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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SANTA CLARA**

13 AGILENT TECHNOLOGIES, INC., a
Delaware Corporation,

14 Plaintiff,

15 v.

16 TWIST BIOSCIENCE CORP., a Delaware
17 Corporation; EMILY LEPROUST, an
Individual; SIYUAN CHEN, an Individual,
18 SOLANGE GLAIZE, an Individual, and DOES
1 through 20, inclusive,

19 Defendants.

Case No. 16-cv-291137

**SECOND AMENDED COMPLAINT
FOR:**

- (1) BREACH OF CONTRACT;
(2) BREACH OF THE DUTY OF
LOYALTY; AND
(3) MISAPPROPRIATION OF TRADE
SECRETS**

JURY DEMANDED

Date Action Filed: February 3, 2016
Trial Date Set: None
Judge: Hon. Brian C. Walsh

1 Agilent Technologies, Inc. (“Agilent”), by and through its undersigned counsel, for their
2 claims for relief against Twist Bioscience Corporation (“Twist”), Emily Leproust (“Leproust”),
3 Siyuan Chen (“Chen”), Solange Glaize (“Glaize”) and Does 1 through 20 (collectively,
4 “Defendants”), avers on knowledge as to itself and its own acts, and on information and belief as
5 to all other matters, as follows:

6 **NATURE OF DISPUTE**

7 1. Emily Leproust is a scientist who, in a premeditated plan, stole industry-leading
8 genomics technology from her longtime employer, Agilent Technologies, to start her own
9 competitive company, Twist Bioscience. Leproust and several other former Agilent employees
10 who joined her at Twist—including Twist’s Senior Director of Chemistry and Molecular Biology
11 Siyuan Chen and Twist’s former Chief Financial Officer Solange Glaize—stole Agilent’s most
12 sensitive documents. Using thumb drives, cloud accounts, and personal emails, Leproust, Chen,
13 Glaize and other former Agilent employees stole hundreds of Agilent documents clearly marked
14 “Confidential.” These documents chart Agilent’s oligonucleotide (“oligo”) synthesis technology
15 processes from experiment to implementation. Defendants stole and retained, for the past several
16 years, experimental designs, data analyses, troubleshooting secrets, method refining, and plans for
17 technological next steps. The documents also include highly confidential internal invention
18 disclosures and validation reports. But that’s not all. *On the very next day after speaking to*
19 *Leproust about coming to Twist*, Glaize accessed, stole, retained and used key Agilent strategy
20 documents marked “Confidential” that contained Agilent’s proprietary analyses of the market
21 opportunities in the synthetic biology and gene synthesis markets—the markets around which
22 Leproust pitched her business to investors to raise over a quarter billion dollars. Finally,
23 document metadata show that current Twist employees, including the named defendants, engaged
24 in extensive downloading of documents from Agilent computers to external, portable storage
25 drives and devices in their final days at Agilent. Those thumb drives are now missing. These
26 thefts of confidential information were in flagrant violation of the Agilent employees’
27 employment agreements and their duties to their former employer.
28

1 2. Making matters worse, upon learning of the formation of a new company, Agilent
2 sought reassurances from Leproust and Twist that any Agilent property or documents containing
3 confidential information would be returned and would not be used. Agilent asked Twist and
4 Leproust in February 2014 to “immediately return to Agilent any and all documents, computer
5 files, email and other materials containing Agilent trade secrets or Confidential Information you
6 may still possess or have obtained from any Agilent facility—either before or after the
7 termination of your employment—including anything stored on any personal computers.” This
8 echoed requests Agilent made to Leproust, Chen, and Glaize in a Functional Exit Interview
9 Memo that reminds departing employees of their obligations to return documents relating to their
10 Agilent employment back to Agilent. Twist and Leproust assured Agilent that its concerns
11 regarding its trade secrets and confidential information were unfounded. No documents were
12 returned and, at that time, Agilent assumed that its former employees had not stolen Agilent
13 documents. Twist’s and Leproust’s reassurances turned out to be false. Instead, despite being on
14 clear notice of the employees’ obligations to Agilent to return all Agilent property, Twist
15 employees continued to retain the stolen confidential documents for years, only revealing the
16 theft in discovery responses in 2018. While Twist has denied “using” the documents (despite the
17 evidence above), it has been unable to deny accessing the documents after they were stolen.

18 3. Agilent’s oligo synthesis technology is critical to the research and development of
19 life-saving drugs, medical diagnostics, and fundamental molecular biology research, and is the
20 technology that enables the use of DNA as a data storage medium. Before Twist, Agilent was the
21 *only* commercial entity capable of using inkjet printheads to synthesize long (greater than 200
22 nucleotides) oligonucleotides at an extremely high density (approximately 36 microns apart) and
23 at an industry-leading error rate of 1 in 500 base pairs. Leproust’s primary job duty at Agilent
24 was to develop and improve existing Agilent DNA oligo synthesis technologies to meet a
25 burgeoning demand for applications of these technologies, including assembling oligos into large,
26 high-quality genes. In violation of her duties to faithfully assist Agilent in improving its already
27 industry-leading technology, Leproust secretly laid the groundwork for a theft of Agilent
28 technology, beginning, at the very latest, in November 2011 when she became the CEO of a

1 competitive company—Twist—while still employed at Agilent. This was nearly eighteen months
2 before she resigned from Agilent, all the while continuing to use Agilent’s resources, people, and
3 proprietary information to develop and perfect the technology that Twist now touts as industry
4 leading. During that time, Leproust even pitched her competing company to venture capitalists—
5 all while still an Agilent employee. And in February 2012, she registered ten distinct internet
6 domain names for Twist. Within four months of Leproust’s departure, Twist filed a provisional
7 patent application (which did not become public until February 2015) disclosing its ability to
8 synthesize long oligonucleotides, using inkjets, at the industry-leading error rates and densities
9 that took Agilent decades to achieve.

10 4. Leproust targeted and poached key Agilent employees with the skills and
11 knowledge of Agilent’s trade secrets, proprietary instruments, and methods necessary to
12 synthesize high-quality oligos and collections of oligos (“oligo libraries”) of a length, complexity,
13 and fidelity previously unmatched by any company other than Agilent. In carrying out this plan,
14 Leproust repeatedly breached her contractual duties, which required that she disclose and assign
15 to Agilent all technological innovations relating to Agilent’s research or business, protect all
16 Agilent confidential information, and refrain from recruiting Agilent employees for a period of
17 two years after departing the company.

