IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HUVEPHARMA EOOD and HUVEPHARMA, INC.,	)	
Plaintiffs,	)	
	)	C.A. No.
v.	)	
	)	JURY TRIAL DEMANDED
KONINKLIJKE DSM N.V., DSM NUTRITIONAL PRODUCTS, LLC, and DSM NUTRITIONAL PRODUCTS LTD.,	)	
Defendants.	)	

COMPLAINT

Plaintiffs Huvepharma EOOD (formerly Huvepharma AD) and Huvepharma, Inc. (collectively, "Plaintiffs" or "Huvepharma"), for their complaint against Koninklijke DSM N.V., DSM Nutritional Products, Inc., and DSM Nutritional Products, Ltd. (collectively, "Defendants" or "DSM"), allege the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the United States Patent Act, 35 U.S.C §§ 1, et seq., including 35 U.S.C § 271.

2. Huvepharma brings this action to obtain relief for Defendants' infringement of Huvepharma's rights under the Patent Laws of the United States 35 U.S.C §§ 1, et seq., which arise from U.S. Patent No. 8,993,300 (the "'300 Patent," attached as Exhibit 1).

3. Huvepharma EOOD is a private company incorporated and existing under the laws of the Republic of Bulgaria, registered with the Commercial Register under Unified Identity Code (UIC) 203631745, having its headquarters at 5th floor, 3a, Nikolay Haytov Str., 1113 Sofia, Bulgaria. Huvepharma EOOD's wholly-owned United States subsidiary, Huvepharma, Inc., has an address at 525 Westpark Dr. # 230, Peachtree City, Georgia 30269. Huvepharma, Inc. operates

six production facilities in the United States, and commercializes Plaintiffs' phytase enzyme product OptiPhos® in the United States under the terms of an agreement with Huvepharma EOOD.

4. Huvepharma is a global biotech and pharmaceutical company that develops, manufactures, and commercializes human and animal health products, including enzymes for food and animal feed. One of Huvepharma's products that it successfully sells in the United States is OptiPhos®, which is an additive to feed for animals, including swine and poultry, and in particular an *Escherichia coli* ("*E. coli*") derived 6-phytase, which is recombinantly produced in a heterologous yeast host *Pichia pastoris* ("*P. pastoris*"), in a submerged fermentation process. OptiPhos® is available in solid and liquid forms, at different concentrations..

5. Previously competing phytase products were less effective than OptiPhos® because they only operate effectively within a limited pH range and are less thermally tolerant during the feed manufacturing process when the phytase is combined with animal feed. These previous competing phytase products were also inferior to OptiPhos® because they degrade when exposed to pepsin, which is a naturally present (endogenous) enzyme produced in the stomach of animals.

6. Huvepharma's OptiPhos® is more effective in animal diets for poultry and swine than these previously competing products because it works effectively at a broad pH range (between pH 1 and 5), is more thermally tolerant during the manufacturing process when combined with animal feed and is relatively insensitive to degradation by pepsin. OptiPhos® also operates faster than other previously-used phytase products in releasing phosphorus from indigestible phytate, a natural form in which most of the phosphorus is stored in grains and seeds, and thus enables the poultry and swine ingesting the product to grow faster and to receive other health benefits.

7. The method of manufacturing Huvepharma's OptiPhos® was invented and initially developed during or around 1996 by Dr. Xingen Lei, a researcher at Cornell University, and constituted a publicly recognized breakthrough in the field of phytase enzymes for integration into animal feed. Cornell Research Foundation, Inc. ("CRF") obtained the '300 Patent that discloses, claims, and otherwise protects Dr. Lei's inventive method of producing OptiPhos®.

8. Ultimately, CRF entered into an exclusive license with Huvepharma in return for Huvepharma commercializing OptiPhos® in the United States. However, as explained below, Huvepharma's commercialization efforts have been negatively impacted, and the patent rights have been infringed, by the actions of Defendants, and in particular based on Defendants' manufacture, importation, sale, distribution, and commercialization in the United States of animal feed products that infringed claims of the patents, *i.e.*, the accused phytase animal feed products.

