

DuPont charges industrial espionage

Employee accused of plotting to take secret data to China

BY SEAN O'SULLIVAN • THE NEWS JOURNAL • SEPTEMBER 7, 2009

This is the second time in two years that a DuPont researcher with ties to China has been involved in an alleged theft of trade secrets.

The suit, filed in late August in the Delaware Court of Chancery, accuses Hong Meng of breach of contract and misappropriation of trade secrets -- specifically research into a paper-thin computer display technology called an "organic light emitting diode" or OLED.

The suit alleges Meng was planning to take the proprietary information to his alma mater, Peking University in Beijing, which is involved in research on OLED technology.

Meng could not be located for comment.

DuPont Senior Vice President and General Counsel Thomas L. Sager issued a brief statement Friday indicating Meng, a Chinese national with permanent residency status in the United States, was fired after an internal investigation and the lawsuit was filed "to ensure that he not use or disclose DuPont trade secrets."

"As a science company, DuPont acts to protect our unique and confidential technologies. These events underscore our unwavering commitment to protect the integrity of our proprietary science and technology for the benefit of DuPont shareholders, employees and customers."

This civil case is similar to a federal criminal case filed two years ago by the U.S. Attorney for Delaware against Gary Min for theft of DuPont trade secrets.

Min, who had downloaded an estimated \$400 million worth of proprietary data about some of DuPont's best-known products from a secure company database, ultimately pled guilty and was sentenced to 18 months in prison.

Federal prosecutors said it was the largest criminal trade-secrets theft case ever prosecuted in Delaware.

That case began with the filing of a civil lawsuit in a state court, followed by a federal criminal prosecution.

Company officials would not say whether any criminal charges are likely to follow the civil case against Meng.

According to the Chancery Court lawsuit against Meng, who has a master's degree in organic chemistry from Peking University and a Ph.D. from the University of California at Los Angeles, he joined DuPont in November 2002 as a research chemist at DuPont's Experimental Station.

He was later promoted to senior research chemist and co-edited a book on OLED in 2007. According to the lawsuit, Meng, while still employed at DuPont, secretly accepted a position at Peking University without informing DuPont or obtaining consent sometime in early 2009, in violation of the terms of an employment agreement that he signed.

At the same time, Meng was scheduled to be transferred from his position in Delaware to one at DuPont's operations in China. The lawsuit did not specify where in China or which job he was to take. As part of the transfer process, Meng's hard drive was reviewed by company officials "and his illicit connection to Peking University was discovered." Furthermore, DuPont discovered that Meng had downloaded confidential company files related to OLED from his company laptop to an external hard drive. When confronted by DuPont security officials in interviews on Aug. 18 and 19, Meng at first denied, then admitted, downloading the files and surrendered the external hard drive to company officials, according to the suit. He also agreed to surrender his personal computer, where more confidential files were discovered, according to court papers, as well as details of his dealings with Peking University.

The company claims Meng, who allegedly also admitted his dealings with Peking University after first denying them, was working on a program at the school to "commercialize OLED technology for industrial applications in direct competition with DuPont."

The lawsuit says DuPont's investigation of Meng is continuing, but in the meantime it is seeking a court order requiring Meng to abide by the terms of his employment agreement with DuPont and barring Meng from releasing

any confidential DuPont data.

The lawsuit seeks damages, but does not specify a dollar amount.

In 2007, federal prosecutors unveiled a far larger but similar case against Min. Min, like Meng, was born in China. He later became a U.S. citizen and went to work for DuPont in 1995, as a researcher based in Ohio. In 2004, Min was promoted to a management position at DuPont's Taiwan facility, but because of family objections he declined to move to Taiwan and was demoted.

This apparently upset Min, who started seeking jobs at other companies and also started downloading massive amounts of data from a confidential DuPont database -- some 16,700 documents or almost 10 percent of the database.

Min's secret collection of data did not become apparent until early 2006, when Min announced his departure for a company called Victrex.

Min was confronted by his new employer about DuPont's accusations of the theft of trade secrets in February 2006 at a previously scheduled meeting in Geneva, Switzerland. There, his laptop was seized and he was given a ticket to fly directly to the United States.

Min flew instead to Shanghai, China, where he stayed for several days before returning home.

At sentencing in November 2007, prosecutors said they were uncertain as to why Min stole the secrets or what, exactly, he intended to do with them -- though they expressed "some degree of confidence" that the technical data was not shared with any third party or competitor.

Min claimed a simple lack of judgment and that he had no plan for the data. He was sentenced to 18 months in prison, fined \$30,000 and ordered to pay \$14,500 restitution. Industry experts, citing his unexpected China trip, believed the information Min stole was likely headed to China, whose government is believed to regularly engage in economic espionage against U.S. companies.

Min's attorney denied the allegation.