

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FLOWSERVE US INC.

Plaintiff

v.

ITT CORP. AND GOULDS PUMPS INC.

Defendants

Civil Action. No. 3:14cv1706

Jury Trial Demanded

COMPLAINT

Plaintiff Flowserve US Inc. (“Flowserve”) brings this complaint against Defendants ITT Corp. (“ITT Corp.”) and Goulds Pumps Inc. (“GPI”) (collectively, “ITT”), and alleges as follows in support of this complaint.

THE PARTIES

1. Flowserve is a Delaware corporation with its principal place of business located at 5215 N. O’Connor Boulevard Suite 2300, Irving, Texas 75039.
2. ITT Corp. is an Indiana corporation with its headquarters and principal place of business located at 1133 Westchester Ave., White Plains, NY 10604.
3. GPI is a Delaware corporation with its headquarters and principal place of business located at 240 Fall Street, Seneca Falls, NY 13148. GPI is a wholly owned subsidiary of ITT Corp.

JURISDICTION AND VENUE

4. This complaint asserts claims for copyright infringement, trade secret misappropriation, conversion, replevin, unfair competition, tortious interference with contractual

relations, and intentional interference with prospective contractual relations. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332 and 1338. For diversity jurisdiction under 28 U.S.C. § 1332, the amount in controversy exceeds \$75,000, exclusive of interest and costs.

5. ITT Corp. and GPI have each continuously and systematically transacted business within the State of Texas by selling, distributing, and servicing their goods and services therein, and by their registration with the Texas Secretary of State to do business therein. ITT Corp.'s designated agent for service of process within the State of Texas is C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136. GPI's designated agent for service of process within the State of Texas is C T Corporation System, 350 North St. Paul St., Ste. 2900 Dallas, TX 75201-4234. By continuously and systematically transacting business in the State of Texas, ITT Corp. and GPI have availed themselves of the personal jurisdiction of the courts located therein, and this Court has general jurisdiction over ITT Corp. and GPI.

6. Venue is proper pursuant to 28 U.S.C. §§ 1391(d) and 1400.

FACTUAL BACKGROUND

7. Flowserve is a world leading manufacturer and aftermarket service provider of comprehensive flow control systems, and a recognized world leader in supplying pumps, valves, seals, automation, and services to the power, oil, gas, chemical, and other industries. Flowserve develops and manufactures precision-engineered flow control equipment integral to the movement, control and protection of the flow of materials in its customers' critical processes. Flowserve sells its products and services to more than 10,000 companies, including some of the world's leading engineering, procurement and construction firms, original equipment manufacturers, distributors and end users. In 2013, Flowserve had approximately \$4.95 billion in worldwide sales of its products and services.

8. Flowserve invests in research and development to expand the scope of its product offerings and its deployment of advanced technologies. Flowserve spent approximately \$38.9 million, \$35.0 million and \$29.5 million during 2012, 2011 and 2010, respectively, on company-sponsored R&D initiatives and new product development. The infusion of advanced technologies into new products and services continues to play a critical role in the ongoing evolution of Flowserve's product portfolio.

9. Flowserve owns a number of trademarks and patents relating to the names and designs of its products. In addition, Flowserve's pool of proprietary information, consisting of know-how and trade secrets related to the design, manufacture and operation of its products, is considered particularly valuable. Flowserve considers its intellectual property rights including its confidential information, know-how, trademarks, patents, copyrights, and trade secrets to be valuable assets of its business.

10. Flowserve conducts its operations through business segments based on the type of product and how Flowserve manages its business. Two of these business segments are the Engineered Product Division ("EPD") for long lead time, custom and other highly-engineered pumps and pump systems, mechanical seals, auxiliary systems and replacement parts and related services; and the Industrial Product Division ("IPD") for pre-configured engineered pumps and pump systems and related products and services.

11. A substantial part of Flowserve's business is related to its aftermarket parts and services for its installed pump, valve and seal base of customers. The aftermarket business has provided Flowserve with a steady source of revenues and cash flows at higher margins than are typically realized with original equipment sales. Aftermarket sales represented approximately 40–41% of total Flowserve sales in 2013 and 2012.

12. Flowserve is building on its established presence through an extensive global network of Quick Response Centers (“QRCs”) to provide the immediate parts, service and technical support required to effectively manage and expand the aftermarket business created from Flowserve’s installed pump, valve and seal base. Through its manufacturing platform and global network of QRCs, Flowserve offers a broad array of aftermarket equipment services, such as installation, advanced diagnostics, repair and retrofitting.

