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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 IN RE NCAA STUDENT-ATHLETE NAME
12 AND LIKENESS LICENSING
13 LITIGATION

Case No. 09-cv-01967 CW (NC)

**ORDER GRANTING IN PART
MOTION TO COMPEL**

14 Re: Dkt. No. 594

15 Defendant Collegiate Licensing Company moves to compel Antitrust Plaintiffs to
16 amend their responses to Interrogatories 1, 2, 11, 12, and 14. CLC argues that Plaintiffs'
17 current responses to these five interrogatories are deficient. Antitrust Plaintiffs respond that
18 CLC's dissatisfaction stems from the content of their responses, not their sufficiency or
19 level of detail, and that no amendment is necessary.

20 Interrogatory 1 states "Identify every illegal contract, combination, or conspiracy in
21 violation of 15 U.S.C. § 1 in which You contend CLC participated, including Your
22 contention in Paragraphs 25, 496, and 507 that CLC facilitated a restraint of trade in
23 violation of Section 1 of the Sherman Act, 15 U.S.C. § 1." Dkt. No. 601-2, Ex. D at 8.
24 CLC requests amendment because Plaintiffs' response lacks sufficient detail, expands the
25 issues, and improperly references their response to Interrogatory 14. As the Court noted at
26 the October 17 discovery hearing, Interrogatory 1 is drafted to elicit an expansive answer
27 and thereby contributes to the generality of Plaintiffs' response. Plaintiffs' incorporation by
28 reference to their response to Interrogatory 14 is technically improper, however, it does not

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1 detract from their response to Interrogatory 1. Nor would amendment of this response to
2 include the substance of Plaintiffs' response to Interrogatory 14 be an efficient use of time.
3 Therefore, the Court DENIES CLC's motion to compel amendment of Interrogatory 1.

4 Interrogatory 2 asks Plaintiffs to identify the facts and documents that support their
5 allegations against CLC of conspiracy and concerted action identified in Interrogatory 1.
6 CLC argues that Antitrust Plaintiffs' response to Interrogatory 2 is inconsistent with one of
7 their expert reports and challenges the viability of Antitrust Plaintiffs' theory of liability.
8 But CLC's objections are better suited to a dispositive motion than a discovery dispute. No
9 amendment by Antitrust Plaintiffs to their response will change the nature of the report or
10 Plaintiffs' theory of liability. Accordingly, the Court DENIES CLC's motion to compel
11 amendment of Interrogatory 2.

12 Interrogatories 11 and 12 ask Plaintiffs to describe the injuries to business or property
13 suffered by the named plaintiffs and class members. CLC contends that Plaintiffs'
14 responses to these two interrogatories are vague, conclusory, and lacking in factual or
15 documentary support. Antitrust Plaintiffs' current responses, although somewhat cursory,
16 describe the damages they have incurred. Furthermore, the Court finds that CLC's concerns
17 can be addressed through other discovery mechanisms. CLC's motion to compel amended
18 responses to Interrogatories 11 and 12 is DENIED.

19 Interrogatory 14 asks "If You contend that Former Student-Athletes are restricted
20 from licensing, selling, using, or displaying their Collegiate Images in any way, identify all
21 facts and documents that support Your contention." Dkt. No. 601-2, Ex. D at 72. CLC
22 asserts that Antitrust Plaintiffs' existing response is insufficient because it addresses only
23 current student-athletes. Antitrust Plaintiffs supplied a detailed response outlining the ways
24 in which NCAA bylaws prohibit student-athletes from licensing or sharing in the profits
25 from the use of their names, images, and likenesses while they are student-athletes.
26 Although Plaintiffs' response adequately describes how bylaws affected former student-
27 athletes while they were student-athletes, it is nevertheless insufficient.

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1 Antitrust Plaintiffs’ theory of the case is that “[f]ormer player class members have
2 two components to their damages—damages sustained while those individuals were
3 competing under collusive restraints, and damages sustained by the continued licensing or
4 sale of their images after they ceased participating in collegiate athletics.” Mot. for Class
5 Certification, Dkt. No. 554 at 10. Antitrust Plaintiffs’ current response to Interrogatory 14
6 does not identify any facts that illustrate how former student-athletes are currently restricted
7 from licensing or sharing in the profits derived from their names, images, and likenesses, or
8 how they suffer damages from the continued licensing and sale of their names, images, and
9 likenesses. Accordingly, the Court GRANTS CLC’s motion to compel an amended
10 response to Interrogatory 14.

11 Antitrust Plaintiffs have fourteen days from the date of this order to amend their
12 response to Interrogatory 14. Under Rule 72(a), any party may object to this order within
13 fourteen days.

14 IT IS SO ORDERED.

15 Date: November 5, 2012


Nathanael M. Cousins
United States Magistrate Judge

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