

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON
CASE NO: _____

ELECTRONICALLY FILED

TOYOTA MOTOR ENGINEERING &)
MANUFACTURING NORTH AMERICA, INC.)

Plaintiff,)

v.)

IBRAHIMSHAH SHAHULHAMEED)

Serve: 104 Kimberly Path)
Apartment 2)
Georgetown, KY 40324)

Defendant.)

**AMENDED VERIFIED
COMPLAINT**

Plaintiff Toyota Motor Engineering & Manufacturing North America, Inc. (“Toyota”), for their Complaint against Ibrahim Shah (“Defendant”), states as follows:

INTRODUCTION

1. This lawsuit arises out of the unlawful acts of Defendant, a former employee of GlobalSource IT, who, assigned Defendant to provide computer services to Toyota. After being terminated on August 23, 2012, Defendant accessed Toyota’s computer system without authorization, including Toyota’s secure website www.toyotasupplier.com which contains highly

confidential information regarding Toyota and its suppliers, including, but not limited to, component pricing, quality and proprietary design information. In addition, upon information and belief, Defendant sabotaged various internal programs causing www.tyotasupplier.com's entire network to crash, and potentially downloaded proprietary and confidential information for his own improper use. Accordingly, Toyota is bringing federal and state claims arising out of Defendant's actions, and due to the immediate and irreparable injury involved, Toyota is also filing a Motion for Temporary Restraining Order herewith.

PARTIES

2. Toyota is a Kentucky corporation with its principal place of business in Erlanger, Kenton County, Kentucky.

3. Defendant is a citizen of India (a copy of immigration papers showing Defendant's country of citizenship as India is attached hereto as Exhibit A).

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to 18 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1332(a) (diversity of citizenship) as the amount in controversy exceeds \$75,000 and Defendant is a citizen of a foreign state.

5. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the causes of action arising under state law.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 (b), because this district is the location in which a substantial part of the events or omissions giving rise to Toyota's claims occurred.

FACTUAL ALLEGATIONS

7. On August 23, 2012, Defendant was terminated as a contract computer programmer assigned to Toyota.

8. After receiving notice of termination, Defendant intentionally accessed Toyota's computer system without authorization.

9. Through Defendant's unauthorized access, he (a) sabotaged various programs and applications and (b) accessed, copied, downloaded, and/or disseminated trade secrets and proprietary information.

10. Based on information available at this time, Defendant breached the system at approximately midnight on August 23, 2012 and continued working until approximately 6:30 a.m. on August 24, 2012.

11. Based on information currently available, Defendant logged on to various internal and external systems and programs that contain highly confidential and proprietary information of Toyota.

12. Upon information and belief, Defendant downloaded, copied, saved, and/or printed the confidential and proprietary trade secrets and information located on Toyota's system.

13. Specifically, due to the level of administrative access Defendant had to Toyota's system, Defendant improperly accessed proprietary trade secrets and information such as pricing information, quality testing data, and parts testing data.

14. If this information were disseminated to competitors or otherwise made public, it would be highly damaging to Toyota, and its suppliers, causing immediate and irreparable damage.

15. In addition, not only did Defendant unlawfully access and potentially download confidential and proprietary trade secrets and information, upon information and belief, he also re-programmed Toyota's system in an effort to cause it to crash.

16. Specifically, it is believed Defendant improperly accessed and modified at least 13 applications related to Toyota's website, www.toyotasupplier.com, causing Toyota's website to crash.

17. In addition, Defendant also improperly and maliciously accessed internal systems and internal data applications and removed critical security certifications on the internal server, causing the programs to be inoperable.

18. At this point, the level of damage caused by Defendant's unauthorized access to Toyota's computer system is unknown. It will take days for Toyota's IT department to determine the full extent of its damage as a result of Defendant's efforts to sabotage its system.

19. Defendant has stated to representatives of Toyota that he plans to travel to India tomorrow for an undetermined amount of time.

COUNT I

18 U.S.C. § 1830

20. The allegations contained in numerical paragraph 1 to 18 are incorporated herein by reference.

21. The Defendant's conduct as detailed herein constitutes a violation of 18 U.S.C. §1830(2)(C)(5)(A),(B) and/or(C) as he intentionally accessed a protected computer without authorization or in a manner which exceeded his authorization and thereby obtained information from that computer and either (i) knowingly caused the transmission of a program, information or code or command and a result of that conduct intentionally caused damage without authorization; (ii)

intentionally accessed a protected computer without authorization, and as a result, recklessly caused damage; or (iii) intentionally accessed a protected computer without authorization and as a result, caused damage and loss.

22. Defendant's conduct caused loss to at least one person, Toyota, and that loss exceeds at least \$5000 in value as described in 18 U.S.C. §1830(c)(4)(A)(i)(I).

23. Pursuant to 18 U.S.C. § 1830(g), this Court should enjoin the Defendant from further accessing, possessing, altering or disseminating in any way the Plaintiff's protected computers or the content of any computer programs.

24. The Defendant is also answerable to Plaintiff for all economic damages suffered by Plaintiff as a result of the Defendant's conduct identified herein.

COUNT II

VIOLATION OF THE KENTUCKY TRADE SECRET ACT

25. The allegations contained in numerical paragraph 1 to 23 are incorporated herein by reference.

26. The Defendant's conduct constitutes an actual or threatened misappropriation of trade secrets (as that term is defined in KRS 365.880(4)) as he knowingly acquired trade secrets of the Plaintiff by improper means and without authorization.

27. Pursuant to KRS 365.882(1) this Court may enjoin the Defendant from further accessing, possessing, altering or disseminating in any way the Plaintiff's company property, including protected computers or the content of any computer programs or any of the content of same.

