BEFORE

THE INTERNATIONAL COURT OF JUSTICE
LA COUR INTERNATIONALE DE JUSTICE

AT THE PEACE PALACE,
THE HAGUE, NETHERLANDS

QUESTIONS RELATING TO PRIOR INFORMED CONSENT AND BENEFIT SHARING IN THE CONTEXT OF DE-EXTINCTION

General List No. 303
Year 2025

Anecoyon
(Applicant)

v.

Ridus
(Respondent)

-MEMORIAL FOR THE APPLICANT-

THIRTIETH ANNUAL STETSON INTERNATIONAL ENVIRONMENTAL MOOT COURT COMPETITION

2025-2026

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LIST OF ABBREVIATIONS

ABS	Access and Benefit-Sharing
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
COP	Conference of the Parties
DSI	Digital Sequence Information
GR	Genetic Resources
ICJ	International Court of Justice
ISIC	International Standard Industrial Classification
IUCN	International Union for Conservation of Nature

PIC	Prior Informed Consent
R&D	Research and Development
SAP	Sidney Animal Park
SBSTTA	Subsidiary Body on Scientific, Technical and Technological Advice
VCLT	Vienna Convention on the Law of Treaties
WAZA	World Association of Zoos and Aquariums

QUESTIONS PRESENTED

1) Whether Ridus's conduct complied with or violated the prior informed consent provisions of the CBD and the Nagoya Protocol, to the extent they are applicable; and
2) Whether Anecoyon's refusal to consent based on its objections to de-extinction is counter to the CBD's objectives.
3) Whether, as an initial matter, DSI used for de-extinction activities is "biotechnology" for purposes of the CBD and the Nagoya Protocol.
4) If so, whether the Sidney Animal Park is a user of DSI on genetic resources for purposes of CBD Decision 16/2 and whether the Sidney Animal Park is engaged in commercial activity covered by a sector currently listed in CBD Decision 16/2.

STATEMENT OF JURISDICTION

On 14 July 2025, Anecoyon and Ridus submitted to the International Court of Justice, by Special Agreement, of differences between them concerning questions relating to prior informed consent and benefit sharing in the context of de-extinction, pursuant to Article 40(1) of the Statute of the ICJ. The Registrar of the Court acknowledged receipt of this joint notification on 31 July 2025 in accordance with Article 26 of the Rules of Court. Anecoyon and Ridus have accepted the jurisdiction of the ICJ pursuant to Article 36(1) of the Statute and request this Honorable Court to adjudge the dispute in accordance with the rules and principles of international law, including any applicable treaties. Anecoyon and Ridus have agreed to accept this Honorable Court's Judgment as final and binding and shall execute it in its entirety and in good faith.

STATEMENT OF FACTS

Anecoyon is the "country of origin" of the best-preserved Royal panther fossil. The most complete specimen of the Royal panther was found in Anecoyon's territory in 1901.[1] The Ministry loaned it to Ridus in 2009 for education and scientific research.[2] Ridus's National Museum later extracted DNA without PIC of Anecoyon (16 September 2022) and soon thereafter commenced creating a Royal panther reference genome.[3] Ridus announced the completion of the genome and publicly released the DSI on 13 August 2024 and continued its de-extinction effort despite Anecoyon's repeated objections.[4]

Anecoyon protested Ridus's planned de-extinction as requiring PIC under the Nagoya Protocol and CBD (diplomatic note 27 Sept. 2022) and maintained that any consent given earlier did not cover novel de-extinction uses.[5] Anecoyon enacted legislation (Dec. 2023) banning the use of its genetic resources or derivatives for de-extinction and demanding the return of the fossil.[6] Ridus returned the fossil but continued its de-extinction project using the DSI.[7]

Ridus contracted Salols Co., to genetically edit North American cougar cells and produced two modified cougars born 19 Dec. 2024; under Ridus laws, they are state property and are held at the Sidney Animal Park.[8] The Park, a safari-style facility[9], advertises the panthers and

[1] R ¶15.
[2] *Id.*
[3] R ¶16; Clar. Q7.
[4] R ¶28, R ¶30.
[5] R ¶18, R ¶22.
[6] R ¶24.
[7] R ¶27.
[8] R ¶31–33; Clar. Q8, Q7.
[9] Clar. Q2

charges an exorbitant viewing fee.[10] Anecoyon treats this as a commercial benefit arising directly from the use of DSI.[11] Ridus concedes the Park meets Decision 16/2 financial thresholds and decided not to contest those figures.[12]

De-extinction is not an "environmentally sound use," and that PIC was not given for such a harmful activity[13] Ridus contends Nagoya does not cover de-extinction and that earlier loan research satisfied consent, and argues that the Park is non-commercial for Decision 16/2 purposes.[14] Ridus, however, has offered facilitation of benefit sharing if an international tribunal first determines that the Park is a DSI user in a listed sector. [15]

With the negotiations failing to resolve the dispute, Anecoyon and Ridus agreed to submit the discussion to the International Court of Justice ("ICJ").[16]

[10] R ¶34, Clar. Q5.
[11] R ¶33–35; Clar. Q3.
[12] R ¶45.
[13] R ¶20, R ¶26.
[14] R ¶21, R¶40–41.
[15] R ¶44.
[16] R ¶46-47.

SUMMARY OF ARGUMENTS

I. The CBD and Nagoya Protocol oblige the parties to seek PIC from the party providing genetic resources prior to utilization. The PIC obligation arose for Ridus upon utilizing genetic resources from the fossil, *i.e.*, the extracted DNA. The fossil containing the DNA was found in Anecoyon's territory and supplied to Ridus through the loan agreement of 2009. The agreement did not account for Ridus's later use of the fossil for de-extinction, a commercial activity requiring a new PIC. As Ridus did not seek PIC prior to the utilization activities, its conduct violated the PIC provisions of the CBD and Nagoya.

