UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SESACO CORPORATION, ***Plaintiff,*** **vs.** **EQUINOM LTD. and** **RUBEN JOE GUZMAN,** ***Defendants.***	**Case No. 1:20-CV01053-LY** **JURY TRIAL DEMANDED**

FIRST AMENDED COMPLAINT

Sesaco Corporation ("Sesaco"), by and through its attorneys, for its First Amended Complaint ("Amended Complaint") against Equinom Ltd. ("Equinom") and Ruben Joe Guzman ("Mr. Guzman") (collectively, "Defendants"), alleges as follows:

NATURE OF THE ACTION

1. This is a case concerning Defendants' unlawful actions taken to compete with Sesaco, arising out of Equinom's introduction in the United States of Improved Non-Dehiscent ("IND") sesame plants. This case states causes of action for patent infringement against Equinom's IND sesame seeds, IND sesame plants, and associated harvesting processes ("the Accused Products and Processes"), as further detailed below. Sesaco also brings a Defend Trade Secrets Act ("DTSA") action arising out of the actions of Defendants related to their improper use of Sesaco's confidential trade secret information, including, but not limited to Sesaco's confidential customer list and contact information.

THE PARTIES

2. Plaintiff Sesaco is a corporation organized and existing under the laws of California with a principal place of business in Austin, Texas.

3. On information and belief, Defendant Equinom is a foreign corporation organized under the laws of Israel with a principal place of business in Givat Brenner, Israel.

4. Defendant Mr. Guzman is a Texas resident. Upon information and belief, Mr. Guzman has a home address of 6818 6th St., Lubbock, Texas 79416.

JURISDICTION AND VENUE

5. This is an action for patent infringement under the patent laws of the United States, which are codified at Title 35 of the United States Code.

6. This is also an action for one or more violations of the Defend Trade Secrets Act ("DTSA") pursuant to 18 U.S.C. § 1831 *et seq*.

7. This Court has subject-matter jurisdiction over all aspects of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), and 18 U.S.C. § 1836(c).

8. This Court has personal jurisdiction over Equinom based on the business that Equinom conducts and/or causes to be conducted in the State of Texas related to the Accused Products and Processes. On information and belief, the Accused Products and Processes are imported into the United States and the State of Texas, and/or made, used, sold or offered for sale in the United States and the State of Texas by or on behalf of Equinom. On information and belief, Equinom has and/or continues to recruit Texas residents for employment by Equinom. Further, Equinom's violation of the DTSA took place in the State of Texas.

9. This Court has personal jurisdiction over Mr. Guzman based upon Mr. Guzman's actions within Texas and within this district that constitute his violations of the Defend Trade Secrets Act.

10. Venue is proper in this Court under 28 U.S.C. § 1391(c)(3) because a) venue for patent infringement as to a foreign defendant is proper in any district, *see In re HTC Corp.*, 889

F.3d 1349 (Fed. Cir. 2018); and b) venue for Equinom and Mr. Guzman's violations of the DTSA took place, in part, in this district.

THE ASSERTED PATENTS

11. The United States Patent Office duly issued United States Patent No. 8,080,707 ("the '707 patent"), entitled "Non-Dehiscent Sesame" on December 20, 2011, a true and correct copy of which is attached hereto as **Exhibit 1**, and which is incorporated by reference herein.

12. The United States Patent Office duly issued United States Patent No. 8,656,692 ("the '692 patent"), entitled "Method for Mechanical Harvesting of Improved Non-Dehiscent Sesame" on February 25, 2014, a true and correct copy of which is attached hereto as **Exhibit 2**, and which is incorporated by reference herein.

13. Sesaco is the owner of all right, title, and interest in the '707 patent and '692 patent (collectively referred to herein as the "Asserted Patents"), both of which are valid and enforceable.

14. For decades Sesaco has been a leading innovator in the new developments for sesame crops. The inherent production difficulties associated with a shattering crop have posed challenges to large scale commercialization of sesame. Sesaco has received dozens of patents dating back for decades on improvements in sesame, as well as numerous patents over the years on certain plant varieties.

15. As described in the patents, it was known from the work of D.G. Langham as far back as the nineteen forties that seed shattering—called dehiscence—during mechanized harvesting methods caused considerable loss of sesame seed, and while mechanization was considered to be essential for crop production in the Western hemisphere, the dehiscence of the sesame seed capsule was the principal obstacle to the widespread acceptance of sesame as a commercial crop. (the '707 patent, col. 1, ℓ. 65–col. 2, ℓ. 6; the '692 patent, col. 1, ℓ. 67–col.2,

ℓ. 8.) Improvements continued for many years, until a breakthrough was accomplished when non-dehiscent (ND) sesame was developed and patented by Mr. Ray Langham. (the '707 patent, col. 3, ℓℓ. 25–29; the '692 patent, col. 3, ℓℓ. 28–32.)

