

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GENOMIC PREDICTION, INC.,

Plaintiff,

vs.

NATHAN TREFF, TALIA METZGAR
AND NUCLEUS GENOMICS, INC.,

Defendants.

Case No. 2:25-cv-16850-SDW-AME

District Judge Susan D. Wigenton

Magistrate Judge Andre M. Espinosa

Motion Date: November 4, 2025

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF
PLAINTIFF'S APPLICATION FOR A PRELIMINARY INJUNCTION
WITH TEMPORARY RESTRAINING ORDER AND LIMITED
EXPEDITED DISCOVERY**

TROUTMAN PEPPER LOCKE LLP

Richard J. Reibstein
Angelo A. Stio, III
104 Carnegie Center Drive, Suite 203
Princeton, NJ 08540
(609) 452-0808
Richard.Reibstein@troutman.com
Angelo.Stio@troutman.com

Jeffrey S. Kramer (*pro hac vice* pending)
875 Third Avenue
New York, NY 10012
(212) 217-7722
Jeffrey.Kramer@troutman.com

Alexandra G. Lancey (*pro hac vice* pending)
2200 Ross Avenue, Suite 2800
Dallas, TX 75201
(214) 740-8428
Alexandra.Lancey@troutman.com
Attorneys for Plaintiff Genomic Prediction, Inc.

Plaintiff Genomic Prediction, Inc. submits this reply memorandum of law in further support of its Application [ECF No. 1, 5] and in response to the papers filed in opposition to the Application by Defendants Treff, Metzgar and Nucleus (the “Opposition”) [ECF No. 13]. GP has filed additional declarations responding to misstatements in the Opposition.

Defendants’ papers misstate and omit critical facts, mischaracterize GP’s positions, and confirm Nucleus is competing with GP using GP’s trade secrets. Indeed, Defendants have chosen to ignore much of the evidence set forth in the declarations supporting the relief requested by Plaintiff in their effort to construct arguments that fail to address the relevant legal issues. The misstatements and omissions support GP’s contention that Defendants Treff and Nucleus are using and will use GP’s trade secrets to compete with GP. The Court should grant GP a TRO and expedited discovery and set a date for a preliminary injunction hearing.

A. The Opposition Relies on Factual Misstatements and Omissions

1. Treff admits to breaching his agreements and violating the law by deleting GP’s trade secrets from his GP laptop, and misrepresents the contents thereof.

Treff states in his Declaration (the “Treff Dec.”) [ECF No. 10, at ¶ 54] that, “Because I used the laptop for professional and personal reasons and it had highly sensitive, personal, family-related documents on it, I reset the laptop to factory settings, so that these documents would not transfer to GP.” Treff could have deleted

just the personal materials from his laptop, instead of mass deleting all information including GP materials in willful violation of his confidentiality agreement with GP and his fiduciary duties as an officer of the company. Treff's willful destruction of data is not a defense, it is an admission of civil and criminal wrongdoing, including a violation of New Jersey's Computer Related Offenses Act, N.J.S.A. 2A:38A-3..

Further, Treff contends he did not have any files on his laptop that GP does not have a copy of (Treff Decl. ¶ 55). That is wrong. Treff indeed had on his laptop, as he well knows, the *only* copy of certain trade secret materials as described in the Verified Complaint ("Compl.") [ECF No. 1, ¶¶ 63-66] and the Ketterson Declaration ("Ketterson Dec.") [ECF No. 1-2]; *see also* Declaration of Stephen Hsu ("Hsu Dec."), ¶¶ 26-27. Further, as set forth in the Declaration of Diego Marin ("Marin Dec."), the Senior Director and Head of Clinical Genetics at GP, Treff and his colleagues in GP's wet lab saved many GP materials to their laptops instead of the shared drive, and, in Treff's case, he saved so many things *only* on his laptop that every week or two Marin had to request materials from Treff that were not on GP's shared drive or sent to Marin by email or Slack. *See* Marin Dec. ¶¶ 5-6.