II. Article 15(2) of the CBD protects the sovereign right of a party providing genetic resources to deny access to genetic resources for activities that are not environmentally sound or do not align with the objectives of the CBD. Therefore, Anecoyon refused access to its genetic resources for de-extinction. Ridus's subsequent de-extinction activities demonstrate that such projects act contrary to the CBD's objectives.

III. DSI used for de-extinction activities satisfies all ascertainable criteria that is required for an activity to be considered biotechnology under the definition of the CBD and the Nagoya Protocol, namely technological application, modifying a process and making a product, using biological systems and having a specific use.

IV. SAP is a user of DSI because the panthers are the physical manifestations of that DSI, and constitutes direct use within an unbroken "end-to-end" value chain that generates significant revenue. CBD Decision 16/2 encompasses downstream commercializers like SAP. Furthermore, SAP engages in commercial activities and its non-profit status is irrelevant given its 4 million USD revenue from the panthers' exhibition and using

for captive breeding. These activities fit within the sectors, namely Biotechnology and Animal Breeding.

ARGUMENTS ADVANCED

I. RIDUS'S CONDUCT VIOLATED THE PRIOR INFORMED CONSENT PROVISIONS OF THE CBD AND THE NAGOYA PROTOCOL.

Under Article 15(5) of the Convention on Biological Diversity (hereinafter 'CBD') and Article 6(1) of the Nagoya Protocol (hereinafter 'Nagoya'), Parties must obtain prior informed consent (hereinafter "PIC") from the party providing genetic resources.[17] The Applicant submits that Ridus violated this obligation by utilizing genetic resources from Anecoyon in 2022 without PIC.[18]

A. The 2022 activities of Ridus constituted the utilization of Genetic Resources.

"Utilization of genetic resources" means conducting research and development (hereinafter "R&D") on their genetic composition.[19] Ridus's activities on the extracted DNA from the Royal Panther fossils constitute R&D.

1. Ridus conducted R&D on genetic composition.

Ridus's actions, from genome sequencing to creating digital sequence information (hereinafter 'DSI') qualify as R&D.[20] Genome sequencing is part of research, as it involves

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[17] Convention on Biological Diversity art. 15¶5, June 5, 1992, 1760 U.N.T.S. 79. [Hereinafter CBD]; Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity art 6 ¶1 Oct. 29, 2010, 3008 U.N.T.S. 3 [Hereinafter Nagoya].

[18] Responsibility of States for Internationally Wrongful Acts, art. 12 G.A. Res. 56/83, Annex (Dec. 12, 2001); Vienna Convention on the Law of Treaties art. 26, May 23, 1969, 1155 U.N.T.S. 331. [Hereinafter VCLT].

[19] Nagoya art. 2¶c.

[20] R¶16, 28.

mapping the complete DNA sequence of an organism.[21] Creating a reference genome constitutes development, as it organizes the sequenced data into a standardized format.[22] Creating DSI continues the R&D process by analyzing and organizing genetic data in digital form.[23] The EU,[24] Brazil,[25] South Africa,[26] India[27] explicitly state that DSI results from the utilization of genetic resources, while the African Group similarly recognizes DSI generation as utilization.[28]

2. The subject matter of this research constituted "genetic resources."

To qualify as a genetic resource, genetic material must have actual or potential value and originate biologically, containing functional units of heredity.[29] The Applicant submits that the extracted DNA from the Royal Panther fossil falls within the definition.

[21] Nat'l Human Genome Research Inst., DNA Sequencing Fact Sheet, at 14, https://www.genome.gov/about-genomics/fact-sheets/DNA-Sequencing-Fact-Sheet (last visited Nov 12, 2025).
[22] S. L. Salzberg & J. A. Yorke, *Beware of Mis-Assembled Genomes*, 21 Bioinformatics 4320, (2005).
[23] Sarah A. Laird & Rachel Wynberg, *Fact-Finding and Scoping Study on Digital Sequence Information on Genetic Resources*, U.N. Doc. CBD/DSI/AHTEG/2018/1/3 181 ¶¶11, 19, 28–32, 33 (CBD, Jan. 12, 2018).
[24] COP to the CBD, *Decision 14/31: Enhancing Integration Under the Convention and Its Protocols With Respect to Provisions Related to Biosafety and Access and Benefit-Sharing,* U.N. Doc. CBD/COP/DEC/14/31 (Nov. 30, 2018).
[25] Law No. 13, 123/2015; Brazil, Brazil's Position on DSI, Notification 2019-012 (2019).
[26] Government of South Africa, *Submission by the Government of South Africa in Response to Notification SCBD/NPU/DC/VN/KG/RKi/87804 in Relation to a Call for Submission of Views and Information on DSI on Genetic Resources* (2019), https://www.cbd.int/abs/DSI-views/2019/SouthAfrica-DSI.pdf
[27] Biological Diversity Act, No. 18 of 2003, India Code (2002).
[28] Decision 14/31, *supra* note 24.
[29] CBD art. 2.

a. The extracted DNA contains functional units of heredity.

Functional unit of heredity means a coding sequence that conveys the information necessary to express a hereditary trait.[30] The "function" of a gene is to carry coded instructions.[31] These instructions exist as the specific sequence of nucleotide bases along the DNA molecule.[32]

Even fragmentary DNA may retain its informational content as long as recognizable sequences are present.[33] The DNA extracted from the fossil contains such sequences,[34] enabling the use of its genetic information for reference-genome construction.[35] The negotiating history and subsequent practice under the CBD confirm that genetic information, not merely living genetic material, is within the Convention's scope.[36]

b. The DNA has a biological origin.

