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Driving down the I-85 highway just outside Commerce, Georgia, it is impossible to miss the US state's newest industrial megasite -- a 2.4m square foot battery plant being built by South Korea's SK Innovation.

Pledging \$2.6bn to the project, SKI is making the largest single investment in Georgia's history, promising to transform the south-eastern state into one of the world's leading hubs for electric vehicle batteries.

Yet even before the factory gates open, the plant's fate is being called into question by a bitter feud over trade secrets.

The US International Trade Commission will decide next month whether to uphold preliminary findings that SKI deliberately destroyed thousands of documents suggesting it had illegally acquired sensitive technology from Korean arch-rival LG Chem, the world's largest lithium-ion battery maker.

"If the ruling goes against us, substantial difficulties are expected," said Lee Byoung-rae, SKI general counsel.

The ITC is limited to banning the import of goods it deems the result of trade secret theft. A decision against SKI, which denies any wrongdoing, could prevent the company from shipping in materials needed to start production at the new site -- jeopardising its promise to create 2,600 jobs.

The final ruling is also filed as evidence in the multibillion-dollar civil lawsuit that was launched alongside the ITC case.

The investment is so key to US electric vehicle ambitions that Wilbur Ross, the US secretary of commerce, visited the site last year to pick up a shovel for the groundbreaking ceremony.

But the ITC's findings may also have global implications. The agency has become a powerful tool in trade secrets cases -- even when the dispute is between foreign companies, involving acts on foreign soil.

This challenge of employee mobility vs trade secret protection frequently arises in niche technology industries where employees can have a very special expertise

"The ITC is being used as a vehicle for extraterritorial enforcement of US trade secret principles," said Sharon Sandeen, law professor and director of the IP Institute at the Mitchell Hamline School of Law.

Some companies have even turned to the ITC to hobble competition, according to Elizabeth Rowe, law professor at the University of Florida and author of textbooks on intellectual property.



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