16. In 2008, Sesaco made a major leap forward with the invention and commercial release of improved non-dehiscent (IND) sesame varieties capable of full mechanical harvest. This fundamentally changed the way sesame has been cultivated and harvested for 5,500 years and is a critical anchor in securing the supply necessary to expand further ingredient development. The '707 patent and '692 patent are directed towards aspects of that IND sesame.

17. The '707 patent claims such IND sesame plants by reciting certain characteristics, recited in, for example, claim 1 of the '707 patent as follows:

> 1. Sesame plants characterized by having greater than or equal to 85% of the capsules retaining essentially all of their seed in unharvested capsules four weeks after the ideal harvest time and wherein a portion of said seed is visible in 85% of the unharvested capsules four weeks after the ideal harvest time, and wherein less than or equal to 10% of the total amount of sesame seed is retained in mechanically harvested capsules, and less than or equal to 7% of the total amount of sesame seed which is released from capsules is broken during mechanical harvesting.

(the '707 patent, col. 24, ℓℓ. 18–27.)

18. The '707 patent is directed generally to sesame plants, portions of the sesame plant, or plant tissue having certain characteristics as further recited in the claims and as quoted above.

19. The '692 patent claims are further directed towards the mechanical harvesting of such IND sesame plants, as recited in, for example, claim 1 of the '692 patent as follows:

> 1. A method for mechanical harvesting of sesame crops via a machine adapted for harvesting, threshing and cleaning of grain crops, comprising:
> (a) growing a sesame crop from sesame seed derived from sesame plants exhibiting improved non-dehiscent (IND) characteristics, including:

(1) said improved non-dehiscent characteristic in sesame being that greater than or equal to 85% of the capsules retain essentially all of their seed in unharvested capsules four weeks after the ideal harvest time with said ideal harvest time being at the end of the late drydown stage when said dried sesame crop has a seed moisture content from 4% to 8% after sesame crop has reached physiological maturity, said maturity being when plants have reached full natural growth such that seed capsules begin to dry,
(2) said improved non-dehiscent characteristic being that seed is visible in 85% or more of the capsules four weeks after the ideal harvest time,
(3) said improved non-dehiscent characteristic being that less than or equal to 10% of the total amount of sesame seed is retained in mechanically harvested capsules, and
(4) said improved non-dehiscent characteristic being that less than or equal to 7% of the total amount of sesame seed released from capsules is broken during mechanical harvesting;
(b) drying said sesame crop in the field to form a dried sesame crop on and after the ideal harvest time; and
(c) harvesting said dried sesame crop at the actual harvest time, which is at a time period later than the ideal harvest time.

(the ’692 patent, col. 23, ℓ. 65–col. 24, ℓ. 29.)

EQUINOM’S INFRINGEMENT OF THE ASSERTED PATENTS

20. Equinom competes with Sesaco in the sesame seed and grain markets, including developing, breeding and marketing IND sesame seed varieties.

21. Equinom has provided certain sesame seed varieties to certain farmers in the state of Texas and in this district who have grown out sesame crops from those sesame seeds.

22. In early 2018, Sesaco sent letters to entities in the industry apprising them generally of Sesaco’s patent rights. Sesaco sent a letter to Equinom dated January 31, 2018, in which Sesaco notified Equinom of, inter alia, Sesaco’s ownership of the ’707 and ’692 patents relating to patented sesame seeds, plants and methods. Copies of the patents were attached to that letter.

23. The ’692 patent issued from a divisional application to the application that issued as the ’707 patent, is directed generally to methods for mechanical harvesting of sesame crops

and methods for growing sesame crops for mechanical harvest having certain steps as further recited in the claims and quoted in part above, including certain characteristic of sesame plants as recited in the claims and quoted in part above.

24. Mr. Ray Langham, the named inventor on the ’707 and the ’692 patents, has observed more than one Equinom variety of plants, in more than one field, and in more than one season. Based on his examination of the plants in the field both while growing and when dried, he has determined that the Equinom plants are likely to be covered claims in the ’707 patent and ’692 patent and that they are likely to meet limitations including the percentage of capsules retaining seeds, the percentage of unharvested capsules with seeds visible, the percentage of seeds retained in mechanically harvested capsules, and the amount of sesame seeds broken in mechanical harvesting.

25. Mr. Langham and other Sesaco personnel first observed Equinom sesame growing in the 2016 growing season in a field in the Panther Cities area, approximately two miles south of Batesville. He observed the crops first when they were green and growing. He returned a second time to the same field and observed crops that were in various stages of drying, including crops that were dried past the ideal harvest time. He observed capsules with a portion of the seed visible and that these capsules retained essentially all of their seeds while drying. He also tested and shook some of the drying capsules and observed that, based on his lifelong experience developing sesame and intimate familiarity with the IND sesame he invented, these Equinom plants had the same capsule shattering and seed retention characteristics as the IND seed he had developed. That information is a basis for the belief that a reasonable opportunity for further investigation and discovery will provide evidentiary support that the Equinom’s varieties observed would meet each and every limitation of at least claim 1 of the ’707 patent, and the

characteristics of IND seed recited in paragraph (a) of Claim 1 of the ’692 patent and paragraph (a) of Claim 13 of the ’692 patent.

