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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DeAcero, S.A. de C.V.,

Plaintiff,

v.

Core Furnace Systems Corp., f/k/a Techint Technologies Inc.,

Defendant.

Civil Action No. 05-1016

COMPLAINT

1. Plaintiff DeAcero S.A. de C.V. ("DeAcero"), by its counsel, complains and alleges the following against Defendant Core Furnace Systems Corp, f/k/a Techint Technologies Inc. ("Core").

Introduction

A. The Parties

2. DeAcero is a privately owned Mexican Company in the business of making steel long products and fabricating certain steel products, such as rebar, wire, fencing, and related products. DeAcero's corporate headquarters are in San Pedro Garza Garcia, Nuevo Leon, Mexico. One of its steel making plants is the Saltillo Steel Mill (the "Saltillo Mill"), located in Saltillo Coahuillo, Mexico. DeAcero is a citizen of Mexico and is not a citizen of Pennsylvania.

3. Core is a Pennsylvania corporation with its principal place of business at Cherrington Corporate Center, 100 Corporate Center Drive, Coraopolis, Pennsylvania, 15108-3185. Upon information and belief, Core is a citizen of Pennsylvania and is not a citizen of Mexico.

B. The Work at the Saltillo Mill

4. In 1999 and early 2000, DeAcero planned to improve production at the Saltillo

Mill through, among other things, changes in the method of feeding scrap metal (used as raw material in making new steel) into the furnace, modifications to the furnace itself, and modifications to the rolling mill. DeAcero solicited bids both for engineering services and equipment installation in connection with the planned improvements.

5. Among the companies that tendered a bid, specifically in connection with the method of feeding scrap metal into the furnace (in industry parlance, "charging" the furnace), was Core, then called Techint Technologies Inc., a Pennsylvania corporation owned by Techint Internazionale S.p.A. ("Techint"), an Italian company that produces steel in Italy and in Latin America and also supplies steel-making equipment and engineering services. Techint, the Italian parent company, is the holder of several U.S., Mexican, and other foreign patents relating to its "Consteel" steel-making process, including the following U.S. patents:

U.S. Patent No. 4,543,124 (issued September 24, 1985);
U.S. Patent No. 4,564,388 (issued January 14, 1986);
U.S. Patent No. 4,609,400 (issued September 2, 1986);
U.S. Patent No. 4,681,537 (issued July 21, 1987);
U.S. Patent No. 4,795,139 (issued January 3, 1989);
U.S. Patent No. 4,836,732 (issued June 6, 1989);
U.S. Patent No. 5,400,358 (issued March 21, 1995);
U.S. Patent No. 5,406,579 (issued April 11, 1995);
U.S. Patent No. 5,800,591 (issued September 1, 1998);
U.S. Patent No. 6,004,504 (issued December 21, 1999);
U.S. Patent No. 6,155,333 (issued December 5, 2000); and
U.S. Patent No. 6,450,804 (issued September 17, 2002)

(the "U.S. Consteel Patents"), Mexican Patents Nos. 166,647 and 185,147 (the "Mexican Consteel Patents"), European Patents EP 0190313B2 and EP 0592723B1, and International Patent Application WO 00/50648. Also among the bidders, for a broader array of equipment and services encompassing all areas of work to be performed at the Saltillo Mill, was Danieli & C. Officine Meccaniche S.p.A. ("Danieli"), a competing Italy-based supplier of steel-making equipment and engineering services. Danieli had been the major supplier of the original equipment at the Saltillo Mill. Danieli also holds patents, in Italy and elsewhere, for its own proprietary steel-making methods.

6. Discussions between DeAcero and Core, acting as Techint's agent (Core is

referred to hereinafter as "Core/Techint" when acting as Techint's agent) led to a one-page letter agreement prepared by Core/Techint in late July, 2000 (the "Letter Agreement"), which set forth two separate phases of the project, both limited to the furnace charging system at the Saltillo Mill. Phase One, set forth in "Annex A" of the Letter Agreement, provided for the production of "a set of engineering drawings that will allow DeAcero to develop bid packages necessary for the equipment installation." The price for Phase One was US $300,000 which was to be paid pursuant to the payment schedule set forth in Annex A. Phase Two was an option offered to DeAcero to purchase the "balance of engineering works and the equipment and services as described" in the proposal provided to DeAcero by Core/Techint in connection with the Letter Agreement. DeAcero executed the Letter Agreement and Annex A on August 4, 2000, by signing a copy of the Letter Agreement and of Annex A. Neither the Letter Agreement nor Annex A contains an arbitration provision.

