

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

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Superior Court of the
District of Columbia
Washington, D.C.

**TECHNOLOGY ASSOCIATION OF
AMERICA, INC.**

601 Pennsylvania Avenue, N.W.,
North Building, Suite 600
Washington, D.C. 20004

Plaintiff,

v.

**INFORMATION TECHNOLOGY
INDUSTRY COUNCIL, INC.,**

1101 K Street, N.W., Suite 610
Washington, D.C. 20005

ALLEN R. HODGKINS III,

9106 Volunteer Drive
Alexandria, Virginia 22309

PAMELA RICHARDSON WALKER,

8275 Arrowleaf Turn
Gainsville, Virginia 20155

and

CAROL E. HENTON,

101 Avila Road
San Mateo, California 94402

Defendants.

Case No.

13 - 0007598

COMPLAINT

Plaintiff Technology Association of America, Inc. ("TechAmerica" or "Plaintiff"), through counsel, submits this Complaint against Defendants Allen R. Hodgkins III, Pamela Richardson Walker, and Carol E. Henton (the "Individual Defendants") and Defendant Information Technology Industry Council, Inc. ("ITI"), and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is a Virginia non-profit association with its principal place of business located at 601 Pennsylvania Avenue, N.W., North Building, Suite 600, Washington, D.C. 20004.

2. ITI is a Delaware corporation with its principal place of business at 1101 K Street N.W., Suite 610, Washington, D.C. 20005.

3. Defendant Allen R. Hodgkins III is the former Senior Vice President, Global Public Sector, for TechAmerica. Upon information and belief, he is currently employed in a substantially similar capacity by ITI as Senior Vice President, Public Sector, and resides at 9106 Volunteer Drive, Alexandria, Virginia 22309.

4. Defendant Pamela Richardson Walker is the former Senior Director, Homeland Security, for TechAmerica. Upon information and belief, she is currently employed in a substantially similar capacity by ITI as Senior Director, Homeland Security, and resides at 8275 Arrowleaf Turn, Gainesville, Virginia 20155.

5. Defendant Carol E. Henton is the former Vice President for State & Local Government, Global Public Sector, for TechAmerica. Upon information and belief, she is currently employed in a substantially similar capacity by ITI as Vice President for State, Local & Education, Public Sector, and resides at 101 Avila Road, San Mateo, California 94402.

6. The Court has jurisdiction over this action pursuant to D.C. Code § 11-921.

7. Venue is proper in this Court because a substantial portion of the events or omissions giving rise to this claim occurred in the District of Columbia.

FACTUAL BACKGROUND

8. TechAmerica is a trade association for the information and communications technology industry. Its membership consists of technology companies of all sizes who create a

variety of products and deliver a variety of services in both the public and private sectors. These members pay annual dues to TechAmerica.

9. The largest segment of TechAmerica's activities on behalf of its members consists of assisting with federal and state government procurement of technology ("Public Sector Services"). The Individual Defendants previously worked for TechAmerica in the Public Sector Services segment.

10. ITI is a competing trade association for the technology industry. Unlike TechAmerica, however, it had not offered its members Public Sector Services prior to the events alleged in this Complaint.

The Individual Defendants Agreed to Protect TechAmerica's Confidential Information

11. The TechAmerica Employee Handbook ("Handbook"), among other things, requires TechAmerica employees to refrain from using confidential TechAmerica information other than in the best interests of TechAmerica.

12. Specifically, the Handbook provides:

During or following the termination of your employment with TechAmerica, you agree:

1. Not to disclose, use, or induce or assist in the use or disclosure of any of TechAmerica's confidential or proprietary information to any person, firm, corporation, association or other entity without TechAmerica's prior express written consent, except as may be necessary in the ordinary course of performing your duties as an employee of TechAmerica;
2. Not to disclose, use, or induce or assist in the use or disclosure of any confidential or proprietary information of a third party, except in carrying out your work for TechAmerica consistent with TechAmerica's agreement with such third party;
3. Not to make use of any confidential or proprietary information for your own purpose or for the benefit of any person, firm, corporation or other entity, except TechAmerica;

4. To promptly notify TechAmerica of any knowledge that you may have of any unauthorized release or use of TechAmerica's confidential or proprietary information;
5. Upon request, to promptly surrender and deliver to TechAmerica all records, materials, equipment, tools, drawings, documents and data of any nature pertaining to any confidential or proprietary information of TechAmerica or to your employment; and
6. To return or delete all electronically-stored copies of confidential or proprietary information on any computer or device in your possession or control, including all backup and archival copies.

