M. Ovanesian**
  Associate