

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

J.S.T. CORPORATION,

Plaintiff,

v.

Case No. 15-13842

ROBERT BOSCH LLC,
f/k/a ROBERT BOSCH
CORPORATION,
ROBERT BOSCH GMBH, and
BOSCH AUTOMOTIVE PRODUCTS
(SUZHOU) CO., LTD.,

HON. AVERN COHN

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION NO. 11 (Doc. 402)
AND
GRANTING IN PART J.S.T.'S MOTION FOR SPOILIATION SANCTIONS (Doc. 297)

I.

This is a misappropriation of trade secrets case. Plaintiff, J.S.T. Corporation (“JST”), is suing Defendants, Robert Bosch LLC, Robert Bosch GmbH, and Bosch Automotive Products Co., Ltd. (collectively, “Bosch”).

The Court appointed an Expert Advisor to deal with discovery and other matters. (Doc. 191). The Expert Advisor issued a Report and Recommendation No. 11 Regarding JST’s Motion for Spoliation Sanctions, (Doc. 297), recommending that the motion be granted in part and denied in part. (Doc. 297). The motion relates to the destruction of Karen Yang’s emails during the course of this litigation. The parties did not lodge any objections with the Expert Advisor.

II.

The Court, having considered the matter, agrees with the findings and recommendations of the Expert Advisor. Accordingly, Report and Recommendation No. 11 is ADOPTED as the findings and conclusions of the Court. Specifically,

1. JST's request for remedial measures under Rule 37(e)(1) is GRANTED. Bosch is prohibited from affirmatively using any emails authored by or addressed to Yang, or the absence of such emails, at summary judgment or at trial. Bosch is also barred from calling Yang as a witness at trial, or from affirmatively introducing another Yang declaration in connection with any summary judgment motion.
2. JST's request for spoliation sanctions under Rule 37(e)(2), including default judgment, an evidentiary presumption, and an adverse inference jury instruction, is DENIED.
3. Bosch shall pay all of the Expert Advisor fees associated with JST's Motion for Sanctions pursuant to the Court's inherent authority.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: 5/30/2019
Detroit, Michigan