2. Treff mischaracterizes the reasons for his departure from GP.

Defendants tell the Court Treff had to leave GP and join Nucleus because GP mistreated him, refusing to pay house rental expenses to which he was entitled. Opp. Br. at p. 12; Treff Dec. ¶ 51. However, Treff chose not to inform the Court that after

payment of his rental expenses was placed on hold, he told Ketterson, GP's CEO, in a text message and an email, that he was entitled by contract with GP's prior CEO to be paid his house rental expenses by GP and, until GP resumed payments, he would not perform critical work for GP. *See* Supplemental Declaration of Kelly Ketterson ("Ketterson Supp. Dec.") at ¶¶ 4-9. Ketterson caught Treff in a lie in which he falsified the details of that agreement with GP. When Ketterson discovered the paperwork, it turns out the agreement had expired four years earlier in August 2021. Ms. Ketterson presented the paperwork to Treff and called him out for his fabrication, which cost GP over \$200,000. *Id.*

3. Despite Defendants' factual misstatements and omissions, Nucleus competes with GP.

Defendants repeatedly tell this Court that Nucleus is not a competitor of GP because Nucleus is a "software company" that has no "wet lab," analyzes adult DNA, and offers trait screening "in addition" to the traits GP's tests screen for. *See, e.g.,* Declaration of Kian Sadeghi ("Sadeghi Dec.") ¶¶ 16, 18, 30; Treff Dec. ¶¶ 35-38, 40). Defendants' testimony and evidence available to GP contradict these contentions.

First, while Defendants misleadingly testify that Nucleus only analyzes adult DNA (*see e.g.,* Sadeghi Dec. ¶ 16; Treff Dec. ¶ 40), Treff admits Nucleus' "Nucleus Embryo" project relies on embryonic DNA to generate risk scores, just like GP's PGT-P test. *See* Treff Dec. ¶ 40. Further, Nucleus' science advisory board agenda

from August 2025, sent to Treff’s GP email, states Nucleus is developing PGT-A and PGT-M testing, which requires genotyping embryos. *See* Hsu Decl. ¶¶ 8-14. While Treff and Nucleus testify that Nucleus tests for “additional traits” to GP, they omit that GP’s and Nucleus’ tests test for some of the *same exact traits*. *See* Declaration of Erik Widen (“Widen Dec.”), ¶¶ 4-5.

Second, Defendants appear to be wrong that Nucleus does not perform “wet lab” functions. Nucleus’ science advisory board agenda (Ex. A to the Hsu Declaration) states Nucleus is purchasing Coriell cell lines, which stand in for embryonic tissue samples and are therefore “wet,” not “dry.” *See* Widen Dec. ¶¶ 7-8; Declaration of Laurent C.A. Melchior Tellier (“Tellier Dec.”), ¶¶ 15-17. Regardless, Nucleus does not need a “wet lab” to compete with GP. Nucleus can (and *does*) outsource the “wet lab” work needed to compete with GP to third parties like Sampled and Kindbody¹. *See* Declaration of Jia Xu (“Xu Dec.”), ¶¶ 5-7.

Even accepting Defendants’ statement that Nucleus is just a “software company,” Nucleus still competes with GP because it targets the same customers as GP with a similar, but not identical, product. For example, wallpaper retailers compete with house paint retailers because both are seeking purchases from the same

¹ Treff misleadingly testifies he is working with “Kindlabs” not “Kindbody” suggesting they are different companies, while omitting that Kindlabs is merely Kindbody’s PGT-A testing program. *See* Widen Decl., ¶ 12; *see also* www.kindbody.com/kindlabs.

customers, despite pitching different products to cover a wall. As Xu notes, “from a patient’s standpoint, those seeking PGT-P results are primarily interested in the outcome rather than how or where the testing is performed.” Xu Decl. ¶ 5.

