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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE TELESCOPES ANTITRUST
LITIGATION

Case No. [20-cv-03642-EJD](#) (VKD)

**ORDER RE DECEMBER 13, 2023
DISCOVERY DISPUTE RE
DEFENDANTS' INTERROGATORIES
TO DPPS**

Re: Dkt. No. 545

The parties ask the Court to resolve a dispute about the number of interrogatories DPPs should be required to answer. Dkt. No. 545. The Court finds this dispute suitable for resolution without oral argument. Civil L.R. 7-1(b).

Rule 33 of the Federal Rules of Civil Procedure provides: “Unless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 25 written interrogatories including all discrete subparts.” Fed. R. Civ. P. 33(a).¹ A responding party must serve written answers and objections, if any, within 30 days. Fed. R. Civ. P. 33(b)(2). Any objections must be stated with specificity, and each interrogatory (to the extent not objected to) must be answered separately and fully in writing under oath. Fed. R. Civ. P. 33(b)(3)-(4). Here, as permitted by Rule 33, the number of interrogatories was set by a court order entered May 11, 2021, upon stipulation of the parties. *See* Dkt. No. 169. The order states in relevant part:

¹ Although the rule does not define “discrete subparts,” the prevailing view is that interrogatory subparts should be counted as one interrogatory “if they are logically or factually subsumed within and necessarily related to the primary question.” *Synopsys, Inc. v. ATopTech, Inc.*, 319 F.R.D. 293, 294 (N.D. Cal. 2016) (quoting *Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 445 (C.D. Cal. 1998)) (summarizing cases).

1 Defendants collectively may . . . serve up to 50 interrogatories on
2 DPPs. For the purposes of tracking how many interrogatories each
3 party has served, a single interrogatory that is served on a single
4 party (i.e., Celestron) will count as one interrogatory. A single
interrogatory that is served on two or more parties (i.e., Celestron
and SW Technology) will also count as one interrogatory.

5 *Id.*, sec. C, paras. 3, 4. No stipulation or court order modifying this provision appears on the
6 docket.

7 At the time of the May 11, 2021 order, DPPs’ operative complaint identified two named
8 plaintiffs, Radio City, Inc. and Spectrum Scientifics LLC. *See* Dkt. No. 54. Spectrum Scientifics
9 voluntarily dismissed its individual claims in June 2021 (Dkt. No. 172), and Radio City has since
10 been disqualified as a class representative (Dkt. No. 486 at 16, 21-22). Recently, DPPs named
11 three new plaintiffs in their fourth amended complaint: Aurora Astro Products LLC, Pioneer
12 Cycling & Fitness, LLP, and Jason Steele. Dkt. No. 495.

13 While the parties agree that defendants may take discovery of the three new named
14 plaintiffs, in August 2023, defendants served over 150 interrogatories on these plaintiffs without
15 seeking leave of court.² DPPs objected to the number of interrogatories, and the parties conferred
16 in an effort to resolve DPPs’ objections. Dkt. No. 545 at 2. Defendants say that the parties agreed
17 on October 20, 2023 that DPPs would answer a total of 75 interrogatories directed to the new
18 named plaintiffs. *Id.* at 2. Thereafter, defendants identified the specific interrogatories to be
19 answered in an email dated October 31, 2023, quoted in the joint submission. *Id.* at 3. DPPs say
20 that defendants simply ignored their objections to the number of interrogatories, so they just
21 selected 50 from among the interrogatories defendants initially served on the new named plaintiffs
22 and answered those interrogatories. *Id.* at 5, 8. DPPs do not specifically address defendants’
23 claim that the parties agreed that DPPs would respond to 75 interrogatories and that defendants
24 would identify which interrogatories should be answered, as reflected in the October 31, 2023
25 email.

26
27 _____
28 ² Defendants say they served 171 interrogatories; DPPs say defendants served 156 interrogatories.
See Dkt. No. 545 at 2, 5.