The DNA in question is derived from a fossil, which represents preserved remains of a once-living organism.[37] While fossilization may involve mineral replacement, this does not change the fact that their source is fundamentally biological.[38] Furthermore, the phrase 'other

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[30] COP & COP-MOP to the Nagoya Protocol, *Synthesis of Views and Information on the Potential Implications of the Use of Digital Sequence Information on Genetic Resources for the Three Objectives of the Convention and the Objective of the Nagoya Protocol* ¶104(b)(i), at 35 CBD/DSI/AHTEG/2018/1/2 (Jan. 9, 2018).
[31] B. Alberts et al., *Molecular Biology of the Cell* (4th ed. 2002).
[32] DNA Sequencing Fact Sheet, *supra* note 21.
[33] Jesse Dabney et al*., Ancient DNA Damage,* 5 Cold Spring Harb. Persp. Biol. a012567 (2013).
[34] R¶16; Clarification A12.
[35] C. J. Preston, "De-extinction and Gene Drives: The Engineering of Anthropocene Organisms," in *Animals in Our Midst* 498–99 (Bovenkerk & Keulartz eds., Springer 2021).
[36] Laird, *supra* note 23*,* ¶¶11, 19.
[37] Sarah W. Keenan, *From Bone to Fossil: A Review of the Diagenesis of Bioapatite,* 101 Am. Mineral. 1943, 1944 (2016).
[38] Madison Tripp et al., *Mineralization Controls Informative Biomarker Preservation Associated With Soft Part Fossilization in Deep Time,* 23 Geobiol. e70030, 11 (2025).

origin' in the definition of genetic material ensures that biological material from sources like extinct organisms or ancient specimens is included.[39]

c. The extracted DNA has both actual and potential value.

The second element of the definition of 'genetic resources' is that the functional units of heredity have 'actual or potential value' which includes both economic and non-economic value.[40] Actual value is based on current knowledge and technology,[41] while potential value arises from future uses. [42] The Applicant submits that the DNA has both actual and potential value. Its actual value is evident as the DNA has been sequenced into a reference genome,[43] applied through CRISPR technology,[44] generating significant revenue.[45] It has potential for future use in medicine, agriculture, or conservation.[46]

B. The PIC obligation was owed to Anecoyon.

In exercises of sovereign rights, utilization of genetic resources requires PIC of the country of origin or the Party providing the resources.[47] The Applicant submits that, as the fossil was found in Anecoyon's territory, Anecoyon is the country of origin and the party providing the genetic resources, and that the PIC obligation lies with Anecoyon.

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[39] CBD art. 2; UNEP/CBD/WG-ABS/9/INF/1, "The Concept of 'Genetic Resources' in the CBD" (2010), 8.
[40] Collation of Operative Text, U.N. Doc. UNEP/CBD/WG-ABS/8/3/Add.1 at 28. (Oct. 23, 2009).
[41] Peter Johan Schei & Morten Walløe Tvedt, *"Genetic Resources" in the CBD: The Wording, the Past, the Present and the Future*, FNI Report 4/2010, at 3 (Mar. 2010),
[42] UNEP, Report of the Meeting of the Group of Legal and Technical Experts on Concepts, Terms, Working Definitions, and Sectoral Approaches, at 7 UN Doc UNEP/CBD/WG-ABS/7/2 (2008).
[43] R¶16
[44] R¶31
[45] R¶34
[46] CBD Secretariat, United Nations Environment Programme & United Nations Development Programme, *Guide to the Cali Fund,* 2 (2025)
[47] Nagoya art. 6¶1.

1. Anecoyon has sovereign rights over the genetic resources.

The PIC obligation under the CBD and Nagoya is grounded in the principle of State sovereignty over natural resources,[48] which is inherently territorial.[49] Sovereignty includes the right to control and benefit from natural resources within that territory.[50] Since the Royal Panther fossil was found in Anecoyon's geological formations, it is a natural resource of Anecoyon.[51] The Royal Panther specimens are inherently tied to its territory and environment.[52] Furthermore, the fossil is Anecoyon's cultural property[53] and natural heritage,[54] giving Anecoyon the authority to control access to it. The fossil being temporarily loaned to Ridus does not negate Anecoyon's sovereign rights over the genetic material.[55]

2. Anecoyon is the "country of origin of genetic resources"

The CBD defines the "country of origin of genetic resources" as the country that possesses those resources in their *in-situ* conditions *i.e.*, within ecosystems and natural habitats.[56] The Royal Panther fossil was preserved in Anecoyon's sedimentary layers,[57] which are part of Anecoyon's ecosystem and therefore fit in the definition of "*in-situ conditions.*"[58]

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[48] CBD arts. 3, 15¶1.
[49] *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, 2005 I.C.J. 168, ¶¶223, 226 (Dec. 19).
[50] *Certain Activities Carried Out by Nicaragua in the Border Area (Costa Rica v. Nicaragua),* Judgment, I.C.J. Rep. 2015, 665, ¶¶91–92. (Dec 16).
[51] Environment Protection and Biodiversity Conservation Act (Australia 1999); Paleontological Fossils Protection Law (China 2007); Law No. 18-00 on Paleontological Heritage (Morocco).
[52] R¶6.
[53] Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, arts. 1, 4 Nov. 14, 1970, 823 U.N.T.S. 231.
[54] Convention Concerning the Protection of the World Cultural and Natural Heritage, art. 2, Nov. 16, 1972, 27 U.S.T. 37, 101 I.L.M. 1500.
[55] G.A. Res. 1803 (XVII), U.N. Doc. A/5217, at 15, ¶ 4 (1962).
[56] CBD art. 2.
[57] J. William Schopf, Paleontology, Microbial, in Encyclopedia of Microbiology 392 (Moselio Schaechter & Joshua Lederberg eds., 3d ed. 2009).
[58] CBD art. 2.

3. The definition of "country providing genetic resources" applies to Anecoyon

The CBD defines "country providing genetic resources" as the country that supplies genetic resources collected from *in-situ* sources.[59] While the CBD does not explicitly define "*in-situ* sources," the term can be interpreted in light of the related definition of "*in-situ* conditions."[60] Since the genetic resources existed in Anecyon's ecosystem and natural habitat before the Loan,[61] it is submitted that Anecyon supplied the genetic resources from its *in-situ* sources.