Defendants’ argument that Nucleus and GP are not competitors because they are parties to the Marketing and Referral Agreement also fails. Competitors can provide services for each other while remaining competitors. Dr. Pepper publicly contracts with Coca-Cola and Pepsi to bottle Dr. Pepper products in locations where Dr. Pepper has no local bottling capabilities. They are still clearly competitors. What matters is that GP and Nucleus provide some of the same services and target the same customers.

4. Defendants omit facts showing Nucleus is developing PGT products that compete with GP’s and are using GP’s trade secrets to do so.

In describing Nucleus’s business, neither Treff nor Sadeghi chose to inform the Court that Nucleus has developed or is developing PGT-A and PGT-M testing, which are tests GP offers. As discussed above, Nucleus’s own meeting agenda expressly confirms that Nucleus is developing those tests. *See* Hsu Decl., ¶¶ 11-12, Ex. A (“Assess PGT-A/PGT-M combination testing to reduce customer costs while maintaining margins on carrier screening and embryo products.”).

Critically, these omitted facts show Treff has used and will likely continue to use GP’s trade secrets to develop these PGT-A/M tests. The agenda item shows that

Nucleus is genotyping embryos, or plans to do so, or is working with others to do so, which is an essential step for PGT-A/M testing. Hsu Dec. ¶ 12.

Treff has expertise with these tests through his work at GP, which uses *unique technology* for both these tests. *Id.* That technology is not merely the use of high-density SNP microarrays, but the trade secret methods and processes GP uses to analyze that data for its PGT tests, including PGT-A. *Id.* ¶¶ 15-17. In fact, Treff led GP's PGT-A case review on this subject. *Id.* ¶ 18. GP has unique insights into specialized PGT-A questions, including whether embryos are “mosaic” (i.e., have different DNA patterns in different cells). *Id.* ¶ 15. One of Treff's duties at GP was to conduct research for GP in this area. *Id.*

GP's methods for determining PGT-A status are proprietary and not known to the broader IVF or genetic testing community. *Id.* ¶ 16. GP's high-density SNP array genotyping method produces far more data than competing methods and gives very precise and dense information about aneuploidy status. *Id.* ¶¶ 16-17. Treff acquired advanced knowledge and analysis belonging to GP in judging dense SNP data from embryo samples at GP, and this trade secret knowledge is proprietary and not available outside of GP. *Id.* ¶ 18. Nobody at Nucleus is experienced in PGT-A testing. *Id.* ¶ 20.

Critically, the evidence GP obtained shows Nucleus is using high-density SNP microarrays for its PGT-P testing. *Id.* ¶ 21. Treff will help Nucleus develop its

PGT-A test by using GP's trade secrets to analyze that high-density data, which no other PGT company in the world can do. *Id.* In these circumstances, not only does the meeting agenda show that Treff has been using GP's trade secret knowledge of PGT-A testing, there is an immediate threat that Treff will continue to use GP's trade secret information to help Nucleus develop its PGT-A testing.

5. The studies Treff cites do not disclose GP's trade secrets.

The three published articles Treff cites in his declaration do not disclose GP's trade secrets. What GP does is completely novel. Tellier Decl. ¶¶ 12-14. GP is the only company in the world that offers PGT-P, PGT-A, PGT-SR and PGT-M testing using high-density SNP microarrays. *Id.* ¶¶ 5, 11. GP's trade secret is not the use of the arrays but the secret lab work processes for preparing samples to be genotyped in the arrays and the secret methods GP uses to analyze the high-density data produced by the arrays. *Id.* ¶¶ 8-10. As described in more detail in the Tellier Declaration, none of the articles Treff cites disclose those secret processes and methods. *Id.* ¶¶ 6-12.

6. Metzgar mischaracterizes her own conduct, which breached her contracts with GP and her duties of loyalty to GP.

Metzgar admits in her declaration that she knew in early August that Treff intended to tender his resignation and, because they lived together, said she was concerned she would be terminated after Treff resigned. Metzgar Dec. ¶ 17. Notably, Metzgar's declaration does not dispute the facts set forth in GP's

declarations that Metzgar believed the documents were hers, thereby admitting that she *intended to “keep” GP’s property after her employment ended* if she was terminated following Treff’s resignation.

