



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

W. L. Gore & Associates, Inc.,)	
)	
Plaintiff,)	C.A. No. 7946-VCP
)	
v.)	
)	
Huey Shen Wu (a/k/a/ Samuel Wu, a/k/a)	
Ben H. Wu, Ben Wu), and Perfect)	
Defense Technology, Co.,)	
)	
Defendants.)	
)	
)	

ORDER HOLDING DEFENDANTS IN CONTEMPT OF COURT AND PROVIDING FOR FURTHER PROCEEDINGS

WHEREAS, Defendant Huey Shen Wu (a/k/a/ Samuel Wu, a/k/a Ben H. Wu, a/k/a Ben Wu) (hereinafter “Wu”) appeared before this Court on multiple occasions in *W.L. Gore & Associates, Inc. v. Huey Shen Wu, et. al*, C.A. No. 263-N (“*Wu I*”);

WHEREAS, Wu is subject to the jurisdiction of this Court pursuant to Paragraph 5 of this Court’s Final Order for Additional Injunctive Relief, dated September 19, 2006 (“Final Order”), in *Wu I*;

WHEREAS, Defendant Perfect Defense Technology, Co. (“Perfect Defense”) is a Delaware corporation over which this Court has jurisdiction, and Wu is Perfect Defense’s co-owner, president, and registered agent;

WHEREAS, in the Final Order and Consent Judgment and Order, dated November 11, 2005 (“Consent Judgment”), as entered in *Wu I*, this Court entered permanent injunctions prohibiting Wu from engaging in certain activities;

WHEREAS, pursuant to Paragraph 3.1 of the Final Order, Wu—either alone or in association with any other person or entity—is enjoined through March 1, 2016 from engaging or participating in any activity involving (a) the research and/or development of, or the sale of research and/or development concerning polymers Wu worked on or with during his employment at Plaintiff W.L. Gore & Associates, Inc. (“Gore”) or products made from such polymers, including polytetrafluoroethylene (“PTFE”); and (b) the manufacture of polymers Wu worked on or with during his employment at Gore or products made from such polymers, including PTFE;

WHEREAS, pursuant to Paragraph 3.2 of the Final Order, Wu—either alone or in association with any other person or entity—was enjoined through March 1, 2011 from engaging or participating in any activity involving (a) the research and/or development of, or the sale of research and/or development concerning any TFE-containing polymers or products made from such polymers, including polytetrafluoroethylene (“PTFE”); and (b) the manufacture of any TFE-containing polymers or products made from such polymers, including PTFE;

WHEREAS, pursuant to Paragraph 3.4 of the Final order, Wu was ordered to give notice to Gore of any employment he engaged in or accepted through March 2016, and describe the nature of the employment;

WHEREAS, on October 12, 2012, Gore filed a Motion for Rule to Show Cause Why Defendant Huey Shen Wu Should Not Be Held in Contempt and papers in support thereof (“Show-Cause Motion”);

WHEREAS, Gore's counsel notified Wu and Perfect Defense (collectively "Defendants") of the Show-Cause Motion, including by leaving copies of the Show-Cause Motion at Wu's Newark, Delaware home; sending a copy of the Show-Cause Motion to Wu via registered mail, certified mail, and Federal Express; and sending a courtesy copy of the Show-Cause Motion to Wu's private email account and a business email account at Perfect Defense;

WHEREAS, by Order dated October 25, 2012 ("Show-Cause Order"), the Court granted Gore's Show-Cause Motion and ordered that Defendants submit and file an answering brief responding to the allegations set forth in the Show-Cause Motion by noon on October 29, 2012;

WHEREAS, Defendants did not submit and file an answering brief by noon on October 29, 2012;

WHEREAS, by the Show-Cause Order, the Court scheduled a hearing on Gore's Show-Cause Motion for Wednesday, October 31, 2012, at 10:00 a.m. ("Show-Cause Hearing"), and ordered Defendants to appear at the Show-Cause Hearing;

WHEREAS, Gore's counsel notified Defendants of the Show-Cause Order by leaving copies of the Show-Cause Order at Wu's Newark, Delaware home; and sending a courtesy copy of the notice of the Show-Cause Hearing to Wu's private email account and a business email account at Perfect Defense;

