

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

ROBOTICVISIONTECH, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. _____
)	
ABB INC.,)	DEMAND FOR JURY TRIAL
)	
Defendant.)	

COMPLAINT

Plaintiff RoboticVISIONTech, Inc. (RVT), by its attorneys, demands a trial by jury on all issues so triable and, for its complaint against ABB Inc. (ABB), alleges as follows:

NATURE OF THIS ACTION

1. This is a civil action arising out of ABB's infringement of RVT's patents in violation of 35 U.S.C. §§ 271 *et seq.*; ABB's infringement of RVT's copyrighted works in violation of 17 U.S.C. §§ 101 *et seq.*; and ABB's misappropriation of RVT's trade secrets in violation of the Defend Trade Secrets Act (DTSA), 18 U.S.C. §§ 1836 *et seq.* and the Delaware Uniform Trade Secrets Act, 6 Del. C. §§ 2001 *et seq.*

PARTIES

2. Plaintiff RVT is a privately held corporation organized and existing under the laws of Delaware with a principal place of business at 1775 Tysons Boulevard, Fifth Floor, Suite 500, McLean, Virginia 22102.

3. On information and belief, Defendant ABB is a company organized and existing under the laws of the Delaware with a principal place of business at 305 Gregson Drive, Cary, North Carolina 27511.

JURISDICTION AND VENUE

4. This action arises under the patent laws of the United States, 35 U.S.C. §§ 100 *et seq.*, and this Court has subject-matter jurisdiction over RVT's patent-infringement claims under 28 U.S.C. §§ 1331 and 1338(a).

5. This action arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. § 101 *et seq.*, and this Court has subject-matter jurisdiction over RVT's copyright-infringement claims under 28 U.S.C. §§ 1331 and 1338(a).

6. This action arises under the Defend Trade Secrets Act of 2016, 18 U.S.C. §§ 1836 *et seq.*, and this Court has subject-matter jurisdiction over RVT's trade-secret claims under 28 U.S.C. § 1331.

7. This Court has supplemental jurisdiction over RVT's claims arising under the Delaware Uniform Trade Secrets Act because these state-law claims are so related to RVT's federal-law claims that they form part of the same case or controversy and derive from a common nucleus of operative fact.

8. On information and belief, this Court has personal jurisdiction over ABB at least because ABB is a Delaware corporation and has registered to do business in the State of Delaware.

9. Venue is properly laid in this District pursuant to 28 U.S.C. §§ 1391 and 1400 at least because, on information and belief, ABB is subject to personal jurisdiction in this District and is a resident and corporate citizen of this District.

BACKGROUND FACTS

A. RVT'S AND ABB'S BUSINESS DEALINGS

10. Braintech Canada, Inc. (Braintech), RVT's predecessor-in-interest, authored the original source code contained in the eVisionFactory (eVF) software product, which is the

commercial embodiment of the patents-in-suit and employs the asserted trade secrets. Braintech was the original assignee of the three patent applications resulting in each of U.S. Patent Nos. 6,816,755 (Exhibit 1); 7,336,814 (Exhibit 2); and 8,095,237 (Exhibit 3), which have all been assigned to RVT.

11. In May 2006, Braintech entered into an Exclusive Channel Partnership Agreement with ABB.

12. As part of this agreement, ABB purchased licenses from Braintech to market and sell Braintech's eVF software under the brand name "TrueView." On information and belief, ABB marketed and sold more than 167 TrueView units from 2006 to 2008, many of which were sold to the world's leading automotive manufacturing plants. On information and belief, ABB sold additional TrueView units after 2008.

13. In May 2010, RVT purchased all of Braintech's assets, including Braintech's eVF software product, the source code for eVF, the patents-in-suit, and any copyrights and trade secrets within Braintech's intellectual property portfolio. Since acquiring the Braintech assets in 2010, RVT has focused on optimizing, improving, selling, and distributing its robotic vision software products, including its eVF software product.

