UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

VIREO X-RAY MICROSCOPY, INC., Plaintiff, v. CORVANE, INC., Defendant.	Case No. 4:26-cv-0000-[XYZ] (JQD) **JOINT DISCOVERY LETTER BRIEF REGARDING VIREO'S RESPONSE TO CORVANE'S INTERROGATORY NO. 1 (IDENTIFICATION OF ASSERTED TRADE SECRETS)** Judge: Hon. John Q. Doe DISCOVERY MATTER UNREDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED [HYPOTHETICAL DRAFT — NOT FOR FILING][1]

[1] This is a fictional scenario created for training purposes only.

Dear Judge Doe:

Pursuant to Section 5 of the Court's Civil Standing Order, Defendant Corvane, Inc. ("Corvane") and Plaintiff Vireo X-Ray Microscopy, Inc. ("Vireo") submit this joint statement regarding Vireo's response to Corvane's Interrogatory No. 1. Counsel met and conferred by videoconference on October 28, 2026, but could not resolve the dispute. The interrogatory and Vireo's response are attached as Exhibits.

I. UNRESOLVED ISSUE

Vireo asserts trade secret misappropriation solely under the Defend Trade Secrets Act ("DTSA"), along with patent infringement and unfair competition. Corvane contends that Vireo's response to Interrogatory No. 1, which incorporates Vireo's First Amended Identification of Trade Secrets, does not identify the asserted trade secrets with sufficient particularity, and seeks a further response. Vireo contends its response is sufficient and that Corvane must produce the technical documents required by the Case Management Order. Lead counsel met and conferred but reached an impasse.

II. CORVANE'S POSITION AND FINAL PROPOSED COMPROMISE

A. Background

Dr. Jane Smith founded Photonova, Inc. in 2010. Vireo Optik AG acquired Photonova in 2013, forming Vireo; Dr. Smith left on July 31, 2023, and co-founded Corvane two days later. Dkt. No. XX ¶¶ YY-ZZ. Vireo alleges that Corvane's Lumen-X and Spectra x-ray microscopes contain condenser lenses and scintillators manufactured and qualified with misappropriated trade secrets. *Id.* ¶¶ AA–BB.

Interrogatory No. 1 asks Vireo to identify each asserted trade secret with particularity as a separately numbered item. Ex. X. Vireo answered by incorporating its trade secret identification, served June 23, 2026, and—after Corvane's July 6 deficiency letter—its First Amended Identification of August 6, 2026. *Id.*; Ex. Y.

The amended response is a 46-page narrative that incorporates 40 documents totaling more than 600 pages. It does not number a single trade secret, and Vireo maintains that numbering them would be "impractical." It declares that a 17-node flow chart "and any portions thereof" are trade secrets; that each sub-step of a 20-step procedure with more than 100 numbered elements "is a Vireo trade secret," as is "the combination of one or more of these sub-steps"; that unidentified "other documents and records relevant to the described process" are trade secrets; and that its examples are "provided for illustrative purposes." Ex. X. Several incorporated documents discuss issued patents and decades-old publications.

B. This is an ordinary Rule 33 dispute, and *Quintara* governs it

While *Quintara Biosciences, Inc. v. Ruifeng Biztech, Inc.*, held that the "DTSA does not set out requirements for the specific timing or scope for identifying trade secrets," it simultaneously confirmed that "the conventional procedures under the Federal Rules of Civil Procedure apply" to such identifications. 149 F.4th 1081, 1089 (9th Cir. 2025). *Quintara* explains that trade secret discovery proceeds through an "iterative process where requests between parties lead to a refined and sufficiently particularized trade secret identification," *id.* at 1088 (quoting *InteliClear, LLC v. ETC Glob. Holdings, Inc.*, 978 F.3d 653, 662 (9th Cir. 2020)), and that the Federal Rules "equip a district court to manage this 'delicate problem' with broad Rule 16 pretrial management powers," including orders under Rules 26(c)(1)(G) and 26(d)(3). *Id.* at 1088, 1090. Corvane does not ask the

Court to decide whether any trade secret ultimately exists—a fact question reserved for summary judgment or trial, *id.* at 1087—or to strike anything. It asks for a complete interrogatory answer, the discovery-stage step that has stalled here.