The term "supplying" refers to any form of provision that grants access to genetic resources.[62] The loan constituted a supply or provision of the fossil containing the genetic resource from Anecoyon to Ridus, making Anecoyon the party providing the genetic resources.

4. The Royal Panther's status as a transboundary species does not negate Anecoyon's rights

The Respondent invoked Article 11 of the Nagoya Protocol to diminish Anecoyon's rights.[63] However, 11 requires cooperation when the same genetic resource or associated traditional knowledge exists in multiple States.[64] Although Royal Panther-related materials have been found in both States, the fossil used for DNA came from Anecoyon and existed *in-situ* only there.[65]

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[59] CBD art. 2.
[60] Int'l Law Comm'n, Draft Articles on the Law of Treaties with Commentaries, reprinted in Yearbook of the Int'l L. Comm'n, 1966, vol. II, at 221.
[61] *See* argument I.B.2.
[62] L.Glowka et al., *A Guide to the Convention on Biological Diversity* 19 (IUCN 1994).
[63] R¶21,
[64] Nagoya art. 11.
[65] Nagoya art. 11¶1; Elisa Morgera et al., *Unraveling the Nagoya Protocol: A Commentary on the Nagoya Protocol on Access and Benefit-Sharing to the CBD* 213 (2014).

D. The 2009 Loan Agreement cannot be regarded as PIC.

PIC means seeking consent in advance with adequate time and full disclosure of all relevant information.[66] The 2009 Loan Agreement fails to meet the requirements of prior informed consent.

1. The obligation to seek PIC arose only in 2015.

Treaties do not bind parties, for acts occurring before the treaty entered into force, unless a different intention is specified.[67] The Nagoya contains no provision authorizing retroactive application, and its negotiating history confirms the absence of any such intent.[68] The obligation to seek PIC for utilization of genetic resources was created in 2015.[69] Therefore, the 2009 loan agreement could not constitute PIC under a legal obligation that did not yet exist.[70] International law does not allow States to fulfill future treaty duties through past conduct.[71]

The utilization activities, which occurred after Nagoya entered into force, constitute new facts, not a continuation of the loan.[72] In any event, if those acts were regarded as a continuation of the loan, Ridus violated the PIC provisions for any uses of Anecoyon's genetic resources without consent after 2015.[73]

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[66] George Dalton, Todd Kuiken & Jason A. Delborne, Articulating "Free, Prior and Informed Consent" for Engineered Gene Drives, 286 Proc. R. Soc. B: Biological Scis. 1, 3–4 (2019).
[67] VCLT art. 28.
[68] Morgera, *supra* note 65, 78.
[69] R¶11.
[70] *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore),* Judgment, Merits, I.C.J GL No. 130, ¶118 (May 23, 2008).
[71] ARSIWA art. 13; *Island of Palmas (Netherlands v. United States of America),* UNRIAA, vol. II, 829, 845 (1928) (Sales No. 1949.V.1).
[72] ARSIWA art. 14¶1.
[73] ARSIWA art. 14¶2.

2. The Loan did not specify the utilization of genetic resources for de-extinction

PIC must be based on the specific uses for which consent has been granted.[74] The 2009 loan agreement did not allow for a de-extinction project, limiting its scope to "educational and scientific research."[75] The ICJ in *Whaling in the Antarctic* held that an activity qualifies as "for purposes of scientific research" only when its design and implementation are not driven by policy or commercial motives.[76] While Ridus used scientific methods, the primary purpose of their project was commercial,[77] not genuine scientific research.[78] Therefore, Ridus's de-extinction project cannot be considered "for purposes of scientific research."

Even if the loan agreement had been granted for specific use(s), any change of use requires a new application for PIC,[79] as recognized by national ABS frameworks of India,[80] Brazil,[81] South Africa.[82] Ridus's shift from educational use to a commercial venture requires new PIC.

II. ANECOYON'S REFUSAL TO CONSENT BASED ON ITS OBJECTIONS TO DE-EXTINCTION IS CONSISTENT WITH THE CBD'S OBJECTIVES.

The Applicant submits that Anecoyon did not act contrary to CBD objectives by refusing consent, as the refusal was consistent with the Convention's objectives of conservation of biological diversity, sustainable use, and the fair and equitable sharing of benefits.[83]

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[74] Secretariat of the CBD, *Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising Out of Their Utilization*, ¶¶34, 43 (2002),
[75] R¶15.
[76] *Whaling in the Antarctic (Australia v. Japan),* I.C.J. 226, ¶¶67-97 (Mar. 31, 2014).
[77] R¶¶34, 36
[78] *Whaling in the Antarctic, supra* note 76, ¶88.
[79] Bonn guidelines, *supra* note 74, ¶34.
[80] Biological Diversity Act, No. 18 of 2003, *India Code* (2002).
[81] Law No. 13,123/2015 (Brazil).
[82] National Environmental Management: Biodiversity Act, No. 10 of 2004 (S. Afr.).
[83] CBD art. 1.

A. Anecoyon's refusal was a legitimate exercise of sovereign rights.

The CBD framework protects a state's sovereign right to deny access to its genetic resources.[84] Anecoyon's refusal was based on concerns about de-extinction, aligning with the CBD's precautionary approach to biodiversity conservation.[85]

1. The CBD protects the right to refuse consent of the party providing genetic resources.

Ridus invoked Article 15(2) to argue that Anecoyon's withholding of access frustrates the CBD's objectives.[86] Article 15(2) is subject to Article 15(5).[87] Under the VCLT, the binding and specific requirement of PIC in Article 15(5) prevails over the general and non-binding obligation in Article 15(2).[88] Art 15 (5) recognizes that every State has the sovereign right to decide whether others may access its genetic resources.[89] This right includes the right to withhold consent.[90] Accordingly, Anecoyon's decision to withhold consent represents a valid exercise of its sovereign right under the CBD.