13. Flowserve seeks to capture additional aftermarket business by creating mutually beneficial opportunities for Flowserve and its customers through sourcing and maintenance alliance programs where Flowserve provides all or an agreed-upon portion of customers’ parts and servicing needs. These alliances enable Flowserve to develop long-term relationships with its customers and serve as an effective platform for introducing new products and services and generating additional sales.

14. In 2007, a Russian company called Vankor Oil LLC (“Vankor”) purchased 28 model DVMX and LPN pipeline pumps from Flowserve as part of its pipeline operations in Russia. Vankor is a vertically integrated oil and gas company based in Moscow that produces, refines and exports petroleum and petrochemical products. Due to the critical service required from these pumps, the pumps must be regularly monitored and maintained by qualified service people to ensure flawless startup and continuous operation.

15. Vankor had and, upon information and belief, may still have, a contractual relationship with Neftegazholding, a trading company and commercial agent based in Russia, under which Neftegazholding is responsible for maintaining pipeline pumping stations using OEM qualified personnel. Neftegazholding, in turn, contracts with qualified and certified third party vendors to provide those services.

16. In 2011, Flowserve began negotiating a service contract with Neftegazholding to service the Flowserve pumps Vankor owns. The negotiations were conducted under the direction of then-Flowserve employees Jim Hamilton, a Director of Sales for Europe, Middle East, Russia and Africa, and Roman Korolyov, the General Manager for Flowserve's Russian operations. At that time, the parties envisioned, and Flowserve management approved, a two-year agreement between Flowserve and Neftegazholding.

17. However, in April 2012, before Flowserve's contract with Neftegazholding was executed, the duration of the contract was reduced to nine months without Flowserve's corporate management's knowledge or approval and despite the fact that the duration of the contract between Neftegazholding and Vankor was twenty-one months. Upon information and belief, this reduction in term was at the direction of Hamilton and Korolyov.

18. With the Flowserve-Neftegazholding contract due to expire in December 2012, Hamilton announced his intention to leave Flowserve on October 4, 2012. Hamilton joined ITT in January 2013. Shortly, after Hamilton joined ITT, on January 29, 2013, Korolyov announced his intention to leave Flowserve for ITT. Korolyov departed Flowserve on February 13, 2013.

19. Following Korolyov's announcement, Andrei Mikhailichenko ("Mikhailichenko"), a Technical Service Engineer in Flowserve's Moscow QRC, accessed a protected Flowserve database containing confidential and proprietary product drawings, and for a 37-day period, from February 1 to March 7, 2013, he downloaded, misappropriated, and copied without authorization 265 confidential and proprietary Flowserve drawings ("the Drawings"). On March 25, 2013, Mikhailichenko abruptly resigned from Flowserve and accepted a position with ITT.

20. The illegally downloaded Drawings related to Flowserve's Vankor contract and contained confidential and proprietary information related to the design of Flowserve's "engineered" custom pumps for Vankor. The Drawings include, for example, information about the design, dimensions, and manufacturing tolerances of the various complex pump parts necessary to service the pumps and to fabricate replacement parts for the pumps. The Drawings also include wiring diagrams and other information used to service, disassemble, and reassemble the pumps.

21. Without the Flowserve's confidential and proprietary Drawings, it would be much more difficult, if not impossible, for an aftermarket service provider to reliably service and maintain the Vankor pumps, and to do so in a cost effective fashion, including to design, manufacture, and install replacement parts and to service, disassemble, and reassemble the pumps. Having these Drawings would give a person or company a substantial competitive advantage in bidding for and procuring the Vankor services contract.

22. Flowserve employs reasonable steps and diligence to protect and maintain the confidentiality of the Drawings stored on this server, and to prevent unauthorized access to or copying of these Drawings, including limiting access to only certain personnel, employing password protection to access the Drawings, and tracking access to and downloading of these Drawings. Mikhailichenko had authority to access the Drawings, but historically he had accessed an average of only 5 drawings per month. On or around July 26, 2013, Flowserve for the first time confirmed that Mikhailichenko had illegally downloaded the Drawings.

23. The Drawings downloaded by Mikhailichenko were maintained on a Flowserve server located in Kalamazoo, Michigan. In order for Mikhailichenko to have downloaded the 265 Drawings, unauthorized electronic copies of those Drawings were made within the United

States. Such unauthorized copies included temporary copies made on Flowserve's server and computer systems in Michigan, as well as on other servers and computer systems within the United States as part of transmitting the Drawings from Kalamazoo, Michigan to Moscow, Russia. Upon information and belief, the Drawings downloaded by Mikhailichenko while he was employed by Flowserve were copied by him to a CD-ROM or DVD.

