

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

TOYOTA INDUSTRIAL EQUIPMENT MFG., INC.,)	
et al.,)	
Plaintiffs,)	
)	1:14-cv-1049-JMS-TAB
vs.)	
)	
DAVID K. LAND,)	
Defendant.)	

EXTENSION OF TEMPORARY RESTRAINING ORDER

Plaintiffs Toyota Industrial Equipment Mfg. Inc., Toyota Material Handling North America, Inc., and The Raymond Corporation have filed their Motion for Temporary Restraining Order and have sought an extension of the TRO. The Court conducted a hearing on that request on July 8, 2014.

Federal Rule of Civil Procedure 65(b) provides that a temporary restraining order “expires at the time after entry—not to exceed 14 days—that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension.” The rule further provides that “[t]he reasons for an extension must be entered in the record.” Fed. R. Civ. Pro. 65(b). The Seventh Circuit Court of Appeals has held that “the language of Rule 65(b)(2) and the great weight of authority support the view that 28 days is the outer limit for a TRO without the consent of the enjoined party, regardless of whether the TRO was issued with or without notice.” [H-D Michigan, LLC v. Hellenic Duty Free Shops S.A.](#), 694 F.3d 827, 843-44 (7th Cir. 2012).

The Court, having reviewed Plaintiffs’ Motion for Temporary Restraining Order, evidence submitted therewith, and evidence presented at the hearing conducted on July 8, 2014, finds that Plaintiffs have shown good cause for extending the temporary restraining order, as

modified below. Specifically, Plaintiffs have presented credible evidence that Defendant David K. Land (“Land”) took confidential information, documents, and trade secrets belonging to Plaintiffs and that his disclosure of those documents to Defendant Linde Material Handling North America Corporation (“Linde”) or to any third party, would cause Plaintiffs to suffer irreparable harm for which there is no adequate remedy at law. Further, forensic examination of Mr. Land’s computer establishes that external hard drives were attached to the computer during the relevant time period, creating the possibility that the Subject Documents were transferred to another device. Finally, evidence was introduced that Land accessed his Google drive, on which the Subject Documents were copied, from a Linde computer and that Land deleted some of the Subject Documents after notice that legal proceedings either were imminent or had commenced. Accordingly, the Court **ORDERS** as follows:

1. “Subject Documents” means all information and documents to which Land had access as a result of his employment by Plaintiff Toyota Industrial Equipment Mfg. Inc. that are not publicly available.

2. Land shall return to Plaintiffs all Subject Documents and shall cooperate with Plaintiffs to recover all Subject Documents or related records of the Subject Documents including providing Toyota access to the Seagate Hard Drive referenced on Exhibit 1 on line 12, and the WD 6400 External Hard Drive in order that they may take a forensic image of those devices.

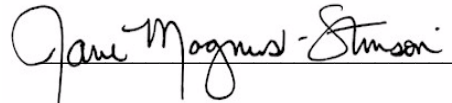
3 Land is prohibited from taking any of the following actions:

- a. Disclosing to any third party, including, but not limited to Linde, any Subject Documents;
- b. Modifying, deleting, or in any way tampering with any

Subject Documents;

- c. Transmitting or taking copies of any Subject Documents out of the United States;
 - d. Travelling outside the United States on Linde business until the Court determines that Land no longer possesses or in any way has access to the Subject Documents; and
 - e. Working for Linde until the Court is satisfied that Land no longer possesses or in any way has access to the Subject Documents.
7. Plaintiffs shall continue to provide a bond in the amount of \$50,000.
 8. This extension of the Temporary Restraining Order will expire on **July 22, 2014 at 5:00 p.m.**

07/08/2014



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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