9. Upon information and belief, the accused Ronozyme® HiPhos phytase animal feed products include products that were commercialized in the United States under various trade names, including at least Ronozyme® HiPhos M, Ronozyme® HiPhos GT, and Ronozyme® HiPhos L (hereinafter "Ronozyme® HiPhos" or "accused phytase animal feed products"). These products have been manufactured outside of the United States and imported into and commercialized by Defendants in the United States. For example, Ronozyme® HiPhos M has been manufactured overseas, imported into the United States, and commercialized in the United States by Defendants.

10. Defendant Koninklijke DSM N.V. ("Royal DSM") is a corporation organized under the laws of the Netherlands, with its principal place of business at Het Overloon 1, Heerlen 6411 TE, Netherlands, NLD.

11. Defendant DSM Nutritional Products, LLC ("DSM Nutritional") is a corporation organized under the laws of Delaware, with a principle place of business at 45 Waterview Blvd,

Parsippany-Troy Hills, NJ 07054. DSM Nutritional has operated under the trade name DSM Nutritional Products North America. DSM Nutritional is a wholly owned subsidiary of Royal DSM or a common holding company or intermediate subsidiary, and is effectively controlled by Royal DSM. DSM Nutritional may be served with process through its registered agent, the Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware, 19808.

12. Defendant DSM Nutritional Products Ltd. ("DSM Nutritional Ltd.") is organized under the laws of the Swiss Confederation, with its principle place of business at Wurmisweg 576, CH-4303 Kaiseraugst, Switzerland. DSM Nutritional Ltd. is a wholly owned subsidiary of Royal DSM or a common holding company or intermediate subsidiary, and is effectively controlled by Royal DSM. DSM Nutritional Ltd. may be served with process under the Delaware Long Arm Statute, 10 *Del. C.* § 3104.

13. Non-party DSM Nutritional Products Ecuador S. ("DSM Ecuador") is organized under the laws of Ecuador, with its principle place of business at Luis Orrantia 27, Y Nahim Isaias, Guayaquil G, Ecuador. DSM Ecuador is a wholly owned subsidiary of Royal DSM or a common holding company or intermediate subsidiary, and is effectively controlled by Royal DSM.

14. Non-party DSM Nutritional Products Mexico S. ("DSM Mexico") is organized under the laws of Mexico, with its principle place of business at KM 22.5 Carr. Guadalajara-El Santo, El Santo, Jalisco, 45680 Mexico. DSM Mexico is a wholly owned subsidiary of Royal DSM or a common holding company or intermediate subsidiary, and is effectively controlled by Royal DSM.

15. Non-party Novozymes A/S ("Novozymes") is organized under the laws of Denmark, with its principle place of business at Krogshoejvej 36 Bagsvaerd, 2880 Denmark.

16. Upon information and belief, Novozymes and DSM Nutritional Ltd. are business partners and co-developed Ronozyme® HiPhos. Novozymes is responsible for the manufacturing of the product (supplier) while DSM Nutritional Ltd. has market exclusivity for the product. Ex. 8 at 7, 94.

17. Upon information and belief, since 2012 Novozymes, under the direction and control of Defendants, has been engaged in the manufacture overseas of *E. coli* derived phytase enzymes for use in animal feeds including at least Ronozyme® HiPhos phytase. Royal DSM, alone or through co-defendants or other subsidiaries, controls Novozymes' practice of Huvepharma's patented processes claimed in the '300 Patent relating to the manufacture of Ronozyme® HiPhos phytase products, at least some of which are then imported into the United States and used, offered for sale, sold, and/or distributed by Defendants in the United States.

18. Upon information and belief, beginning in 2016 DSM Nutritional Ltd. has been exporting *E. coli* derived phytase enzymes, including at least Ronozyme® HiPhos, into the United States.

19. Upon information and belief, since 2016 DSM Nutritional has imported, and has participated in the importation of, *E. coli* derived phytase enzymes for use in animal feeds, including at least Ronozyme® HiPhos phytase, into the United States. Defendants then distribute, sell, offer to sell, or otherwise commercialize at least Ronozyme® HiPhos.[1] (Ex. 8 at 94.)

