

Composite Exhibit 12

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EXHIBITS: 1-30
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 1:16-CV-21199-CMA/O'Sullivan

ANDREA ROSSI, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 THOMAS DARDEN, et al.,)
)
 Defendants.)
)

VIDEOTAPED DEPOSITION OF AMPENERGO, INC.

BY CRAIG J. CASSARINO

This deposition, held pursuant to the Federal Rules of Civil Procedure, Rule 30(b)(6), at Nixon Peabody, LLP, 900 Elm Street, Manchester, New Hampshire, on Thursday, February 23, 2017, commencing at 9:00 a.m.

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Dover, NH 03821-1658
(603) 743-4949
1-800-600-1000

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1-800-600-1000

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1 APPEARANCES:

2

3 PEARLMAN, BAJANDAS, YEVOLI

4 & ALBRIGHT, P.L.

5 BY: Brian Chaiken, Esq.

6 283 Catalonia Avenue, Suite 200

7 Coral Gables, FL 33134

8 305 377-0086

9 Bchaiken@pbylaw.com

10 For the Plaintiffs

11

12 MILLER FRIEL PLLC

13 BY: Bernard P. Bell, Esq.

14 1200 New Hampshire Ave., NW

15 Suite 800

16 Washington, DC 20036

17 202 760-3158

18 BellB@millerfriel.com

19 For the Defendants

20

21

22

23

Page 3

1 APPEARANCES: (CONT'D)

2

3 NIXON PEABODY LLP

4 BY: Andrew L. Share, Esq.

5 900 Elm Street

6 Manchester, NH 03101

7 603 628-4053

8 Ashare@nixonpeabody.com

9 For AmpEnergy and the Deponent

10

11 (Via Telephone)

12 ARAN CORREA & GUARCH, P.A.

13 BY: Fernando S. Aran, Esq.

14 -and-

15 Francisco J. Leon de la Barra, Esq.

16 255 University Drive

17 Coral Gables, FL 33134

18 305 665-3400

19 Fleon@acg-law.com

20 Faran@acg-law.com

21 For Third-Party Defendants

22 JM Products, Johnson, and Bass

23

Page 4

1 APPEARANCES: (CONT'D)

2

3 RODOLFO NUNEZ, P.A.

4 BY: Rodolfo Nunez, Esq.

5 255 University Drive

6 Coral Gables, FL 33143

7 305 443-2440

8 Rnunez@ag-law.com

9 For Third-Party Defendant Fabiani

10 and USQL

11

12 ALSO PRESENT:

13

14 David Waldman, Videographer

15

16

17

18

19

20

21

22

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1 I N D E X

2

3 TESTIMONY OF: PAGE

4

5 CRAIG J. CASSARINO

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4	Exhibit 1	Amended Agreed Notice of Taking Videotaped Deposition
6	Exhibit 2	AE 422.001-422.002
7	Exhibit 3	AE 538
8	Exhibit 4	IH 21529-21533
9	Exhibit 5	IH 129182
10	Exhibit 6	IH 104053-104058
11	Exhibit 7	IH 132033-051
12	Exhibit 8	IH 104013-018
13	Exhibit 9	AE 340
14	Exhibit 10	AE 437.001-437.008
15	Exhibit 11	AE 436
16	Exhibit 12	AE 255.001-255.002
17	Exhibit 13	AE 295.001-295.003
18	Exhibit 14	AE 303
19	Exhibit 15	IH 124079-081
20	Exhibit 16	AE 304.001-304.002
21	Exhibit 17	IH 90966-967
22	Exhibit 18	IH 127256-258
23	Exhibit 19	AE 6-32