18 5. Twist now threatens Agilent’s hard-earned technological and competitive
19 advantage, not because of any profound innovation by Twist, but because it planned and executed
20 a wide-ranging theft of Agilent documents, trade secrets, confidential information, proprietary
21 processes, and key personnel. The intellectual property and know-how stolen by defendants
22 make up the leading edge of oligo-synthesis technology that took more than twenty years, tens of
23 millions of dollars, and the work of a large, interdisciplinary team of Agilent scientists and
24 engineers to develop.¹ The result is a well-funded Twist that is built on the back of Agilent’s
25 intellectual property and know-how. Twist thus has an ill-gotten, illegitimate, and unearned head
26 start in the markets for gene assembly, oligo libraries, and products and applications derived from
27

28 ¹ Agilent was spun off from Hewlett-Packard in 1999.

1 oligo libraries, such as target-enrichment and genome-editing products (“Derivative Oligo
2 Products”). Agilent brings this action to enjoin Twist from utilizing Agilent’s trade secrets and
3 confidential information, to recover the misappropriated intellectual property and technology that
4 contractually should have been disclosed and assigned to Agilent, and to collect damages incurred
5 as a result of defendants’ repeated contractual breaches, raiding of employees, and
6 misappropriation of Agilent technology and processes.

7 6. In late 2011, Agilent authorized Leproust—by then director of research and
8 development of Applications and Chemistry in Agilent’s Genomics business—to research and
9 develop methods of assembling genes from synthesized oligos quickly and accurately, to enable
10 Agilent to meet a growing demand for faster, more affordable access to large quantities of
11 custom-made genes. But Leproust, as CEO of Twist since November 2011, had her own
12 intentions of meeting not only this demand in the several-hundred-million-dollar, gene-assembly
13 market, but also the demand for oligo libraries and their Derivative Oligo Products. Her plans
14 involved stealing Agilent trade secrets and using them for her own competitive company, Twist.
15 Rather than leave Agilent, Leproust stayed *an additional seventeen-plus months* after she had
16 already begun serving as CEO of a direct competitor, Twist—while employed in a leadership role
17 at Agilent.

18 7. During this entire timeframe, she remained under the directive to improve and
19 create new applications for Agilent’s oligo-synthesis technology. But she did not present them to
20 Agilent, to whom Leproust was contractually obligated to disclose and assign exactly such
21 inventions and discoveries. Instead, she pitched the ideas she developed as an Agilent employee
22 to venture capital firms *while still an Agilent employee*. The pitch was to use these ideas, Agilent
23 trade secrets, confidential information, and employees to start a competitive company.

24 8. After a year of pitching these ideas to venture capitalists, Leproust abruptly
25 resigned in April 2013, refusing upon her exit to affirm her contractual obligations to protect
26 Agilent’s confidential information, to acknowledge Agilent’s ownership of the developments
27 conceived by her during and related to her Agilent employment, to refrain from soliciting or
28 recruiting Agilent’s employees, and to return Agilent’s confidential documents to Agilent. She

1 also wiped clean her Agilent smartphone of any data and removed the smart card upon returning
2 it to Agilent.

3 9. The Agilent-owned developments Leproust pitched to venture capital firms were
4 so mature and valuable that less than three months after her departure, Twist had secured nearly
5 \$5 million in funding from at least fourteen investors. These developments were fundamentally
6 based on underlying, confidential oligo-synthesis methodologies developed during twenty years
7 of research, trial-and-error, and substantial capital and manpower investment at Agilent. Among
8 these technologies is Agilent’s proprietary method of oligo synthesis based on industrial-scale
9 inkjet technologies and unique quality-control processes. Through its oligo-synthesis technology,
10 Agilent produces the highest-quality long DNA strands among all commercially available
11 sources.

12 10. Agilent’s oligo library synthesis technologies marry Agilent trade secrets in
13 mechanics, chemistry, biology, and other disciplines—including the physical, proprietary
14 machines (that exist only at Agilent) that use inkjet technologies to synthesize the oligos (“oligo
15 writers”), the trade secrets inherent in the composition of the phosphoramidite solution (“ink”) used
16 in synthesis, and all of the trade secrets associated with the positive and negative
17 experimental results in producing oligos. The result of these twenty-plus years of work by a large
18 team of chemical engineers, fluidics engineers, organic chemists, mechanical engineers, and
19 electric engineers at Agilent is a custom “million-feature” array-writing technology capable of
20 synthesizing long (*i.e.*, greater than 200 nucleotides) oligos at an extremely high density with
21 minimal loss of accuracy. Essential aspects of this proprietary process have never been publicly
22 disclosed, are trade secrets, and are subject to Agilent’s efforts to protect confidential
23 information.

24 11. The oligo writer itself is extraordinarily difficult and time-consuming to build,
25 even with knowledge of Agilent’s trade secrets. For example, in 2005, when Leproust and one of
26 her cofounders at Twist proposed replacing only the printhead in Agilent’s oligo writer with a
27 newer model, they drew up a *year-long* development path—a schedule made possible by the
28 team’s familiarity with the existing printhead system, and the existing system’s similarity to its

1 replacement. And when Agilent’s Labs group decided to build an oligo writer for research
2 purposes using many of the same components used in its commercial writers, it took a small team
3 two and a half years to build the research writer with the same functionality and synthesis error
4 rate. To independently design and build an inkjet writer capable of synthesizing oligos at the
5 same industry-leading error rate—without using the Agilent trade secrets and know-how
6 developed over a decade—would take several years longer still.

7 12. Yet Twist and Leproust built such an oligo writer in a much shorter time frame.
8 The gene-assembly developments pitched by Twist—which Leproust learned as an Agilent
9 employee under a duty to assign such developments to Agilent—involve synthesizing oligos
10 (which, when assembled, comprise a gene) on a surface almost 100 times smaller than what is
11 typically used. In order to assemble genes on such a small surface, Twist must first synthesize
12 long oligos with feature sizes measuring about 30 microns in diameter and spaced only about 50
13 microns apart. Twist’s patent applications—which claim priority to provisional patent
14 applications filed only four months after Leproust’s departure from Agilent—make clear that its
15 business is built on synthesizing oligos on a substrate, using inkjets, at an error rate and density
16 that took Agilent 20 years to achieve. These applications also disclosed the use of particular
17 mixed silane surfaces and described silane ratios developed and optimized at Agilent. And in
18 April 2015, Twist publicly announced that it had begun selling synthesized DNA using this
19 technology. Twist did not and could not have independently developed the technology to
20 synthesize oligos at this size and density in its two years of existence—much less in the three
21 months it took to obtain millions of dollars in funding. It needed Agilent’s trade secrets and
22 confidential information to do so.²

23 13. As just several examples, Twist needed to determine and optimize the appropriate
24 synthesis environment; perform quality-analysis and quality-control of the resulting oligos;
25 optimize combinations of ink and inkjet-head parameters; determine effective combinations of

26 _____
27 ² Because Twist’s patent applications were not published until February 2015, and Twist did not
28 announce its “Alpha Access Program” until April 2015, Agilent did not discover that Twist’s
business was founded on the misuse of Agilent’s trade secrets until the latter half of 2015.

