

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LEATT CORPORATION, a Nevada corporation; and EXCEED HOLDINGS (PTY) LTD., a South African company,

Plaintiffs,

vs.

INNOVATIVE SAFETY TECHNOLOGY, LLC, a California limited liability company; KEVIN HEATH ENTERPRISES, INC., a California corporation; KEVIN HEATH, an individual; and E.V. TECHNOLOGY, a Chinese business entity,

Defendants.

CASE NO. 09-CV-1301 - IEG (POR)

ORDER GRANTING PLAINTIFFS' MOTION TO SUPPLEMENT FIRST AMENDED COMPLAINT

[Doc. No. 45]

This is a case about alleged trade secret misappropriation. Plaintiffs' First Amended Complaint ("FAC"), filed on September 14, 2009, asserts three causes of action: (1) trade secret misappropriation, (2) unfair competition, and (3) tortious interference. Currently before the Court is Plaintiffs' Motion to Supplement First Amended Complaint, which seeks to add a cause of action to enforce the South African Arbitration Award that Plaintiffs recently obtained. Defendants Kevin Heath, Kevin Heath Enterprises, Inc., and E.V. Technology filed a statement of non-opposition.

Federal Rule of Civil Procedure 15(d) applies to claims that accrue after an initial complaint is filed. Cabrera v. City of Huntington Park, 159 F.3d 374, 382 (9th Cir. 1998). "Rule 15(d) permits

1 the filing of a supplemental pleading which introduces a cause of action not alleged in the original
2 complaint and not in existence when the original complaint was filed.” Id. (citation omitted).
3 Supplemental claims should be allowed where they will “promote the economical and speedy
4 disposition of the controversy.” Keith v. Volpe, 858 F.2d 467, 473 (9th Cir. 1988) (citations omitted).


5 In the present case, the event giving rise to the Supplemental Complaint relates to the same
6 facts as alleged in the FAC and it occurred after the filing of the FAC. Allowing Plaintiffs to
7 supplement their complaint would also promote judicial economy and convenience, since it will avoid
8 the need for Plaintiffs to file a separate action just to enforce the South African Arbitration Award.

9 For the foregoing reasons, and in light of Defendants’ non-opposition, the Court **GRANTS**
10 the motion to supplement and **VACATES** the hearing currently set for April 26, 2010. The Clerk of
11 Court is directed to file Plaintiffs’ Supplemental First Amended Complaint (“SFAC”) and the
12 accompanying Exhibits A through G, which are attached as Exhibit 1 to Memorandum of Points and
13 Authorities in Support of Plaintiffs’ Motion to Supplement First Amended Complaint. [Doc. No. 45-
14 1]. Pursuant to Rule 15(d), the Court also **ORDERS** that if Defendants wish to plead or otherwise
15 respond to the SFAC, they must do so no later than **21 days** after the filing of this Order.

16 **IT IS SO ORDERED.**

17
18
19
20
21
22
23
24
25
26
27
28

DATED: April 16, 2010


IRMA E. GONZALEZ, Chief Judge
United States District Court