WHEREAS, Gore appeared through counsel at the Show-Cause Hearing on October 31, 2012, at 10:00 a.m.;

WHEREAS, Defendants did not appear at the Show-Cause Hearing and failed to offer any explanation for their conduct or the allegations in Gore's Show-Cause Motion at the Show-Cause Hearing;

WHEREAS, based on the evidence presented to the Court, Wu, and Perfect Defense acting in concert with Wu, has violated the Final Order by engaging or participating in activity enjoined by sections 3.1 and 3.2 of the Final Order; and

WHEREAS, Wu has further violated the Final Order by failing to give notice to Gore of any employment he engaged in or accepts through March 2016, and describe the nature of the employment;

WHEREAS, this Court finds that Defendants are in contempt of court for failure to comply with the Final Order.

Accordingly, it is hereby ORDERED that:

1. Wu and Perfect Defense are held to be in contempt of court for failure to comply with the Final Order;

2. Defendants are to take immediate and sufficient steps to remedy their unlawful conduct and comply with the Consent Judgment and Final Order, including but not limited to refraining from further misconduct and further violation of this Court's Orders;

3. As used in the Final Order, it is clarified that "any activity" involving the research, development or manufacture of products made from polymers Wu worked on or with at Gore includes the sale, marketing, or promotional activity of such products;

4. This Order is binding upon Wu and Perfect Defense, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise and no such person or entity may aid or abet Wu or Perfect Defense in further violation of the Final Order and Consent Judgment;

5. A daily fine of \$5,000 per day is imposed on Defendants, jointly and severally, commencing on November 2, 2012, and accumulating until such time as the Court deems that Defendants have shown that they will abide by the Final Order and Consent Judgment;

6. Defendants are to pay Gore's reasonable attorneys' fees and costs related to these contempt proceedings, including but not limited to the fees and costs associated with preparing the Show-Cause Motion. Within 14 days of this Order, Gore shall submit an affidavit setting forth its fees and costs related to these contempt proceedings and Defendants will have 10 days after such submission to submit any response related to such affidavit. In the absence of such an objection within 10 days, Defendants' right to object to the reasonableness of Gore's fees and costs will be deemed waived;

7. The Court will not at this time appoint a receiver for Perfect Defense to the limited extent necessary to cure the contempt of the Court's Consent Judgment and Final Order; however this paragraph 7 is without prejudice to any future consideration of appointment of a receiver.

8. Gore is allowed to proceed with discovery and may be awarded other relief as this Court may deem appropriate, including but not limited to additional injunctive

relief (such as an extension of the temporal limits of the injunctions) and damages at a figure to be determined later in the amount of Defendants' profits earned in violating the Consent Judgment and Final Order; and

9. The Court hereby orders Wu to self-surrender to this Court on November 27, 2012, at 11:00 a.m., for incarceration (or be subject to arrest through a bench warrant if he fails to appear) unless and until he has proven to the Court's satisfaction that he and Perfect Defense (a) either have complied with the Consent Judgment and Final Order or have at least a colorable argument to that effect and (b) will in the future comply with the Consent Judgment and Final Order;

10. The time period of the injunction ordered in paragraph 3.2 of the Final Order shall be extended from March 1, 2011 through the conclusion of this contempt proceeding, and subject to further order of this Court. For the sake of clarity, accordingly, Wu (either alone or in association with any other person or entity) and Perfect Defense are hereby enjoined from engaging or participating in any activity involving (a) the research and/or development of, or the sale of research and/or development concerning any TFE-containing polymers or products made from such polymers, including polytetrafluoroethylene ("PTFE"); and (b) the manufacture of any TFE-containing polymers or products made from such polymers, including PTFE.

11. The Court hereby orders Wu and Perfect Defense to preserve and not destroy all computers, devices, and documents (including all electronically-stored information) that are relevant to this matter, including all documents related to Wu's professional activities since 2006.

Dated: November 2, 2012

/s/ Donald F. Parsons, Jr.
Vice Chancellor Donald F. Parsons, Jr.