20. Upon information and belief, DSM Ecuador has imported, and has participated in the importation of, *E. coli* derived phytase enzymes for use in animal feeds, including at least Ronozyme® HiPhos phytase, into the United States, which are used, offered for sale, sold, and/or distributed by Defendants in the United States. (Ex. 8 at 94.)

[1] DSM Nutritional and DSM Nutritional Ltd. are part of Royal DSM's "Nutrition cluster" units that comprise DSM Nutritional Products and DSM Food Specialties. (Ex. 9 at 67.)

21. Upon information and belief, DSM Mexico has imported, and has participated in the importation of, *E. coli* derived phytase enzymes for use in animal feeds, including at least Ronozyme® HiPhos phytase, into the United States, which are used, offered for sale, sold, and/or distributed by Defendants in the United States. (Ex. 8 at 94.)

22. Upon information and belief, Royal DSM effectively controls and has effectively controlled the overseas manufacturing, exporting, shipping, importation, distribution, use, offers for sale, and sale of *E. coli* derived phytase enzymes for use in animal feeds in the United States, including at least Ronozyme® HiPhos phytase, by DSM Nutritional Ltd., DSM Nutritional, DSM Ecuador, DSM Mexico and any other Royal DSM subsidiaries, and Novozymes.

23. Upon information and belief, Royal DSM has effectively controlled its subsidiaries, including co-defendants DSM Nutritional and DSM Nutritional Ltd., through central corporate controls, and has operated itself and its subsidiaries as one corporate organization that are Royal DSM's "business groups." (Ex. 9 at 33, 110-113.) For example, Royal DSM has referred to its subsidiaries, including the co-defendants in this suit, as "[o]ur business groups," and "the company's primary organizational and entrepreneurial building-blocks." (Ex. 9 at 111.) Royal DSM has stated that DSM Nutritional Products provides solutions for animal feed among others and that DSM Nutritional Products and DSM Food Specialties "form our Nutrition business." (Ex. 9 at 2.) Royal DSM stated, regarding the Animal Nutrition and Health group (in which Ronozyme HiPhos is manufactured and commercialized), that ". . . we draw on the latest science to provide a unique portfolio that runs from vitamins through carotenoids to cutting-edge eubiotics and feed enzymes." (Ex. 9 at 70.)

24. As an additional example of control of subsidiaries by Royal DSM, the Royal DSM Executive Committee approves strategies and budgets of its subsidiaries as well as the company's

people and organization. The Members of Royal DSM's Managing Board "are collectively responsible for the management of DSM," and individual members "have individual responsibility for certain tasks, business clusters, functional areas, and regions" of the subsidiaries as well as "deployment of human capital and financial capital resources." (Ex. 9 at 108.) The Managing Board centrally controls co-defendants' activities using Royal DSM's "control environment" it views as a "house" in which its subsidiaries must exist and must comply with its corporate governance. (Ex. 9 at 110-111.) The Managing Board sets the organizational and operating model within its governance framework for its subsidiaries including organizing its business groups into clusters for coherence of operation and financial reporting to Royal DSM as well as complying with the corporate strategy, corporate objectives, code of conduct, and operational targets. (Ex. 9 at 111-112.)

25. Royal DSM requires its subsidiaries, including co-defendants in this case, to follow its "control environment," where "internal control process areas with control measures related to strategic, operational, compliance and reporting risks" are followed within "a framework for identifying company activities that are carried out to ensure that the control environment is adequately structured." To "make sure that a learning curve is achieved," Royal DSM implements "monitoring activities [that] include the sharing of findings and experiences as well as the application of control measures across the supporting pillars." (Ex. 9 at 111.)

26. Royal DSM requires its subsidiaries to adhere to its centrally-controlled organizational and operational model that is made up of market-facing business groups focused on the primary business functions (Innovation and R&D, Direct Sourcing, Manufacturing and Operations, and Marketing and Sales), global support and functional excellence departments, regional organizations, and financial performance and profit. (Ex. 9 at 32-33.)

27. Upon information and belief, Defendants have made, imported, used, offered for sale, sold, and/or distributed accused phytase animal feed products within the United States. Defendants performed at least some of these activities in the United States under the trade names DSM and DSM Animal Nutrition.