1 methods and reagents; and optimize flowcell designs. It is evident that Twist is using Agilent's
2 state-of-the-art printing processes and trade secrets to bring Twist's oligo-library, Derivative
3 Oligo, and gene-assembly products to market at a higher volume, faster pace, and lower price
4 than could ever have been possible without the theft.

5 14. To help recreate these technologies for Twist's benefit, and in violation of
6 Leproust's contractual obligations not to recruit Agilent employees for two years, Leproust and
7 Twist recruited and hired 10 Agilent employees—including key members of Agilent's oligo
8 writer and chemistry group. Collectively, these colleagues have full access to and command of
9 the fruits of Agilent's twenty-plus years of investment in its interdisciplinary approach to oligo
10 synthesis; had worked more than 100 years at Agilent; and were the *key* employees needed to
11 utilize and implement Agilent's stolen technology.

12 15. Based on information available to date, the confidential information that Twist
13 misappropriated from Agilent includes methods of aligning the print head to the synthesis
14 surface; the synthesis environment to implement anhydrous conditions and accurate placement of
15 synthesis reagents (such as optimization of conditions, dry nitrogen flow, and reducing static
16 charge); quality-analysis and quality-control methods (including LC-MS- and Next Generation
17 Sequencing-based methods); the effects of various coupling and capping steps; knowledge of
18 various causes of deletions and other errors in synthesized oligonucleotides; certain cleavage and
19 deprotection techniques and knowledge of their effects; surface chemistry and preparation
20 methods; and the gene-assembly technologies Leproust developed at Agilent, including optimized
21 combinations and reagents that Leproust is believed to have developed, hidden, and diverted for
22 use at or for Twist. The documents stolen by Leproust, Chen, and Glaize—which include
23 validation methods for key processes, reports on experimental results and conditions, invention
24 disclosures, and proprietary analyses of the competitive landscape of the target enrichment and
25 oligo library markets—cover these key confidential subjects.

26 16. Through their actions, Leproust, Chen, and Glaize breached their agreements with
27 Agilent, and Leproust breached her duty of loyalty to Agilent. Defendants also have
28 misappropriated Agilent's trade secrets in violation of California Civil Code §§ 3426 *et seq.*

1 Agilent seeks to enjoin the use by Twist, Leproust, Chen, and/or Glaize of any Agilent trade
2 secrets, confidential information, and proprietary developments; to recover its misappropriated
3 trade secrets, confidential information, and proprietary developments; to enjoin Defendants from
4 obtaining or enjoying any further commercial advantage from their misappropriation of this
5 information; and to recover actual and punitive damages.

6 **THE PARTIES**

7 17. Plaintiff Agilent Technologies, Inc., is a Delaware corporation with its principal
8 place of business in Santa Clara, California.

9 18. Defendant Twist Bioscience Corporation is a Delaware corporation with its
10 principal place of business in San Francisco, California.

11 19. Defendant Emily Leproust is a resident of the State of California.

12 20. Defendant Siyuan Chen is a resident of the State of California.

13 21. Defendant Solange Glaize is a resident of the State of California.

14 22. Agilent is unaware of the true names and capacities of the Defendants sued herein
15 as DOES 1 through 20, and therefore sues these Defendants by such fictitious names. Agilent is
16 informed and believes, and on that basis alleges, that each of such fictitiously named Defendants
17 was acting as the agent, partner, or joint venturer of the other Defendants and is jointly and
18 severally responsible for the acts and omissions alleged herein.

19 23. A substantial part of the events giving rise to Agilent's causes of action as alleged
20 herein occurred in Santa Clara County, California, and have a direct effect on Agilent in Santa
21 Clara County, California. Agilent is informed and believes and thereon alleges that the actions
22 causing injury to Agilent as alleged herein, even if initiated outside of California, were expressly
23 aimed at California, with knowledge that they would cause harm in California.

24 **JURISDICTION AND VENUE**

25 24. This action arises under the laws of the State of California and is within the subject
26 matter jurisdiction of this Court. Further, Defendants are subject to the personal jurisdiction of
27 this Court because they conduct business in and/or are residents of California.

1 in recruiting, interviewing, hiring, training, developing, and managing the performance of
2 talented employees throughout its workforce, including employees in Genomics and its
3 manufacturing, marketing, and sales organizations.

4 29. Due to the nature of Agilent’s business, Agilent must protect its many valuable
5 trade secrets and other proprietary materials in its possession. Agilent uses a variety of controls
6 to regulate access to and disclosure of its data, communications, and proprietary information.
7 These include, but are not limited to: encrypting all data-storage devices containing sensitive
8 information; adopting security guidelines governing the connection of employees’ personal
9 computing devices to Agilent’s network; and requiring employees to label data according to the
10 level of sensitivity. Agilent requires every employee to execute an agreement governing and
11 protecting its confidential and proprietary information, and considers such agreements to be
12 vitally important to the protection of its business. Agilent also implements physical security
13 measures such as locked facilities and key cards, and electronic security measures such as
14 network protections and need-to-know access controls. Agilent further trains employees on the
15 importance of protecting confidential information, and protects its trade secrets by entering into
16 non-disclosure agreements with its customers and vendors. Agilent also holds scores of patents
17 covering various aspects of its technology.

18 **Leproust Joins Agilent And Signs A Confidentiality & Assignment-Of-Invention Agreement**

19 30. Agilent hired Leproust in 2000. Agilent hired Chen in 2010. And Agilent hired
20 Glaize in 1988. Like other employees, Leproust, Chen, and Glaize were required to sign, and did
21 sign, an Agreement Regarding Confidential Information and Proprietary Developments
22 (“Confidentiality and Assignment Agreement”) as a condition to employment at Agilent.
23 Paragraph 2 of the Confidentiality and Assignment Agreement addresses the protection of
24 Agilent’s “Confidential Information,” and provides:

25 I agree: (a) to use such information only in the performance of Agilent duties; (b)
26 to hold such information in confidence and trust; and (c) to use all reasonable
27 precautions to assure that such information is not disclosed to unauthorized
28 persons or used in an unauthorized manner, both during and after my employment
with Agilent.

1 31. The Confidentiality and Assignment Agreement defines “Confidential
2 Information” as “trade secrets, confidential business and technical information, and know-how
3 not generally known to the public . . . which is acquired or produced by me in connection with my
4 employment by Agilent.” By way of illustration, but not limitation, the Confidentiality and
5 Assignment Agreement specifies that “Confidential Information” includes “information on
6 Agilent organizations, staffing, finance, information of employee performance, compensation of
7 others, research and development, manufacturing and marketing, as well as information which
8 Agilent receives from others under an obligation of confidentiality.”

