SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
(CIVIL DIVISION)

AKIN GUMP STRAUSS HAUER & FELD LLP, Plaintiff, v. XCENTIAL CORPORATION, *et al.*, Defendants.	Civil Action No. 2022 CA 004744 B Judge Juliet J. McKenna Next Event: Initial Scheduling Conference January 13, 2023, 9:30 a.m.

PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT

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Plaintiff Akin Gump Strauss Hauer & Feld LLP ("Plaintiff" or "Akin"), by and through counsel, respectfully moves for a preliminary injunction against Defendants Xcential Corporation ("Xcential") and Grant Vergottini (together with Xcential, the "Defendants") enjoining them from pursuing any patents related to Akin's confidential information under the parties' non-disclosure agreement, including their '233 patent application, or otherwise using or profiting from Akin's confidential information. In support of this Motion, Akin submits the following points and authorities, the attached Declaration of Louis Agnello, and the exhibits thereto. In accordance with D.C. Superior Court Civil Rule 12-1(a), counsel for Plaintiff conferred with counsel for Defendants regarding this Motion, and Defendants oppose it.

INTRODUCTION

In the summer of 2018, Akin Senior Counsel Louis Agnello had an idea that has the potential to forever change the complex process of drafting federal legislation. Based on his experience working with Congress and in the private sector, Agnello conceived of software that could, for the first time, generate a draft bill from a set of changes to existing legislation. His envisioned software would take proposed redline changes to an existing law and use those changes to generate a draft bill in the format suitable for submission to Congress. This invention would make bill drafting faster, more accurate, less expensive, and less wasteful of computer resources. Agnello and Akin believed his software design was so revolutionary that legislative drafting practitioners would stage a "parade down K Street" upon its introduction.

Akin approached Xcential Corporation, maker of LegisPro software, about creating the bill-drafting software Agnello envisioned, and the parties entered into a non-disclosure agreement ("NDA"). Despite the plain restrictions of the NDA, Xcential took Agnello's idea as

its own and filed a patent application based on it. Xcential has thus misappropriated Akin's trade secrets and breached the NDA.

A preliminary injunction preventing Xcential from pursuing a patent based on Agnello's bill-drafting software idea and otherwise using his idea will prevent Xcential from continuing to benefit from its breach of the NDA and misappropriation of Akin's confidential information. The substantial harm to Akin from Xcential's continued improper use of its confidential information absent preliminary relief outweighs any harm to Xcential from the requested preliminary injunction. Lastly, enforcing the parties' NDA will further the public interests in enforcing contractual agreements and ensuring the confidentiality of trade secrets.

BACKGROUND

A. Louis Agnello's Bill-Drafting Software Idea

After engaging for years in the cumbersome, time-consuming process of drafting legislation to amend federal law, during the summer of 2018 Agnello had the idea of a bill-drafting system that would take line-edit changes to an existing law and, from them, generate a draft bill. Decl. of L. Agnello ¶¶ 2-11 (Ex. A hereto). Amending a federal statute, and some state statutes, requires a bill that utilizes specific, arcane language and complies with particular format requirements. *Id.* ¶ 4. Drafting such a bill is very different from redlining or change-tracking the existing law. *Id*. Without software with capabilities beyond redlining, a bill drafter must create a separate document formatted according to the applicable jurisdiction's requirements. *Id.* ¶ 9. For example, to amend a hypothetical Section 100(a) of an existing law governing speed limits to reduce the speed limit in federal parks from 45 mph to 35 mph, the bill would provide textual instructions like: "in the first sentence of Section 100(a), strike the word '45 mph' and replace with '35 mph.'" *Id.* ¶ 6. More complex amendments require more complicated and detailed

instructions. *Id.* Agnello immediately understood the value of his idea as it would revolutionize the process of bill drafting, and described it to his practice group manager as the "Holy Grail." *Id.* ¶ 11.

