

CLIENT ALERT

All Revved Up: Mercedes Sues Ferrari-Bound Former Engineer for Misappropriation of Trade Secrets and Confidential Information

Dec.14.2015

On December 7, 2015, Mercedes' suit against Benjamin Hoyle was made public. Hoyle is an experienced Formula One powertrain engineer who allegedly breached his employment contract with and misappropriated confidential, trade secret information from Mercedes. The information contained in the complaint filed by Mercedes exemplify how the combination of a proper contractual framework and solid trade secrets best practices can result in efficient trade secrets protection and enforcement.

The facts of the matter are classic. Since 2012, Hoyle had been a member of Mercedes' Performance Engineering Department working on the Mercedes' High Performance Powertrain (HPP) Limited Formula One (F1) racing engines. In that capacity he was one of few employees that had full access to highly sensitive research and development information. Last year, Hoyle informed Mercedes that he would not be renewing his contract set to expire at the end of 2015. Shortly thereafter Mercedes HPP heard rumors that Hoyle was planning on joining Ferrari.

Informed of Hoyle's intention to leave at the end of 2015, Mercedes invoked the "Garden Leave Period" of Hoyle's contract, reassigning Hoyle to less sensitive duties unrelated to the F1 engines. Further, under the contract, Hoyle was prohibited from "disclosing or making use of ... any trade secrets or confidential information of [Mercedes] HPP." Mercedes also took a series of measures to prevent Hoyle from accessing F1-related information, including replacing his laptop, changing his e-mail address, log-in details, security clearance, etc.

Using among others expert forensic computer analysts, however, Mercedes claims to have discovered that Hoyle was viewing race reports and data confidential to F1 during this "Garden Leave" Period, in contravention of the explicit and implied terms of his contract. The Particulars of Claim even sets forth a list of specific hard drives and laptops that personally belong to Hoyle that were found to contain confidential information on the Mercedes F1 engines. Reference is also made to several anti-forensic steps allegedly taken by Hoyle to cover up his actions.

Concerned that any future employer of Hoyle, in particular Ferrari, may gain an unfair advantage with confidential information related to the Mercedes' F1 engine, Mercedes filed a complaint against Hoyle. In the complaint Mercedes alleges that Hoyle has: 1) breached his contract with Mercedes HPP and /or Mercedes HPP's IT Policies; 2) breached the implied terms of the same contract, and; 3) breached his equitable duty of confidence to Mercedes HPP. Presumably because of the tight contractual clauses and the compelling evidence against Hoyle, both parties agreed shortly thereafter to request the High Court to hand down a Consent Order wherein Hoyle was set to produce certain amounts of information to Mercedes.

In the meantime Ferrari issued a statement confirming that it did speak to Hoyle at some point in time, but these talks did not lead to a formal contract. Ferrari added that Hoyle would not join them "in the foreseeable future."

This case has been filed in the High Court of Justice, Queen's Bench Division: *Mercedes AMG High Performance Powertrains Limited v Benjamin Hoyle*, Claim No: HQ15X04325 (subscription required).

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