

for service of process is Incorp Services, Inc., which is located at 7288 Hanover Green Drive, Mechanicsville, Virginia 23111.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332 because this action is between citizens of different states and involves an amount in controversy exceeding \$75,000.00, exclusive of interest and costs. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) in that it arises under the United States Patent Laws. This Court also has subject matter jurisdiction under 28 U.S.C. §§ 2201 and 2202.

5. This Court has personal jurisdiction over Hardy and Power Measurements because Hardy and Power Measurements caused tortious injury in Tennessee by acts outside Tennessee with the purpose and reasonable expectation of injuring TEC in Tennessee. Hardy misappropriated trade secrets from TEC while he was still employed by TEC in Tennessee and used that information he wrongly took to found his competitor firm, Power Measurements. In committing these acts outside Tennessee, Hardy and Power Measurements necessarily would have had the purpose and reasonable expectation of enhancing their own business at the expense of TEC in Tennessee. Hardy purposefully availed himself of the privilege of employment in Tennessee and he misappropriated trade secrets while he was in Tennessee. Hardy caused a consequence in Tennessee by his subsequent actions in Virginia and the Philippines—founding Power Measurements—with the aid of confidential information he took from TEC.

6. Jurisdiction and venue are proper in this Court by virtue of the fact that Hardy worked for TEC in Knox County, Tennessee from December 8, 2003 until April 16, 2012. Effective May 24, 2012, Hardy and TEC entered into a Severance and Release Agreement (“Severance Agreement”) that included the following provision:

This Agreement shall be governed by the laws of the State of Tennessee, without regarding for any conflict of law principles, and any legal proceeding arising out of or in connection with this Agreement shall be brought in a court with subject matter jurisdiction located in Knox County, Tennessee. Each party irrevocably and unconditionally consents to the service of any process, pleadings, notices or other papers in connection with any such proceeding and to submit to personal jurisdiction in such venue.

A copy of the Severance Agreement is attached hereto as **Exhibit 1**.

III. FACTS

7. TEC designs and manufactures diagnostic instruments for customers working in the aviation, materials testing, nuclear power, and electric power industries.

8. Powermetrix is a division of TEC focused on providing the most innovative and accurate testing solutions to the worldwide power and energy market. Powermetrix engineers, designs, and manufactures electric power measurement instruments for the power industry.

9. TEC has expended considerable, money, resources, and time in developing the Powermetrix division and the products associated therewith, and in establishing relationships with its customer base in this field.

10. Hardy was employed by TEC since December 8, 2003, and was Vice President over TEC's Powermetrix division from April 29, 2011 until his separation on April 16, 2012.

11. Prior to his employment with TEC, Hardy was a physicist and had minimal experience in the field of power and energy testing. TEC spent considerable money, resources, and time in training Hardy for him to perform in this industry.

12. TEC took reasonable measures to protect the confidentiality of its proprietary information, formulas, and technology. TEC's employees are required to sign an Employment Agreement, which, among other things, prohibits the disclosure of TEC's confidential and

proprietary information and provides that all such information is the property of TEC and must be returned to TEC upon termination of the agreement. A copy of the Employment Agreement is attached hereto as **Exhibit 2**. Other measures taken by TEC include password-protected security, keeping confidential information on the company's secure server, and strictly limiting such access to a limited number of authorized personnel on a need-to-know basis.

13. TEC also maintains and protects its trade secrets, confidential and proprietary information by means which include, for example: (i) requiring user IDs and passwords to access TEC's computer system; (ii) locking up confidential documents or shredding confidential documents upon disposal; (iii) requiring key access to TEC's facilities; and (iv) limiting visitors' access to TEC's offices and confidential and proprietary information.

14. Hardy, through his position as the Powermetrix Vice President, had extensive access to TEC's trade secrets, confidential and proprietary information, technology, formulas, and equations.

15. At the inception of his employment, Hardy signed an Employment Agreement dated December 8, 2003, which provides in material part, as follows:

1. a) I agree that I will promptly communicate to TEC all inventions, discoveries, and improvements made or conceived or reduced to practice by me, solely or jointly with others during the term of employment.

b) I hereby assign to TEC or its nominees all my rights to such inventions, discoveries and improvements that are within the scope of actual or anticipated business, products, services or projects of TEC as defined and limited by the TEC Charter.

* * *

d) I will execute all papers and help in any reasonable way to maintain the rights of TEC in these matters.

* * *

2. b) I further agree that I will not without written authorization from TEC, make any copies of such writings, or use or allow others to use such writings, or copies, except as reasonably required or advantageous for the performance of my work at TEC.

* * *

3. a) I will not, during my employment by TEC or thereafter without TEC's written approval, disclose to others nor use for my own benefit or the future benefit of any other individual or firm, data and information which is not generally known, which relates to my work or which relates to the actual or anticipated business, products, services or projects of TEC or similar data and information of other individuals or organizations to which I may gain access in the course of my employment of by reason of such employment.

* * *

4. I agree that, except as may be noted on the attached External Activity Disclosure Form, there are no inventions or information which I deem to be excluded from the scope of the agreement.

(Ex. 2.)

16. The Severance Agreement, which Hardy signed following his termination, included the following provisions:

12. Non-Compete, Non-Solicitation, Non-Disparagement and Confidentiality Covenants.

(a) Hardy's Reaffirmation of Terms of Employee Agreement and Buy and Sell Agreement. Hardy acknowledges that the terms of the Employee Agreement require that he shall not, without TEC's prior written approval, "disclose to others nor use for his own benefit or the future benefit of any other individual or firm, data and information which is not generally known, which relates to his work or which relates to the actual or anticipated business, products, services or projects of TEC or similar data and information of other individuals or organization to which he has gained access in the course of his employment with TEC." Hardy also acknowledges that the terms of the 2007 and 2011 Stock Option Award Agreements require that for a period of five years after the Termination Date, Hardy shall "not compete directly or

indirectly with the products or services” which were offered by TEC during the term of his employment, and that he is prohibited from using at any time for any reason any “proprietary and confidential information” of TEC to which he had access during his employment by TEC. Hardy hereby acknowledges and reaffirms such obligations.