2. Anecoyon's determination that de-extinction is not "environmentally sound" was scientifically grounded.

Article 15(2) requires facilitation of access only "for environmentally sound uses."[91] The introduction of a reconstructed apex predator in neighbouring regions of Anecoyon carries

[84] CBD art. 3; CBD arts. 15¶1, 15¶2.
[85] Rio Declaration on Environment and Development, princ. 15 (1992); Convention on Biological Diversity, pmbl. ¶9, 1760 U.N.T.S. 79 (1992).
[86] R¶25.
[87] CBD art. 15¶2.
[88] VCLT art. 31¶1; *Maritime Delimitation in the Black Sea (Romania v. Ukraine)*, Judgment, [2009] I.C.J. Rep. 61, ¶69 (Feb. 3).
[89] CBD art. 15¶5.
[90] L. Glowka, *supra* note 62, at 17.
[91] Rio Declaration on Environment and Development, princ. 15, U.N. Doc. A/CONF.151/26 (1992), reprinted in 31 I.L.M. 874 (1992); CBD art. 15¶2.

plausible risks of cross-border migration, ecosystem disruption, and pathogen transmission.[92] In such cases, States have the authority to implement precautionary measures to protect against potentially harmful environmental consequences.[93] Therefore, Anecoyon's determination that de-extinction was not environmentally sound was justified.

B. Subsequent activities of Ridus vindicate Anecoyon's refusal.

The Applicant submits that Anecoyon's refusal to consent remains entirely consistent with CBD objectives because Ridus's specific activities contradict those objectives.

1. Ridus's activities contradict the CBD's conservation objective.

The CBD's primary objective is to conserve biodiversity by implementing both *in-situ* and *ex-situ* strategies.[94] Article 8(h) of the CBD requires the prevention of alien species that threaten ecosystems.[95] The CRISPR-modified cougars are alien to both Anecoyon and Ridus ecosystems.[96] Even if the Court deems them Royal Panthers, they are still alien to the ecosystem.[97] During this time, ecosystems have evolved without the Royal Panther, maintaining balance without its role.[98]

Furthermore, as a part of conservation, the CBD requires Parties to implement environmental impact assessments (EIA) for activities that may harm biodiversity, including

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[92] Z. Li, H. Wang, J. Ge et al., S*patiotemporal Patterns of Small Carnivores in a Human-Dominated Forest Landscape Shared with Apex Predato*rs, 39 Landsc. Ecol. 214, (2024).
[93] *Gabčíkovo-Nagymaros Project (Hungary v. Slovakia),* Judgment, I.C.J. Rep. 1997, ¶¶53, 112, 140 (Sep. 25). *Southern Bluefin Tuna Case (Australia and New Zealand v. Japan)*, ITLOS, Case No. 3, ¶¶77, 79 (Aug. 4, 2000).
[94] CBD arts. 8, 9.
[95] CBD art. 8¶h.
[96] B. Shapiro, *Pathways to De-Extinction: How Close Can We Get to Resurrection of an Extinct Species*? 31 Funct. Ecol. 4-6 (2017).
[97] R¶6.
[98] Philip J. Seddon et al., Reversing Defaunation: Restoring Species in a Changing World, 345 Science 351 (2014).

consultation and information exchange with affected States.[99] The EIA conducted by Ridus was not valid, as it failed to assess transboundary impacts, consult affected States, and ensure continuous monitoring, lacking procedural and substantive conformity.[100]

2. Ridus's activities contradict the CBD's Sustainable Use objective.

The sustainable use objective requires consultation with traditional knowledge.[101] The traditional knowledge must be relevant for conservation and sustainable use.[102] Ridus's de-extinction project engaged the Panthera Indigenous communities,[103] whose ancestors caused the de-extinction of Panther through overhunting,[104] and their oral tradition involves hunting tales, not conservation knowledge.[105] As such, Ridus failed to uphold the sustainable use objective.

3. Ridus undermined the objective of Equitable Benefit Sharing.

The CBD requires that benefits from the use of genetic resources be shared with the party providing genetic resources, including both monetary and non-monetary benefits such as participation in research, technology transfer, and capacity-building.[106] Despite Anecoyon's objections,[107] Ridus proceeded with DNA extraction and genome sequencing, excluding Anecoyon from involvement. This violated the CBD's provisions on equitable benefit-sharing

[99] CBD art. 14 ¶1.
[100] *Pulp Mills on the River Uruguay (Argentina v. Uruguay),* Judgment, I.C.J. Rep.14, ¶¶193, 197, 204-5 (April 20, 2010);
[101] CBD art. 8 ¶j.
[102] Secretariat of the Convention on Biological Diversity, *Mo'otz Kuxtal Guidelines (adopted in Decision XIII/18)*, at 3 (2016); CBD art. 8 ¶j.
[103] R¶28.
[104] R¶7
[105] *Id.*
[106] Nagoya Annex, ¶¶ a, g, h, j; Greiber et al., *An Explanatory Guide to the Nagoya Protocol on Access and Benefit-Sharing,* at 141-143 (IUCN 2012).
[107] R¶¶18, 20, 22, 24.

obligation.[108] Furthermore, Ridus was required to facilitate capacity-building for Anecoyon instead of excluding its participation.[109] By monopolizing both scientific and commercial outcomes, Ridus failed to uphold the CBD's principle of equitable benefit-sharing and exploited Anecoyon's genetic resources.

III. DSI USED FOR DE-EXTINCTION ACTIVITIES IS "BIOTECHNOLOGY" FOR PURPOSES OF THE CBD AND THE NAGOYA PROTOCOL

The definition of biotechnology in the Convention[110] and the Protocol[111] has been construed deliberately as to include both present and future technologies.[112] Even the most textual interpretation of the terms shows that the activities in the alleged de-extinction project[113] and their use of DSI for that purpose[114] constitute biotechnology.