24. Of the 265 Drawings downloaded by Mikhailichenko, at least 94 of those Drawings are highly confidential, so-called "detailed" drawings of Flowserve's products. These detailed drawings are not shared outside of Flowserve, and employees have an obligation to not disclose these detailed Drawings (or any of the other confidential, proprietary Drawings) outside of Flowserve without permission. In addition to containing proprietary, confidential, and trade secret information and know-how, the Drawings are protected by copyrights.

25. After Mikhailichenko left Flowserve and joined ITT, upon information and belief, Mikhailichenko and/or other unidentified employees of ITT copied these Drawings from the CD-ROM or DVD to one or more ITT computer systems and/or servers. These copies were made by ITT, including but not limited to by its employee Mikhailichenko, and were made without Flowserve's knowledge, notification, or permission.

26. The misappropriation of confidential Flowserve know-how and trade secret information by departing employees who were later hired by ITT continued. On or around early 2013, Alexander Kudryashov ("Kudryashov"), a General Manager of Flowserve's Moscow QRC who reported to Korolyov, and Alexey Khmelkov, a Field Service Manager who reported to Kudryashov, insisted that Flowserve immediately provide service technician training specific to the Vankor contract for several of Flowserve's Russian employees.

27. The training was scheduled for February 25, 2013 to March 22, 2013 at Flowserve's facility in Etten Leur, The Netherlands. Attendees of the training included: Dmitry Tsvetkov (Project Manager); Andrey Kusmartsev (Mechanic); Alexey Kurushin (Diagnostic Engineer); Ilshat Kzyrgalin (Mechanical Engineer); Vladimir Novichkov (Mechanical Engineer); Sergey Kovalchuk (Mechanical Engineer); Sergey Satyshev (Mechanical Engineer); and Viktor Cheremukhin (Service Mechanical Engineer). All of these employees, with the exception of Cheremukhin, supported Flowserve's contract with Vankor. Attendees at this training receive confidential and proprietary knowledge and information, such as information about how Flowserve's pumps are designed and operate, how Flowserve maintains its pumps, and other confidential and proprietary information related to Flowserve's pumps business ("the Training").

28. Flowserve incurred substantial costs for the Training. Flowserve estimates that the cost to provide the Training to its then-employees was \$100,000 or more.

29. The Training focused on Flowserve's "engineered" custom pumps for Vankor. The attendees of the Training received specific confidential and proprietary information about the design, function, and operation of the Flowserve pumps used by Vankor. The purpose of the Training was to provide Flowserve's employees with the information and skills needed to service and maintain the Vankor pumps.

30. Without the Flowserve's confidential and proprietary Training, it would be much more difficult, if not impossible, for an aftermarket service provider to reliably service and maintain the Vankor pumps, and to do so in a cost effective fashion, including to design, manufacture, and install replacement parts and to service, disassemble, and reassemble the pumps. Having this Training would give a person or company a substantial competitive advantage in bidding for and procuring the Vankor services contract. Furthermore, companies

such as Vankor and Neftegazholding require certification that an aftermarket services provider is qualified to service Flowserve's pumps in order to award a services contract to that services provider. Thus, without that certification, the service contract could not be awarded to the aftermarket services provider, and the certification itself has substantial value in regards to procuring the Vankor services contract.

31. On February 22, 2013, as these Flowserve employees were departing to attend the training, Kudryashov unexpectedly advised Flowserve that he was resigning to take a position at ITT. A few days later, while the training was being conducted, Khmelkov and Tsvetkov demanded that training certificates be issued for attendees immediately after the training concluded, before the trainees returned to Russia. Training certificates are generally not issued to and received by trainees until around a week after the training concludes. In order for non-Flowserve personnel to service Flowserve pumps, such as the DVMX and LPN pipeline pumps used by Vankor, those personnel would have to have proof of certification having completed the Training. Further, Flowserve does not make the Training available to, and does not issue certifications for, its competitors' personnel including to ITT.

32. On or around March 22, 2013, all of the trainees returned to Russia from The Netherlands. Shortly thereafter, all of the trainees resigned from Flowserve. Upon information and belief, Kudryashov and Korolyov were actually waiting for the Flowserve trainees at the airport upon their return to Russia, where they asked the employees to sign resignation letters and accept positions with either ITT or Neftegazholding to provide service for Vankor. Shortly thereafter, on March 29, 2013, Khmelkov also resigned to take a position at ITT.