* * * *

You agree not to disclose any TechAmerica confidential or proprietary information for any purpose whatsoever, including but not limited to:

1. Persuade or attempt to persuade any client of TechAmerica to cease doing business with TechAmerica;
2. Reduce the amount of business such client would otherwise have placed through TechAmerica; or
3. Persuade or attempt to persuade any employee or independent contractor of TechAmerica to terminate his or her service with TechAmerica.

For the purposes of this Policy, TechAmerica's members include every company and individual that has utilized TechAmerica's services at any time during the twelve (12) months immediately preceding any solicitation or attempted solicitation.

* * * *

Injunctive Relief for Breach

A breach of any of the promises or agreements contained in this Confidentiality and Proprietary Information Policy will result in irreparable and continuing damage to TechAmerica for which there will be no adequate remedy at law, and in the event of such breach, TechAmerica will be entitled to injunctive relief and/or a decree for specific performance, and such other and further relief as may be proper, including monetary damages.

13. Each of the Individual Defendants has signed a written agreement acknowledging that they “have read and understand the contents of this Handbook and will act in accord with these policies as a condition of [their] employment with TechAmerica.”

The Individual Defendants Abruptly Resign

14. On Monday, November 4, 2013, at approximately 4:00 p.m., each of the Individual Defendants and a fourth individual, Erica McCann, abruptly announced to TechAmerica that they were resigning, effective immediately. The following morning, these four individuals commenced employment with ITI.

15. The morning after the four employees resigned, ITI issued a press release announcing “the launch today of the Information Technology Alliance for Public Sector” (“ITAPS”), led by Mr. Hodgkins. ITI also held a press conference featuring Mr. Hodgkins on the same day. Upon information and belief, ITAPS will provide Public Sector Services to ITI members that are substantially similar to the Public Sector Services provided by TechAmerica.

16. Upon information and belief, ITI had previously communicated with the Individual Defendants and informed them that it would only hire them and begin offering Public Sector Services to its members if a dozen technology companies would commit to each pay ITI fifty thousand dollars (\$50,000) in advance.

17. Upon information and belief, the Individual Defendants resigned from TechAmerica only after they had secured commitments from a sufficient number of members. In fact, news reports regarding the Individual Defendants’ departure from TechAmerica cite sources with knowledge of the deal as saying that ITI was able to raise \$50,000 each from more than a dozen members to cover the cost of hiring the Individual Defendants.

Ms. Henton Uses TechAmerica Trade Secrets

18. Upon their resignations, TechAmerica asked that each of the Individual Defendants and Ms. McCann immediately return to TechAmerica any of TechAmerica's equipment in their possession, including the laptop computers that TechAmerica had provided to them. Mr. Hodgkins, Ms. Walker, and Ms. McCann immediately returned their laptops.

19. Ms. Henton, however, informed TechAmerica that she would return her laptop on either Friday, November 8, or on Monday, November 11. Because Ms. Henton worked remotely for TechAmerica from her home in California, TechAmerica agreed that she could delay returning the laptop. TechAmerica did not authorize Ms. Henton to continue using the laptop and immediately terminated her access to TechAmerica's internal network and to Ms. Henton's TechAmerica email account.

20. Nonetheless, over the next week, Ms. Henton frequently used her TechAmerica-provided laptop. Although she did not have access to the TechAmerica network, Ms. Henton had previously downloaded confidential and proprietary documents to the laptop's hard drive, which she accessed following her resignation. Likewise, although Ms. Henton could not send and receive emails from her TechAmerica email account, many of her emails were saved on the laptop's hard drive, and Ms. Henton viewed many of them following her resignation.