C. Vireo's answer is incomplete under the FRCP's conventional procedures

Each interrogatory must be answered "separately and fully." Fed. R. Civ. P. 33(b)(3). An "evasive or incomplete" answer "must be treated as a failure to . . . answer." Fed. R. Civ. P. 37(a)(4). A party answering by reference to documents must specify them "in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could." Fed. R. Civ. P. 33(d)(1). For trade secrets, the claimant "should describe the subject matter of the trade secret with sufficient particularity to separate it from matters of general knowledge in the trade or of special knowledge of those persons . . . skilled in the trade." *InteliClear*, 978 F.3d at 658 (quoting *Imax Corp. v. Cinema Techs., Inc.*, 152 F.3d 1161, 1164–65 (9th Cir. 1998)). Vireo's answer fails these standards in four ways.

First, Vireo's trade-secret identification has no boundaries. By declaring that the document excerpts are "illustrative" of a "full scope" found elsewhere, Vireo leaves Corvane to guess what is claimed. *Second*, its combination language is limitless. The response refers to a flow chart and "any portions thereof" and "one or more" of more than 100 sub-steps leading to innumerable potential combinations. While multi-step processes may be trade secrets, *see Genentech, Inc. v. JHL Biotech, Inc.*, No. C 18-06582 WHA, 2019 WL 1045911, at *17–18 (N.D. Cal. Mar. 5, 2019), a plaintiff must identify which combinations it claims. *See Waymo LLC v. Uber Techs., Inc.*, No. C 17-00939 WHA, 2017 WL 5000352, at *8 (N.D. Cal. Nov. 2, 2017) (disclosure "placed defendants in the untenable position of having to prove that hundreds of subparts" were not secret or not used); *Via Techs., Inc. v. Asus Comput. Int'l*, No. 14-cv-03586-BLF, 2016 WL 1056139, at *3 (N.D. Cal. Mar. 17, 2016). *Third*, Vireo's response incorporates 600 pages wholesale, plus unspecified "other documents and records" never identified; this document identification lacks sufficient specificity under Rule 33(d). While a trade secret identification "may include a reference to a specific document or portion of a document," the secret itself must be described. *Alta Devices, Inc. v. LG Elecs., Inc.*, No. 18-cv-00404-LHK (VKD), 2019 WL 176261, at *3 (N.D. Cal. Jan. 10, 2019). *Fourth*, by sweeping in documents that discuss patents and publications, the answer fails to separate any secret from public knowledge, as *Imax* requires.

These defects matter because Corvane cannot investigate public availability, independent development, or ready ascertainability for a secret it cannot locate. Courts in this District have required list form where a narrative made it "difficult for the reader to discern what the trade secret actually is." *Alta Devices*, 2019 WL 176261, at *2. The same relief is warranted here.

D. The requested order is the measured relief *Quintara* endorses

Quintara reversed an order striking nine trade secrets as a "harsh penalty." 149 F.4th at 1090. Corvane's request is fundamentally different: it seeks no striking and no dismissal. It seeks a complete answer by a date certain, with notice that the answer will define the case going forward.

Corvane's final proposed compromise: Within 21 days, Vireo shall serve a further response to Interrogatory No. 1 that (1) sets out each asserted trade secret, not to exceed 50, with further narrowing to be addressed at a later case management conference; (2) for each multi-step process or combination, states whether the whole is claimed and separately numbers any step or sub-combination independently claimed; (3) omits "for example," "including," "any portions thereof," and similar catch-all language; (4) cites incorporated documents by production number and page, paragraph, or line, and relies on no unproduced document; and (5) excludes material the cited documents identify as patented or published. Corvane will produce the technical documents required by Dkt. No. 58 within ten days of service.