33. Upon joining ITT on or around March 25, 2013, Mikhailichenko's duties involved Vankor-related work. Knowledge of and ability to service Flowserve's products was

and remains a key criteria for ITT to provide the contracted service to Vankor. Flowserve's confidential, proprietary information illegally downloaded by Mikhailichenko and transferred to ITT, as well as misappropriated by the Flowserve trainees, is needed to properly execute the Vankor-related work.

34. In March 2013, at approximately the same time that Mikhailichenko illegally downloaded the Drawings and the trainees resigned from Flowserve, Flowserve was advised by Neftegazholding that it would not renew the Vankor maintenance contract. Neftegazholding instead awarded the Vankor maintenance contract to ITT, resulting in Flowserve's loss of approximately €120,000/month in revenues.

35. Representatives from Flowserve met with Vankor on April 3, 2013, to learn why the Vankor maintenance contract was not renewed with Flowserve. Vankor advised Flowserve that Vankor was fully satisfied with the service that Flowserve had provided. As a result, it was not apparent to Flowserve at that time why Neftegazholding had replaced Flowserve with ITT in order to perform the Vankor work. In that regard, Vankor also stated that Neftegazholding should use personnel certified to work on Flowserve's pumps in order to perform the maintenance work for Vankor.

36. Flowserve's former employees have also illegally used Flowserve's credentials to market ITT's services of Flowserve pumps and equipment. For example, in the Fall 2013, Korolyov sent out a letter to a Flowserve customer. This letter refers to ITT's "highly qualified service technicians, who were trained at the plants-manufacturers of pumping equipment and certified by the manufacturers," and then proceeds to list several Flowserve jobs that were previously performed by those technicians while employed by Flowserve.

37. Upon information and belief, although ITT later terminated Mikhailichenko's employment in Fall 2013, he was subsequently hired by Neftegazholding, and still continues to work on the Vankor maintenance contract and to support ITT's efforts in this respect.

38. Upon information and belief, Flowserve's former employee Hamilton planned, conspired, and induced ITT's illegal procurement of the Vankor maintenance contract and Vankor-related work. After joining ITT on or about January 2013, Hamilton sent emails to then-Flowserve employee Mikhailichenko while he was still working at Flowserve's Moscow QRC. These emails were sent by Hamilton from Hamilton's work ITT email account to Mikhailichenko's personal Gmail email account, not to Mikhailichenko's Flowserve work email account.

39. Flowserve is not aware of any legitimate business reason or purpose for Hamilton to have been emailing and communicating with Flowserve's employees. After Hamilton's emails and communications with Flowserve's employees, Mikhailichenko illegally downloaded the Drawings, the trainees requested the training by Flowserve and then later resigned from Flowserve, Flowserve was advised by Neftegazholding that it would not renew the Vankor maintenance contract, and Neftegazholding instead awarded the contract to ITT during and after Hamilton's emails and communications with Flowserve's employees.

40. These events also occurred after Hamilton had reduced the duration of the Flowserve's Vankor maintenance contract with Neftegazholding to nine months, without Flowserve management's approval and despite the fact that the duration of the contract between Neftegazholding and Vankor was twenty-one months.

41. Upon information and belief, and based on these events and the timing of them, Hamilton planned, conspired with, and induced Flowserve's employees to illegally copy,

misappropriate, and steal Flowserve's intellectual property, confidential, and trade secret information, to illegally interfere with Flowserve's contracts and business relations including with Vankor, and to illegally interfere with the relationship between Flowserve and its employees including causing and inducing those employees to resign from Flowserve in order to join ITT and/or Neftegazholding.

42. Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding, including, upon information and belief, Hamilton, have illegally disclosed, copied, and transferred Flowserve's Drawings to ITT and/or conspired to commit or induced these acts. ITT then misappropriated and misused these Drawings so that ITT could illegally win the Vankor contract, ITT could enable performance of the Vankor contract, and ITT could possibly support other Flowserve customers within the region.

43. Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding, including, upon information and belief, Hamilton, violated both Flowserve's Code of Business Conduct and policies through their unauthorized copying, misappropriation, misuse, and unfair competition relating to Flowserve's Drawings and other intellectual property rights, including also their misappropriation and misuse of proprietary knowledge of Flowserve's products and services.

