

3. Defendant Mark Butz is an individual and a citizen of the state of Iowa. Defendant Butz may be served with process at 1790 Timber Ridge Drive, Cedar Rapids, Iowa, 52403 or wherever he may be found.

4. Defendant Tim Rauen is an individual and a citizen of the state of Iowa. Defendant Rauen may be served with process at 410 Okoboji Drive, Farley, Iowa, 52046 or wherever he may be found.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action asserted herein under 28 U.S.C. § 1331 and 18 U.S.C. §§ 1030, 1836. The Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff's state law claims because Plaintiff's state law claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy under Article 3 of the U.S. Constitution.

6. This Court has personal jurisdiction over Defendants by virtue of (a) Defendants' purposeful direction of activities into the State of Texas; (b) Defendants' transactions of business within this State with ST; (c) Defendants' accessing of ST's computer systems which are located in the state of Texas; and (d) Defendants' frequent contacts within this state including numerous calls, emails, letters, and in-person meetings with ST in the state of Texas, which form the basis of Plaintiff's complaint against Defendants.

7. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims, including the injury to Plaintiff, occurred in this judicial district. Alternatively, venue is proper pursuant to U.S.C. § 1391(b)(3).

PLAINTIFF ST

8. Plaintiff ST is a worldwide leader in sexed semen and embryo production for cattle. ST's technology enables the sorting of semen and embryo production for enhanced cattle breeding.

ST has developed proprietary technology enabling the sorting of sperm that helps develop better herds—cows that are healthier and produce more milk.

9. ST owns the intellectual property rights associated with this technology, which permits the separation of X (female) and Y (male) chromosomes from bovine spermatozoa.

10. In the dairy business, ST’s technology has transformed the way farmers can breed their cows—farmers do not have to just let nature take its course. Instead, cattle breeders are now able to buy semen from elite bulls that contains more than 90% X chromosomes, for example, so that they can help ensure that their prime milk-producing cows make more daughters who are genetically likely to be high milk-producers as well.

DEFENDANTS MARK BUTZ AND TIM RAUEN

11. Defendants Mark Butz and Tim Rauen are cattle breeders. Because of ST’s herd of high genetic merit bulls and its expertise in semen sorting, Defendants Mark Butz and Tim Rauen, through their respective entities Butz-Hill Holsteins and TJR Genetics, Inc., and several other cattle breeders, sought to enter into a joint venture agreement with ST in 2013.¹

12. Specifically, in or about September 2013, ST and a conglomerate of owners/breeders (“Breeders”) entered into the Natures Finest Joint Venture Agreement (“JV Agreement”), to among other things, “join forces to combine their higher genetic cattle lineage to produce a higher level lineage of cattle through a joint venture Program.”²

13. Defendants Mark Butz and Tim Rauen entered into the JV Agreement via their respective entities Butz-Hill Holsteins and TJR Genetics.³

¹ See Declaration of Juan Moreno (“Moreno Dec.”) at ¶¶ 4-5.

² See *id.*

³ See *id.* A copy of the Butz-Hill Holstein JV Agreement is attached as **Exhibit 1** to the Moreno Dec.

14. Upon information and belief, Butz-Hill Holsteins is a sole proprietorship owned and/or controlled by Mark Butz.

15. The JV Agreement was “set up exclusively for the benefit of the Parties for the purpose of selling breeding stock in the form of conventional semen, sexed sperm, embryos, impregnated animals, calves and full grown offspring, to the general public” with said breeding stock to be sold by the JV.⁴ To accomplish this task, the Breeders and ST contributed elite “Donors” (cows and heifers) and bulls, and ST used its world-class sexed semen and embryo production for genetic enhancement of the herd.⁵

16. Confidentiality was of paramount importance. Each of the Parties agreed to various confidentiality provisions regarding the JV Agreement and its terms and scope. For example, Section 10.1 provides that the “Parties agree to maintain the terms and specifics of the joint venture confidential and shall not disclose to any outside party the terms or objectives of this Agreement.”⁶ Section 10.3, in turn, requires that “[e]ach Party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of the other party’s Confidential Information.”⁷

**DEFENDANTS MARK BUTZ AND TIM RAUEN WERE IN A RELATIONSHIP
OF CONFIDENCE AND HAD ACCESS TO HIGHLY CONFIDENTIAL
INFORMATION OF ST AND THE JV FOR MANY YEARS**

17. Defendants Butz and Rauen had prominent roles in the Natures Finest JV for many years.

18. The JV Agreement establishes a board of advisors to meet on a “regular basis” to discuss the “progress, financing, marketing, and future directions of the Program.”⁸ The board of

⁴ See Moreno Dec. at ¶ 7.