In researching software vendors with products intended to assist with legislation drafting, Agnello identified Xcential, which claimed to be an industry leader in services for drafting, amending, and publishing legislative and other government documents. *Id.* ¶ 15. He reached out to Xcential's president, Mark Stodder, and over the course of several telephone calls told Stodder of his idea of software that could be used by legislative drafting specialists to generate bills to amend statutes. *Id.* ¶¶ 16-17. Xcential demonstrated its existing LegisPro software for Agnello and several of his Akin colleagues, and they saw that while the software could track changes to laws and display the changes in a redline format appropriate for California, it could not accommodate the very different exercise of drafting federal bills. *Id.* ¶ 20. Agnello and Stodder continued to discuss Agnello's bill-drafting software idea, and to help Xcential understand it, Agnello provided sample bill language from Section 1860D–2 of the Social Security Act, 42 U.S.C. § 1395w–102, to demonstrate how a bill must be formatted. *Id.* ¶ 22.

B. Akin–Xcential Non-Disclosure Agreement

After two subsequent demonstrations revealed that Xcential's existing LegisPro software did not have bill-drafting capability, on March 14, 2019, Akin and Xcential entered into a non-disclosure agreement covering all confidential information exchanged by Akin and Xcential during Xcential's engagement "to provide legislative drafting and amending software" services to Akin, whether that information was furnished before or after execution of the NDA. Agnello Decl. ¶¶ 23-24; *id.*, Ex. 4 (NDA preamble and ¶ 1(b)). The NDA defines confidential information broadly as:

> [A]ll information that concerns or relates to each Party, whether oral, written, graphic, photographic, electronic, visual or otherwise, including but not limited to data, documents, reports, financial statements, marketing data, client information, correspondence and communications, whether prepared by a Party, its Representatives or otherwise, and whether furnished prior to or after the execution of this Agreement, that is furnished to the receiving Party or its Representatives by or on behalf of the disclosing Party or its Representatives, and all copies of such information and all memoranda, notes, reports, analyses, forecasts, summaries, data, compilations, studies and other materials prepared by the receiving Party or its Representatives containing, reflecting, interpreting or based upon, in whole or in part, any such information.

NDA ¶ 1(b) (Ex. 4 to Agnello Decl.). It recognizes the competitive value of confidential information and, absent written consent by the disclosing party, restricts Xcential's use of Akin's confidential information to what is necessary for Xcential's provision of legislative drafting and amending software to Akin:

> Receiving Party recognizes and acknowledges the competitive value and confidential nature of the Confidential Information and the damage that could result to disclosing Party if any information contained therein is disclosed to a third party. Both Parties agree that it and its Representatives (i) will use the Confidential Information solely as necessary for provision of the Services and for no other purpose, including, without limitation, in any way detrimental to the disclosing Party, and (ii) will keep the Confidential Information confidential and will not disclose any of the Confidential Information in any manner whatsoever.

NDA ¶ 2. The NDA also recognizes that the confidential information shared by Akin remained its property and grants Akin the right to require Xcential to destroy or return it upon request. NDA ¶ 4. Akin has not given Xcential permission to deviate from the NDA's terms. Agnello Decl. ¶ 29.

C. Continued Akin–Xcential Discussions about Agnello's Idea

Following agreement to the retroactively effective NDA, the parties engaged in further discussions about Agnello's bill-drafting software idea, and Xcential demonstrated certain modifications of its LegisPro software. Agnello Decl. ¶¶ 30-38. Agnello provided additional explanation of how the software he envisioned differed from the change-tracking redline

capability of LegisPro and, to illustrate the process he wanted to replace, provided a confidential excerpt from a bill on which he was working to amend 42 U.S.C. § 1395w-3, which is part of 42 U.S.C. XVIII. *Id.* ¶ 33. Stodder replied that Agnello's explanation and the example bill were "extremely helpful," and subsequently brought Xcential co-founder and CEO Grant Vergottini into the conversation. *Id.* ¶ 34. Agnello had further discussions with Stodder and Vergottini, and told them that the software he envisioned would lead to a "parade down K street" and was the "Holy Grail" of the legislative drafting industry. *Id.* ¶¶ 35-39. Nevertheless, Xcential never showed Agnello software with the bill-drafting capabilities he sought. *See id.* ¶ 42.

