

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SA CV 19-01118-DOC (DFMx)

Date: August 6, 2020

Title Panasonic Corp. v. Getac Technology Corp. et al.

Present: The Honorable	Douglas F. McCormick, United States Magistrate Judge		
	Nancy Boehme		Not Present
	Deputy Clerk		Court Reporter
	Attorney(s) for Plaintiff(s):		Attorney(s) for Defendant(s):
	Not Present		Not Present
Proceedings:	(IN CHAMBERS) Order re: Defendant Getac Technology Corporation’s Motion to Compel Depositions (Dkt. 81)		

This is a patent infringement case brought by Plaintiff Panasonic Corporation (“Panasonic”), a Japanese corporation. Several of Panasonic’s employee-witnesses live and work in Japan. Defendant Getac Technology Corporation (“Getac”) seeks to take those witnesses’ depositions. Before the COVID-19 public health crisis, Panasonic intended to make these witnesses available for depositions in the United States. But under COVID-19 restrictions, travel to the United States from Japan is fraught with difficulties even worse than making an 11-hour flight wearing a mask. And remote depositions won’t work because Japanese law doesn’t permit them.

When the parties couldn’t work out this impasse, Getac filed a motion to compel. See Dkt. 81. Shortly after Getac filed its motion, Judge Carter granted Panasonic’s motion to amend the scheduling order and continued the discovery cutoff in this case to October 5, 2020. See Dkt. 90. The continuance bought the parties (and me) a little time; at a short hearing on June 30, 2020, I continued the hearing to August 4, 2020. See Dkt. 97. My plan was simple: that the 5-week continuance would provide the parties some additional options for getting these depositions taken.

The continued hearing was held yesterday. Before the hearing, the parties updated the Court on their efforts to resolve the impasse. See Dkt. 111, 112. Unfortunately, as has been well-documented elsewhere, the passage of several weeks did not make this or many other problems caused by the COVID-19 pandemic go away. Most notably, the United States remains on the list of countries to which the Japanese government strongly advises its citizens not to travel. Of less importance, Panasonic does not currently allow its employees to make non-essential travel to the United States.

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Panasonic tells the Court that it intends to seek an additional 90-day continuance. But as I told Panasonic during the hearing, I cannot foretell how Judge Carter will receive a second request. In the meantime, the discovery cutoff date (October 5, 2020) approaches rapidly.

As a result, I don't think that this matter can wait for a ruling from Judge Carter, especially if one is not anticipated until the end of this month. With the current deadline, the depositions need to be on a track to go forward. Panasonic suggests written depositions; I agree with Getac that this suggestion won't satisfy the needs of this complex patent case.

Although Panasonic chose the forum for this lawsuit and generally a corporate plaintiff is required to make its employees available for examination in the district in which the suit was brought, see Music Group Macao Commercial Offshore Ltd. v. Foote, No. 14-3078, 2015 WL 13423886, at *1 (N.D. Cal. Aug. 11, 2015), the present public health emergency makes it reasonable for these depositions to occur from a location that would be less burdensome to Panasonic's witnesses. Accordingly, as I said at the hearing, I am at least agnostic as to whether the depositions must occur in this District. A deposition from Hawaii – either conducted remotely or in-person – would diminish the witnesses' burdens, especially if the Japanese government includes Hawaii in a "travel bubble" before the depositions take place.

Accordingly, Getac's motion is GRANTED and Panasonic is ORDERED to make available for deposition its employee witnesses as noticed by Getac. These depositions shall take place in the Central District of California, the District of Hawaii, or such other location as agreed upon by the parties.¹ These depositions shall commence on or before September 25, 2020. This deadline shall be automatically extended commensurate with any extension of the discovery cutoff date ordered by Judge Carter.

IT IS SO ORDERED.

¹ If the parties are unable to agree on a location for one or more of the depositions, they should present their dispute to me through my informal telephonic discovery procedure, the details of which are on the Court's website.