

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PHILIPS MEDICAL SYSTEMS)
(CLEVELAND), INC., and PHILIPS MEDICAL)
SYSTEMS DMC, GmbH)

Plaintiffs,)

v.)

JOSE BUAN, GL LEADING TECHNOLOGIES,)
INC., KUNSHAN YIYUAN MEDICAL)
TECHNOLOGY CO., LTD., KUNSHAN GUOLI)
ELECTRONIC TECHNOLOGY CO., LTD.,)
AND SHERMAN JEN,)

Defendants.)

No. 1:19 CV 02648
Hon. Marvin E. Aspen

MEMORANDUM OPINION & ORDER

MARVIN E. ASPEN, District Judge:

This lawsuit concerns the alleged misappropriation of trade secrets. Before us are Defendants Kunshan Yiyuan Medical Technology Co., LTD. (“Yiyuan”) and Kunshan Guoli Electronic Technology Co., LTD’s (“Guoli”; collectively, “Defendants”)¹ motions to dismiss Plaintiffs Philips Medical Systems (Cleveland), Inc. and Philips Medical Systems DMC, GmbH’s (collectively, “Philips” or “Plaintiffs”) Second Amended Complaint (Dkt. No. 92) (“SAC”). (Dkt. Nos. 158, 161.)² Defendants move to dismiss pursuant to Federal Rules of Civil Procedure 12(b)(2) for lack of personal jurisdiction, 12(b)(4) for insufficient process, and

¹ The briefing also refers to Guoli as “GuoLi.”

² Also before us is Defendant Yiyuan’s motion to seal Exhibits 1, 2, and 3 of Feng Zhou’s Declaration. We grant this motion to seal because they relate to the Confidentiality Order’s designated materials of “business or strategic plans . . . price information . . . sales and financial data . . . other information of a competitive, financial or commercial significance.” (Confidentiality Order (Dkt. No. 31) ¶ 2.)

12(b)(5) for insufficient service of process. (*Id.*) For the reasons set forth below, we deny Defendants' motions to dismiss.

BACKGROUND

The following facts are taken from Plaintiffs' Second Amended Complaint and are taken as true for the purposes of this motion. *See Bell v. City of Chi.*, 835 F.3d 736, 738 (7th Cir. 2016); *see also Tamayo v. Blagojevich*, 526 F.3d 1074, 1081 (7th Cir. 2008).

Plaintiff Philips Medical Systems (Cleveland), Inc. is a California corporation with its principal place of business in Cleveland, Ohio. (SAC ¶ 1.) Plaintiff Philips Medical Systems DMC, GmbH, is a German entity with its principal place of business in Hamburg, Germany. (*Id.* ¶ 2.) Plaintiffs engage in "research, development, and commercialization of medical imaging technology," among other lines of business. (*Id.* ¶ 3.)

Plaintiffs allege that Yiyuan is a Chinese entity with its principal place of business in Kunshan, Jiangsu Province, China. (*Id.* ¶ 7.) They believe that Yiyuan is engaged in research and development, manufacturing and selling products for medical imaging equipment, providing technical development, technical services and technical consultation in the field of medical imaging technology," as well as the "import and export of goods and technologies." (*Id.* ¶ 8.)

Plaintiffs allege that Guoli is a Chinese entity with its principal place of business at the same location in China as Yiyuan. (*Id.* ¶ 9.) According to Plaintiffs, Guo Li is a stockholding enterprise specializing in developing and manufacturing electrical vacuum products, including X-ray tubes. (*Id.* ¶ 10.)

I. Former Employees Misappropriate Plaintiffs' Information.

A. Jose Buan

Plaintiffs allege that two of their former employees, Defendants Jose Buan ("Buan") and Sherman Jen ("Jen"), misappropriated trade secret information from Philips' computer system to share with their new employer, Defendant GL Leading. (*See, id.* ¶¶ 72–83, 88–92, 96–97, 100–101.) On December 26, 2017, Buan "copied over 740 [of] Philips' files, including trade secret and other confidential business information" onto a portable drive. (*Id.* ¶¶ 72, 74–77.) Plaintiffs believe that these files included, among other documents, presentations related to Philips' "2XXX X-ray Tubes and other X-ray tub products." (*Id.* ¶ 73.)