21. TechAmerica maintains a spreadsheet that contains, among other things, (1) a list of TechAmerica's members, (2) the employees of each member who are in contact with TechAmerica and their contact information, (3) the annual dues paid to TechAmerica by each member, and (4) member renewal dates (the "TechAmerica Spreadsheet"). The information contained in the TechAmerica Spreadsheet derives actual and potential economic value from not being generally known to, and not being readily accessible by anyone outside of TechAmerica, including ITI, who can obtain economic value from its disclosure or use. Additionally, the

information in the TechAmerica Spreadsheet is the subject of reasonable efforts to maintain its secrecy.

22. Beginning on November 5, 2013, the day after her resignation, and continuing through at least November 7, 2013, Ms. Henton accessed the TechAmerica Spreadsheet, as well as TechAmerica emails and contact information saved on the laptop's hard drive. She then sent emails to TechAmerica member contacts through her ITI email address. In these emails, Ms. Henton informed TechAmerica members that the Individual Defendants had moved to ITI and Ms. Henton asked the TechAmerica members to become ITI members.

23. Upon information and belief, Ms. Henton did so at the direction of Mr. Hodgkins.

24. Ms. Walker and Mr. Hodgkins are copied on many of Ms. Henton's emails to TechAmerica member contacts and, upon information and belief, Ms. Henton communicates regularly with both Ms. Walker and Mr. Hodgkins regarding the status of her efforts to induce TechAmerica members to join ITI.

25. As Ms. Henton communicated with TechAmerica members, she added a column to the copy of the TechAmerica Spreadsheet with which she was working. In this new column, Ms. Henton indicated where each member stood with regard to becoming ITI members. For example, she indicated that one member was "very supportive" of the idea, while another member was "lukewarm."

26. Upon information and belief, Defendants intend to convince all of TechAmerica's members that utilize Public Sector Services to join ITI and, ultimately, to drive TechAmerica out of business. For example, in emails dated November 7, 2013, Ms. Henton celebrated the "articles this week starting with one on Monday in the Huff Po – which was devastatingly bad for TechAmerica" and "a blistering article about the situation in the HuffPost, which starts out

‘In a move that would make Jerry Maguire proud...’ In another email that is also dated November 7, 2013, Ms. Henton stated that she hoped that ITI was “talking to” another TechAmerica employee and that she “hope[d] they can bring him into ITI too,” because doing so “would seal the fate of TA.”

Ms. Walker Uses TechAmerica Trade Secrets

27. While employed by TechAmerica, Ms. Walker served as the TechAmerica lead staff member for the Health Services IT Advisory Group (“HSITAG”), a committee of TechAmerica members focused on health information advocacy.

28. The membership of HSITAG is confidential, and TechAmerica derives actual and potential economic value from this information not being generally known to, and not being readily accessible by anyone outside of TechAmerica, including ITI, who can obtain economic value from its disclosure or use. Additionally, this membership information is the subject of reasonable efforts to maintain its secrecy.

29. Upon information and belief, following her resignation from TechAmerica, Ms. Walker has used her knowledge of the membership of HSITAG to reconstitute the same committee within ITI. For example, in a November 5 email to Ms. Henton, Mr. Hodgkins stated that “Pam [Walker] also talked to Jerry and related that HSITAG could come here.”

30. Upon information and belief, Ms. Walker’s attempts to reconstitute HSITAG at ITI are at the direction of Mr. Hodgkins.

COUNT I **(Tortious Interference with Prospective Business Advantage)**

31. Plaintiff adopts and incorporates by reference paragraphs 1 through 30 as if fully alleged herein.

32. TechAmerica's continuing relationship with its members constitutes a prospective business advantage.

33. Defendants had knowledge of this prospective business advantage and conspired and agreed to interfere with it by inducing TechAmerica members to join ITI.

34. As a reasonable, foreseeable, direct, and proximate result of Defendants' interference with TechAmerica's prospective business advantage, TechAmerica has suffered and will continue to suffer irreparable injury. This injury includes, but is not limited to, the revenue from membership dues that TechAmerica will lose when TechAmerica members that previously utilized TechAmerica's Public Sector Services join ITI and decline to renew their TechAmerica memberships.

COUNT II
(Civil Conspiracy)

35. Plaintiff adopts and incorporates by reference paragraphs 1 through 34 as if fully alleged herein.

36. Defendants have conspired and agreed to tortiously interfere with TechAmerica's prospective business advantage.

37. Ms. Henton's emails to TechAmerica members soliciting them to join ITI, Defendants' misappropriation of TechAmerica's trade secrets, and ITI's hiring of the Individual Defendants were all unlawful overt acts performed pursuant to and in furtherance of their common scheme.