(b) Covenant Not to Compete. As additional consideration for the benefits to be paid to Hardy by TEC under this Agreement, Hardy agrees, in addition to his obligations referenced in Section 12(a) above, that he will not, without the prior, written consent of TEC:

(1) induce or attempt to induce any customer of or supplier to TEC to cease or reduce its business or other relationship with TEC or any of its Affiliates, or otherwise interfere with the relationship between TEC or any of its Affiliates and any such person, entity or organization; (ii) engage, directly or indirectly, in any activity with any current customer of TEC anywhere in the world that is competitive with the business of TEC; or (iii) engage, directly or indirectly, in any activity anywhere in the world that is competitive with the business of TEC. For purposes of this Agreement, “engage” shall mean having any direct or indirect interest in any person, entity or organization, whether as an owner, stockholder, partner, member, joint venturer, creditor, director, officer, employee, consultant, independent contractor or otherwise, or rendering any direct or indirect service or assistance to any person, entity or organization (whether as an agent, consultant, or otherwise). Provided, however, the mere, passive ownership by Hardy of 10% or less of a publically traded corporation shall not, in itself, constitute a violation of the provisions of this Section 12(b). The provisions of this Section 12(b) shall remain in effect for a period of five years after the Termination Date.

(c) Covenant of Non-Solicitation. As additional consideration for the benefits to be paid to Hardy by TEC under this Agreement, Hardy agrees, in addition to his obligations referenced in Sections 12(a) and 12(b) above, that he shall not directly or indirectly: (i) take any action to solicit or divert any business (or potential business) or clients or customers (or potential clients or potential customers) away from TEC; (ii) induce customers, potential customers, clients, potential clients, suppliers, agents or other persons under contract or otherwise associated or doing business with TEC, to reduce or alter any such association or business with or from TEC; or (iii) induce any person in the employment of TEC or any consultant to TEC to (A) terminate such employment or consulting arrangement, (B) accept employment or enter into any consulting arrangement with anyone other than TEC, or (C)

interfere with the customers, suppliers, or the clients of TEC in any manner or the business of TEC in any manner. For purposes of this Agreement, a “potential client” or a “potential customer” shall mean a person or entity that TEC: (i) is or will be in the reasonably foreseeable future soliciting or considering soliciting (or has targeted for solicitation, or will be so targeting in the reasonably foreseeable future); or (ii) has, at any time or from time to time been soliciting for or in respect of any current, actively pending or contemplated product lines, businesses or services offered by TEC. Also for purposes of this Agreement, “potential business” shall mean any current or reasonably foreseeable commercial activity or any current or reasonably foreseeable commercial opportunities associated in any way with TEC. The provisions of this Section 12(c) shall remain in effect for a period of five years after the Termination Date.

(d) Covenant of Non-Disparagement. Hardy agrees that he shall make no negative statements or communications disparaging TEC or its officers, directors, shareholders, agents, businesses, products, or services to any third party.

(e) Injunctive Relief. Hardy acknowledges and agrees that the provisions of this Section 12 form an integral and material portion of the consideration given by Hardy in exchange for TEC's execution of this Agreement, and that the provisions of this Section 12 are reasonable in nature and scope in every respect. Hardy acknowledges that a violation of this Section 12 would cause immediate and irreparable harm to TEC, and that damages for such harm would be difficult to calculate. As a result, Hardy agrees that TEC may seek an injunction, temporary, permanent or otherwise, restraining order or such other equitable relief as may be available to prevent or restrain Hardy's breach of this Section 12, without the necessity of showing actual damages or posting a bond or other security.

(Ex. 1.)

17. The Severance Agreement also provides:

(e) Confidentiality. In order for Hardy to perform the Consulting Services, Hardy will remain exposed to TEC's Confidential Information (as defined below), and Hardy agrees to use such information only in the best interests of TEC. Hardy further agrees that he shall not, without the prior written authorization of TEC, directly or indirectly use, divulge, furnish or make accessible to any company, person or other entity any Confidential Information (as defined below), but instead shall keep all Confidential

Information strictly and absolutely confidential. Further, Hardy will take all actions reasonably required of him to prevent his employees, agents and representatives, as the case may be, from using or divulging such information in a manner or for a purpose that may be contrary to the best interests of TEC.

(f) Definition of Confidential Information. For purposes of this Agreement, the term “Confidential Information” shall include, but not by way of limitation, trade secrets concerning the business of TEC, product specifications, know-how, processes, records, customer and supplier lists and the location of any such customers or suppliers, current and anticipated customer requirements, price lists, market studies, business plans, any information, however documented, that is a trade secret under applicable law, and all other information associated with the products and services of TEC. The term “Confidential Information” does not include information which: (i) becomes generally available to the public other than as a result of a disclosure by Hardy; (ii) is received from a third party who did not acquire or disclose such information by a wrongful act; (iii) is or has been independently developed by Hardy without reference to any Confidential Information; (iv) is disclosed pursuant to applicable law or the order or requirement of court, administrative agency or other governmental body, provided, however, that Hardy shall provide prompt notice of such court order or requirement to TEC to enable TEC to seek a protective order or otherwise prevent or restrict such disclosure and Hardy's right to disclose such Confidential Information shall be strictly limited to the extent necessary to comply with such law, order or requirement; or (v) is disclosed with the prior written approval of TEC.

(g) Property of TEC. Hardy agrees that all plans, manuals and all other specific materials developed by Hardy on behalf of TEC and prior thereto on behalf of TEC in connection with services rendered under this Agreement and prior thereto as an employee of TEC are and shall remain the exclusive property of TEC. Promptly upon the expiration or termination of the Consulting Period, or upon the request of TEC, Hardy shall return to TEC all documents and tangible items, including samples, provided to Hardy or created by Hardy for use in connection with services to be rendered hereunder, including without limitation all Confidential Information, together with all copies and abstracts thereof.

* * *

(i) Outside Services. Hardy shall not use the service of any other person, entity or organization in the performance of Hardy's duties without the prior written consent of TEC. Should TEC consent to the use by Hardy of the services of any other person, entity or organization, no information regarding the services to be performed under this Agreement shall be disclosed to that person, entity or organization until such person, entity or organization has executed an agreement to protect the confidentiality of TEC's Confidential Information and TEC's absolute and complete ownership of all right, title and interest in the work performed under this Agreement in connection with the Consulting Services.

