

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:11-CV-00172-RLV-DSC**

WINTHROP RESOURCES)
CORPORATION,)
)
Plaintiff,)
)
v.)
)
COMMSCOPE, INC. OF NORTH)
CAROLINA,)
)
Defendant.)

ORDER

THIS MATTER is before the Court on Plaintiff’s “Motion to Compel Testimony from [Defendant’s] Former VP and CIO Kap Kim” (document #34) and the parties’ briefs and exhibits. See documents ##34, 38, 39, and 41.

Plaintiff seeks an order compelling Defendant’s former officer Kap Kim to answer twenty-one deposition questions that defense counsel instructed him not to answer.

The Court has carefully considered the record, authorities and the parties’ arguments. The questions at issue concern “matters that may have affected or changed the witness’s testimony.” See Peralta v. Cendant Corp., 190 F.R.D. 38, 39, 41-42 (D. Conn. 1999); Wade Williams Distribution, Inc. v. American Broadcast Companies, 2004 WL 1487702, *1-2 (S.D.N.Y. June 30, 2004). The questions involve communications occurring years after Kim’s employment terminated and he moved to South Korea. The questions relate to deposition preparation and matters that may have influenced his testimony. For these and the other reasons stated in Plaintiff’s briefs, the Court will exercise its discretion and grant the Motion.

NOW THEREFORE, IT IS ORDERED that:

1. Plaintiff's "Motion to Compel Testimony from [Defendant's] Former VP and CIO Kap Kim" (document #34) is **GRANTED**.


2. Within thirty (30) days from entry of this Order, Defendant shall make Kap Kim available for deposition where he shall answer the twenty-one questions he was instructed not to answer as well as reasonable follow up questions. The deposition shall take place within the Western District of North Carolina or such other location in the United States as the parties may agree.

3. The dispositive motions deadline is extended to September 1, 2014.

4. The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel; and to the Honorable Richard L. Voorhees.

SO ORDERED.

Signed: July 1, 2014



David S. Cayer
United States Magistrate Judge

