

U. S. DISTRICT COURT
WESTERN DISTRICT ARKANSAS
FILED

MAY 30 2012

CHRIS R. JOHNSON, CLERK

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

BY

VISION TECHNOLOGIES, INC.

PLAINTIFF

vs.

Case No. 12-5102

L-3 COMMUNICATIONS MAPPS, INC., and
L-3 COMMUNICATIONS, INC.

DEFENDANTS

COMPLAINT

Comes now the plaintiff, Vision Technologies, Inc., and for its cause of action against the defendants, L-3 Communications MAPPS, Inc. and L-3 Communications, Inc., states:

1. The plaintiff Vision Technologies, Inc., is an Arkansas corporation with its principal place of business in Bentonville, Arkansas. Plaintiff is engaged in the business of designing, manufacturing and selling camera systems.

2. The defendant L-3 Communications MAPPS, Inc., is a Canadian corporation with its principal place of business in Saint-Laurent, Quebec, Canada. The defendant does business in the United States and numerous other countries worldwide and is subject to the jurisdiction of U.S. courts. L-3 Communications MAPPS (L-3 MAPPS) is a wholly owned subsidiary of L-3 Communications, Inc.

3. The defendant L-3 Communications, Inc., is a United States corporation organized under the laws of the State of Delaware. L-3 Communications has its principal

place of business in New York, New York and is the parent company of its Canadian subsidiary, L-3 Communications MAPPS, Inc.

JURISDICTIONAL STATEMENTS

4. This complaint includes three claims: breach of contract, fraud and deceit and violation of Arkansas Trade Secrets Act. All claims are based upon Arkansas substantive law. The basis of federal jurisdiction is diversity of citizenship of the parties. The amount in controversy is in excess of \$75,000.00.

5. Federal jurisdiction is proper based upon 28 U.S.C. § 1332 and venue is in the Western District of Arkansas since the plaintiff is located in this District and the acts complained of occurred, in part, in this District. In addition, the agreement that is the basis of plaintiff's contract claim provides that the agreement is subject to the laws of the State of Arkansas.

FACTUAL BACKGROUND

6. The plaintiff Vision Technologies, Inc., (VTI) has been in the business of designing, manufacturing and selling camera systems since 1998. VTI sells its product line of electro optic and forward looking infra-red sensor systems for both military and commercial applications.

7. L-3 MAPPS is a global supplier of control and simulation solutions for the marine, power generation and space sectors. It is headquartered in Quebec, Canada and has operating units located in the United States, the United Kingdom, India and Malaysia.

8. L-3 Communications is responsible for the acts of its agents including its wholly owned subsidiary, L-3 MAPPS, which acted in behalf of the parent company on all matters related to this lawsuit.

9. In early 2009, Vision Technologies responded to a Statement of Work issued by L3 MAPPS. Thereafter, VTI and L3 MAPPS engaged in discussions for the sale and testing of VTI camera systems in the Canadian Halifax frigate program. On February 17, 2009, Vision Technologies submitted a price quotation to L3 Communications for POE Box Cameras (BX-5215). This price quotation was revised on April 14, 2009. VTI also submitted a price quotation for POE Boxcam Bulkhead and Overhead Mount Assemblies. Subsequently, one VTI camera with bulkhead mount assembly was purchased by L-3 MAPPS for the total price of \$3,315.00.

10. The April 14, 2009 purchase was intended to provide a means for L-3 MAPPS to evaluate more fully the functionality of VTI camera systems for the Halifax program. Additional purchase orders were contemplated and discussed by the parties.

11. On June 14, 2009, Richard St-Pierre of L-3 MAPPS requested that VTI “provide all technical documentations related to the camera configuration in particular for the hardware selected....” and for any other information Vision Technologies has on the POE Box Camera (BX-5215) that could be of use for someone developing the WEB server and “application downloader tool that will allow to update the firmware on the camera.” A copy of the June 14, 2009 email is attached as Exhibit A.