A. The activities satisfy the requisite conditions.

1. Use of CRISPR-Cas9 is a technological application.

Treaty terms are to be interpreted in accordance with their ordinary meaning.[115] The ordinary meaning of a term may only be apparent to someone who has some knowledge of the field.[116] In cases involving interpretation of industry-specific terms, questions such as whether 'iontophoretically'[117] would be considered a diagnostic method or whether 'therapy'[118] would encompass 'prophylactic treatment' have been interpreted with industry-specific context in

[108] CBD arts. 15¶6, 16¶1, 18¶5.
[109] CBD art. 12.
[110] CBD art. 2.
[111] Nagoya art. 2¶d.
[112] Glowka, *supra* note 62, at 17.
[113] R¶29.
[114] R¶31.
[115] VCLT, art. 31¶1.
[116] Richard K. Gardiner, *Treaty Interpretation 193* (2d ed. Oxford Univ. Press 2015).
[117] Case No. T 0964/99–3.4.1 (European Patent Office, Technical Board of Appeal June 29, 2001).
[118] Decision of the Technical Board of Appeal T 19/86, cf. O.J. EPO 1989, 24.

consideration.[119] CRISPR–Cas9 is a technology that provides a mechanism for editing cells,[120] therefore, its use in any context would constitute a technological application satisfying the definition of biotechnology.

2. Genetically engineering North American cougar cells is an example of using biological systems.

A cell is life in its simplest form,[121] making it a living organism capable of functioning independently;[122] Implementation of cell modification would therefore be the use of a 'biological system.' The process of editing North American cougar cells[123] illustrates the use of biological systems.

3. Using DSI to create the alleged royal panthers modifies a process.

The CRISPR-Cas9 engineering used to produce the alleged Royal panthers[124] works by modifying the natural cellular repair machinery[125] so that the cell inserts new information by a subsequent preferential repair.[126] This is an alteration of the DNA repair process to insert new genetic information,[127] causing a 'modification of a process'.

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[119] *Id*.
[120] R. Barrangou et al., *Applications of CRISPR technologies in research and beyond,* 34 Nat. Biotechnol. 933 (2016).
[121] H. Zeng, *What is a cell type and how to define it?*, 185 CELL 2739, 2739–55 (2022).
[122] A. Zaid, *Glossary of Biotechnology and Genetic Engineering* 41 (Food & Agriculture Org. 1999).
[123] R¶31.
[124] R¶31.
[125] Alexandre Paix et al., *Precision genome editing using synthesis-dependent repair of Cas9-induced DNA breaks*, 114 P. NAT'L ACAD. SCI. E10745, E10745–54 (2017).
[126] F Ann Ran et al., *Genome engineering using the CRISPR-Cas9 system*, 8 Nature Prot. 2282, 2281–308 (2013).
[127] Jun Huang & David E Cook, *The contribution of DNA repair pathways to genome editing and evolution in filamentous pathogens*, 46 F.E.M.S. MiCROBIOL. REV. fuac035 (2022).

4. The alleged Royal Panther specimens are a product.

Modern advances in biotechnology have enabled scientists to grow whole organisms from single cells and fuse different cell types to create hybrids with the qualities of both parent cells,[128] as Salols Co. has done.[129] There is no contextual bar to consider the specimens produced as products made.

a. The specimens satisfy the ordinary meaning of 'product' in the given context.

Live animals, particularly when subject to transactional concerns,[130] including but not limited to customs duties[131] and matters of taxation have been considered "products" or "goods."[132] Commercial arbitrations have held that the concept of goods or products includes live animals,[133] and live organisms have been held to be patentable products.[134]

b. The specimens satisfy the evolutive interpretation of the term 'product' for the CBD and the Nagoya.

Terms of a treaty may be such as to embrace change of meaning, perhaps most commonly to expand their coverage to include technological advancements which would not have been specifically conceived at the time the treaty was drawn up.[135]

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[128] Glowka, *supra* note 62, at 19.
[129] R¶32.
[130] Key v. Bagen, 221 S.E.2d 234 (Ga. Ct. App. 1975).
[131] Commission Implementing Regulation (EU) 2024/2522 of 23 September 2024 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff.
[132] *Case C-41/09, Eur. Comm'n v. Kingdom of the Netherlands,* 2011 E.C.R. I-10335 (judgment of Nov. 18, 2011).
[133] *Prada S.p.A. v. Caporicci USA Corp.*, CAM-Milan, Case No. 17/00120, at 5 (2017).
[134] *Diamond v. Chakrabarty,* 447 U.S. 303 (1980).
[135] Gardiner, *supra* note 116, at 468.

i. Interpretations of CBD and Nagoya Protocol terms are capable of evolving

Drafters employ 'generic term(s) denoting any matters comprised within the concept.'[136] At a time of accelerated scientific and technological evolution in recent years,[137] evolutive interpretation harmonizes current standards of technical development with the terms relevant in this dispute.

ii. 'Product' is a generic term.

Terms are generic when they refer to a class of a thing,[138] an indeterminate class of referents.[139] Where the parties have used generic terms in a treaty that are likely to evolve, the meaning of the term shall be determined from the international law applicable between the parties at the time of the treaty's application.[140]

5. The alleged Royal Panther specimens have a specific use.

The agreement between SAP and Ridus demonstrates that the present and future use of the specimens is exhibition,[141] functioning as a tourist-trap, further solidified by Ridus' admission of its longer-term plan of 'rewilding' the specimens with an eco-tourism element.[142]

B. The CBD and Nagoya Protocol notion of 'biotechnology' is definitionally broad.

Synthetic biology is based on the idea that any biological system can be viewed as a combination of functional elements or parts that can be organized in new ways to modify living