⁵ Ex. 1 at Sec. 3.01.

⁶ Ex. 1 at Sec. 10.1.

⁷ Ex. 1 at Sec. 10.3.

⁸ Ex. 1 at Sec. 6.02.

advisors has a number of responsibilities, including determining whether animals are “elite” and classifying (or reclassifying) them accordingly; strategic planning; progeny development and mating preferences; and other related functions.⁹

19. Defendants Butz and Rauen served on the board of advisors.

20. As members of the board of advisors, Defendants were privy to some of the most sensitive information of the JV and its members. In light of their position and role on the board of advisors, Defendants had a special relationship with the JV and its members.

21. Further, reflecting their prominent role in the JV, Defendants Butz and Rauen were identified as the persons who should be noticed for all of the Breeders for any communications under the JV Agreement, including notice of breach of contract or termination.¹⁰

22. In addition, Defendants Butz and Rauen served as consultants to the JV and its members. In their capacity as consultants and advisors, Defendant Butz and Rauen made various business decision on behalf of the JV and its members, including for example managing the breeding protocols within the JV Program.¹¹

23. Furthermore, upon information and belief, at least Defendant Rauen was paid thousands of dollars on a monthly basis by JV members in conjunction with his consulting services.¹²

24. By virtue of their position, role, and special relationship, Defendants had a heightened obligation of confidentiality to the JV and its members.

MARK BUTZ AND TIM RAUEN HAVE RECENTLY ANNOUNCED THEIR INTENTION TO DIRECTLY COMPETE WITH ST AND THE JV

⁹ Ex. 1 at Sec. 6.01, 6.02. *See also* Moreno Dec. at ¶ 14.

¹⁰ *See id.* at ¶¶14-16; Ex. 1 at Sec. 13.01.

¹¹ *See id.* at ¶¶14-16.

¹² *See id.* at ¶19.

25. Despite serving as members of the board of advisors and consultants to the JV for years, Mark Butz and Tim Rauen, have recently announced that they will compete directly with ST and JV, through GenoSource, LLC, an entity they formed and control.¹³

26. As detailed in the declarations of Mark Butz and Tim Rauen submitted in another proceeding, GenoSource is now preparing to compete with ST and other JV members by marketing and developing JV animals and products including but not limited to semen, oocytes, and embryos.

27. Specifically, Mark Butz in his declaration has stated that:

“ [W]e began to seriously focus on the future for GenoSource and the potential for becoming a bull stud. This would provide GenoSource with ability to control its own genetic line, develop its herd of milk cows, and increase its revenue from the sale of semen from its bulls. When we notified ST in September [2018] that we were ending our relationship with ST, we did so knowing that our future now lies in launching GenoSource as a standalone bull stud.”¹⁴

28. Tim Rauen in his declaration has similarly stated that:

“Now, we are actively planning to augment GenoSource’s prior embryo and cattle sales by expanding that portion of our business to encompass the direct sale of semen from GenoSource bulls—*i.e.*, to become a “bull stud.” In connection with this plan, we have held approximately half a dozen face-to-face meetings with a potential U.S. distributor this year, including last week, with another meeting scheduling for this coming week. We have also made plans to travel and meet with a potential international distributor. We have also lined up a semen collection facility, which has already begun to collect and store semen from our young bulls.”¹⁵

29. In September 2018, ST received notice from Butz’s and Rauen’s respective entities, Butz-Hill Holstein and TRJ Genetics—that these entities were seeking to end their relationship with ST.¹⁶

¹³ See *id.* at ¶ 40. The Declarations of Tim Rauen and Mark Butz are attached as **Exhibit 2** and **Exhibit 3** to the Moreno Dec.

¹⁴ See Ex. 3, Butz Dec. at ¶ 43.

¹⁵ See Ex. 2, Rauen Dec. at ¶ 25.

¹⁶ See Moreno Dec. at ¶ 44.

