

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>H &amp; H Industries, Inc.</b>	:	
	:	
<b>Plaintiff,</b>	:	<b>Case No. 2:13-cv-907</b>
	:	
-vs-	:	<b>Judge Graham</b>
	:	
<b>Erik S. Miller</b>	:	<b>Magistrate Judge Kemp</b>
	:	
<b>Defendant.</b>	:	

**TEMPORARY RESTRAINING ORDER**

After reviewing Plaintiff H & H Industries, Inc.’s (hereinafter referred to as “H&H”) Motion for Temporary Restraining Order and Plaintiff’s Verified Complaint for Injunctive and Other Relief, and after having heard H&H and Defendant Erik Miller’s (“Miller”) respective arguments, this Court hereby finds:

1. H&H’s Motion for Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure is GRANTED.

2. H&H is subject to immediate and irreparable injury if Miller is permitted to use, misappropriate, disclose and/or inevitably disclose H&H’s proprietary, confidential and trade secret information of H&H, defined as

- A. H&H’s proprietary tire tracking system/database that follows specific tires through their lifetimes from the time of their purchase through their use in the mines, through repairs, service, retreading and ultimately their retirement;
- B. H&H’s proprietary database for all of North America, Mexico and South America containing details of current and potential customers, which includes both professional and personal information regarding H&H’s customers;
- C. H&H’s proprietary pricing and sales information, programs and formulas, volume pricing and customer rebates in any form whatsoever including digital or paper format; and

D. H&H's proprietary manufacturing information, including information regarding the advanced computer controlled production equipment used by H&H, raw materials information, suppliers information and production costs.

3. Monetary relief will not fully or adequately compensate H&H for the injury which has or could be caused by Miller's conduct.

4. Miller and his agents, servants, employees, and those persons in active concert or participation with him who receive actual notice of this Temporary Restraining Order, are hereby temporarily enjoined and restrained from using, misappropriating, disclosing and/or inevitably disclosing H&H's proprietary, confidential and trade secret information of H&H, defined as

A. H&H's proprietary tire tracking system/database that follows specific tires through their lifetimes from the time of their purchase through their use in the mines, through repairs, service, retreading and ultimately their retirement;

B. H&H's proprietary database for all of North America, Mexico and South America containing details of current and potential customers, which includes both professional and personal information regarding H&H's customers;

C. H&H's proprietary pricing and sales information, programs and formulas, volume pricing and customer rebates in any form whatsoever including digital or paper format; and

D. H&H's proprietary manufacturing information, including information regarding the advanced computer controlled production equipment used by H&H, raw materials information, suppliers information and production costs.

5. Miller is further ordered to immediately deliver to H&H's counsel all hard/physical copies of documents in his possession constituting or relating, directly or indirectly, to H&H's confidential, proprietary and/or trade secret information as defined above.

6. As to electronically stored information, Miller is further ordered to immediately deliver to Magistrate Judge Kemp for preservation, imaging and *in camera* inspection his personal and/or Polar issued electronic devices in his possession, to include, but not limited to:

A. A laptop computer, the existence of which was disclosed during the course of the telephone conference with the Court held September 18, 2013;

- B. A second laptop computer disclosed by Defendant's counsel to Plaintiff's counsel after the telephone conference with the Court held September 18, 2013;
- C. An iPad, the existence of which was disclosed during the course of the telephone conference with the Court held September 18, 2013;
- D. The cellular phone/smart phone the existence of which was disclosed during the course of the telephone conference with the Court held September 18, 2013 and was described by Defendant's counsel as "Polar's cell phone";
- E. The other cellular phones/smart phones which have been and/or are used in conjunction with phone numbers (740) 418-7272 and (740) 418-7271 as disclosed by Defendant's counsel to Plaintiff's counsel after the telephone conference with the Court held September 18, 2013.

Miller shall include with the items produced to Magistrate Judge Kemp all log-in and password information necessary for access to all e-mail accounts and "cloud" storage accounts used by or available for use by Miller since June 1, 2013 including but not limited to the email accounts with the addresses leach49@gmail.com and leachmiller@gmail.com and the icloud account that was described by Defendant's counsel in the telephone conference with the Court on September 18, 2013 as associated with the email address leachmiller@gmail.com. Miller shall immediately cease any use of these accounts as of September 18, 2013 in order to preserve their current status. All of these items shall be delivered by a courier service at the expense of Plaintiff.

7. This restraining order shall remain in effect through the Court's ruling on H&H's request for a preliminary injunction.

8. H&H shall post an injunction bond in the amount of \$10,000 for the payment of such costs and damages as may be incurred or suffered by Miller if he is found to have been wrongfully enjoined or restrained.

9. The preliminary injunction hearing is hereby scheduled for October 15, 2013.

**IT IS SO ORDERED.**

  
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**JUDGE**