14. Under the explicit terms of the Exclusive Channel Partnership Agreement, ABB's right to market and sell TrueView products terminated once Braintech ceased operations in May 2010.

15. In July 2010, after ABB's right to market and sell TrueView products had expired, ABB sued RVT in the Eastern District of Michigan, claiming that ABB, not RVT, was the sole owner of the source code for eVF. ABB alleged that its payments to Braintech for the right to market and sell eVF under the Exclusive Channel Partnership Agreement were an

investment, not payments for a license, and that Braintech used that investment to develop eVF. *See ABB, Inc. v. Robotic VisionTech, LLC*, No. 5:10-cv-012626-JCO-PJK, ECF No. 1 at 10–11 (E.D. Mich. July 1, 2010) (“ABB Compl”); *see also id.*, ECF No. 16 (E.D. Mich. Aug. 17, 2010); *id.*, ECF No. 16-1 (E.D. Mich. Aug. 17, 2010). ABB’s complaint sought a “judgment in ABB’s favor awarding it ownership of the code and executables under a theory of constructive and/or equitable trust.” ABB Compl. at 16. On information and belief, ABB’s lawsuit in Eastern District of Michigan was an attempt to coerce RVT into relinquishing ownership and control over the eVF source code and software product.

16. ABB voluntarily dismissed its lawsuit against RVT in September 2010. *See ABB, Inc. v. Robotic VisionTech, LLC*, No. 5:10-cv-012626-JCO-PJK, ECF No. 21 (E.D. Mich. Sept. 16, 2010). As part of the settlement between ABB and RVT, ABB purchased 41 developer keys to RVT’s eVF software and provided RVT with two ABB industrial robots. ABB also agreed to pay RVT’s attorneys’ fees up to \$25,000. RVT did not provide ABB with the source code for RVT’s eVF software product.

17. On information and belief, while ABB and RVT were in the process of negotiating their settlement, ABB—without RVT’s knowledge—negotiated an employment contract with Dr. Remus Boca, RVT’s Chief Scientist.

18. Dr. Boca began employment with Braintech on or around November 30, 2001. By 2008, Dr. Boca was promoted to Braintech’s Chief Scientist. He continued as Chief Scientist when he started working for RVT after it acquired Braintech in May 2010. Dr. Boca was largely responsible for developing the eVF source code, including its roadmap of features, during his time with both Braintech and RVT.

19. Dr. Boca was subject to a Non-Disclosure Agreement (NDA) at all times during his employment at Braintech and RVT. Dr. Boca's original employment agreement with Braintech explicitly stated that any and all intellectual property conceived during his employment, including, for example, trade secrets, know-how, show-how, inventions, concepts, ideas, improvements, patents, and copyrights, were expressly regarded as works for hire and belonged to Braintech.

20. While at Braintech, Dr. Boca was one of the main architects of the eVF software product. During his employment with both Braintech and RVT, Dr. Boca had direct access to, or was in possession of, the source code underlying the eVF software product. Dr. Boca is also a named co-inventor of two of the three patents-in-suit.

21. At all times while at Braintech and RVT, Dr. Boca had full and unfettered access to the source code of eVF. When Dr. Boca left RVT and joined ABB in October 2010, he was in possession of two RVT-issued laptops and two RVT-issued external hard drives, which contained RVT's confidential and proprietary information, including the source code for RVT's eVF product. On information and belief, these laptops and hard drives contained at least versions 5.5 and 6.0 of the eVF source code. RVT's company policy required employees to return work-issued laptops and hard drives upon leaving the employ of RVT.

22. On multiple occasions, RVT requested that Dr. Boca immediately return the two RVT-issued laptops to RVT. Dr. Boca did not respond until late December 2010, more than two months after starting his new position at ABB. When RVT finally received the RVT-issued laptops and external hard drives in Dr. Boca's possession, all information had been deleted from them.



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