44. The departure of all of the Flowserve employees who were providing service to Vankor under the Flowserve-Neftegazholding contract and the subsequent loss of the contract prompted Flowserve to investigate and ultimately contact ITT about the departure, illegal copying, and misappropriation of intellectual property by Mikhailichenko and the other departing employees, as well as ITT's apparent illegal misuse of Flowserve's intellectual property.

45. On August 27, 2013, Flowserve's General Counsel, Ms. Carey O'Connor ("O'Connor"), sent a letter to ITT's then-General Counsel, Burt Fealing ("Fealing") requesting, among other things, ITT's cooperation in investigating this matter. O'Connor specifically asked that ITT return "Flowserve's confidential and proprietary intellectual property," and that ITT "confirm that no Flowserve intellectual property will be utilized in the execution of current or future ITT contracts."

46. Fealing initially responded by leaving a voicemail for O'Connor on August 27, 2013. Thereafter, on October 15, 2013, Fealing responded by email to O'Connor. Fealing stated that he was taking the matters raised by O'Connor seriously, and would provide a further response in two-to-three weeks. When Fealing did not respond as promised, O'Connor sent a follow-up email on December 12, 2013.

47. As of January 13, 2014, Fealing still had not provided a response. On that date, O'Connor sent another letter to Fealing. As of that date, ITT still had not returned Flowserve's Drawings, or otherwise disclosed any results from any investigation of the matter. On or around that time, Fealing left the position of General Counsel for ITT. O'Connor had additional conversations with ITT's interim General Counsel on January 13, 2014 and February 4, 2014.

48. On February 4, 2014, ITT announced that Ms. Mary Beth Gustafsson ("Gustafsson") had been appointed as the new General Counsel of ITT. That same week, O'Connor spoke with Gustafsson and provided her the details of the theft of Flowserve's intellectual property that she had previously discussed with Fealing. On February 14, 2014, O'Connor sent a follow-up letter to Gustafsson.

49. On or about March 27, 2014, Gustafsson admitted that ITT did, in fact, possess Flowserve's Drawings that had been downloaded and stolen by Mikhailichenko. However,

Gustafsson refused to return the Drawings to Flowserve despite O'Connor's request, unless Flowserve first executed a release for any claims that Flowserve might have related to the theft of the Drawings and the other issues previously raised by O'Connor's earlier correspondence with ITT. Gustafsson also refused to confirm in writing that ITT had not and would not further misappropriate, copy, or otherwise make any other improper use of the stolen Drawings. Gustafsson also said that she considered the matter closed, but refused to disclose any substantive details of ITT's investigation.

50. By and through the illegal acts of its officers and employees, including but not limited to the acts of Hamilton, Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding, and, upon information and belief, ITT has willfully and illegally copied the Drawings without permission by Flowserve, thereby infringing Flowserve's copyrights in the Drawings.

51. By and through the illegal acts of its officers and employees, including but not limited to the acts of Hamilton, Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding, and Gustafsson, ITT has willfully and illegally disclosed, used, and misappropriated Flowserve's trade secrets.

52. By and through the illegal acts of its officers and employees, including but not limited to the acts of Hamilton, Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding, and Gustafsson, ITT has willfully and illegally converted Flowserve's intellectual property rights, including but not limited to conversion of the stolen Drawings.

53. By and through the illegal acts of its officers and employees, including but not limited to the acts of Hamilton, Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the

other departed Flowserve employees hired by ITT and/or Neftegazholding, and Gustafsson, ITT has willfully and illegally committed unfair competition through the unauthorized misuse of Flowserve's protected intellectual property including its Drawings.

54. By and through the illegal acts of its officers and employees, including but not limited to the acts of Hamilton, Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding, and Gustafsson, ITT has willfully and illegally tortiously interfered with Flowserve's contractual and business relationships.

COUNT I (COPYRIGHT INFRINGEMENT)

55. Flowserve incorporates by reference paragraphs 1–54 as if fully set forth herein.

56. Flowserve owns all right, title and interest in the copyrights to the Drawings. Attached as Exhibit A to this complaint is true and correct copies of Flowserve's registration applications for these works with the Copyright Office, proof of deposit of these works with the Copyright Office and payment of the registration fees for these works to the Copyright Office, and return receipts from the Copyright Office for Flowserve's registration applications for these works.

57. Flowserve has complied in all respects with the requirements of the Copyright Act to register these works with the Copyright Office, including having paid the required fee, deposited these works with the Copyright Office, and received receipts by the Copyright Office of Flowserve's registration applications for each of these works.

