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28**\*E-FILED 08-03-2010\***

NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MFORMATION TECHNOLOGIES, INC.,

No. C08-04990 JW (HRL)

Plaintiff,

**ORDER GRANTING PLAINTIFF'S  
MOTION TO COMPEL DEFENDANT'S  
30(b)(6) DEPOSITION TESTIMONY**

v.

RESEARCH IN MOTION LIMITED and  
RESEARCH IN MOTION CORPORATION,**[Re: Docket No. 161]**Defendants.  

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In this patent case, plaintiff Mformation Technologies, Inc. (Mformation) moves for an order compelling defendants Research in Motion Limited and Research in Motion Corporation (collectively, RIM) to produce a Fed. R. Civ. P. 30(b)(6) designee for continued testimony on Topics 14(a), (c) and (d). The three subtopics in question concern the structure, operation, and functionality of BlackBerry relating to the BlackBerry Enterprise Server, BlackBerry Professional Software and use of an ITAdminQueue—testimony which Mformation says is critical to its infringement claims. On Friday, May 7, 2010, RIM produced Carl Cherry to testify as to these matters (among others). After deposing Cherry for nearly one day, Mformation claims that, for various reasons, it needs several more hours to complete its examination re the subtopics in question. Plaintiff points out that the parties have agreed that each side may take up to 42 hours of Fed. R. Civ. P. 30(b)(6) testimony. (To be clear,

1 Mformation is not, by this motion, seeking to increase its 42-hour allotment). RIM opposes the  
2 motion. Upon consideration of the moving and responding papers, as well as the arguments of  
3 counsel, this court grants the motion.

4 “Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7  
5 hours.” FED. R. CIV. P. 30(d)(1). Nevertheless, “[t]he court must allow additional time  
6 consistent with Rule 26(b)(2) if needed to fairly examine the deponent or if the deponent,  
7 another person, or any other circumstance impedes or delays the examination.” Id. Pursuant to  
8 Fed. R. Civ. P. 26(b)(2), the court must limit the extent or frequency of discovery if it finds that  
9 (a) the discovery sought is unreasonably cumulative or duplicative or can be obtained from a  
10 source that is more convenient, less burdensome or less expensive, (b) the party seeking  
11 discovery has had ample opportunity to obtain the information through discovery; or (c) the  
12 burden or expense of the discovery sought outweighs its likely benefit, considering the needs of  
13 the case, the amount in controversy, the parties’ resources, the importance of the issues at stake,  
14 and the importance of the discovery in resolving those issues. FED.R.CIV.P. 26(b)(2)(C)(i)-(iii).

15 Here, neither side’s characterization of the deposition proceedings is particularly  
16 persuasive. It does not seem that plaintiff’s counsel was as inefficient as RIM contends. Nor  
17 was Cherry was as obstreperous as Mformation claims. Putting aside whether RIM’s offer to  
18 have the examination continue into Friday evening or the next day was reasonable, the record  
19 presented indicates that it was not feasible since the court reporter was not available at those  
20 times. The subtopics at issue appear to be important to key issues in dispute. Moreover,  
21 Mformation is asking for only a few more hours—which RIM apparently was willing to give,  
22 but just not on a day other than Friday, May 7 or Saturday, May 8, 2010. Having weighed  
23 competing legitimate interests and possible prejudice, this court finds no undue burden in  
24 having RIM produce a witness for 3 more hours on these topics.

25 Accordingly, Mformation’s motion to compel is granted as follows: RIM shall produce  
26 a Fed. R. Civ. P. 30(b)(6) designee for further testimony as to Topic 14(a), (c) and (d). The  
27 continued deposition shall last no more than 3 hours and shall take place at a date, time and  
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location agreed to by the parties.

SO ORDERED.

Dated: August 3, 2010

  
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HOWARD T. LLOYD  
UNITED STATES MAGISTRATE JUDGE

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