26. Mr. Langham again observed Equinom sesame growing in 2017 in a field about one mile from San Antonio Southwest High School. Many plants he observed in that field on that occasion were still green and growing in the late bloom stage, but some were dead and had dried out. From his observations of the dried plants, Mr. Langham was able to see that they had the same capsule shattering and seed retention characteristics of IND sesame as recited in the ’707 patent and ’692 patent. That information is a further basis for the belief that a reasonable opportunity for further investigation and discovery will provide evidentiary support that that the Equinom varieties observed would meet each and every limitation of at least claim 1 of the ’707 patent, and the characteristics of IND seed recited in paragraph (a) of Claim 1 of the ’692 patent and paragraph (a) of Claim 13 of the ’692 patent.

27. Mr. Langham again observed Equinom sesame growing in 2019, in a field near Uvalde, just north of Knippa. First, he observed Equinom sesame plants that were drying and some of which were past the ideal time for harvest, as recited in the claims. He also observed the field a second time in October of that year, when the plants were dried and after the ideal time for harvest, as that language is recited in the claims. He observed that a portion of the seed was visible and that the capsules retained essentially all of their seed while drying. He examined and manipulated the Equinom sesame growing there, observing and drumming on seed capsules, in the same manner he had examined and observed sesame plants when developing the patented IND variety, and determined that the material had all the same capsule shattering and seed retention characteristics as the patented IND varieties. That information is a further basis for the belief that a reasonable opportunity for further investigation and discovery will provide

evidentiary support that that the Equinom varieties observed would meet each and every limitation of at least claim 1 of the ’707 patent, and the characteristics of IND seed recited in paragraph (a) of Claim 1 of the ’692 patent and paragraph (a) of Claim 13 of the ’692 patent.

28. Sesaco personnel have also observed Equinom sesame varieties growing in the Lower Rio Grande Valley, in the vicinity of Lyford, Texas, that were observed to exhibit characteristics in drying of capsule opening and seed retention similar of Sesaco IND varieties. That information is a further basis for the belief that a reasonable opportunity for further investigation and discovery will provide evidentiary support that that the Equinom varieties observed would meet each and every limitation of at least claim 1 of the ’707 patent, and the characteristics of IND seed recited in paragraph (a) of Claim 1 of the ’692 patent and paragraph (a) of Claim 13 of the ’692 patent.

29. Sesaco have also spoken with combine operators who have indicated that Sesaco varieties have characteristics of seed retention in capsules during mechanical harvesting similar to Sesaco IND varieties, which information is a further basis for the belief that a reasonable opportunity for further investigation and discovery will provide evidentiary support that the Equinom varieties observed would meet each and every limitation of at least claim 1 of the ’707 patent, and the characteristics of IND seed recited in paragraph (a) of Claim 1 of the ’692 patent and paragraph (a) of Claim 13 of the ’692 patent.

30. Equinom provides specific agronomic guidance and other information and direction to farmers on growing Equinom varieties that encourage, abet, and induce infringement meeting each step of claims 1 and 13 of the ’692 patent. Specific acts reflecting such inducement further include but are not limited to a sesame “Equinom Make Sesame Local Growers Handbook” distributed in multiple versions in different years, true and correct copies of which

are attached here to as **Exhibit 3** and **Exhibit 4**. For example, the Grower's Handbook on pp.6–9 directs "growing a sesame crop" which corresponds literally or under the doctrine of equivalents to step (a) of claim 1 of the '692 patent; on p. 10–11 directs "drydown" which corresponds literally or under the doctrine of equivalents to step (b) of claim 1 of the '692 patent; and on p. 11–12 directs "harvesting' which corresponds literally or under the doctrine of equivalents to step (c) of claim 1 of the '692 patent. These inducing materials include instructions on planting growing and drying fields for mechanical harvest after the time referred to in the patent as "ideal harvest time."

31. For mechanical harvesting, the Grower's Handbook on p.12 specifically invites growers, "Contact Equinom's local representative for adjustment specific to your combine model." On information and belief, individuals employed by and acting on behalf of Equinom, including but not limited to, for example, Joe Guzman and Rodrigo Franklin, work directly with farmers and provide, in some cases, agronomic guidance and advice and further provide guidance and advice on mechanical harvesting methods and settings. These individuals acting on behalf of Sesaco provide instruction and direction which a reasonable opportunity for further investigation and discovery are likely to provide evidentiary support induce acts of infringement.

32. Sesaco has also been informed by farmers who have grown plants for both Equinom and Sesaco that Equinom plants exhibit similar harvest characteristics concerning capsule opening and seed retention, previously seen only in Sesaco plants, further indicating infringement of one or more claims of the '707 patent and '692 patent, and indicating that further investigation and discovery is likely to provide additional evidentiary bases showing infringement.