58. ITT has willfully infringed Flowserve's exclusive rights in violation of 17 U.S.C. §§ 106, 501 and 602 by importing, copying, and distributing Flowserve's Drawings without authorization from Flowserve. ITT has also willfully indirectly infringed Flowserve's exclusive rights by inducing copyright infringement by Mikhailichenko, Korolyov, Kudryashov,

Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding, and Gustafsson. Unless this Court restrains ITT from committing further acts of copyright infringement, Flowserve will suffer irreparable injury for which it has no adequate remedy at law.

59. By reason of ITT's continued willful infringement, Flowserve has sustained and will continue to sustain substantial injury, loss and damage to its ownership rights in the copyrighted Drawings. By reason of ITT's willful infringement, Flowserve has sustained irreparable harm that cannot be remedied by monetary damages alone. Flowserve is entitled to an injunction restraining ITT, its officers, directors, agents, employees, representatives, and all persons acting in concert with them, from further engaging in such acts of copyright infringement, and remedying the irreparable harm to Flowserve from these unlawful acts.

60. Pursuant to 17 U.S.C. § 504, Flowserve is further entitled to recover from ITT Flowserve's actual damages and any additional profits of ITT for ITT's copyright infringement.

61. Pursuant to 17 U.S.C. § 505, Flowserve is further entitled to recover from ITT the reasonable attorneys' fees and legal costs incurred by Flowserve as a result of ITT's acts of copyright infringement.

COUNT II (TRADE SECRET MISAPPROPRIATION)

62. Flowserve incorporates by reference paragraphs 1–54 as if fully set forth herein.

63. Flowserve's Drawings and Training are used in its business and confer a competitive advantage over those in similar businesses who do not know or use this information, including conferring a competitive advantage over ITT. Flowserve's Drawings and Training are proprietary, confidential, and not known outside of Flowserve. The Drawings and Training are not matters of public knowledge or of general knowledge in the industry. Flowserve employs appropriate precautionary measures to protect its Drawings and Training by limiting legitimate

access to this information to only certain of its employees, and by not allowing ITT or others to access this information. The Drawings and Training are valuable, and Flowserve expends substantial effort and money in developing the Drawings and Training. Except by the use of improper means, and it would be very difficult or impossible for ITT or others to legitimately acquire or duplicate the Drawings or Training.

64. By its improper and unauthorized acquisition, use, and disclosure of Flowserve's Drawings and Training, as well as its failure to return the Drawings to Flowserve, ITT has misappropriated these Flowserve trade secrets. Further, upon information and belief, ITT has also induced one or more of Hamilton, Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees hired by ITT and/or Neftegazholding to misappropriate Flowserve's Drawings and Training, so that ITT could by improper means acquire, use, and disclose this trade secret information. In this way, ITT has obtained an unfair competitive advantage over Flowserve, and sought to eliminate Flowserve's competitive advantage provided by the Drawings and Training, by misappropriating and inducing misappropriation of Flowserve's trade secrets.

65. Through its acts of trade secret misappropriation and inducement thereof, ITT has obtained an unfair competitive advantage over Flowserve, including procuring the Vankor services contract and causing Flowserve to lose that contract, as well as interfering with Flowserve's customer and business relationships with Vankor and Neftegazholding. Flowserve has been irreparably harmed by these acts, which cannot be remedied by monetary damages alone.

66. By reason of ITT's continued willful infringement, Flowserve has sustained and will continue to sustain substantial injury, loss and damage to its ownership rights in its trade

secrets including the Drawings and the Training. By reason of ITT's willful infringement, Flowserve has sustained irreparable harm that cannot be remedied by monetary damages alone. Flowserve is entitled to an injunction restraining ITT, its officers, directors, agents, employees, representatives, and all persons acting in concert with them, from further engaging in such acts of trade secret misappropriation, and remedying the irreparable harm to Flowserve from these unlawful acts.

COUNT III (CONVERSION)

67. Flowserve incorporates by reference paragraphs 1–54 as if fully set forth herein.

68. ITT has intentionally, willfully, and without authority, assumed and exercised control over Flowserve's intellectual property and confidential information, including Flowserve's Drawings, the Training, its trade secrets, its know-how, and other proprietary Flowserve information, interfering with Flowserve's right of possession of this intellectual property and confidential information. Flowserve has a possessory right and interest in its intellectual property and confidential information. ITT's dominion over this intellectual property and confidential information and interference with it is in derogation of Flowserve's exclusive right to its intellectual property rights. ITT has also induced conversion by others and contributed to the conversion by others of Flowserve's intellectual property. Unless this Court restrains ITT from committing further acts of conversion, Flowserve will suffer irreparable injury for which it has no adequate remedy at law.