On August 1, 2019, Stodder proposed two sets of capabilities for "Federal Bill-drafting" to Akin: (1) capabilities for drafting legislation in "correct drafting format (numbering, appearance)" and (2) capabilities for "'Bill Synthesis' (amending the law) and automated bill generation." *Id.* ¶ 43. He estimated that developing the bill-drafting features would cost between $55,000 and $70,000 and take about three months, and that additional features would add approximately $85,000 to $120,000 and take two to three more months. *Id.* Akin decided that, given Xcential's failure to deliver a workable program despite Agnello's repeated explanations of his idea, it would not move forward with Xcential's proposal. *Id.* ¶ 45.

D. Xcential's Patent Application

In early 2021, after having further thought about his bill-drafting idea, Agnello decided to file a patent on it. Agnello Decl. ¶ 47. As part of his due diligence, he conducted a search for other patents and discovered that Xcential had filed a patent application reflecting his idea—the '233 application—with the U.S. Patent and Trademark Office. *Id.* Xcential did not request Agnello's or Akin's permission before filing the application or even inform them when it was filed. *Id.* ¶¶ 55-56.

The ’233 application lists Vergottini as the sole inventor and claims methods for “Bill Synthesis” to generate a properly formatted bill suitable for presentation to a legislative body. *Id.*, Ex. 18 (’233 application at claims ¶¶ 1, 6, 14). The “Bill Synthesis” capability described in the application was what Xcential chose to call the bill-drafting feature Agnello described to them. *Id.* ¶ 48. The application’s Abstract tracks the description of bill-drafting software that Agnello gave Xcential. *Id.* ¶ 50. Its specification describes the differences between bill drafting and bill amending in the manner that Agnello explained to Stodder and Vergottini. *Id.* ¶ 51. The application even uses in its figures a section from one parts of the 42 U.S. Code Subchapter XVIIII, Part C—Medicare+Choice Programs, that Agnello had shared with Stodder to help him understand Agnello’s bill-drafting software idea. *Id.* ¶ 53. In short, the Xcential application was based on the precise conception that Agnello had been explaining to Xcential for months, right down to the specific statutory examples that Agnello had used to explain it.

On March 17, 2022, Akin filed a petition for a derivation proceeding with the U.S. Patent and Trademark Office to assert its inventorship over the claims in the Xcential application. Nonetheless, Xcential continues to prosecute its application and seeks to profit from the idea that Agnello provided to Stodder and Vergottini under the protection of an NDA.

ARGUMENT

To obtain a preliminary injunction, a plaintiff must establish “(1) that there is a substantial likelihood he or she will prevail on the merits; (2) that he or she is in danger of suffering irreparable harm during the pendency of the action; (3) that more harm will result to him or her from the denial of the injunction than will result to the defendant from its grant; and, in appropriate cases, (4) that the public interest will not be disserved by the issuance of the requested order.” *In re Est. of Reilly*, 933 A.2d 830, 834 (D.C. 2007) (internal citations and brackets omitted); *see also Zirkle v. District of Columbia*, 830 A.2d 1250, 1256 (D.C. 2003).

A. Akin Has a Substantial Likelihood of Success on the Merits Because Defendants Misappropriated Akin's Trade Secret and Breached the NDA

Defendants' use of Agnello's bill-drafting idea in violation of the parties' NDA constitutes a misappropriation of trade secrets and breach of contract.