33. In a letter to Equinom dated October 11, 2019, Sesaco noted the possibility that certain of Equinom's sesame seed varieties may be covered by claims of the '707 and '692 patents based on publicly available information obtained by Sesaco.

34. In that letter, Sesaco also requested a field inspection to further investigate these crops, specifically referencing the Asserted Patents. To date, Equinom has not provided Sesaco with field access or materials for analysis.

35. In a letter to Equinom dated November 22, 2019, Sesaco further explained the factual basis for its concerns about Equinom's possible infringement, and again requested to be given access to perform further testing as described in the patents.

36. In a letter to Equinom dated January 6, 2020, Sesaco provided further information about the testing to be performed, including citations to specific passages in the '707 patent describing that testing in more detail, explaining:

> [T]he specification describes a general "Subjective Seed Retention Screening Measurement." (col. 14, ℓ.50–col. 18, ℓ.27.) This initial subjective assessment corresponds in general to the in-field observations we have previously described to you of specific shatter resistance properties suggesting that seeds fall within or may fall within the scope of the claims. Beyond that initial assessment, the patent specification further describes "Objective Shatter Resistance Measurement" (col. 18, ℓ.27–col. 19, ℓ.20) and "Seed Release/Breakage During Mechanized Harvesting Thresh Yield Tests" (col. 19, ℓ.22–col.20, ℓ.44), giving steps and examples.

37. On information and belief, the sesame plants farmers have grown from seeds provided by Equinom meet at least subjective seed retention screening measurement described in the Asserted Patents for IND sesame. **Exhibit 1** (the '707, patent; col.14, ℓ.50 – col. 18, ℓ.27; **Exhibit 2** (the '692 patent, col.14, ℓ.50 – col. 18, ℓ.27.) A reasonable opportunity for further investigation and discovery is likely to provide additional evidentiary support that Equinom's

plants and the growing and/or mechanical harvesting thereof meet each and every limitation of one or more claims the'707 patent and the '692 patent.

38. A reasonable opportunity for further investigation and discovery will likely provide additional evidentiary support that the Accused Products and Processes meet other tests set forth in the Asserted Patents and are covered by one or more claims of the Asserted Patents.

39. On information and belief, Equinom, through its instructions to customers, actively induces and encourages its customers of the Accused Products and Processes to practice one or more claims of the Asserted Patents. Pursuant to Equinom's instructions and direction, Equinom's customers use, grow, and/or harvest the Accused Products and Processes in a manner that infringes the claims of the Asserted Patents.

40. Equinom has known of the Asserted Patents since at least as early as January 31, 2018 and has continued to knowingly infringe the Asserted Patents since at least as early as that date.

41. On information and belief, Equinom's infringing acts will continue unless restrained by this Court.

EQUINOM'S AND MR. GUZMAN'S IMPROPER USE OF CONFIDENTIAL TRADE SECRET INFORMATION

42. Sesaco has invested and continues to invest significant financial and other resources in its sesame development and in maintaining and expanding its confidential and proprietary trade secret information, which includes, but is not limited to, information concerning its unique customer relationships which result in the production of Sesaco's patented sesame crops. Its customer database is a virtual encyclopedia of Sesaco's customer information. The database contains customer identities and information related to unique nature of these customer relationships, including customer-specific sesame growing information and/or related

farming history, practices and preferences. This information is not publicly known and Sesaco has taken reasonable measures to ensure its trade secret information in this regard, which is protected in its password protected database and is not disclosed outside of Sesaco. The customer database contains much more than customer contact information; for instance, it includes customer contract status and information, the number of crops and fields grown by particular customers, customer-specific farming practices, historical farming data, farmer reliability ratings, fertilization methods and other soft intelligence which Sesaco uses to succeed in its business.

43. Such information derives independent economic value to Sesaco because the information is not generally known or ascertainable through proper means; a competitor such as Equinom is advantaged by having this information, without having to spend the time, effort and money to develop its own customer database and unique relationships.

44. Specifically, with regard to the claims herein, Sesaco has and continues to treat its unique customer database and unique customer information as a confidential trade secret and such trade secret information relates to a product used in, or intended for use in, interstate or foreign commerce.

45. For example, Sesaco requires employees like Mr. Guzman to sign a Confidentiality Agreement, acknowledging their obligations of non-disclosure relating to Sesaco's confidential material, upon the start of their employment.

46. Mr. Guzman was hired by Sesaco in April 2016 as a field representative, in which his responsibilities included access to Sesaco's confidential customer database and related trade secret information. As a condition to Sesaco's employment of Mr. Guzman and its providing

this information to him, Mr. Guzman signed a Confidentiality Agreement on April 12, 2016, wherein Mr. Guzman agreed to keep Sesaco's confidential materials confidential. **Exhibit 5**.