COUNT IV (REPLEVIN)

69. Flowserve incorporates by reference paragraphs 1–54 as if fully set forth herein.

70. Flowserve has a possessory and exclusive right and interest in its copyrighted Drawings, and ITT has intentionally and willfully interfered with that exclusive right by refusing Flowserve's demand for return of the Drawings and by intermeddling with Drawings without

any authority conferred by Flowserve to be in possession of the Drawings. Unless this Court restrains ITT from committing further acts of replevin, Flowserve will suffer irreparable injury for which it has no adequate remedy at law.

COUNT V (UNFAIR COMPETITION)

71. Flowserve incorporates by reference paragraphs 1–70 as if fully set forth herein.

72. ITT has taken and used, and induced the taking and use, of Flowserve's confidential, proprietary intellectual property including the Drawings and the Training, in order to unlawfully compete against Flowserve. ITT's acts of unfair competition further include, upon information and belief, unlawfully inducing Flowserve's former employees to commit acts of copyright infringement and trade secret misappropriation, to leave Flowserve for employment by ITT and/or Neftegazholding, and to violate their contractual, ethical, and fiduciary duties to Flowserve. Upon information and belief, ITT induced Flowserve's former employees to conceal and deceive these wrongful acts while they were employed by Flowserve.

73. Through its acts of unfair competition and inducement thereof, ITT has obtained an unfair competitive advantage over Flowserve, including procuring the Vankor services contract and causing Flowserve to lose that contract, as well as interfering with Flowserve's customer and business relationships with Vankor and Neftegazholding. Flowserve has been irreparably harmed by these acts, which cannot be remedied by monetary damages alone.

74. By reason of ITT's continued unfair competition, Flowserve has sustained and will continue to sustain substantial injury, loss and damage to its ownership rights in its trade secrets including the Drawings and the Training, as well as interference with its ability to fairly compete with ITT for the Vankor services contract. By reason of ITT's unlawful competition, Flowserve has sustained irreparable harm that cannot be remedied by monetary damages alone. Flowserve is entitled to an injunction restraining ITT, its officers, directors, agents, employees,

representatives, and all persons acting in concert with them, from further engaging in such acts of unfair competition, and remedying the irreparable harm to Flowserve from these unlawful acts.

COUNT VI (TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS)

75. Flowserve incorporates by reference paragraphs 1–70 as if fully set forth herein.

76. Upon information and belief, ITT unlawfully and willfully used Flowserve's proprietary and confidential information, including the Drawings and Training, to interfere with the Valkor services contract between Flowserve and Neftegazholding, including causing the term of that contract to be reduced. Upon information and belief, ITT also illegally obtained and induced Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees to obtain Flowserve's proprietary, confidential, copyrighted and trade secret information including the Drawings and the Training. Upon information and belief, ITT also unlawfully and knowingly caused and induced Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees to violate their contractual and fiduciary obligations under Flowserve's Codes of Business Conduct and policies, including but not limited to their ethical obligations to Flowserve, their obligations with respect to conflicts of interest, their obligations with respect to access to computer systems and information technology, their obligations with respect to Flowserve's property, privacy and security, and their obligations with respect to Flowserve's intellectual property, including inventions, trade secrets, copyrights and confidential information. These acts by ITT of tortious interference with Flowserve's contractual relations and inducement thereof have injured and caused irreparable harm to Flowserve.

77. By reason of ITT's tortious interference with Flowserve's contractual relationships, Flowserve has sustained and will continue to sustain substantial injury, loss and damage related to the Vankor services contract. By reason of ITT's tortious interference,

Flowserve has sustained irreparable harm that cannot be remedied by monetary damages alone. Flowserve is entitled to an injunction restraining ITT, its officers, directors, agents, employees, representatives, and all persons acting in concert with them, from further engaging in such acts of tortious interference, and remedying the irreparable harm to Flowserve from these unlawful acts.