9 32. Paragraph 3 of the Confidentiality and Assignment Agreement addresses
10 the disclosure and assignment of “Proprietary Developments,” and provides:

11 Such Proprietary Developments are the sole property of Agilent, and I agree: (a) to
12 disclose them promptly to Agilent; (b) to assign them to Agilent; and (c) to
13 execute all documents and cooperate with Agilent in all necessary activities to
14 obtain patent, copyright, mask works and/or trade secret protection in all countries,
at Agilent’s expense.

15 33. The Confidentiality and Assignment Agreement defines “Proprietary
16 Developments” as “inventions and discoveries (whether or not patentable), designs, works of
17 authorship, mask works, improvements, data, processes, computer programs and software . . . that
18 are conceived or made by me alone or with others while I am employed by Agilent and that relate
19 to the research and development or the business of Agilent, or that result from work performed by
20 me for Agilent.”

21 34. The Confidentiality and Assignment Agreement also makes clear that these
22 disclosure and assignment obligations apply equally to an invention “for which no equipment,
23 supplies, facility, or trade secret information of [Agilent] was used and which was developed
24 entirely on the employee’s own time” as long as “(a) the invention relates (i) to the business of
25 [Agilent], or (ii) to [Agilent’s] actual or demonstrably anticipated research or development, or (b)
26 the invention results from any work performed by the employee for [Agilent].”

27 35. Paragraph 7 of the Confidentiality and Assignment Agreement addresses non-
28 solicitation of Agilent employees, and provides: “I agree not to disrupt, damage or interfere with

1 the operation or business of Agilent by soliciting or recruiting its employees for myself or others,
2 both during my employment at Agilent and for a period of two years following termination of my
3 employment with Agilent.”

4 36. Leproust, Chen, and Glaize also were obligated to comply with Agilent’s
5 Standards of Business Conduct (“Standards”). The Standards obligated them to refrain from “any
6 outside work that could lead to divided loyalties”; to refrain from “hav[ing] a personal or family
7 financial interest in any Agilent supplier, customer, reseller or competitor that might cause
8 divided loyalty”; and to “disclose any outside work for an Agilent competitor, customer, reseller
9 or supplier, or any other involvement that could cause divided loyalties, prior to engaging in any
10 such activity.”

11 37. The Standards thus imposed strict restraints on the involvement of Agilent
12 employees with outside entities that could possibly encroach upon their loyalty to Agilent.
13 Leproust’s secretly serving as CEO of a competitive company while working at Agilent
14 constituted a fundamental breach of her contracts with Agilent.

15 **Agilent Develops Valuable Trade Secrets In Oligo Synthesis During Leproust’s Tenure**

16 38. Agilent has become the industry leader in producing high-accuracy, long oligos:
17 DNA or RNA molecules that have a wide range of applications in genetic testing, research, and
18 forensics. Through its oligo-synthesis technology, Agilent produces the highest-quality long
19 DNA strands among all commercially available sources.

20 39. Agilent’s oligo library synthesis technology is the result of more than twenty years
21 of interdisciplinary research, development, and trial-and-error. This technology marries Agilent
22 trade secrets in mechanics, chemistry, biology, and other disciplines—including the oligo writers;
23 the composition of the “ink” used in synthesis; and all of the knowledge of the environment,
24 parameters, and specifications that work best and most efficiently to accurately produce high-
25 quality oligos, and which to avoid.

26 40. Agilent hired Leproust to work on developing the chemical aspects of the inkjet
27 writer used for this high-density oligo synthesis. Leproust remained intimately involved in the
28 development and commercialization of Agilent’s inkjet writer technology throughout her entire

1 career there. By the end of Leproust's thirteen-year tenure at Agilent, she directed the research
2 and development of Applications and Chemistry in Genomics, supervising a team of scientists
3 and engineers responsible for the development and implementation of oligo synthesis and oligo
4 library synthesis technology, and managing related publications and technology collaborations
5 between Agilent and other industry leaders. By virtue of this leadership position and
6 management role, she enjoyed a position of trust and confidence at Agilent, which gave her
7 access to all aspects of Agilent's oligo synthesis and other related proprietary technology and
8 intellectual property, as well as their commercial applications, opportunities, and consumers.

9 **Agilent Entrusts Leproust With Developing Gene-Assembly Technology**

10 **While Leproust Covertly Exploits That Technology Through Twist**

11 41. In late 2011, Agilent investigated expanding the applications for its world-leading
12 oligo libraries to meet a burgeoning market in synthetic biology. There was a new demand—
13 from researchers across various industries—for fast and affordable access to large quantities of
14 custom-made genes, and Agilent wanted to meet it. Agilent was uniquely positioned to do so as
15 the leading producer of long oligos—the building blocks of genes—and oligo libraries. Entering
16 this market required building on Agilent's oligo library synthesis technologies by developing
17 technology that could quickly, cheaply, and accurately assemble these oligos into genes
18 on-demand. Around September 2011, Leproust initiated a project to research and develop gene-
19 assembly technologies through her Genomics group. Around the same time—November 2011—
20 Leproust met with Twist's co-founders and accepted their offer to join Twist as co-founder and
21 CEO. She then registered domain names and email addresses for Twist on February 4, 2012.
22 Leproust never informed Agilent of any of these actions. From this point until she resigned from
23 Agilent on April 12, 2013, Leproust developed her strategic plan for Twist—a company now
24 directly competing with Agilent and its partners in the oligo-library-synthesis, Derivative Oligo
25 Products, and gene-assembly markets, for several hundreds of millions of dollars in market share.
26 Leproust kept these plans secret from Agilent, impeding and tainting its effort to enter the gene-
27 assembly market.

28

1 42. In February 2013, leaders in Agilent Research Laboratories, Genomics, marketing,
2 and other groups held meetings with Agilent’s then-CEO, Bill Sullivan to discuss the merits of:
3 (1) investing in and working with Gen9, a Cambridge-based startup in the gene-assembly market,
4 or (2) building on Agilent’s existing oligo library synthesis technology and new applications—
5 being developed by Leproust and others—to meet the demands of the gene-assembly market
6 organically. Unbeknownst to these executives, Leproust, who was ostensibly leading Agilent’s
7 effort to meet the demands of the gene-assembly market organically, had become CEO and
8 transferred her loyalty to Twist over fifteen months earlier. And on February 4, 2013, Leproust—
9 while still an Agilent employee and while continuing to use Agilent resources and have access to
10 its confidential information—filed articles of incorporation for Twist, which now competes
11 directly with Agilent in the oligo-library-synthesis and Derivative Oligo Products spaces.

12 43. Rather than contribute the Proprietary Developments she was obligated to disclose
13 and assign to Agilent under the Confidentiality and Assignment Agreement, Leproust withheld
14 from Agilent its own business opportunities and technological developments. Leproust never
15 disclosed to Agilent the existence of her plans for Twist, despite her then-existing obligations to
16 present the business opportunities that ultimately grew into Twist, to disclose her developments
17 relating to Agilent’s research or business, and to refrain from competing with Agilent as an
18 Agilent employee.

