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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

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AGILENT TECHNOLOGIES, INC.,

**Case No. 16-CV-291137**

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Plaintiff,

**ORDER NUMBER 9  
BY DISCOVERY REFEREE**

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v.

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TWIST BIOSCIENCE CORP., EMILY  
LEPROUST, SIYUAN CHEN, SOLANGE  
GLAIZE, *et al.*

Action Filed: February 3, 2016  
Location: Department 1  
Judge: Hon. Brian Walsh  
Discovery Referee: Hon. James Ware (Ret.)

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Defendants.

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**DISCOVERY REFEREE'S STATEMENT OF DECISION ON DEFENDANTS AND  
CROSS-COMPLAINANTS TWIST BIOSCIENCE CORP. AND EMILY LEPROUST'S  
MOTION TO COMPEL RESPONSES TO FIFTH SET OF INTERROGATORIES AND  
SEVENTH SET OF REQUESTS FOR PRODUCTION**

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**I. INTRODUCTION**

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On March 1, 2019, Defendants and Cross-Complainants Twist BioScience Corp.

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("Twist") and Emily LeProust submitted a Notice of Motion to Compel Responses to Fifth Set

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of Interrogatories and Seventh Set of Requests for Production ("Motion"). The Motion was

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1 referred to the Referee pursuant to California Code of Civil Procedure sections 638 and 644  
and the January 22, 2019 Stipulation and Order of the Court.

2 Pursuant to the requirements of paragraph 4 of the January 22 Stipulation and Order,  
3 the Referee conducted an in-person hearing on the Motion on April 16, 2019, at the JAMS  
4 Silicon Valley Resolution Center. Counsel for all parties were present. The hearing was  
5 recorded by a stenographer. The Motion was submitted to the Referee for a decision. Neither  
6 party has declared that this Motion is “case dispositive” or presented a “bet-the-company”  
7 issue. (See Order of Appointment.) Thus, the Referee reports his Statement of Decision as a  
8 definitive ruling on the Motion. (See Order No. 5 at 5, fn. 5.)  
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## 10 **II. BACKGROUND**

11 In 2016, Plaintiff filed its complaint against Defendants Twist and LeProust, and other  
12 former Agilent employees. (Opposition at 4.) The allegations included misappropriation of  
13 proprietary technology, breach of agreements, and other misconduct. (Id.) Plaintiff contends  
14 that Defendants’ response to discovery requests revealed that Defendants had  
15 misappropriated and retained documents containing Agilent’s confidential information and  
16 trade secrets and that LeProust had accepted the CEO role at Twist 17 months before she left  
17 Agilent. (Id. at 5.) In fact, Plaintiff’s Second Amended Complaint (“SAC”) specifically included  
18 these allegations. (Id.)  
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20 On October 29, 2018, Plaintiff addressed a public letter to the SEC. The letter alleged  
21 that Twist had made false or misleading statements in its Form S-1 Registration Statement.  
22 (Motion at 3.) Defendants believed that Agilent had also shared this letter with the media  
23 outlet Axios. (Id.) Ultimately, the SEC took no action. (Id.) On October 31, 2018, Twist was  
24 approved for an IPO. (Id. at 1.)  
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1 Defendants believed that Plaintiff had sent the letter to the SEC and Axios in an  
2 unlawful attempted to derail the IPO by “publicly spreading falsehoods about Twist and the  
3 litigation. (Opposition at 5-6.) On November 7, 2018, Twist sent a letter to Plaintiff’s lead  
4 counsel raising concerns about Plaintiff’s conduct. (Opposition at 6.) The November 7 letter  
5 restated existing discovery requests and sought additional information pertinent to the SEC  
6 letter. (Motion at 4.) On December 14, 2018, Twist propounded the discovery requests that  
7 are now at issue: Special Interrogatories Nos. 246-252 and Request for Production No. 305.  
8 (Motion at 4; Bramhall Decl. Exs. D, E.) as follows:  
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10 **Special Interrogatory No. 246:** IDENTIFY all third parties—including but not  
11 limited to members of the media, any governmental agency, and/or any actual  
12 or potential purchasers of TWIST stock—with whom AGILENT or any of its  
13 representatives, agents, brokers, and/or other affiliates have been in contact  
14 regarding the October 29, 2018 letter AGILENT sent to the [SEC], the  
15 statements made in that letter regarding TWIST’s October 2, 2018 [S-1], and/or  
16 TWIST’s [IPO] (before and after October 31, 2018), and DESCRIBE in detail the  
17 COMMUNICATIONS with those third parties.