Defendants argue that Metzgar, like Treff, should get a free pass because, when confronted in person by GP, she deleted the emails and GP documents from her Yahoo.com account. However, New Jersey courts do not issue free passes to those who have emailed company property to their personal accounts, even those who have attempted to take remedial action after stealing company trade secrets. *See, e.g., Sunbelt Rentals, Inc. v. Love*, 2021 WL 82370, at *1 (D.N.J. Jan. 11, 2021) (apology by employee does not lessen relief available to plaintiff in DTSA and breach of contract claims). Moreover, emailing the documents to her personal email address violated her agreements with GP.

Defendants also try to minimize the nature of the documents misappropriated by Metzgar suggesting they are public-facing documents, that GP provided them to Nucleus in July 2025 and that the key document among them is merely a routine standard operating procedure. As Marin testifies, he provided Nucleus with only 4 of the 30 documents Metzgar took and did so pursuant to the confidentiality provision in the Marketing and Referral Agreement. Marin Dec. at ¶ 8. Nucleus never received the “PGT Test Run Internal Workflow,” which Defendants admit is a GP non-public document. While Metzgar downplays this document as a standard

operating procedure and suggests other labs have standard operating procedures, Metzgar does not contend that other labs' standard operating procedures are similar to GP's. GP's internal laboratory standard operating procedures are critical trade secrets. *See* Kelly Supp. Dec. ¶ 26.

7. Defendants mischaracterize the Illumina Project and SOW.

Defendants also seek to dismiss the significance of the very document that conclusively establishes that Treff used a valuable GP trade secret when taking the lead in the Statement of Work ("SOW") with. Opp. at pp. 4, 36. Treff suggests the Illumina project is merely GP's attempt to commercialize software. Treff Decl. ¶ 32. That is wrong. Treff omits that key aspects of the Illumina project are to reduce GP's turnaround time for testing and to ensure that a specific Illumina SNP microarray device could be adapted by GP. *See* Kelly Supp. Decl. ¶¶ 15-16. GP's preliminary results showed this specific Illumina device (not Illumina devices generally) could fit into GP's processes. Before Treff could validate that data, he joined Nucleus and now they are using the exact same device with Sampled.

B. The Opposition Mischaracterizes the Relevant Legal Standards that Entitle GP to Relief

Defendants also misstate the relevant law. Specifically: (i) the Treff Non-Competition and Confidentiality Agreement is enforceable under settled principles of contract law; (ii) this Application for injunctive relief was timely filed as a matter of fact and law; and (iii) GP has more than adequately identified its trade secrets,

described Defendants' actual misappropriation and threatened continued misappropriation of those trade secrets, and demonstrated irreparable harm.

1. GP did not “delay” in seeking injunctive relief.

Defendants seek to misuse against GP the fact that this lawsuit was brought two months after Treff resigned. First, Treff knows that when he abruptly resigned without any advanced notice, GP had little choice but to continue using him as a consultant until it was able to file the requisite papers with agencies regulating laboratories like GP. *See* Ketterson Supp. Dec. at ¶ 11.

Defendants' opposition brief implies that GP was negotiating a press release to jointly announce Nucleus's hiring of Treff. In fact, Nucleus's proposed press release inappropriately suggested Nucleus was acquiring or merging with GP. GP demanded Nucleus not issue any press release related to Nucleus CEO Sadeghi's effort to fast-track a transaction. *See* Hsu Dec., ¶¶ 5-7. As noted further in the Hsu Declaration, GP told Nucleus on a Zoom call, when negotiations essentially ended after GP mentioned the cost of any such transaction, that Treff was under a non-compete agreement and GP would sue to enforce it if Treff joined Nucleus. *See also* Ketterson Supp. Dec. ¶ 12 (noting that the discussions in August between GP and Nucleus led to her directing GP's counsel to send the letters to GP's CEO on August 20 and August 27, 2025).