19 44. Indeed, not only did Leproust fail to disclose her plans and developments for gene
20 assembly to Agilent, as was her obligation, she actively presented those opportunities to others
21 outside of Agilent to obtain funding for her new venture—while still an Agilent employee and
22 making use of Agilent resources and intellectual property. Throughout her last year of
23 employment at Agilent, Leproust delivered proposals for a gene-assembly system and business to
24 several venture capital investors, including in Cambridge, Massachusetts, San Francisco, and
25 Menlo Park. Leproust was employed by Agilent during this time period, and owed Agilent a duty
26 to refrain from competing with it in this manner.

27 45. In early April 2013, Agilent decided to partner with Gen9 by obtaining equity and
28 investing \$21 million in the company, and by providing Agilent oligo libraries to Gen9 as its

1 starting material for gene assembly. Access to Agilent’s high-quality oligo libraries was an
2 important consideration for Gen9 in deciding to partner with Agilent.³

3 **Leproust Leaves Agilent And Refuses To Acknowledge**
4 **Her Confidentiality, Assignment, And Non-Solicitation Obligations**

5 46. On April 12, 2013, Leproust abruptly left Agilent without notice, after several days
6 of skipping meetings and calling in “sick.” She refused to sign Agilent’s “Functional Exit
7 Interview Memo,” which reminds departing employees of their obligations not to use or disclose
8 Agilent’s confidential and proprietary information and to return Agilent’s confidential documents
9 to Agilent. Rather than state her true plans, Leproust said she was leaving to work for a
10 “sequencing company.” Importantly, Twist is not and does not hold itself out to be a “sequencing
11 company.” And she refused to take with her, as requested, the Confidentiality and Assignment
12 Agreement, under which she was obligated to refrain from using or disclosing—and to use all
13 reasonable precautions to prevent—the unauthorized disclosure of Agilent’s trade secrets,
14 confidential business and technical information, and other valuable information not generally
15 known to the public. Her refusal, of course, did not in any way impact her contractual obligations
16 under the Confidentiality and Assignment Agreement, which Leproust signed on September 11,
17 2000, and which remained in effect. Leproust then wiped the contents (and removed the smart
18 card) of her Agilent-issued smartphone before returning it to Agilent in order to ensure no tracks
19 were left behind.

20 **Leproust Launches Twist With Proprietary Developments**
21 **And Trade Secrets That Belong To Agilent**

22 47. On July 1, 2013—less than *three months* after Leproust left Agilent—Twist
23 reported that it had obtained \$4.7 million in Series A funding from fourteen investors. Just five
24 months after Leproust’s departure, Twist filed provisional patent applications regarding its use of
25 an oligo writer to synthesize oligos using inkjet technology. By May 2014—just thirteen months
26 after Leproust left Agilent—Twist reported its completion of \$9 million in Series A funding, *and*

27 _____
28 ³ Gen9 was later sold in 2017 to Gingko Bioworks, Inc.

1 \$26 million of Series B Funding, *and* obtained a \$5 million grant from the U.S. government’s
2 Defense Advanced Research Projects Agency. Leproust also publicly stated that her early
3 fundraising efforts for Twist were a “lonely time,” affirming that they began long before her April
4 2013 departure from Agilent and July 1, 2013, disclosure of nearly \$5 million in Series A
5 funding. Twist secured \$50 million in its latest venture round financing in April 2018, bringing
6 its total financing to \$258.2 million. This massive fundraising was made possible through theft,
7 deception, disloyalty, and the violation of myriad contractual and statutory restrictions.

8 48. While at Agilent, Leproust covertly designed Twist’s business to operate in the
9 same specialized markets as Agilent and to compete directly with Agilent and Gen9, with
10 products incorporating the features Leproust was supposed to have been developing for and
11 assigning to Agilent.

12 49. Twist markets itself as possessing a new platform for gene assembly to meet the
13 demand for fast and affordable access to large quantities of custom-made genes. The linchpins of
14 this platform are: (1) the use of silicon plates (rather than glass) to address temperature-control
15 and static issues that arise during gene assembly; and (2) the use of “capping” or double-coupling
16 steps during the synthesis of longer oligos to reduce errors in gene assembly. These temperature-
17 control, static-control, and error-reduction improvements were the subject of Leproust’s
18 experiments at Agilent, as part of Agilent’s efforts to enter the gene-assembly market. Leproust
19 conducted some of these experiments during the final seventeen-plus months of her employment
20 with Agilent, after becoming CEO of Twist. The solutions Leproust generated are trade secrets
21 and Proprietary Developments that belong to Agilent, not Twist. Twist also markets and sells
22 high-quality oligo libraries for a broad range of applications, and competes directly with Agilent
23 in the oligo-library and Derivative Oligo Products markets.

24 50. Agilent compensated Leproust to ensure its genomics products were at the
25 forefront of the field; Leproust was responsible for making constant improvements to this
26 technology during the many years she worked for Agilent. She was specifically tasked and
27 entrusted with developing technologies to permit Agilent to enter the very same markets Leproust
28 formed a *new company* to serve—a company she planned, developed, and led while still an

1 Agilent employee, and for which she secured millions in funding within about 90 days of leaving
2 Agilent. The inventions, discoveries, and improvements that Leproust took to Twist are exactly
3 the type of Proprietary Developments she was required to disclose and assign to Agilent under the
4 Confidentiality and Assignment Agreement.

5 **Leproust Solicits Her Former Genomics Colleagues At Agilent**

6 51. Under the Confidentiality and Assignment Agreement, Leproust was obligated not
7 to solicit or recruit Agilent employees for a period of two years—until April 12, 2015. Yet,
8 Leproust recruited and hired Siyuan Chen away from Agilent in November 2013. While at
9 Agilent, Chen worked in Genomics Research and Development as a nucleic acid chemist, and had
10 intimate knowledge of Agilent’s oligo library synthesis technology, including the most advanced
11 developments, which he helped create, as well as the gene assembly work Leproust was leading.
12 . Leproust met with Chen to describe Twist’s technology *two weeks* after Leproust’s departure.
13 Leproust and Chen continued to meet; Chen toured Twist’s facilities in September 2013, and left
14 Agilent to join Twist in November 2013. Like Leproust, Chen also had agreed to the obligations
15 in the Confidentiality and Assignment Agreement as a condition of his employment with Agilent.
16 And, like Leproust and Glaize, Chen stole and retained key Agilent confidential documents.

17 52. In February 2014 and again in May 2014, Agilent demanded assurances from
18 Leproust that she did not recruit any Agilent employees in violation of the Confidentiality and
19 Assignment Agreement. Twist responded, but refused to provide such assurances.

20 53. Leproust also hired and likely recruited Joe Worrall and Mike Krause before the
21 expiration of her obligation not to solicit Agilent employees. Worrall and Krause similarly
22 possess intimate knowledge of Agilent’s related oligo-synthesis technologies.