(j) Conflict of Interest. Hardy covenants and agrees not to consult or provide any services in any manner or capacity to a direct or indirect competitor of TEC during the Consulting Period unless express written authorization to do so is given by TEC.

(Ex. 1.)

18. The Severance Agreement further states:

8. Deferred Compensation. As additional severance, and in lieu of any and all other payments, compensation, and/or benefits which are claimed or which might be claimed by Hardy, other than the payments, compensation, and benefits expressly payable under the provisions of this Agreement, and as consideration for Hardy's execution of this Agreement and his covenants contained herein, TEC agrees to pay deferred compensation to Hardy in the amount of \$700,000.00, payable in five equal annual installments of \$140,000.00 each, without interest, beginning on the anniversary date of the Effective Date of this Agreement.

(Ex. 1.)

19. TEC has paid Hardy three out of the five deferred compensation payments pursuant to the Severance Agreement in the total amount of \$420,000.00. These payments were made on May 24, 2013, May 24, 2014, and May 24, 2015, respectively. Hardy was in breach of the Severance Agreement at the time each payment was made.

20. The Severance Agreement also provides: "In any action involving any dispute regarding this Agreement, the prevailing party shall be entitled to recover its reasonable costs of collection, including reasonable attorney's fees." **(Ex. 1.)**

21. On or around April 3, 2007, Hardy entered into a Stock Option Award Agreement (“2007 Stock Option Agreement”) with TEC wherein he agreed to the following:

11. Non-Compete Covenant. The Option Holder agrees that in consideration of receiving this Option that the Option Holder will not compete directly or indirectly compete with the products or services offered by the Company while employed and for a period of five (5) years after termination of employment. The Option Holder further agrees that while employed by the Company the Option Holder had access to proprietary and confidential information that may not be used for any reason after termination of employment.

A copy of the 2007 Stock Option Agreement is attached hereto as **Exhibit 3**.

22. On or around 29, 2011, Hardy entered into a Stock Option Award Agreement (“2011 Stock Option Agreement”) with TEC wherein he agreed to the following:

11. Non-Compete Covenant. The Option Holder agrees that in consideration of receiving this Option that the Option Holder will not compete directly or indirectly compete with the products or services offered by the Company while employed and for a period of five (5) years after termination of employment. The Option Holder further agrees that while employed by the Company the Option Holder had access to proprietary and confidential information that may not be used for any reason after termination of employment.

A copy of the 2011 Stock Option Agreement is attached hereto as **Exhibit 4**.

23. On or around May 5, 2013, Hardy sent an email to TEC employee Ming Cheng stating, “Some news on TEC. Looks like all divisions are loosing [sic] money. Board meets in two weeks to consider drastic austerity cutbacks. I think you need to find another job ASAP.” A copy of the May 5, 2013 email is attached hereto as **Exhibit 5**.

24. On or around August 14, 2014, Hardy, while still bound under the terms of the Severance Agreement, the Employment Agreement, and the 2007 and 2011 Stock Option Agreements, formed and began operating Power Measurements, LLC.

25. Hardy's LinkedIn page has indicated that he is a Principal at Power Measurements and has operated in that capacity from March 2012 through the present. The description of his experience at Power Measurements states, "Technical consulting in a variety of fields including power measurement, electricity metering, nuclear spectroscopy, x-ray spectroscopy, systems design, and project management."

26. On or around March 6, 2015, Hardy sent an email to TEC employee Ming Cheng and two other individuals associated with a vendor in China. A copy of the March 6, 2015 email is attached as **Exhibit 6**. In the March 6, 2015 email, Hardy discusses Power Measurements' desire to partner with a vendor in China for his Electric Vehicle Supply Equipment ("EVSE") product and a technology for "very high accuracy power measurement," which he notes will be "broadly applicable to many things post 2017," and "[a]lso applicable to very high accuracy meters." (**Ex. 6.**)

27. One of Power Measurements' websites, which can be located at <http://www.powermeasurements.com/about/default.html>, states:

Power Measurements is sole proprietorship directed by Dr. William (Bill) Hardy. Bill has over a decade of experience and leadership in the field of power measurement. He also has over 40 years of experience as a scientist, engineer, entrepreneur, and manager in many high technology fields. Power Measurements provides a wide variety of services using Bill's expertise and a network of technical resources.

28. In or around 2015, Power Measurements created a test website, which was located at <http://test.powermeasurements.com/products-and-applications> ("Test Website").

29. Power Measurements' Test Website stated the following:

Power Measurements Incorporated (PMI) plans to develop and manufacture three broad classes of products Test Instrumentation Electricity Metering Services Power Monitoring Devices [.] For all these products the core competency is the accurate measurement of AC/DC wave forms and quantities derived from

them such as Active Energy (kWh), Reactive Energy (VARh), and Apparent Energy (VAh). These Products will address a number of different markets and applications. EVSE Testing[,] Testing of Electricity Meters[,] Field Testing of Electricity Metering Sites[,] [and] Sub-metering Power Quality Monitoring.

30. Power Measurements' Test Website further provided:

Power Measurement Incorporated (PMI) is a PEZA-registered research and development (R&D) & product assembly company that delivers total solutions in the field of test instrumentation and electricity power metering systems.

The company's CEO, William Hardy, Ph.D., is an internationally recognized authority on power measurement and serves on the ANSI C12 Standards Committee where he chairs several subcommittees including the committee writing standards for field testing, power measurements under non-sinusoidal conditions and harmonization of US and international standards. He also teaches at many metering schools in the US.

Power Measurement Incorporated (PMI) was established to create a center of technical expertise in the development of test equipment and products for the measurement of electric power.

The founder, William Hardy, Ph.D., has been an international leader in the development of equipment in this field for over a decade. He serve [sic] on Chairs of several US ANSI Standards committees in this field.

31. Power Measurements' Test Website further provided that "Dr. Hardy's goal is to create an entrepreneurial company that can become a world leader in the Design and Production of equipment for the Electric Power Industry...."

32. In or around 2015, Power Measurements launched another website, which is currently located at <http://new.powermeasurements.com/> ("New Website").

33. Powers Measurements is or has conducted business in Cebu, Philippines. According to the New Website, "Dr. Hardy chose Cebu as a location for this endeavor because

he was inspired by interactions with local engineers he had met through use as independent contractors.”

