

Software Co. Lobs Trade Secret Claims In \$47M Monopoly Suit

Law360 (October 15, 2021, 3:28 PM EDT) — Firing back against a \$47 million lawsuit accusing it of monopolizing the market for utility data management, an Atlanta software company countersued for trade secret misappropriation and unfair competition against a startup founded by its alumni.

PowerPlan Inc., a supplier of utility management software, alleged Thursday that tax consulting and software development firm Lucasys Inc. is using its confidential information to provide a rival service to customers. Lucasys, also based in the Atlanta area, sued PowerPlan in July 2020, claiming, in addition to unfair competition, that PowerPlan was making false threats to involve customers in trade secrets litigation.

In its answer to Lucasys' complaint, PowerPlan largely denied the "mischaracterized" allegations against it, and said Lucasys is not entitled to any relief. PowerPlan said three of its former employees — Vadim Lantukh, Daniel Chang and Stephen Strang — founded Lucasys using their knowledge from PowerPlan and continue to benefit from that proprietary information, to its own detriment.

"Because most of Lantukh's professional career has been spent accessing, modifying, implementing, and working with the PowerPlan software, either as a PowerPlan employee or as a consultant servicing PowerPlan customers, it would be virtually impossible for him and Lucasys to design and develop the Lucasys software without relying on confidential and proprietary aspects of the PowerPlan software," PowerPlan said.

A Georgia federal judge allowed Lucasys' case to go forward in late September, denying PowerPlan's dismissal motion. U.S. District Judge Amy Totenberg said Lucasys adequately alleged standing and harm to competition, and properly defined relevant markets.

Lucasys wants trebled damages under the Clayton Antitrust Act for lost contracts and future revenue.

PowerPlan has asserted more than a dozen defenses to Lucasys' claims of monopolization, restraining trade, deceptive trade practices, tortious interference with business, and defamation.

PowerPlan, a subsidiary of Roper Technologies Inc., said it had spent more than \$100 million and 25 years developing its software, which Lucasys has access to as a consultant service provider to PowerPlan customers. Lucasys is under confidentiality obligations, but is using PowerPlan's trade secrets to develop rival software for the same customer base, PowerPlan said.

"The details of such misappropriation are solely in the possession and control of Lucasys, and will be further elucidated by discovery," PowerPlan said.

PowerPlan had an early mover advantage when it launched its accounting software in 1994 and then acquired its only competitor in the late 2000s, establishing a 99% market share, Lucasys alleged.

The startup, established by Lantukh in 2018, claimed PowerPlan's software for utilities was initially state-of-the-art but that it hasn't kept up with tax law changes and modern technology, spawning a supplemental services industry as clients are forced to spend millions of dollars every few years getting companies like Lucasys to plug the gaps.

PowerPlan admitted in its answer that some of its clients had "requested assistance with calculations associated with various tax law changes."

It said its business practices are lawful, pro-competitive, increase efficiencies, and benefit customers. In contrast, Lucasys has violated federal and Georgia trade secrets laws, PowerPlan alleged.

Lantukh, Lucasys' CEO, worked at PowerPlan from 2007 to 2013, as a software manager and director of professional services, the case record shows. His employment contract barred him from revealing the company's confidential information. From 2013 to 2018, he worked for Regulated Capital Consultants, helping PowerPlan customers use its software, PowerPlan said.

Chang also had managerial and software-based responsibilities at PowerPlan, where he worked from 2009 to 2014, it said. PowerPlan said Chang was with Deloitte from 2015 until he joined Lucasys, and that at Deloitte he consulted with PowerPlan customers about its software.

And Strang worked for PowerPlan from 2011 to 2015, also in software and management positions, the company said. It said Chang and Strang were also bound by confidentiality clauses in their employment contracts.

PowerPlan said its concerns about Lucasys' use of its protected information were exacerbated by Lucasys' hiring of Chang as chief operating officer in July 2019, and Strang as chief technology officer in August 2019. It said Lucasys has also contracted with another former PowerPlan employee, Vu Nguyen, who from 2007 to 2015 had access to and worked closely with its confidential software systems.

Counsel for Lucasys told Law360 the counterclaims from PowerPlan emphasize Lucasys' underlying claims that PowerPlan is using allegations of trade secret protection to try to quash competition. They said the meritless counterclaims are merely a distraction from PowerPlan's own improper and anti-competitive behavior.

"This dispute is not about protecting trade secrets," **Jason S. Alloy of Robbins Ross Alloy Belinfante Littlefield LLC**, an attorney for Lucasys, said Friday. "Lucasys has not misappropriated any trade secrets from PowerPlan, not to mention that the alleged trade secrets are not even trade secrets to begin with."

Counsel for PowerPlan did not immediately respond to questions about the case Friday.

Lucasys is represented by Aaron R. Gott, Jarod M. Bona and Jon Cieslak of Bona Law PC, and Jason S. Alloy and **Richard L. Robbins** of Robbins Ross Alloy Belinfante Littlefield LLC.

PowerPlan is represented by Damond R. Mace, Stephen M. Fazio and Petrina A. McDaniel of Squire Patton Boggs LLP.

The case is Lucasys Inc. v. Powerplan Inc., case number 1:20-cv-02987, in the U.S. District Court for the Northern District of Georgia.

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