JURISDICTION AND VENUE

28. This action arises under the Patent Laws of the United States, Title 35, United States Code, §§ 1 *et seq*., including 35 U.S.C. §§ 271 and 281.

29. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

30. This Court has personal jurisdiction over defendant DSM Nutritional., at least because DSM Nutritional has purposefully availed itself of the benefits and protections of Delaware state law by incorporating in Delaware.

31. This Court has personal jurisdiction over defendant Royal DSM at least under Fed. R. Civ. P. 4(k)(2).

32. This Court has personal jurisdiction over defendant DSM Nutritional Ltd. at least under Fed. R. Civ. P. 4(k)(2).

33. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c), and 1400(b) because defendant DSM Nutritional is a Delaware corporation, Royal DSM and DSM Nutritional Ltd. are foreign companies, and Delaware is a convenient forum for resolution of the parties' disputes set forth herein.

BACKGROUND

PHYTASE PRODUCTS FOR ANIMAL NUTRITION

34. The ingestion by certain animals, such as poultry and swine, of phosphate ("P") helps to accelerate growth and provides other health benefits. Phytate (myo-inositol hexaphosphate), is the major storage form of P in legumes and cereals. Phytases, which are a specific group of monoester phosphatases, initiate the release of P from the phytate and are often included in animal feed for this purpose, *i.e.*, to enable the animals to ingest P. (Ex. 1 at 1:31–47.)

35. Swine and poultry have little natural phytase in their gastrointestinal tracts. Thus, these animals naturally fail to effectively release P from the phytate in their food, and thus fail to benefit thereby. Under these circumstances, the phytate with P passes through the animals' gastrointestinal tracts and excretes as manure, which unfortunately pollutes the environment. In addition, the diet of the swine and poultry needs to be supplemented with inorganic P, which is a non-renewable nutrient, such as in the form of a vitamin. Phytase has therefore been added to animal feed to enable the animals to initiate the release of P from the phytate. (*Id.*)

36. Two phytases, PhyA and PhyB, were used prior to the invention that is the subject of the patent-in-suit. PhyA and PhyB were extracted from *Aspergillus niger* NRRL3135 (*A. niger*), and cloned and sequenced. (Ex. 1 at 1:52-56.) As an example, a PhyA polynucleotide was introduced into *A. niger*, *i.e.*, a homologous host, and this phytase was to a certain degree effective in releasing P from phytate in animal feed. In particular, supplemental microbial phytase of this source in the diets for swine and poultry was shown to be effective in allowing the animals to release P from the phytate in their feed. However, PhyA and PhyB were subject to problems. For example, PhyA and PhyB were expensive to produce. In addition, certain aspects of PhyA and PhyB made them difficult to manufacture and incorporate effectively as functional enzymes into

animal feed. For example, the manufacturing process of feed pellets involves the application of a certain amount of heat (*i.e.*, increase in temperature), but unfortunately PhyA and PhyB are denatured when exposed to this heat. In other words, the PhyA and PhyB phytases are not sufficiently thermotolerant for this manufacturing process to avoid degradation. (Ex. 1 at 2:42-49.)

37. To solve the shortcomings and problems of producing a viable, *i.e.*, functional, phytase enzyme for use in animal feed, Dr. Lei discovered the invention that is the subject of the patent-in-suit while he was a professor in the Department of Animal Science and Department of Horticultural Sciences at Cornell University. The production methods Dr. Lei invented produced phytases that were at least as effective as, yet more thermostable than, the existing PhyA and PhyB phytases, and therefore were more effective in the animal feed industry.

38. The patent-in-suit involves producing phytases that are encoded by polynucleotides isolated from bacterial cells, *i.e.*, from *E. coli*. These encoded polynucleotides are not expressed in their homologous bacterial cells, but instead are expressed in a fungal strain such as a yeast strain, *i.e.*, a heterologous host. Isolating the expressed product of encoded polynucleotides leads to an *E. coli* phytase that catalyzes the release of P from phytate. The heterologous host phytase production methods advantageously create phytases, which along with other improved biochemical properties, are characterized with improved thermal stability.

