

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CYTIVA SWEDEN AB, and
GLOBAL LIFE SCIENCES
SOLUTIONS USA LLC,

Plaintiff,

v.

BIO-RAD LABORATORIES, INC.,

Defendant.

Civil Action No. 18-1899-CFC-SRF
Consolidated

MEMORANDUM ORDER

Pending before me is Plaintiffs' Motion for Summary Judgment. D.I. 175. In their concise statement of undisputed material facts filed in support of their motion, Plaintiffs state that "[e]ach NGC model can accommodate any module, regardless of whether a module comes standard with a particular system." D.I. 181 ¶ 22. In support of this statement of fact, Plaintiffs cite Table 9 of the NGC Chromatography Systems and ChromLab Software Instrument Guide. *See* D.I. 181 ¶ 22 (citing D.I. 181-6 at 87–88). Defendant Bio-Rad Laboratories, Inc. denies this asserted fact, and it too relies on Table 9 of the NGC Guide in support of its position. D.I. 219 ¶ 22.

Table 9, depicted below, appears on its face to show that each NGC module cannot accommodate any module. The NGC Scout module, for example, does not

appear to accommodate seven modules and the NGC Quest module does not appear to accommodate nine modules.

Table 9. NGC chromatography system configurations

Module	NGC Quest	NGC Scout	NGC Discover	NGC Discover Pro
Sample injection valve	✓	✓	✓	✓
Single-wavelength UV and conductivity monitor (Available on the NGC Quest and NGC Scout systems only)	✓	✓		
Multi-wavelength UV/Vis and conductivity monitor (Available on all NGC systems)	✓	✓	✓*	✓*
System pumps A and B	✓	✓	✓	✓
Mixer	✓	✓	✓	✓
pH valve		✓	✓	✓
Buffer blending valve		✓	✓	✓
Column switching valve 1			✓	✓
Sample pump			✓	✓
Buffer inlet valves A and B			✓	✓
Third expansion tier			✓	✓

Table 9. NGC chromatography system configurations, continued

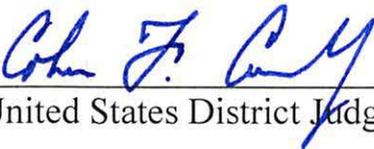
Module	NGC Quest	NGC Scout	NGC Discover	NGC Discover Pro
Fourth expansion tier				✓
Sample inlet valve 1				✓
Outlet valve 1				✓

*Only the multi-wavelength UV/Vis detector is available in the NGC Discover series.

Because there is a disputed fact that Plaintiffs have said is material to their motion for summary judgment, I will deny the motion. *See Anderson v. Liberty*

Lobby, Inc., 477 U.S. 242, 248 (1986) (holding that summary judgment will not lie if there is a genuine dispute about a material fact).

WHEREFORE, this Fourteenth day of April in 2021, Plaintiff's Motion for Summary Judgment (D.I. 175) is DENIED.



United States District Judge