7. DeAcero, having accepted Core/Techint's first offer for basic drawings and engineering services, made the first payment on August 31, 2000. Upon these two events, Phase One of the agreement came into effect. Core/Techint delivered some, but not all, of the information DeAcero needed to develop bid packages for equipment installation. This information embodied details of Techint's patented Consteel process, along with minor routine optimization details.

8. DeAcero made full payment of US $300,000 for the information supplied by Core/Techint, but, unimpressed with the quality of Core/Techint's work and the price proposed for the installation and equipment, declined Core/Techint's second offer for Phase Two. Instead, DeAcero retained Danieli to install a different type of improvement technology on the Saltillo Mill. Danieli developed its own engineering drawings and methods for this alternative system, and implemented fundamentally different improvements to the Saltillo Mill charging system from those that Core/Techint had proposed. DeAcero did not disclose to Danieli any of the materials Core had furnished as part of the Letter Agreement and, instead, obtained assurances from Danieli that it was solely responsible for the work to be performed. Danieli was also

retained to, and did, perform additional work throughout the Saltillo Mill unrelated to the charging system that was the subject of Core/Techint's bids.

C. The Legal Dispute

9. Core/Techint threatened litigation even before it lost the Saltillo Mill business. In a December 11, 2001, letter to DeAcero, before Core/Techint was notified that Danieli was selected (let alone commenced any work), Core/Techint stated that it would take immediate legal action if DeAcero did not select Techint for the Saltillo Mill project. In this letter, Core/Techint made reference to "almost 50" patents assertedly in force for the Consteel process in "more than 30 countries," adding that "almost as many are pending in the United States, Mexico, Italy, and other countries." Core/Techint ended its threatening letter with the anticompetitive comment that "DeAcero and Techint are two serious steelmaking organizations with strong presence in and commitment to the Latin American community. We should avoid the need to force the other to assume an adversarial position."

10. In May, 2003, on information and belief, Techint ostensibly transferred its ownership interest in Techint Technologies Inc., which changed its name to Core Furnace Systems Corp. DeAcero has been unable to discover precisely who currently owns Core and the details of the relationship that presently exists between Core and Techint. However, it is common knowledge in the steel industry that Core remains Techint's alter ego. For example, the news archive of the Association for Iron & Steel Technology's web site <http://www.steelnews.com>, which is organized by company, includes a listing for "Techint News Releases, Including Core Furnace Systems," and no separate listing for Core. *See* <http://www.steelnews.com/companies/suppliers/techint_archive.htm>. On information and belief, Techint controls Core for purposes of Core's dealings with DeAcero.

11. In August, 2003, Core filed a claim with the Federal District Attorney in Monterrey, Mexico, seeking the initiation of a criminal proceeding against DeAcero, alleging that DeAcero misappropriated Core's trade secrets relating to the Consteel process. As part of its claim, Core asked the Mexican authorities to direct DeAcero to produce all of the drawings

Danieli had used to construct the facility and grant access to Core for an inspection of the Saltillo Mill. Core's filing was dismissed on two successive occasions and the discovery it sought, including documents and the inspection of the Saltillo Mill, was denied. Core's claim for criminal misappropriation of trade secrets (which, if proven, would permit the recovery in Mexico of damages) was Core's sole remedy under Mexican law for the alleged violation. On information and belief, Core's ability to file another such claim is barred by the applicable statute of limitations, although Core's time to appeal from the second dismissal of its claim may not have expired.