1. Misappropriation of Trade Secrets

The D.C. Trade Secrets Act defines misappropriation to include "[d]isclosure or use of a trade secret of another without express or implied consent by a person who … [a]t the time of disclosure or use, knew or had reason to know that the trade secret was … [a]cquired under circumstances giving rise to a duty to maintain its secrecy or limit its use." D.C. Code § 36-401(2). To prove trade secret misappropriation, the plaintiff must prove three required elements: "(1) existence of a trade secret; (2) acquisition of the trade secret as a result of a confidential relationship; and (3) unauthorized use or disclosure of the secret resulting in loss or damages." *Catalyst & Chem. Servs., Inc. v. Glob. Ground Support*, 350 F. Supp. 2d 1, 7-8 (D.D.C. 2004); *see also Elenza, Inc. v. Alcon Lab'ys Holding Corp*., 183 A.3d 717, 721 (Del. 2018) ("To prove trade secret misappropriation [under Delaware law], the plaintiff must demonstrate that: (1) a trade secret exists; (2) the plaintiff communicated the secret to the defendant; (3) there was an express or implied understanding that the secrecy of the matter would be respected; and (4) the secret information was improperly used or disclosed to the injury of the plaintiff."). "Trade Secret" is defined as:

> information, including a formula, pattern, compilation, program, device, method, technique or process, that:
>
> A. Derives actual or potential independent economic value, from not being generally known to, and not being readily ascertainable by, proper means by another who can obtain economic value from its disclosure or use; and
>
> B. Is the subject of reasonable efforts to maintain its secrecy.

D.C. Code § 36-401(4); *see also* Del. Code § 2001(4).[1].

Agnello's bill-drafting innovation is a trade secret. As explained in his declaration, it is a revolutionary concept for the legislative drafting industry. Agnello Decl. ¶¶ 11-13. The bill-drafting software Agnello envisioned would introduce new legislative drafting functionalities that were not available to bill drafters in the industry. *Id.* ¶ 12. Bill drafters like Agnello would no longer have to mark-up the text of a current law and then separately draft a bill to properly present the proposed changes. *Id.* ¶ 13. This idea held particular value because it was secret—because Agnello could be the first to design a tool that met the specific needs of legislative drafters. It is of no moment that Agnello's expertise was in legislative drafting and not software coding. Trade secrets are defined expansively and include concepts and processes that require the expertise of others to implement. *See Catalyst & Chem. Servs., Inc.*, 350 F. Supp. 2d at 9 ("[I]t is widely accepted that a trade secret can exist in a combination of characteristics each of which, by itself, is in the public domain, and even if all of the information about those characteristics is publicly available, a unique combination of that information, which adds value to the information … may qualify as a trade secret.") (alteration in original) (internal citations omitted); *see also Elenza*, 183 A.3d at 721 (holding that a trade secret can be the combination of steps into a process, even if all the component steps are known, so long as it is a "unique process which is not known in the industry") (internal citations omitted); *AlixPartners, LLP v. Benichou*, 250 A.3d 775, 782 (Del. Ch. 2019) ("Trade secrets should be given an expansive meaning and interpretation"). It was precisely because Agnello understood the particular needs of legislative

[1] DC's and Delaware's statutes governing the misappropriation of trade secrets are nearly identical. *Compare* D.C. Code §§ 36-401-402, *with* Del. Code §§ 2001-2002.

drafters—and Xcential and software companies did not—that Agnello's conception was valuable.

Agnello's declaration also demonstrates each of the elements of a misappropriation claim. His innovation has substantial commercial value as it would make the bill-drafting process much more efficient and error-resistant than the conventional approach. Angello Decl. ¶ 13, Agnello communicated his invention to Defendants. *Id.* ¶¶ 19, 22, 33, 35-37. Akin entered into an NDA with Xcential to protect the confidentiality of Agnello's bill-drafting idea, and the retroactively effective NDA covers all of Agnello's communications of his idea to Defendants as Akin's confidential information. Ex. 4 to Agnello Decl. Finally, Xcential has used Akin's trade secrets to file a patent for its own software based on Akin's confidential information in violation of the NDA. Agnello Decl. ¶¶ 47-53.

