IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

UNITED STATES, Plaintiffs, v. ENVIGO RMS, LLC, Defendant.	Case No. 6:22-cv-28-NKM

ENVIGO'S OPPOSITION TO THE UNITED STATES' MOTION FOR CLARIFICATION

While styled as a motion for "clarification," the United States in fact seeks to undo a key component of the Court's ruling from last Friday. The Court's Order clearly allows Envigo to "transfer animals to fulfill . . . 'existing contracts' . . . defined to include only [those] contracts (1) executed prior to the date the Court's TRO was issued (May 21, 2022) and (2) for animals bred in the Cumberland facility." ECF 21 at 8. The Court found that the United States' requested restriction on Envigo's right to fulfill existing orders was neither equitable nor tailored to prevent harm, and nothing in the United States' motion provides a basis for the Court to modify this ruling.

First, the claim that Envigo misrepresented anything in its prior filings is entirely unsupported. Previously, Envigo explained that "[p]ermitting Envigo to remove dogs from the facility by fulfilling existing contractual commitments, for example, would allow Envigo to transfer more than 500 dogs to new homes within the next 30 days." ECF 18 at 5. This was accurate. The documents provided to counsel for the United States confirm that 575 beagles

housed at the Cumberland facility are scheduled for shipment within 30 days of the June 13 preliminary injunction hearing.[1]

Second, as Envigo has repeatedly informed counsel, Envigo plans to make all dogs remaining at the Cumberland facility after it has fulfilled existing contracts available for adoption. Given the disruptions to fulfilling orders, the specific number of dogs available for adoption will depend on the number of dogs actually accepted by customers under existing contracts. Because of the restrictions imposed by the Court Order, it is not entirely clear how many beagles will be transferred pursuant to existing orders and how many will remain for adoptions. This will be sorted in the coming days as soon as Envigo is permitted to begin order fulfillment.

Third, the United States' position that existing orders for beagles bred at the Cumberland facility should not be filled because some of those orders include the name of a sister company to Envigo RMS, LLC is irrelevant. Envigo RMS, LLC and Envigo Global Service, Inc. are both wholly-owned subsidiaries of Inotiv, Inc. The name of the specific Envigo entity listed on the contracts provided to the United State has *no bearing* on the issues before the Court. As Envigo has repeatedly informed the United States, the Cumberland Facility is its only beagle breeding operation—a facility Envigo is working hard to wind down in response to the United States' lawsuit. There is no doubt that the 91 purchase orders provided to counsel for the United States are for beagles bred at the Cumberland facility. ECF 25-1 ¶ 6.

Fourth, the United States takes the untenable position that the Court's Order allows shipments only to American companies. The United States seeks to prevent Envigo from

[1] These existing contracts—all of which are dated before May 21, 2022—also cover additional beagles that were to be delivered in the future—beyond those first 30 days.

fulfilling orders for customers in France, Japan, and the Netherlands. Fighting disease and protecting public health are issues without borders. Allowing Envigo to fulfill existing contracts regardless of the nationality of the customer who placed those orders serves the important public interest of providing purpose-bred beagle dogs for essential biomedical research and lifesaving drug development.

CONCLUSION

For the reasons stated above, Envigo respectfully requests that the Court deny the United States' motion for clarification and allow Envigo to proceed with fulfilling existing customer orders.

Dated: June 24, 2022

Respectfully submitted,

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