

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

JAWBONE INNOVATIONS, LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD., ET AL.

Defendants.

NO. 2:21-CV-0186-JRG-RSP

**DEFENDANTS SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.'S MOTION TO COMPEL
FURTHER DEPOSITION TESTIMONY OF GREGORY BURNETT**

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I. INTRODUCTION

Defendants (“Samsung”) request an order compelling three (3) additional hours of deposition testimony of witness Gregory Burnett. Dr. Burnett provided testimony on September 7 and, in his individual capacity as an inventor of the Asserted Patents and in his capacity as Plaintiff’s 30(b)(6) designee for twenty two (22) topics. During the first day of Dr. Burnett’s deposition, it became clear that he had not performed a reasonable search for documents responsive to his subpoena, and after that day, Defendants requested he do so, and bring such documents to his second day of his deposition. Defendants’ request, however, was ignored, and additional responsive documents were not produced until after his deposition was complete. Although the parties met and conferred on this issue on September 16, Plaintiff has refused to make Dr. Burnett available for any additional deposition time. Samsung therefore seeks an order compelling Plaintiff to provide additional deposition time as outlined below.

II. ARGUMENT

A natural person may be deposed again with leave of court. Fed. R. Civ. P. 30(a)(2)(A)(ii). While the party seeking to depose a witness who has already been deposed must seek leave of court, the “court must grant such leave unless it would be unreasonable to do so.” *United States ex rel Woodard v. Davita, Inc.*, No. 1:05-CV-227, 2011 WL 13199233, at *2 (E.D. Tex. Sept. 26, 2011). Courts use the “good cause” standard to determine whether to reopen or retake a deposition. *See O’Connor v. Cory*, 2018 WL 5016291, at *2 (N.D. Tex. Oct. 16, 2018); *Kleppinger v. Texas Dep’t of Transp.*, 283 F.R.D. 330, 335-36 & n.7 (S.D. Tex. 2012). Courts have allowed parties to reopen depositions for good cause when “new information comes to light that creates the need for further questioning.” *O’Connor*, 2018 WL 5016291, at *2 (citation omitted). “New information can include. . . the production of new documents.” *Id.* (citation omitted); *see also Kleppinger*, 283 F.R.D. at 334-35 (ordering reopening of deposition where a

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