18 **Special Interrogatory No. 247:** IDENTIFY all individuals at AGILENT—  
19 including but not limited to managers, executives (including AGILENT’s CEO,  
20 CFO, or other C-suite executives), and/or directors—who were involved or  
21 otherwise played any part in preparing, reviewing, or approving any  
22 COMMUNICATIONS with the press (e.g., Axios), the SEC, and/or the public  
23 relating to or in any way discussing the October 29, 2018 letter AGILENT sent to  
24 the [SEC], TWIST’s October 2, 2018 [S-1], TWIST’s [IPO], and/or this litigation.

25 **Special Interrogatory No. 248:** IDENTIFY all individuals at AGILENT—  
26 including but not limited to managers, executives (including AGILENT’s CEO,  
27 CFO, or other C-suite executives), and/or directors—who were involved or  
otherwise played any part in the decision(s) to send a letter to the [SEC] about  
TWIST’s October 2, 2018 [S-1] and to publicize that letter through the press and  
AGILENT’s own website.

**Special Interrogatory No. 249:** IDENTIFY the date(s) on which AGILENT first  
discovered that TWIST was planning to make an [IPO], that TWIST had filed its  
October 2, 2018 [S-1], and that the [S-1] contained allegedly “false and/or  
misleading statements,” and IDENTIFY who at AGILENT first made each  
discovery and all COMMUNICATIONS such person had DESCRIBING or  
otherwise relating to such discovery.

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**Special Interrogatory No. 250:** DESCRIBE all facts relating to AGILENT's decision to make public statements regarding TWIST's allegedly "false and/or misleading statements" in its October 2, 2018 [S-1] through a letter to the [SEC] on October 29, 2018, including without limitation the purpose of and motivation(s) underlying the public statements and letter, what AGILENT hoped to gain by making the public statements and sending the letter, how AGILENT expected the public statements and letter would affect TWIST and its [IPO], and why AGILENT did not have any individual employee or representative sign the letter.

**Special Interrogatory No. 251:** DESCRIBE all facts relating to, and all individuals at AGILENT knowledgeable about, AGILENT's awareness of any activities related to preparations for or leading up to TWIST's [IPO] and how AGILENT came to be aware of those activities, including without limitation when AGILENT first learned TWIST might make an [IPO] and how AGILENT came to have this knowledge, when AGILENT first became aware TWIST intended to make an [IPO] in October 2018 and how AGILENT came to have this knowledge, and when AGILENT became aware TWIST was on its [IPO] roadshow and what specifically AGILENT knew about the roadshow and when.

**Special Interrogatory No. 252:** IDENTIFY any and all purchases of TWIST (TWST) stock by AGILENT (including without limitation executives, managers, and/or directors) and/or any of its representatives, agents, brokers, and/or other affiliates. YOUR response shall include without limitation the date of such purchases, the price paid, the quantity of stock purchased, and the purchaser.

With respect to the Seventh Set of RFP, Defendants requested:

**RFP No. 305:** ALL DOCUMENTS and COMMUNICATIONS REGARDING any pricing or valuation of any security interest or share in TWIST, including but not limited to any attempted or actual purchase of such interest or share by AGILENT. (Motion at 4-5.)

