

Technology makes trade secrets a tempting target for theft

June 20 2013, by Hugh R. Morley

Becton, Dickinson and Co.'s announcement that it was about to roll out a new, easy-to-use, disposable pen injector called Vystra hardly caused a stir last October. Although an executive for the Franklin Lakes, N.J.-based medical technology maker said the injector, unveiled at a Las Vegas convention, would introduce "a new level of flexibility for drug manufacturers," the announcement made few ripples outside the industry.

Now, that's changed, though not for reasons BD wanted. The new device has become the center of a criminal case in which an engineer, Ketankumar Maniar, 36, who helped create Vystra, is accused of stealing thousands of computer files relating to the pen injector shortly before he quit his job, saying he planned to move back to his native India.

According to the FBI, which arrested Maniar on June 5, the files gave him a "veritable tool kit for mass-producing the disposable pen." And the U.S. Attorney's Office in New Jersey charged him with "theft of [trade secrets](#) for his own [economic benefit](#)," which could result in up to 10 years in prison and a \$250,000 fine.

The case is among several involving allegations of theft of trade secrets, a crime that the Justice Department has made a priority. And it also shines a light on the sophisticated security technology companies are employing to stop it.

In March, a federal judge sentenced a native of China, Sixing Liu, to 70

months in prison for exporting sensitive U.S. [military technology](#) to China and stealing trade secrets. Prosecutors said Liu downloaded thousands of files from his employer, L-3 Communications' space and navigation division in Budd Lake, N.J.

Ten months earlier, Yuan Li, a former research chemist who made [drug compounds](#) for Sanofi-Aventis, was given 18 months in prison for stealing trade secrets by downloading files on the compounds to her home computer and selling them through a [Chinese company](#) of which she was a co-owner.

David W. Opderbeck, director of the Gibbons Institute of Law, Science & Technology at Seton Hall University, said civil suits involving allegations of trade-secret theft are fairly common - more so lately because digital documents have become so easy to copy.

"I used to litigate these cases 10 years ago, and they usually involved 20 or 100 boxes of documents," he said. "Now, you can fit much more than that onto a thumb drive."

The theft of trade secrets to be sent overseas is also more common than in the past, when such thefts were mainly executed to set up a rival company or to extort money from the secret's owner, he said.

Such cases rarely involve criminal charges, but the bottom line is the same, whether it's a [criminal case](#) or civil, Opderbeck said: Attorneys have to prove that the information or documents stolen had economic value and that they were truly secret and confidential.

The criminal complaint against Maniar, which was filed the same day as his arrest, refers to the product that he worked on only in general terms. But it's identified as Vystra in a civil suit filed by BD a week before Maniar's arrest, which also reveals new details in the case.

The company's suit alleges that Maniar "misappropriated and threatens to disclose and use BD trade secrets to his and others' competitive advantage," in violation of New Jersey's Trade Secrets Act.

The suit asks the court to order Maniar to give up the documents and to allow BD to "seize, freeze and examine" computers and other devices in his possession to ensure that he is not keeping any of the documents.

Maniar's attorney, Ryan Blanch of New York, did not return calls seeking comment. When Maniar was arrested, Blanch said the case may just be an example of "corporate overreaction to an alleged violation of a company policy."

U.S. Magistrate Judge Steven C. Mannion put the case on hold last week because "plea negotiations are currently in progress."

BD, a global company with \$7.7 billion in annual sales, declined to comment for this report, except to cite its earlier statement confirming that Maniar was an employee and that it referred the case to prosecutors.

"We take very seriously the protection of our confidential information and trade secrets," the company said.

In January 2012, BD hired Maniar as a staff engineer at a salary of \$115,000, with a \$15,000 signing bonus, according to a letter filed in court. He also signed an agreement to comply with a six-page company trade secret policy, limiting the disclosure of company secrets.

As a staff engineer on the Vystra project, he "was primarily responsible for working with external vendors in overseeing the component molding and assembly equipment construction," the suit says. That position gave him access to BD's design, specifications, blueprints, manufacturing plans, materials, processes, equipment and customer lists" for the pen,

the suit says.

The company announced the fruits of its efforts on Vystra nine months after he arrived, touting the pen as a versatile injector that would work with a wide range of therapies that require frequent, low-volume drug injections and variable dosing. The aim was to meet the growing trend of patients injecting their own medications, BD said.

"Our goal is to help patients become more empowered in managing their health with self-injection technology," Suky Upadhyay, BD's acting CFO, said on a conference call with investors in March. "We see significant growth opportunities in this area."

So did Maniar, according to the lawsuit.

The lawsuit alleges that on May 23, while Maniar was out sick, he spent part of the day downloading confidential company documents. The next day he told BD he was leaving and would return to India. That was his last day on site at BD, the suit says.

Prosecutors allege that in the weeks before he left BD, Maniar downloaded more than 8,000 files of valuable and confidential information, which could be worth millions of dollars, suggesting it could be used to set up a new business or be sold to a competitor.

The files included "part designs, assembly machine designs, molding process information" and other documents, the suit says.

BD learned of Maniar's downloading on May 20 through two "data loss prevention tools" on its computer system, the suit says. One logged the name and date a BD employee "electronically copied information to another storage device." The second tool made a "shadow" copy of each file copied, "thereby allowing BD to see the actual file that was copied,"

the suit says.

The suit says the program showed that Maniar had taken thousands of confidential documents, many related to the Vystra project. It argued that if the court didn't force Maniar to abide by the terms of the confidentiality agreement, "the damages that BD will sustain can never be fully compensated."

Six days after the suit was filed, the FBI pounced on Maniar.

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