23 54. Twist and Leproust hired several other experienced Agilent employees, including:
24 Mary Noe, Scott McCuine, Solange Glaize, Maria Celeste Ramirez, Tara Hill, Anthony Delacruz,
25 Mark Consular, Rose Marie Abella, Scott Indermuehle, Charles Joseph, Donna Walker, Holly
26 Barnes, Juliette Gregoire, Micah Hamady, and Nick Howells. Twist hired these employees
27 because of their intimate knowledge of, experience with, and/or access to Agilent’s valuable
28 oligo-synthesis technology as well as their institutional knowledge of Agilent’s business plans

1 and customer lists to commercialize it. Collectively, these key employees also possessed oligo
2 synthesis-related expertise across subject areas and knew how to implement and bring to market
3 Agilent’s interdisciplinary approach to oligo synthesis. Twist’s Vice President of Sales and
4 Marketing—Patrick Finn—also is a former Agilent employee, who worked in Agilent’s Life
5 Sciences Business Development group. And Solange Glaize was Corporate Controller and Chief
6 Accounting Officer at Agilent, as well as Chief Financial Officer for the Life Sciences Group.

7 55. Prior to departing Agilent to join Twist, several of these employees engaged in
8 highly suspicious computer activities that indicate even greater theft of Agilent’s confidential
9 documents, information, and property. Non-exhaustive examples of such activities include: use
10 of services like Dropbox that coincide with access to Agilent documents; wiping data from their
11 devices near the departure date; use of multiple external storage media that coincide with access
12 to Agilent documents, including near the departure date; and emailing documents to personal
13 email addresses.

14 **Twist Gains A Head Start Subsidized By Trade Secrets It Misappropriated From Agilent**

15 56. The technology presented in Twist’s 2015 patent application and business
16 presentations was not and could not have been independently developed during Twist’s short time
17 of existence. Instead, this technology makes use of Agilent’s trade secrets in oligo synthesis. By
18 way of illustration only, Twist describes having refashioned the “plates” containing oligos for
19 gene assembly so that they contain approximately 10,000, rather than 96, wells—each containing
20 roughly 100 oligos. In order to assemble genes on such a small surface, Twist must first
21 synthesize oligos with feature sizes measuring fewer than about 30 microns in diameter and
22 spaced only about 50 microns apart. It has taken at least twenty years of largely unpublished,
23 interdisciplinary research and development, design, trial and error, and investment for Agilent to
24 develop the technology to synthesize oligos at this size and density. Twist also discloses the use
25 of particular silane surfaces and specific values for the ratio of the mixture of these silanes, which
26 are identical to the material and ratio that Agilent derived after many years of development and
27 optimization. Twist could not, and did not, independently develop this technology, and build an
28

1 oligo writer implementing it, in two years—much less in the few months it took to obtain
2 funding—without making use of Agilent’s trade secrets.

3 57. Indeed, Twist filed two provisional U.S. patent applications on August 5, 2013,
4 only four months after Twist was founded and only five months after Leproust left Agilent.
5 These applications—Provisional Application Nos. 61/862,445 and 61/862,457—disclose
6 technology that Twist could not have developed during its short time of existence, such as
7 methods of synthesizing oligos on the substrate having a functionalized surface at industry-
8 leading error rates, lengths, and densities. The listed inventors on these Provisional Applications
9 are William Banyai and Bill Peck, Twist’s co-founders with Leproust—both of whom also were
10 employed at another company (Complete Genomics) until the spring of 2013. Peck, also a former
11 Agilent employee (for nearly eight years), served as the architect of two generations of Agilent’s
12 high density microarray manufacturing platforms.

13 58. To help make use of this technology for its own benefit, Twist hired the Agilent
14 employees listed in Paragraphs 51 to 54 above.

15 59. By using Agilent’s trade secrets, Proprietary Developments, and other confidential
16 information, Twist is in the process of bringing products to market more quickly and more
17 cheaply than could otherwise have been possible, thereby gaining an unfair competitive
18 advantage.

19 **FIRST CAUSE OF ACTION**

20 **(Breach of Contract)**

21 **(Against Leproust, Chen, and Glaize)**

22 60. Agilent realleges and incorporates herein by reference each and every allegation
23 contained in paragraphs 1 through 59, inclusive, hereinabove.

24 61. As a material condition to their employment at Agilent, Leproust, Chen and Glaize
25 entered into written contracts and agreed: “(a) to use such [Confidential Information] only in the
26 performance of Agilent duties; (b) to hold such information in confidence and trust; and (c) to use
27 all reasonable precautions to assure that such information is not disclosed to unauthorized persons
28 or used in an unauthorized manner, both during and after employment with Agilent.”

1 62. As a material condition to their employment at Agilent, Leproust, Chen and Glaize
2 agreed to return all documents constituting or containing Agilent confidential information upon
3 their departure from Agilent.

4 63. Notwithstanding their agreement to these terms, Leproust, Chen and Glaize
5 improperly downloaded, stole, and retained Agilent confidential information.

6 64. By their actions described hereinabove, and as described in paragraphs 1 through
7 63, inclusive, Leproust, Chen, and Glaize materially breached their agreements with Agilent.

8 65. As a material condition to her employment with Agilent, Leproust entered into a
9 written contract and agreed: “(a) to disclose [Proprietary Developments] promptly to Agilent; (b)
10 to assign [Proprietary Developments] to Agilent; and (c) to execute all documents and cooperate
11 with Agilent in all necessary activities to obtain patent, copyright, mask works and/or trade secret
12 protection in all countries, at Agilent’s expense.”

13 66. As a material condition to her employment at Agilent, Leproust entered into a
14 written contract and agreed to refrain from “any outside work that could lead to divided
15 loyalties”; to refrain from “hav[ing] a personal or family financial interest in any Agilent supplier,
16 customer, reseller or competitor that might cause divided loyalty”; and to “disclose any outside
17 work for an Agilent competitor, customer, reseller or supplier, or any other involvement that
18 could cause divided loyalties, prior to engaging in any such activity.”

19 67. As a material condition to her employment with Agilent, Leproust entered into a
20 written contract and agreed “not to disrupt, damage or interfere with the operation or business of
21 Agilent by soliciting or recruiting its employees for myself or others, both during employment at
22 Agilent and for a period of two years following termination of employment with Agilent.”

23 68. Notwithstanding Leproust’s agreement to these terms, Leproust failed to disclose
24 to Agilent her strategic plans for improvements on and new applications for Agilent’s oligo-
25 synthesis technologies. Leproust also recruited and solicited one or more Agilent employees to
26 terminate their employment with Agilent within two years of Leproust’s resignation, and used
27 Agilent’s Confidential Information and Proprietary Developments in her new venture at Twist.
28

1 69. By her actions described hereinabove, and as described in paragraphs 1 through
2 68, inclusive, Leproust materially breached her agreements with Agilent.

