

Livestock company wins trade secret injunction

Lawsuit accuses ex-employee of launching rival Chinese company

By MATEUSZ PERKOWSKI
Capital Press

An Oregon livestock nutrition company has won an injunction against a former employee accused of stealing trade secrets to start his own company in China.

Omnigen Research of Corvallis, Ore., has filed a lawsuit alleging that scientist Yongqiang Wang is trying to sell knock-offs of its feed additives in violation of confidentiality agreements.

U.S. District Judge Michael McShane has ordered Wang and his wife, as well as the companies under their control, to stop using any of Omnigen's copyrighted materials and trade secrets.

The preliminary injunction also instructs them to return all materials pertaining to Omnigen's technology, and turn over their electronic media, among other provisions.

Omnigen was originally founded in 2002 by Oregon State University professor Neil Forsberg and his graduate student, Steve Puntene, who developed patented feed additives aimed at counteracting hemorrhagic bowel syndrome in dairy cows.

A decade later, the firm was bought for nearly \$23 million by the Phibro Animal Health Corp., a publicly traded company based in New York.

Roughly 20 percent of the U.S. dairy cow herd is treated with Omnigen products, which are also catching on in several foreign countries and have received regulatory approval to be sold in China, according to Phibro financial documents.

According to Omnigen's lawsuit, cofounder Forsberg

took Wang "under his wing" when Wang was an OSU graduate student and asked him to join the company.

"However, at some point, Wang apparently decided he owed no loyalty to OmniGen Research," the complaint said. "So, while continuing to work at OmniGen Research, he shirked his contractual and fiduciary obligations to secretly form two businesses, Bioshen and Mirigen, to compete with OmniGen Research with the help of his wife and associates."

Before he quit in 2013, Wang had access to its confidential "research and experimentation methods" as well as improvements made to Omnigen products, such as ingredient sources and ratios, the complaint said.

Wang allegedly took out a "sham" patent in China for products with ingredients similar to Omnigen's, but which listed his wife and associates as the inventors, and has ob-

tained a Chinese production license for a feed additive, the complaint said.

Last year, the companies formed by Wang held a symposium on livestock health in China at which he presented Omnigen's "illegally copied" copyrighted slides, the complaint said.

In response to the complaint, Wang admits obtaining a Chinese patent, launching Bioshen and Mirigen and organizing a scientific conference but denies that he relied on any of Omnigen's trade secrets or confidential information.

Omnigen's methods of testing feed additives, as well as its "processes for making additives, sourcing ingredients, mixing ingredients, ingredient ratios and scientific knowledge" do not qualify as trade secrets, according to Wang's answer.

Wang also claims that he was enticed to quit a faculty position at OSU to work for Omnigen with the promise of

receiving a share of the profits if the company was sold.

Forsberg, the co-founder, unjustly enriched himself by breaching that promise when Phibro bought Omnigen, Wang alleges.

"As a foreseeable result of Forsberg's fraudulent conduct Wang has incurred economic damages consisting of a reasonable share of the proceeds that Forsberg received from the sale of OmniGen and the licensing of its products," Wang said in a counter-complaint.

Wang has also requested that the judge reconsider the preliminary injunction, arguing it's "vague, draconian, and outside the scope of a legitimate provisional remedy."

The defendants had an insufficient opportunity to respond to the injunction request and requiring Wang to surrender his laptop and other electronic devices "effectively limits his ability to work," according to a court document.



Courtesy of ODFW
The Imnaha wolf pack's alpha male is shown after being refitted with a working GPS collar in 2011 in this file photo.

1 probable, 1 confirmed wolf kill in Northeast Oregon

By ERIC MORTENSON
Capital Press

Wolves killed a lamb and probably killed a calf in separate attacks in late May, the Oregon Department of Fish & Wildlife reported.

On the evening of May 20, a herder working on private land along the South Fork of the Walla Walla River near the Umatilla-Wallowa county line noticed a disturbance in the flock and saw four wolves, one with a dead lamb in its mouth.

ODFW personnel investigated the next day and confirmed the kill was done by wolves. Investigators found a "drag trail" of bone, blood and wool, but the rest of the lamb apparently had been consumed overnight.

Tracking collar data showed that OR-40, of the Walla Walla Pack, was near the sheep bedding ground at 3 a.m. on May 21.

On May 23, a landowner checking cattle on private land in the Mud Creek area of Wallowa County found the remains of a dead calf. There was no clear evidence the 150-pound calf had been attacked by wolves, but marks on the rib, back and leg bones found scattered about the site indicated a predator with large teeth was responsible, according to an ODFW report.

In addition, the calf was consumed in one night, also a hallmark of a wolf attack. Nonetheless, ODFW designated the incident a "probable" wolf attack rather than "confirmed."

