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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ANDREA ROSSI and LEONARDO)
CORPORATION,)
)
Plaintiffs,)

vs.) No. 1:16-cv-2119-CMA)

THOMAS DARDEN; JOHN T. VAUGHN;)
INDUSTRIAL HEAT, LLC; IPH)
INTERNATIONAL B.V.; and)
CHEROKEE INVESTMENT PARTNERS,)
LLC,)

Defendants.)
INDUSTRIAL HEAT, LLC and IPH)
INTERNATIONAL B.V.,)

Counter-Plaintiffs,)

vs.)

ANDREA ROSSI and LEONARDO)
CORPORATION,)

Counter-Defendants,)

and)

J.M. PRODUCTS, INC.; HENRY)
JOHNSON; FABIO PENON; UNITED)
STATES QUANTUM LEAP, LLC;)
FULVIO FABIANI; and JAMES)
BASS,)

Third-Party Defendants.)

Videotaped Deposition of
JOHN THOMAS VAUGHN
(Taken by Plaintiff)
3509 North Haworth Drive, Suite 403, Raleigh, North Carolina
January 19, 2017, 9:04 a.m.

Reported in Stenotype By
Margaret M. Kruse, CSR, RMR, CRR
Transcript produced by computer-aided transcription

1 protocol was insufficient?

2 **A. Did I determine the test protocol was**
3 **insufficient?**

4 Q. At what point did you say there's a lot more that
5 we should have known here or should have done, you needed,
6 as you said, a diagram showing everything, et cetera? At
7 what point did you have that realization?

8 **A. Your question is asking a specific about the test**
9 **protocol. I can't say that I thought specifically with**
10 **regard to, like, the test protocol. I wasn't sitting there**
11 **thinking, man, you know, the test protocol is insufficient.**

12 **The broader, overarching question was, does it**
13 **work or not, did it ever work or not or did he transfer the**
14 **IP? Clearly, we began to have those questions. And**
15 **whenever he arrived and we began running tests at the**
16 **facility. So the fall of '13 I would say.**

17 Q. Did you go to the test, sir?

18 **A. I did. Which test do you mean?**

19 Q. The validation test.

20 **A. In was it Ferrara?**

21 Q. Yes.

22 **A. Yes.**

23 Q. Did you take video while you were there?

24 **A. There is video, yes.**

25 Q. How many different cameras did you use?

1 A. We proposed early on that he could do it right
2 where the plant was delivered. I mean, that's part of the
3 reason the plant was delivered to where it was delivered
4 to; otherwise why wouldn't it have just gone to Miami. So
5 it was delivered to Raleigh because we fully anticipated
6 having the test there.

7 Andrea was very adamant about having a customer,
8 you got to have a customer that's only validated by the
9 market and blah, blah, blah. That's what -- we wanted to
10 be accommodate I have to his desires to have his technology
11 validated by the market. We wouldn't have a problem with
12 that, per se. We just wanted to -- our goal was to
13 determine, again, whether or not the technology really
14 performed as advertised, real serious significant energy
15 output, real COP and replicable.

16 So there a truck washing -- there is a
17 contracting firm and they often washed trucks with steam
18 right next to our building. And -- so they needed a lot of
19 hot water or a lot of heat, you know, however they wanted
20 to heat the steam, the water they were using. And that was
21 one specific example of what was proposed.

22 I believe Tom made other proposals to accommodate
23 Andrea's desire to -- to want to have a commercial
24 validation of this. But, anyway, that was -- that was one
25 of them.

1 Q. You knew at the time that J.M. Chemical Products
2 was a newly form entity, not a long-existing entity, it was
3 formed shortly before this agreement, you know that, right?

4 A. I can't recall if we got into the specifics of
5 when J.M. Chemical Products was formed. And I still don't
6 know when it was formed. I'm sure it's out there. I'm
7 sure you can look up the Secretary of State filing.

8 But what we believed is that it was formed
9 Johnson Matthey in the UK.

10 Q. Okay. I understand. I understand that's your
11 belief. But what I'm asking you is: At the time, before
12 you entered into this agreement, was it your understanding
13 that J.M. chemical products, not Johnson Matthey, was a
14 newly formed company for the sole purpose of the -- of
15 working under the transaction contemplated in this term
16 sheet?

17 A. I did not recall at the time -- you know, as I
18 said, my recollection is that it was an affiliate of the UK
19 company, Johnson Matthey. I don't know when it was formed;
20 I'm not sure.

21 Q. Do you know if J.M. Chemical Products had a
22 facility operating in Miami prior to entering into this
23 term sheet?

24 A. I don't know.

25 Q. If there had been a facility in Miami, would you

1 have asked to see it? Could you have asked to visit the
2 facility?

3 **A. Not necessarily.**

4 Q. Why not?

5 **A. Why would I have?**

6 Q. To see what they would use the E-Cat for I would
7 imagine.

8 **A. I previously told you we didn't care how they**
9 **were -- you know, what they were using it for. We didn't**
10 **care if they were producing nickel, platinum, whatever. It**
11 **didn't -- didn't make a difference to us.**

12 Q. Now -- I'm sorry. We have to change the tape
13 again. Take a five-minute break.

14 THE VIDEOGRAPHER: We're off the record at 3:03
15 p.m.

16 (Recess at 3:03 p.m. until 3:11 p.m.)