30. At such time, Defendants Butz and Rauen had also clearly abdicated their roles and responsibilities in the JV. For example, ST had been requesting various information, including dam statements, for over a year with no response from Tim Rauen.¹⁷

31. Nevertheless, despite abandoning their roles and responsibilities in the JV, at least Rauen continued to access ST's restricted websites up through and including October 19, 2018.¹⁸

**MARK BUTZ AND TIM RAUEN ARE IN POSSESSION OF EXTENSIVE
CONFIDENTIAL INFORMATION OF ST**

32. Developing improved genetic quality bulls is a long process because of the long gestation period of large mammals like dairy cows and because of the probabilities related to population genetics.¹⁹

33. Because the Natures Finest JV was one of the first programs of its kind—developing exclusive lineages by breeding elite animals from dedicated herds—it had the advantage of being early to the market. Along the way, ST has spent millions of dollars developing animals in the JV Program since it was founded in 2013.²⁰

34. Mark Butz and Tim Rauen, because of their confidential relationship, were privy to extensive trade secrets that were owned or developed by ST. Among other things, Defendants Butz and Rauen had confidential access to at least the following confidential information (collectively “Confidential Information”):

- The listing, location, reproductive status, and health, of every single animal in the JV Program;

¹⁷ See Moreno Dec. at ¶ 44.

¹⁸ See Moreno Dec. at ¶ 45.

¹⁹ See *id.* at ¶ 25.

²⁰ See *id.* at ¶ 26.

- The results of all genomic testing of animals by Genetic Visions (an entity related to ST), including JV animals and non-JV animals. The genomic testing results include proprietary genomic indices that impact the animals' values and breeding decisions for various markets, including international markets;
- Genomic ranking information for thousands of animals who have underwent genomic testing, including animals not tested by ST or Genetic Visions.
- The proprietary EcoFeed indices for all of the JV animals that impact the value and breeding decisions for the animals;
- The genetic level and number of animals in each bloodline;
- Semen sales and profits reports (royalty reports);
- Pricing strategy and structure information;
- Extensive information regarding ST's marketing platform, including ST's distributors to whom semen was sold, the quantity of semen sold, and the prices;
- Client lists of ST, including the amount, type, and value of semen purchased by each of the clients;
- Breeding strategies, bloodlines being used and to be used, and animals and genetics not released to the public;
- Lists of Oocyte donor production, IVF embryo production, cloning, pregnancies being made, along with embryo reports, pregnancy lists and genetics lists;
- Inventory of pre-release embryos created from bull semen not sold to the public (and whose semen was used by Defendants Butz and Rauen to create animals whom they own title);

- Information such as IVF production of embryos by female sexed semen, male sexed semen, and conventional semen by bull, by donor, by technician, and by location;
- Sales by employee and the clients they service and the type of product clients bought;
- Knowledge regarding ST acquisitions of various distributors and international networks;
- Confidential genetic calculation formulas;
- Confidential breeding strategies and formulas;
- Up-to-date ownership and ownership percentages of each animal, which can differ from publically available information;
- Lists of prerelease semen and semen inventories;
- Information regarding semen processing;
- Confidential information as to the top daughters or sons of any bull, which would allow Defendants to identify and make decisions as to what was more valuable or less valuable in the industry.²¹

**THE CONFIDENTIAL INFORMATION IS HIGHLY VALUABLE AND NOT
GENERALLY KNOWN**

35. In developing animals in the Natures Finest Joint Venture, ST has developed highly valuable Confidential Information. ST's Confidential Information derives independent economic value, actual or potential, from not being generally known. Moreover, ST's Confidential Information would not be discoverable through proper means.²²

²¹ See *id.* at ¶ 22.

²² See *id.* at ¶ 26.