12. On September 8, 2003, Techint sued DeAcero in the Mexican Institute of Industrial Property ("MIIP"), Intellectual Property Protection Division, for infringement of Techint's Mexican Consteel Patents (the "Mexican Patent Action"). Under the laws of Mexico, the Institute is a special tribunal for adjudication of patent disputes. Techint alleged that Danieli, in performing its work at the Saltillo Mill, built systems that infringed the Mexican Consteel Patents. The disclosures and claims of these patents are virtually identical to U.S. patents, which claim the same Techint technology. The patents also describe large amounts of unclaimed detail for how to build and use the Consteel system, thereby placing such detail in the public domain. This case is in the discovery phase, with one inspection of the Saltillo Mill (by the MIIP) conducted and another having been requested by Techint.

13. On October 31, 2003, Core initiated an arbitration proceeding against DeAcero in Pittsburgh, Pennsylvania (the "Arbitration"), not alleging patent infringement, but instead alleging misappropriation of trade secrets and breach of contract. Without disclosing to the arbitrators that Techint had, when it previously decided to reveal its trade secrets in return for a patent monopoly, published extensive details of the Consteel process in its U.S. and foreign patents, Core nonetheless alleged that DeAcero provided Danieli with the drawings and other information submitted by Core/Techint, and that Danieli used this information in performing its work on the Saltillo Mill. Thus, the substantive allegations in the Arbitration, alleged as trade secrets, are identical to those described and litigated in both the criminal action it initiated

against DeAcero and the Mexican Patent Action, yet Core ignored both the Mexican Patent Action and Techint's broad portfolio of U.S. Consteel patents, pretending that the intellectual property embodied in the Consteel process is Core's own trade secrets.

14. On September 29, 2004, DeAcero also submitted an Amended Answering Statement asserting that the arbitration provision Core cited in its Demand was taken from the proposal that was associated with the second offer, which was never accepted by DeAcero, and therefore, there is no agreement to arbitrate. DeAcero has never executed nor submitted a written submission to arbitrate as provided in Rule 5 of the AAA Construction Industry Arbitration Rules. In addition to this standing objection, DeAcero has filed three motions objecting on procedural arbitrability grounds: (i) April 23, 2004, Motion of DeAcero to Dismiss or Stay a Portion of the Arbitration Pending the Outcome of Related Litigation Covering the Same Issues; (ii) September 29, 2004, DeAcero S.A. de C.V.'s Motion to Dismiss for Lack of Jurisdiction; and (iii) January 25, 2005, Motion to Reconsider Respondent's Motion to Dismiss or Stay and Respondent's Motion to Dismiss for Lack of Jurisdiction.

15. The intellectual property rights at issue in the Arbitration and in this action are those of Techint, not Core. A License and Right to Use Technology Agreement dated August 4, 2003, between Core and Techint, establishes that Techint, rather than Core, owns all technology related to the Consteel process and that Core did not even acquire its limited, non-exclusive license to the intellectual property until August 4, 2003, well after the alleged misappropriation now claimed by Core. Core's purported standing to pursue the Arbitration exists only because of a letter executed between Techint and Core, dated November 30, 2003 ("November Letter"), providing that:

> In order to protect the **patents** and proprietary rights of Techint Compagnia Tecnica Internazionale S.p.A. ("Techint") related to the Consteel process against the infringement allegedly made by De Acero S.A. de D.V. ("De Acero"), Core Furnace Systems Corp. ("Core") shall carry on the referenced legal actions ("Legal Actions"), which were initiated in the recent months after exhaustive consultations between our companies.

(emphasis added; the referenced "Legal Actions" are the Arbitration and the Mexican criminal proceeding). Further, the November Letter provides that Techint "shall bear any cost and expense directly and/or indirectly connected to" the Arbitration, and that any damages recovered from DeAcero by Core in the Arbitration "shall be for the benefit of Techint only and, therefore, once awarded to Core, shall be immediately remitted to Techint." Thus, Core serves as the agent of Techint, which explicitly assumes Core's costs and expected award in the Arbitration, for the purpose of securing access to a U.S. forum for enforcing Techint's supposed intellectual property rights.

