

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

FITEQ, INC.,)	Case No.: 5:13-cv-01946-EJD-PSG
)	
Plaintiff,)	ORDER DENYING FITEQ'S
)	MOTION TO COMPEL AND
v.)	GRANTING VENTURE'S MOTION
)	FOR A PROTECTIVE ORDER
VENTURE CORPORATION, LTD. and)	
CEBELIAN HOLDING PTE, LTD.,)	(Docket Nos. 45, 46, and 48)
)	
Defendants.)	

Before the court are the parties' discovery motions. Plaintiff FiTeq, Inc. ("FiTeq") moves to compel Defendant Venture Corporation, Ltd. ("Venture") to produce a Rule 30(b)(6) witness for a deposition before the preliminary injunction hearing this Friday.¹ Defendants Cebelian Holding, PTE, Ltd. and Venture Corporation, Ltd. (collectively, "Defendants") respond with a motion for a protective order relieving Defendants of any obligation to attend the pending Rule 30(b)(6) depositions.

FiTeq's motion for a preliminary injunction seeks documentation – including specifications, source code, and test results – related to Venture's design work of electronic

¹ See Docket No. 46. FiTeq also moves for expedited consideration of its motion. See Docket No. 45. FiTeq's motion for expedited consideration is GRANTED-IN-PART. The court will address the underlying motion without further briefing or oral argument.

1 payment cards for FiTeq. FiTeq’s motion to compel seeks 30(b)(6) testimony covering “what
2 documents Venture prepared in the course of the contract, what documents it (asserts) it provided
3 to FiTeq, what documents it did not provide, why, and where they are located.”² FiTeq claims
4 such 30(b)(6) testimony is necessary, because the declarations Venture lodged in support of its
5 opposition to FiTeq’s motion for a preliminary injunction do not include sworn declarations “that
6 Venture has produced all the documentation it prepared in its course of work for FiTeq.”³
7 Although 30(b)(6) testimony offers one way to glean whether Venture has sufficiently turned over
8 all documents generated pursuant to its contract with FiTeq, FiTeq’s request strikes the court as
9 premature. While a preliminary injunction motion may be pending, and a hearing imminent, FiTeq
10 has not offered evidence yet that Venture has withheld any documents to which FiTeq is entitled
11 to. Maybe such evidence will emerge. But before the court permits such discovery on an
12 expedited basis in a manner requiring witnesses to travel from abroad with little opportunity to
13 prepare, the better course is for counsel first to address the issue with the trial judge as officers of
14 the court.
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17 The court expects Venture’s lawyers to be prepared to speak to the extent of its disclosure
18 to date before Judge Davila this Friday. To the extent Venture is unable or unwilling to provide
19 candid and complete representations to Judge Davila, FiTeq is certainly welcome to pursue
20 additional motion practice before the undersigned regarding Venture’s shortcomings.

21 FiTeq’s motion to compel is DENIED. Venture’s motion for a protective order is
22 GRANTED.
23

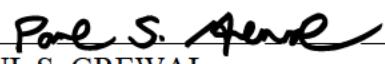
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27 ² Docket No. 46 at 3 (citing Docket No. 47-1).

28 ³ *Id.* (emphasis omitted).

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IT IS SO ORDERED.

Dated: October 16, 2013



PAUL S. GREWAL
United States Magistrate Judge