28. The Defendant is also answerable to Plaintiff for all compensatory damages suffered by Plaintiff as a result of the Defendant's conduct identified herein pursuant to KRS 365.884 .

29. The Defendant should also be required to pay exemplary or punitive damages as a result of Defendant's willful and malicious misappropriation, in an amount not to exceed twice the compensatory award, as well as attorneys fees under KRS 365.886.

COUNT III

TEMPORARY AND PERMANENT INJUNCTION

30. The allegations contained in numerical paragraph 1 to 28 are incorporated herein by reference.

31. Pursuant to Fed.R.Civ. P. 65 this Court should enter a temporary and permanent injunction requiring Defendant to (i) forfeit all of Plaintiff's property, information and data, and return same to Toyota; (ii) be forever enjoined from accessing, using, or disseminating any of Toyota's property and trade secrets as identified herein; and (iii) enjoined from leaving the United States until the Toyota has sufficient time to complete its investigation and effectuate return of Toyota's property.

32. Defendant had no authority to access or use Defendant's property or trade secrets and it is undisputed that he did access it and altered computer programs and codes. It is reasonably likely that Plaintiff will prevail on its claims in this action.

33. This Court should maintain the status quo by entering the requested injunction.

34. Without an injunction, the Plaintiff will be irreparably harmed.

WHEREFORE, Toyota hereby pray for relief as follows:

- A. Judgment in their favor as to Count I of their Complaint for Trademark Infringement;
- B. Preliminary and permanent injunctive relief: requiring Defendant to (i) forfeit all of Plaintiff's property; (ii) be forever enjoined from accessing, using, or disseminating any of the Defendant's property and trade secrets as identified herein; and (iii)

enjoined from leaving the United States until the Defendant has sufficient time to complete its investigation.

- C. Any and all costs and fees to which Toyota is entitled, including reasonable attorneys' fees; and
- D. Any and all other relief to which Toyota may be entitled, including any relief that may be necessary to effectuate or enforce the injunction sought hereby.

Respectfully submitted,

/s/ Mindy G. Barfield
Mindy G. Barfield
MacKenzie M. Walter
Dinsmore & Shohl, LLP
250 West Main Street, Suite 1400
Lexington, KY 40507
859-425-1000

*Counsel for Plaintiff, Toyota Motor
Engineering & Manufacturing North America,
Inc.*

VERIFICATION

I have reviewed the Complaint and the allegations set forth therein and they are true and correct to the best of my knowledge, information and belief.


Dennis S. Seibert, Jr.
Information Security Specialist



RECEIPT NUMBER EAC-12-110-51176		CASE TYPE I129 PETITION FOR A NONIMMIGRANT WORKER	
RECEIPT DATE March 13, 2012	PRIORITY DATE	PETITIONER GENOME INTERNATIONAL CORPORATION	
NOTICE DATE March 27, 2012	PAGE 1 of 2	BENEFICIARY A088 704 155 SHAHUL HAMEED, IBRAHIM SHAH	
GENOME INTERNATIONAL CORPORATION C/O ROOPA SENAPATHY CEO 8000 EXCELSIOR DR STE 202 MADISON WI 53717		Notice Type: Approval Notice Class: H1B Valid from 06/30/2012 to 06/28/2015 Consulate:	

The above petition and extension of stay have been approved. The status of the named foreign worker(s) in this classification is valid as indicated above. The foreign worker(s) can work for the petitioner, but only as detailed in the petition and for the period authorized. Changes in employment or training may require you to file a new form I-129 petition. Since this employment or training authorization stems from the filing of this petition, separate employment or training authorization documentation is not required. Please contact the IRS with any questions about tax withholding.

The petitioner should keep the upper portion of this notice. The lower portion should be given to the worker. He or she should keep the right part with his or her Form I-94, Arrival-Departure Record. The I-94 portion should be given to the U.S. Customs and Border Patrol when he or she leaves the United States. The left part is for his or her records. A person granted an extension of stay who leaves the U.S. must normally obtain a new visa before returning. The left part can be used in applying for the new visa. If a visa is not required, he or she should present it, along with any other required documentation, when applying for reentry in this new classification at a port of entry or pre-flight inspection station. The petitioner may also file Form I-824, Application for Action on an Approved Application or Petition, to request that we notify a consulate, port of entry, or pre-flight inspection office of this approval.

The approval of this visa petition does not in itself grant any immigration status and does not guarantee that the alien beneficiary will subsequently be found to be eligible for a visa for admission to the United States, or for an extension, change, or adjustment of status.

THIS FORM IS NOT A VISA NOR MAY IT BE USED IN PLACE OF A VISA.

The Small Business Regulatory Enforcement and Fairness Act established the Office of the National Ombudsman (ONO)

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVCS
VERMONT SERVICE CENTER
75 LOWER WELDEN STREET
SAINT ALBANS VT 05479-0001
Customer Service Telephone: (800) 375-5283
Form I797A (Rev. 10/31/05)N



PLEASE TEAR OFF FORM I-94 PRINTED BELOW, AND STAPLE TO ORIGINAL I-94 IF AVAILABLE

Detach This Half for Personal Records

Receipt# EAC-12-110-51176
I-94# 409576119 11
NAME SHAHUL HAMEED, IBRAHIM SHAH
CLASS H1B
VALID FROM 06/30/2012 UNTIL 06/28/2015

PETITIONER: GENOME INTERNATIONAL CORPORATION
8000 EXCELSIOR DR STE 202
MADISON WI 53717

409576119 11

Receipt Number EAC-12-110-51176
United States Citizenship and Immigration Services

I-94
Departure Record Petitioner: GENOME INTERNA

14. Family Name SHAHUL HAMEED	
15. First (Given) Name IBRAHIM SHAH	16. Date of Birth 07/13/1977
17. Country of Citizenship INDIA	