34. The New Website provides the following:

A Philippine-based startup company that is a research and development (R&D) & product assembly company that delivers total engineering solutions in the field of test instrumentations and electricity power metering systems.

35. Electricity power metering systems is a field in which TEC operates, and Power Measurements and Bill Hardy are directly competing with TEC in this field.

36. TEC, through its Powermetrix division, developed a family of products known as the “PowerMaster.” The PowerMaster product line has revolutionized field and laboratory testing within the electric utility, meter manufacturing, and metrology industries.

37. TEC invested significant capital to develop the PowerMaster product line.

38. Rather than acting in accordance with the terms of the Severance Agreement, Employment Agreement, and 2007 and 2011 Stock Option Agreements, Hardy set up Power Measurements and created its business plans using TEC’s confidential and proprietary information and trade secrets to directly compete with TEC in the electricity power metering field.

39. On or around May 27, 2014, Power Measurements filed an application for a patent with the United States Patent and Trademark Office (“USPTO”) that contains TEC’s proprietary information. The USPTO issued U.S. Patent 9,020,771 (“the ‘771 Patent”) to Power Measurements for “Devices and methods for testing the energy measurement accuracy, billing accuracy, functional performance and safety of electric vehicle charging stations.” Hardy is listed as the sole inventor of the ‘771 Patent.

40. The design aspects of the '771 Patent are taken directly from Hardy's experience while working at TEC. Hardy took a large part of TEC's Waveform Analyzer design, which is used in its PowerMaster product line, and applied it to the '771 Patent. The '771 Patent, among other similarities, replicated and/or copied in large part TEC's Waveform Analyzer circuit topology, which consists of a toroidal transformer, burden resistor, single ended to differential amplifier, and a high-resolution ADC converter. This is the same technology and proprietary information that was used and developed in the TEC Powermetrix division when Hardy was employed at TEC.

41. The '771 Patent further utilizes the 19.66 megahertz frequency crystal that TEC uses in its PowerMaster products.

42. The '771 Patent replicated errors contained in TEC's confidential and proprietary PowerMaster documents, including typographical and mathematical errors.

43. TEC spent significant capital to develop the technology that Hardy has disclosed to the public in the Hardy patent.

44. Hardy has disclosed TEC's trade secrets, confidential and proprietary information, technology, formulas, and equations to the public by filing such information in the patent application that issued as the '771 Patent.

45. Hardy was obligated under the Employment Agreement, the Severance Agreement, and the 2007 and 2011 Stock Option Agreements to maintain confidentiality of TEC's trade secrets and proprietary and confidential information.

46. Power Measurements is the recipient of and gained access to TEC's trade secrets, confidential and proprietary information, technology, formulas, and equations by virtue of Hardy's employment with TEC in Knoxville, Tennessee.

47. Utilizing information and resources wrongfully pirated from TEC, Hardy proceeded to create a business that is in competition with TEC's Powermetrix division.

48. Hardy and Power Measurements will attempt to divert sales and customers, and employees from TEC, if it has not done so already.

49. Hardy has engaged in this conduct in furtherance of this personal business interest in Power Measurements – at the expense of and harm to TEC's business interest.

IV. CAUSES OF ACTION

COUNT I

BREACH OF CONTRACT EMPLOYMENT AGREEMENT – CONFIDENTIALITY (Defendant Hardy)

50. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

51. In the Employment Agreement signed by Hardy on December 8, 2003, he agreed to the following:

I will not, during my employment by TEC or thereafter without TEC's written approval, disclose to others nor use for my own benefit or the future benefit of any other individual or firm, data and information which is not generally known, which relates to my work or which relates to the actual or anticipated business, products, services or projects of TEC or similar data and information of other individuals or organization to which I may gain access in the course of my employment or by reason of such employment.

(Ex. 2.)

52. The Employment Agreement is enforceable.

53. Hardy breached the Employment Agreement by disclosing TEC's trade secrets, proprietary and confidential information, data, technology, and formulas related to the

PowerMaster product line, which he gained access to by virtue of his employment with TEC, to Power Measurements for his own benefit and the benefit of Power Measurements.

54. Hardy breached the Employment Agreement by disclosing TEC's trade secrets, proprietary and confidential information, data, technology, and formulas related to the PowerMaster product line, which he gained access to by virtue of his employment with TEC, to the public by filing the patent application that issued as the '771 Patent for his own benefit and the benefit of Power Measurements.

55. At no time did TEC give Hardy written approval to disclose such information.

56. Because of Hardy's breach of the confidentiality provisions of the Employment Agreement, TEC has suffered damages.

COUNT II

BREACH OF CONTRACT SEVERANCE AGREEMENT – CONFIDENTIALITY (Defendant Hardy)

57. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

58. In the Severance Agreement, Hardy acknowledged and reaffirmed the terms of the Employment Agreement, and agreed to the following:

[Hardy] shall not, without TEC's prior written approval, "disclose to others nor use for his own benefit or the future benefit of any other individual or firm, data and information which is not generally known, which relates to his work or which relates to the actual or anticipated business, products, services or projects of TEC or similar data and information of other individuals or organization to which he has gained access in the course of his employment with TEC."

(Ex. 1.)

59. Hardy further acknowledged and reaffirmed the terms of the 2007 and 2011 Stock Option Agreements as follows:

. . . [Hardy] is prohibited from using at any time for any reason any “proprietary and confidential information” of TEC to which he had access during his employment by TEC. Hardy hereby acknowledges and reaffirms such obligations.

(Ex. 1.)

60. Hardy additionally agreed to the following in the Severance Agreement:

In order for Hardy to perform the Consulting Services, Hardy will remain exposed to TEC’s Confidential Information (as defined below), and Hardy agrees to use such information only in the best interests of TEC. Hardy further agrees that he shall not, without the prior written authorization of TEC, directly or indirectly use, divulge, furnish or make accessible to any company, person or other entity any Confidential Information (as defined below), but instead shall keep all Confidential Information strictly and absolutely confidential. Further, Hardy will take all actions reasonably required of him to prevent his employees, agents, representatives, as the case may be, from using or divulging such information in a manner or for a purpose that may be contrary to the best interests of TEC.

(Ex. 1.)

