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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GATAN, INC.,
Plaintiff,
v.
NION COMPANY,
Defendant.

Case No. 15-cv-1862-PJH

**ORDER DENYING MOTION FOR
ADMINISTRATIVE RELIEF**

United States District Court
Northern District of California

Before the court is plaintiff’s motion for administrative relief seeking clarification, or in the alternative, for leave. Plaintiff was given leave to amend its complaint, with the condition that “no new claims may be added without leave of court or the consent of all parties.” See Dkt. 33. Plaintiff now seeks to divide its prior breach of contract claim into two separate claims, though it maintains that “this is not a ‘new claim’ but rather revising its existing claims in a manner that improves clarity.”

Plaintiff informs the court that it sought a stipulation from defendant, but while defendant “did not have a conceptual problem with agreeing to the act of dividing claims,” it could not stipulate to the proposed amended complaint without first seeing it. However, because the second amended complaint was still “being revised,” plaintiff was “unable to share a finalized second amended complaint with [defendant] prior to the filing deadline.”

The issue raised by defendant is the same issue that prevents the court from granting plaintiff’s administrative motion. Without reviewing the proposed amended complaint, the court cannot determine whether it adds new claims, and thus cannot determine whether it complies with the scope of plaintiff’s leave to amend. Thus,

1 plaintiff's administrative motion is DENIED.

2 However, because it appears likely that this issue can be resolved without further
3 court involvement, the court hereby directs plaintiff to provide a copy of its proposed
4 second amended complaint to defendant no later than **December 16, 2015**. Plaintiff
5 shall then have until **December 23, 2015** to either submit a stipulation reflecting
6 defendant's consent to the filing of the second amended complaint, or to submit an
7 administrative motion for leave with the proposed amended complaint attached for the
8 court's review.

9 **IT IS SO ORDERED.**

10 Dated: December 10, 2015



PHYLLIS J. HAMILTON
United States District Judge

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