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1 VIDEOGRAPHER: Today is February 23rd,
 2 2017. The time is 9 o'clock a.m. The location is
 3 Nixon Peabody LLP, in Manchester, New Hampshire.
 4 My name is David Waldman, legal video specialist.
 5 The Case No. is 1:16-CV-21199-CMA/O'Sullivan,
 6 filed in the US District Court, Southern District
 7 of Florida. Case is Andrea Rossi, et al. versus
 8 Thomas Darden, et al. The deponent is Craig
 9 Cassarino. The video deposition was requested by
 10 Brian W. Chaiken, Esquire.
 11 Counsel and all present will please
 12 identify themselves for the record, and the
 13 stenographic court reporter, Jodi Ohnemus, will
 14 swear in the witness.
 15 MR. CHAIKEN: Good morning, Brian
 16 Chaiken, on behalf of Plaintiffs.
 17 MR. BELL: Bernard Bell, for Defendants.
 18 MR. SHARE: Good morning. Andrew Share
 19 counsel for AmpEnergO.
 20 MR. CASSARINO: Craig Cassarino.
 21 COURT REPORTER: On the phone?
 22 MR. ARAN: Hello. Yes. From the phone:
 23 Fernando Aran, on behalf of third-party Defendant,

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1 JM Products, Inc., Henry Johnson, and James Bass.
 2 MR. NUNEZ: Rudy Nunez, on behalf of
 3 Fulvio Fabiani and United States Quantum Leap,
 4 LLC.
 5 CRAIG J. CASSARINO, having
 6 first been duly sworn, was
 7 examined and testified as
 8 follows
 9 BY MR. CHAIKEN:
 10 Q. Good morning.
 11 A. Good morning.
 12 Q. My name is Brian Chaiken, and I'm an attorney for
 13 the Plaintiffs in this case.
 14 Could you please state your name and
 15 spell your last name for the record.
 16 A. Yes. Craig Cassarino, C-a-s-s-a-r-i-n-o.
 17 Q. And where do you live, Mr. Cassarino?
 18 A. I live at 30 Green Road, Amherst, New Hampshire.
 19 Q. Approximately how long have you lived there?
 20 A. Five and a half years.
 21 Q. Okay. And I think you mentioned before we got on
 22 the record that you had never been deposed before;
 23 is that true?

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1 (Exhibit 13, AE 295.001-295.003.)
2 Q. And it's a draft of a second amendment to the
3 license agreement.
4 Take a second to look it over and let me
5 know when you're done.
6 A. (Witness reviews document.) I -- I -- you know,
7 I'm a little confused as to the 6-cylinder unit.
8 Q. You don't recall having conversations with either
9 Doctor Rossi or IH regarding a 6-cylinder unit?
10 A. Well, the only -- my recollection was 6-cylinder
11 unit was something we spotted in -- oh, we saw in
12 Italy -- was tested -- or being tested. The - it
13 was a new kind of concept that Doctor Rossi had.
14 And I -- and I don't recall -- I thought, you
15 know, again, this is -- that the E-Cat, defining
16 which one -- the Hot Cat, E-Cat 6 cylinder was --
17 it's a little confusing for me as to which one.
18 I -- obviously, we've seen this. We've --
19 Q. Right.
20 A. -- you know, did -- signed it and, you know, moved
21 ahead with it, but...
22 Q. Is it -- is it your understanding that AEG
23 executed this document?

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1 of this -- this amendment to incorporate --
2 A. No. I think we just -- we felt that it wasn't in
3 his best interest or our best interest to sign
4 this.
5 Q. Why did you think it was not in Doctor Rossi's
6 best interest?
7 A. Because we felt that he would not get the funds
8 that were due him if we -- if it was below -- it
9 was -- again, and -- and this is hard for me to
10 recall this -- but in the language of the
11 agreement, it was -- and we -- we had all kinds of
12 attorneys look at this -- it was -- sort of --
13 wishy-washy of how our payment -- it wasn't so
14 much Doctor Rossi; it was our payment -- how we
15 would get reimbursed the money that we were to
16 receive.
17 Q. Okay. Was it your understanding that, despite
18 AEG's not signing the second amendment, that
19 Industrial Heat and Leonardo were still working
20 towards a 350-day test?
21 A. Yes. Yeah.
22 MR. BELL: Objection to form.
23 Q. Did anyone from Industrial Heat say to you at any

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1 A. I don't remember. I don't remember.
2 Q. Do you recall having a conversation with Doctor
3 Rossi where he said, I'd like you to sign the
4 second amendment, or, I'd like AmpEnergO to sign
5 the second amendment?
6 A. Yes, I -- I do -- and -- and we did say we didn't
7 want to sign it.
8 Q. Why?
9 A. Because we felt that -- in negotiating with
10 Industrial Heat -- that, by signing this, we
11 wouldn't be party to that COP -- the 6 COP; and if
12 it was a percentage below that, we had no right to
13 any funds coming forward.
14 Q. I see.
15 So is your view that you were going to
16 lose your -- your right to a payment of that
17 additional tranche by executing this document?
18 A. Yes.
19 Q. Did you express that to Doctor Rossi?
20 A. Yes.
21 Q. Was that verbal, or was that --
22 A. It was -- it was verbal.
23 Q. Okay. Did you Say, Hey, If you change the terms

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1 time in or around October of 2013 that the time
2 for performance of that 350-day test was to be
3 done immediately after that 1 megawatt was
4 delivered to North Carolina; and that, because the
5 test hadn't started up, there was no opportunity
6 for Doctor Rossi or AmpEnergO to -- to earn
7 additional payment under that provision?
8 MR. BELL: Objection to form.
9 A. I'm not sure I quite understand what -- let me --
10 sort of -- feed that back.
11 Q. Sure.
12 A. So you're saying if that test had not started on X
13 day -- day one --
14 Q. Right.
15 A. -- under that 300 -- whatever the number was --
16 340 days -- or whatever that number was -- that
17 there would be a penalty for that?
18 Q. I don't know if I would say a "penalty," but just
19 -- the time for performance had come and gone, and
20 because it wasn't performed --
21 A. They were worried -- Industrial Heat was worried
22 that the timing -- it was taking a long time to
23 get this one-year test under -- underway.

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1 licensing the E-Cat IP, and AEG would be entitled
2 to the second tranche equity."
3 Do you see that?
4 A. Yes.
5 Q. Did they -- did anyone from Industrial Heat ever
6 dispute that?
7 A. I --
8 Q. Meaning, did any -- let me rephrase it.
9 A. Yeah.
10 Q. Did anyone from Industrial Heat ever say, We don't
11 think that AEG could ever be entitled to the
12 second tranche of equity?
13 A. No. We assumed they would.
14 Q. Okay.
15 A. Yeah. And you can see from that -- and I'm just
16 reading this -- that the other -- last paragraph
17 there, that we were always -- we -- we felt that
18 Industrial Heat and -- and us, we had a good
19 relationship, as did Industrial Heat and Andrea.
20 That was -- you know, it -- it got into the legal
21 stuff that, you know, we -- I -- you know,
22 personally, I don't have the stomach for it. You
23 know, that's really -- it's about working

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1 turn the page to the second page to see the text
2 of the -- of the email.
3 A. Oh.
4 Q. And you write to him: "Just trying to get some
5 idea of how things were going with the testing of
6 the blue box 1 megawatt. J.T. had mentioned a
7 while ago that you were going to get it running
8 soon. We are very interested as to how it is
9 going, because AmpEnergo's second tranche of funds
10 are tied to the 350-day test and COP. As I
11 suspect, your payment is too."
12 A. Yes, I --
13 Q. I mean, if --
14 A. I mean, I don't recall it, but, obviously, I -- I
15 wrote that.
16 Q. What discussions were you having with Industrial
17 Heat about the 350-day test at this time?
18 A. They -- my -- my sense of where Tom was in
19 conversations with he and J.T. was, they were
20 letting Andrea move ahead with it. You know, we
21 were always -- not questioning, but we were
22 concerned that they weren't as involved in the
23 1-megawatt test as we would have been, you know.

