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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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12 MEDIATEK, INC.,

13 Plaintiff,

14 v.

15 FREESCALE SEMICONDUCTOR, INC.,

16 Defendant.
17

Case No. 11-5341 YGR (JSC)

**ORDER RE: MEDIATEK'S REQUEST
FOR CLARIFICATION WITH
RESPECT TO DOCKET NO. 181 (Dkt.
No. 235)**

18
19 Plaintiff MediaTek, Inc. ("MediaTek") filed a request for clarification of this Court's
20 Order (Dkt. No. 208) resolving various outstanding discovery disputes including MediaTek's
21 discovery dispute at Docket No. 181. In that dispute MediaTek (1) challenged the adequacy
22 of the Freescale Semiconductor Inc. ("Freescale") Federal Rule of Civil Procedure 30(b)(6)
23 designee regarding licensing-related topics, and (2) sought to compel the depositions of three
24 Freescale employees. (Dkt. No. 181.) The Court disposed of the dispute on the basis that
25 MediaTek had already exceeded the 42-hour limit on Rule 30(b)(6) deposition testimony.
26 (Dkt. No. 208.) MediaTek now moves for clarification of this Order contending that the
27 Court did not reach the second request for relief (Dkt. No. 235); that is, the depositions of
28 individual, not 30(b)(6), witnesses. Freescale opposes MediaTek's request for clarification
and requests that it be granted leave to submit further briefing if the Court is inclined the

United States District Court
Northern District of California

1 grant the request. (Dkt. No. 238.) The Court hereby GRANTS MediaTek's request for
2 clarification in part.

3 There is no dispute that MediaTek properly noticed the depositions of Messrs. Park,
4 Patrick, and Roossien each in their individual capacity prior to the close of fact discovery; nor
5 is there a dispute as to whether MediaTek has exceeded the 175 hours of party depositions
6 authorized under the Case Management Order (Dkt. No. 37). It has not. Further, because
7 MediaTek offered to withdraw its request for the depositions of Messers Patrick and
8 Roossien, this Order only considers whether MediaTek is entitled to depose Mr. Park. The
9 Court concludes that MediaTek is entitled to do so.

10 Although MediaTek's initial submission regarding Mr. Park's deposition indicated that
11 he was the Vice President of IP Licensing and a member of Freescale's in-house legal team,
12 MediaTek's request for clarification states that Mr. Park is not in fact an attorney. Freescale
13 does not dispute Mr. Park's status; instead, it seeks the opportunity to submit additional
14 briefing regarding this subject to the extent the Court is inclined to grant the request for
15 clarification. If Freescale has additional arguments to raise it should have included them in its
16 opposition; absent a showing that there was a reason it could not include these additional
17 arguments (whatever they may be) due to exigent circumstances—which Freescale has not
18 made—Freescale's request for additional briefing is denied.

19 Federal Rule of Civil Procedure 30(a) provides that a party may depose "any person."
20 Fed. R. Civ. P. 30(a). Although there is a heightened requirement for deposing the opposing
21 party's counsel, *Fausto v. Credigy Servs. Corp.*, No. 07-5658, 2008 WL 4793467, at *1 (N.D.
22 Cal. Nov. 3, 2008) objections overruled, No. 07-05658, 2008 WL 5158915 (N.D. Cal. Dec. 9,
23 2008), this presumption does not apply here as Mr. Park is not an attorney.¹ Rather, the
24 inquiry is limited to whether Mr. Park has relevant non-privileged information. *See e.g.*
25 *Mass. Mutual Life Ins. Co. v. Cerf*, 177 F.R.D. 472, 479 (N.D. Cal. 1998).

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28 ¹ Freescale's opposition to MediaTek's initial request to compel Mr. Park's deposition also
indicates that Mr. Park is not involved in the day-to-day management of the litigation.

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MediaTek seeks information from Mr. Park related to the calculation of monetary terms in licenses based on his role as the Vice President of IP Licensing; it does not seek any information regarding his conduct in this litigation.² The information sought is relevant to MediaTek's claims. Accordingly, MediaTek's request for clarification is GRANTED and Docket No. 181 is GRANTED with respect to the deposition of Mr. Park only. The parties shall meet and confer to select a mutually agreeable date for his deposition which shall occur within the next 14 days. The deposition shall be limited to four hours.

This Order disposes of Docket Nos. 235 and 238.

IT IS SO ORDERED.

Dated: September 17, 2013



JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE

² Freescale again seeks the opportunity to submit additional evidence in support of its contention that Mr. Park's testimony would not be probative. This unidentified information should have been included with Freescale's opposition.