16. In response to the Mexican Patent Action, the Arbitration and the Mexican criminal proceeding, Danieli and DeAcero sought to impose rationality on this international intellectual property dispute between two Italian intellectual property holders by suing Techint and Core in Italy's Court of Trieste in December, 2003 (the "Italian Action"). Danieli and DeAcero seek an ascertainment that Danieli's intellectual property and its work on the Saltillo Mill are separate from and do not infringe either Techint's European and worldwide patents or Core or Techint trade secrets. The Italian court has asserted jurisdiction over this dispute, and fact-finding by the Italian court's Technical Consultants is presently ongoing.

17. After the denial of DeAcero's procedural arbitrability requests to the Arbitration Panel, initial discovery continued. However, even after twenty-one months, the Arbitration is still procedurally in its early stages and very few activities have taken place. Neither Core nor DeAcero has yet completed its document production and other requested discovery. Neither side has conducted any depositions nor identified any expert witnesses. The Arbitration panel has not held a single in-person hearing or conference on any subject, despite DeAcero's request for oral argument and a hearing on its motions. The parties to the Arbitration have never appeared before the arbitrators. The first hearings in the arbitration are not scheduled to take place until January, 2006.

18. As will be made evident below, Techint and Core are each other's alter egos, and together have pursued a strategy which depended upon a "splitting" of intellectual property

"rights" in order to simultaneously pursue three separate actions, *i.e.*: (1) before this arbitration was even commenced, *Core* began a criminal proceeding against DeAcero in Mexico for alleged theft of the same purported "trade secrets" as are at issue in the arbitration; (2) next, *Techint* commenced a patent infringement action against DeAcero in Mexico for alleged infringement of Techint's Mexican patents; and (3) thereafter, Core commenced the U.S. arbitration — claiming the misappropriation of the same "trade secrets" as it alleged had been stolen in the Mexican criminal proceeding. Core/Techint's "three point" strategy is intended not only to interfere with and disrupt the competitive activities of Danieli but to gain access — one way or another — to competitive information concerning Danieli's design and implementation work on DeAcero's Saltillo Mill.

19. Most recently, in May, 2005, Techint has announced plans to escalate dramatically its competition with DeAcero and the Saltillo Mill by acquiring (through its Argentine subsidiary, Grupo Techint) Mexico's largest steel producer, Hylsamex S.A. de C.V., for a reported US $2.2 billion. Hylsamex operates a facility in Monterrey, Mexico, about one hour's drive from the Saltillo Mill and, when added to Techint's other holdings, will make Techint the largest steel producer in Latin America, and therefore the largest direct competitor of DeAcero. Core/Techint's broadly-phrased discovery requests in its various litigations and in the Arbitration, many of which cover facets of steelmaking unrelated to any of its claims and allegations, and its insistence in multiple forums on visiting DeAcero's Saltillo Mill, demonstrate that Techint pursues these disputes largely to gain access to DeAcero's and Danieli's own trade secrets and confidential information, to be used to compete against DeAcero and Danieli, without the strict protections accorded to a defendant in Federal court, where misuse of confidential information obtained through discovery in violation of a protective order would expose Core/Techint to a federal contempt citation.

20. Techint and Core's attempt to have it both ways is nothing more and nothing less than an attempt to abuse the U.S. judicial and dispute resolution systems. Core's purpose is evidently two-fold: (1) to strip DeAcero of its right to have patent claims adjudicated in a

judicial forum with all its protections; and (2) to gather competitive intelligence into Danieli's and DeAcero's own know-how for Techint's use in the competing mill that it is acquiring near DeAcero's Saltillo Mill, and elsewhere around the world. Accordingly, DeAcero must now ask this Court to determine and rule that the purported trade secrets that Core asserts in the Arbitration are fully disclosed in Techint's U.S. Consteel Patents, and therefore, that Core's Arbitration claims are pre-empted by U.S. patent law and the Arbitration should be stayed or enjoined for that reason as well as the fact that there is no valid agreement to arbitrate here.

Jurisdiction

A. Federal Question

21. The subject matter of Core's claims in the Arbitration, as well as its claim of a right to arbitrate under its contract with DeAcero, is dependent upon Core owning the claimed "trade secrets" at the time it commenced the Arbitration. However, under United States Patent Law, and controlling authority construing it, at the time Core commenced the arbitration, Core did not own or control rights in any trade secrets as alleged in the Arbitration because such "trade secrets" were effectively or fully disclosed in Techint's U.S. Consteel Patents.

