

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EXEL NORTH AMERICA, INC.,

Plaintiff,

Case No. 14-cv-12646
Hon. Matthew F. Leitman

v.

INTEGRATED DISPENSE
SOLUTIONS LLC, et al.,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS’
MOTION TO DISMISS (ECF #14)**

On July 7, 2014, Plaintiff Exel North America, Inc. (“Exel”) filed a multi-count Complaint against Defendant Integrated Dispense Solutions LLC (“IDS”) and nine individual Defendants. (*See* Compl., ECF #1.) Plaintiff alleges, among other things, that Defendants stole its trade secrets, violated the Lanham Act, and breached various confidentiality and non-solicitation agreements. (*See id.*) The parties are now before the Court on Defendants’ Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (*See* Motion, ECF #14.) The Court held a hearing on Defendants’ motion on September 25, 2014.

As the Court explained to the parties at the beginning of the hearing, it is the Court’s normal practice to draft a written opinion when granting any portion of a defendant’s motion filed pursuant to Rule 12(b)(6). However, due to the press of

time as a result of the fast approaching hearing on Plaintiff's Motion for Preliminary Injunction (ECF #6), the Court decided to provide its ruling orally from the bench so that the parties could proceed with discovery and prepare for the forthcoming preliminary injunction hearing as expeditiously as possible and without any delay occasioned by the Court's preparation of a written Opinion.

Therefore, for all of the reasons stated on the record, **IT IS HEREBY ORDERED THAT** Defendant's Motion to Dismiss (ECF #15) is **GRANTED IN PART AND DENIED IN PART** as follows:

- As to Count I ("Violations of the Michigan Uniform Trade Secrets Act" against all Defendants), the Court **DENIES** Defendants' motion as to Defendants IDS, Andrew Hryckowian, and David Ritchie. The Court **GRANTS** Defendants' motion and dismisses this count as to Defendants Gary Hindall, Douglas Hosbeke, Ferdie Intig, Steve Nolan, Richard Orallo, Michael Connell, and Joe Nagorka;
- As to Count II ("Violation of [the] Lanham Act" against all Defendants), the Court **DENIES** Defendants' motion as to Defendant IDS with respect to the "diamond design" mark and the "I-STREAM LITE" mark, and **GRANTS** Defendants' motion as to Defendant IDS with respect to the "IDS" Mark. The Court **GRANTS** Defendants' motion and dismisses this count in full as to all other Defendants;
- As to Count III ("Violation of the Michigan Consumer Protection Act" against all Defendants), the Court **GRANTS** Defendants' motion and dismisses this count as to all Defendants;
- As to Count IV ("Breach of Confidentiality, Non-Solicitation, and Non-Disclosure Agreement" against Defendant Steve Nolan), the Court **GRANTS** Defendants' motion and dismisses this count;

- As to Count V (“Breach of Confidentiality, Non-Solicitation, and Non-Disclosure Agreement” against Defendant Michael Connell), the Court **GRANTS** Defendants’ motion and dismisses this count;
- As to Count VI (“Breach of Confidentiality, Non-Solicitation, and Non-Disclosure Agreement” against Defendant Richard Orallo), the Court **GRANTS** Defendants’ motion and dismisses this count;
- As to Count VII (“Breach of Fiduciary Duty” against Defendant David Ritchie), the Court **DENIES** Defendants’ motion;
- As to Count VIII (“Breach of Confidentiality Agreement” against Defendant David Ritchie), the Court **DENIES** Defendants’ motion;
- As to Count IX (“Breach of Confidentiality Agreement” against Defendant Andrew Hryckowian), the Court **DENIES** Defendants’ motion;
- As to Count X (“Breach of Confidentiality Agreement” against Defendant Douglas Hosbeke), the Court **GRANTS** Defendants’ motion and dismisses this count;
- As to Count XI (“Breach of Confidentiality Agreement” against Defendant Joe Nagorka), the Court **GRANTS** Defendants’ motion and dismisses this count;
- As to Count XII (“Civil Conspiracy” against all Defendants), the Court **DENIES** Defendants’ motion as to Defendants Andrew Hryckowian and David Ritchie. The Court **GRANTS** Defendants’ motion and dismisses this count as to all other Defendants;
- As to Count XIII (“Interference with Contractual Relationships” against all Defendants), the Court **GRANTS** Defendants’ motion and dismisses this count as to all Defendants; and
- As to Count XIV (“Unfair Competition” against all Defendants), the Court **DENIES** Defendants’ motion as to Defendants IDS, Andrew Hryckowian, and David Ritchie. The Court **GRANTS** Defendants’ motion and dismisses this count as to all other Defendants.

As the Court indicated on the record, Plaintiff may continue to develop its claims though discovery, and the Court will entertain a timely and properly-supported motion to amend pursuant to Federal Rule of Civil Procedure 15(a).

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: September 29, 2014

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 29, 2014, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113