

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

_____	)	
PANERA, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.:
	)	
JAMES DOBSON, KRISH	)	
GOPALAKRISHNAN, JAMES (“Kyle”)	)	
PHILLIPS, and ACT III MANAGEMENT,	)	JURY TRIAL DEMANDED
LLC,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT OF PANERA, LLC**  
**(INJUNCTIVE RELIEF REQUESTED)**

Panera, LLC brings this action against three former employees, James Dobson, Krish Gopalakrishnan, and Kyle Phillips, as well as competing venture Act III Management, LLC (collectively, “Defendants”). This action seeks to redress Defendants’ respective wrongful acts including, without limitation, breach of contract and unlawful use of Panera’s confidential and proprietary information and trade secrets.<sup>1</sup>

Panera earned and maintained its position atop the “fast-casual” market for decades through technological innovation. Panera’s technology became the company’s competitive advantage in the industry and the company’s most important asset. In targeting key Panera IT employees, the goal of Act III’s scheme is obvious: to recreate and carve out Panera’s main competitive advantage, but without any of the work. Act III’s actions are nothing more than an attempt to get a head start in developing the valuable information and infrastructure Panera built. Act III’s actions threaten to irreversibly damage Panera and the well-being of its

<sup>1</sup> This Complaint also serves as notice of Panera’s intention to immediately arbitrate certain claims against Dobson, Gopalakrishnan, and Phillips pursuant to the terms of their respective Panera Non-Compete Agreements.

employees. In addition to injunctive relief, Panera also seeks damages, attorney's fees and costs, and any other such relief as this Court deems just and proper.

### PARTIES

1. Plaintiff Panera, LLC ("Panera") is a Delaware limited liability company having its principal place of business at 3630 South Geyer Road, Suite 100, St. Louis, Missouri. Panera is a wholly owned subsidiary of Panera Bread Company.

2. Defendant James Dobson ("Dobson") is an individual who, upon information and belief, currently resides in Kirkwood, Missouri.

3. Defendant Krish Gopalakrishnan ("Gopalakrishnan") is an individual who, upon information and belief, currently resides in Lake Saint Louis, Missouri.

4. Defendant James Phillips a/k/a Kyle Phillips ("Phillips") is an individual who, upon information and belief, currently resides in Olivette, Missouri.

5. Act III Management, LLC ("Act III") is a Delaware limited liability company having its principal place of business at 23 Prescott Street, Brookline, Massachusetts.

### JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under 18 U.S.C. § 1836(b), because Panera brings a claim of Defendants' violation of federal law pursuant to the Defend Trade Secrets Act ("DTSA"). The Court has supplemental jurisdiction over the state law causes of action pursuant to 28 U.S.C. § 1367.

7. This Court has personal jurisdiction over Dobson, Gopalakrishnan, and Phillips because they are citizens of Missouri.

8. This Court has personal jurisdiction over Act III pursuant to Mo. Rev. Stat. § 506.500.1(1)-(3) because it transacts business within Missouri, and has sufficient minimum contacts with Missouri to satisfy any due process concerns.

9. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to Panera's claims occurred in this District. Venue is also appropriate in this District by virtue of § 16.1 of the Confidential and Proprietary Information and Non-Competition Agreements ("Non-Compete Agreements") entered into by Dobson, Gopalakrishnan, and Phillips.

### BACKGROUND FACTS

#### Panera's History, Development, and Business

10. Panera began in 1980 as a single, 400-square-foot cookie store in Boston, Massachusetts. The store, called The Cookie Jar, expanded its cookie business by partnering in a small French bakery chain called Au Bon Pain. In 1991, Au Bon Pain Co. Inc. became publicly traded and, in the following years, opened hundreds of bakery-cafes in cities along the East Coast and overseas. In 1993, Au Bon Pain acquired the St. Louis Bread Company. In the mid-1990s, the team at Au Bon Pain reconceived the St. Louis Bread Company concept and named it Panera. Panera has since become a leader in the burgeoning fast-casual restaurant segment. In 1999, all Au Bon Pain divisions were sold to an investment firm. The remaining public company was renamed Panera Bread Company.

