

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Boyd N. Boland

Civil Action No. 13-cv-00876-WJM-BNB

XY, LLC,

Plaintiff/Counterclaim Defendant,

v.

TRANS OVA GENETICS, L.C.,

Defendant/Counterclaim Plaintiff,

v.

INGURAN, LLC,

Counterclaim Defendant.

---

**ORDER**

---

This matter arises on the plaintiff's **Supplemental Motion for Leave to Serve and Pursue Limited Discovery** [Doc. # 254] (the "Motion for Discovery"). I held a hearing on the motion this morning and made rulings on the record, which are incorporated here. The Motion for Discovery is GRANTED.

I previously allowed XY to take discovery concerning filings made under the Hart-Scott-Rodino Act in connection with the acquisition of Trans Ova by Intrexon. Intrexon refused to produce responsive documents, moving to quash XY's subpoena on improper grounds, and also refused without justification to identify its ultimate parent, whom Intrexon argued exclusively possessed responsive documents. By a separate order, I denied Intrexon's Motion to Quash and required that it produce responsive documents by December 10, 2014.

Also during this morning's hearing, counsel for Trans Ova disclosed that Trans Ova made an HSR Act 4(c) filing in connection with the acquisition by Intrexon, but those documents were not produced separately from Trans Ova's general discovery responses. Nor were any forms required to be submitted under the Hart-Scott-Rodino Act or the cover letter transmitting materials produced.

Intrexon's conduct in hiding the identity of its ultimate parent and Trans Ova's failure to produce all HSR Act 4(c) materials constitute good cause to extend the discovery period to allow XY to conduct the additional discovery requested. XY has acted diligently in attempting to obtain the requested discovery, only to be thwarted by the misconduct of Intrexon and Trans Ova.

The requested discovery is obviously and directly relevant to Trans Ova's monopolization claims, including Trans Ova's assertion that sexed semen is a relevant market apart from conventional semen.

IT IS ORDERED:

- (1) The Motion for Discovery [Doc. # 254] is GRANTED;
- (2) Trans Ova shall produce its HSR Act 4(c) submission, in its entirety, on or before December 10, 2014; and
- (3) XY, at its option and at a date and time as the parties may agree, may reopen the Rule 30(b)(6) deposition of Trans Ova to inquire further about Trans Ova's HSR Act 4(c) filing and related matters.

Dated December 3, 2014.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge