

Chinese inaction gives technology thieves a shield

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BEIJING (AP) — American prosecutors say Pangang Group aimed high. The Chinese state-owned company wanted a better process to make titanium dioxide, a white pigment used in paint, toothpaste and Oreo cookie filling. So it paid spies to steal it from industry giant DuPont.

Pangang was indicted last year on U.S. charges of industrial spying and a retired DuPont scientist pleaded guilty to selling secrets. Prosecutors say another defendant was encouraged by a Chinese leader to "make contributions" to the country — rare evidence of high-level official involvement. Then the case stalled while prosecutors tried to force Pangang to answer the charges in a U.S. court.

DuPont says it has asked Chinese authorities to block use of its stolen secrets. There is no indication they have taken action.

The American chemical producer is far from alone. China's reputation as a global center for industrial spying is well established but experts say the scale is growing as Beijing tries to create its own competitors in fields from robotics to energy to pharmaceuticals.

While more victims take action abroad, DuPont's experience illustrates the legal dead-ends and official inaction in China that stymie even the biggest global companies and foreign prosecutors. Chinese companies accused of using stolen secrets face few consequences.

That is no accident, intelligence experts say. They say Beijing has carried on a quiet but relentless campaign since the 1970s to acquire technology through its spy agencies and Chinese companies, scientists and students abroad.

Possible losses due to intellectual property theft traced to China have multiplied since the '90s. Then, companies complained about copying of movies, software and designer clothes. Today, thieves target technologies that form the heart of multibillion-dollar industries. In the case of titanium dioxide, the global market is worth \$17 billion a year.

A report in May by a panel that included a former U.S. director of national intelligence, Dennis Blair, said China accounts for 50 to 80 percent of theft of American intellectual property. Companies surveyed by the U.S. International Trade Commission estimated they lost \$48.2 billion in 2009 in potential sales and license payments to Chinese infringement.

"There is no question that the PRC government encourages these extralegal

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transfers," said William C. Hannas, James Mulvenon and Anna B. Puglisi, authors of a new book, "Chinese Industrial Espionage: Technology Acquisition and Military Modernization," in an email.

Companies are becoming more vulnerable as they expand production and research in China to get closer to its market or in response to taxes and other policies that prod them to shift operations to this country.

Companies are "increasingly worried about trade secrets and technology being compromised in China," said Tadashi Kageyama, head of security firm Kroll Advisory Services for Asia.

Victims often are reluctant to talk about losses. But the DuPont case gives an unusually detailed look into how U.S. prosecutors allege one Chinese state company stole technology and might be using it with impunity.

Pangang, three subsidiaries and one of its employees were charged in February 2012 in federal court in San Francisco with conspiracy to commit economic espionage and attempted economic espionage. Pangang, in Sichuan province in China's southwest, is controlled by the Cabinet's State-owned Assets Supervision and Administration Commission.

Other defendants include a Malaysian-born American of Chinese ancestry, who is alleged to have obtained details of DuPont manufacturing processes from former employees, and two retired DuPont scientists.

Titanium dioxide, also known as TiO₂, was one of a series of technologies Beijing tried to obtain to supply its booming industries in plastics and other goods that require the pigment.

Other companies also make TiO₂ but DuPont's process is regarded as more efficient and profitable. American prosecutors said Chinese leaders deemed it an "economic priority" but DuPont declined to sell or license it to Chinese companies.

The case offers rare evidence of possible involvement by a Chinese leader in encouraging technology theft.

Prosecutors cite a letter written by one defendant, Malaysian-born Walter Liew, about meeting at a 1991 banquet with Luo Gan, then a secretary-general of China's Cabinet. Luo would later serve in the inner circle of Chinese power, the ruling Communist Party's nine-member Standing Committee, until his retirement in 2012.

Liew wrote that Luo "gave directives so that I would better understand China and continue to make contributions to her." Two days later, the letter said, he received a list of high-priority tasks and titanium dioxide was "one of the more important projects."

Liew later denied he met Luo and other officials at that time, according to court documents. But prosecutors argued he would have told the truth in his letter

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because it was written to Chinese executives who could verify its accuracy.

Luo did not respond to a letter sent to him through the Chinese Cabinet's press office.

More evidence of a possible government role emerged with the May arrest of three New York University researchers.

They were charged with giving results from a U.S. government-funded study of magnetic resonance imaging to a Chinese state research center, the Shenzhen Institute of Advanced Technology.