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[136] *Aegean Sea Continental Shelf (Greece v. Turk.)*, 1978 I.C.J. 3, 16 (Dec. 19)
[137] P. L. Ibisch, A. Vega E. & T. M. Herrmann (eds.), *Interdependence of Biodiversity and Development Under Global Change, Technical Series No. 54*, at 167 (Secretariat of the Convention on Biological Diversity 2010, 2d corrected ed., Montreal).
[138] *Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua),* ¶ 67, ICJ Rep. 2009 (13 July).
[139] John Lyons, *Semantics: Volume 1* 193, ¶19 (Cambridge Univ. Press 1977; reprinted 1996).
[140] VCLT art. 31¶3(c).
[141] R¶33.
[142] R¶35.

organisms.[143] There is potential for their scope to evolve with time.[144]

IV. THE SIDNEY ANIMAL PARK IS A USER OF DIGITAL SEQUENCE INFORMATION ON GENETIC RESOURCES, AND SAP IS ENGAGED IN COMMERCIAL ACTIVITIES COVERED BY SECTORS CURRENTLY LISTED IN CBD DECISION 16/2.

The Applicant submits that SAP is a user of DSI on genetic resources as it uses the end product of DSI and the activities are commercialised generating revenues under the 'Biotechnology' and 'Animal and Plant Breeding' sectors listed in CBD Decision.[145]

A. Sidney Animal Park (SAP) is a user of DSI on genetic resources.

COP Decision 16/2 is expressly applicable to 'sectors which directly or indirectly benefit from its use in their commercial activities.'[146] The words "directly or indirectly" are a deliberate anti-avoidance provision and purposely interpreted to cover all the entities that derive benefits from the use of DSI on genetic resources. The principle of effective interpretation (*ut res magis valeat quam pereat*) supports this view. For the benefit-sharing provision to be effective and not obsolete, the term "indirectly" must be interpreted as an anti-avoidance term. In this case SAP is both a direct and an indirect user.

[143] Antoine Danchin and Victor Lorenzo, *Synthetic Biology: Discovering New Worlds and New Words: The New and Not So New Aspects of This Emerging Research Field,* 9 EMBO Rep. 822 (2008).
[144] F. I. Akpoviri et al., *Digital Sequence Information and the Access and Benefit-Sharing Obligation of the Convention on Biological Diversity,* 17 Nanoethics 1 (2023).
[145] Decision 16/2, ¶Enclosure I.
[146] COP16, Decision 16/2, Annex ¶¶3.

1. SAP is a direct user of DSI on genetic resources.

a. The Panthers are the physical representations of DSI.

The DSI is the information of genetic material that forms the alleged Royal Panther.[147] Those genetically engineered North American Cougars, Ixchel and Itzamna, are physical, living manifestations of that genetic material.[148] SAP's "use" is a public showcase and intentional use of this genetically engineered Cougars, for a fee.[149] It is marketing and selling access to the physical representation of DSI.[150]

b. End-to-end value chain mechanism supports the direct use as there is a direct nexus.

At COP15 and COP16, States emphasized an "end-to-end" value-chain approach to DSI, precisely to ensure the proper utilization of the benefits.[151] Because Salols Co. genetically modified a living organism by using DSI of the Royal Panther fossil situated solely in Anecoyon and as a result Ixchel and Itzamna exist.[152] Ridus then transferred the organisms to SAP on terms that enabled SAP to profit from them.[153] SAP gained USD 2 million in six months (50,000 visitors paid 40 USD each) from the panther display alone.[154] It is our humble submission that SAP has generated significant revenue from the exhibition of Ixchel and Itzamna, produced by the DSI. As a result, the causation is unbroken. Hence, SAP directly used DSI on genetic resources and utilized it for commercialization.

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[147] Laird, *supra* note 23*,* at 11, 19, 28-32 and 33.
[148] R¶32.
[149] R¶34.
[150] Clarifications, ¶A5.
[151] IISD, *'Summary of the Open-ended Working Group on DSI'* 3 (Earth Negotiations Bulletin, August 2024).
[152] R¶31.
[153] R¶¶33–34.
[154] R¶34.

c. SAP uses the end product of the DSI for generating revenue.

In intellectual property and ABS systems, obligations follow down with the downstream commercializer.[155] A cinema displaying a film is a "user" of that copyrighted work, even if it did not produce or create the film.[156] Similarly, the SAP is using the sequenced information of the claimed Royal Panther genome in the context of exhibiting the product. It is using the end-product of the DSI directly in a manner that generates significant income, and therefore, SAP is a direct user of DSI in terms of benefit-sharing.

2. SAP is an indirect user of DSI on genetic resources.

a. The language of Decision 16/2 clearly encompasses indirect users.

Decision 16/2 comprehensively covers "sectors which benefit directly or indirectly from its use in their commercial activities."[157] This wording was deliberately employed to create an "end-to-end" value-chain approach, avoiding unfair distribution of the benefits by guaranteeing that commitments are not restricted to the first sequencer.[158] Ridus's attempt to create a legal firewall between Salols Co. (the sequencer) and SAP (the commercial exhibitor) is precisely the kind of avoidance arrangement this provision aims to prevent.[159] SAP's whole business venture with the alleged Royal Panthers is an indirect, but undeniable, benefit accrued through the use of DSI.

[155] Morgera, *supra* note 65, 114.
[156] 17 U.S.C. §106(4) (2025).
[157] COP Decision 16/2, ¶¶ 2-3.
[158] Morgera, *supra* note 65, 72.
[159] *Appellate Body Report, Japan—Taxes on Alcoholic Beverages,* WT/DS8/AB/R, WT/DS10/AB/R, WT/DS11/AB/R, ¶ 29 (Oct. 4, 1996).

Decision 16/2 itself foresees considering indirect beneficiaries such as SAP.[160] Modalities of practicability (levies, voluntary contributions, non-monetary benefits) bear witness that the regime is outlined to cover more than the first sequencer.[161]

b. Interpretation under the VCLT supports the indirect user.