47. Further, Sesaco's Employee Handbook provided to employees such as Mr. Guzman includes a section specifically addressing Confidential Information/Trade Secrets that obligates employees to not disclose Sesaco's confidential information and expressly provides that customer database information, such as names, email addresses and certain customer-specific information and/or preferences, is confidential information.

48. Sesaco also requires its employees, like Mr. Guzman, to acknowledge, among other things, their confidentiality obligations to it detailed in the Employee Handbook by signing an Employee Handbook Acknowledgement document in which they agree they will abide by the handbook's policies.

49. Mr. Guzman was provided and on April 12, 2016, he signed the Employee Handbook Acknowledgement confirming his obligation to comply with, among other things, Sesaco's Confidential Information/Trade Secrets policy. **Exhibit 6**.

50. Employees, such as Mr. Guzman, are only allowed access to confidential customer contact information through use of unique username and password protected access to its customer database. Sesaco requires such security measures around its confidential information in its customer database due to its unique nature and value as a Sesaco trade secret. In addition, this customer information contained in the database was not disclosed outside the business, Sesaco's employees received limited access to or authorization within the database, based on their position in the company, and the database information was only available on a need-to-know basis.

51. Sesaco's confidential information and trade secrets, including the customer database, to which Mr. Guzman gained access and used during his employment with Sesaco, is not readily available to the general public and cannot be assembled from publicly available information or sources. Similarly, the customer database information is not generally known by others in the sesame industry or readily ascertainable by independent investigation. For example, information concerning Sesaco's customer relationships, including customer preferences, historical data, future crop possibilities and the like is unique to Sesaco, as it has developed the information over a number of years. Sesaco's customer database contained not only a list of customers, but also e-mail addresses, phone numbers, points-of-contact, knowledge and computer analysis of customer's needs and practices, individual customer preferences, and buying history. Stated differently, Sesaco's customer database is not merely raw data or a list of the names of farmers and associated contact information, but instead a carefully developed and curated database resulting from Sesaco's work to create a market for its specific, patented varieties of shatter-resistant sesame. This customer specific information is not readily disseminated or discoverable by the general public or Sesaco's competitors. Moreover, while the database contains customer email addresses, those email addresses are not publicly available in an industry database or otherwise, and were gathered by Sesaco through years of cultivation and effort. The customer database was distilled from multiple sources within Sesaco into a database of information to serve Sesaco's unique business and was compiled at great difficulty, time, and expense by Sesaco. Sesaco's customer database information is not generally known in the industry, not available from any one public source, and could not be put together from easily available sources, such as an internet search. Indeed, the database could only be replicated by considerable time, expense, and effort. Therefore, maintaining the confidentiality of such core

confidential information, customer history and strategies, and related customer preferences is crucial to Sesaco and would give any competitor of Sesaco who improperly acquired the confidential trade secret information that Mr. Guzman possessed an unfair competitive advantage.

52. During his employment with Sesaco, Mr. Guzman had access to Sesaco's confidential and proprietary customer database. Sesaco would not have provided Mr. Guzman with access to its customer database, given the type of information it contains, but for his agreement not to use or disclose such confidential information for any reason outside of or unrelated to his employment with Sesaco.

53. In or around late 2019 to early 2020, Mr. Guzman provided verbal notice to his supervisor(s) at Sesaco that he planned to leave his position with Sesaco. After Mr. Guzman gave notice that his last day of employment with Sesaco would be January 17, 2020 and Sesaco learned that Mr. Guzman intended to go to work for Equinom, Sesaco requested that Mr. Guzman sign a declaration acknowledging that he received Sesaco's confidential and proprietary information and that he would not disclose any of Sesaco or its affiliates' proprietary information or other confidential business information or use or disclose such information in future employment and to any other employer or third party.

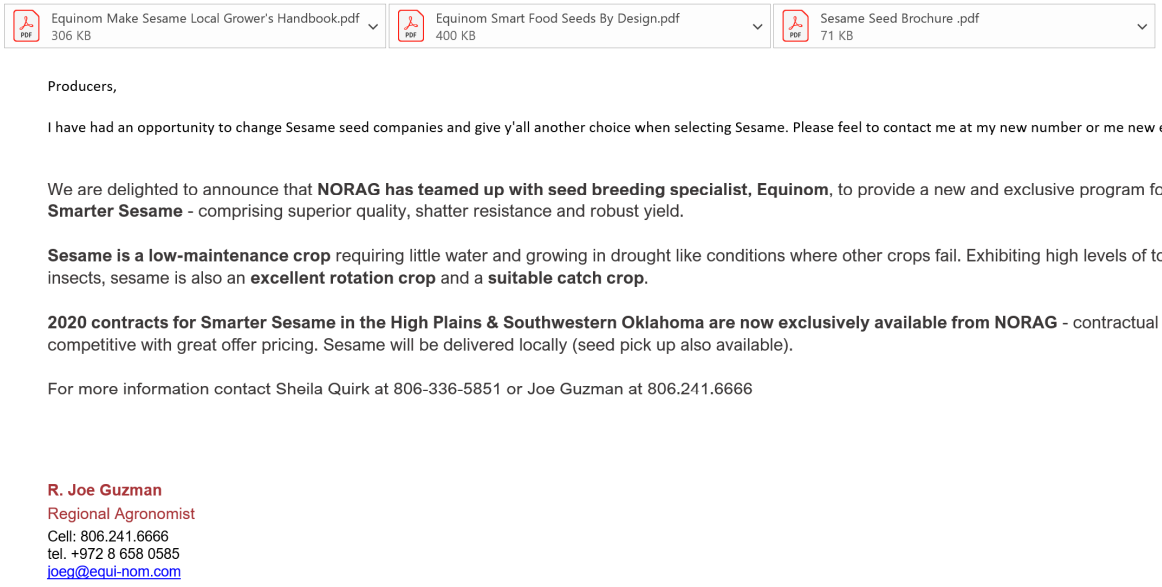
54. Despite Sesaco's request, Mr. Guzman declined to sign the declaration acknowledging his post-employment obligations.