On January 15, 2019, Plaintiff responded to the interrogatories and RFP with objections on the grounds of relevance, privilege, and vagueness ambiguity, and that the requests were overly broad. (Motion at 5-6.) A meet and confer took place on January 22, 2019, but it resulted in an impasse. (Motion at 6.)

While the dispute over the interrogatories and RFP was pending, on January 29, 2019, Defendants filed an Answer that alleged affirmative defenses and a Cross-Complaint that

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4 alleges six causes of action against Plaintiff, including defamation, intentional interference with prospective economic advantage, and unlawful and unfair competition based on Plaintiff's allegedly calculated attempt to interfere with the IPO, spread falsehoods about Twist and this litigation, and harm Defendants in the process. (Motion at 2.)

5 On March 1, 2019, Defendants Twist and LeProust filed the current Motion to Compel. Coincidentally, on March 4, 2019, Plaintiff filed an anti-SLAPP Motion.<sup>1</sup> (Opposition at 7.) On March 15, 2019, Plaintiff filed an Opposition to the Motion to Compel, asserting the following grounds: (1) discovery is stayed until the court rules on the anti-SLAPP Motion; (2) the requests are not relevant to the subject matter of the litigation; and (3) the requests are overbroad, unduly burdensome, vague, and seek private information. (Id. at 8-13.)

### 12 III. DISCUSSION

#### 13 A. Effect of Anti-SLAPP Motion

14 Plaintiff's principal opposition to the Motion to Compel is that there exists a statutory prohibition against discovery until the Court rules on its anti-SLAPP Motion.

15 Under California law, upon filing of an anti-SLAPP motion, all discovery proceedings are automatically stayed until notice of entry of the trial court's ruling on the motion absent a showing of good cause. Cal. Code Civ. Proc. § 425.16(g). "The court, on noticed motion and for good cause shown, may order that specified discovery be conducted notwithstanding this subdivision." Id.; see also Braun v. Chronicle Publ'g Co., 52 Cal. App. 4th 1036, 1052 (1996) (requiring showing of good cause). Good cause for specified discovery has been defined by the courts as a "timely and proper showing in response to the motion to strike that a

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27 <sup>1</sup> The anti-SLAPP Motion is scheduled to be heard by Judge Walsh on May 3, 2019. (Ehlers Decl. Ex. B, Agilent's Notice of Motion and Special Motion to Strike Pursuant to C.C.P. § 425.16.)

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defendant or witness possesses evidence needed by plaintiff to establish a prima facie case.”  
Schroeder v. Irvine City Council, 97 Cal. App. 4th 174, 191 (Cal. Ct. App. 2002); see also, Britts  
v. Superior Court, 145 Cal. App. 4th 1112, 1125 (Cal. Ct. App. 2006) (“[C]ase law has  
interpreted good cause in this context to require a showing that the specified discovery is  
necessary for the plaintiff to oppose the motion and is tailored to that end.”); Price v. Stossel,  
590 F. Supp. 2d 1262, 1266 (C.D. Cal. 2008) (“To satisfy the ‘good cause’ standard, the  
opposing party must make a timely showing that evidence [known to defendant]. . . would  
defeat the motion to strike by demonstrating that the plaintiff has ‘establish[ed] a *prima facie*  
case.’ [Citation.]

The opposing party also must request ‘specified discovery.’”) (quoting Lafayette  
Morehouse, Inc. v. Chronicle Pub. Co., 37 Cal. App. 4th 855, 868 (1995)). In order to defend  
against an anti-SLAPP motion, the plaintiff (or cross-complainant) must make a showing of  
*prima facie* viability in order to proceed with its claims. Britts, 145 Cal. App. 4th at 1127. The  
courts have found that the purpose of the mandatory discovery stay imposed by section  
425.16 is to prevent unnecessary expenses and burden to the defendant early on in an action  
should the anti-SLAPP motion be successful; therefore, even motions to compel discovery  
filed prior to an anti-SLAPP motion may be stayed, because of the possibility of parties filing  
burdensome discovery requests immediately after filing a complaint, prior to the 60-day  
window for a defendant’s motion under section 425.16. Id.