61. The Severance Agreement defines “Confidential Information” as follows:

[T]rade secrets concerning the business of TEC, product specifications, know-how, processes, records, customer and supplier lists and the location of any such customers or suppliers, current and anticipated customer requirements, price lists, market studies, business plans, any information, however documented, that is a trade secret under applicable law, and all other information associated with the products and services of TEC.

(Ex. 1.)

62. The Severance Agreement is enforceable.

63. Hardy breached the Severance Agreement by disclosing TEC’s trade secrets, proprietary and confidential information, data, technology, and formulas related to the

PowerMaster product line, which he gained access to by virtue of his employment with TEC, to Power Measurements for his own benefit and the benefit of Power Measurements.

64. Hardy breached the Severance Agreement by disclosing TEC's trade secrets, proprietary and confidential information, data, technology, and formulas related to the PowerMaster product line, which he gained access to by virtue of his employment with TEC, to the public by filing the patent application that issued as the '771 Patent for his own benefit and the benefit of Power Measurements.

65. At no time did TEC give Hardy written approval to disclose such information.

66. Because of Hardy's breach of the confidentiality provisions of the Severance Agreement, TEC has suffered damages, including but not limited to the three deferred compensation payments made to Hardy in the total amount of \$420,000.00.

67. TEC is entitled to permanent injunctive relief under Paragraph 12(e) of the Severance Agreement.

68. TEC is entitled to its attorney's fees and costs under Paragraph 27(c) of the Severance Agreement.

COUNT III

BREACH OF CONTRACT 2007 & 2011 STOCK OPTION AGREEMENTS – CONFIDENTIALITY (Defendant Hardy)

69. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

70. In the 2007 and 2011 Stock Option Agreements, Hardy agreed "that while employed by the Company [he] had access to proprietary and confidential information that may not be used for any reason after termination of employment." (Exs. 3 & 4.)

71. The 2007 and 2011 Stock Option Agreements are enforceable.

72. Hardy breached the 2007 and 2011 Stock Option Agreements by disclosing TEC's trade secrets, proprietary and confidential information, data, technology, and formulas related to the PowerMaster product line, which he gained access to by virtue of his employment with TEC, to Power Measurements for his own benefit and the benefit of Power Measurements.

73. Hardy breached the 2007 and 2011 Stock Option Agreements by disclosing TEC's trade secrets, proprietary and confidential information, data, technology, and formulas related to the PowerMaster product line, which he gained access to by virtue of his employment with TEC, to the public by filing the patent application that issued as the '771 Patent for his own benefit and the benefit of Power Measurements.

74. Because of Hardy's breach of the confidentiality provisions in the 2007 and 2011 Stock Option Agreements, TEC has suffered damages.

COUNT IV

BREACH OF CONTRACT 2007 & 2011 STOCK OPTION AGREEMENTS – NON-COMPETITION (Defendant Hardy)

75. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

76. In the 2007 and 2011 Stock Option Agreements, Hardy agreed that he "will not compete directly or indirectly compete with the products or services offered by the Company while employed and for a period of five (5) years after termination of employment." (**Exs. 3 & 4.**)

77. The 2007 and 2011 Stock Option Agreements are enforceable.

78. Hardy breached the 2007 and 2011 Stock Option Agreements through his involvement with Power Measurements, which is competing directly and indirectly with TEC's Powermetrix division in the field of electricity power metering systems and AC Power Measurement.

79. Hardy breached the 2007 and 2011 Stock Option Agreements through his involvement with Power Measurements and the development of technology and products that are to be used for very high accuracy power measurement.

80. Because of Hardy's breach of the non-competition provisions in the 2007 and 2011 Stock Option Agreements, TEC has suffered damages.

COUNT V

BREACH OF CONTRACT SEVERANCE AGREEMENT – NON-COMPETITION (Defendant Hardy)

81. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

82. In the Severance Agreement, Hardy acknowledged and reaffirmed the terms of the 2007 and 2011 Stock Option Agreements as follows:

Hardy also acknowledges that the terms of the 2007 and 2011 Stock Option Award Agreements require that for a period of five years after the Termination Date, Hardy shall "not compete directly or indirectly with the products or services" which were offered by TEC during the term of his employment . . .

(Ex. 1.)

83. Hardy further agreed to that he will not without prior, written consent of TEC:

(1) induce or attempt to induce any customer of or supplier to TEC to cease or reduce its business or other relationship with TEC or any of its Affiliates, or otherwise interfere with the relationship between TEC or any of its Affiliates and any such person, entity or

organization; (ii) engage, directly or indirectly, in any activity with any current customer of TEC anywhere in the world that is competitive with the business of TEC; or (iii) engage, directly or indirectly, in any activity anywhere in the world that is competitive with the business of TEC. For purposes of this Agreement, “engage” shall mean having any direct or indirect interest in any person, entity or organization, whether as an owner, stockholder, partner, member, joint venturer, creditor, director, officer, employee, consultant, independent contractor or otherwise, or rendering any direct or indirect service or assistance to any person, entity or organization (whether as an agent, consultant, or otherwise). . . .The provisions of this Section 12(b) shall remain in effect for a period of five years after the Termination Date.

(Ex. 1.)

84. The Severance Agreement is enforceable.

85. Hardy breached the Severance Agreement through his involvement with Power Measurements, which is competing directly and indirectly with TEC’s Powermetrix division in the field of electricity power metering systems and AC Power Measurement.

86. Hardy breached the Severance Agreement through his involvement with Power Measurements and the development of technology and products that are to be used for high accuracy power measurement.

87. Because of Hardy’s breach of the non-competition provision in the Severance Agreement, TEC has suffered damages, including but not limited to the three deferred compensation payments made to Hardy in the total amount of \$420,000.00.