2. Breach of Contract

The NDA is governed by Delaware law. NDA ¶ 5(d) (Ex. 4 to Agnello Decl.). To establish a claim for breach of contract under Delaware law, a plaintiff must demonstrate: (1) the existence of the contract; (2) breach of an obligation imposed by that contract; and (3) resultant damage to the plaintiff. *Kuroda v. SPJS Holdings, L.L.C.*, 971 A.2d 872, 883 (Del. Ch. 2009).

Akin has demonstrated all three elements. First, Akin and Xcential entered into the NDA on March 14, 2019, and the agreement remains in effect. Agnello Decl. ¶¶ 24-29; *id.*, Ex. 4 (NDA). Agnello's bill-drafting idea constitutes "Confidential Information" under the NDA. NDA ¶ 1(b) (defining "Confidential Information" broadly as "all information that concerns or relates to each Party, whether oral, written, graphic, photographic, electronic, visual or otherwise … whether furnished prior to or after the execution of this Agreement…"). The NDA precludes Xcential's use of Agnello's idea as its own to file a patent application based on the idea. NDA ¶ 2

("Both Parties agree that it and its Representatives (i) will use the Confidential Information solely as necessary for provision of the [legislative drafting and amending software] [s]ervices and for no other purpose, including, without limitation, in any way detrimental to the disclosing Party, and (ii) will keep the Confidential Information confidential and will not disclose any of the Confidential Information in any manner whatsoever."). And the NDA makes clear that Akin retains ownership of Agnello's idea. NDA ¶ 4 ("All Confidential Information provided pursuant to this Agreement will remain the property of the disclosing Party….").

Second, Xcential breached the NDA by using Agnello's idea to file its patent application. *Id.* ¶¶ 47-53. Third, Akin is damaged by this breach because it hinders Akin's ability to patent or profit from Agnello's concept.

B. Irreparable Harm

The parties agreed in their NDA that a breach of its confidentiality requirement constitutes irreparable harm for which there is no adequate remedy at law. NDA ¶ 5(c) (Ex. 4 to Agnello Decl.) ("Receiving party acknowledges and agrees that disclosing party would be damaged irreparably and would not have an adequate remedy at law if any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached."). That stipulation should be considered at least influential in determining whether irreparable harms exists. *See Ellis v. James V. Hurson Assocs., Inc.*, 565 A.2d 615, 619 n.14 (D.C. 1989) (holding that contractual language expressly contemplating use of an injunction to remedy violations "may be influential in determining how the court will exercise its discretion") (citation omitted); *see also Martin Marietta Materials, Inc. v. Vulcan Materials Co.*, 68 A.3d 1208, 1226 (Del. 2012) ("[C]ontractual stipulations as to irreparable harm alone suffice to establish that element for the purpose of issuing . . . injunctive relief.") (quoting *Cirrus Holding Co. Ltd. v.*

Cirrus Indus., Inc., 794 A.2d 1191, 1209 (Del. Ch. 2001)). Xcential and Akin considered this very circumstance—one party's breach of the NDA's confidentiality requirement—in entering into the NDA, and Xcential should be held to its contractual promise.

In addition to the parties' stipulation to the existence of irreparable harm from breach of the NDA, Akin plainly is suffering irreparable harm. It is well-established that "disclosure of confidential information can constitute an irreparable harm because such information, once disclosed, loses its confidential nature." *Hosp. Staffing Sols., LLC v. Reyes*, 736 F. Supp. 2d 192, 200 (D.D.C. 2010) (citing *Council on Am.-Islamic Rels. v. Gaubatz*, 667 F. Supp. 2d 67, 76 (D.D.C. 2009)); *Morgan Stanley DW Inc. v. Rothe*, 150 F. Supp. 2d 67, 76-77 (D.D.C. 2001) (finding requisite irreparable harm because loss of confidentiality in plaintiff's financial records would cause loss of customers and possibly permanently damaged customer relationships). Even where confidential information has been disclosed, irreparable harm will exist where use of the confidential information will usurp an "industry leader's present market," lead to the "loss of the advantage of being a pioneer in the field and the market leader," *Callman on Unfair Competition, Trademarks and Monopolies* § 23:47 (4th ed. 2022), or where the defendant will gain an unfair competitive advantage if allowed to market technology or products based on misappropriated trade secrets, *see Technicon Data Systems Corp. v. Curtis 1000, Inc.*, No. 7644, 1984 WL 8268, at *10 (Del. Ch. Aug. 21, 1984). *See also Edwards Vacuum, LLC v. Hoffman Instrumentation Supply, Inc.*, 538 F. Supp. 3d 1132, 1145-46 (D. Or. 2021) (noting that courts have found irreparable harm to exist where there is "unfair competition [or] loss of market share") (citations omitted)).