Second, the undersigned regularly advise clients not to seek to enforce non-compete agreements until they have compelling evidence that a departing employee also has breached a separate covenant, such as a covenant not to solicit customers or a covenant not to use confidential information and trade secrets. Here, as set forth in the Ketterson Declaration at ¶ 144, GP suspected but its investigation did not find concrete evidence of Treff's use of a GP trade secret until October 20, 2025, and GP filed its lawsuit immediately thereafter, on October 22, 2025. *See EMSL Analytical, Inc. v. Testamerica Analytical Corp.*, 2006 WL 892718, at *12 (D.N.J. Apr. 4, 2006) (finding that any "delay" is measured from the time a plaintiff has knowledge of the conduct at issue).

In any event, Defendants' argument that GP should have filed its lawsuit in August hardly negates GP's showing of irreparable harm. Delays caused by a plaintiff's good faith efforts to ascertain alleged misappropriation of trade secrets do not preclude a finding of irreparable harm. *BP Chems. Ltd. v. Formosa Chem. & Fibre Corp.*, 229 F.3d 254, 264 (3d Circ. 2000). Furthermore, the cases relied upon by the defendants are easily distinguishable here. In *EMSL Analytical, Inc.*, the plaintiff waited *three years* before filing for a preliminary injunction. 2006 WL 892718, at *12. In *H-1 Auto Care, LLC v. Lasher*, plaintiffs waited *11 months*, which the court deemed was a "significant amount of time." 2022 WL 13003468, at *4

(D.N.J. Oct. 21, 2022). There has been no such delay here and GP has made clear that it will suffer irreparable harm without speedy relief.

2. The non-compete is not impermissibly restrictive.

Defendants contend the Court should not enforce the noncompete Treff signed because Treff could not have secured employment elsewhere and in effect Nucleus was Treff's only lifeline. Defendants provide no support for this assertion. In contrast, as set forth in the Declaration of Stephen Hsu, there are an abundance other high-level positions that Treff can seek with a host of companies that do not compete with GP. Hsu Decl. ¶¶ 22-23.

Defendants also argue that the noncompete is overbroad because it has no geographical scope, but case law is well established that companies that have a nationwide business can enforce a noncompete agreement that prevents an employee from going to work for a competitor with a nationwide business. *See Sunbelt Rentals, Inc.* 2021 WL 82370, at *17 (collecting cases finding nationwide geographic scope as reasonable under New Jersey law).

Defendants overlook that the language in the noncompete provisions are narrowly tailored, being strictly limited only to Treff not working for a competitive company "where Employee has been involved in developing relationships to this competitor prior to leaving the Company." Ketterson Dec., Ex 1 at § 6.1a.

Defendants argue further that the noncompete clause is ineffective because it does not limit its application to duties comparable to the position Treff occupied at GP and would have covered Treff if he went to work for Nucleus to work “even as a janitor.” Opp. at 28. Courts in New Jersey enforce noncompete agreements that are not limited in this manner, including in *Acteon, Inc. v. Harms*, 2020 WL 6694411 (D.N.J. Nov. 6, 2020), the case cited by Defendants. Further, Defendants’ “janitor” argument is absurd, inasmuch as Treff was not employed by Nucleus in that capacity but rather in a comparable high-level capacity as his position with GP.

Finally, Defendants ignore § 6.6 of the Non-Competition and Confidentiality Agreement, “Severability,” which states that “If any part of this §6 is determined by a court of competent jurisdiction to be unreasonable in duration, area, or scope, then this Agreement is intended to and shall extend only for such period of time, in such area and with respect to such activities as are determined to be reasonable.”