36. The Confidential Information identified above would be incredibly valuable to potential competitors of ST or the Natures Finest Joint Venture. For example, permitting a competitor to use this information would improperly allow the competitor to “piggy back” off of years of development, analysis, and research by ST, and millions of dollars of investments.²³

37. Moreover, the Confidential Information is subject of efforts that are reasonable under the circumstances to maintain secrecy. ST has undertaken reasonable efforts to keep the Confidential Information identified secret. Employees sign confidentiality agreements. Likewise, JV members, such as Butz-Hill Holsteins and TJR Genetics, entered into the JV Agreement that included similar confidentiality and non-compete provisions.²⁴

38. Additionally, ST maintains computer databases of highly confidential information related to each of the animals in the Natures Finest JV Program that is available only with special permission. ST’s online systems and databases are segmented and compartmentalized. Through this segmentation, ST’s limits and restricts its employees’ access to only the portions of the online systems that are necessary for their job duties. By doing so, ST limits the number of people who have access to ST’s various confidential and proprietary information. For particularly sensitive information, such as information discussed in further detail below regarding genomics and proprietary indices, only select ST employees, along with Mr. Butz and Mr. Rauen, were given access to that information.²⁵

39. Mr. Butz and Mr. Rauen were given access to that information because of their unique position with the Natures Finest JV as members of the Board of Advisors and their input on breeding and progeny decisions for the JV.

²³ See *id.* at ¶¶ 27, 29.

²⁴ See *id.* at ¶ 37.

²⁵ See *id.* at ¶ 38.

40. Mr. Butz and Mr. Rauen had more access to various areas of the systems than most of ST's employees.²⁶

41. The proprietary genomic indices are especially valuable. Many countries, such as the USA, Germany, Canada, United Kingdom, Australia, and Italy, have proprietary rating systems that they use to measure the genomic value of cattle. These countries do not publically share their formula or algorithms for deriving their respective ratings. So ST has developed its own proprietary indices to predict and track closely to the official international ratings. This information is not available from anyone other than from ST, and the indices are calculated internally by ST's staff at great expense. Animals do not get official international ratings unless ST or their owners submit the animals to the international bodies for testing, which is expensive. ST strategically chooses which animals to submit for international testing by using their predictive indices to determine which animals are likely to be of high-value. Moreover, official international testing is typically only done for bulls, whose semen is sold internationally. But ST is able to use their own genomic indices to make breeding decisions. For example, a heifer could have low official ratings in the United States, but ST's proprietary genomic indices could indicate that she would have high ratings in Germany. Thus, ST could breed a bull with high German ratings with that heifer to make high value offspring for the German market. In that example, without ST's proprietary genomic indices, it would be more difficult to choose which animals to breed for the German market.²⁷

42. ST's proprietary genomic indices are especially valuable for Mr. Butz and Mr. Rauen to use in competition with ST.

²⁶ See *id.* at ¶ 38.

²⁷ See *id.* at ¶ 30.

43. First, thousands of their female cows underwent genomic testing at Genetic Visions, from which Mr. Butz and Mr. Rauen had access to through ST's confidential online database.²⁸

44. Mr. Butz and Mr. Rauen could download large excel spreadsheets that included that proprietary information for any and every animal in ST's system, including the animals' predictive indices ratings for international markets.

45. For Mr. Butz and Mr. Rauen, who own a large herd of cows, they can use ST's proprietary indices ratings to market their females as high value genetic Donors to other bull studs for numerous international markets.²⁹

46. Without access to ST's confidential and proprietary indices and ratings, Mr. Butz and Mr. Rauen would be unable to market their females as high value genetic Donors in international markets.³⁰

47. Second, through their access to ST's database, Mr. Butz and Mr. Rauen have access to the proprietary indices and ratings for other animals not owned GenoSource, or even owned by a JV member.

48. Thus, as animals are made available for purchase at auction, if that animal underwent genomic testing at Genetic Visions, Mr. Butz and Mr. Rauen had access to the proprietary predictive indices for those animals, which is valuable information at the auction. Not even the owner of the animal, who paid for the genomic testing, has access to the predictive indices calculated by ST.³¹

²⁸ *See id.* at ¶ 31.

²⁹ *See* Moreno Dec. at ¶ 31.

³⁰ *See id.*

³¹ *See id.* at ¶ 32.

