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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

OPTRONIC TECHNOLOGIES, INC,

Plaintiff,

v.

NINGBO SUNNY ELECTRONIC CO.,
LTD., et al.,

Defendants.

Case No. [16-cv-06370-EJD](#) (VKD)

**ORDER RE DISCOVERY DISPUTE RE
LABOR COST DATA**

Re: Dkt. No. 242

Plaintiff Optronic Technologies (“Orion”) moves for an order compelling defendants Ningbo Sunny Electronic Co., Ltd. (“Ningbo Sunny”) and Sunny Optics, Inc. (“Sunny Optics”) to produce labor cost data responsive to Orion’s Request for Production No. 4. The Court held a hearing on this dispute on May 28, 2019. As described below, the Court grants in part and denies in part Orion’s motion.

This dispute relates to a prior dispute concerning labor costs that the Court addressed earlier this year. Dkt. No. 221. At that time, the Court directed the parties to do “confer, in good faith, about whether Ningbo Sunny and Sunny Optics have non-custodial sources of ‘labor cost data’ that have not yet been produced and that fall within the parties’ April 2018 agreement regarding the scope of production of financial information.” Id. at 3.

Here, Orion argues that it requires additional detail about defendants’ labor costs to support its damages analysis and to rebut defendants’ contention that their price increases were caused by increased labor costs. Dkt. No. 242 at 2. Defendants do not maintain product- or transaction- specific labor cost information, but they have produced company-level information about their costs that include labor costs, although the labor costs are not broken out. Dkt. No.

United States District Court
Northern District of California

1 242 at 7-8. Given these circumstances, Orion says it requires the following additional
2 information:

- 3 1. Payroll data for all of defendants' employees;
- 4 2. More detailed income statements reflecting the labor cost components of the cost line
5 items included in the statements;
- 6 3. Records reflecting the hours required to build each telescope;
- 7 4. Data tying labor costs to specific products.

8 *Id.* at 2-5.

9 Defendants dispute Orion's characterization of their contentions and opposes Orion's
10 motion to compel on the ground that the information Orion seeks is not relevant to any issue in the
11 case or does not exist. *Id.* at 5-7. Defendants say that they do not maintain any records of the
12 hours required to build each telescope or data tying labor costs to specific products. While they do
13 maintain payroll data, they estimate that collecting and compiling the payroll data for all of their
14 600 employees would require at least several full days of work. *Id.* at 7. Defendants acknowledge
15 that they do maintain and could produce additional detail reflecting the labor cost components of
16 cost data included in the income statements that they have already produced. *Id.*

17 In view of the parties' prior agreement regarding the scope of production, the Court is
18 persuaded that defendants should provide additional detail reflecting the labor cost components of
19 any cost items included in the income statements, such as the detail reflected at page 3 of the
20 parties' joint submission, as that information falls within the scope of the parties' 2018 agreement
21 and appears to be relevant to the issues Orion identifies. The Court therefore grants Orion's
22 motion to compel the production of this information.

23 The Court is not persuaded that the payroll data for all of defendants' employees falls
24 within the parties' 2018 agreement or that it is relevant to any issue in the case. As noted above,
25 defendants say they do not have any records reflecting the hours required to build each telescope
26 or data tying labor costs to specific products. The Court denies Orion's motion to compel the
27 production of this information.

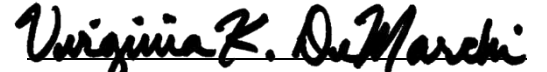
28 Defendants shall produce the additional labor cost detail to Orion no later than **June 12,**

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IT IS SO ORDERED.

Dated: June 5, 2019


VIRGINIA K. DEMARCHI
United States Magistrate Judge