

Korean LED Manufacturer Prevails in Local Criminal Case against Major Taiwanese Competitor

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The world's second-largest LED manufacturer, Seoul Semiconductor Co. Ltd (Seoul Semi), announced in a press release last week that the Suwon District Court in South Korea ruled against Everlight Electronics Co., Ltd. (Everlight), a leading Taiwanese LED manufacturing company, finding that Everlight had misappropriated Seoul Semi's trade secrets. This case was brought by prosecutors under South Korea's Industrial Technology Protection Act and the Trade Secret Protection Act. This conviction is noteworthy in that it is reportedly the first time that a criminal fine has been imposed on a foreign company for trade secret misappropriation.

The district court's decision comes two years after the alleged solicitation and hiring of Seoul Semi employees by Everlight in September of 2018, including one engineer and one sales personnel. According to Seoul Semi, at least one conspirator reportedly used a fake name while subsequently working at Everlight. The three individuals were co-defendants in this case, indicted for the same violations of the Acts. They also were found guilty and are facing possible prison sentences of 1 year each.

Although featured in the press release, it is unclear whether the former employees' knowledge of Seoul Semi's WICOP technology for automotive LED lighting was directly at issue in the criminal proceedings. WICOP was introduced in 2012 by Seoul Semi as the world's first package-less LED—enabling LED chips to be directly attached to printed circuit boards without other conventional packaging materials, lead frames, or bonding wires—in whose research and development Seoul Semi has invested over 560 billion Korean won (US\$ 472 million).

It is reported that Everlight will appeal the criminal conviction. Rather than having poached the three employees, it alleges that the three employees reached out to Everlight on their own initiative.

TIP: Companies should take special care when recruiting from major competitors and be wary of further heightened risk when the candidates have had exposure to potentially sensitive or valuable competitive information. For cross-border hiring, companies should also be mindful of the laws and criminal statutes in the former employer's locale and their potential extraterritorial reach.

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