39. CRF, wishing to commercialize Dr. Lei's breakthrough discovery, collaborated with Phytex, LLC, which was a company formed to produce and commercialize Dr. Lei's new thermostable phytase. On September 1, 2001, CRF entered into an exclusive license agreement with Phytex in return for Phytex producing and commercializing the thermostable phytase. Phytex

commercialized the phytase product under the trademarked name "OptiPhos®," which it began manufacturing and selling in the United States in 2006.

40. In 2013, Huvepharma acquired all of Phytex's rights in the thermostable phytase, *i.e.*, OptiPhos®. In particular, Huvepharma acquired Phytex's exclusive license agreement with CRF, which gave Huvepharma the exclusive rights to produce and commercialize OptiPhos®, and an exclusive license to CFR's '300 Patent. Huvepharma has been manufacturing and commercializing OptiPhos®, which is recognized as the most efficient and stable phytase available in the market with a track record of proven effectiveness. Huvepharma has continually produced and sold OptiPhos® in the United States since acquiring the rights discussed above.

THE ACCUSED PHYTASE ANIMAL FEED PRODUCTS

41. Upon information and belief, beginning in or around 2012, Novozymes began manufacturing Ronozyme® HiPhos for Defendants at an enzyme production facility in Europe. In 2012, Royal DSM through a subsidiary obtained regulatory approval to commercialize Ronozyme® HiPhos in Europe. In or around 2013, Royal DSM through DSM Nutritional obtained regulatory approval from the U.S. Food and Drug Administration ("FDA") to commercialize Ronozyme® HiPhos in the United States.

42. Upon information and belief, beginning in 2016, the Defendants began importing, selling, offering to sell, distributing, and otherwise commercializing Ronozyme® HiPhos in the United States. At least Ronozyme® HiPhos has been manufactured outside of the United States for Defendants by a third-party partner, Novozymes, and then imported into and commercialized in the United States by Defendants, and used, offered for sale, distributed, and/or sold by Defendants in the United States.

43. Upon information and belief, after importation the accused phytase animal feed products, including at least Ronozyme® HiPhos M, Ronozyme® HiPhos L, and Ronozyme®

HiPhos CT, were transferred to at least DSM Nutritional which then used, offered for sale, distributed, and/or sold those products in the United States under the trade names DSM and/or DSM Nutritional Products.

44. Upon information and belief, the accused phytase animal feed products are produced using the same methods in the context of and as claimed in the ’300 Patent. Thus, the evidence and descriptions below describing the method of producing Ronozyme® HiPhos M is applicable to any one or more of the other accused phytase animal feed products.

45. Upon information and belief, the accused phytase animal feed products were produced in a fungal cells. (Ex. 2 at 2-3; Ex. 3 at 1, 7; Ex. 4 at 1, 6; Ex. 7 at 3; Ex. 8 at 11.)

46. Upon information and belief, the accused phytase animal feed products were produced by providing a polynucleotide encoding a phytase derived from *E. coli*. (Ex. 2 at 4.) Laboratory proteomics testing confirmed the presence of *E. coli* AppA proteins in a sample of Ronozyme HiPhos. (Ex. 7; Ex. 10.)

47. In an example, the packaging of a bag of Ronozyme® HiPhos M acquired in the United States by Huvepharma indicates that Ronozyme® HiPhos M phytase was manufactured by Novozymes A/S in Denmark. (Ex. 7 at 3.) The packaging states that ingredients include *Aspergillus oryzae* fermentation products.” (Ex. 7 at 3.) Although a DSM Nutritional document states that Ronozyme® HiPhos is produced from a donor gene sourced from *Citrobacter braakii*, (Ex. 8 at 7), analytical test results confirmed the presence of an AppA phytase from *E. coli* in the product, indicating that the accused animal phytase animal feed products was made using an AppA encoding polynucleotide sequence from *E. coli*. (Ex. 2 at 4, Ex. 10.)