11. Today, Panera is one of the largest food service brands in the United States, with more than 2,300 bakery-cafes, 140,000 associates, and annual system-wide sales in the billions.

12. Panera's bakery-cafes are located in urban, suburban, and regional mall locations. Panera sells made-to-order sandwiches, tossed-to-order salads, soups, freshly baked breads, and other food and bakery items for dining-in, carry-out and for delivery. Panera features high-quality food in a warm, inviting, and comfortable environment.

13. Nearly all of Panera's bakery-cafes routinely donate bread and baked goods to community organizations in need through Panera's "Day End Dough-Nation" program which, in 2018, donated over one hundred million dollars in retail value of goods.

#### Panera and Act III's Place in the Market

14. Panera occupies what is called the "fast-casual" space in the restaurant marketplace. Fast-casual can be distinguished from other types of restaurants, such as quick service restaurants ("QSR"), like McDonald's, and full service restaurants, like Chili's or Applebee's. Fast-casual restaurants occupy the space in between: they are higher-end than QSRs, but are not full service.

15. Generally speaking, "fast-casual" seeks to offer a premium dining experience for reasonable prices. The fast-casual marketplace can further be broadly divided into two segments: burger brands and non-burger brands, the latter of which typically focuses on fresh and healthy produce, sandwiches, and baked goods.

16. Act III and the brands it owns and manages—like Cava Mezze Grill ("Cava"), Zoe's Kitchen, and Tatte Bakery & Café ("Tatte")—occupy the same non-burger, fast-casual market space as Panera. They offer salads, sandwiches, grain bowls, and baked goods in a high-end restaurant experience. For example, Zoe's Kitchen offers soups, salads, and sandwiches in a similar environment as Panera. And Tatte, like Panera, appeals to high-end consumers with artisanal pastries, homemade breads, salads and sandwiches. Indeed, in part because the two businesses shared such similar models, in 2016 Panera acquired a majority interest in Tatte. Panera has since sold its interest in Tatte, while Act III acquired total ownership of Tatte by the end of 2018. In short, Act III and its brands are direct competitors of Panera.

17. Act III's direct competition with Panera is rooted in both companies' origin. Ron Shaich ("Shaich")—who is the Managing Partner of Act III—was the former President, CEO,

and Chairman of Panera. Shaich stepped down as President of Panera in 2016. Following Panera's later acquisition, he stepped down as CEO in January 2018. And in December 2018, his position as Chairman of the Board of Directors ended.

18. At the same time Shaich was winding down his role at Panera, he was ramping up Act III, recruiting key talent from Panera. In March 2018, Act III hired Keith Pascal ("Pascal"), who was the Chief Concept Advisor at Panera. Pascal is now a Partner at Act III. Act III then hired Bryan Griffith ("Griffith"), the former Vice President of Café Systems, after he left Panera in February 2018 at the same time as Pascal, ostensibly to work for a grocery chain, a position he briefly held for a period of months. Griffith is now the Chief Information Officer at Act III. Act III also hired Kat Ryder ("Ryder"), who was the Director of Café Systems for Panera until October 2018. She is now the Director of Technology and Ops Services for Tatte.

#### Panera's Commitment to and Development of its Digital and Technological Systems

19. Panera is a leader in the food service industry in integrating technology into its customers' experience, and has developed a clear vision as to how it will capitalize on technology to continue to stay at the top of the industry.

20. Panera prides itself on being several steps ahead of the game in developing its technological systems, which ultimately drives a guest's experience with Panera.

21. In approximately 2011, Panera unveiled its vision for "Panera 2.0," which consists of enhanced to-go and eat-in options enabled by a series of integrated technologies. "Panera 2.0" is an integrated, comprehensive, end-to-end solution that aims to reduce wait times, improve order accuracy, minimize or eliminate crowding, and create a more personalized experience. "Panera 2.0" enables Panera to keep up with high transaction volumes and unrestrained production demands, and thus has enhanced the guest experience.

