

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LIFESCIENCE TECHNOLOGIES, LLC,)
)
)
Plaintiff,)
)
v.)
)
MERCY HEALTH, MERCY ACO)
CLINICAL SERVICES, INC., d/b/a MERCY)
VIRTUAL, LLC, and)
MYIA LABS, INC., d/b/a MYIA HEALTH,)
)
Defendants.)

Case No.:

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff LifeScience Technologies, LLC (hereinafter "LST"), for its Complaint against Defendants Mercy Health ("Mercy Health"), Mercy ACO Clinical Services, Inc., d/b/a Mercy Virtual, LLC ("Mercy Virtual"), and Myia Labs, Inc., d/b/a Myia Health ("Myia"), alleges as follows:

NATURE OF THE CASE

1. This is an action for breach of contract, trade secret misappropriation, unjust enrichment, unfair competition, civil conspiracy, and other related causes of action premised on Mercy Health's willful and deliberate disclosure of LST's trade secrets and confidential information to a third-party competitor (Myia) for purposes of developing a competing virtual care software platform. Since Mercy Health opened Mercy Virtual in 2015, it has relied on the expertise of LST to deliver virtual patient care services through LST's m.Care platform (unless separately identified, hereafter Mercy Health and Mercy Virtual shall be jointly referred to as "Mercy"). Even though it was much smaller than Mercy Health from a revenue perspective, the

nimble LST team was experienced and had an innovative virtual patient care delivery system that was scalable to support the anticipated growth of Mercy Health's virtual patient care delivery services model. After utilizing the LST platform for a number of years, Mercy Health decided it would like to have its own virtual patient care software. To accomplish this, it allowed Myia's software development team improper access to LST's software using @Mercy.net credentials. After LST's secret and confidential information was disclosed, Mercy Health (through Mercy Virtual) acquired a \$5 million ownership interest in Myia and its new virtual care software that was developed using LST's secret and confidential information. Once Mercy Health obtained its ownership interest, and Myia secured its investment capital, Mercy and Myia systematically and deliberately began implementing the Myia software at Mercy in place of LST's long-standing m.Care software.

2. LST seeks relief against Mercy Health, Mercy Virtual, and Myia, jointly and severally, for utilizing its trade secrets and confidential information to develop a competing software product and using that new product to displace LST in the marketplace. LST seeks damages, punitive damages, attorneys' fees, and injunctive relief to prevent Myia, Mercy Health, and Mercy Virtual from continuing to utilize LST's trade secrets and confidential information for their own purposes and to the detriment of LST.

PARTIES

3. LST is a limited liability company organized and existing under the laws of the State of Kansas, having a principal place of business at 5251 W. 116th Pl. Suite 200, Leawood, Kansas 66211.

4. Upon information and belief, Mercy Health is a nonprofit corporation organized under the laws of the State of Missouri, and has a principal place of business located at 14528 South Outer Forty Road, Suite 100, Chesterfield, Missouri 63017.

5. Upon information and belief, Mercy Virtual is a nonprofit corporation organized and existing under the laws of the State of Missouri, having a principal place of business at 14528 South Outer Forty Road, Suite 100, Chesterfield, Missouri 63017.

6. Upon information and belief, Myia is a corporation organized and existing under the laws of the State of Delaware, having a principal place of business at 99 Osgood Place, Suite 100, San Francisco, California 94133.

7. Upon information and belief, Mercy Virtual serves as a legal contracting entity for Mercy Health. Mercy Virtual's leadership reports to Mercy Health's senior leadership team, which includes Mercy Health's CEO Lynn Britton. Mercy Virtual's funding comes in whole from Mercy Health. As detailed below, Mercy Health executes contracts relating to, and in furtherance of, Mercy Virtual's business.

8. Upon information and belief, Mercy Virtual only has two employees whose salary and benefits are paid for by Mercy Virtual. The remaining people working at Mercy Virtual are all Mercy Health employees, hired at the direction of Mercy Health, paid by Mercy Health, and acting at Mercy Health's direction. This includes, but is not limited to, the actors described below who approved and created Mercy e-mail accounts so Myia could access LST's software.

9. Mercy Health has over 40,000 employees and reported an annual operating revenue in each of the last three years in excess of 4 billion dollars (USD).

10. In its most recent tax filings, Mercy Virtual reported an annual revenue of over \$62 million.

11. As detailed herein, Mercy Health executed contracts with LST and directed other members of the Mercy Health team to execute contracts on its behalf through the Mercy Virtual entity. Mercy Health also paid all moneys due LST during the course of their relationship.

12. At all times detailed herein, Mercy Virtual was merely a conduit, or brand name, for virtual patient care services offered by Mercy Health. Mercy Virtual could not make business decisions, execute contracts, or make financial commitments without approval or direction from Mercy Health.

13. Mercy Virtual's leadership team (who upon information and belief are Mercy Health employees) reports directly to, and takes orders from, Mercy Health's leadership team.

14. Mercy Health, and its employees, acting under the guise of Mercy Virtual, approved Myia's access to LST's trade secrets and confidential information, and ultimately gave Myia access to LST's software by creating Mercy Health e-mail accounts for the Myia software development team and enrolling those accounts in the LST software platform. As detailed below, this activity was in breach of numerous agreements between Mercy Health/Mercy Virtual and LST, a violation of various statutes, and constituted various common law torts. This wrongful conduct allowed Myia to develop a competing software product using LST's trade secret and confidential information and displace LST from its contracts with Mercy. Mercy Health's activity also allowed Myia to compete, and win, other business using a platform developed with LST's trade secrets and confidential information. Myia would not have been able to secure that business absent Myia's access to LST's secret and confidential information and Mercy Health's enablement of that access. Then, Mercy Health provided \$5,000,000 in funding to acquire an ownership interest in Myia, which it did through its Mercy Virtual brand. Once it acquired an ownership interest in Myia, Mercy Health had an ownership interest in

Myia's software, which was built using LST's trade secret and confidential information. This conduct has directly and proximately caused financial loss to LST and, among other things, unjustly enriched Myia and Mercy Health, as alleged herein.

15. At all times alleged herein and for all wrongful conduct alleged, Mercy Health (A) exercised such dominion and control over Mercy Virtual that Mercy Virtual merely acted as a brand (or conduit) for Mercy Health's virtual health care services and (B) specifically directed Mercy Virtual to act in a manner that harmed LST. As a result, Mercy Health is liable for the acts of Mercy Virtual.

JURISDICTION AND VENUE

16. This is an action for breach of contract, trade secret misappropriation under the Defend Trade Secrets Act ("DTSA"), 18 U.S.C. § 1836, and Missouri Uniform Trade Secrets Act ("MUTSA"), Mo. Rev. Stat. §§ 417.450 *et seq.*, violations of the Missouri Computer Tampering Act, Mo. Rev. Stat. §§ 569.095 *et seq.*, tortious interference with a contract or business expectancy, unfair competition, and civil conspiracy under Missouri common law.

17. The Court has jurisdiction under 28 U.S.C. § 1331 with respect to the asserted federal statutory claims. The Court has supplemental jurisdiction under 28 U.S.C. § 1367 with respect to the state law claims. Jurisdiction is also proper before this Court pursuant to 28 U.S.C. § 1332(a) because there is complete diversity between the parties and the amount in controversy, excluding interest and costs, exceeds \$75,000. The Court has personal jurisdiction over Mercy Health and Mercy Virtual as they are incorporated in Missouri, have offices in this District, and transact business in this District. The Court has personal jurisdiction over Myia as it knowingly transacts business in this District with Mercy Health, Mercy Virtual, Washington University in

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