88. TEC is entitled to permanent injunctive relief under Paragraph 12(e) of the Severance Agreement.

89. TEC is entitled to its attorney’s fees and costs under Paragraph 27(c) of the Severance Agreement.

COUNT VI

**BREACH OF CONTRACT
SEVERANCE AGREEMENT – NON-SOLICITATION
(Defendant Hardy)**

90. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

91. In the Severance Agreement, Hardy agreed to the following:

[Hardy] shall not directly or indirectly: (i) take any action to solicit or divert any business (or potential business) or clients or customers (or potential clients or potential customers) away from TEC; (ii) induce customers, potential customers, clients, potential clients, suppliers, agents or other persons under contract or otherwise associated or doing business with TEC, to reduce or alter any such association or business with or from TEC; or (iii) induce any person in the employment of TEC or any consultant to TEC to (A) terminate such employment or consulting arrangement, (B) accept employment or enter into any consulting arrangement with anyone other than TEC, or (C) interfere with the customers, suppliers, or the clients of TEC in any manner or the business of TEC in any manner. For purposes of this Agreement, a “potential client” or a “potential customer” shall mean a person or entity that TEC: (i) is or will be in the reasonably foreseeable future soliciting or considering soliciting (or has targeted for solicitation, or will be so targeting in the reasonably foreseeable future); or (ii) has, at any time or from time to time been soliciting for or in respect of any current, actively pending or contemplated product lines, businesses or services offered by TEC. Also for purposes of this Agreement, “potential business” shall mean any current or reasonably foreseeable commercial activity or any current or reasonably foreseeable commercial opportunities associated in any way with TEC. The provisions of this Section 12(c) shall remain in effect for a period of five years after the Termination Date.

92. The Severance Agreement is enforceable.

93. On or around May 5, 2013, Hardy breached the Severance Agreement when he sent an email to TEC’s employee, Ming Cheng, stating that Ming Cheng should “find another

job ASAP.” (Ex. 5.) Such action was to induce a TEC employee to terminate his employment with TEC.

94. On or around March 6, 2015, Hardy breached the Severance Agreement when he sent an email to TEC’s potential clients and potential customers of TEC to solicit and divert potential or clients or customers (or potential clients or potential customers) away from TEC. (Ex. 6.) Hardy took action to divert potential business from TEC in high accuracy power measurement and meters on behalf of Power Measurements. (Ex. 6.)

95. Because of Hardy’s breach of the non-solicitation provision in the Severance Agreement, TEC has suffered damages, including but not limited to the three deferred compensation payments made to Hardy in the total amount of \$420,000.00.

96. TEC is entitled to permanent injunctive relief under Paragraph 12(e) of the Severance Agreement.

97. TEC is entitled to its attorney’s fees and costs under Paragraph 27(c) of the Severance Agreement.

COUNT VII

BREACH OF TENNESSEE UNIFORM TRADE SECRETS ACT Tenn. Code Ann. § 47-25-1701, *et seq.* (ALL DEFENDANTS)

98. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

99. Hardy and Power Measurements have violated the Tennessee Uniform Trade Secrets Act (“TUTSA”), Tenn. Code Ann. § 47-25-1701, *et seq.*

100. The confidential information misappropriated by Defendants constitutes trade secrets within the meaning of the TUTSA because it derives independent economic value, actual

or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

101. TEC took reasonable measures to keep its trade secrets confidential. As stated above, only certain individuals had access to the trade secrets. Trade secret information was provided only to those who, like Hardy, agreed to keep such information confidential.

102. TEC spent considerable sums of money, developing, researching, acquiring, maintaining, and guarding this information.

103. Defendants have willfully and maliciously misappropriated the trade secrets, in that Defendants have retained and taken TEC's trade secrets for their own benefit and to the detriment of TEC.

104. Defendants misappropriated TEC's trade secrets by acquiring them through improper means, including conversion and Hardy's breach of his duty to maintain secrecy under the Employment Agreement, Severance Agreement, and 2007 and 2011 Stock Option Agreements.

105. Defendants are now disclosing and/or using these trade secrets without TEC's consent.

106. There is a substantial threat that Defendants will continue to use and disclose the trade secrets in an effort to compete with TEC and its Powermetrix Division.

107. Defendants' misappropriation of the trade secrets and use of them to develop competing products with TEC has caused TEC to sustain actual loss, including, but not limited to, lost profits and damage to good will and reputation.

108. As a direct and proximate result of Defendants' wrongful conduct, TEC has suffered and will continue to suffer irreparable damage and money damages unless enjoined.

109. Because Hardy's misappropriation was willful and malicious, the TUTSA also authorizes the recovery of punitive damages and TEC's attorneys' fees.

110. Hardy and Power Measurements have used "improper means" as defined by the Trade Secrets Act to "misappropriate" TEC's trade secrets for the benefit Power Measurements. Tenn. Code Ann. § 47-25-1702, *et seq.*

111. Upon information and belief, when Power Measurements acquired TEC's trade secrets, Power Measurements knew or had reason to know that the trade secrets were acquired by improper means. Tenn. Code Ann. § 47-25-1702, *et seq.*

112. Power Measurements, had reason to know it had acquired TEC's trade secrets by "improper means because at the time of disclosure:

- a. Power Measurements derived TEC's trade secrets from or through a person – specifically Hardy – who had utilized improper means to acquire it. Tenn. Code Ann. § 47-25-1702, *et seq.*;
- b. Power Measurements knowingly acquired TEC's trade secrets under circumstances giving rise to a duty to maintain their secrecy or limit their use. Tenn. Code Ann. § 47-25-1702.

113. Power Measurements, by using "improper means", has acquired TEC's trade secrets as defined by the TUTSA, including such proprietary information as technology, equations, formulas, patterns, compilations, programs, devices, methods, techniques, or processes from its PowerMaster product line that: (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper

means by, other persons who can obtain economic value from its disclosure or use, and such information was and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Tenn. Code Ann. § 47-25-1702(4).

114. Power Measurements and Hardy continue to use TEC's misappropriated trade secrets to conduct business and to gain a commercial advantage over TEC.

115. TEC is entitled to an award of money damages from Hardy and Power Measurements for their misappropriation of its trade secrets, including damages for actual losses to TEC as well as the unjust enrichment of Hardy and Power Measurements. Tenn. Code Ann. § 47-25-1704.

116. Defendants' misappropriation of TEC's trade secrets was willful and malicious.

117. Defendants' willful and malicious misappropriation of TEC's trade secrets entitles TEC to exemplary damages under the Tenn. Code Ann. § 47-25-1704(b).

118. Defendants' willful and malicious misappropriation of TEC's trade secrets entitles TEC to a judgment for its reasonable attorney fees under the Trade Secrets Act, and TEC seeks an award of such fees. Tenn. Code Ann. § 47-25-1705.

