

Discovery in One Patent Infringement Case Leads to Trade Secret Counterclaims in Another

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On February 25, 2019, in a California patent infringement case, mobile data service provider Skyroam filed amended counterclaims against uCloudlink, alleging that uCloudlink conspired to steal Skyroam's trade secrets to obtain Chinese patents and make rival products. Interestingly, it seems that Skyroam learned of uCloudlink's alleged theft at least in part through discovery in a *separate* patent case in New York.

Specifically, in 2018, uCloudlink sued Skyroam (a rival mobile data provider) claiming that Skyroam's mobile hotspot devices infringed uCloudlink's patents. After discovering new information, Skyroam now asserts counterclaims against uCloudlink alleging that in fact uCloudlink stole Skyroam's trade secrets. According to Skyroam's counterclaims, several years ago, a Chinese citizen named Wang Bin worked with current uCloudlink chief executive officer, Gao Wen, at Huawei in China. Later, Wen left to start uCloudlink, while Bin left to work at Skyroam in Shenzhen, China. Shortly thereafter, Bin left Skyroam, reunited with Wen at uCloudlink, and allegedly shared information he had stolen from Skyroam.

According to Skyroam, it only now claims trade secret violations because it just recently found evidence of theft via discovery uCloudlink produced in a *separate* patent infringement case that Skyroam's affiliate brought in another district against uCloudlink. Skyroam alleges that as part of discovery in the separate case, uCloudlink produced several **Skyroam documents** that were watermarked with Skyroam's trademark and stamped "Top Secret." When probed by the court, uCloudlink admitted that its current employee, Bin, downloaded Skyroam documents to his personal computer while at Skyroam and then copied those documents to his uCloudlink computer when he joined uCloudlink. At his deposition, Bin pleaded the Fifth Amendment and refused to answer questions. Skyroam later learned that, since joining uCloudlink, Bin filed several patent applications in China, one of which allegedly copied stolen Skyroam documents verbatim. Based on these revelations, Skyroam now claims that Bin and Wen conspired to steal secrets from Skyroam by having Bin steal the information to give it to uCloudlink. Via its counterclaims, Skyroam seeks, among other things, relief under the California Uniform Trade Secrets Act and the Defend Trade Secrets Act.

TIP: Because trade secret violations may underlie other intellectual property disputes, such as patent infringement cases, companies should conduct extensive factual investigations when bringing or defending claims relating to improper use of intangible assets, including both trade secrets and patents, to fully

understand the ownership rights and how the assets were developed. This case also serves as a reminder that trade secret violations may quickly turn into potentially criminal matters.

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