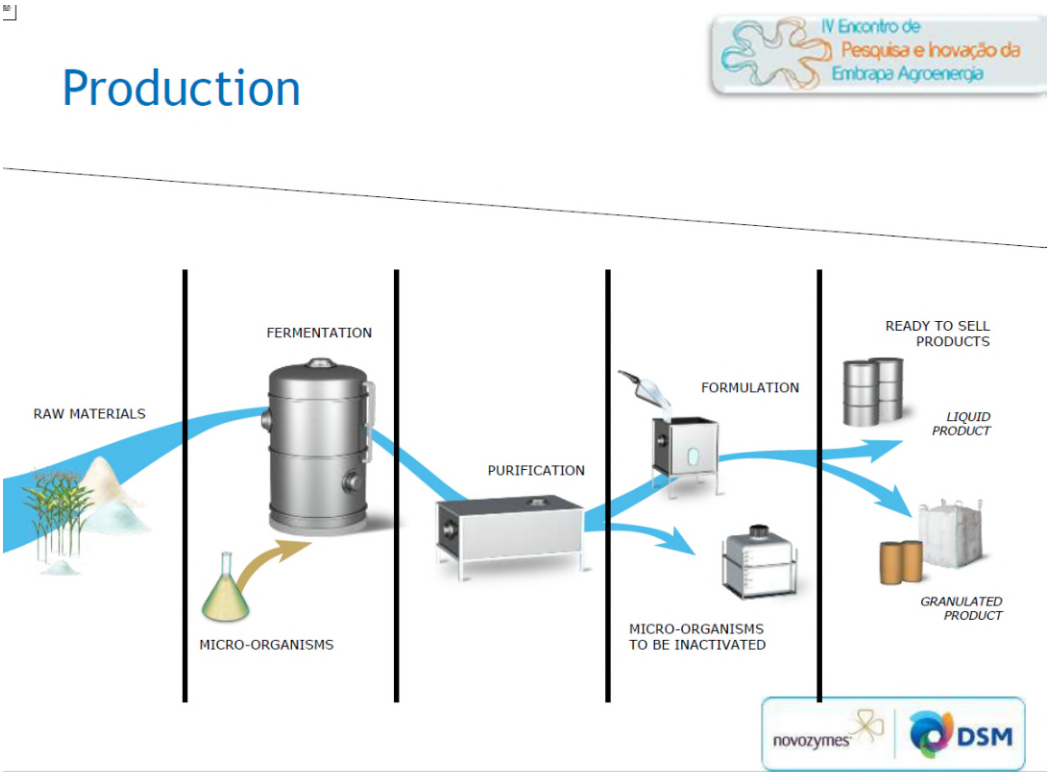
48. Upon information and belief, the accused phytase animal feed products were produced by expressing the protein or polypeptide in fungal cells. (Ex. 2 at 4-6.)

49. For Example, Defendants' phytase enzyme was produced in the filamentous fungus *Aspergillus oryzae*. (Ex. 2 at 4-6; Ex. 3 at 1; Ex. 4 at 1; Ex. 6 at 6; Ex. 7 at 3; Ex. 8 at 19.) Filamentous fungi are members of the Kingdom Fungi, i.e., fungal cells. The production strain for Ronozyme® HiPhos is the fungus *Aspergillus oryzae* expressing a synthetic 6-phytase gene. (Ex. 8 at 11.) The expression vector carrying one phytase gene is based on the replication origin of the *E. coli* standard vector pUC19. The expression construct carrying the other phytase gene is based on the replication origin of the *E. coli* standard vector pUC19. (Ex. 8 at 19.) In a further example, external laboratory testing of accused phytase animal feed product samples confirmed the presence of *Aspergillus oryzae* fungal cells in Ronozyme® HiPhos M phytase.

50. Upon information and belief, the accused phytase animal feed products were produced by isolating the expressed protein or polypeptide.

51. For example, the manufacturing process of Ronozyme® HiPhos is composed of the following steps: fermentation, purification, formulation, and finally quality control of the finished product. (Ex. 8 at 22.) The purification is a multi-step operation designed to separate the phytase from the microbial biomass and partially purify, concentrate and stabilize the enzyme. The process involves a series of unit operations: pre-treatment, primary separation, concentration, preservation and stabilization, and pre and micro filtrations (if needed). After pre-treatment with acids or bases and with flocculation agents (all of food or feed grade quality), the broth is separated from the cell mass by well-established techniques. . . ." (Ex. 2 at 6-8; Ex. 8 at 23.)