COUNT VIII

DECLARATORY JUDGMENT THAT TEC HAS NO FURTHER OBLIGATIONS UNDER THE SEVERANCE AGREEMENT (HARDY)

119. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

120. Hardy has breached the terms of the Severance Agreement as more fully described hereinabove.

121. Hardy's breach of the Severance Agreement has caused TEC to suffer damages as more fully described hereinabove.

122. Because Hardy has breached the terms of the Severance Agreement, in addition to the other relief sought herein, TEC seeks a declaration from this Honorable Court that it has no obligation to make the two remaining payments to Hardy under the Severance Agreement that Hardy has breached.

COUNT IX

INJUNCTIVE RELIEF (ALL DEFENDANTS)

123. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

124. Paragraph 12(e) of the Severance Agreement provides that a violation of the confidentiality, non-competition, non-solicitation, or non-disparagement provisions of the Severance Agreement "would cause immediate and irreparable harm to TEC, and that damages for such harm would be difficult to calculate." (**Ex. 1.**)

125. In the Severance Agreement, Hardy agreed "that TEC may seek an injunction, temporary, permanent or otherwise, restraining order or such other equitable relief as may be available to prevent or restrain Hardy's breach of this Section 12, without the necessity of showing actual damages or posting a bond or other security." (**Ex. 1.**)

126. Because of Hardy's competition with TEC in his involvement with Power Measurements, TEC has been harmed and will continue to be harmed unless the injunctive relief requested herein is granted forthwith by this Court.

127. TEC is additionally entitled to injunctive relief pursuant to the TUTSA, Tenn. Code Ann. § 47-25-1703.

128. Because of Defendants' use of TEC's trade secrets, confidential and proprietary information, and technology, formulas, and equations, TEC has been harmed, and will continue to be harmed, unless the injunctive relief requested herein is granted by this Court.

129. Indeed, as a result of the substantial investment of time, effort, and money by TEC in developing its technologies and formulas, Hardy and Power Measurements were able to build upon the very confidential and proprietary information and trade secrets which Hardy and Power Measurements now seek to wrongfully exploit for their own benefit.

130. Therefore, Defendants have caused TEC irreparable harm that it has, and will continue to suffer, if the injunctive relief requested herein is denied.

131. By virtue of the verified allegations and facts set forth herein, TEC has demonstrated a reasonable likelihood of success on the merits and that a balancing of the equities favors the issuance of an injunction against Defendants.

132. The public interest will not be disserved by the issuance of an injunction.

133. Unless Defendants are permanently enjoined from the foregoing misconduct, TEC will be irreparably harmed by:

- a. Defendants' wrongful use and continued misappropriation of TEC's confidential and trade secret information for their continued competition with TEC;
- b. Loss of business, goodwill, competitive advantage, and market position as Defendants exploit TEC's confidential and trade secret information that is owned and developed exclusively by TEC, but which Defendants have wrongfully misappropriated;
- c. Present economic loss, which is unascertainable at this time, and future economic loss, which is presently incalculable; and

d. No adequate remedy at law.

134. THIS IS THE PLAINTIFF'S FIRST APPLICATION FOR EXTRAORDINARY RELIEF IN THIS ACTION, AND UNLESS DEFENDANTS ARE ENJOINED FROM PERFORMING SERVICES IN COMPETITION WITH PLAINTIFF, PLAINTIFF WILL SUFFER IRREPARABLE INJURY AND HARM BEFORE NOTICE CAN BE SERVED AND A HEARING HELD THEREON.

COUNT X
PATENT INVALIDITY
INEQUITABLE CONDUCT
(Defendant Hardy)

135. TEC repeats and incorporates the allegations set forth in the preceding paragraphs as if fully set forth herein.

136. Upon information and belief, during his tenure at TEC, Hardy acquired knowledge of prior art regarding electric power metering that is material to the invention of Hardy's the '771 Patent.

137. Federal regulation 37 C.F.R. § 1.56 ("Rule 56") requires an inventor to disclose to the USPTO during the prosecution of his/her patent application material prior art that is known to him/her.

138. Rule 56 provides that failure to disclose known material prior art constitutes inequitable conduct before the USPTO.

139. Rule 56 provides that a determination that an inventor has committed inequitable conduct by deliberately and knowingly failing to disclose material prior art with an intent to deceive the USPTO during the prosecution of his/her patent application results in the invalidation of the inventor's patent.

140. As a result of his knowledge of the PowerMaster product line, Hardy knew of the materiality of the technical specifications, circuit designs, and proprietary information concerning various products within the PowerMaster product line.

141. For instance, during the prosecution of the application which led to the issuance of the '771 patent, i.e. Application No. 14/489,724, (hereinafter "the '724 application"), Hardy identified certain sales brochures for the PowerMaster 5 Series, True Three Phase Analyzing Reference Standard with Internal Three Phase Current Source, and the PowerMaster 7 Series, True Three Phase Analyzing Reference Standard with Internal Three Phase Current and Voltage Source, (collectively referred to herein as "the PowerMaster references"), attached hereto as **Exhibit 7**, as prior art. However, Hardy improperly withheld the date of the PowerMaster references.

142. As a result of Hardy's improperly withholding the date of the PowerMaster references, the information referred to therein was not considered by the Examiner during examination of the '724 application.

143. Upon information and belief, Hardy knew that the Examiner did not consider the PowerMaster references during examination of the '724 application; and Hardy failed to disclose the dates of the PowerMaster references to the Examiner.

144. Further, upon information and belief, during prosecution of the '724 application, Hardy intentionally, deliberately and knowingly failed to disclose material prior art regarding electric power metering, namely, the POWERMASTER 4 SERIES Automated Meter Tester brochure, the "Marketing Spec 3300" document, the "Marketing Spec 5 Series" document, the "Marketing Spec 7 Series" document, the "PowerMaster Phase Current Channel" document, the "PowerMaster Phase Voltage Channel" document, the "PowerMaster Data Processing"

document, the “PowerMaster Phase Data Processing” document, the “Data Acquisition Process for PowerMaster” document, the “WFA FPGA Functionality 110426” document, the “New Product Specification 070924X” document, and the “Lowleveldataacquisition 081231” document, (collectively referred to herein as “the PowerMaster documentation”).