Defendants contend that Plaintiff’s anti-SLAPP Motion is a red herring because the  
information requested plainly relates to the subject matter of Plaintiff’s Second Amended  
Complaint and Defendants’ affirmative defenses, which were asserted well before Defendants’  
Cross-Complaint and the issues raised in Plaintiff’s Special Motion to Strike. (Reply at 5.)

1 Further, Defendants contend that the discovery sought “directly relates” to their Cross-  
Complaint. (Motion at 10.)<sup>2</sup>

2 Ordinarily, the Referee would be disposed to deny a motion to compel discovery  
3 pertinent to an anti-SLAPP motion made before the Court has ruled on the anti-SLAPP motion.  
4 Here, however, the Referee is faced with the anomaly of an anti-SLAPP Motion that was filed  
5 in response to an action filed after the discovery was propounded, and after the Motion to  
6 Compel had already been made. Thus, the Referee has an issue of first impression, namely,  
7 whether “good cause” is the measure of equity in these circumstances. In the interest of  
8 judicial economy, the Referee considers the merits of the Motion without regard to the anti-  
9 SLAPP objection. In other words, the Referee considers whether to compel the discovery  
10 based on whether it is relevant to the operative complaint and defenses in this lawsuit,  
11 independent of the causes of action that are the subject of the anti-SLAPP Motion.  
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14 **B. Motion to Compel**

15 Defendants assert the following grounds to compel: (1) California favors broad  
16 discovery defined by the subject matter rather than the claims and defenses; (2) the discovery  
17 sought is unquestionably relevant to the subject matter of the litigation, cross-claims, and  
18 affirmative defenses asserted; and (3) Plaintiff’s other objections (vagueness, privilege, form,  
19 overbreadth, undue burden, and privacy) are meritless. (Motion at 8-12.) In addition,  
20 Defendants seek an award of fees pursuant to California Code of Civil Procedure §§  
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25 <sup>2</sup> Defendants also contend that the anti-SLAPP Motion is untimely, because Plaintiff was  
26 statutorily required to provide the requested discovery weeks before Defendants filed the  
27 Cross-Complaint on January 29, 2019 and months before Plaintiff filed the anti-SLAPP Motion  
on March 4, 2019. (Reply at 6.) The consideration of this issue is within the province of the  
Court. Thus, the Referee leaves this issue to be resolved by Judge Walsh.

1 2030.300(d), 2023.030(a) for having filed this Motion, contending that Plaintiff's behavior here justifies an award. (Motion at 13.)

2 Independent of the anti-SLAPP ground, Plaintiff generally objects to these  
3 interrogatories and RFPs on grounds of relevance (to both the subject matter of the litigation  
4 and Defendants' affirmative defenses,) privilege, broadness, undue burden, and that the  
5 requests are vague. The Referee discusses these grounds in turn.  
6

7 **1. Relevance**

8 Defendants seek the facts and circumstances of Plaintiff's statements to third parties  
9 about the litigation, and contend that this information is relevant to both the subject matter of  
10 the litigation and to its affirmative defenses. (Motion at 8.) Plaintiff contends that the  
11 interpretation of relevance asserted by Defendants would be so broad as to be unlimited; it  
12 would allow for an infinite discovery process. (Opposition at 10.) Plaintiff contends that the  
13 claims in Plaintiff's SAC focus entirely on actions that were taken before Plaintiff made  
14 statements to the SEC and the press, and that none of the requested information has any  
15 bearing on the allegations made in Plaintiff's complaint. (Id. at 11.)  
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18 "Liberal use of interrogatories for the purpose of clarifying and narrowing the issues  
19 made by the pleadings should be permitted and encouraged by the courts." (4 Moore, Federal  
20 Practice (2d ed.) ¶ 33.17 at 2311-2312.); see also Singer v. Superior Court, 54 Cal. 2d 318  
21 (1960).  
22