38. As a reasonable, foreseeable, direct, and proximate result of the conspiracy between and among Defendants, TechAmerica has suffered and will continue to suffer injury.

COUNT III
(Misappropriation of Trade Secrets, D.C. Code § 36-401 *et seq.*)

39. Plaintiff adopts and incorporates by reference paragraphs 1 through 38 as if fully alleged herein.

40. The Individual Defendants have disclosed and used, on behalf of ITI and for ITI's exclusive benefit, TechAmerica's confidential information and trade secrets, including but not limited to the TechAmerica Spreadsheet, without the express or implied consent of TechAmerica.

41. Upon information and belief, the Individual Defendants will, inevitably or intentionally, continue to use or disclose to ITI, on behalf of ITI and for ITI's exclusive benefit, TechAmerica's confidential information and trade secrets without the express or implied consent of TechAmerica.

42. Upon information and belief, ITI intended to, or had knowledge that it would inevitably, misappropriate TechAmerica trade secrets through the hiring of the Individual Defendants.

43. By virtue of the misappropriation of TechAmerica's trade secrets, TechAmerica is threatened with immediate and irreparable harm.

44. Defendants' conduct has been willful and outrageous and undertaken with reckless indifference to the rights of TechAmerica.

45. Greater injury will be inflicted upon TechAmerica by the denial of the relief requested herein than will be inflicted on Defendants by the granting of such relief.

COUNT IV
(Conversion)

46. Plaintiff adopts and incorporates by reference paragraphs 1 through 45 as if fully alleged herein.

47. TechAmerica owns all of the trade secrets and confidential and proprietary business information at issue in this Complaint.

48. TechAmerica's trade secrets and confidential and proprietary information have substantial commercial value, in an amount to be determined at trial.

49. Defendants wrongfully took and/or wrongfully acquired TechAmerica's trade secrets and confidential and proprietary business information for their own use.

50. As a reasonable, foreseeable, direct, and proximate result of the conversion of TechAmerica's trade secrets and confidential and proprietary business information by Defendants, TechAmerica has suffered and will continue to suffer injury.

PRAYER FOR RELIEF

WHEREFORE, TechAmerica respectfully requests that the Court enter an order granting judgment in its favor and granting the following relief:

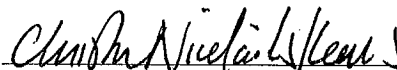
1. Entering a temporary restraining order and preliminary injunction pending this Court's review of the merits of this case, prohibiting Defendants from using or disclosing any of TechAmerica's trade secrets or proprietary information;
2. Entering a permanent injunction prohibiting Defendants from using or disclosing TechAmerica's trade secrets or proprietary information;
3. Awarding TechAmerica compensatory damages in an amount to be determined at trial, but not less than five million dollars (\$5,000,000.00);
4. Awarding TechAmerica punitive damages in an amount to be determined at trial;
5. Awarding TechAmerica reasonable attorneys' fees and costs associated with bringing this action; and
6. Awarding TechAmerica such further relief as the Court deems just and proper.

JURY DEMAND

Pursuant to Superior Court Rule of Civil Procedure 38(b), Plaintiff demands a jury trial on all issues so triable.

Dated: November 8, 2013

Respectfully submitted,



Christine Nicolaidis Kearns (Bar No. 416339)

Matthew J. MacLean (Bar No. 479257)

Keith D. Hudolin (Bar No. 1004508)

PILLSBURY WINTHROP SHAW PITTMAN LLP

2300 N Street, N.W.

Washington, D.C. 20037-1122

Phone: (202) 663-8000

Facsimile: (202) 663-8007

christine.kearns@pillsburylaw.com

matthew.macleam@pillsburylaw.com

keith.hudolin@pillsburylaw.com

Benjamin Aderson (Bar No. 979027)

TECHNOLOGY ASSOCIATION OF AMERICA, INC.

601 Pennsylvania Avenue, N.W.,

North Building, Suite 600

Washington, D.C. 20004

*Attorneys for Plaintiff Technology Association of
America, Inc.*