

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MECHANICAL MARKETING, INC.,	)	Case No.: C 11-01844 EJD (PSG)
	)	
Plaintiff,	)	<b>ORDER GRANTING-IN-PART</b>
v.	)	<b>PLAINTIFF’S MOTION TO</b>
	)	<b>COMPEL; ORDER GRANTING</b>
SIXXON PRECISION MARKETING	)	<b>DEFENDANT’S MOTION FOR</b>
MACHINERY CO. LTD., TAIWAN,	)	<b>PROTECTIVE ORDER</b>
	)	
Defendant.	)	<b>(Re: Docket Nos. 74, 84)</b>

Plaintiff Mechanical Marketing, Inc. (“MMI”) moves to compel the deposition of Defendant Sixxon Precision Marketing Machinery Co. Ltd., Taiwan’s (“Sixxon”) Rule 30(b)(6) designee in California. MMI also moves to compel production of documents. Sixxon opposes the motion and, for its part, moves for protective order. On August 21, 2012, the parties appeared for hearing. Having reviewed the papers and considered the arguments of counsel,

IT IS HEREBY ORDERED that MMI’s motion to compel is GRANTED-IN-PART and Sixxon’s motion for protective order is GRANTED.

Sixxon manufactures machine parts, dye castings, stampings and other similar products and is located in Taiwan. It is part of a larger group of companies known as Sixxon Global (“SG”). MMI is a sales representative firm located in northern California. In 1998, Arnold Dolgins, a principal at MMI, and Billy Lin, Sixxon’s then-Chairman, orally agreed that MMI would become a

1 sales representative for Sixxon products in the United States. MMI would be paid a commission on  
2 any sales procured regardless of the particular SG company that completed the customer order. In  
3 2005, the parties' orally amended their agreement so that MMI would become the exclusive sales  
4 representative of Sixxon products. In 2010, Billy Lin's son, Eddy Lin, succeeded him as chairman  
5 of Sixxon and advised Sixxon customers to place their orders directly with Sixxon. On October 31,  
6 2010, the parties terminated their agreement. MMI filed suit against Sixxon alleging that Sixxon  
7 failed to pay MMI commissions on any orders it had procured.  
8

9 On February 24, 2012, MMI deposed Eddy Lin in his individual capacity at offices located  
10 in Mountain View, California. On April 27, 2012, MMI noticed another deposition to take place in  
11 California, this time a Rule 30(b)(6) deposition of Sixxon's corporate designees on the following  
12 topics:

- 13 • The terms of the oral contract that Sixxon, in paragraph 10 of its counter claim  
14 alleges was entered into around December 2005;
- 15 • Any and all modifications of the verbal agreement made orally or in writing around  
16 February 2009;
- 17 • Preparation of the "Company Profile" sales presentation ("sales presentation");
- 18 • Any and all financial records relied upon to prepare the page of the sales  
19 presentation entitled, "Sales Amount—Sixxon Global Group";
- 20 • Any and all records relied upon to prepare the page of the sales presentation  
21 entitled, "General Information – Sixxon/Global."

22 The deposition notice also sought production of the following documents:

- 23 • Any and all financial records, reports or any other form of writing, including but not  
24 limited to data stored electronically, emails, or any other form of recording  
25 information or a communication, that were relied upon or referred to in preparing  
26 the sales presentation.

27 MMI contends that Sixxon's corporate designees should testify in California, and not in  
28 Taiwan, because counsel for both parties are located in California and in the event they need to  
reach the court to resolve any disputed matters, it too, is located in California. Sixxon has  
represented thus far that only Eddy Lin will be designated as a Rule 30(b)(6) witness. MMI argues

1 that based on Eddy Lin’s prior deposition testimony, he will not be able to testify about all of the  
2 categories identified in the Rule 30(b)(6) deposition notice because he has demonstrated a lack of  
3 knowledge about who prepared the sales presentation and the financial documents used to prepare  
4 it. Moreover, Eddy Lin was not employed by the company in 2005 when the parties entered into  
5 their agreement.

6 Sixxon responds that the Rule 30(b)(6) deposition should occur in Taiwan because Sixxon  
7 is incorporated and located in Taiwan. Its corporate designees, including Eddy Lin, are all located  
8 in Taiwan and Sixxon will be unduly burdened if they are required to travel and testify in  
9 California. MMI has not shown grounds to depart from the “general rule” that Rule 30(b)(6)  
10 depositions occur where the corporation is located.<sup>1</sup>

11 The court agrees with Sixxon, at least in part. While MMI highlights certain facts that  
12 would justify departing from the general rule, the court is persuaded that on balance, a deposition  
13 in the defendant’s corporate locale remains the most appropriate option. The parties shall meet and  
14 confer regarding the specific location in Taiwan for the deposition. Sixxon is reminded that it  
15 “must make a conscientious good-faith endeavor to designate the persons having knowledge of the  
16 matters sought by the party noticing the deposition and to prepare those persons in order that they  
17 can answer fully, completely, unequivocally, the questions posed.”<sup>2</sup> To the extent any witness is not  
18 sufficiently prepared, the court will not hesitate to order a further deposition, in California, at  
19 Sixxon’s expense. Sixxon also shall produce all responsive documents that are in its possession,  
20 custody, or control. These include any documents Sixxon relied upon in producing the sales  
21 presentation, which MMI has shown Sixxon has control over. All discovery required by this order  
22 shall be completed no later than September 12, 2012.

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25 <sup>1</sup> See, e.g., *Thomas v. Int’l Bus. Machs.*, 48 F.3d 478, 483 (10th Cir. 1995) (holding that a  
26 deposition of a corporation by its officers and agents should ordinarily be taken at its principal  
27 place of business) (internal citations omitted); and *Fausto v. Credigy Services Corp.*, 251 F.R.D.  
427, 429 (N.D. Cal. 2008) (noting the general presumption that a corporate designee is deposed at  
the corporation’s principal place of business).

28 <sup>2</sup> See, e.g., *In re JDS Uniphase Corp. Sec. Litig.*, No. C-02-1486 CW (EDL), 2007 WL 219857  
(N.D. Cal. Jan. 29, 2007).

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**IT IS SO ORDERED.**

Dated: 8/29/2012



PAUL S. GREWAL  
United States Magistrate Judge