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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.

Casa de Campo
Resort & Villas
La Romana, D.R.
Wednesday, February 22, 2017
9:06 a.m. - 7:42 p.m.

VIDEOTAPED DEPOSITION OF FABIO PENON

Taken on behalf of the Plaintiffs before
Diana Santos, Shorthand Reporter and Notary Public
in and for the State of Florida at Large, pursuant
to Notice of Taking Deposition filed in the above
cause.

1 BY MR. ANNESSER:

2 Q Sir, what device was used to measure the
3 supplied energy as reflected in the fourth column?

4 A The PC860 what is called net analyzer --
5 network analyzer.

6 Q How often was that data transmitted to
7 you?

8 A There was not a regular frequency of
9 transmittal, but taking into account the fact that
10 each four months I was physically at Doral frequents
11 of two months -- each two months, every two months.

12 Q Did the equipment store the data on a
13 daily basis?

14 A Yes, certainly. Yes, certainly. Yes, it
15 was stored.

16 Q Did you collect that data on your visits
17 to the plant?

18 A I checked the data and when I deemed
19 convenient at least twice -- every two months I had
20 to get them to transmit me the data up to that
21 point.

22 Q Is it possible that that data was
23 manipulated?

24 A No, because the system -- if this had
25 happened it would have shown an echo continuity of

1 consistency of the data.

2 Q Would that machine or that device record
3 any changes made to the data?

4 A Yes.

5 MR. PACE: Objection to the question, but
6 go ahead.

7 THE WITNESS: Definitely, yes.

8 BY MR. ANNESSER:

9 Q Looking at the fifth column, tank water
10 T-max. How was that measured?

11 A With the temperature sensor.

12 Q Where?

13 THE INTERPRETER: Where?

14 BY MR. ANNESSER:

15 Q Where was the sensor located?

16 A Indicated in the diagram, if I remember
17 well, in the reference to --

18 Q Are you referencing Exhibit 9?

19 A Yes, Exhibit 9. No, it is not.

20 MR. PACE: You are covering up the mic.

21 BY MR. ANNESSER:

22 Q Let me ask you, sir, not to waste time on
23 that.

24 How was that data recorded?

25 A With the same principle, the analogical

1 interested.

2 Q And who is the "they"?

3 THE INTERPRETER: Sorry.

4 BY MR. PACE:

5 Q Who would send you this data?

6 A Fabiani.

7 Q So Fulvio Fabiani would send you the data
8 from your computer every couple of months?

9 MR. ANNESSER: Object to the form.

10 THE WITNESS: According to my request.

11 BY MR. PACE:

12 Q Okay. So you made the request -- let me
13 rephrase it then.

14 Roughly every couple of months you made
15 the request for Fabiani to send you your data and
16 when you made such a request he would send it to
17 you?

18 MR. ANNESSER: Object to the form.

19 THE WITNESS: Correct. He was sending the
20 data in the computer.

21 BY MR. PACE:

22 Q So he had the ability to access your
23 computer to make at least a copy of the data to send
24 you?

25 MR. ANNESSER: Object to the form.