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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 ADVANCED MICRO DEVICES, et al.,

No. C 08-00986 SI

9 Plaintiffs and Counterdefendants,

**ORDER RE: SAMSUNG'S MOTION TO
ALLOW DEPOSITION OF WILLIAM
TRIGGS**

10 v.

11 SAMSUNG ELECTRONICS CO., LTD, et al.,

12 Defendants and Counterclaimants.
13 _____/

14 Samsung seeks an order allowing it to take the deposition of a third-party witness, William
15 Triggs, to support its theory that AMD's Iacoponi '592 Patent is invalid due to prior anticipation. Fact
16 discovery in this case ended on March 5, 2010. According to Samsung, Mr. Triggs was unavailable for
17 deposition prior to that date; therefore, Samsung now seeks to depose Mr. Triggs on March 25, 2010.
18 AMD objects that Samsung's request to take the late deposition should not be granted because Samsung
19 intentionally delayed subpoenaing Mr. Triggs until just before the discovery cutoff "to avoid revealing
20 its new theory of anticipation to AMD." AMD further objects that Samsung's motion, although styled
21 as a motion to compel, is really a motion to extend the fact discovery deadline. AMD points out that
22 Samsung filed its motion on the last day set by the Court for filing motions to compel without first
23 attempting to meet and confer with AMD regarding potential extension of the discovery deadline.

24 Samsung initially sought to take the depositions of four third-party witnesses with respect to the
25 Iacoponi '592 Patent.¹ Six days after Samsung filed its initial request with this Court, Samsung filed
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27 ¹ The subpoenas were issued by the District of Arizona, and AMD filed a motion to quash with
28 that court. *See Advanced Micro Devices, Inc. v. Samsung Elec. Co., Ltd.*, No. 10-0031 (D. Ariz.)
(Docket No. 1). AMD has apparently advised the court of the pending motion to compel in this Court.

1 a notice stating that it had taken the deposition of one of the four witnesses off calendar and was
2 “presently considering whether to withdraw its request to take some or all of the depositions at issue.”
3 The next day, Samsung formally withdrew its subpoenas with respect to three of the witnesses, leaving
4 only Mr. Triggs.

5 In the ten-day period since Samsung’s motion was filed, the parties have submitted a total of
6 seven letter briefs in quick succession, each taking issue with the other party’s conduct during discovery.
7 Many of the issues raised in the parties’ letters are irrelevant to the dispute raised by Samsung’s request.
8 For example, AMD complains that Samsung wishes to submit hearsay declarations from the three
9 witnesses whom it no longer seeks to depose; however, Samsung has not sought to offer such evidence
10 for any purpose, so its admissibility is not an issue at this time. In addition, Samsung complains that
11 AMD is impeding its efforts to depose Mr. Triggs despite its willingness to “allow” AMD to take
12 several late depositions. AMD responds that the depositions at issue were only conducted after the
13 discovery cutoff because Samsung would not make the witnesses available until then.

14 By raising these disputes through a flurry of letter briefs, the parties are essentially asking the
15 Court to referee their disputes play by play. It is not the Court’s role to oversee discovery to this extent.
16 The parties must attempt in good faith to resolve their disputes *before* seeking the Court’s intervention.

17 It is apparent to the Court that the parties have been attempting to satisfy their meet and confer
18 obligations solely through written communications. Under Civil Local Rule 1-5(n), however, meet and
19 confer requirements “can be satisfied only through *direct dialogue and discussion* – either in a face to
20 face meeting or in a telephone conversation.” The parties are therefore ordered to confer **via telephone**
21 **or in person, no later than March 30, 2010** in a good faith effort to resolve their dispute concerning
22 the deposition of Mr. Triggs. If the parties are unable to resolve their dispute, Samsung may renew its
23 motion to compel **no later than March 31, 2010**, and AMD may respond no later than **April 2, 2010**.
24 No further letter briefs will be accepted, and no extensions of these deadlines will be permitted.

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26 **IT IS SO ORDERED.**

27 Dated: March 24, 2010



SUSAN ILLSTON
United States District Judge