

Corporate espionage case moves forward

By Ryan Carter Staff Writers

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HACIENDA HEIGHTS - A federal judge has upheld most of a local company's counter-lawsuit against Seiko Epson that claims the printing giant used a spy to gain trade secrets while illegally cracking down on the local firm's right to sell recycled products.

The ruling was a victory for two-year-old Hacienda Heights-based Green Project, a 13-employee company that recycles and sells used ink and toner cartridges.

In July, the firm alleged in U.S. District Court in Oregon that Seiko Epson sent an investigator named Herbert W. Seitz, who trespassed into its Hacienda Heights headquarters and used a false identity to obtain price lists and other information from Green Project's sales department.

Green Project's lawsuit was a response to Seiko Epson's original suit in April, claiming that Green Project and several similar firms infringed on their copyrights.

For Judge Anna H. Brown, the issue centered around whether Green Project had taken reasonable measures to protect what the firms says were vital "trade secrets."

While Brown found that California law in many cases protects Seiko Epson and Seitz and their right to gather information during litigation, she found a hole in Seiko Epson's motion to dismiss the countersuit.

On the price lists that Seitz obtained, the firm clearly stated that "the recipient has no right to disclose the price list to any other person." Therefore, Brown concluded, Seiko Epson's claim that they aren't

trade secrets because the local firm didn't take any measures to protect them didn't stand up.

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"On this record, the court concludes Green Project's allegations as to the measures it took to protect its purported trade secrets are sufficient to state a counterclaim for misappropriation of trade secrets," Brown said.

With the ruling, Green Project attorneys can now move to question Seitz in the discovery phase of the trial, they said. Seiko Epson's case against Green Project is also in the discovery phase.

Attempts to reach David W. Axelrod, a lead attorney for Epson, were unsuccessful. And Seiko Epson could not be reached.

But in June, Axelrod swiftly denied the charges made in the countersuit, saying they were "B.S."

He noted what he said was the strength of Epson's case against Green Project and several other similar firms.

He also pointed to Green Project's reliance on the "first-sale" doctrine, a legal theory that says a patent owner's rights to intellectual property end once a particular product has been sold to the public. While it's at the core of how Green Project does business, Axelrod said it cannot apply in this case, because there is evidence the used cartridges were collected outside of the U.S. and therefore not protected under U.S. law.

Green Project's attorney Thomas T. Chan said Tuesday that Green Project only collects inkjet cartridges from the U.S. and directs its suppliers to only use inkjet cartridges collected in the U.S. He said there's been no proof otherwise.

Chan touted the judge's ruling as a victory for a small, green business, just trying to survive in an industry of a few powerful corporate giants.

"Now we can go to discovery in both cases, he said. "Now we have a chance at winning. If we lost this motion, we were finished."

But he went further - suggesting that legal questions in this case are at the heart of a market economy.

"They don't like us," he said of Seiko Epson. "They should innovate, build a better product, instead of trying to stop other people."

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