UNITED STATES OF AMERICA ORIGINAL
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

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In the Matter of)
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McWANE, INC.,)
a corporation, and) DOCKET NO. 9351
)
STAR PIPE PRODUCTS, LTD.,)
a limited partnersj 105 Tc 0.684 0 Td�(limitp7o8/BDC �/T1_2 1 Tf�0 Tc 11.2 0 0 11.2 328.6 5566.52BDCe.C8

a)(.ice 3.35(a)(1) is the same in this regard as Federal Rule

ofCivil

discrete when it is logically or factually independent ofthe question posed by the basic interrogatory." In re Dynamic Health ofFlorida, 2004 FTC LEXIS 254 (Dec. 9,2004) (citations omitted); accord In re Polypore Int'l, 2008 FTC LEXIS 155, at *3-4 (Nov. 14,2008). If interrogatory subparts "are logically or factually subsumed within and necessarily related to the primary question," they are to be counted as one interrogatory. Safeco ofAmerica v. Rawston, 181 F.R.D. 441, 445 (C.D. Cal. 1998), citing Kendall v. GES Exposition Services, 174 F.R.D. 684 (D. Nev. 1997). See also Kendall v. GES Exposition Serv., Inc., 174 F.R.D. 684, 685 (D. Nev. 1997) ("Genuine subparts should not be counted as separate interrogatories."); Banks v. Office ofthe Senate Sergeant-at-Arms, 222 F.R.D. 7, 10 (D.D.C. 2004) (noting that subparts related to a single topic are considered part ofthe same interrogatory). 1

III. Analysis

The only issue presented by the Motion and Opposition is the appropriate calculation of
the number ofinterrogatories contained in Interrogatories 1,6 and 10, which are set forth verbatim below. Complaint Counsel contends that Interrogatory No.1 presents no more than two interrogatories, while Respondent contends that this Interrogatory presents four discrete subparts. Complaint Counsel contends that Interrogatories 6 and 10 each presents only one interrogatory, while Respondent argues that each interrogatory presents two interrogatories. Respondent contends that, if the number ofdiscrete subparts in Interrogatories 1, 6, and 10 are properly calculated, it has no obligation to answer Interrogatories 13 through 16 because they exceed the 25 interrogatory limit.

A. Interrogatory No.1

Interrogatory 1 states:

Identify each current or former employee ofthe Company who has or had any management or supervisory responsibilities or duties with respect to pricing of
any Relevant Product, including without limitation: involvement in marketing,
sales, distribution, or influencing list prices, catalog prices, multiplier prices, project discounts or any form ofrebates; or who has had any Communication with any Competitor; and for each such current or former employee ofthe Company, provide:

a. The business and home telephone numbers and telephone service
providers ofeach voice, facsimile or cellular line assigned to or used for
any business purpose by each employee (whether exclusive or not), and
the period during which each such number was assigned to or used by the
employee; and,

1 Where, as in this case, the Federal Rules ofCivil Procedure are similar to the Commission's Rules ofPractice, those rules and case law interpreting them are useful, though not controlling, in adjudicating a dispute. In re L. G. Balfour Co., No. 8435, 61 F.T.C. 1491, 1492, 1962 FTC LEXIS 367, *4 (Oct. 5, 1962); In re Gemtronics, Inc., 2010 FTC LEXIS 40, *10 (ApriI27, 2010).

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b. Each business and home telecopier and electronic mail identifier
assigned to or used for business purpose by the employee (whether
exclusive or not) and the period during which each such identifier was
assigned to or used by the employee.

The parties agree that the foregoing interrogatory requests identification for two distinct classes ofpersons - employees with responsibility for electroni

for arriving at the number requested by the interroga:tory is not �C�l�~�d�i�n�g� discrete, or "stand alone" . \. ' . . . questIOns. ' . , '>:

Respondent relies on Pot/uri v. Yalamanchili, 2007'U.S: DisC LEXIS 29238 (E.D. Mich.
Apr. 20, 2007), in which the court held that an interrogatory asking to set forth all business interests held by the plaintiff, as well as for the nature ofthe interest and the location of the business, requested discrete pieces ofinfonnation. Respondent also cites Trevino v. ABC Am., Inc., 232 F.R.D. 612, 614 (N.D. Cal. 2006), in which it was held that a single interrogatory requesting identification of each expert witness, the subject matter on which the expert was expected to testify, the substance ofthe facts and opinions to which the expert would testify, a
summary ofthe grounds for each expert opinion, and the expert's qualifications presented three
discrete subparts.

Respondent's cited authorities are not sufficiently analogous, on the facts or the
applicable law, and, thus, are not persuasive. In this case, the primary question in both
Interrogatories 6 and 10 presents a single topic - Respondent's efficiency defenses. See Banks,
222 F.R.D.0 Td (20 8)Tj 4i9Tj n52 1 Tf 0.0016 Tc 2ca45184Da40123 Tc 3.4i9Tj n5287 523.45 Tions F.R.'s would 24T