

Case Summary

Tempco Elec. Corp. v. Temperature Eng'g Co.

2004 WL 2931329 (N.D.Ill. Dec. 15, 2004)

Party Fails to Meet Burden of Proof By Not Conducting A Computer Forensic Examination

The court considered a claim alleging a violation of the Illinois Trade Secrets Act. The plaintiff alleged that the defendant continued to use trade secret pricing software after the termination of the software licensing agreement. The plaintiff relied on circumstantial evidence consisting of the defendant not returning access keys, and the deposition testimony of a defendant employee who stated that the pricing software was not removed from his laptop computer. The defendant hired a computer company that determined that the pricing software did not exist on the defendant's computers. The plaintiff asserted that the computer company had only performed a minimal inspection - 35 computers examined for a total cost of \$50 - and that a more complete computer forensic investigation might have revealed evidence of the pricing software.

Decision

The court found that although the examination was minimal, the plaintiff failed to examine any of the computers on its own, and therefore could not provide any direct evidence that the pricing software remained on any of the defendant's computers. As such, the court held that the plaintiff failed to meet its burden of proof on its claim that the defendant violated the Illinois Trade Secrets Act.

Computer Forensic Search Protocol
Preservation Orders for Computer Forensic Evidence
Production of Electronic Documents