Tracking collar GPS coordinates showed two members of the Shamrock Pack, OR-23 and OR-41, were in the area at different times on May 22 and May 23.

PVMI pursues relicensing, new business plan

By JOHN O'CONNELL
Capital Press

BEND, Ore. — The nonprofit organization that markets potato varieties developed by the Idaho, Washington and Oregon public breeding programs is coming up for renewal and is soliciting proposals from third parties interested in overseeing development of a new long-term business plan.

The Potato Variety Management Institute, incorporated as a nonprofit organization in 2005 to collect royalties and market varieties for participants in the Northwest Potato Variety Development Program, plans to develop a 10-year business and succession plan highlighting opportunities for improvement.

PVMI, which has set a June 15 application deadline and a March 15, 2017, deadline for the business plan's completion, emphasized in its request for proposals that the organization has already accomplished more than founders originally anticipated.

PVMI Executive Director Jeanne Debons said the organization is also pursuing a five-year renewal of its master license agreement.

PVMI partners include the Washington state, Oregon and Idaho potato commissions, the University of Idaho, Washington State University and Oregon State University and USDA.

"Taking a fresh look at this agreement with new eyes on it is always a positive approach," said Michael Parella, dean of UI's College of Agricultural and Life Sciences.

Parella said the college is interviewing candidates for a new vice president for research, who will oversee the PVMI agreement.



Courtesy of Linhai Zhang
From left, Chuck Brown, Jeanne Debons, Darrin Culp and Zach Holden select single-hill potatoes for the Tri-State Potato Research and Breeding Program in 2011. The Potato Variety Management Institute, which markets the varieties, is issuing a request for proposals for a third party to help draft a vision for the organization's future.

"I intend to be active in PVMI going forward," Parella added.

Debons said PVMI's nine-member board formed a subcommittee to oversee the renewal, and the three potato commissions suggested third-party guidance in developing a business plan, involving input from all of the partners.

"We're trying to make this a process that involves everyone so people can contribute to PVMI's future direction," Debons said.

Debons said the business plan will also provide documentation that more accurately describes what PVMI

has become since an Oregon consultant helped establish the original business and marketing plan.

"When PVMI started 10 years ago, nobody knew what it was going to be because there was nothing like it," Debons said.

Debons said the Oregon consultant charged \$50,000. PVMI's annual budget is \$230,000 and covers legal fees, licensing, staff time, travel and marketing efforts.

PVMI contributed more than \$2 million to the universities and kept \$500,000 in reserves through the end of 2015. During that time, the organization collected more

than \$500,000 from licensing its varieties and about \$3.4 million in royalty revenue.

Debons said PVMI has partnerships with more than a dozen foreign countries where its varieties are being evaluated or grown.

She believes promising new PVMI varieties including Blazer Russet, Payette Russet and Clearwater Russet could lead the organization to more than double its royalties within the next five years.

Oregon Potato Commission Executive Director Bill Brewer believes the third-party analysis will enhance transparency about PVMI and demonstrate to the industry

that the organization has effectively tracked its varieties and collected royalties.

"When we started, we didn't think (PVMI) would be profitable and actually returning money for quite a few years," Brewer said.

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Reports reviewed by: Ronald A. Sorensen CA Geophysicist PGP #957 & Suzanne Dudziak Geologist OR.G1273/WA.747 ROP-23-4-2/#24

OSHA fines East Idaho potato processor \$273,000

Capital Press

BOISE — The federal Occupational Safety and Health Administration has fined an Eastern Idaho frozen potato processor \$273,000 for safety violations committed in December, according to an agency press release issued May 31.

According to OSHA, Dickinson Frozen Foods Inc. in Sugar City failed to protect its employees and was not prepared to respond to a "potentially lethal" release of 1,300 pounds of anhydrous ammonia on Dec. 1.

Nobody was injured by the release, but employees at the facility have been hospitalized as a result of past releases, OSHA said.

OSHA investigators issued 19 serious and two willful citations against Dickinson, after an investigation following the release uncovered "dozens of hazards related to emergency response, respiratory protection and process safety management of hazardous materials violations."

Anhydrous ammonia is a colorless gas that can damage the eyes and respiratory system and can be explosive when mixed with certain chemicals.

Violations pertained to em-

ployees being exposed to liquid ammonia without protective clothing, entering a potentially life-threatening situation without self-contained breathing equipment, not being medically evaluated or fit tested to wear respirators, not receiving proper training in the facility's emergency response plan and re-

sponding to an emergency without proper emergency response training, according to OSHA.

The facility employs 220 workers and produces processed potato products for use in consumer items such as frozen dinners. Requests for comment were referred to Dickinson's corporate headquarters.

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