23 Here, Defendants contend that Plaintiff's statements to the SEC and to the press  
24 regarding allegations or facts relating specifically to this litigation, and the claims in Plaintiff's  
25 SAC, are relevant to the subject matter of the litigation. (Motion at 9.) The allegations made  
26 by Plaintiff therein directly relate to its claims. (Id.) In addition, Defendants argue that, the  
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discovery sought is relevant to Defendants' affirmative defenses, such as an "unclean hands" defense. (Motion at 11.) Plaintiff contends that "[t]he misconduct that brings the unclean hands doctrine into play must be related directly to the transaction concerning which the complaint is made." (Opposition at 11, citing Kendall-Jackson Winery, Ltd. v. Superior Court, 76 Cal. App. 4th 970, 984 (1996).) Thus, Plaintiff contends that no such direct relation exists here. (Opposition at 11.) Moreover, Plaintiff argues that its statements to third parties about the current lawsuit are not relevant to the determination of whether Plaintiff originally filed its lawsuit in bad faith. (Opposition at 12.)

A plaintiff's improper post-litigation actions *may* form the basis for an "unclean hands" defense. See, e.g., DD Hair Lounge, LLC v. State Farm Gen. Ins. Co., 20 Cal. App. 5th 1238, 1246 (2018) (finding improper post-litigation conduct by plaintiffs proved it acted with "unclean hands," and affirming dismissal of case based on the same); see also, Blain v. Doctor's Co., 222 Cal. App. 3d 1048, 1058, 1063 (1990) (post-litigation conduct at deposition can support finding of unclean hands).

Based on the record before the Referee, the Referee makes no factual finding as to whether the information sought in these interrogatories and RFPs will support an "unclean hands" or any other affirmative defense. However, the Referee concludes that the information sought is potentially relevant to information Defendants may require to conduct depositions and examination of witnesses. Thus, the Referee is persuaded that for the purposes of discovery, the information sought may "reasonably assist" Defendants in evaluating the case, preparing for trial, or facilitating settlement. Therefore, the Referee rejects Plaintiff's argument that the subject matter of the interrogatories and RFPs are irrelevance.

## 2. Privilege

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2 Plaintiff presents additional objections to Defendants' interrogatories and RFPs. First,  
3 Plaintiff contends that Defendants seek privileged information. (Opposition at 13.) Plaintiff  
4 contends that its lawyers were involved in preparing the SEC letter, and thus information  
5 related to its preparation is privileged. (Id.) Further, Plaintiff contends that the requests seek  
6 information conveyed to company lawyers, which is also privileged. (Id.) Defendants argue  
7 that the facts surrounding this disclosure (what was disclosed and the identities of the people  
8 involved in its disclosure) are not protected by privilege. (Motion at 9.)

9  
10 When a responding party objects to all or part of an interrogatory, "the specific ground  
11 for the objection shall be set forth clearly in the response. If an objection is based on a claim  
12 of privilege, the particular privilege invoked shall be clearly stated." Cal. Code Civ. Proc. §  
13 2030.240(b). Further, the fact that a communication took place, and the time, date, and  
14 participants in the communication are not protected by attorney-client privilege. State Farm  
15 Fire Casualty Co. v. Superior Court, 54 Cal. App. 4th 625, 639 (Cal. Ct. App. 1997) ("[T]he  
16 attorney-client privilege only protects disclosure of communications between the attorney  
17 and the client; it does not protect disclosure of underlying facts which may be referenced  
18 within a qualifying communication.") Finally, that a client gave evidence to its attorney may  
19 be privileged, but that does not necessarily render the information, document, or object itself  
20 privileged merely because it was given to an attorney. Id. (citing People v. Lee, 3 Cal. App. 3d  
21 514 (Cal. Ct. App. 1970)).