III. VIREO'S POSITION AND FINAL PROPOSED COMPROMISE

A. Corvane seeks relief that *Quintara* rejected

"[T]he federal DTSA does not require a plaintiff to identify with particularity its alleged trade secrets from the start." *Quintara Biosciences, Inc. v. Ruifeng Biztech, Inc.*, 149 F.4th at 1085. The DTSA sets no "requirements for the specific timing or scope for identifying trade secrets." *Id.* at 1089. And "[w]hether a trade secret is identified with 'sufficient particularity' is a question of fact," *id.* at 1087, that "is usually a matter for summary judgment or trial," *id.* at 1085. Courts in this District have since declined to condition DTSA discovery on a pre-discovery identification. *See Tesla, Inc. v. Proception, Inc.*, No. 25-cv-04963-SVK, 2025 WL 3187569, at *5 (N.D. Cal. Nov. 14, 2025) ("the DTSA thus does not require a disclosure compliant with Section 2019.210"); *Oracle Am., Inc. v. Procore Techs., Inc.*, No. 24-cv-07457-JST, 2026 WL 266506, at *1 (N.D. Cal. Feb. 2, 2026) (denying motion to compel trade secret disclosure). Corvane has produced nothing since the May 20, 2021 Case Management Conference: not the structural documents relevant to Vireo's patent claims, and not the manufacturing documents relevant to its trade secret claim. Thus, Corvane effectively asks the Court to adjudicate the sufficiency of Vireo's identification as a precondition to discovery, and that is precisely the relief *Quintara* rejected.

B. Vireo's answer identifies its trade secrets in detail

Vireo identifies three manufacturing processes—for x-ray condenser lenses, x-ray detectors, and zone plate lenses—and specific image-quality algorithms, and it incorporates the Standard Operating Procedures and source code that record each step and algorithm. Ex. B §§ I.A–I.D & Exs. 2–35. That exceeds the disclosure found sufficient, even for provisional relief, in *Genentech*, where the plaintiff claimed "each individual protocol, procedure, specification, and acceptance criterion" *and their combinations* by reference to exemplary process descriptions. 2019 WL 1045911, at *17–18. And "there is no requirement that [a plaintiff] use any particular form to identify its trade secrets." *Alta Devices*, 2019 WL 176261, at *2.

Corvane's real complaint is that Vireo disclosed *too much* detail. But Corvane's counsel has full access to Corvane's own processes and can themselves investigate any public-domain or independent-development defense. *See Proofpoint, Inc. v. Vade Secure, Inc.*, No. 19-cv-04238-MMC (RMI), 2020 WL 1911195, at *7 (N.D. Cal. Apr. 20, 2020) (rejecting "bare complaints" that a disclosure did not separate trade secrets from public knowledge absent a showing of how that hindered the defense). Corvane's reference to innumerable combinations confuses detail with breadth: Vireo asserts three manufacturing processes and their algorithms as trade secrets, and the fact that each is recorded step by step is what particularity requires, not a defect. Several exhibits are background documents that Vireo does not claim as trade secrets. And Vireo's "illustrative" language refers to examples drawn from process documents that themselves set out the full process.

C. Corvane's proposed cap and sequencing would invert *Quintara*

Corvane asks the Court to force Vireo to pick 50 trade secrets, and specific sub-combinations of its processes, before Corvane has produced a single page. That is blind narrowing. Because Corvane's manufacturing processes are not public, Vireo cannot know which steps Corvane took until Corvane produces its documents. *Quintara*'s "iterative process," 149 F.4th at 1088, runs both ways: a plaintiff refines its identification in light of discovery. Requiring Vireo to abandon trade secrets before discovery invites the very error *Quintara* reversed.

Vireo's final proposed compromise: Corvane should produce the technical documents required within ten days of the Court's order. Within 30 days after that production, Vireo will serve a supplemental response to Interrogatory No. 1 that numbers its trade secrets by process and algorithm and identifies the specific steps and parameters it then contends Corvane used.