49. Because Mr. Butz and Mr. Rauen have access to this information, they can compete against ST at auctions using ST's own proprietary information.³²

50. Mr. Butz and Mr. Rauen also had access to certain information in ST's confidential CMS system.

51. This system is the central system that maintains ST's information for various departments, including finance, sales data, pregnancies, semen inventory, semen processing, and IVF services.³³

52. Mr. Butz and Mr. Rauen had access to proprietary information, such as embryo data, quantity, and pedigree; genomic information for males and females from all companies; ST's formula to mate high index animals.³⁴

**MARK BUTZ AND TIM RAUEN MUST BE IMMEDIATELY ENJOINED FROM
USING ST'S CONFIDENTIAL INFORMATION**

53. Mark Butz and Tim Rauen have recently declared their intention to directly compete with ST and the JV Program. At the same time Defendants Butz and Rauen are in possession of some of ST's most valuable trade secrets which would unfairly permit them to compete with ST and the JV Program.³⁵

54. Upon information and belief, Defendants Butz and Rauen are currently using ST's trade secrets to directly compete with ST or in preparation of competing with ST and the JV Program.³⁶

³² *See id.*

³³ *See id.* at ¶ 33.

³⁴ *See id.*

³⁵ *See id.* at ¶ 46.

³⁶ *See id.* at ¶ 47.

55. Defendants previously obtained the Confidential Information, during the course and scope of their confidential relationship with the JV and its members, including as members on the board of advisors.³⁷

56. Furthermore, at the time Defendants obtained this Confidential Information, they were aware of its sensitive and restricted nature.³⁸

57. On information and belief, Defendants continue to have in their possession the Confidential Information identified above.

58. During a court hearing held in Iowa with respect to a dispute between GenoSource and ST, Mr. Rauen, on GenoSource's behalf, offered into evidence sensitive ST information related to IVF procedures that Mr. Rauen had personally downloaded off of ST's computer systems.³⁹

59. Mr. Rauen also presented documents that were sent to him as part of his work in the joint venture that included ST's customers' names, the goods sold, the quantity sold, and the price of those goods—all of which is confidential.⁴⁰

60. With access to ST's pricing and structure, Mr. Butz and Mr. Rauen know not only which customers ST targets, but also whether those customers are large or small, whether different prices are charged for various customers, which types of semen those customers purchase, and other related sales preferences that are only available to ST and JV members.⁴¹

³⁷ *See id.* at ¶ 48.

³⁸ *See id.* at ¶ 48.

³⁹ *See id.* at ¶¶ 49-50.

⁴⁰ *See id.* at ¶¶ 49-50.

⁴¹ *See id.* at ¶ 51.

61. As explained above, on information and belief, Mr. Butz and Mr. Rauen are also in possession of highly valuable and proprietary predictive indices related to the genomics of their animals and other animals that underwent genomic testing at Genetic Visions.⁴²

62. This information is extremely valuable because it allows Mr. Butz and Mr. Rauen to make purchase, sale, and breeding decisions based on information not otherwise known in the market.⁴³

63. Further, as explained above, on information and belief, Mr. Butz and Mr. Rauen are also in possession of highly valuable and proprietary EcoFeed information from testing performed by ST.

64. EcoFeed is a new index that will ultimately predict a cow's productive life and profitability from the time she is born until she leaves a herd. EcoFeed is built around feed efficiency, measuring how well an animal converts feed to growth and milk.⁴⁴

65. EcoFeed information too is extremely valuable because it allows Mr. Butz and Mr. Rauen to make purchase, sale, and breeding decisions based on information not otherwise known in the market.⁴⁵

66. Upon information and belief, Defendants have taken affirmative steps to improperly use ST's Confidential Information.

67. Further, upon information and belief, Defendants are currently using ST's trade secrets to directly compete with ST or in preparation of competing with ST and the JV Program.⁴⁶

⁴² *See id.* at ¶ 52.

⁴³ *See id.* at ¶ 52.

⁴⁴ *See id.* at ¶ 53.

⁴⁵ *See id.* at ¶ 53.

⁴⁶ *See id.* at ¶¶ 44-45, 47.

68. Upon information and belief, to the extent if any, that Defendants have not used certain Confidential Information, Defendants' misuse and disclosure of such information will be inevitable unless injunctive relief is issued.

**COUNT I—TRADE SECRET MISAPPROPRIATION; CIVIL ACTION UNDER 18
U.S.C. § 1836**

69. ST re-alleged the foregoing paragraphs as if fully set forth herein.

70. The actions of Defendants, as set forth herein, constitute misappropriation under the Defend Trade Secrets Act, 18 U.S.C. §§ 1831, et seq.

71. ST is the owner of certain valuable trade secrets, identified above, collectively ("Confidential Information").

72. These trade secrets are related to products or services used in, or intended for use, interstate or foreign commerce.