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24 Upon consideration, the Referee concludes that the "identities" of individuals sought in  
25 Defendants' Fifth Set of Interrogatories are not subject to privilege. Although there are  
26 exceptions in California law that render identities privileged, such as criminal informants or  
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journalist's confidential sources, those exceptions do not apply in this case. Therefore, the Referee rejects Plaintiff's argument that the subject matter of the interrogatories and RFPs are privileged information.

### 3. Objections to Overbroad, Unduly Burdensome, or Vague Requests

Defendants contend that Plaintiff fails to justify its objections on overbroad or unduly burdensome grounds. (Motion at 13.) Further, Defendants contend that the nature of their requests is not on its face vague. (Id. at 12.) Specifically, Defendants contend that the following terms have plain English meanings and thus, are not vague: "in contact," "involved," "decision," and "purpose and motivation." (Id.)

Interrogatories are designed to permit discovery of all facts "presently known to a defendant [or cross-defendant] upon which it predicates its defenses." Durst v. Superior Court, 218 Cal. App. 2d 460, 464-465 (1963). Indeed, in Clement v. Alegre, 177 Cal. App. 4th 1277 (2009), the California Court of Appeals warned against "nitpicking and meritless objections," as an effort to impede the self-executing operation of the Civil Discovery Act.

Here, in review of Plaintiff's responses to Defendants' interrogatories, Plaintiff does not appear to have responded specifically to Special Interrogatory Nos. 246-252, but rather, provided general objections of overbroad, unduly burdensome, or vague requests along with its relevance objections. (See Bramhall Decl., Exs. F and G (Under Seal).) The Referee finds no reason why Defendants' interrogatories and RFPs as propounded should not be permitted under the principle regarding discovery as articulated in Durst. Indeed, some of Plaintiff's answers and objections consist solely of a disfavored overbroad, burdensome and vagueness statements which give Defendants no guidance whatsoever regarding what specific matters are legitimately objected to. At the same time, the Referee also finds that some of the

1 interrogatories are overly broad. Accordingly, the Referee GRANTS in-part and DENIES in-  
2 part Defendants' Motion to Compel, as set forth for each interrogatory at the conclusion of this  
3 Order.

4 **C. Defendants' Request for Fees and Costs**

5 Defendants request the Referee to award monetary sanctions in the form of its  
6 attorney fees and costs in bringing this Motion, pursuant to Code Civ. Proc. §§ 2030.290(c),  
7 2030.300(d), and 2033.290(d).

8 Section 2030.330(d) provides: "The court shall impose a monetary sanction under  
9 Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who  
10 unsuccessfully makes or opposes a motion to compel a further response to interrogatories,  
11 unless it finds that the one subject to the sanction acted with substantial justification or that  
12 other circumstances make the imposition of the sanction unjust."  
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14 Based on the totality of the circumstances and the record before the Referee, the  
15 Referee finds that Plaintiff acted with substantial justification when refusing to respond to the  
16 discovery at issue in this Motion. With its anti-SLAPP Motion pending, and concerns about  
17 privilege, the Referee finds that a sanction in the form of fees and costs are not warranted  
18 against Plaintiff at this time.  
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21 **IV. CONCLUSION**

22 The Referee GRANTS in-part and DENIES in-part Defendants' Motion to Compel  
23 interrogatory responses and RFP 305 as follows:

24 **Special Interrogatory 246:** The Referee GRANTS the motion to compel a response to  
25 No. 246 with respect to identification of third parties with whom Plaintiff or any of its  
26 representatives, agents, brokers, and/or other affiliates have been in contact regarding the  
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October 29, 2018 letter Plaintiff sent to the [SEC], the statements made in that letter regarding TWIST's October 2, 2018 [S-1], and/or TWIST's [IPO] (before and after October 31, 2018). To the extent that the details of communications sought are subject to privilege, Plaintiff shall provide in its response the particular privilege invoked pursuant to Cal. Code Civ. Proc. § 2030.240(b).

