

Texas Oilwell Co. Loses Trade Secrets Trial Against Rival

By **Tiffany Hu**

Law360 (January 5, 2022, 6:24 PM EST) -- Vita International Inc. was dealt a loss in its trade secrets lawsuit against rival Foro Energy Inc. after a Texas federal judge ruled that Vita's conceptual drawings of a deployment wheel were "generally known" in the oil and gas industries, and thus not a trade secret.

Vita's concept of a deployment wheel that guides lasers into a wellbore, including a particular feature that loads umbilicals onto the device from the side, is "not a novel or unique concept" to qualify for trade secret protection, U.S. District Judge Keith P. Ellison said in an order Tuesday.

The ruling came after a four-day bench trial in August 2021.

Citing Vita's own 1998 patent, Judge Ellison said the earlier patent "explicitly disclosed" the side-loading process and any reasonably skilled artisan could have developed Vita's deployment wheel concept, which he said was not a "complex" piece of equipment.

"Vita's relatively simple deployment wheel concept was disclosed in numerous prior art references and could have been created by one with reasonable skill in the art," the judge wrote. "Accordingly, the concept was readily ascertainable by proper means, and Vita cannot establish that its conceptual design was a trade secret."

Even if the concept was a trade secret, Vita failed to show how Foro Energy misappropriated the information, according to Judge Ellison. The judge said Foro Energy "lawfully received" the alleged trade secret and that it did not send any confidential information to a vendor, Hytech Norway, to construct the deployment wheel.

Chris Dodson of Bracewell LLP, an attorney for Foro Energy, told Law360 in an email Wednesday that his client has been contending for years that Vita's allegations against it were "baseless."

"Foro Energy is grateful for the opportunity to have its day in court, and to establish once and for all that these claims were entirely without merit," Dodson said.

Counsel for Vita did not immediately return a request for comment Wednesday.

Houston-based Vita sued Foro Energy in 2018, alleging that Foro approached Vita in 2013 to develop a deployment system for oilfield services.

After the companies executed a nondisclosure agreement, Foro said it was "going to go in a different direction," and disclosed in 2016 that it had built its own "distinct and separate" system, the lawsuit states.

Upon further investigation, Vita's executives discovered that Foro was acting as an "agent of industrial espionage" to obtain Vita's trade secrets for a Norwegian rival's competing system, according to a third amended complaint.

Vita is represented by Anthony G. Buzbee of The Buzbee Law Firm.

Foro Energy is represented by Christopher L. Dodson, Andrew W. Zeve and Kyle A. Mason of Bracewell.

The case is Vita International Inc. v. Foro Energy Inc. et al., case number 4:18-cv-01663, in the U.S. District Court for the Southern District of Texas.

--Editing by Lakshna Mehta.

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