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1 collaboratively.
2 Q. Did -- after this time frame, November of 2013,
3 did Industrial Heat or Doctor Rossi ever come back
4 to you and say, We don't think that that second
5 amendment was valid, because AmpEnergo didn't
6 execute it?
7 A. Yeah.
8 Q. And do you recall having conversations about it?
9 A. I -- I'm sure we did. I don't recall exactly
10 when/how, but we knew -- by not signing it -- that
11 that second amendment was not going to be valid.
12 Q. All right. I show you what's been marked as
13 Exhibit 15.
14 MR. CHAIKEN: Exhibit 15 has been Bates
15 stamped IH 124079 through 124081.
16 (Exhibit 15, IH 124079-081.)
17 Q. It's a series of emails from April of 2014 between
18 you and Doctor Rossi and others.
19 And the first email I'm going to point
20 you to is -- starts at the very bottom of the
21 first page. It's dated April 30th, 2014. It's
22 from you to Doctor Rossi.
23 And you write to him -- and you have to

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1 Q. What -- what gave you those concerns?
2 A. That -- that they were not -- J.T. -- J.T. or --
3 there was a guy, T. Barker...
4 Q. T. Barker Dameron?
5 A. Yeah. Yeah.
6 You know, that they were all involved in
7 making this 1 megawatt with Andrea; and when it
8 went to Florida, they had not been as involved as
9 they were when it was in North Carolina.
10 Q. Okay. Now, Andrea Rossi responds to your email on
11 the next page, which is the first page of the
12 document.
13 A. Okay.
14 Q. And he writes to you: "Dear Craig, we have to put
15 in operation the 1-megawatt plant that we are
16 ready to put in operation since when we delivered
17 it in August of 2013. It has been delivered
18 perfectly ready to go, as it has been turned off
19 after the May test. It has not been possible to
20 put it in operation for reasons independent from
21 us."
22 Did you ever have any conversations with
23 Doctor Rossi about why the -- the 1 megawatt

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1 Q. And did -- did you ever have a discussion with
2 either Mr. Darden or Mr. Vaughan about that
3 concept?
4 A. Oh, yes. Yes.
5 Q. And -- and what was their reaction?
6 A. I think they were in agreement. I think that was
7 part of why they had asked Boeing to do a one-unit
8 test --
9 Q. Uh-huh.
10 A. -- was, Let's just prove it -- having a 1
11 megawatt, because the 1 megawatt was complicated,
12 just because -- and all the engineering
13 requirements that were entailed to get all of the
14 water and everything in sequence and all of that.
15 Q. Okay.
16 A. So what we were -- we just wanted to make sure
17 that the LENR was real; and that the easiest way
18 to do that would be just to do one unit.
19 Q. Let me ask you to flip to the page that's dated 27
20 September, 2013, which is AE 24.
21 Are you with me?
22 A. Yeah.
23 Q. Really, I want to establish the date here is 27

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1 A. I don't -- I don't remember.
2 MR. BELL: Mark this as exhibit next in
3 order, an email dated November 25, 2013, stamped
4 IH 00093886.
5 (Exhibit 25, IH 00093886-890.)
6 A. (Witness reviews document.)
7 Q. This is an email that you wrote to Mr. Darden and
8 Mr. Vaughan; is that correct?
9 A. Uh-huh -- yes.
10 Q. Why at this time was AEG considering inviting the
11 collaboration to help Industrial Heat?
12 A. Let me read this first. (Witness reviews
13 document.)
14 Because we -- we felt that the -- the --
15 because Industrial Heat -- nobody at that time,
16 other than T. Barker, was not in a -- they weren't
17 technical. They were money men. I mean, that was
18 really the -- the key; that they were raising the
19 funds.
20 T. Barker was the only real technical
21 person they had available at this time. We felt
22 that -- John Preston was one of the people. He
23 had a company that was doing high -- high