22. The Panera technology platform of today now goes much further than the original technologies of Panera 2.0. While the current integrated platform further improves the guest experience, it now has key components to improve the associate experience, the quality of Panera's cafe operations, as well as the effectiveness of operations.

23. Panera made substantial investments initiating and implementing various digital and technology strategies and systems, including systems for digital ordering, digital payment, enhanced technology-based kitchen display systems and food production systems, digitally-based cafe management systems, master data management systems and quality assurance systems.

24. Over the past decade, having invested significant capital in technology related to running its restaurants more efficiently and effectively, Panera understood that there was an opportunity to create value for shareholders and to lower overall service costs for Panera's cafes, by commercializing the technology for other restaurants. This culminated in the creation of TechCo., a separate division within Panera that will commercialize the technology components Panera continues to develop to this day. TechCo. leverages Panera's integrated platform of guest facing and cafe operating technologies, as well as the management systems.

25. Panera believes that technology is a core competitive advantage and differentiator in the restaurant business, and Panera has become a leader in technology that is devoted to improving customer service and providing greater access and convenience.

26. Panera understands that in order to continue to succeed and appeal to customers in such a competitive industry, it must have talented employees who can implement its clear vision for the future. In that regard, Panera has focused on hiring and developing talented individuals who can grow to understand Panera's clear vision and implement its processes.

Panera Hires Dobson, Gopalakrishnan, and Phillips

27. On September 16, 2013, Panera hired Dobson as Director, Principal Software Engineer—Java. Just prior to his resignation, he served as Panera’s Director and Principal Architect of Software Engineering.

28. On June 30, 2015, Panera hired Gopalakrishnan as Director, Mobile Apps/Web Unification. At the time Gopalakrishnan tendered his resignation from Panera, he served as Panera’s Director of Enterprise Architecture.

29. October 21, 2002, Panera hired Phillips for the position of Café Support Systems Analyst. When Phillips tendered his resignation from Panera on February 5, 2019, he served as Panera's Director of Delivery Systems.

30. Dobson, Gopalakrishnan, and Phillips were key executives on Panera’s IT team and were involved in strategy and decision-making at the highest level. Dobson, Gopalakrishnan, and Phillips are all individuals that Panera identified as capable of taking Panera’s vision for the future and implementing it in a way so that customers will tangibly reap the benefits.

**James Dobson**

31. As Panera’s Director and Principal Architect of Software Engineering, Dobson ran all of Panera’s café systems software development. In the IT world, the term “architecture” essentially means how systems are designed to work. Dobson had a great deal of influence in selecting the software programs used by Panera to maximize the effectiveness of its technology systems, including point-of-sale software, back-of-house software, kitchen display software, quality assurance software, data warehousing and data management software, software development tools, and even the software development languages.

32. Dobson also worked on Panera’s next generation technology concerning Panera’s CORE application, which acts as the primary interface between e-commerce systems and

Panera's café systems. The CORE application works between the personal digital interface used by a customer, like a smartphone or computer (the e-commerce system) and the technology used and operated in Panera's cafes, like the kitchen display systems (the café systems).

### **Krish Gopalakrishnan**

33. As the Director of Panera's Enterprise Architecture, Gopalakrishnan was involved in all of Panera's technology systems. In addition, Gopalakrishnan was very involved in the design and implementation of Panera's enterprise data warehouse systems, both of which are proprietary to Panera. These systems are used to deepen Panera's relationship with its customers, such as understanding their general preference for an ordering channel, avoiding ingredients for allergies, or preferring items for dietary needs.

34. Gopalakrishnan and his team helped maintain the enterprise data system and functions utilized within it. This allowed him access to, and he became intimately familiar with, Panera's highly confidential and proprietary sensitive business information.

