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18 **UNITED STATES DISTRICT COURT FOR THE**
19 **EASTERN DISTRICT OF CALIFORNIA**

20
21 GENERAL ELECTRIC COMPANY, a
22 New York corporation; and GE WIND
23 ENERGY, LLC, a Delaware limited
24 liability company,

25 Plaintiffs,

26 v.

27 THOMAS WILKINS, an individual,

28 Defendant.

Case No. CV 10-00674-LJO-JLT

**STIPULATION AND ORDER RE:
LEAVE TO SCHEDULE FOUR
DEPOSITIONS**

STIPULATION AND [PROPOSED] ORDER RE:
LEAVE TO SCHEDULE FOUR DEPOSITIONS

1 Plaintiffs General Electric Company and GE Wind Energy, Inc. (collectively, GE),
2 Defendant Thomas A. Wilkins (Mr. Wilkins), and Intervenors Mitsubishi Heavy
3 Industries, Ltd. and Mitsubishi Power Systems Americas, Inc. (collectively, Mitsubishi),
4 through their counsel, hereby stipulate as follows:

5 1. On February 1, 2012, the Court held a hearing to address the schedule for briefing
6 a motion Mitsubishi noticed after GE clawed back four documents during a deposition on
7 January 31, 2012. The Court also addressed whether certain depositions should be
8 postponed pending a ruling on Mitsubishi's motion.

9 2. On February 2, 2012, Mr. Wilkins filed a motion to submit additional GE
10 documents under seal for consideration in support of Mitsubishi's motion, and on
11 February 9, 2012, Mitsubishi and Mr. Wilkins provided their portions of a Joint
12 Statement to GE.

13 3. Over the course of the next twelve days, the parties negotiated resolution of the
14 motion, with GE agreeing to waive privilege over a significant number of documents.
15 This waiver extends to documents beyond the ones that Mitsubishi and Mr. Wilkins filed
16 under seal in connection with the motion. The parties' agreement provides that GE will
17 produce documents quickly enough so as to give Mitsubishi and Mr. Wilkins a
18 reasonable opportunity to review them before further depositions.

19 4. The parties reached agreement, in part, to spare the Court from examining a
20 substantial number of documents in camera, and from inevitable delays to the schedule
21 that would have resulted from that process.

22 5. In the midst of those negotiations, on February 17, 2012, the parties approached
23 the Court with a stipulation regarding the postponement of eight depositions, which the
24 Court granted. (Dkt.#310.)

25 6. Since reaching agreement on February 21, 2012, GE has been working to insure
26 that all documents covered by the agreement are produced to Mitsubishi and Mr. Wilkins.
27 GE produced approximately two hundred documents on February 27, 2012 and nearly
28 300 more on March 5, 2012. GE represents that it completed production on March 5,

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1 2012 except for a handful of documents that are in the process of being translated from
2 German and may be produced. Mitsubishi and Mr. Wilkins have been reviewing GE's
3 production.

4 7. Given the breadth of the documents at issue, twelve depositions must be taken or
5 re-opened. GE, MHI, and Mr. Wilkins have been able to reschedule eight of them to
6 occur before March 23, 2012. The parties have been unable to re-schedule four
7 depositions before March 23rd and seek leave of the Court to schedule them as follows:

- 8 ➤ Till Hoffman, a named inventor of the '985 Patent, is traveling over from
9 Germany for his deposition. He is available to be deposed in the United
10 States on March 28, 2012.
- 11 ➤ Craig Christenson is a third party located in California. When his original
12 deposition, scheduled for February 16, 2012, was removed from the
13 calendar, his in-house counsel represented that Mr. Christenson would be
14 available before March 23, 2012. Two days ago, Mr. Christenson's in-
15 house counsel indicated that Mr. Christenson will be represented by outside
16 counsel who is unavailable before March 23, 2012. Mr. Christenson will
17 be available to be deposed on or about April 3, 2012 in California.
- 18 ➤ Ralph Blakemore is another third party located in California. He is
19 available to be deposed on or about March 30, 2012 in California.
- 20 ➤ James Fogarty is a current GE employee. Mr. Fogarty's documents were
21 the ones that sparked Mitsubishi's motion and, once the scope of the
22 documents at issue was clear, it was apparent that his deposition had to be
23 removed from the calendar and rescheduled only after GE produced all of
24 its privileged documents. Mr. Fogarty has to travel to a work site for an
25 installation in Colorado for two weeks in March. The parties propose to
26 schedule his deposition for March 27, 2012.

27 8. Thus, the parties seek leave to schedule four depositions after March 23rd: one to
28 accommodate travel from Germany, two₃ to address third party scheduling issues

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1 (including the request of new counsel for one of them), and the fourth, due to on-site
2 work that cannot be re-scheduled.

3 9. The parties seek this leave from the Court well-aware of the Court's intention to
4 keep this case on schedule, and sharing that goal. Indeed, resolution of the motion that
5 had been noticed to the Court was motivated, in part, to maintain the schedule without
6 major delay.

7 10. Leave to take these four depositions after March 23rd would not have a significant
8 effect on any of the deadlines involving the Court, or the trial.

9 11. To that end, the parties propose the following minor adjustments to the current
10 schedule set in the Court's October 17, 2011 order (Dkt.# 251):

11 a. Friday, April 6, 2012: Initial expert disclosures by this date (changed from March
12 15, 2012)

13 b. Wednesday, April 25, 2012: Expert rebuttals by this date (changed from April 12,
14 2012)

15 12. The foregoing changes would not require changes to schedules affecting Court
16 hearings, including the May 11, 2012 non-dispositive motions deadline, or the November
17 6, 2012 trial date. They would also not require changes to the May 4, 2012 expert
18 discovery deadline set by the Court in the February 21, 2012 order (Dkt.# 310).

19 13. In addition, the parties are currently meeting and conferring on disputes
20 concerning certain 30(b)(6) depositions in an effort to resolve them without court
21 intervention. The parties agree that nothing in this Stipulation is intended to affect any
22 party's right to seek relief from this Court concerning these 30(b)(6) depositions.

23 Dated: March 6, 2012

By: /s/ Elizabeth M. Reilly

Elizabeth M. Reilly (*pro hac vice*)

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Attorneys for Plaintiffs General Electric

Company and GE Wind Energy, LLC

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Dated: March 6, 2012

By: /s/ Andrew Sloniewsky
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Dated: March 6, 2012

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1 **ORDER**

2 Based upon the foregoing, the Court **ORDERS:**

- 3 1. The request to amend the scheduling order to take the depositions of
4 Ralph Blakemore, James Fogarty and Till Hoffmann to allow the
5 depositions to be taken after March 23, 2012, is **GRANTED. These**
6 **depositions SHALL be completed no later than March 30, 2012;**
- 7 2. The request to amend the scheduling order to take the deposition of
8 Craig Christenson to allow the depositions to be taken after March 23,
9 2012, is **GRANTED. This deposition SHALL be completed no later**
10 **than April 7, 2012;**
- 11 3. The Parties SHALL make their joint initial expert disclosures no later
12 than **April 6, 2012;**
- 13 4. The Parties SHALL make their joint rebuttal expert disclosures no later
14 than **April 25, 2012;**
- 15 5. **No further amendments to the scheduling order will be permitted.**
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19 IT IS SO ORDERED.

20 Dated: March 7, 2012

/s/ Jennifer L. Thurston
21 UNITED STATES MAGISTRATE JUDGE