IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

RICOH COMPANY, LTD.,

Plaintiff,

v.

QUANTA STORAGE, INC., *et al.*,

Defendants.

ORDER

06-C-462-C

This is a high-maintenance patent lawsuit in which the parties have papered the case file with discovery motions. On March 7, 2007, Ricoh moved to compel defendant Quanta Storage Inc. to submit to a follow-up 30(b)(6) deposition. *See* dkts. 152-154 (sealed). QSI opposes the motion. *See* dkts. 160-163. Having read all the submissions and considered both sides' arguments, I am granting Ricoh's motion.

On January 24, 2007, I granted QSI's motion to protect its executives from being required to travel from Taiwan to Madison for partial 30(b)(6) depositions. *See* dkt. 122. This required Ricoh to depose these witnesses in Taiwan, which put Ricoh in a foul mood from the outset; according to Ricoh, it went from bad to worse because QSI's witness was unprepared and unconcerned. Ricoh wants to be made whole with a court-ordered follow-up 30(b)(6) depositions in the United States at QSI's expense on topics relating to implementation of write strategy, background formatting, third-party communications, research and manufacturing. *See* dkts. 152-154 (all sealed).

QSI responds that Ricoh is trying to provoke a mulligan because it refuses to acknowledge that QSI's witnesses simply do not possess the information that Ricoh incorrectly suspects that they have. QSI views this motion as intentionally vexatious behavior by Ricoh.

I disagree. I have thoroughly read each side's submissions, including the deposition transcript. Although the situation is not as clear-cut in either direction as the parties argue in their dueling submissions, I conclude that QSI's 30(b)(6) representative was not sufficiently prepared and did not provide adequate responses to Ricoh's inquiries, all of which were properly noticed. Ricoh's notice of deposition topics was logical and not overly broad. QSI did not object to the scope of the topics prior to commencing the deposition in Taiwan. QSI's objections during the deposition were perfunctory.

Having reviewed the now-disputed topics and having considered the parties' arguments as to whether QSI sufficiently has met its obligations to respond to them, I conclude that all of the topics were proper, Ricoh did not overreach, ramble or improperly digress from the topics during the deposition; I further conclude that QSI failed to meet its obligation to respond to Ricoh's inquiries because its witness, although generally knowledgeable, did not possess all of the information Ricoh was entitled to obtain from QSI. As both sides note, this would be a daunting task for any individual and a significant burden for any company, but let's face it, this is a complicated, high-stakes lawsuit in which the parties already have endured and will continue to suffer extraordinary expenses in time, energy and money.

QSI's approach to the instant dispute puzzles the court. All the judges in this court are notorious for favoring discovery sunshine when asked to weigh in. Having received a huge–and

deserved–accommodation from the court in the face of Ricoh's initial demand, one might have expected QSI to bend over backward and juggle eggs with its toes in order to resolve with Ricoh all of the 30(b)(6) witness's "I don't knows," and "I'm not sures" rather than run the risk this court ordering a follow-up deposition on the other side of the world. Instead, QSI's opposition to Ricoh's motion to compel strikes the court as a series of post-hoc rationalizations.

QSI tepidly waves an olive branch in Section E of its response (dkt. 160 at 11) where it mentions that the parties already were contemplating two rounds of 30(b)(6) depositions, although QSI professes to be "hesitant even to raise this possibility," *see id.* QSI should have embraced this possibility with open arms, if for no other reason than prophylaxis: when this court looks at the record it sees an incomplete 30(b)(6) deposition that needs to be concluded. I will honor my promise in the court's January 24, 2007 order: QSI must bring a witness (or witnesses) to Madison, Wisconsin at its own expense, to complete the 30(b)(6) deposition started in Taiwan.

I will leave the details to the parties, but I note that although Ricoh has the judicially-authorized upper hand, it should not abuse it. If in fact the parties actually were going to conduct an unrelated second round of depositions and if it actually makes sense to return to Taiwan (or Japan, or somewhere else in Asia), then the parties should explore this option in order to minimize the burden. That said, QSI had its chance and cannot complain if the follow-up deposition is held in Madison.

Pursuant to Rule 37(a)(4), costs are shifted in favor of Ricoh on this motion.

ORDER

IT IS ORDERED that Ricoh's motion to compel a follow-up Rule 30(b)(6) deposition from QSI is GRANTED in all respects. Ricoh may have until May 11, 2007 within which to submit an itemization of expenses incurred presenting its motion. QSI may have until May 16, 2007 within which to object to the reasonableness of the claimed expenses.

Entered this 6th day of May, 2007.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge