

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

BLACK & DECKER (U.S.) INC.,

Plaintiff,

Vs.

NO. 1:08-cv-01002-JDB/egb

TECHTRONIC INDUSTRIES CO., LTD.,
TECHTRONIC INDUSTRIES NORTH
AMERICA, INC., ONE WORLD
TECHNOLOGIES, INC., and OWT
INDUSTRIES, INC., and CHARLES IRWIN,

JURY TRIAL DEMANDED

Defendants.

BLACK & DECKER (U.S.) INC.,

Plaintiff,

Vs.

NO. 1:07-cv-01201-JDB/egb

TIMOTHY SMITH,

Defendant.

**ORDER DENYING TTI DEFENDANTS' MOTION
TO COMPEL PARTICULARIZED TRADE SECRET IDENTIFICATION**

Before the Court is the Motion of Defendants Techtronic Industries Co., Ltd., Techtronic Industries North America, Inc., One World Technologies, Inc. and OWT Industries, Inc. to compel Plaintiff to identify with greater particularity the trade secrets contained in electronic files taken by Timothy Smith from Plaintiff's computer system shortly before he resigned from his employment with Plaintiff (Doc. 197). Defendants have responded, and Plaintiff has filed a Reply. Having fully considered the pleadings and the entire record in this matter, the Court finds

that the Motion is not well taken and should be DENIED, as Plaintiff has identified its trade secrets with sufficient particularity.

As the parties acknowledge, *Dura Global* is the prevailing federal case law in this jurisdiction regarding the standard for identifying trade secrets. *Dura Global Techs., Inc. v. Magna Donnelly Corp.*, 2008 U.S. Dist. LEXIS 38989 (E.D. Mich. May 14, 2008). In that case, rather than a list of trade secrets, the plaintiffs submitted “a brief identifying areas to which their trade secrets relate and describing how Defendant allegedly misappropriated the trade secrets which are described in general terms” *Id.* at 6. The court, finding this generalized brief to be inadequate, explained that in trade secret cases, the party alleging misappropriation must “identify with reasonable particularity the matter which it claims constitutes a trade secret.” *Id.* at 4. The court continued:

The reasonable particularity standard requires that the alleged trade secret be described “with adequate specificity to inform the defendants what it is alleged to have misappropriated.” *Sit-Up Ltd. v. IAC/InteractiveCorp.*, 2008 U.S. Dist. LEXIS 12017, (S.D.N.Y. Feb. 20, 2008). Another court defined reasonable particularity to mean that the adversary party is put on notice of the nature of the claims and that the party can discern the relevancy of any requested discovery on its trade secrets. *DeRubeis v. Witten Tech., Inc.*, 244 F.R.D. 676, 681 (N.D. Ga. 2007).

Dura Global at 4-5.

Here, the Court finds that Plaintiff has identified the trade secrets at issue with reasonable particularity. Plaintiff’s discovery responses identify a small number of discrete files at issue, copies of which Plaintiff provided to Defendants. Plaintiff’s discovery responses also provide a detailed written explanation for each individual file as to why Plaintiff is seeking trade secret protection. In the instances where Plaintiff is claiming trade secret protection with regard to a unique combination of protected and unprotected material, Plaintiff has appropriately identified the trade secret in its entirety and has no duty to identify which components of the protected

material are secret. *See Mike's Train House, Inc. v. Lionel, L.L.C.*, 472 F.3d 398, 410-11 (6th Cir. 2006). Accordingly, the Court DENIES TTI Defendants' Motion to Compel Particularized Trade Secret Identification.

Finally, the Court reminds counsel for both parties to take seriously their obligation to consult in good faith, as it appears that many of the discovery-related motions filed in this case may be able to be resolved by the parties with good faith effort and without resorting to this Court's intervention at every turn.

IT IS SO ORDERED.

s/ Edward G. Bryant
EDWARD G. BRYANT
United States Magistrate Judge

May 14, 2009
Date