52. For example, purification and/or drum filtration, ultrafiltration, and evaporation are performed as a step downstream of fermentation steps in Defendants' methods to produce enzymes for the accused phytase animal feed products according to the functional flowchart diagram below:



(Ex. 2 at 7; Ex. 6 at 18-19.)

53. Upon information and belief, the accused phytase animal feed products were produced by a method wherein the *Escherichia coli* phytase catalyzes the release of phosphate from phytate.

54. For example, Ronozyme® HiPhos used in animal feeds increases the availability of phosphorus from typical plant based diets. (Ex. 2 at 8-9; Ex. 8 at 62.) The results of a study demonstrate that the supplementation of low P diet with the Ronozyme® HiPhos phytase significantly improved the weight gain and the feed conversion ratio of broiler chickens at 22 days of age. (Ex. 2 at 8; Ex. 8 at 72.)

COUNT I
(Infringement of U.S. Patent No. 8,993,300)

55. Plaintiffs repeat and re-allege each and every allegation contained in the preceding paragraphs of this Complaint as if stated in their entirety, and incorporate them herein by reference.

56. On March 31, 2015, the United States Patent and Trademark Office duly and legally issued the ’300 Patent, entitled “Overexpression of Phytase Genes in Yeast Systems,” to inventor Xingen Lei. The ’300 Patent was assigned at issuance to Cornell Research Foundation, Inc., Ithaca, New York. Cornell Research Foundation, Inc. is the owner of the ’300 Patent by virtue of that assignment, which was duly recorded at the United States Patent and Trademark Office at Reel 009457 and Frame 0350, and continues to be the owner of the ’300 Patent. Huvepharma holds an exclusive license to the ’300 Patent, with the right to sue for infringement thereof.

57. Upon information and belief, Defendants have infringed at least claims 1-9 of the ’300 Patent pursuant to 35 U.S.C. § 271(a) and/or (g), literally or under the doctrine of equivalents, at least by importing into the United States, making, offering to sell, selling, and/or using without authority accused phytase animal feed products.

58. Upon information and belief, each of the accused phytase animal feed products have been produced using the same methods in the context of the ’300 Patent claims. Thus, the evidence and descriptions herein describing the method of producing any of the accused products is applicable to any one or more of the other accused phytase animal feed products.

59. As examples, Exhibit 2 is a preliminary and exemplary claim chart detailing Defendants’ infringement of claims 1-9 of the ’300 Patent. This chart is not intended to limit Huvepharma’s right to modify the chart or allege that other products and/or activities of Defendants infringed the above identified claims or any other claims of the ’300 Patent or any other patent. Exhibit 2 is hereby incorporated by reference in its entirety. Each claim element in Exhibit 2 that is mapped to the accused phytase animal feed products, shall be considered an

allegation within the meaning of the Federal Rules of Civil Procedure and therefore a response to each such allegation is required.

60. Defendants' infringement of the '300 Patent has injured Plaintiffs in their business and property rights. Plaintiffs are entitled to recover monetary damages based on the injuries arising from Defendants' infringement pursuant to 35 U.S.C. § 284 in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

A. Judgment that Defendants have infringed one or more claims of the '300 Patent;

B. An award of damages pursuant to 35 U.S.C. § 284;

C. A determination that this case is exceptional pursuant to 35 U.S.C. § 285 and an award to Plaintiffs of reasonable attorney fees.

D. An award to Plaintiffs of their costs and reasonable expenses to the fullest extent permitted by law; and

E. An award of such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury on all issues so triable.

April 15, 2020

BAYARD, P.A.

/s/ Stephen B. Brauerman

Stephen B. Brauerman (No. 4952)
600 N. King Street, Suite 400
P.O. Box 25130
Wilmington, DE 19899
(302) 655-500
sbrauerman@bayardlaw.com

Attorneys for Plaintiffs