35. Further, as Panera's Enterprise Architect, Gopalakrishnan was heavily involved in all aspects of Panera's computer coding. Gopalakrishnan spearheaded the development and enhancement of Panera's existing code, as well as the development of new code for the company. Gopalakrishnan played a key role in the incubation and development of TechCo. and was involved in strategic discussions at the highest level.

### **Kyle Phillips**

36. On October 21, 2002, Phillips began at Panera in the position of Café Support Systems Analyst. On April 1, 2005, he was elevated to the Position of Lead—IT Field Services Support. And on January 12, 2006, he was promoted to the position of Manager, Field Services Deployment. In June 2009, Phillips was promoted to Analyst, IS Application Developer, and on December 9, 2011, he was elevated to Senior Manager, Senior Manager Commerce, IS Enterprise

Systems. On February 14, 2014, he was then promoted to Director, Product Management. On November 14, 2015, Phillips was named Director, Delivery Systems.

37. Phillips was one of only two employees at Panera who worked directly with Blaine Hurst (“Hurst”), now CEO of Panera, on the early portion of the transformational Panera 2.0 project. The knowledge Phillips gained from his work on the early stage project is invaluable and could only be replicated by virtue of Phillips having been a part of Hurst’s first team on Panera 2.0.

38. In light of Phillips’ in-depth knowledge and understanding of Panera’s 2.0 systems, Phillips’ helped design and implement Panera’s industry-leading delivery systems. For example, Panera’s order-slotting technology is exceedingly advanced in the fast-casual food industry, and Phillips played a critical and pivotal role in its development.

39. Given the important role Dobson, Gopalakrishnan, and Phillips played in implementing these programs, they were each privy to all of Panera’s high-level discussions concerning its vision for how to continue to use technology to its advantage in the future. In other words, Dobson, Gopalakrishnan, and Phillips intimately know Panera’s strategic technology plan for the next few years.

40. Panera is a leader in the restaurant industry regarding its use of technology, and Panera’s competitors are constantly trying to replicate Panera’s technology systems as well as poach its employees. If a competitor was able to hire someone like Dobson, Gopalakrishnan, or Phillips, they would have inside information into Panera’s specific plans and strategies regarding its implementation of highly proprietary technology-driven initiatives that focus on improving the customer experience.

Panera Seeks To Protect Its Confidential and Proprietary Information

41. During their employment at Panera, Dobson, Gopalakrishnan, and Phillips had access to Panera's highly confidential and proprietary information. For example, they had access to or authored Panera's system schematics, system design flows, architectural approach notes, and systems service-oriented approach standards, not to mention Panera's technology pricing and sourcing strategies. It is impossible to quantify the value of Panera's best practices related to these systems.

42. Panera takes several steps to keep this confidential and proprietary information secret, both internally and externally. Panera employs a team of information security personnel whose jobs are dedicated to preventing the unauthorized access and release of Panera's trade secrets, proprietary data, and intellectual property. Panera also encrypts all of the hard drives in the computers it uses and requires that employees use regularly updated passwords to access these computers.

43. Additionally, upon joining Panera, all employees are required to review Panera's employee handbook, including the Company's Standards of Business Conduct, which governs employees' use and protection of Panera's Confidential Information. Dobson, Gopalakrishnan, and Phillips agreed in writing to abide by these policies when they joined Panera.

44. Panera marks highly confidential and sensitive materials that the Departed Employees had access to as "PANERA – PROPRIETARY AND CONFIDENTIAL" and cautions that they should not be distributed. Panera likewise deploys a similar set of security measures relative to its email and other communication systems.

45. Another key way that Panera protects its confidential and proprietary information is by requiring high-level employees to sign non-competition and confidentiality / non-disclosure agreements. As Directors, Dobson, Gopalakrishnan, and Phillips were among the

approximately 30 members of Panera's IT department who signed non-competition and confidentiality / non-disclosure agreements. This represents a small subset of the approximately 500 members of Panera's IT team.

46. On or around November 10, 2017, Dobson signed the Panera, LLC, Confidential and Proprietary Information and Non-Competition Agreement (the "Non-Compete Agreement").

