

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ROBOTICVISIONTECH, INC.,

Plaintiff,

v.

ABB INC.,

Defendant.

C.A. No. 22-1257-GBW

John W. Shaw, Andrew Russell, Nathan Roger Hoeschen, SHAW KELLER LLP, Wilmington, DE; Anna G. Phillips, John C. Rozendaal, Kristina C. Kelly, Michael E. Joffre, William H. Milliken, STERN KESSLER PLLC, Washington, D.C.

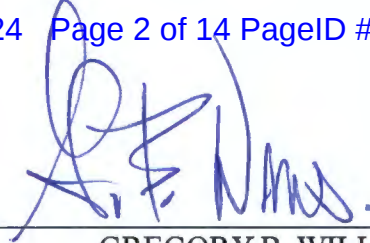
Counsel for Plaintiff

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Counsel for Defendant

MEMORANDUM OPINION

March 27, 2024
Wilmington, Delaware



GREGORY B. WILLIAMS
U.S. DISTRICT JUDGE

Pending before the Court is Defendant ABB, Inc.'s partial motion to dismiss Plaintiff RoboticVISIONTech, Inc.'s ("RVT") trade secret misappropriation claims.¹ D.I. 11. For the reasons set forth below, the Court grants ABB's motion.

I. BACKGROUND

The parties to this action are RVT (a company that sells machine vision software for use in automation and robotics technologies) and ABB (a company that sells automobile manufacturing robots). RVT alleges that ABB hired away RVT's chief scientist, Dr. Remus Boca, and used trade secrets that were in Dr. Boca's possession to develop FlexVision, ABB's product. *See* D.I. 16 at 4-5. RVT contends that FlexVision is similar to its product, eVisionFactory, and that the reason those two products are similar is because ABB incorporated RVT's trade secrets into FlexVision's source code. *Id.*

Dr. Boca was one of the main architects behind the eVisionFactory source code. *Id.* But, in 2010, Dr. Boca left RVT and joined ABB. *Id.* RVT contends that, when he left, Dr. Boca breached his employment contract by failing to return four (4) RVT-issued devices (including two computers and two hard drives) that contained copies of RVT's source code. *See* D.I. 16 at 4. Moreover, when Dr. Boca eventually did return those devices, RVT contends that all the information previously contained on those devices had been deleted. *Id.* As a result, RVT contends that ABB, through Dr. Boca, obtained RVT's trade secrets, and used those trade secrets to build its competing product, FlexVision. *See id.* at 5-7.

¹ Also pending before the Court are a number of discovery disputes between the parties. The Court will resolve those issues at a later date.

RVT filed this case, alleging patent infringement, copyright infringement, and trade-secret misappropriation, after it obtained the product manual for ABB's FlexVision product from an "integrator," i.e., a services firm that is responsible for integrating machine technology and software from multiple providers. *Id.* at 4. In support of its claim that FlexVision incorporates its trade secrets, RVT points to (1) public marketing materials and statements that ABB made about FlexVision in 2016 and 2017; (2) the FlexVision product manual that ABB provides to customers who buy FlexVision; and (3) a comparison of those marketing materials, statements, and manuals with the capabilities of RVT's product, eVisionFactory. *See, e.g.,* D.I. 1 at ¶ 37; *id.*, Ex.7.

In response, ABB filed this motion, and asks the Court to dismiss RVT's trade secret misappropriation claims on the grounds that those claims are time-barred by the applicable three-year statute of limitations for federal and Delaware trade secret misappropriation claims.² *See* D.I. 12. ABB argues that the statute of limitations began to run once RVT had inquiry notice of ABB's potential misappropriation of its trade secrets. ABB contends that RVT obtained that notice in either 2010 (when Dr. Boca allegedly provided RVT's trade secrets to ABB) or, alternatively, in 2015 (when ABB released FlexVision). *Id.*