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1 September, 2013, and I have a question on the next
2 page.
3 A. Okay.
4 Q. Now, is it your understanding that the validation
5 testing in Italy with Penon that resulted in the
6 10 or \$15 million payment was in April/May of
7 2013?
8 A. Yes.
9 Q. So at -- by this time, that has already happened;
10 correct?
11 A. Yes.
12 Q. Now, there's a reference here -- can you -- can
13 you read the notes on AE 25.
14 A. "ERV expert representation for validation. Sweden
15 team? Penon?"
16 Q. With question marks after those.
17 What does that mean?
18 A. I'm not sure what Ron meant by that. I -- you
19 know, other than, Is it going to be the Swedish
20 team or Penon?
21 Q. But it was -- it was not established that it would
22 be Penon; is that correct?
23 MR. CHAIKEN: Object to form.

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1 technology. Tom -- I introduced Tom to him.
2 Boeing, obviously, had -- and that --
3 the more technical help we could give Industrial
4 Heat, the easier it would be to move all this
5 forward.
6 Q. Okay. And in -- in the email you write -- towards
7 the -- towards the end, about the sixth line from
8 the bottom of your email: "I am not sure if this
9 is the right time, however, getting another set of
10 eyes and skills might speed this IP transfer
11 quicker and slow down your burn rate."
12 Do you see that?
13 A. Uh-huh.
14 Q. Now, in November of 2013, when you wrote this
15 email, did AEG believe that the IP transfer from
16 Rossi and Leonardo to Industrial Heat was not
17 complete?
18 MR. CHAIKEN: Object to form.
19 A. No. We -- we felt it was -- I mean, that's why
20 they paid the money. We felt that they tran --
21 everything had been transferred. But what we were
22 understanding from J.T. is, they were not able to
23 reproduce it. And because they only had a limited

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1 THE WITNESS: No, let's just keep going.
2 MR. BELL: All right. I'm going to mark
3 as the next exhibit an email -- first one is dated
4 June 12, 2015, stamped IH 131061.
5 (Exhibit 27, IH 00131061-62.)
6 A. (Witness reviews document.)
7 Q. And I'm really interested, Mr. Cassarino, in your
8 email dated June 3 to Mr. Vaughan at the bottom of
9 the page.
10 Do you see that?
11 A. Yeah.
12 Q. So you asked Mr. Vaughan whether he, meaning
13 Industrial Heat, was satisfied with Penon doing
14 the verification.
15 A. Uh-huh.
16 Q. Do you see that?
17 And in the last sentence you asked Mr.
18 Vaughan if he was going to accept the information
19 from Penon --
20 A. Yeah.
21 Q. -- is that correct?
22 A. Yes.
23 Q. And it says "except," but I take it you mean

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1 A. (Witness reviews document.) Yes.
2 Q. So let me repeat the question again: These are
3 notes of a telephone conversation between J.T.
4 Vaughan and -- at least Mr. Engleman at AEG -- on
5 June 26, 2015; correct?
6 A. Yes.
7 Q. Do you remember participating in this call
8 specifically?
9 A. Let me just look. I -- I'm -- we had a lot,
10 but...
11 (Witness reviews document.) Yes, I see
12 that.
13 Q. Okay. So on June 3rd you had asked Mr. Vaughan by
14 email if Industrial Heat was satisfied with Penon
15 doing the verification, as we just saw; correct?
16 A. Uh-huh.
17 COURT REPORTER: Yes?
18 A. Yes.
19 Q. And on June 26, did Mr. Vaughan tell you that
20 Industrial Heat never agreed that Penon could do
21 the audit?
22 A. That's what it says in the notes.
23 Q. If you turn the page, did Mr. Vaughan tell you

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1 a-c-c-e-p-t --
2 A. Yeah, I'm sure.
3 Q. -- correct?
4 A. Yeah.
5 Q. Okay. Now, let me ask you to pull out what was
6 marked this morning as Exhibit 20, which are the
7 handwritten notes that begin October of 2014.
8 A. (Witness reviews document.) Which -- which page?
9 Q. And I'm asking you to look at the page that's
10 dated June 26, 2015. It's AE 5.001.
11 A. Okay.
12 Q. Now, these -- you understand these to be notes of
13 a telephone conversation with J.T. Vaughan on June
14 26, 2015?
15 A. On the Exhibit 20?
16 Q. Yes.
17 A. Yes.
18 Q. Okay. And in --
19 A. It's actually October 14; right?
20 Q. No. I'm looking at AE -- the page that's AE
21 5.009, dated June 26 --
22 A. Oh, 9. Excuse me. Excuse me.
23 Q. Yeah.