47. On or around November 13, 2017, Phillips signed the Non-Compete Agreement.

48. On or around November 13, 2017, Gopalakrishnan signed the Non-Compete Agreement.

49. Panera provided Dobson, Gopalakrishnan, and Phillips with equity compensation, in the form of long-term incentive plans awarding stock grants valued at approximately 40-50% of their salary, along with enhanced duties and access in exchange for their execution of the non-competition and confidentiality/non-disclosure agreements.

50. In a non-exclusive list of Panera competitors, these agreements specifically include two Act III entities, Cava Mezze Grill and Zoe's Kitchen. Tatte is not expressly listed. But this is only because, at the time the agreements were executed in November 2017, Panera owned a significant interest in Tatte. At the end of 2018, Act III took full ownership of Tatte.

**Panera's Former Employees Coordinate their Departure and Join Act III,  
a Direct Competitor of Panera**

51. Upon information and belief, in January or February 2019, or earlier, Act III extended offers to Dobson, Gopalakrishnan, and Phillips to join the company.

52. On February 5, 2019, the Dobson, Gopalakrishnan, and Phillips nearly simultaneously informed Mike Prusaczyk, Mark Berinato, or John Meister that they were

resigning from Panera to take positions at Act III. All of the resignations noted that the individuals were not open to negotiate any offer to stay at Panera.

53. Upon information and belief, Act III hired Dobson, Gopalakrishnan, and Phillips to perform similar or identical work in similar or identical positions to the positions these employees held with Panera.

54. Like Panera, ACT III, and the numerous branded restaurants it controls, occupies the fast-casual restaurant marketplace.

55. Act III's fast-casual restaurants including, without limitation, Zoe's Kitchen, Cava, and Tatte frequently compete against Panera in the fast-casual restaurant space.

56. Upon information and belief, Act III specifically hired Dobson, Gopalakrishnan, and Phillips because of their exposure to and experience developing and working with Panera's confidential and proprietary technology and information.

57. Upon information and belief, Act III was aware that Dobson, Gopalakrishnan, and Phillips were subject to Non-Compete Agreements with Panera, and induced these employees to breach these Non-Compete Agreements for Act III's benefit.

58. Upon information and belief, Act III was aware that Dobson, Gopalakrishnan, and Phillips have ongoing confidentiality obligations to Panera, and placed them in positions at Act III where these employees would inevitably breach those obligations by disclosing Panera's confidential and proprietary information, and otherwise induced these individuals to breach their obligations to Panera.

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COUNT I – BREACH OF CONTRACT  
(Against Dobson, Gopalakrishnan, and Phillips)

59. Panera realleges and incorporates by reference paragraphs 1 through 58 of the Complaint.

60. The Panera Non-Compete Agreements are valid contracts under Missouri law.

61. By executing the foregoing agreements, Dobson, Gopalakrishnan, and Phillips agreed that they would not compete with Panera during their employment and for the twenty-six (26) week period (the “Restricted Period”) following the termination of their employment with Panera.

62. By signing the Panera Non-Compete Agreements, Dobson, Gopalakrishnan, and Phillips agreed that they would maintain the confidentiality of and not disclose Panera’s confidential and proprietary information.

63. Dobson, Gopalakrishnan, and Phillips also agreed that they would not use Panera’s confidential and proprietary information other than on Panera’s behalf.

64. Furthermore, Dobson, Gopalakrishnan, and Phillips agreed that if they left the employ of Panera, they would promptly return to Panera all of its confidential information and any materials that may contain, or be derived from, Panera’s confidential information.

65. Dobson, Gopalakrishnan, and Phillips breached their Panera Non-Compete Agreements by accepting an offer to work for Act III, a direct competitor of Panera.

66. Dobson, Gopalakrishnan, and Phillips breached their Panera Non-Compete Agreements by failing to return Panera’s confidential and proprietary information, by disclosing Panera’s confidential and proprietary information to Act III, and by using Panera’s confidential and proprietary information for the benefit of Act III.