22. Because the alleged trade secrets which are the subject of Core's Arbitration claim have been disclosed in United States Patents, such trade secrets — to the extent they ever existed — were extinguished with the publication of the applications for the U.S. Consteel Patents. Core's claims in the Arbitration are, therefore, actually claims of patent infringement masked as claims for misappropriation of trade secrets and breach of contract. Properly pled, these claims arise under the United States Patent Act, 35 U.S.C. § 1 *et. seq.* This Court therefore has original jurisdiction over this civil action under and pursuant to 28 U.S.C. § 1331 and original and exclusive jurisdiction under and pursuant to 28 U.S.C. § 1338(a).

B. Diversity

23. This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(2), because this action is between "citizens of a State and citizens or subjects of a foreign state[.]" DeAcero is a Mexican citizen and Core is a citizen of Pennsylvania. The

amount in controversy in this matter exceeds $75,000, because Core seeks damages of at least $13,500,000 in the Arbitration.

Venue

24. Venue is properly placed in this Court under and pursuant to 28 U.S.C. § 1391(a)(1) and (2) and 35 U.S.C. § 1400(b) as the defendant Core resides in and has a regular and established place of business in this district.

Count I

The Supposed Trade Secrets Alleged by Core in the Arbitration have been Extinguished by Techint's U.S. Consteel Patents

25. DeAcero repeats and realleges paragraphs 1 through 24 above.

26. In its Arbitration Interrogatory Responses dated September 17, 2004, Core identified 12 Alleged Trade Secrets in response to DeAcero's request that Core "identify with specificity each trade secret Core claims DeAcero misappropriated." From examination of these Alleged Trade Secrets and the drawings and other documents referenced by Core, in comparison with relevant patents held or applied for by Techint or other parties, each and every one of the twelve Alleged Trade Secrets is, in fact, not a trade secret but was disclosed in an issued patent and/or in a patent application, or is readily ascertainable from those disclosures by a reader skilled in the field.

27. Alleged Trade Secret #1, "Drawings and specifications regarding the design and construction of concrete foundations, specifically the shape of the two walls aside the Consteel conveyor...and the specifications for static and dynamic loads on the concrete foundations," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patents Nos. '591, '579, '333 and '804.

28. Alleged Trade Secret #2, "Drawings and specifications regarding the design and construction of a pre-heater, and the related hood arrangement, shape, interface with the water-cooled pans and gas offtake," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patents Nos. '124, '579, '333, '358, '732, '400, '804, and '579.

29. Alleged Trade Secret #3, "Drawings and specifications regarding the design and construction of water seals," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patents Nos. '400 and '579.

30. Alleged Trade Secret #4, "Drawings and specifications regarding the design and construction of a radiation detector," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patent No. '504.

31. Alleged Trade Secret #5, "Drawings and specifications regarding the design and construction of dynamic seals," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patent No. '579.

32. Alleged Trade Secret #6, "Drawings and specifications regarding the design and construction of exhaust towers," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patent No. '579, '804, and '358.

33. Alleged Trade Secret #7, "Consteel exhaust and combustion chamber P&I diagrams," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patents Nos. '333 and '358.

34. Alleged Trade Secret #8, "Consteel cooling water P&I diagrams," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patents Nos. '333 and '804.

35. Alleged Trade Secret #9, "Consteel hoods refractory engineering information," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patent No. '579.

36. Alleged Trade Secret #10, "The Consteel conveyor motor control center," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patents Nos. '400, '124, '358, '579, '504, '804, and '333.

37. Alleged Trade Secret #11, "The Consteel control and automation system," is disclosed by, inherent in, or readily ascertainable from disclosures in U.S. patents Nos. '124, '358, '579, '504, '400, '804, and '333.

38. Alleged Trade Secret #12, "Design data and calculations for the charge area and the crane duty cycle," is disclosed by, inherent in, or readily ascertainable from disclosures in

U.S. patent No. '333.