The following day, Buan copied more than 70 additional Philips files onto a portable drive. (*Id.* ¶¶ 78, 80–83.) These files included additional information pertaining to Philips' x-ray tubs. (*Id.* ¶ 79.) A subsequent investigation revealed that Buan took "a trove" of additional files containing "confidential and trade secret technical and business information pertaining to the 2XXX series X-ray tubes, and other important Philips X-ray technologies, including Philips iMRC X-ray tubes." (*Id.* ¶ 89.)

At least one of the drives used to download the data referenced above was connected to Buan's work computer at GL Leading. (*Id.* ¶ 91.) Plaintiffs believe that "additional USB devices that had been connected to Buan's Philips Company Workstation . . . have also been connected to Buan's work computer at GL Leading." (*Id.* ¶ 92.)

B. Sherman Jen

By August 2017, Jen was communicating with Guoli regarding the formation of GL Leading. (*Id.* ¶ 51.) Plaintiffs believe that between August 2017 and December 2017, Jen was

also involved in recruiting Philips employees to join Guoli/GL Leading and sending Philips confidential information and trade secrets to Guoli/GL Leading. (*Id.*)

Plaintiffs suspect that Jen kept “more than **three thousand**” of Philips’ electronic materials after he was terminated from Philips. (*Id.* ¶ 96 (emphasis in original).) A number of these documents’ legends indicate that they contain Philips’ confidential and proprietary information and contain schematics for various components, among other technical information. (*See, e.g., id.* ¶ 97.)

II. Buan and Jen Begin Working for GL Leading / Guoli.

Soon after Buan left Philips’ Dunlee facility, he began working at GL Leading as a Director of Engineering, and later, as a Senior Manager for Product Engineering. (*Id.* ¶ 100.) Plaintiffs believe that Buan is using information obtained from Philips in his new role. (*Id.*)

Jen began working with Guoli before GL Leading’s formation and before he left Philips, “at least as of August 2017.” (*Id.* ¶ 101.) This ““under the table”” work included R&D planning, visiting a Guoli manufacturing site in China, instructing the copying of certain of Plaintiffs’ proprietary materials, and asking Plaintiffs’ employees to join GL Leading, among other things. (*Id.*) At some point, Jen assumed the role of Principal Engineer at GL Leading. (*Id.* ¶ 102.)

Plaintiffs believe that Jen and Guoli were “directly involved” in forming GL Leading and recruiting various Philips employees who had “designed manufactured and commercialized” Plaintiffs’ x-ray tubs, including Buan, to join GL Leading. (*Id.* ¶¶ 103, 105.)

The SAC provides additional information concerning how each of the Defendants purportedly used the misappropriated information. (*See id.* ¶¶ 114–161.) By way of example, while working at GL Leading, Buan and Jen purportedly used Philips’ proprietary information to

design an x-ray tube “for manufacture and commercialization by Guoli and/or Yiyuan.” (*Id.* ¶¶ 114–16.)

III. Relationship Between GL Leading, Guoli, and Yiyuan

Plaintiffs allege that GL Leading, Guoli, and Yiyuan are all competitors and that two of their x-ray tube products are meant to “replace, operate similarly to, or be interchangeable with” certain of Philips’ x-ray tubes. (*Id.* ¶ 104.) Plaintiffs further allege that Guoli was “directly involved in the formation of GL Leading” and the hiring of Buan and other personnel from Philips. (*Id.* ¶ 105.)

Plaintiffs believe that Yiyuan is a subsidiary of Guoli, and that one or both of those entities controls GL Leading and “have been acting in concert with GL Leading” with respect to the misuse of Plaintiffs’ trade secrets. (*Id.* ¶¶ 108–09.) Apart from that, Plaintiffs allege that Guoli, Yiyuan, and GL Leading share “common directors and/or management” and “certain information technology, electronic data storage and/or communication infrastructure;” one or both of the Defendants “exercise significant financial control over GL Leading;” and GL Leading uses a logo that is identical to the logo used by Guoli, among other things. (*Id.* ¶¶ 110–13.) In short, Plaintiffs allege that there is a high degree of inter-relatedness between GL Leading, Guoli, and Yiyuan, and all played a role in the misappropriate and misuse of Plaintiffs’ proprietary information.

LEGAL STANDARD

I. Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(2)

“A motion to dismiss under Federal Rule of Civil Procedure 12(b)(2) ‘tests whether a federal court has personal jurisdiction over a defendant.’” *MOLD-A-RAMA Inc. v. Collector-Concierge-International*, 451 F. Supp. 3d 881, 884 (N.D. Ill. 2020) (quoting *United Airlines, Inc.*

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