Defendants' disclosure of Agnello's idea that was protected as confidential under the NDA harms Akin irreparably because Akin is unable to control the dissemination of its

confidential information and its valuable innovations. Because of Defendants' failure to abide by the confidentiality requirements to which it agreed, Akin cannot guard the information as a trade secret and is impaired in its ability to use it to obtain patent protection. If Defendants continue to pursue their patent application and are successful, they will be able to unfairly and irreparably profit from the revolutionary product Agnello envisioned. Agnello conceived of the bill-drafting software idea and explained confidentially to Xcential how it could be implemented over the course of multiple meetings, correspondence, and examples that even ended up in Xcential's patent application. By filing its patent application based on Agnello's idea, Xcential plans to use Akin's trade secrets for Xcential's sole benefit. Akin does not have an adequate remedy at law for Xcential's misappropriation of Akin's trade secret and breach of the NDA because, absent injunctive relief, Xcential can seek to take the entire bill-drafting software market for itself.

C. Balance of Equities

The balance of equities favors granting an injunction where "*more* harm will result to the movant from the denial of the injunction than will result to the nonmoving part[y] from its grant." *District of Columbia v. Grp. Ins. Admin.*, 633 A.2d 2, 23 (D.C. 1993). The parties agreed in the NDA that Akin is experiencing irreparable harm from Xcential's breach of their agreement, and Akin faces substantial harm from Xcential's continued use of its trade secret, as discussed immediately above. A preliminary injunction would prevent Xcential from pursuing its '233 patent application and otherwise using Akin's confidential information, and any harm to Xcential from delay in the patent application's progress is outweighed by Akin's loss of the confidentiality of its trade secret and loss of its ability to be a pioneer in the bill-drafting software market.

D. Public Interest

"The public has an interest in enforcing contractual agreements and ensuring the confidentiality of a private business's information and trade secrets, which is necessary for free and fair competition." *Robert Half Int'l Inc. v. Billingham*, 315 F. Supp. 3d 419, 435 (D.D.C. 2018) (internal quotation marks and citations omitted); *see also, e.g.*, *Dodocase VR, Inc. v. MerchSource, LLC*, 767 F. App'x 930, 935-36 (Fed. Cir. 2019) (holding district court did not abuse discretion in finding that public interest supported granting preliminary injunction based in part on upholding the "public interest in enforcing contractual rights and obligations"); *Council on Am.-Islamic Rels.*, 667 F. Supp. 2d at 80 ("The public interest . . . counsels in favor of enforcing the parties' Confidentiality and Non-Disclosure Agreement and precluding use of alleged proprietary information pending a determination on the merits."). The preliminary injunction Akin seeks would further that public interest by enforcing Akin's rights under the NDA and protecting the trade secret it shared with Xcential in confidence under the protections of the NDA.

E. Relief

Akin is entitled to preliminary injunctive relief under the D.C. Code, Delaware's Uniform Trade Secrets Act, and the NDA enjoining Defendants from pursuing any patents related to Akin's confidential information under the parties' non-disclosure agreement, including their '233 patent application, or otherwise using Akin's confidential information.