3. Defendants misstate the legal standards for misappropriation under the DTSA and NJTSA.

Defendants seek to have this Court limit the application of the DTSA and NJTSA as well as Treff and Metzgar’s respective agreements with GP in a manner that is wholly inconsistent with governing law. Defendants argue that those laws, should only apply when a defendant uses a file or document that was stolen from the company, arguing that Treff could not have engaged in misappropriation where he claims not to have retained or copied any of GP’s documents. Plainly, the defendants

are wrong. Misappropriation under the DTSA can also occur by a former employee's use of the former employer's trade secret retained in his or her head. *See, e.g., Corporate Synergies Group, LLC v. Andrews*, 2019 WL 3780098, at *7 (D.N.J. Aug. 12, 2019) (former employees' discussion with their new employer about confidential information regarding a customer is sufficient to show misappropriation under DTSA and NJUTSA by use of trade secret information).

Further, New Jersey law recognizes the doctrine of inevitable disclosure of trade secret information. *See, e.g., Corporate Synergies Group, LLC v. Andrews*, 2019 WL 3780098, at *7 (D.N.J. Aug. 12, 2019) ("New Jersey law permits a party to rely on the inevitable disclosure doctrine"); *see also Osteotech, Inc. v. Biologic, LLC*, 2008 WL 686318, at *3 (D.N.J. Mar. 7, 2008) ("Under New Jersey law... an employer may demonstrate that there is a sufficient likelihood of inevitable disclosure of its trade secrets to a competitor to show irreparable harm.") (quotations omitted). A violation arises under the inevitable disclosure doctrine where the defendant "possessed extensive and intimate **knowledge** about" his former employer's trade secrets, and that misappropriation could occur where the defendant would "necessarily be making decisions [for a competitor] by relying on his **knowledge** of [plaintiff's] trade secrets." *PepsiCo, Inc. v. Redmond* 54 F.3d 1262, 1269 (7th Cir. 1995) (emphasis added). "In other words, a former employee threatens misappropriation of trade secrets simply by holding knowledge of those

secrets *in their head* while working for a direct competitor. *Kinship Partners, Inc. v. Embark Veterinary, Inc.*, 2022 WL 72123, at *6 (D. Or., Jan. 3, 2022).

4. GP described its trade secrets with particularity.

Defendants argue that GP has not described its trade secrets with sufficient particularity. But they choose to ignore paragraph after paragraph in the Ketterson Declaration describing multiple trade secrets with great detail. *See* Ketterson Decl. ¶¶ 11, 15, 18, 28, 30, 34, 39, 42, 44.a., 46, 52, 53, 54, 56, 57, 133, 134, 144, 149.

C. Expedited Discovery is Appropriate.

Critically, Defendants do not argue that they will suffer *any* injury if the Court requires them to participate in expedited discovery and therefore concede this issue. Defendants’ argument that because GP has not demonstrated a likelihood of success on the merits or irreparable harm, it is not entitled to expedited discovery is wrong. GP has demonstrated a likelihood of success on the merits and has shown “good cause” for expedited discovery. Defendants also argue that “Nucleus has submitted lengthy declarations that respond to the inquiries set forth in the proposed discovery GP submits.” Opp. at 40. Nucleus’s self-serving declarations do not provide GP with the information it needs to determine the full extent of Defendants’ trade secret misappropriation and breaches of contract.

Dated: November 3, 2025

TROUTMAN PEPPER LOCKE LLP

s/ Richard J. Reibstein

Richard J. Reibstein
Angelo A. Stio, III
104 Carnegie Center Drive, Suite 203
Princeton, NJ 08540
(609) 452-0808
Richard.Reibstein@troutman.com
Angelo.Stio@troutman.com

Jeffrey S. Kramer (*pro hac vice* pending)
875 Third Avenue
New York, NY 10012
(212) 217-7722
Jeffrey.Kramer@troutman.com

Alexandra G. Lancey (*pro hac vice* pending)
2200 Ross Avenue, Suite 2800
Dallas, TX 75201
(214) 740-8428
Alexandra.Lancey@troutman.com
Attorneys for Plaintiff Genomic Prediction, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2025, I caused a true and correct copy of the foregoing, along with the Declarations thereto, to be filed with the Court, and a copy will be served upon all Parties of record via CM/ECF.

By: s/ Richard J. Reibstein

Richard J. Reibstein