The institute is part of a web of state-run entities that encourage collection of foreign technology, according to Hannas, Mulvenon and Puglisi. Mulvenon is a specialist on China's military and a vice president of Defense Group Inc., a government intelligence contractor. Hannas is a U.S. government official and Puglisi is a government analyst.

Companies or scientists who bring home technology are rewarded with cash, tax breaks, research grants or university tenure, they say.

Other lawyers and security consultants interviewed for this article said they see no sign of a government role in most thefts of business secrets traced to China.

Hannas, Mulvenon and Puglisi argue, however, that such a distinction cannot be drawn because Beijing encourages companies to pursue foreign technology. Their book cites evidence including Chinese government documents they say show official involvement at the highest levels.

"Everyone knows what is expected," they wrote in their email. "Local units and companies trip over each other to access foreign sources of technology."

Chinese companies also are spending billions of dollars a year on legitimate research to develop their own technology in computers, telecoms and other fields. And the biggest losers from intellectual property theft linked to China include some of its own companies. China's homegrown software and recorded music industries were gutted by piracy a decade ago. More than 95 percent of patent, copyright and trademark lawsuits in China are filed by local companies against other local companies.

Still, the scale and sophistication of theft cases linked to China is growing.

In June, one of China's biggest manufacturers of wind turbines, Sinovel Group, was indicted on U.S. charges of stealing software from its American business partner. Prosecutors put potential losses at \$800 million.

Kroll's Kageyama said in one case, he uncovered an attempt by a Chinese manufacturer to send an employee, with a false name and resume, to work at a Japanese rival.

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"His hidden mission was to gain knowledge, accumulate the technology for a couple of years, then resign, move back and use the technology at his previous employer," said Kageyama.

E.I. DuPont de Nemours & Co., based in Wilmington, Delaware, says its process for making titanium dioxide, known as the "chloride route," was first developed in 1948 and steadily improved since then but never patented. Companies sometimes follow that strategy because obtaining a patent requires them to disclose details a rival might copy.

That raises a legal and diplomatic stumbling block.

China has tightened enforcement of patents, copyrights and other government-awarded rights. But unlike the United States and other Western governments, it gives little legal protection to other valuable secrets such as manufacturing processes or details about contracts or clients.

In a separate case, a Chinese-born scientist who worked for Dow AgroSciences and Cargill Inc. was sentenced to seven years in prison in 2012 for giving secrets about a pesticide and a food additive to contacts at a Chinese university and in Germany.

Dow AgroSciences is watching global markets for goods made with its technology and is ready to go to court, said a Dow spokesman, Garry Hamlin, in an email. He did not respond to a question about whether Dow is pursuing legal action in China.

Prosecutors say Liew's firm, USA Performance Technology, Inc., and a company run by a retired DuPont scientist, Tze Chao, were hired twice to work on facilities being built by a Pangang Group subsidiary, Pangang Group Jinzhou Titanium Industry Co. Ltd.

Pangang Group signed contracts with Liew worth \$29 million for the first plant built after 2003 with an annual production capacity of 30,000 tons, prosecutors say. The second built in 2008 had a production capacity of 100,000 tons.

A condition of the agreements was that Liew and Chao employ former DuPont employees and possess blueprints of its facilities, prosecutors say.

Chao, 77, pleaded guilty in March 2012 to conspiracy to commit economic espionage and agreed to cooperate with investigators, according to the U.S. Justice Department.

It said he faced a prison term of up to 15 years. No further details have been announced of his sentencing or the status of the cases against Liew and other defendants.

Pangang Group Co. Ltd. has yet to enter a plea because efforts to force it to answer the charges have stalled.

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American prosecutors only can serve notice of criminal charges within the United States but Pangang has no U.S. presence. Prosecutors tried to send it through a U.S.-based subsidiary owned by two of Pangang's companies, but a judge ruled last year it was not their legal representative.

Pangang did not respond to questions about the case sent by fax, email and registered letter to its headquarters.

The Chinese Ministry of Justice did not respond to a written request for comment about whether it was taking any action.

Pangang sold majority ownership of Jinzhou Titanium in 2009 to the Cabinet's main holding company, Citic Group, and the unit was renamed Jinzhou Titanium Industry Co. Pangang kept a separate subsidiary that produces titanium dioxide.

In a written statement to The Associated Press, Jinzhou Titanium denied receiving stolen technology and said its own "chloride route" process was the result of 20 years of research with Chinese universities and government institutes.

The process is "an achievement of autonomous innovation," the company said. "The technological foundation did not originate from the American DuPont company."

DuPont is "considering all options" including possible lawsuits, said a company spokesman, Daniel A. Turner, by email.

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