3 70. Agilent has performed all conditions, covenants, and promises required to be
4 performed by it with respect to its agreements with Leproust, Chen, and Glaize, except for those
5 conditions, covenants, and promises that have been excused by reason of Leproust, Chen, and
6 Glaize's breaches alleged herein.

7 71. As a direct and proximate result of Leproust, Chen and Glaize's material breaches
8 of their agreements with Agilent, Agilent has been damaged in a sum according to proof at the
9 time of trial.

10 72. Unless and until Defendants are restrained from the actions described herein,
11 Agilent will continue to suffer great and irreparable harm for which monetary damages would be
12 an inadequate remedy. Agilent is, therefore, entitled to injunctive relief compelling Leproust to
13 disclose in writing and assign to Agilent all Proprietary Developments (including the strategic
14 plan Leproust created for improving Agilent's oligo-synthesis technology and its application to
15 gene assembly); restraining Leproust from using those Proprietary Developments for her own
16 benefit; and restraining Leproust from soliciting and/or inducing Agilent's employees to
17 terminate their employment with Agilent for a further period of two years.

18 73. Agilent is entitled to have a constructive trust for its benefit imposed upon all
19 Agilent trade secrets and confidential business information disclosed or used by Defendants in
20 breach of Leproust's, Chen's, and Glaize's obligations under agreements with Agilent, including
21 the Confidentiality and Assignment Agreement. Agilent is further entitled to have a constructive
22 trust for its benefit imposed upon all gains derived by Defendants from Leproust's, Chen's, and
23 Glaize's breach of their obligations under the Confidentiality and Assignment Agreement,
24 including, but not limited to, all profits of, equity interests in, and/or increases in the value of
25 equity interests in Twist derived therefrom.

1 **SECOND CAUSE OF ACTION**

2 **(Breach of Duty of Loyalty)**

3 **(Against Leproust)**

4 74. Agilent realleges and incorporates herein by reference each and every allegation
5 contained in paragraphs 30-37, 41-45, and 48 hereinabove.

6 75. By virtue of her employment with Agilent, Leproust owed a duty of loyalty to
7 Agilent.

8 76. In violation of her duty to Agilent, Leproust transferred her loyalty from Agilent to
9 Twist at least as early as November 2011, when she agreed to be Twist's CEO and later registered
10 ten internet domain names and email addresses for Twist, which now competes with Agilent in
11 the oligo-library-synthesis, Derivative Oligo Products, and gene-assembly markets. From
12 November 2011 to April 2013, Leproust continued to work on Agilent's effort to enter the gene
13 assembly market, all the while working to enter that market through Twist. In violation of the
14 Standards and the Confidentiality and Assignment Agreement, Leproust withheld from Agilent,
15 and diverted to Twist, her strategic business and technological plans for improving Agilent's
16 oligo-synthesis technology and applying it to gene assembly. Leproust actively hid the fact that
17 she was preparing to compete with Agilent and then did compete with Agilent by, among other
18 actions, actively promoting her new competitive venture by pitching it to venture capitalists to
19 raise funds, all the while leading Agilent to believe she was devoting her best efforts to enable
20 Agilent to enter the gene-assembly market.

21 77. These actions—proscribed both by the duty of loyalty and Leproust's obligations
22 under the Standards and Confidentiality and Assignment Agreement—do not depend on the
23 existence or misappropriation of Agilent's trade secrets for their wrongfulness.

24 78. Leproust willfully and intentionally failed to discharge her duties and
25 responsibilities as an Agilent employee.

26 79. As a direct and proximate result of the wrongful conduct of Leproust, Agilent has
27 suffered damages, and is entitled to recover such damages, in an amount to be proven at trial.
28 Agilent's damages for breach of the duty of loyalty include, but are not limited to, all

1 compensation paid by Agilent to Leproust during the period of time in which she was in breach of
2 her duty of loyalty. Agilent is also entitled to recover damages from the harm it suffered as a
3 result of Leproust's failure to disclose her efforts to enter the gene-assembly market through
4 Twist, while simultaneously leading Agilent's effort to enter that market through its own
5 developments and existing technology.

6 80. Because the actions of Leproust were both willful and malicious, Agilent also is
7 entitled to an award of punitive damages against Leproust.

8 **THIRD CAUSE OF ACTION**

9 **(Misappropriation In Violation of California Civil Code §§ 3426 *et seq.*)**

10 **(Against Twist, Leproust, Chen, and Glaize)**

11 81. Agilent realleges each and every allegation set forth in paragraphs 1 through 80,
12 inclusive, and incorporates them herein by reference.

13 82. Agilent's trade secrets and confidential, proprietary materials include information
14 that derives independent economic value from not being generally known to the public or to other
15 persons who can obtain economic value from its disclosure or use. These trade secrets include,
16 but are not limited to, the synthesis environment to implement anhydrous conditions and accurate
17 placement of synthesis reagents (such as optimization of parameters, dry nitrogen flow, and
18 reducing static charge) and related confidential information about Agilent's oligo library
19 synthesis technology; the negative and positive research and trial and error leading to the
20 development of Agilent's oligo-synthesis technologies and ability to synthesize oligos with
21 feature sizes measuring about 30 microns in diameter and spaced only about 50 microns apart;
22 Agilent's proprietary quality-analysis and quality-control methods (including LC-MS- and Next
23 Generation Sequencing-based methods); Agilent's use of linker chemistry, including the selection
24 of certain linkers over others, and methods of eliminating linker fragments; the relationship
25 between the molecular density of active synthesis sites on the substrate surface and the final
26 molecular density of a synthesized oligo; Agilent's methods of controlling depurination and acid
27 deblocking; Agilent's optimized combination of ink and inkjet-head parameters (including the ink
28 composition, ink viscosity, inkjet type, head speed, and distance from substrate); test systems

1 Agilent designed for measuring and optimizing various synthesis parameters; the process of using
2 inkjet printers to synthesize oligos on glass or related surfaces, and the parameters and conditions
3 of that process; the gene-assembly technologies Leproust developed at Agilent (including
4 optimized combinations and reagents Leproust is believed to have developed, hidden, and
5 diverted for use at or for Twist); flowcell design (such as optimization of flowcell backing
6 material, flowcell-filling mechanism, and flowcell drainage to minimize residual acid); the design
7 of proprietary machines used to synthesize the oligos and specialized vendors needed to
8 implement that design; all of Agilent’s confidential internal analyses of the gene-assembly
9 market, including confidential analyses of cost, pricing, and merger opportunities in the gene
10 synthesis market; validation methods for key processes, reports on experimental results and
11 conditions, invention disclosures, and analyses of the competitive landscape of the target
12 enrichment and oligo library markets; and information regarding Agilent personnel with specific
13 expertise and inside knowledge regarding Agilent’s oligo-synthesis technology and its
14 applications. These technologies and information constitute “trade secrets” under California Civil
15 Code Section 3426.1. At all relevant times, Agilent owned and does own these trade secrets.