The VCLT states that terms must be interpreted in their natural meaning and considering the object and purpose.[162] Equitable and fair benefit sharing is the CBD's third objective, and it requires mechanisms that reveal economic beneficiaries of DSI.[163] Otherwise, parties can shirk obligations by outsourcing commercialization to intermediaries, such as what Ridus has undertaken by transferring the panthers to SAP.[164]

The primary goal of the benefit sharing system is to ensure that a particular portion of the commercial profits from use of DSI go to the Cali Fund.[165] If companies at the end of the value chain, like SAP[166], are excluded from this obligation, the system becomes ineffective and this would create an easily exploitable loophole. Also, the ICJ has always affirmed that words in a treaty cannot be interpreted in a manner so as to frustrate its purpose.[167]

[160] Decision 16/2, ¶¶ 2-3.
[161] F. I. Akpoviri et al., *Digital Sequence Information and the Access and Benefit-Sharing Obligation of the Convention on Biological Diversity*, 17 Nanoethics 1 (2023).
[162] VCLT art. 31.
[163] CBD art. 1.
[164] R¶29.
[165] Convention on Biological Diversity Secretariat, United Nations Environment Programme & United Nations Development Programme, *Guide to the Cali Fund,* 2 (2025).
[166] R¶33.
[167] *Reservations to Convention on Prevention and Punishment of Crime of Genocide,* Advisory Opinion, I.C.J. 15, ¶24 (May 28, 1951).

B. The SAP is engaged in the commercial activity mentioned currently under the CBD Decision 16/2.

SAP's commercial activities regarding the alleged Royal Panthers are a commercial undertaking that fall within the lines of activity envisaged by Decision 16/2. Ridus's arguments regarding SAP contribution to nature protection and restoration,[168] falling under ISIC within the Botanical and Zoological Gardens and Nature Reserves Activities[169] categories are technical differences which fail to capture the economic reality of its enterprise.

1. SAP's activities are commercial exploitation under the 'substance over form' principle.

The international law distinguishes between activity and status *i.e.* designation as a non-profit corporation is irrelevant where the corporation engages in profit-generating activity.[170] The USD 130 million turnover of SAP per annum (among which 4 million in tickets exclusively for the alleged panthers' exhibition)[171] demonstrates that it operates on a commercial scale and way more than the average expenditures of an ordinary panther.[172] This is evidence of commercial exploitation.[173] Hence, accepting SAP's contention would only provide a loophole for evasions by simply relocating DSI-derived organisms to a non-profit corporation.[174]

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[168] R¶39.
[169] R¶40.
[170] *Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain*) (Second Phase) ICJ Rep 3, ¶70 [1970].
[171] R¶¶34, 42.
[172] Baskin, C. *Reasons to support Big Cat Rescue: Big Cat Rescue: Wild Cats in the wild: Our mission, their future.*, *Big Cat Rescue* (2024) https://bigcatrescue.org/conservation-news/reasons-to-support-big-cat-rescue (Visited: 16 November 2025).
[173] Joined Cases C-264/01, C-306/01, C-354/01 & C-355/01, *AOK Bundesverband*, 46 E.C.R. I-2493 (2004).
[174] R¶33.

2. SAP's activities are within the indicative sectors currently listed under the COP-16 Decision 16/2.

a. The exhibition of genetically-engineered organisms is a downstream commercialization of biotechnology.

International jurisprudence recognizes that open-textured language in treaties signals a shifting scope.[175] SAP's exhibition of genetically modified panthers[176] is a downstream node of commercialization in biotechnology - the park profits from the final product of genetic sequencing through their display and entrance charges. Its business constitutes the value chain of DSI, from extracting information to deployment in the market; precisely the continuum that Decision 16/2 proposes for regulation. Excluding SAP would defeat the aim and purpose of the Decision, *i.e*., to achieve benefits "along the DSI value chain."[177] Benefit-sharing must go "beyond laboratory use to commercialization and public dissemination."[178]

b. SAP is operating an advanced practice of animal breeding.

Ridus's long-term plan is to "introduce the second and succeeding generations of the panthers" to a sanctuary as part of a rewilding initiative.[179] SAP is the group currently raising, caring for, and managing the genetic stock of this founding generation. This is, by any operational definition, a breeding program.[180] The revenue earned from exhibiting the panthers will be used to directly fund the other captive breeding endeavor.[181] Thus, SAP is engaged in

[175] *Territorial Dispute (Libyan Arab Jamahiriya v. Chad)*, ICJ Rep. 6, ¶ 41 (1994).
[176] R¶¶31-34.
[177] IISD, *supra* note 151 at 3.
[178] Morgera, *supra* note 65, at 114, 258.
[179] R¶36.
[180] Hutu I, Oldenbroek K, van der Waaij L., *Animal Breeding and Husbandry,* 448 (Timisoara; 2020).
[181] R¶35.

commercial activity[182] under the "animal and plant breeding," sector mentioned in Decision-16/2. Besides, the multilateral mechanism of Decision-16/2 leaves scope for maneuver- SAP contributions can be financial or non-financial.[183]

Therefore, the Applicant humbly submits that the SAP is a user of digital sequence information on genetic resources and SAP is engaged in commercial activity covered by a sector listed in Decision 16/2.

[182] COP16, Decision 16/2, Annex, ¶3.
[183] *Id*, at ¶¶ 12–15.

CONCLUSION

The Applicant, Anecoyon, respectfully requests this Honourable Court to adjudge and declare that:

1) Ridus's conduct violated the prior informed consent provisions of the CBD and the Nagoya Protocol.
2) Anecoyon's refusal to consent based on its objections to de-extinction is consistent with the CBD's objectives.
3) DSI used for de-extinction activities is "biotechnology" for purposes of the CBD and the Nagoya Protocol.
4) The Sidney Animal Park is a user of digital sequence information on genetic resources, and SAP is engaged in commercial activities covered by sectors currently listed in CBD Decision 16/2.

Respectfully submitted,

Agents for the Applicant