12. Based upon the oral assurances of confidentiality and email exchanges, the plaintiff, VTI, provided to L-3 MAPPS technical drawings and other confidential information including intellectual property, designs and cameras. Specifically, on June 22, 2009 VTI sent to L-3 MAPPS the BX-5215 over head and bulk head mount drawings. A copy of the June 22, 2009 email with attachments is attached as Exhibit B.

13. Subsequently, a MUTUAL NON-DISCLOSURE AGREEMENT (NDA) was entered into between the parties. The NDA is dated September 4, 2009. The NDA provides that confidential information received, both previously and subsequently, from VTI will not be disclosed to third parties. The NDA is signed in behalf of L-3 MAPPS by Glenn Williamson, Manager of Supply Chain and Customer Support for L-3 MAPPS. A copy of the NDA is attached as Exhibit C.

14. The NDA has been in full force and effect at all times relevant to this lawsuit. The NDA provides that the parties wish to explore a business opportunity and may disclose certain confidential technical and business information that must be treated as confidential. It is acknowledged that if the information is disclosed, the disclosure could have a material adverse affect and could place the disclosing party in an unfair competitive disadvantage in the industry. See Exhibit C at pg. 1.

15. The NDA defines "confidential information" in part as follows:

"Confidential information means any information previously disclosed or in the future by any of the Partiesin writing, orally later reduced to writing or by inspection of tangible objects (including without limitation documents, prototypes, materials, samples, plant and equipment), which is

marked as "Confidential," "Sensitive," "Proprietary," or some similar designation." See Exhibit C at pg. 2.

16. The NDA specifically provides that the parties shall not disclose any Confidential Information to third parties and none of the parties shall reverse engineer, disassemble or decompile any prototypes. It further provides that the parties shall not manufacture or develop the technology of the disclosing party without obtaining a fully executed License agreement. See Exhibit C at pg. 3.

17. The NDA also includes a Non Circumvention and Non Competition clause which prohibits L-3 MAPPS from interfering with or circumventing the relationship of VTI with other parties. See Exhibit C at pg. 4

18. The NDA provides that the parties consent to the venue and jurisdiction of the state and federal courts sitting in the State of Arkansas, as the sole and exclusive forum, for any disputes arising from the NDA. See Exhibit C at pg. 12.

19. In addition to the technical drawings submitted to L-3 MAPPS and the actual cameras being provided to L-3 MAPPS, VTI engaged in numerous technical discussions with L-3 MAPPS in which confidential information was shared at the request of L-3 MAPPS.

20. On November 3, 2009, Richard St-Pierre, Systems Engineer at L-3 MAPPS, requested more specific technical information on the "hole arrangement" to the bulkhead/foundation from VTI. Based upon this request and the assurances of confidentiality provided in the NDA, Bill Bowen of VTI sent to L-3 MAPPS the

requested drawing showing the mounting arrangements. A copy of the November 3, 2009 email is attached as Exhibit D.

21. The technical drawings submitted by VTI to L-3 MAPPS included the following restrictive legend:

“The information contained in this drawing is the sole property of Vision Technologies. Any reproduction in part or whole without the written permission of Vision Technologies is prohibited.”

22. Subsequent to the above technical drawings being provided to L-3 MAPPS, additional confidential information was requested and provided by VTI. The additional confidential information was also subject to the restrictions and requirements of the NDA.

23. It has been the business practice of VTI to aggressively safeguard its proprietary information and technical data from improper, unlawful, or inadvertent disclosure to third parties. The confidential data provided to the defendants is not in the public domain; nor was it previously known or available to defendants. Defendants have not since lawfully acquired the confidential information from any other source.

24. On May 12, 2010 a sale of 16 POE box cameras (BX-5215) valued at \$54,000.00 plus 16 bulkhead mount assemblies priced at \$6,640.00 was completed between the parties. An invoice dated May 12, 2010 was sent by VTI to L-3 MAPPS for the total price of \$60,640.00. A copy of the May 12, 2010 Invoice is attached as Exhibit E.