**Special Interrogatory 247:** The Referee GRANTS the motion to compel Plaintiff to identify all individuals at PLAINTIFF—including but not limited to managers, executives (including AGILENT's CEO, CFO, or other C-suite executives), and/or directors—who were involved or otherwise played any part in preparing, reviewing, or approving any COMMUNICATIONS with the press (e.g., Axios), the SEC, and/or the public relating to or in any way discussing the October 29, 2018 letter AGILENT sent to the [SEC], TWIST's October 2, 2018 [S-1], TWIST's [IPO], and/or this litigation.

**Special Interrogatory 248:** The Referee GRANTS the motion to compel Plaintiff to identify all individuals at Plaintiff—including but not limited to managers, executives (including AGILENT's CEO, CFO, or other C-suite executives), and/or directors—who were involved or otherwise played any part in the decision(s) to send a letter to the [SEC] about Twist's October 2, 2018 [S-1] and to publicize that letter through the press and Plaintiff's own website.

**Special Interrogatory 249:** The Referee GRANTS the motion to compel Plaintiff to identify the date(s) on which Plaintiff first discovered that Twist was planning to make an [IPO], that TWIST had filed its October 2, 2018 [S-1], and that the [S-1] contained allegedly "false and/or misleading statements," and to whom Plaintiff first made each discovery. To the extent that the details of communications sought are subject to privilege, Plaintiff shall

1 provide in its response the particular privilege invoked pursuant to Cal. Civ. Code Proc. §  
2030.240(b).

2           **Special Interrogatory 250:** The Referee DENIES the motion to compel with respect  
3 to “all facts” relating to Plaintiff’s decision to make public statements leading up to Twist’s IPO  
4 in October 2018, due to an overly broad and unduly burdensome request. Defendants may  
5 seek the information requested more narrowly with other discovery methods upon learning  
6 the identities of the individuals involved at Plaintiff through the other responses compelled by  
7 this Order.  
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9           **Special Interrogatory 251:** The Referee DENIES the motion to compel with respect  
10 to “all facts” relating to, and all individuals at Plaintiff knowledge about, Plaintiff’s awareness  
11 of any activities related to preparations for or leading up to Twist’s [IPO] and how Plaintiff  
12 came to be aware of those activities, due to an overly broad and unduly burdensome request.  
13 Defendants may seek the information requested more narrowly with other discovery  
14 methods upon learning the identities of the individuals involved at Plaintiff through the other  
15 responses compelled by this Order.  
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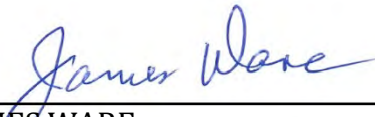
17           **Special Interrogatory 252:** The Referee GRANTS the motion to compel Plaintiff to  
18 identify any and all purchases of Twist (TWST) stock by Plaintiff (including without limitation  
19 executives, managers, and/or directors) and/or any of its representatives, agents, brokers,  
20 and/or other affiliates. The response shall include without limitation the date of such  
21 purchases, the price paid, the quantity of stock purchased, and the purchaser. To the extent  
22 that the details sought are subject to privilege, Plaintiff shall provide in its response the  
23 particular privilege invoked pursuant to Cal. Code Civ. Proc. § 2030.240(b).  
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**Request for Production 305:** The Referee GRANTS the motion to compel Plaintiff to produce all documents and communications regarding any pricing or valuation of any security interest or share in Twist, to the extent it is not duplicative with the response compelled for Special Interrogatory 252. To the extent that the details sought are subject to privilege, Plaintiff shall provide in its response the particular privilege invoked pursuant to Cal. Code Civ. Proc. § 2030.240(b).

All production requirements, as set forth above, shall be completed on or before **May 15, 2019**.

Dated: April 25, 2019

  
\_\_\_\_\_  
JAMES WARE  
UNITED STATES DISTRICT JUDGE (RET.)  
DISCOVERY REFEREE