67. Dobson, Gopalakrishnan, and Phillips' wrongful conduct in breaching their non-competition obligations to Panera has and will continue to cause Panera irreparable harm that cannot be remedied by monetary damages alone. As such, Panera is entitled to preliminary and permanent injunctive relief to restrain Dobson, Gopalakrishnan, and Phillips from any further or future violations of their Non-Compete Agreements including, without limitation, their continued employment with Act III.

**COUNT II – TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS**  
**(Against Act III)**

68. Panera realleges and incorporates by reference paragraphs 1 through 67 of the Complaint.

69. During their employment with Panera, Dobson, Gopalakrishnan, and Phillips entered into Non-Compete Agreements.

70. Such contracts are valid and enforceable contracts under Missouri law.

71. Upon information and belief, Act III was aware that Dobson, Gopalakrishnan, and Phillips had contracts with Panera that restricted their competitive activities and protected the confidentiality of Panera's confidential and trade secret information.

72. Upon information and belief, Act III wrongfully solicited Dobson, Gopalakrishnan, and Phillips because of the information these individuals possessed regarding Panera's confidential information and trade secrets.

73. Upon information and belief, Act III intentionally and unjustifiably induced Dobson, Gopalakrishnan, and Phillips to breach their Non-Compete Agreements with Panera by hiring these individuals during the Restricted Period and inducing them to disclose confidential and trade secret information for Act III's benefit.

74. Dobson, Gopalakrishnan, and Phillips did in fact breach their contracts, by working for Act III during the restricted period and by improperly retaining, disclosing, and using Panera's confidential and trade secret information.

75. Panera has been harmed and will continue to be irreparably injured by Act III's actions.

**COUNT III – CIVIL CONSPIRACY**  
**(Against All Defendants)**

76. Panera realleges and incorporates by reference paragraphs 1 through 74 of the Complaint.

77. In their positions at Panera, Dobson, Gopalakrishnan, and Phillips were intimately involved in many of Panera's highly proprietary technology initiatives and were privy to confidential information and trade secrets. In furtherance of a conspiracy, Dobson, Gopalakrishnan, and Phillips concealed their anticipated departure from Panera until every employee leaving Panera for Act III submitted their notice of resignation on the same day.

78. Upon information and belief, Act III was aware of the intimate knowledge and involvement Dobson, Gopalakrishnan, and Phillips had in developing Panera's trade secrets and confidential proprietary information and technology.

79. Upon information and belief, Act III knew that Dobson, Gopalakrishnan, and Phillips signed an agreement whereby they could not share or use Panera's confidential and proprietary information.

80. Upon information and belief, Act III conspired with Dobson, Gopalakrishnan, and Phillips to breach the various agreements that they have with Panera, leading to the misappropriation of Panera's confidential and trade secret information.

81. Upon information and belief, Act III conspired with Dobson, Gopalakrishnan, and Phillips to breach their confidentiality obligations to Panera, leading to the misappropriation of Panera's confidential and trade secret information.

82. Upon information and belief, Defendants still have access to Panera's confidential and trade secret information and continue to use such confidential and trade secret information on Act III's behalf.

83. Panera has been harmed and will continue to be irreparably injured by Defendants' concerted actions. As such, Panera is entitled to preliminary and permanent injunctive relief.

**COUNT IV – DEFEND TRADE SECRETS ACT (18 U.S.C. § 1836, et seq.)**  
**(Against All Defendants)**

84. Panera realleges and incorporates by reference paragraphs 1 through 83 of the Complaint.

85. Panera's proprietary and confidential technology, strategies, and initiatives including, without limitation, its algorithms, architectural designs, plans, strategies, and code, constitute protectable trade secrets within the meaning of the Defend Trade Secrets Act. Panera has expended considerable resources to design, develop, and implement this confidential and proprietary trade secret information, and it are not readily ascertainable through proper means.