55. In light of the risk that Mr. Guzman could violate his confidentiality and non-disclosure obligations to Sesaco, it, by and through counsel, sent written correspondence dated February 13, 2020, to Equinom's counsel in order to provide actual notice of Mr. Guzman's confidentiality and non-disclosure obligations regarding Sesaco's confidential materials.

56. Equinom acknowledged both its and Mr. Guzman's confidentiality obligations via return letter dated February 25, 2020. Thus, both Mr. Guzman and Equinom were on notice of Mr. Guzman's post-employment duties to Sesaco related to Sesaco's confidential and trade secret information.

57. Despite both Defendants' knowledge and acknowledgement of Mr. Guzman's clear and unequivocal confidentiality and non-disclosure obligations related to Sesaco's confidential and trade secret information, Mr. Guzman unlawfully utilized Sesaco's confidential customer database, to, as an employee of Equinom and with its express knowledge, send a mass email on July 1, 2020, from his Equinom email address to Sesaco's customers improperly using and disclosing Sesaco's confidential information contained in its customer database.

58. The email expressly noted Mr. Guzman's change of employment and directly solicited Sesaco's customers to switch their relationships to Equinom:



Equinom Make Sesame Local Grower's Handbook.pdf 306 KB | Equinom Smart Food Seeds By Design.pdf 400 KB | Sesame Seed Brochure .pdf 71 KB

Producers,

I have had an opportunity to change Sesame seed companies and give y'all another choice when selecting Sesame. Please feel to contact me at my new number or me new email with any questions.

We are delighted to announce that **NORAG has teamed up with seed breeding specialist, Equinom**, to provide a new and exclusive program for growing and purchasing **Smarter Sesame** - comprising superior quality, shatter resistance and robust yield.

Sesame is a low-maintenance crop requiring little water and growing in drought like conditions where other crops fail. Exhibiting high levels of tolerance to disease and insects, sesame is also an **excellent rotation crop** and a **suitable catch crop**.

2020 contracts for Smarter Sesame in the High Plains & Southwestern Oklahoma are now exclusively available from NORAG - contractual agreements are extremely competitive with great offer pricing. Sesame will be delivered locally (seed pick up also available).

For more information contact Sheila Quirk at 806-336-5851 or Joe Guzman at 806.241.6666

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59. It is clear that Mr. Guzman utilized Sesaco's protected customer database in composing the July 1, 2020 email because, of the 284 individual email addresses to which Mr. Guzman's email was delivered, 279 of those email addresses are contained in Sesaco's customer

database, including at least 1 email address which contains a unique typographical error—and that typographical error is contained in both Mr. Guzman's July 1, 2020 email and Sesaco's customer database—circumstantially proving that Mr. Guzman used, accessed and disclosed information from Sesaco's database in sending the email. Based on this, it is clear that Mr. Guzman accessed Sesaco's customer database, either while still working at Sesaco or after, and improperly utilized and disclosed customer email addresses[1] and contact information therein to compose the July 1, 2020 email, while working for Equinom.

60. Equinom fully supported Mr. Guzman's breach of duties to Sesaco, evidenced by the fact that his July 1, 2020 email included Equinom management on the distribution list. Upon information and belief, Mr. Guzman also accessed and took other confidential, trade secret information about these customers within Sesaco's customer database and together with Equinom, is utilizing or disclosing such confidential, trade secret information to unfairly compete against Sesaco in an attempt to divert business away from Sesaco. Indeed, the information misappropriated by Defendants through Mr. Guzman contains a "virtual encyclopedia" of specific Sesaco customer information at a competitor's fingertips, allowing the competitor to solicit customers both more selectively and more effectively, based on the years of customer specific knowledge Sesaco has assembled, without having to expend the time, money and effort to compile the information.

[1] The July 1, 2020 email included Sesaco's confidential customer list (names and email addresses) as "cc" or "carbon copy" entries thereby publicly disclosing and revealing Sesaco's confidential customer information to all members of the distribution list.