The D.C. Code authorizes the Court to award injunctive relief and damages for misappropriation of a trade secret. D.C. Code § 36-402 ("Actual or threatened misappropriation may be enjoined."); *see also* Del. Code § 2002 (same). The parties' NDA also provides for injunction as a remedy for breach of its terms. NDA ¶ 5(c) (Agnello Decl., Ex. 4) ("[I]n addition to any other remedy to which disclosing Party may be entitled, at law or in equity, disclosing

Party will be entitled to an injunction or injunctions to prevent breaches or threatened breaches of the provisions of this Agreement"). Under Delaware law, courts have enjoined parties who breached confidentiality agreements. *See e.g.*, *Agilent Techs., Inc. v. Kirkland*, No. CIV. A. 3512-VCS, 2010 WL 610725, at *31-33 (Del. Ch. Feb. 18, 2010) (ordering assignment of patents to plaintiff or payment of royalties against defendants who breached confidentiality agreement); *Martin Marietta Materials, Inc. v. Vulcan Materials Co.*, 56 A.3d 1072 (Del. Ch.), *aff'd*, 68 A.3d 1208 (Del. 2012) (enjoining business that breached NDA from pursuing prosecuting a proxy contest, making an exchange or tender offer, or otherwise taking steps to acquire control of rival's shares or assets); *Merck & Co. v. SmithKline Beecham Pharms. Co.*, No. C.A. 15443-NC, 1999 WL 669354, at *26 (Del. Ch. Aug. 5, 1999), *aff'd*, 766 A.2d 442 (Del. 2000) (enjoining use of confidential information related to plaintiff's process for producing vaccines); *Dickinson Med. Grp., P.A. v. Foote*, No. 834-K, 1984 WL 8208 (Del. Ch. May 10, 1984) (patient material taken by former employee were trade secrets and their misappropriation could be enjoined).

Here, the Court should enter a preliminary injunction enjoining Defendants from pursuing any patents related to Agnello's bill-drafting software innovation, including their '233 patent application, or otherwise using or profiting from the innovation. *See* D.C. Code § 36-402(a); 6 Del. Code § 2002(a); *Life Spine, Inc. v. Aegis Spine, Inc*., No. 19 CV 7092, 2022 WL 279564, at *1 (N.D. Ill. Jan. 31, 2022) (noting that court granted preliminary injunction enjoining defendant from seeking or obtaining any patents or other forms of intellectual property protection based on plaintiff's technologies); *Martin Marietta Materials, Inc. v. Vulcan Materials Co.*, 56 A.3d 1072, 11447 (Del. Ch.), *aff'd*, 45 A.3d 148 (Del. 2012), *and aff'd*, 68 A.3d 1208 (Del. 2012), *as corrected* (July 12, 2012) (enjoining business that breached NDA from using confidential information); *Agilent Techs., Inc.*, 2010 WL 610725, at *33 (ordering defendants to

either irrevocably withdraw their pending patent applications or assign them to plaintiff); *Merck & Co.*, 1999 WL 669354, at *26 (enjoining use of confidential information related to plaintiff's process for producing vaccines).

CONCLUSION

For the foregoing reasons, the Court should issue a preliminary injunction enjoining Defendants from pursuing any patents related to Akin's confidential information under the parties' non-disclosure agreement, including their '233 patent application, or otherwise using Akin's confidential information.

Dated: November 23, 2022
Washington, D.C.

Respectfully submitted,

/s/ Anthony T. Pierce

AKIN GUMP STRAUSS HAUER & FELD LLP
Anthony T. Pierce (D.C. Bar No. 415263)
apierce@akingump.com
Caroline L. Wolverton (D.C. Bar No. 496433)
cwolverton@akingump.com
Robert S. Strauss Tower
2001 K Street, N.W.
Washington, D.C. 20006
Telephone: (202) 887-4000
Facsimile: (202) 887-4288

Nathaniel B. Botwinick (*pro hac vice* forthcoming)
nbotwinick@akingump.com
One Bryant Park
New York, New York 10036
Telephone: (212) 872-1000
Facsimile: (212) 872-1002

Counsel for Plaintiff