86. Panera derives economic value from the secrecy of technology, and by the lack of access to this information by Panera's competitors. Panera's technology and technology initiatives including, without limitation, Panera 2.0 and TechCo., have and will continue to position Panera ahead of its competitors. Panera expects to continue to derive further value from its technology and technology initiatives.

87. Panera took reasonable steps to protect these trade secrets, including, without limitation, (i) employing an information security team dedicated to preventing unauthorized access and disclosure of Panera's trade secrets, (ii) encrypting hard drives on all Panera computers, (iii) requiring employees to regularly update passwords, (iv) marking highly confidential and sensitive types of documents as "PANERA – PROPRIETARY AND CONFIDENTIAL" and indicating that they should not be distributed, (v) requiring all employees to review Panera's employee handbook, including the Company's Standards of Business Conduct, which governs employees' use and protection of Panera's confidential and proprietary information, and (vi) requiring select member of its IT team to execute Non-Competition Agreements as a condition to their access to such information.

88. The trade secrets that Dobson, Gopalakrishnan, and Phillips took from Panera are integral to Panera's competitive advantage in the marketplace, and if the information becomes generally known to Panera's competitors, Panera stands to suffer irreparable harm.

89. Upon information and belief, Dobson, Gopalakrishnan, and Phillips retained Panera's trade secrets and, upon termination of their employment with Panera, and employment with Act III, threaten to disclose and use or have already disclosed and used this information.

90. Likewise, Act III is attempting to or has already succeeded in inducing Dobson, Gopalakrishnan, and Phillips into breaching their obligations not to disclose or use Panera's trade secrets.

91. Further, upon information and belief, Act III's Managing Partner, Ron Shaich, already took highly confidential, proprietary, and trade secret information belonging to Panera, immediately after stepping down as Panera's CEO.

92. This conduct has or will enable Act III to misappropriate, disclose, and use Panera's confidential and proprietary technology and technology initiatives and, therefore,

compete unfairly against Panera by benefitting from the millions of dollars that Panera invested in its unparalleled technology.

93. Panera has been harmed and will continue to be irreparably injured by Defendants' violation of this statute unless and until this Court enters a preliminary and permanent injunction, enjoining and restraining Defendants from using Panera's trade secrets.

COUNT V – MISSOURI UNIFORM TRADE SECRETS ACT  
(MO. REV. STAT. § 417.450, et seq.)  
(Against All Defendants)

94. Panera realleges and incorporates by reference paragraphs 1 through 93 of the Complaint.

95. Panera has expended substantial time, effort, and monetary resources in the design and development of trade secrets.

96. Panera derives independent economic value and a competitive advantage from these trade secrets.

97. At all relevant times, Panera used and is using reasonable efforts to protect the confidentiality of these trade secrets.

98. Defendants knew that the information entrusted to Dobson, Gopalakrishnan, and Phillips was confidential and that trade secret information was not to be revealed outside of Panera.

99. Defendants knew that the information was a valuable commercial asset of Panera, and that Panera had expended much time, effort, and money in developing the trade secret information.

100. Panera is informed and believes, and based thereon alleges, that at the time Defendants copied and/or used Panera's trade secret information, Act III knew that it had

acquired the trade secret information under circumstances giving rise to a duty to maintain its secrecy or limit its use.

101. By engaging in the conduct described herein, Defendants have misappropriated Panera's trade secrets in violation of the Missouri Uniform Trade Secrets Act, MO. REV. STAT. § 417.453.

102. Panera has been and continues to be damaged as a direct and proximate result of Defendants' misappropriation, including but not limited to loss in value of its trade secrets.

103. The damage that Panera has suffered and continues to suffer from Defendants' unlawful actions is irreparable; Panera has no adequate remedy at law; and Defendants' misappropriation of Panera's trade secrets will continue to cause such irreparable harm unless and until this Court orders Defendants to cease such misappropriation.

104. Upon information and belief, Defendants' misappropriation of Panera's trade secrets was and is willful and malicious, thereby entitling Panera to enhanced damages and attorneys' fees pursuant to the Missouri Uniform Trade Secrets Act, MO. REV. STAT. § 417.457.