73. ST's Confidential Information 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 secrecy.

74. Upon information and belief, Defendants have misappropriated ST's trade secrets by improper means; further, Defendants have used, and/or are now preparing to use ST's trade secrets to directly compete with ST with respect to its "bull stud" business.

75. At the time of disclosure and use, Defendants knew that their knowledge of the trade secrets was derived from a confidential relationship with ST or from third parties who had a duty to maintain confidentiality and not to use them for their own purposes.

76. Upon information and belief, as a direct and proximate result of Defendants' current and continued misappropriation of ST's trade secrets, ST will suffer imminent and irreparable harm.

77. Additionally, Defendants have been unjustly enriched as a result of their misappropriation of ST's protected trade secrets.

78. Unless enjoined by this Court, Defendants' acts of misappropriation will continue and ST will continue to suffer irreparable harm.

79. ST has no adequate remedy at law, and is entitled to an injunction. ST further requests that the Court take affirmative steps to protect its trade secrets, including ordering the surrender of Defendants' computers, email accounts, cloud storage accounts and other sources and equipment, for examination by a forensic expert to determine whether the trade secrets were wrongfully taken and/or disseminated to others.

80. On information and belief, Defendants' continued use of these trade secrets is willful and malicious, and ST is entitled to recover enhanced damages and its reasonable attorneys' fees under 18 USC § 1836(b)(3).

COUNT II—VIOLATION OF THE TEXAS UNIFORM TRADE SECRETS ACT

81. ST re-alleged the foregoing paragraphs as if fully set forth herein.

82. As detailed above, ST owns Confidential Information that qualifies as trade secrets protected under Texas' Uniform Trade Secret Act.

83. ST's Confidential Information 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 secrecy.

84. Defendants' actions, individually and collectively, have resulted and continued to result in misappropriation of ST's Confidential Information

85. Defendants have: (a) acquired ST's trade secrets through improper means, including misrepresentation, theft, and breach or inducements of another to breach a duty to maintain secrecy, to limit use, or to prohibit discovery of a trade secret, or through other means; and have (b) disclosed ST's trade secrets without ST's consent after (1) acquiring ST's trade secrets through improper means; and (2) at the time of the disclosure or use, knew or had reason to know the trade secrets were (i) obtained from someone who had acquired it through improper means; (ii) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (iii) derived from or through a person who owed the plaintiff a duty to maintain its secrecy or limit its use.

86. Upon information and belief, individually and collectively, Defendants have willfully and maliciously misappropriated ST's Confidential Information to obtain a competitive advantage and cause economic harm to ST.

87. Defendants' actions, individually and collectively, have caused and continue to cause irreparable harm and injury to ST's business relationships, good will, property rights, and profits.

88. Unless restrained from doing so, Defendants will likely continue to misappropriate ST's Confidential Information, causing ST further irreparable harm for which there is no adequate remedy at law.

89. Accordingly, ST seeks a temporary restraining order, a preliminary injunction, and a permanent injunctive relief, along with actual damages, unjust enrichment damages, exemplary damages, and recovery of its reasonable and necessary attorney's fees as authorized under Chapter 134A of the Texas Civil Practice and Remedies Code.

90. ST also seeks a prohibitive injunction for actual or threatened misappropriation. *See, e.g.*, Tex. Civ. Prac. & Rem. Code § 134A.003(a).

COUNT III—VIOLATION OF THE COMPUTER FRAUD AND ABUSE ACT, 18 USC § 1030

91. ST re-alleged the foregoing paragraphs as if fully set forth herein.

92. Upon information and belief, Defendant Rauen violated 18 USC § 1030(a)(C) by intentionally accessing a “computer” (as defined by 18 U.S.C. § 1030(e)(1)) without authorization or exceeding authorized access, and by thereby obtaining information from a protected computer (as defined by 18 USC 8 U.S.C. § 1030(e)(1)).

93. Defendant Rauen’s actions have irreparably damaged ST.

94. Accordingly, ST seeks a temporary restraining order, a preliminary injunction, and a permanent injunctive relief, along with actual damages, exemplary damages, and recovery of its reasonable and necessary attorney’s fees.

COUNT IV—BREACH OF CONFIDENTIAL RELATIONSHIP

95. ST re-alleged the foregoing paragraphs as if fully set forth herein.

96. Defendants Rauen and Butz were in a confidential relationship with the JV and its members, including ST.

97. Among other things, these individuals served as members of the board of advisors, were consultants to the JV and its members, and were privy to some of the most sensitive information of the JV and its members.