**COUNT VII (INTENTIONAL INTERFERENCE WITH PROSPECTIVE
CONTRACTUAL RELATIONS)**

78. Flowserve incorporates by reference paragraphs 1–70 as if fully set forth herein.

79. Upon information and belief, ITT unlawfully and willfully used Flowserve's proprietary and confidential information, including the Drawings and Training, to interfere with Flowserve's ability to renew the Valkor services contract between Flowserve and Neftegazholding. ITT illegally obtained and induced Mikhailichenko, Korolyov, Kudryashov, Khmelkov, and the other departed Flowserve employees to obtain Flowserve's proprietary, confidential, copyrighted and trade secret information including the Drawings and the Training. Flowserve would have had its Vankor services contract renewed by had it not been for ITT's unlawful conduct and inducement in committing the acts of copyright infringement, trade secret misappropriation, and unfair competition. The term of Flowserve's initial Vankor services contract with Neftegazholding would have also been longer but for ITT's unlawful conduct and inducement in committing the acts of copyright infringement, trade secret misappropriation, and unfair competition. These means employed by ITT to induce termination of Flowserve's relationship with Neftegazholding and Vankor are illegal, dishonest, unfair, and improper. These acts by ITT of intentional interference with Flowserve's prospective contractual relationships and inducement thereof have injured and caused irreparable harm to Flowserve.

80. By reason of ITT's intentional interference with Flowserve's prospective contractual relationships, Flowserve has sustained and will continue to sustain substantial injury, loss and damage related to the Vankor services contract. By reason of ITT's intentional interference, Flowserve has sustained irreparable harm that cannot be remedied by monetary damages alone. Flowserve is entitled to an injunction restraining ITT, its officers, directors, agents, employees, representatives, and all persons acting in concert with them, from further engaging in such acts of intentional interference, and remedying the irreparable harm to Flowserve from these unlawful acts.

DEMAND FOR JURY TRIAL

Flowserve demands a trial by jury of any and all issues in this action so triable.

PRAYER FOR RELIEF

WHEREFORE, Flowserve respectfully requests that the Court enter judgment for them, and award the following relief:

A. Judgment that ITT has infringed and induced infringement of Flowserve's copyrights in the Drawings, including an award of Flowserve's actual damages for these unlawful acts, and a preliminary and permanent injunction enjoining any such further acts and remedying the irreparable harm to Flowserve from these unlawful acts;

B. Judgment that ITT has misappropriated and induced misappropriation of Flowserve's trade secrets, including an award of Flowserve's actual damages for these unlawful acts, and a preliminary and permanent injunction enjoining any such further acts and remedying the irreparable harm to Flowserve from these unlawful acts;

C. Judgment that ITT has unfairly competed and induced unfair competition against Flowserve, including an award of Flowserve's actual damages for these unlawful acts, and a

preliminary and permanent injunction enjoining any such further acts and remedying the irreparable harm to Flowserve from these unlawful acts;

D. Judgment that ITT unlawfully converted Flowserve's Drawings, including an award of Flowserve's actual damages for ITT's conversion, including an award of Flowserve's actual damages for these unlawful acts, and a preliminary and permanent injunction enjoining any such further acts, including an order requiring ITT to return to Flowserve the Drawings that are unlawfully in ITT's possession;

E. Judgment that ITT unlawfully withheld the Drawings from Flowserve and that Flowserve is entitled to replevin, including an award of Flowserve's actual damages for these unlawful acts, and a preliminary and permanent injunction enjoining any such further acts, including an order requiring ITT to return to Flowserve the Drawings that are unlawfully in ITT's possession;

F. Judgment that ITT has tortiously interfered with and induced interference with Flowserve's contractual relationships, including an award of Flowserve's actual damages for these unlawful acts, and a preliminary and permanent injunction enjoining any such further acts and remedying any irreparable harm from these acts;

G. Judgment that ITT has intentionally interfered with and induced interference with Flowserve's prospective contractual relations, including an award of Flowserve's actual damages for these unlawful acts, and a preliminary and permanent injunction enjoining any such further acts and remedying any irreparable harm from these acts;

H. Preliminary injunction that ITT be required to return any and all copies of the Drawings, that ITT be prohibit from making any further copies of the Drawings, that ITT be prohibited from utilizing in any manner the trade secret information including the Drawings and

the Training, that any ITT employees who had access to the trade secret information including the Drawings and the Training be prohibited from working on any projects that involve the Flowserve products that are the subject of the trade secrets including the Drawings and the Training, and that ITT be prohibited from entering into any negotiations or contracts that involve repair, maintenance or service of the Flowserve products that are the subject of the trade secrets including the Drawings and the Training;

I. An award of Flowserve's reasonable attorneys' fees and costs, including but not limited to under 17 U.S.C. § 505, applicable state law, and the Court's inherent authority; and

J. Any other legal and equitable relief that the Court deems appropriate and just.

May 8, 2014

Respectfully submitted,

/s/ Keith B. Davis

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