

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

AbCellera Biologics Inc. v. Bruker Cellular Analysis, Inc.

No. 20-cv-08624-JST (VKD) (N.D. Cal. Apr. 16, 2025) · No. 20-cv-08624-JST (VKD) · Decided April 16, 2025

SUMMARY

The United States District Court for the Northern District of California denied AbCellera’s requests to depose Siddhartha Kadia and Mark Munch in a patent infringement action. The court held that Kadia, a nonparty residing outside the district, could not be compelled without a valid Rule 45 subpoena, and that AbCellera had not shown grounds to order his deposition. The court also found that Munch lacked unique first-hand knowledge relevant to the case and granted a protective order barring his apex deposition.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Virginia K. DeMarchi
JURISDICTION	United States District Court for the Northern District of California
DECIDED	April 16, 2025
DOCKET	20-cv-08624-JST (VKD)
DISPOSITION	other
PROCEDURAL POSTURE	The parties submitted a discovery dispute concerning AbCellera's requests to depose former PhenomeX CEO Siddhartha Kadia and Bruker Cellular president Mark Munch. The court resolved the dispute without oral argument and denied AbCellera's requested relief.
STANDARD OF REVIEW	The court applied the Federal Rules of Civil Procedure governing the scope of deposition discovery and protective orders. For an apex deposition, the court considered whether the proposed deponent had unique first-hand knowledge of facts at issue and whether less intrusive means of obtaining the information had been exhausted.
PRECEDENTIAL VALUE	unknown
PARTIES	AbCellera Biologics Inc., The University of British Columbia v. Bruker Cellular Analysis, Inc.

TOPICS

discovery dispute

civil procedure

patent infringement

intellectual property

commercial litigation

PRACTICE AREAS

civil procedure

patent litigation

discovery

QUESTIONS PRESENTED

1. Whether the court could order Bruker Cellular to produce nonparty Siddhartha Kadia for deposition without a valid Rule 45 subpoena.
2. Whether AbCellera could depose Bruker Cellular officer Mark Munch as an apex witness when AbCellera had not shown that he possessed unique first-hand knowledge of facts at issue.
3. Whether Bruker Cellular was entitled to a protective order barring Munch's deposition.

HOLDINGS

1. A nonparty may be deposed only through a valid subpoena under Federal Rule of Civil Procedure 45; the court could not order Bruker Cellular to produce Kadia because AbCellera had not presented a valid subpoena or other basis for the requested relief.
2. An apex deposition may be disallowed or limited when the proposed deponent lacks unique first-hand knowledge of facts at issue; AbCellera failed to show that Munch possessed such knowledge, so his deposition was denied.
3. Bruker Cellular was entitled to a protective order barring Munch's deposition because AbCellera did not establish good cause to require the apex deposition or show that Munch had unique first-hand knowledge relevant to the case.

KEY QUOTATIONS

“Because Dr. Kadia is a non-party, AbCellera may only obtain his testimony pursuant to a valid Rule 45 subpoena; it may not rely on Rule 30.” (at 2)

“In determining whether to permit or limit an apex deposition, a court should consider (1) whether the deponent has unique first-hand knowledge of the facts at issue in the case, and (2) whether the party seeking the deposition has exhausted other less intrusive means to obtain the discovery.” (at 2)

“As AbCellera has not shown that Dr. Munch has unique first-hand knowledge of any facts at issue in the case, the Court denies AbCellera’s request for his deposition and grants Bruker Cellular’s request for a protective order.” (at 3)

FACTUAL BACKGROUND

Siddhartha Kadia was the former CEO of PhenomeX, a successor to the original defendant Berkeley Lights, and participated in a possible resolution discussion with AbCellera in August 2023. He later signed the August 2023 merger agreement with Bruker Corporation, resides outside the Northern District of California, and is no longer affiliated with a party. Mark Munch is the president of Bruker Cellular and its corporate parent and also signed the merger agreement. AbCellera sought both depositions, asserting that Munch had information about the

merger, employment of Anupam Singhal, and continued allegedly infringing activity, but did not establish the relevance or unique nature of that information.

PROCEDURAL HISTORY

AbCellera requested Kadia's deposition as a nonparty and Munch's deposition as an officer of Bruker Cellular. Bruker Cellular objected to both depositions, including on apex-witness grounds. The court denied relief as to Kadia because AbCellera had not presented a valid Rule 45 subpoena or grounds for ordering his production, and denied Munch's deposition while granting a protective order because AbCellera failed to show that he possessed unique first-hand knowledge of facts at issue.

DISPOSITION

other

CASES CITED

- Elasticsearch, Inc. v. GmbH, No. 19-cv-05553-YGR (AGT), 2021 WL 1753796, at *1 (N.D. Cal. May 4, 2021)
- Rivera v. NIBCO, Inc., 364 F.3d 1057, 1063 (9th Cir. 2004)
- Apple Inc. v. Samsung Elecs. Co., Ltd., 282 F.R.D. 259, 263 (N.D. Cal. 2012)
- RJ v. Cigna Health & Life Ins. Co., No. 20-cv-02255-EJD (VKD), 2023 WL 187565, at *1 (N.D. Cal. Jan. 13, 2023)

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