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1 that a "real" -- underscore -- "real" audit must
2 be done?
3 A. I guess he did.
4 Q. And so in June of 2015, did AEG understand that
5 Industrial Heat did not agree to accept any report
6 by Penon?
7 A. Well, that says here -- what -- we were confused
8 after this was why they didn't do anything to stop
9 the -- what was going on.
10 I mean, this was verbal, but we didn't
11 see any written or -- you know, these were
12 conversations that we had, and we were -- I mean,
13 we were confused, because I know J.T. --
14 (Phone sounds.)
15 A. We knew that J.T. did not have confidence in
16 Penon; and that was part of this conversation.
17 Q. So putting aside what was said or not said to Mr.
18 Rossi about that, you understood that Industrial
19 Heat did not agree to Penon.
20 A. Yes.
21 Q. All right. Now, in the notes -- the handwritten
22 notes of the conversation, it goes on to say "IH
23 cannot replicate. IH must --" underscore "-- must

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1 be able... replicate."
2 Do you see that?
3 A. On which page?
4 Q. AEG -- AE 5.010. The next page.
5 A. (Witness reviews document.) Yes.
6 Q. Uh-huh. So in June of 2015 it was your
7 understanding that Industrial Heat did not believe
8 that it had been able to replicate the -- the
9 Rossi effect; is that correct?
10 A. Yes.
11 Q. Did AEG at that time understand that Industrial
12 Heat did not intend to pay Rossi or AEG if
13 Industrial Heat could not replicate?
14 A. I -- that was always assumed.
15 Q. Now, there's -- there's a notation in these notes
16 that says "What's behind the wall."
17 Do you see that?
18 A. Whereabouts?
19 Q. Just one line down -- two lines down from what we
20 just read.
21 A. That's -- I guess that would have been J.T. making
22 comment.
23 Q. Uh-huh. And now -- and the next line says "If IH

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1 It was, like, let -- you know, Andrea -- I mean,
2 Tom would always, like, give -- you know, Let
3 Andrea play in his sandbox. Let him do what he
4 wants to do; be -- be himself and the inventor.
5 And Tom didn't want any conflict going on that
6 would upset Andrea so that Andrea would get
7 distracted from his mission of doing 1 megawatt or
8 for finding the...
9 Q. Why do you think he did that?
10 A. Why did Tom do that? 'Cause --
11 MR. SHARE: Objection to form.
12 A. -- I think he just wanted to make all this work.
13 MR. BELL: I'm going to have marked as
14 the exhibit next in order an email dated June 29,
15 2015, stamped AE 345.001.
16 (Exhibit 28, AE 000345.001-002.)
17 A. (Witness reviews document.)
18 Q. Have you had a chance to review that?
19 A. Doing that right now. (Witness reviews document.)
20 Q. Now, on June 29th you wrote an email to Andrea
21 Rossi; correct?
22 A. Yes.
23 Q. And in that email you asked him whether Industrial