RVT disagrees, and contends that ABB's launch of FlexVision, and its public marketing materials and statements related to that product, were not sufficient to put it on inquiry notice of its potential trade secret misappropriation claims against ABB. *See* D.I. 16. RVT argues that it was only able to piece together ABB's purported trade secret misappropriation in 2021, after it heard rumors from its customers that ABB had misappropriated its trade secrets and obtained a

² RVT filed its complaint on September 22, 2022. Thus, ABB argues that RVT's claims are time-barred because those claims were filed after September 22, 2019.

copy of FlexVision's product manual from a RVT customer. RVT contends that it was not able to obtain that product manual before 2021, because (1) ABB only provides that product manual to purchasers of FlexVision and, as a competitor, ABB would not sell that product to RVT; and (2) RVT pressuring its customers to share operational details of ABB's product would have "border[ed] on corporate espionage." *Id.* at 5-6, 17-18.

II. LEGAL STANDARD

A. Motion to Dismiss

To state a claim on which relief can be granted, a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief" Fed. R. Civ. P. 8(a)(2). Such a claim must plausibly suggest "facts sufficient to 'draw the reasonable inference that the defendant is liable for the misconduct alleged.'" *Doe v. Princeton Univ.*, 30 F.4th 335, 342 (3d Cir. 2022) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007)). "A claim is facially plausible 'when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'" *Klotz v. Celentano Stadtmauer & Walentowicz LLP*, 991 F.3d 458, 462 (3d Cir. 2021) (quoting *Iqbal*, 556 U.S. at 678). But the Court will "disregard legal conclusions and recitals of the elements of a cause of action supported by mere conclusory statements." *Princeton Univ.*, 30 F.4th at 342 (quoting *Davis v. Wells Fargo*, 824 F.3d 333, 341 (3d Cir. 2016)). Under Rule 12(b)(6), the Court must accept as true all factual allegations in the Complaint and view those facts in the light most favorable to the plaintiff. *See Fed. Trade Comm'n v. AbbVie Inc.*, 976 F.3d 327, 351 (3d Cir. 2020).

B. Statute of Limitations

Under both the Defend Trade Secrets Act (“DTSA”) (Count VII) and the Delaware Uniform Trade Secrets Act (“Delaware UTSA”) (Count VIII), a plaintiff must bring its claim within three (3) years of the date the misappropriation “is discovered or by the exercise of reasonable diligence should have been discovered.” *See* 18 U.S.C. § 1836(d); 6 Del. C. § 2006. Under Delaware law, the statute of limitations begins to run when a plaintiff has (1) actual notice of the basis for the cause of action or (2) has inquiry notice—i.e., “notice of facts from which the basis for the cause of action could have been discovered by the exercise of reasonable diligence.” *Ocimum Biosolutions (India) Ltd. v. AstraZeneca UK Ltd.*, 2019 WL 6726836, at *9 (Del. Super. Ct. Dec. 4, 2019), *aff’d*, 247 A.3d 674 (Del. 2021). “A party is on inquiry notice when it has facts sufficient to make it suspicious or that ought to make it suspicious. Those facts effectively must rise to the level of a ‘red flag’ that would prompt a prudent person of ordinary intelligence to further investigate a possible claim.” *Id.* at 10 (cleaned up).

While the statute of limitations is technically an affirmative defense, the Court will consider that defense at the motion to dismiss stage if “the time alleged in the statement of [the] claim shows that the cause of action has not been brought within the statute of limitations.” *Schmidt v. Skolas*, 770 F.3d 241, 249 (3d Cir. 2014) (internal citations omitted). However, “if the bar is not apparent on the face of the complaint, then it may not afford the basis for a dismissal of the complaint under Rule 12(b)(6).” *Id.* (internal citations omitted).

III. DISCUSSION

A. The Court Grants ABB’s Motion to Dismiss RVT’s Trade Secret Misappropriation Claims Because Those Claims Are Time-Barred.

For the reasons stated below, the Court agrees with ABB that RVT obtained inquiry notice of its trade secret misappropriation claim by, at the latest, ABB’s launch of FlexVision.

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