**COUNT VI – UNJUST ENRICHMENT/EQUITABLE FORFEITURE**  
**(Against All Defendants)**

105. Panera realleges and incorporates by reference paragraphs 1 through 104 of the Complaint.

106. Upon information and belief, Dobson, Gopalakrishnan, and Phillips began taking actions on behalf of and for the benefit of Act III while still employed by Panera.

107. Panera compensated Dobson, Gopalakrishnan, and Phillips during this time period, despite that fact these employees were working for and otherwise acting for the benefit of competing venture Act III.

108. Thus, Dobson, Gopalakrishnan, and Phillips were unjustly enriched by receiving compensation for time worked when they were actually working in direct competition with Panera.

109. In addition, Act III employed Dobson, Gopalakrishnan, and Phillips to do the same or similar job they performed at Panera. Defendants are using the confidential and proprietary information that Dobson, Gopalakrishnan, and Phillips gained access to as employees of Panera for Act III to unfairly compete with Panera.

110. As a result, Defendants have been unjustly enriched and have benefitted at the direct expense of Panera. Panera has been harmed and will continue to be irreparably injured by Defendants' actions. As such, Panera is entitled to a temporary restraining order and preliminary and permanent injunctive relief.

**COUNT VII – PERMANENT INJUNCTION**  
**(Against All Defendants)**

111. Panera realleges and incorporates by reference paragraphs 1 through 110 of the Complaint.

112. As set forth herein, Defendants' misappropriation of Panera's trade secrets and wrongful conduct in violation of Dobson, Gopalakrishnan, and Phillips' contractual obligations and various laws have and will continue to cause Panera to suffer irreparable harm for which there is no monetary remedy.

113. Accordingly, Panera is entitled to a permanent injunction to stop Act III's unfair competition, Dobson, Gopalakrishnan, and Phillips' breach of their Non-Compete Agreements, Defendants' unlawful use and/or disclosure of Panera's confidential and proprietary information, and further irreparable injury to Panera.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Panera demands a trial by jury on all issues so triable.

PRAYERS FOR RELIEF

WHEREFORE, Panera, LLC respectfully requests this Court to:

A. Enter a preliminary injunction and, after trial, a permanent injunction, ordering Dobson, Gopalakrishnan, and Phillips to:

(i) Cease and desist from working for Act III for a period of twenty-six (26) weeks pursuant to their non-competition obligations under their respective Panera Non-Compete Agreements;

B. Enter a preliminary injunction and, after trial, a permanent injunction, ordering Defendants to:

(i) Cease and desist from acting in concert with, engaging in, tolerating willfully, acquiescing in, or accepting 's Dobson, Gopalakrishnan, and/or Phillips' violation of their respective confidentiality obligations to Panera;

(ii) Cease and desist from directly or indirectly using or disclosing Panera's confidential and proprietary trade secret information;

(iii) Forfeit to Panera all profits or other monetary benefits it obtained from the use of Panera's confidential and proprietary trade secret information;

(iv) Preserve all evidence relevant to this dispute and not to engage in any direct or indirect destruction or deletion of evidence, including electronic evidence and metadata;

(v) Return to Panera any and all Confidential Information in the custody, control, or possession of Defendants;

(vi) Identify any of Panera's confidential and proprietary trade secret information that has been disclosed by anyone and the names of any individual to whom such disclosure was made; and

(vi) Preserve and retain all documents and electronically stored information potentially relevant to the claims raised in Panera's Complaint.

C. Order expedited discovery;

D. Enter a judgment against Defendants and in favor of Panera on all Counts;

E. Award Panera its costs and reasonable attorney's fees as provided for by Missouri Uniform Trade Secrets Act, MO. REV. STAT. § 417.457; and,

F. Award such other and further relief as the Court may find just and proper under the circumstances.

[Signature block on next page.]

Respectfully Submitted,

PANERA, LLC,

By its attorneys:

/s/ Bret A. Cohen

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*(pro hac vice admission pending)*

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