98. In conjunction with their roles as consultants to the JV and as members of the board of advisors, Defendant Butz and Rauen received intimate knowledge of JV and its members including ST, and further, at least Defendant Rauen received substantial compensations for his services as a consultant.

99. In light of their positions and role on the board of advisors, Defendants had a special relationship with the JV and its members.

100. Defendants Rauen and Butz have violated or are threatening to violate the terms of this confidential relationship and their positions of trust and confidence by improperly using or otherwise misappropriating ST's Confidential Information as detailed above.

101. As a proximate result of Defendants' breach of their confidential relationship, ST has suffered and continues to suffer irreparable harm, for which a monetary award is an insufficient remedy.

102. ST is entitled to judgment against Defendant Rauen for damages suffered by ST due to Defendant's breaches as well as injunctive relief.

APPLICATION FOR INJUNCTIVE RELIEF

103. ST requires injunctive relief, including a temporary restraining order, a preliminary injunction, and a permanent injunction, to prevent Defendants from causing and continuing to cause immediate and irreparable injury to ST by misappropriating ST's Confidential Information.

104. ST has a substantial likelihood of success on the merits of its causes of action and no adequate remedy at law.

105. It is essential for the Court to immediately restrain Defendants from continuing with the conduct described above.

106. ST asks that the Court issue a temporary restraining order directing Defendants and their agents, assignees, servants, employees and attorneys, and all persons in active concert or participation with Defendants to be immediately restrained from, and to cease and desist any attempts or efforts, directly or indirectly, toward (a) disclosing, retaining, copying, transferring, conveying, or using in any manner, other than to surrender or return to any authorized representative of ST, any of ST's Confidential Information and any other records, files, and

documents of the business of ST, and copies thereof, whether in written, electronic, or other form, tangible or intangible, and wherever located; and (b) surrender or return to an authorized representative of ST any and all documents, data, and other information taken from ST, including any and all customer lists, customer profiles, customer files, customer communications, price lists, cost data, sales and marketing information, vendor and client contracts, and other internal business records, such as those related to the breeding of animals, including the results of all genomic testing of animals by Genetic Visions for animals not owned by Defendants; proprietary genomic indices; the proprietary EcoFeed indices; proprietary genetic information; lists of oocyte donor production, IVF embryo production, cloning, pregnancies being made, along with embryo reports, pregnancy lists and genetics lists; information such as IVF production of embryos by female sexed semen, male sexed semen, and conventional semen by bull, by donor, by technician, and by location; confidential genetic calculation formulas; lists of prerelease semen and semen inventories; and information regarding ST's semen processing.

107. ST further asks the Court to set its application for a preliminary injunction for a hearing, and after the hearing, issue a temporary injunction to continue restraining and compelling Defendants and their respective agents, servants, employees, independent contractors, attorneys, representatives, trustees, designees, appointees, successors, assigns, and any other persons or entities in active concert or participation with them, during the pendency of this action as described in the preceding paragraph for issuance of a temporary restraining order.

108. ST further asks the Court to set its request for a permanent injunction for a full trial on the merits and, after the trial, issue a permanent injunction to permanently restrain and compel Defendants and their respective agents, servants, employees, independent contractors, attorneys, representatives, trustees, designees, appointees, successors, assigns, and any other persons or entities in active concert or participation with them, as described above.

JURY DEMAND

109. ST hereby demands a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully pray that Defendants be cited to appear and answer in this case, and that upon disposition and trial of this case the Court enters orders and judgment in favor of Plaintiff against Defendants as follows:

- a. that a temporary restraining order, temporary injunction, and permanent injunction be issued as requested and described above;
- b. that Plaintiff be awarded general, actual, and exemplary damages from Defendants, jointly and severally;
- c. that Plaintiff be awarded pre- and post-judgment interests and court costs, as allowed by law;
- d. that Plaintiff be awarded reasonable and necessary attorney's fees; and
- e. that Plaintiff be awarded such other and further relief, general and special, that Plaintiff may be justly entitled to receive at law or in equity.

Dated: February 20, 2019

AKIN GUMP STRAUSS HAUER & FELD, LLP

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