145. In the Notice of Allowability issued by the Examiner on December 17, 2014, for the ‘724 application, the Examiner indicated that Independent Claim 1 was allowable because:

the closest prior art of record either singularly or in combination fails to anticipate or render obvious the combination wherein “one or more measuring devices which simultaneously make sampling measurements of voltage and current from one or more supply lines delivering power from the EVCS to a load after the charging cable has been received at the primary port; digital processing means configured to calculate a first value of active energy delivered by the EVCS to the load from the sampling measurements obtained from the one or more measuring devices; and at least one output device for displaying or transmitting the first value of active energy delivered or one or more values determined from the first value of active energy delivered for comparison with a metered value of active energy delivered as given by the EVCS” in combination with other limitations in the claims as defined by Applicant(s).

146. With regard to the limitation in Claim 1 “one or more measuring devices which simultaneously make sampling measurements of voltage and current from one or more supply lines delivering power from the EVCS to a load after the charging cable has been received at the primary port,” the documents identified in the PowerMaster Documentation either singularly or in combination anticipate this limitation and/or would render this limitation obvious to one having ordinary skill in the art.

147. With regard to the limitation in Claim 1 “digital processing means configured to calculate a first value of active energy delivered by the EVCS to the load from the sampling measurements obtained from the one or more measuring devices,” the documents identified in

the PowerMaster Documentation either singularly or in combination anticipate this limitation and/or would render this limitation obvious to one having ordinary skill in the art.

148. With regard to the limitation in Claim 1 “at least one output device for displaying or transmitting the first value of active energy delivered or one or more values determined from the first value of active energy delivered for comparison with a metered value of active energy delivered as given by the EVCS,” the documents identified in the PowerMaster documentation either singularly or in combination anticipate this limitation and/or would render this limitation obvious to one having ordinary skill in the art.

149. In the Notice of Allowability issued by the Examiner on December 17, 2014, in the ‘724 application, the Examiner indicated that Independent Claim 22 was allowable because:

the closest prior art of record either singularly or in combination fails to anticipate or render obvious the combination wherein “making sampling measurements of voltage and current simultaneously from one or more supply lines delivering power from the EVCS to a load after the charging cable has been received at the primary port; calculating a first value of active energy delivered by the EVCS to the load from the sampling measurements with a digital processing means; and displaying or transmitting the first value of active energy delivered or one or more values determined from the first value of active energy delivered with at least one output device for comparison with a metered value of active energy delivered as given by the EVCS” in combination with other limitations in the claims as defined by Applicant(s).

150. With regard to the limitation in Claim 22 “making sampling measurements of voltage and current simultaneously from one or more supply lines delivering power from the EVCS to a load after the charging cable has been received at the primary port,” the documents identified in the PowerMaster Documentation either singularly or in combination anticipate this limitation and/or would render this limitation obvious to one having ordinary skill in the art.

151. With regard to the limitation in Claim 22 “calculating a first value of active energy delivered by the EVCS to the load from the sampling measurements with a digital processing means,” the documents identified in the PowerMaster Documentation either singularly or in combination anticipate this limitation and/or would render this limitation obvious to one having ordinary skill in the art.

152. With regard to the limitation in Claim 22 “displaying or transmitting the first value of active energy delivered or one or more values determined from the first value of active energy delivered with at least one output device for comparison with a metered value of active energy delivered as given by the EVCS,” the documents identified in the PowerMaster documentation either singularly or in combination anticipate this limitation and/or would render this limitation obvious to one having ordinary skill in the art.

153. The improperly withheld PowerMaster documentation is not cumulative of any art actually considered by the Examiner.

154. The technology of the improperly withheld PowerMaster documentation will be recognized by those skilled in the art as analogous to the art of devices and methods for testing electronic vehicle charging stations described in the ‘771 Patent using the same or similar electrical circuits, formulas, and algorithms to perform energy measurement, to test the accuracy and performance of electrical meters.

155. Upon information and belief, had the PowerMaster documentation been properly disclosed to the PTO, the ‘771 Patent would not have issued.

156. Hardy did not disclose the PowerMaster documentation to the USPTO.

157. Upon information and belief, Hardy knowingly failed to disclose such prior art with the intent to deceive the USPTO.

158. Such conduct constitutes inequitable conduct that would render the '771 Patent invalid.

159. Because of Hardy's inequitable conduct during prosecution of his patent application, the '771 Patent is invalid and unenforceable *in toto*.

160. Based on Hardy's inequitable conduct and the existence of an actual case or controversy between Hardy and TEC, TEC is entitled to a declaration that the '771 Patent is invalid and all of the claims of the '771 Patent are unenforceable.

161. TEC is entitled to its attorney's fees and costs under 35 U.S.C. § 285.

V. REQUEST FOR RELIEF (ALL COUNTS)

WHEREFORE, PLAINTIFF TEC, respectfully requests judgment in its favor and against Defendants, and respectfully requests that the Court:

- (1) Issue a permanent injunction:
 - (a) Enjoining and restraining Defendants Hardy for himself, or on behalf of or in conjunction with any other person, partnership, corporation, or association, from directly or indirectly competing with the business of TEC; and
 - (b) Enjoining and restraining Defendants from, directly or indirectly, whether alone or in concert with others, including any agent of Hardy and/or Power Measurements, from using or disclosing TEC's confidential information and trade secrets;
- (2) Award TEC all of its direct and consequential damages against Defendants, including, but not limited to damages on account of lost profits and revenues, damages to good will, disgorgement of amounts received by Defendants, the three

deferred compensation payments made to Hardy while he was breaching the Severance Agreement, interest, attorneys' fees and costs, in the amount proven at trial incurred as a result of Defendants' wrongful conduct;

- (3) Award TEC exemplary damages it proves at trial, together with its attorneys' fees, as provided in the Tennessee Uniform Trade Secrets Act;
- (4) Issue a declaratory judgment that the '771 Patent is invalid and unenforceable;
- (5) Award TEC its attorneys' fees under 35 U.S.C. § 285;
- (6) Award TEC its attorneys' fees and costs pursuant to the terms of the Severance Agreement;
- (7) Issue a declaratory judgment that TEC is not obligated to make any future payments to Hardy pursuant to the Severance Agreement, due to Hardy's material breach of the Severance Agreement; and
- (8) Award TEC such other and further relief as the Court deems just and proper.

Respectfully submitted this 19th day of February, 2016.

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