

Illinois Company Seeks to Prevent Rival's Use of Allegedly Stolen Vehicle Performance Software

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On October 12, 2017, HP Tuners LLC, an Illinois automotive software company, sought a temporary restraining order (TRO) to enjoin Syked ECU Tuning Inc. from producing or selling any product using HP Tuners' proprietary source code. HP Tuners creates and sells software products that interact with vehicles' onboard computer systems. This allows users to customize and calibrate vehicle performance.

The complaint underlying the TRO request alleges that Syked and its president, Kevin Sykes-Bonnett, reverse engineered HP Tuners' software after purchasing the product in September 2015. The complaint further alleges that Sykes-Bonnett used a "hacked license key" to bypass HP Tuners' encryption and firewall protections in order to allow for unlicensed use of HP Tuners' products. Further, the complaint alleges that Sykes-Bonnett began offering a "hacked" version of HP Tuners' software product online in February 2017. Sykes-Bonnett subsequently allegedly revealed to HP Tuners that Syked planned to offer a competing product at the 2017 Specialty Equipment Market Association (SEMA) trade show, giving rise to HP Tuners' TRO request.

HP Tuners' TRO request sought to prevent Syked from releasing or displaying its competitive products at the SEMA trade show, which starts on October 31 in Las Vegas. In opposing the TRO, Syked denied HP Tuners' allegations regarding the use of HP Tuners' source code and responded that the products to be displayed at the trade show were wholly independent from HP Tuners, and that development of these products predated the alleged theft of the source code in question. In an October 18 ruling, the court declined to issue the TRO, allowing Syked to participate in the SEMA trade show.

In its complaint, HP Tuners seeks relief under the federal Computer Fraud and Abuse Act, state and federal trade secrets statutes, and the consumer protection laws of both Washington and Illinois, in addition to claims for both breach of contract and tortious interference.

TIP: This recent matter demonstrates how trade secret litigation arises even in small, or niche, industries.

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