39. In addition, many elements of the Alleged Trade Secrets are disclosed by, inherent in, or readily ascertainable from U.S. Patent application No. 2001/0047925, filed and subsequently abandoned by Triple/S Dynamics, Inc., as well as by other previously issued patents and prior art.

WHEREFORE, DeAcero seeks a declaration that the supposed trade secrets alleged by Core in the Arbitration have been extinguished by the application for and issuance of Techint's U.S. Consteel Patents and by other previously issued patents and prior art.

Count II

Core and DeAcero Have No Valid Agreement to Arbitrate the Subject Matter Forming the Basis of the Arbitration

40. DeAcero repeats and realleges paragraphs 1 through 39 above.

41. Arbitration is a contractual undertaking by parties and unless both parties agree to arbitration, there is no valid arbitration agreement.

42. The only binding agreement between Core and DeAcero consists of the Letter Agreement and Annex A.

43. The Letter Agreement and Annex A do not contain an arbitration clause.

44. The Letter Agreement provided:

> Pursuant to our final negotiation of July 25, 2000 regarding the Contract CS017 relevant to the Consteel proposal PS017 rev. "As sold" dated July 28, 2000 and its annexes (all revision "as sold" dated July 28, 2000) "Guaranteed Figures and Performance Test Criteria", "Commercial Part" and "Process license Agreement" we confirm the Final Agreed total contract price of $3,900,000 USD for the supply and service as described in the above mentioned documents.

45. One of the documents referred to in the introductory paragraph of the Letter Agreement was a draft "Commercial Part" document, which, by terms of the Letter Agreement, would have become effective if DeAcero had decided to proceed with Core for Phase Two of the Saltillo Mill modification project. The draft Commercial Part document contains an arbitration

clause that provided for arbitration under the American Arbitration Association Construction Industry Arbitration Rules before a panel of three arbitrators in Pittsburgh, Pennsylvania.

46. The draft Commercial Part document never became operative and was never executed by the parties.

WHEREFORE, DeAcero seeks a declaration that the relief it seeks in Count I does not fall within any arbitration provision because there is no valid agreement between Core and DeAcero that contains an arbitration clause.

Count III

Core and DeAcero Agreed to Ligitate

the Subject Matter of the Arbitration in This Court

47. DeAcero repeats and realleges paragraphs 1 through 46 above.

48. A draft Process License Agreement also was identified, along with the draft Commercial Part document, in the Letter Agreement. The draft Process License Agreement, like the draft Commercial Part document, never became operative, was not signed by the parties, and is not a valid agreement. However, to the extent the draft Commercial Part document is deemed integrated into the Letter Agreement, the draft Process License Agreement must also be deemed integrated into the Letter Agreement.

49. The draft Process License Agreement provided that it "is made and entered into by and between" Core/Techint, "and for and on behalf of Techint, Compagnia Tecnica Internazionale s.p.a." (collectively "Licensor") and "DeAcero" ("Licensee"). The draft Process License Agreement contained the following definition of "Patents" encompassed within the agreement:

> "Patents" mean any and all patents and applications for patents (including, without limitation, those listed on Schedule 2.4., attached hereto) wherever issued or filed and any reissue, renewal or extension thereof, which relate to the CONSTEEL® Process or to the operation of CONSTEEL® Plants, which patents or patent applications are owned or controlled as of the date of execution of this Agreement by Licensor and any "Improvements" thereto

> which are the subject of a patent application owned or controlled by Licensor.

In addition, the draft Process License Agreement expressly included "Confidential Information," defined as

> the entire body of know-how, technology, data and information owned, controlled or acquired by Licensor at any time during the term of this Agreement which relates to the CONSTEEL® Process, to the operation of a CONSTEEL® Plant or to "Improvements," and which is confidential to Licensor.

As to both "Patents" and "Confidential Information," Paragraph 8.6 of the draft Process License Agreement provided the following dispute resolution clause:

> **This Agreement, and any claim or controversy arising out of or related to it, shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania and the United States of America. The Court of Common Pleas of Allegheny County, Pennsylvania, and the United States District Court for the Western District of Pennsylvania, both of Pittsburgh, are convenient venues for the adjudication of any dispute, and either may exercise personal jurisdiction over the parties with respect to any such dispute. Licensee may not bring any suit or action against Licensor with respect to any claim or controversy arising out of or related to this Agreement except in one of said courts.**

(emphasis added).

