

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

JUN 28 2019

FILED

MITEK USA, INC.)	
)	
Plaintiff,)	Cause No.: 19SL-CC02533
)	
vs.)	Division No.: 40
)	
ERIC EVERSGERD,)	
)	
Defendant.)	

TEMPORARY RESTRAINING ORDER

Although this matter is currently pending in Division 40, Chief Justice Gloria Clark Reno assigned the Motion for Temporary Restraining Order to Division 41 for disposition.

This matter is before the Court on Plaintiff MiTek USA, Inc.’s (“MiTek”) Motion for Temporary Restraining Order and Preliminary Injunction. Upon review of MiTek’s Petition for Injunctive and Other Relief and all other documents and pleadings in the record, and having heard arguments of the parties through counsel, the Court hereby GRANTS MiTek’s Motion for Temporary Restraining Order against Defendant Eric Eversgerd (“Eversgerd”), and states and orders as follows:

1. MiTek is now suffering and will continue to be subject to immediate and irreparable loss and injury if Eversgerd is permitted to continue, in violation of Missouri’s trade secrets statutes, his Employee Covenant with MiTek, and his fiduciary duty to MiTek, to use and disclose MiTek’s confidential and trade secret information, and to retain and possess MiTek’s documents and information. Among other things, an injunction is necessary to protect MiTek’s confidential, proprietary and trade secret documents and information, and to prevent competitive, reputational, and other irreparable harm. Eversgerd’s actions also establish the need for injunctive relief under the Inevitable Disclosure Doctrine. Monetary relief cannot provide

adequate compensation to MiTek for the losses and damages that have been caused and will continue to be caused by Eversgerd's prior and continued disclosure and use of MiTek confidential, proprietary, and trade secret information, possession and retention of MiTek documents and information, and the inevitable disclosure of MiTek's confidential, proprietary, and trade secret that will result if Eversgerd's actions are allowed to continue.

2. In accordance with the Court's findings on this matter, Eversgerd is temporarily restrained—directly or indirectly, on his own behalf or on behalf of, or in conjunction with, any person, persons, or legal entity, whether as agent, representative, employee, consultant—and ordered to:

- a) Immediately cease consulting with any customer of MiTek;
- b) Immediately cease and refrain from using any confidential, proprietary and trade secret information of MiTek;
- c) Immediately cease and refrain from speaking with any customer of MiTek about MiTek's confidential, proprietary and trade secret information;
- d) Immediately cease and refrain from any use of MiTek's sales, marketing, or pricing operations or practices;
- e) Immediately cease use of any MiTek information taken by Eversgerd that is the property of MiTek; and
- f) Immediately return to MiTek all of MiTek's information obtained by Eversgerd from MiTek that is not personal to Eversgerd;

3. MiTek is ordered to provide a surety bond or deposit in the total amount of \$5,000.00, such amount being posted as security for the payment of costs and damages (if any) as may be incurred or suffered by Eversgerd if he is later found to have been wrongfully restrained.

4. The Court further orders that this Temporary Restraining Order shall remain in full force and effect through the hearing and disposition by the Court on MiTek's Motion For Preliminary Injunction, which will be set for hearing in Division 40.

5. This Court makes no ruling on the pending Motion for Expedited Discovery and defers the matter to Division 40 for hearing and ruling.

IT IS SO ORDERED.

This the 28th day of June, 2019.

Virginia Lay

The Honorable Virginia W. Lay
Associate Circuit Court Judge, Division 41

06/28/2019