16 83. These materials and information are the subject of reasonable efforts by Agilent to
17 maintain their secrecy. Agilent uses a variety of controls to regulate access to and disclosure of
18 its data, communications, and proprietary information. These include, but are not limited to:
19 encryption of all data-storage devices containing sensitive information; security guidelines
20 governing the connection of employees’ personal computing devices to Agilent’s network; and
21 requiring employees to label data according to its level of sensitivity. As mentioned above,
22 Agilent also requires every employee to execute an agreement governing and protecting Agilent’s
23 confidential and proprietary information, and considers such agreements to be vitally important to
24 the protection of its business. Agilent also implements physical security measures such as locked
25 facilities and key cards, and electronic security measures such as network protections and need-
26 to-know access controls. Agilent further trains employees on the importance of protecting
27 confidential information. Agilent also protects its trade secrets by entering into non-disclosure
28 agreements with its customers and vendors.

1 84. In violation of California’s Uniform Trade Secrets Act, Defendants willfully and
2 maliciously misappropriated Agilent’s trade secrets through improper means. Among other
3 things, Leproust used her detailed knowledge as director of research and development of
4 Applications and Chemistry in Genomics, and the collective knowledge obtained from her
5 Genomics team members and from the members of Agilent’s Research Laboratories, to exploit
6 years of trial and error and experimentation on the best processes for both creating and utilizing
7 Agilent equipment; to identify specific areas for improvement upon and new applications for
8 Agilent’s existing oligo-synthesis technologies; to identify specific engineering solutions for
9 implementing those improvements and applications; and to identify specific Agilent personnel
10 with the inside knowledge necessary to accomplish those engineering solutions. Defendants have
11 used this knowledge to successfully induce key employees to leave Agilent to join Twist and are
12 using the trade-secret knowledge of those individuals and Leproust to exploit and build upon
13 Agilent’s oligo-synthesis technologies in the creation of products on behalf of Twist. This
14 includes Agilent’s oligo-synthesis technology and proprietary information necessary to synthesize
15 oligos with feature sizes measuring fewer than about 30 microns in diameter and spaced only
16 about 50 microns apart. Defendants engaged in these acts with knowledge that the trade secrets
17 belonged to Agilent and that they were using improper means to acquire, use, and/or disclose
18 those trade secrets.

19 85. By reason of the above-alleged acts and conduct of Defendants, Agilent has been
20 damaged, and it will suffer great and irreparable harm and damage. Defendants are using
21 Agilent’s own trade secrets, including Proprietary Developments, to compete against Agilent in
22 both the gene-assembly, oligo-library, and Derivative Oligo Products markets. Twist advertises
23 five “products” on its website: genes, oligonucleotide pools, variant libraries, DNA data storage,
24 and Next-Generation Sequencing (“NGS”). Defendants are competing with and taking sales from
25 Agilent not only in the market Leproust was entrusted with helping Agilent to enter, but also in
26 the oligo-library and Derivative Oligo Products markets in which Agilent already held a
27 competitive advantage by virtue of the trade secrets Defendants have misappropriated. The
28

1 amount of this irreparable harm will be difficult to ascertain, and Agilent will be without an
2 adequate remedy at law.

3 86. Agilent is entitled to injunctive relief restraining Defendants, their officers, agents,
4 employees, and all persons acting in concert with them, from using or disclosing Agilent's trade
5 secrets and restraining Defendants from obtaining any benefits from their wrongful use of
6 Agilent's trade secrets.

7 87. Agilent is further entitled to an order requiring Defendants, their employers,
8 agents, employees, and all persons acting in concert with them, to return to Agilent any and all of
9 its trade secrets and confidential, proprietary materials, including, but not limited to, any and all
10 materials consisting of, incorporating, referencing, or derived from Agilent's trade secrets and
11 confidential, proprietary information.

12 88. Agilent is further entitled to recover from Defendants the actual damages sustained
13 by Agilent as a result of Defendants' wrongful acts described in this complaint. The amount of
14 such damages cannot be determined precisely at this time. Defendants' acts of misappropriation
15 were both willful and malicious, and Agilent is entitled to an award of statutory exemplary
16 damages and attorneys' fees against Defendants. Agilent is further entitled to recover from
17 Defendants the gains, profits, advantages, and unjust enrichment that they have obtained as a
18 result of their wrongful acts as described herein. Agilent is, at present, unable to ascertain the full
19 extent of these gains, profits, advantages, and unjust enrichment. In the alternative, Agilent is
20 entitled to reasonable royalties for the use of its trade secrets, in an amount that cannot be
21 determined precisely at this time.

22 89. Agilent is further entitled to have a constructive trust for its benefit imposed upon
23 all trade secrets misappropriated by Defendants, and all other gains derived from Defendants'
24 trade-secret misappropriation, including, but not limited to, all profits of, equity interests in,
25 and/or increases in the value of equity interests in Twist derived therefrom.

1 WHEREFORE, Agilent prays for judgment against Defendants as follows:

2 1. Injunctive relief restraining and enjoining Defendants from continuing the
3 wrongful acts and conduct set forth above, including, but not limited to, an injunction barring
4 Defendants from making any use of Agilent's oligo-synthesis technology and trade secrets, and of
5 any technologies Leproust developed or conceived of while employed by Agilent relating to
6 Agilent's research, including in gene assembly;

7 2. An order compelling Defendants to comply with their continuing obligations as set
8 forth above;

9 3. Compensatory damages in an amount to be proven at trial;

10 4. Repayment of all compensation received by Leproust from Agilent during the
11 period of time when she was in breach of her duty of loyalty;

12 5. Punitive and/or statutory exemplary damages;

13 6. The imposition of a constructive trust for the benefit of Agilent upon (a) all assets
14 misappropriated or used by one or more Defendants in violation of the Confidentiality and
15 Assignment Agreement, and all Agilent trade secrets misappropriated by Defendants; and (b) all
16 gains, including, but not limited to, any profits of, equity interests in, and/or increases in the value
17 of equity interests in, Twist, derived from breach of any agreements with Agilent, or from any
18 misappropriation of Agilent's trade secrets by Defendants;

19 7. Reasonable attorneys' fees;

20 8. All costs of suit herein incurred; and

21 9. Such other and further relief as the court may deem proper.

22 Agilent hereby demands a trial by jury.

23 Dated: August 21, 2018

DANIEL M. PETROCELLI
O'MELVENY & MYERS LLP

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By: /s/ Daniel M. Petrocelli

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Daniel M. Petrocelli

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Attorneys for Plaintiff

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Agilent Technologies, Inc.