WHEREFORE, DeAcero seeks a declaration that, if the draft Commercial Part document is deemed operative, including its form arbitration clause, then the draft Process License Agreement is also operative, with its litigation clause carving out from arbitration any disputes relating to patents and know-how, technology, data and information, including any trade secrets. Accordingly, any dispute arising out of Core's or Techint's patents, trade secrets, or other confidential information is encompassed within the litigation clause of the draft Process License Agreement.

Count IV

DeAcero Never Submitted to the Arbitration

50. DeAcero repeats and realleges paragraphs 1 through 49 above.

51. Rule 5 of the American Arbitration Association ("AAA") Construction Industry Arbitration Rules provides that parties may submit any existing dispute to arbitration under such rules "by filing at any office of the AAA two copies of a written submission to arbitrate under the rules, signed by the parties."

52. No written submission as provided in Rule 5 of the AAA Construction Industry Arbitration Rules was filed with AAA concerning the Arbitration or any dispute, claim or controversy that relates to Core's or Techint's patents.

53. From the beginning of this dispute in 2003, DeAcero has maintained that there was no valid agreement to arbitrate this dispute. In its Amended Answering Statement, DeAcero stated, "[t]he arbitration provision cited by Techint in its Demand is taken from the proposal that was associated with the second offer, but that offer was never accepted by DeAcero. Therefore, there is no agreement to arbitrate."

54. DeAcero has further objected to the arbitration on procedural arbitrability issues. On these occasions, as well as after DeAcero's January 25, 2005, motion for reconsideration of the prior motions, in which DeAcero specifically requested oral argument, or in the alternative, additional discovery and a hearing, the Arbitrators declined to hold oral arguments or in-person hearings. Thus, in twenty-one months, the parties to the Arbitration have never appeared before the arbitral tribunal. Further, neither party has completed its document production nor even commenced the taking of depositions and disclosure and discovery of experts.

55. DeAcero has participated in the early stages of discovery, while maintaining the position that the dispute is not arbitrable. However, the partial discovery that has occurred has revealed that this dispute relates to patents completely outside of any arbitration agreement with Core (assuming any such valid agreement existed). Core's eventual disclosure of its alleged trade secrets and DeAcero's expert analysis of them confirmed that this is not a commercial contract dispute but a patent dispute, over which the federal courts have exclusive jurisdiction.

WHEREFORE, DeAcero seeks a declaration that it has never submitted to, and therefore cannot be compelled to participate in, the Arbitration.

Requested Relief

WHEREFORE DeAcero prays that judgment be entered in DeAcero's favor and against Core, as follows:

A. the Court adjudge and declare that the supposed trade secrets alleged by Core in the Arbitration have been extinguished by the application for and issuance of Techint's U.S. Consteel Patents and by other previously issued patents and prior art;

B. the Court adjudge and declare that the relief DeAcero seeks in Count I does not fall within any arbitration provision because there is no valid agreement between Core and DeAcero that contains an arbitration clause;

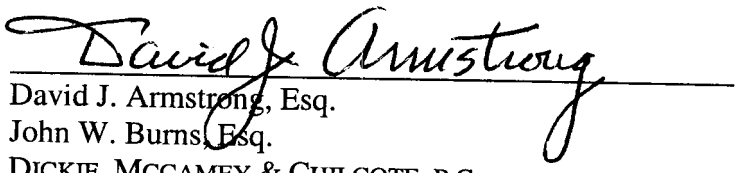
C. the Court adjudge and declare that the relief DeAcero seeks in Count I does not fall within any arbitration provision because any dispute arising out of Core's or Techint's patents, trade secrets, or other confidential information is encompassed within the litigation clause of the draft Process License Agreement;

D. the Court adjudge and declare that the relief DeAcero seeks in Count I does not fall within any arbitration provision because DeAcero has never submitted to arbitrate the subject matter of DeAcero's claims; and

E. The Court grant such further and additional relief as the Court may deem just and proper.

DATED: July 27, 2005

Respectfully submitted,



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