17 THE VIDEOGRAPHER: We're back on the record at
18 3:11 p.m.

19 BY MR. ANNESSER:

20 Q. Sir, before the break, you had just finished
21 telling me that you were not concerned with what was being
22 done with the steam or what was being produced with the
23 steam, but you did indicate that it was important to you
24 that it was affiliated with Johnson Matthey; is that
25 correct?

1 that. So it was very difficult for us to affirm whether or
2 not this was, in fact, Johnson Matthey. We were relying on
3 Andrea's claim that it was.

4 Q. When you say you weren't allowed to, what would
5 have happened if you'd picked up the phone and called?

6 A. I'm not sure. They probably would have said --
7 not have a clue what we're talking about.

8 Q. And then what would you have done?

9 A. I don't know. Because we were talking about a
10 hypothetical situation.

11 Q. If it was so important to you that it was Johnson
12 Matthey, what steps did you take to ensure that it was
13 other than Dr. Rossi saying that it was?

14 A. Again, John, all the way back here, periodically
15 things that Rossi would say did turn out, in fact, to be
16 not entirely false. So we were thinking, well, what if he
17 really is talking to Johnson Matthey, we'll respect that he
18 doesn't want us engaging them.

19 But, you know, what would have happened? I don't
20 know what would have happened. And -- if we had picked up
21 the phone and called him. It wasn't -- it was important
22 for us that somebody -- a credible entity such as Johnson
23 and Matthey could say we're consuming X amount of energy on
24 a continuous basis and can validate that.

25 But it was a -- it was -- all of this was

1 **contrived and pulled together by Rossi. So we were also**
2 **trying to accommodate him.**

3 Q. Did you ever request a letter from Johnson
4 Matthey or anything from Johnson Matthey to validate
5 Dr. Rossi's claim?

6 **A. I don't recall.**

7 Q. Now, as of the date this term sheet was signed,
8 was it your understanding that the plant was going to be
9 shipped to operate for J.M. Chemical Products and during
10 that period the 350-day test, as contemplated by the
11 license agreement, would be carried out?

12 **A. At the point this was signed?**

13 Q. Yes, sir.

14 **A. Can you state that again, the question again?**

15 Q. At the point that this was signed, which I will
16 represent to you was August 13, 2014 --

17 **A. Okay.**

18 Q. -- as stated on the last page, was it your
19 understanding that the plant would go down to Miami, both
20 to supply steam to J.M. Chemical Products as well as for
21 the 350-day test as contemplated by the license agreement?

22 **A. My understanding is that it would go down to**
23 **Miami.**

24 Q. At this point in time, did you believe that the
25 testing that would be done in Miami would not be the

1 asking you: Do you have specific knowledge or evidence of
2 Dr. Rossi or Mr. Fabiani manipulating the operation of the
3 plant?

4 **A. My knowledge is based on our engineering team's**
5 **analysis.**

6 Q. Okay. So independently you do not?

7 **A. Not other than what our engineering team has**
8 **provided, which, you know, I'm struggling now to recall**
9 **specifics about their analysis, but it's available.**

10 Q. Okay. You also alleged in the complaint,
11 Industrial Heat alleges -- and I want to know if you have
12 specific knowledge -- that Dr. Rossi did not ever meet with
13 the Ferrara health office and his statements regarding the
14 operation of the plant in Ferrara, Italy, for the
15 validation test were false.

16 Do you have any specific knowledge or evidence of
17 that?

18 **A. I believe that our legal team has looked into the**
19 **laws there and they're not consistent with what he had**
20 **claimed at the time.**

21 Q. Okay. But what I asked you is: Do you have any
22 evidence that there was no meeting with the Ferrara health
23 department or health office?

24 **A. Do I have positive evidence that a meeting didn't**
25 **take place?**

1 Q. Yes.

2 A. That's an interesting.

3 Q. It is.

4 Do you have an answer?

5 A. I do not.

6 Q. You have no evidence sitting here today that he
7 did not have a meeting? As far as you know, he may have,
8 he may not have?

9 A. I don't know.

10 Q. Now, you also claimed that Dr. Rossi and Leonardo
11 made no efforts to commence the guaranteed performance test
12 during 2013. Did Industrial Heat make any efforts to do
13 so?

14 A. Sure.

15 Q. What did they do?

16 A. We were trying to -- we were trying to work on
17 location. You know, do you want to do it here, how do you
18 want to design it, do you want to -- he kept talking about
19 commercial customers, said he would pump the steam and the
20 hot water next door. You know, we were actively -- and we
21 went so far as to, you know, order him another shipping
22 container. He said he wanted a new container.

23 So we were working on all those things for him.

24 And we've got personnel to assist him.

25 Q. And did you ever -- and that was to assist him in