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1 feels good about things, they may not push him on
2 the 1-megawatt test."
3 Do you see that?
4 A. Uh-huh.
5 Q. What does that mean to you?
6 A. That if he's -- if they feel he was having
7 success, that -- I don't -- again, I --
8 conversations we always had with Tom and
9 Industrial Heat was, they were always feeling that
10 the 1 megawatt wasn't necessary either. I think
11 Andrea felt that he wanted to show that he could
12 commercialize this, and that Industrial Heat felt
13 that, you know, if they -- if things were going
14 well, then -- then maybe that wasn't necessary to
15 do the big test.
16 Q. And the last line there says "IH does not want to
17 piss him off."
18 A. Yeah.
19 Q. Do you see that?
20 What does that mean to you?
21 A. It means that Tom always was trying to be
22 sensitive to Andrea and let him develop his -- the
23 project. It was -- we always had this expression:

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1 Heat had agreed to using Penon for the
2 certification for the test; is that right?
3 A. Yes.
4 Q. Now, you knew, based on the exhibits that we just
5 reviewed, that Industrial Heat did not agree to
6 using Penon for the certification.
7 So why did you ask Mr. Rossi that
8 question?
9 A. 'Cause we didn't get an answer from Industrial
10 Heat as to whether there was any agreement or not.
11 This was just a verbal conversation that I didn't
12 know whether or not Industrial Heat had
13 communicated with Andrea Rossi.
14 Q. Well, those seem -- two separate things to me.
15 They -- they had clearly -- Industrial Heat had
16 clearly communicated it to you --
17 A. Yes.
18 Q. -- correct?
19 And you just told me that Mr. Darden
20 went out of his way not to -- not to aggravate Mr.
21 Rossi; correct?
22 A. Yeah. Yeah.
23 Q. And you had a concern that they had not --

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1 interest to sign that.
 2 MR. SHARE: That's it.
 3 MR. BELL: No further questions. Thank
 4 you very much for your time.
 5 MR. CHAIKEN: Okay. Read or waive?
 6 MR. SHARE: What's that?
 7 MR. CHAIKEN: He wants to read it, or
 8 waive his right to read it?
 9 MR. SHARE: No. We're going to read it.
 10 MR. CHAIKEN: Okay. Appreciate your
 11 time. Thank you.
 12 VIDEOGRAPHER: Okay. Time is 3:03 p.m.,
 13 and this concludes the deposition.
 14 (Whereupon the deposition ended at
 15 3:03 p.m.)
 16
 17
 18
 19
 20
 21
 22
 23

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1 SUBSCRIPTION OF DEPONENT
 2 State of _____
 3 County of _____
 4
 5
 6 I, Craig J. Cassarino, do hereby certify that
 7 I have read the foregoing transcript of my
 8 testimony and further certify that said transcript
 9 (with/without) suggested corrections on the Errata
 10 Sheet is a true and accurate record of said
 11 testimony taken at the time and place designated.
 12
 13
 14 _____
 15 Craig J. Cassarino
 16
 17 Date _____
 18 Subscribed and sworn to
 19 Before me this _____,
 20 day of _____, 20____.
 21
 22 Notary Public
 23 State of New Hampshire
 Commission expires: _____

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1 ERRATA SHEET
 2
 3 I, Craig J. Cassarino, wish to document
 4 the following corrections:
 5
 6 PAGE LINE
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 8
 9 _____ CHANGE: _____
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1 C E R T I F I C A T E
 2
 3 I, Patricia Jodi Ohnemus, a Licensed
 4 Shorthand Reporter for the State of New Hampshire,
 5 do hereby certify that the foregoing is a true and
 6 accurate transcript of my stenographic notes of
 7 the proceeding taken at the place and on the date
 8 hereinbefore set forth to the best of my skill and
 9 ability under the conditions present at the time.
 10
 11 I further certify that I am neither
 12 attorney or counsel for, nor related to or
 13 employed by any of the parties to the action in
 14 which this proceeding was taken, and further that
 15 I am not a relative or employee of any attorney or
 16 counsel employed in this case, nor am I
 17 financially interested in this action.
 18
 19 The foregoing certification of this
 20 transcript does not apply to any reproduction of
 21 the same by any means unless under the direct
 22 control and/or direction of the certifying
 23 reporter.

 Patricia Jodi Ohnemus
 LCR #91, RMR, RPR, CRR