

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

RGIS, LLC v. Keith Gerdes

RGIS, LLC v. Gerdes, No. 19-2051 (6th Cir. June 12, 2020) · No. 19-2051 · Decided June 12, 2020

SUMMARY

The Sixth Circuit affirmed a preliminary injunction enforcing a non-compete agreement and prohibiting trade secret misappropriation. The court held that the defendant waived his personal jurisdiction challenge by signing a forum-selection clause requiring litigation in Michigan, and that the district court did not abuse its discretion in ruling on the motion despite the defendant's failure to respond. The challenge to the non-compete portion was moot after its one-year term expired, but the trade secret injunction was proper because the plaintiff showed a likelihood of success on misappropriation claims under the Michigan Uniform Trade Secrets Act and Defend Trade Secrets Act, based on evidence of the defendant's deceptive conduct and failure to return company property.

CASE DETAILS

COURT	United States Court of Appeals for the Sixth Circuit
WRITING FOR THE COURT	Murphy; Gilman; Kethledge
JURISDICTION	Federal
DECIDED	June 12, 2020
DOCKET	19-2051
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from order granting preliminary injunction
STANDARD OF REVIEW	De novo for likelihood of success on the merits; abuse of discretion for the overall preliminary injunction decision; clear error for factual findings.
PRECEDENTIAL VALUE	Unpublished
PARTIES	Keith Gerdes v. RGIS, LLC

TOPICS

[trade secrets](#)[injunctions](#)[noncompete agreements](#)[personal jurisdiction](#)[appellate procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by ruling on the preliminary injunction motion without giving Gerdes an opportunity to respond.
2. Whether the district court lacked personal jurisdiction over Gerdes, making the injunction improper.
3. Whether the district court erred in granting the preliminary injunction on the merits of the breach-of-contract and misappropriation claims.

HOLDINGS

1. The district court did not abuse its discretion because Gerdes had an opportunity to respond under the local rules, the court had good reason to proceed without further delay, and the court allowed Gerdes to use his motion-to-dismiss arguments as opposition.
2. RGIS showed a likelihood of success that the forum-selection clause in the employment agreement constitutes a waiver of Gerdes's personal jurisdiction defense.
3. The challenge to the noncompete part of the injunction is moot because the one-year period expired by its own terms in May 2020, so the court cannot grant relief.
4. The district court did not abuse its discretion in granting the preliminary injunction because RGIS showed a likelihood of success on both the 'trade secret' and 'misappropriation' elements, and the remaining factors (irreparable harm, balance of equities, public interest) weighed in favor of the injunction.

KEY QUOTATIONS

“The Michigan Uniform Trade Secrets Act permits courts to enjoin the '[a]ctual or threatened misappropriation' of a trade secret.” (at 4)

“Yet additional proof that the former employee showed a 'lack of trustworthiness beyond his decision to work for a competitor,' including his deception of the former employer about accepting a position with the competitor, can support a conclusion that the employee cannot be 'trusted' to keep trade secrets confidential.” (at 6)

“On irreparable harm, the district court noted that a harm may qualify as irreparable—that is, 'not fully compensable by money damages'—'if the nature of the plaintiff's loss would make damages difficult to calculate.'” (at 7)

FACTUAL BACKGROUND

RGIS, LLC, a Michigan-based inventory services company, employed Keith Gerdes from California for 30 years, eventually as a regional vice president. Gerdes resigned in May 2019, stating he needed personal time, but immediately accepted a position with a direct competitor. RGIS sued for breach of the noncompete and confidentiality agreement and for misappropriation of trade secrets. The district court granted a preliminary

injunction that barred Gerdes from working for the competitor for one year, required return of RGIS property, and prohibited disclosure of trade secrets.

PROCEDURAL HISTORY

The district court granted plaintiff's motion for a preliminary injunction, prohibiting defendant from working for a competitor, requiring return of property, and prohibiting disclosure of trade secrets. Defendant appealed.

DISPOSITION

affirmed

CASES CITED

- Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008)
- Babler v. Futhey, 618 F.3d 514, 519–20 (6th Cir. 2010)
- D.T. v. Sumner Cty. Schs., 942 F.3d 324, 327 (6th Cir. 2019)
- York Risk Servs. Grp., Inc. v. Couture, 787 F. App'x 301, 305 (6th Cir. 2019)
- Blue v. Hartford Life & Accident Ins. Co., 698 F.3d 587, 593–95 (7th Cir. 2012)
- Prime Rate Premium Fin. Corp., Inc. v. Larson, 930 F.3d 759, 766–67 (6th Cir. 2019)
- Ins. Corp. of Ireland Ltd. v. Compagnie des Bauxites de Guinee, 456 U.S. 694, 703–04 (1982)
- Stone Surgical, LLC v. Stryker Corp., 858 F.3d 383, 388–89 (6th Cir. 2017)
- Preferred Capital, Inc. v. Assocs. in Urology, 453 F.3d 718, 721 (6th Cir. 2006)
- Radiant Glob. Logistics, Inc. v. Furstenu, 951 F.3d 393, 395–96 (6th Cir. 2020) (per curiam)
- Hodges v. Schlinkert Sports Assocs., Inc., 89 F.3d 310, 312 (6th Cir. 1996)
- S. Glazer's Distribs. of Ohio, LLC v. Great Lakes Brewing Co., 860 F.3d 844, 849, 854 (6th Cir. 2017)
- Par Pharm., Inc. v. QuVa Pharma, Inc., 764 F. App'x 273, 278–79 (3d Cir. 2019)
- Brake Parts, Inc. v. Lewis, 443 F. App'x 27, 30–31 (6th Cir. 2011)
- Actuator Specialties, Inc. v. Chinavare, 2011 WL 6004068, at *3 (Mich. Ct. App. Dec. 1, 2011) (per curiam)
- CMI Int'l, Inc. v. Internet Int'l Corp., 649 N.W.2d 808, 813 (Mich. Ct. App. 2002) (per curiam)
- PepsiCo, Inc. v. Redmond, 54 F.3d 1262, 1270 (7th Cir. 1995)
- Basicomputer Corp. v. Scott, 973 F.2d 507, 511 (6th Cir. 1991)
- Indeck Energy Servs., Inc. v. Consumers Energy Co., 250 F.3d 972, 979 (6th Cir. 2000)
- Compulife Software Inc. v. Newman, __ F.3d __, 2020 WL 2549505, at *13 n.13 (11th Cir. May 20, 2020)
- RGIS, LLC v. Gerdes, 2019 WL 3958392 (E.D. Mich. Aug. 21, 2019)

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