25. The purpose of this sale of camera systems was to continue integration and testing of the camera systems to ensure the camera systems met the requirements for installation in the Halifax program.

26. In August, 2010, L-3 MAPPS confirmed that the VTI camera systems satisfied the program requirements and that a purchase order for the full complement of the Halifax camera system would be forthcoming.

27. On August 30, 2010 David Lunny of L-3 MAPPS sent an email to Lee Thompson, President of VTI stating as follows:

“For the Halifax Class Upgrade Mapps will be purchasing the following. FX-3201 Thermal Imager 4 units now and an additional 48 units prior to December 2010. MNT-1125-00 Universal mounts 4 units now and an additional 48 prior to December 2010. BX-5215 POE BOX CAMERA 10 units now and an additional 224 prior to December 2010. MNT-1130-01 BULKHEAD MOUNT ASSEMBLY 10 units now and an additional 224 prior to December 2010. A purchase order will be issued in the coming days for the immediate requirements.”

A copy of the August 30, 2010 email is attached as Exhibit F.

28. In November of 2010, the parties concluded an additional sale of 4 FX-3201 Thermal Cameras and 10 POE Box Cameras with bulkhead mount assemblies for a total cost of \$74,691.92. A revised invoice was sent on December 9, 2010 from VTI to L-3 MAPPS and paid. A copy of the December 9, 2010 Revised Invoice is attached as Exhibit G.

29. Based upon the above representations and based upon additional oral and written assurances, VTI relied upon the promises of L-3 MAPPS to its detriment. VTI

continued to work in good faith with L-3 MAPPS over the course of the coming months in expectation of the promised purchase order. Despite VTI's readiness to meet the purchase requirements, L-3 MAPPS repeatedly delayed issuing the purchase order and continued to ask for more information, altered delivery dates and other changes in the terms of procurement. All accommodations and changes were agreed to by VTI.

30. On March 14, 2011, David Lunny with L-3 MAPPS requested an updated quote on the price of the VTI camera systems. On March 15, 2011, VTI sent to David Lunny the updated quote by email. On the same day, David Lunny acting in behalf of both L-3 MAPPS and L-3 Communications represented to VTI as follows:

“Thank you for the quote. Since we plan on placing an order for cameras in April or May at the latest I would like to have the validity extended to mid May, 2011.”

A copy of the March 14, 2011 email is attached as Exhibit H.

31. On June 17, 2011, David Lunny requested from VTI updated quotations for the Halifax program. The discussions, requests for information and representations on future orders continued through 2011.

32. On November 9, 2011 Glenn Williamson of L-3 MAPPS and L-3 Communications advised about camera purchases from VTI and represented to VTI that “we are still anticipating feedback in Q4 however defining quantities is difficult at this point.”

33. On December 14, 2011 David Lunny of L-3 MAPPS and L-3 Communications assured Joe Clark with VTI that the purchase order will be coming and

they are “still on the same schedule”. L-3 MAPPS was just waiting for a reply from the Canadian government naval engineers, according to Mr. Lunny.

34. The delays of L-3 MAPPS continued for almost 18 months until January of 2012. At that time L-3 MAPPS informed VTI that the procurement had been terminated.

35. On March 1, 2012, a foreign company Kongsberg Maritime announced that it had been selected to provide the POE cameras and mounting systems to L-3 MAPPS for the Halifax program.

36. It was later learned by VTI that the camera mounting system sold by Kongsberg to L-3 MAPPS for the Halifax program is virtually the same as the design and characteristics of the VTI camera mounting system. Based upon further investigation, VTI learned that the confidential proprietary information of VTI provided in good faith to MAPPS was provided to Kongsberg without authorization and in violation of the NDA between the parties.

37. The following facts and circumstances are evidence of L-3 MAPPS violation of the NDA by releasing confidential information in violation of the agreement:

- (a) The plans and specifications for the camera system provided by VTI were unique and had not been placed in the public domain.
- (b) The confidential information had only been provided to MAPPS.
- (c) The same confidential information provided to MAPPS was later found to be included in the camera system sold by Kongsberg to MAPPS.

