

ORAL ORDER: The Court, having reviewed Red Hat's discovery dispute motion ("Motion"), (D.I. 205), and the briefing related thereto, (D.I. 204; D.I. 209), hereby ORDERS as follows with regard to any remaining live issues that the Court has not previously decided: (1) With regard to Red Hat's request that ETRI supplement its responses to Interrogatory Nos. 6-8, 11, 13 and 16, (D.I. 204 at 2; D.I. 209 at 2), it is DENIED WITHOUT PREJUDICE to renew. ETRI notes that it intends to provide additional information, pursuant to Fed. R. Civ. P. 33(d) regarding these requests, (D.I. 209 at 2); after Red Hat receives any such supplementation, if there are further asserted deficiencies regarding the interrogatories, Red Hat can raise those with ETRI and (if not resolved) ultimately with the Court.; (2) With regard to Red Hat's request that the Court order Sequoia and ETRI to produce documents responsive to certain Red Hat requests for production ("RFPs"), (D.I. 204 at 2, 4; D.I. 209 at 4), it is DENIED WITHOUT PREJUDICE to renew. The Court does not have sufficient information about the disputed RFPs, or Sequoia/ETRI's purported failure to respond thereto, in order to make a reasoned decision. And as to at least certain of these disputes, Sequoia/ETRI assert that Red Hat did not sufficiently meet and confer about the issue. (D.I. 209 at 4) To the extent the responses to these RFPs remain in dispute in the future after further discussion between the parties, Red Hat can then raise such disputes with the Court (making a better record about them) pursuant to the Court's discovery dispute procedures.; (3) With regard to Red Hat's request for additional Rule 30(b)(6) deposition time with Wooseok Yang on the ground that Mr. Yang was an unprepared witness, (D.I. 204 at 4-5; D.I. 209 at 5), the request is DENIED. The only subject matter area as to which Red Hat specifically alleges unpreparedness is Mr. Yang's knowledge about the Exclusive License Agreement for ETRI patents, but the record does not demonstrate Mr. Yang's lack of knowledge on that score; indeed, it appears Mr. Yang fully answered many questions regarding that subject. (D.I. 209 at 5); (4) With regard to Red Hat's request that Mr. Yang's combined Rule 30(b)(1)/Rule 30(b)(6) deposition be continued on the grounds that it was "cut unreasonably short[.]" (D.I. 204 at 5; see also D.I. 209 at 5), it is DENIED WITHOUT PREJUDICE to renew. Sequoia has offered to re-open that deposition, (D.I. 209 at 5), and the Court hopes that the parties can, after further meeting-and-conferring, come to agreement on how many hours the continued deposition should last.; (5) With regard to Red Hat's request that the Court find that Sequoia's counsel improperly instructed Mr. Yang not to answer questions about documents he reviewed to prepare for his Rule 30(b)(6) testimony, (D.I. 204 at 5; D.I. 209 at 5), it is DENIED. So far as the Court can tell, it was provided with only a few pages of Mr. Yang's deposition that relate to this issue, and the Court does not have the context or the record needed to find in Red Hat's favor here.; and (6) With regard to Red Hat's request that the Court find that Sequoia's counsel improperly instructed Mr. Yang not to answer questions about Sequoia's litigation financing arrangements, (D.I. 204 at 5; D.I. 209 at 5), it is GRANTED. During Mr. Yang's deposition, Sequoia's counsel repeatedly instructed the witness not to answer such questions on privilege and/or relevance grounds. (D.I. 204, ex. T at 129-30, 192, 194, 218, 221-24) But in its briefing here, Sequoia makes no attempt to argue that a privilege applies, (D.I. 209 at 5), and it is not proper to instruct a witness not to answer deposition questions on relevance grounds, see, e.g., McClure v. Prisoner Transp. Servs. of Am., LLC, Case No. 1:18-cv-00176-DAD-SKO, 2020 WL 1182653, at *2 (E.D. Cal. Mar. 12, 2020); Fed. R. Civ. P. 30(c)(2). At the renewed deposition of Mr. Yang, absent any further order of the

Court to the contrary in the interval, Red Hat may re-ask such questions and have them answered. Ordered by Judge Christopher J. Burke on 9/30/2020. (dlb) (Entered: 10/01/2020)

As of October 2, 2020, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

Sequoia Technology, LLC, v. Dell Inc. et al
1-18-cv-01127 (DDE), 10/1/2020, docket entry 230