COUNT I
Direct Infringement of the '707 Patent under 35 U.S.C. § 271(a)
(Equinom)

61. Sesaco incorporates by reference the foregoing paragraphs 1-60 of the Amended Complaint as though fully set forth herein.

62. Equinom has directly infringed, and continues to infringe, one or more claims of the '707 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, making, using, selling, offering to sell, and/or importing the Accused Products and Processes.

63. Equinom sesame crops meet all the limitations of one or more claims of the '707 patent and a reasonable opportunity for further investigation and discovery is likely to provide additional evidentiary support that Equinom IND sesame plants infringe one or more claims to the '707 patent.

64. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that Equinom's direct infringement has caused damage to Sesaco, and Sesaco is entitled to recover from Equinom damages in no event less than a reasonable royalty sustained as a result of Equinom's direct infringement of the '707 patent. *See* 35 U.S.C. § 284. Sesaco further requests that such damages be trebled in light of Equinom's willful conduct.

65. Equinom's direct infringement of the '707 patent has caused, and will continue to cause, irreparable harm to Sesaco. As such, Sesaco requests that the Court enter an injunction pursuant to 35 U.S.C. § 283 in order to prevent further infringement upon Sesaco's patent rights.

COUNT II
Inducing Infringement of the '707 Patent under 35 U.S.C. § 271(b)
(Equinom)

66. Sesaco incorporates by reference the foregoing paragraphs 1-65 of the Amended Complaint as though fully set forth herein.

67. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that in addition to its own direct infringement, Equinom has indirectly infringed and continues to indirectly infringe the '707 patent by inducing others to literally and/or under the doctrine of equivalents directly infringe the '707 patent and has done so with the specific intent that its customers infringe the '707 patent.

68. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that Equinom knowingly induces others to infringe one or more claims of the '707 patent by instructing its customers to use, grow and/or sell IND sesame seeds with characteristics that infringe the '707 patent.

69. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that others induced by Equinom have and continue to use, grow and/or sell IND sesame seeds with characteristics that infringe the '707 patent.

70. Equinom's infringement of the '707 patent by inducement as set forth above has caused damage to Sesaco, and Sesaco is entitled to recover from Equinom damages sustained as a result of Equinom's infringement by inducement of the '707 patent. *See* 35 U.S.C. § 284. Sesaco requests that such damages be trebled in light of Equinom's willful conduct.

71. Equinom's infringement of the '707 patent by inducement as set forth above has caused, and will continue to cause, irreparable harm to Sesaco. As such, Sesaco requests that the Court enter an injunction pursuant to 35 U.S.C. § 283 in order to prevent further infringement upon Sesaco's patent rights.

COUNT III
Direct Infringement of the '692 Patent under 35 U.S.C. § 271(a)
(Equinom)

72. Sesaco incorporates by reference the foregoing paragraphs 1-71 of the Amended Complaint as though fully set forth herein.

73. On information and belief, growing and/or mechanical harvesting of Equinom IND sesame varieties would infringe one or more claims of the ’692 patent literally or under the doctrine of equivalents, and a reasonable opportunity for further investigation and discovery is likely to provide additional evidentiary support that Equinom has thus directly infringed, and continues to infringe, one or more claims of the ’692 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by performing the steps of the method in claim 1.

74. Growing and/or mechanical harvesting of Equinom’s sesame crops meet all the limitations of one or more claims of the ’692 patent and a reasonable opportunity for further investigation and discovery is likely to provide additional evidentiary support that Equinom IND sesame plants infringe one or more claims to the ’692 patent.

75. Equinom’s acts of infringement have caused damage to Sesaco, and Sesaco is entitled to recover from Equinom damages in no event less than a reasonable royalty sustained as a result of Equinom’s infringement of the ’692 patent. *See* 35 U.S.C. § 284. Sesaco requests that such damages be trebled in light of Equinom’s willful conduct.

76. Equinom’s acts of infringement of the ’692 patent have caused, and will continue to cause, irreparable harm to Sesaco. As such, Sesaco requests that the Court enter an injunction pursuant to 35 U.S.C. § 283 in order to prevent further infringement upon Sesaco’s patent rights.

COUNT IV
Inducing Infringement of the ’692 Patent under 35 U.S.C. § 271(b)
(Equinom)

77. Sesaco incorporates by reference the foregoing paragraphs 1-76 of the Amended Complaint as though fully set forth herein.

78. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that in addition to its own direct infringement, Equinom has indirectly infringed and continues to indirectly infringe the ’692 patent by inducing its customers to

literally and/or under the doctrine of equivalents directly infringe the ’692 patent and has done so with the specific intent that its customers infringe the ’692 patent.

79. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that Equinom knowingly induces others to infringe at least claim 1 of the ’692 patent by instructing others to harvest IND sesame seeds in a manner that infringes the ’692 patent.

80. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that others induced by Equinom have and continue to harvest IND sesame seeds in a manner that infringes the ’692 patent.

81. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that Equinom’s infringement by inducement has caused damage to Sesaco, and Sesaco is entitled to recover from Equinom damages in no event less than a reasonable royalty sustained as a result of Equinom’s infringement by inducement of the ’692 patent. *See* 35 U.S.C. § 284. Sesaco requests that such damages be trebled in light of Equinom’s willful conduct.

82. A reasonable opportunity for further investigation and discovery is likely to provide further evidence that Equinom’s infringement by inducement of the ’692 patent have caused, and will continue to cause, irreparable harm to Sesaco. As such, Sesaco requests that the Court enter an injunction pursuant to 35 U.S.C. § 283 in order to prevent further infringement upon Sesaco’s patent rights.

COUNT V
Violation of the Defend Trade Secrets Act 18 U.S.C. § 1836 *et seq.*
(Equinom and Mr. Guzman)

83. Sesaco incorporates by reference the foregoing paragraphs 1-82 of the Amended Complaint as though fully set forth herein.

84. The Defend Trade Secrets Act, 18 U.S.C. § 1836 *et seq.* ("DTSA), specifically allows a private right of action for misappropriation of trade secrets.

85. Sesaco is the owner of trade secrets, as defined by the DTSA which have been willfully misappropriated by Mr. Guzman and Equinom through its agent and employee Mr. Guzman. A person misappropriates a trade secret by, among other things, disclosing the trade secret despite knowing that it was acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use or derived from or through a person who owed a duty to maintain its secrecy or limit its use.

86. As a direct and proximate result of Mr. Guzman and Equinom's misappropriation of Sesaco's trade secrets, Sesaco has suffered damages, including Mr. Guzman and Equinom's unjust enrichment and/or a reasonable royalty, in an amount yet to be determined. *See* 18 U.S.C. § 1836(b)(3)(B).

87. By reason of Mr. Guzman and Equinom's willful and malicious acts, Sesaco is entitled to an award of exemplary, doubled damages from Mr. Guzman and Equinom in order to punish them and to deter them from commission of like acts and, in addition, reasonable attorneys' fees pursuant to the DTSA. *See* 18 U.S.C. § 1836(b)(3)(C) & (D).

88. Unless Mr. Guzman and Equinom are enjoined from using Sesaco's trade secrets and confidential information, Sesaco will suffer immediate and irreparable injury in that Mr.

Guzman and Equinom will continue to have access and the ability to make use of the trade secrets and confidential information.

89. Sesaco has no adequate remedy at law to protect against the continued unlawful misappropriation and use of its trade secrets by Mr. Guzman and Equinom.

90. Injunctive relief is, therefore, necessary and appropriate to restrain the continued and illegal misappropriation and use of such trade secrets and confidential information pursuant to the DTSA. *See* 18 U.S.C. § 1836(b)(3)(A).

PRAYER FOR RELIEF

WHEREFORE, Sesaco respectfully requests that the Court enter judgment in its favor, granting the following relief:

A. Entry of a judgment that Equinom has infringed each of the Asserted Patents;

B. Entry of a judgment that Equinom has induced others to directly infringe each of the Asserted Patents;

C. Entry of a permanent injunction enjoining Equinom and its officers, directors, employees, agents, consultants, contractors, suppliers, distributors, and all others acting in privity with Equinom from further infringement of the Asserted Patents;

D. Entry of a judgment that Equinom's infringement of the Asserted Patents has been and continues to be willful;

E. Entry of an award to Sesaco of damages, in no event less than a reasonable royalty, adequate to compensate it for the infringement of the Asserted Patents by Equinom, in an amount to be proven at trial;

F. Trebling the damages due to Equinom's willful infringement under 35 U.S.C. § 284;

G. Entry of a finding that, with respect to Equinom, this case has been exceptional and awarding to Sesaco its reasonable costs and attorneys' fees under 35 U.S.C. § 285;

H. Entry of judgment that Mr. Guzman and Equinom violated the DTSA;

I. Entry of an award to Sesaco of damages, including Mr. Guzman's and Equinom's unjust enrichment, and in no event less than a reasonably royalty resulting from Mr. Guzman and Equinom's violation of the DTSA;

J. Entry of an award of double damages relating to Mr. Guzman and Equinom's willful and malicious violation of the DTSA;

K. Entry of a permanent injunction to prohibit Mr. Guzman and Equinom and its officers, directors, agents, employees, affiliates, divisions, subsidiaries, parents and all others acting in concert or privity with any of them from further use or dissemination of Sesaco's trade secrets;

L. Entry of an award of Sesaco's attorneys' fees as a result of Mr. Guzman and Equinom's willful and malicious violation of the DTSA;

M. Entry of an award of pre-judgment and post-judgment interest;

N. Entry of an award to Sesaco of its costs in this action; and

O. A grant to Sesaco of such further relief that the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2021, a true and correct copy of the foregoing document was served on all counsel of record by filing with the Court's CM/ECF system.

/s/ *Matthew R. Grant*