- (d) On March 29, 2012, VTI received documentation from Kongsberg which provided details on the mounting system of the Kongsberg camera system sold to MAPPS. The description of the mounting system evidences the fact that the description was taken from confidential information provided by MAPPS in violation of the NDA.
- (e) MAPPS is the only source whereby Kongsberg could have acquired VTI specifications and technical information.
- (f) On April 3, 2012, a representative of VTI spoke with a representative of Kongsberg who admitted that the Kongsberg camera system sold to MAPPS was developed with MAPPS for the Halifax program and that the camera system was not previously in the inventory of Kongsberg.
- (g) On May 9, 2012 a representative of L-3 MAPPS stated that “any information that was given to Kongsberg by MAPPS cannot be defined as Confidential Information....” While L-3 MAPPS asserts the information provided to Kongsberg was not confidential, it remains an admission that information from VTI was provided to Kongsberg.

38. The information provided by VTI to L-3 MAPPS and subsequently to Kongsberg is proprietary, confidential and sensitive information subject to the NDA based upon the following facts, among others:

- (a) The specifications and drawing for the POE Box Camera with overhead and bulkhead mount assemblies were prepared by the engineers of VTI and

contained information that would give an advantage to any business competitor who received the information or part of the information.

(b) The specifications and drawing for the Camera Cable Plug dated October 7, 2009 included measurements that were unique to the mounting and camera system of VTI and were prepared by the engineers of VTI. This information, if disclosed, would give a competitive advantage to a competitor.

(c) Both the specifications for the POE Box Camera and the Camera Cable Plug included the following restrictions:

“THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF VISION TECHNOLOGIES. ANY REPRODUCTION IN PART OR WHOLE WITHOUT THE WRITTEN PERMISSION OF VISION TECHNOLOGIES IS PROHIBITED.”

(d) Both drawings described above were provided to L-3 MAPPS in accordance with the promises and assurance of L-3 MAPPS that the information would be kept confidential and not disclosed without the permission of VTI.

39. As a proximate cause of the unauthorized disclosure of confidential and proprietary information of VTI by L-3 MAPPS, the plaintiff has suffered economic damages as follows:

(a) Another company, Kongsberg Maritime, was provided the opportunity to build a camera system that included a mounting system that was interchangeable with the mounting system of the plaintiff. As a result, L-3

MAPPS granted Kongsberg contracts in excess of \$1 million that would otherwise have been awarded to plaintiff.

- (b) Other consequential damages include future lost revenues from sales of the camera systems to L-3 MAPPS and other prime contractors engaged in providing integrated services and systems to the U.S. and foreign militaries.

The future lost revenues of plaintiff are in excess of \$1 million.

40. Defendants further damaged plaintiff by giving Kongsberg information related to the testing of plaintiff's camera system at E-Labs, Inc., Fredricksburg, Virginia. This information allowed Kongsberg to more quickly move through the testing of its camera system and to win the contract on the Halifax program.

CLAIM I — BREACH OF CONTRACT

41. Paragraphs 1 through 40 of this Complaint are incorporated herein by reference as if set forth word for word.

42. The parties' contract was fully executed on September 4, 2009. The contract is in the form of a Non Disclosure Agreement. See Exhibit C.

43. The plaintiff VTI delivered confidential information to the defendants pursuant to the protective provisions and assurances set forth in the NDA.

44. The defendants wrongfully disclosed confidential information of the plaintiff VTI to third parties in violation of the specific terms of the contract.

45. As a proximate result of Defendants' wrongful disclosure of plaintiff's confidential information and breach of the parties' contract, plaintiff has suffered lost

operating profits in excess of \$1,000,000.00 and lost future profits in excess of \$1,000,000.00.

CLAIM II --- FRAUD AND DECEIT

46. Paragraphs 1 through 40 of this Complaint are incorporated herein by reference as if set forth word for word.

47. The defendants made multiple false misrepresentations of material facts to the plaintiff concerning defendant's intent to purchase the camera and mounting systems for the Halifax program. These false misrepresentations include but are not limited to the statements set forth in paragraphs 25-30, above.

48. At the time these false representations were made, the defendants knew the statements were false and the defendants intended the plaintiff to rely upon the false statements, concealments and omissions of material facts to plaintiff's detriment.

49. Defendants intended to induce plaintiff to act in reliance upon the misrepresentations, specifically that defendants were protecting the confidential information of plaintiff and that defendants were committed to buying the camera systems from VTI.

50. Plaintiff justifiably relied upon the representations of defendants in acting as it did and as a result sustained economic damages in excess of \$2 million.

51. The defendants conduct was intentional, malicious and reckless and plaintiff is entitled to punitive damages in an amount to be determined at trial.

CLAIM III-----VIOLATION OF ARKANSAS TRADE SECRETS ACT

52. Paragraphs 1 through 40 of this Complaint are incorporated herein by reference as if set forth word for word.

53. The mounting system designed by plaintiff was proprietary information that was not shared with individuals outside plaintiff's employees and representatives, except in limited circumstances, such as upon request by a prospective client, and only then are shared with the understanding that the specifications are to be kept confidential. Plaintiff does not make these specifications available on its website or to the public domain.

54. The specifications of the mounting system are known only to a handful of plaintiff's employees who have worked directly in the development of the technology.

55. Plaintiff went to great lengths to protect its proprietary information. Plaintiff marked every set of specifications with a statement that the information included was proprietary and confidential. Additionally, the designs and technology are kept secured at plaintiff's place of business in Bentonville, Arkansas.

56. The design and engineering work of plaintiff is valuable both to plaintiff and its competitors. In this particular instance, because defendants shared this proprietary and confidential information with a competitor of plaintiff; that competitor, Kongsberg, was able to produce a camera system that was interchangeable with the camera system of plaintiff. The development by Kongsberg of an interchangeable camera system allowed Kongsberg to sell the system to L-3 MAPPs. Not only did Kongsberg use plaintiff's own

technology to take defendant's business away from plaintiff, but now Kongsberg is attempting to sell plaintiff's technology to plaintiff's potential clients world-wide

57. Plaintiff spent time, money and resources to design and produce the mounting system and related camera system technology.

58. Plaintiff's mounting system technology could not be easily acquired or duplicated by its competitors without the actions of defendants in sharing this information without the consent of plaintiff.

59. The mounting configuration and other technical data of the camera system released to the defendants prior to the NDA being in effect, and subsequent to its adoption, was information that was entitled to protection under the Arkansas Trade Secrets Act (A.C.A. § 4-75-600 et. seq.).

60. The confidential information of plaintiff was wrongfully disclosed by defendants to Kongsberg, and perhaps other parties, without the consent of plaintiff and in violation of the Arkansas Trade Secrets Act.

61. Plaintiff has suffered economic damages as a proximate cause of defendant's actions in excess of \$2 million.

REQUEST FOR INJUNCTION

62. Plaintiff requests this Court to enter a permanent injunction to enjoin L-3 Communications and L-3 MAPPS from future disclosures of plaintiff's confidential information and trade secrets.

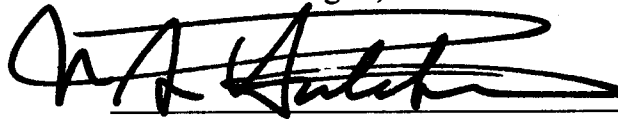
REQUEST FOR JURY TRIAL

63. Plaintiff requests a jury trial in this case.

WHEREFORE, plaintiff Vision Technologies, Inc., prays for judgment against the defendants for monetary damages in excess of \$2 million; for injunctive relief; for punitive damages in an amount to be fixed by the jury and for attorney fees and costs herein.

Respectfully submitted,

Vision Technologies, Inc.

A handwritten signature in black ink, appearing to read "W. Asa Hutchinson", is written over a horizontal line.

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