

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA)
3 ANDREA ROSSI and LEONARDO)
CORPORATION,)
4 Plaintiffs,)
5 VS.)
6 THOMAS DARDEN; JOHN T. VAUGHN;) No. 1:16-cv-2119-CMA
INDUSTRIAL HEAT, LLC; IPH)
7 INTERNATIONAL B.V.; and)
CHEROKEE INVESTMENT PARTNERS,)
8 LLC,)
9 Defendants.)
INDUSTRIAL HEAT, LLC and IPH)
10 INTERNATIONAL B.V.,)
11 Counter-Plaintiffs,)
12 Vs.)
13 ANDREA ROSSI and LEONARDO)
CORPORATION,)
14 Counter-Defendants,)
15 And)
16 J.M. PRODUCTS, INC.; HENRY)
17 JOHNSON; FABIO PENON; UNITED)
STATES QUANTUM LEAP, LLC;)
18 FULVIO FABIANI; and JAMES)
BASS,)
19 Third-Party Defendants.)
20

21 Videotaped Deposition of
22 THOMAS DARDEN
(Taken by Plaintiff)
23 3509 North Haworth Drive, Suite 403, Raleigh, North Carolina
24 February 16, 2017
Reported in Stenotype By
Leslie Christian
25 Transcript produced by computer-aided transcription



1 **A. Makes sense.**

2 Q. Is there any point in time that you --
3 based on your recollection that you were not an officer
4 or director of Industrial Heat, LLC?

5 **A. I don't remember not being. I don't**
6 **remember that.**

7 Q. Okay. There's a few other entities that
8 I'm really not concerned about other than just to
9 understand what your role is. L Holdings, LLC.

10 MR. BELL: What's the question?

11 MR. CHAIKEN: Is he an officer or
12 director?

13 **THE WITNESS: I don't remember.**

14 (BY MR. CHAIKEN)

15 Q. New Heat, LLC?

16 **A. Also don't remember.**

17 Q. Are both of those companies wholly owned by
18 IH Holdings International Limited?

19 **A. I believe that both of those are wholly**
20 **owned. I believe, but I would want to consult with our**
21 **attorneys or accountants to confirm that.**

22 Q. What about IHJ Holdings Limited?

23 **A. I would also want to consult with our**
24 **accountants about the precise structure there. It's a**
25 **complicated structure that we relied heavily on limited**

1 with the technology. No, in fact, I'm almost sure they
2 had been to meetings observing the technology with
3 other potential investors or developers of it. And so,
4 yeah, they were relatively familiar with the
5 technology.

6 Q. Did you just have conversations with them
7 about it or did you ask them for documents or
8 materials? Did you make due diligence requests to
9 them?

10 A. I don't remember what all we asked them
11 for, but I'm sure that they did give us some materials.

12 Q. Okay. And on that same subject, what due
13 diligence did you do before you entered into the
14 license agreement with Leonardo?

15 A. Well, J.T. Vaughn went to a conference or a
16 demonstration of some kind that Rossi had. We visited
17 facilities. We talked to a lot of different people who
18 were in the field. When I say "in the field," people
19 who were knowledgeable about LENR and what's going on.
20 We saw equipment operating. So we did a lot of
21 research. Just a broad-based set of activities.

22 Q. Did you conclude that it was a
23 controversial field?

24 A. Yes. We definitely knew that it was a
25 controversial field from the very beginning.

1 Q. And that the chances of it being a -- you
2 know, maybe something that doesn't work, something
3 that's not provable, something that has a lot of risk
4 with it? Is that your understanding?

5 MR. BELL: Objection to form.

6 THE WITNESS: Yes. We felt that there
7 was a good chance that the technology would not work.
8 We also felt that there were -- there was enough
9 evidence of LENR being observed in different settings
10 that it was worth investing in even knowing that it
11 might not be successful.

12 Q. I'm going to distinguish Dr. Rossi the
13 person from the technology for a second. Did you do
14 any due diligence into Dr. Rossi the person prior to
15 entering into the license agreement?

16 A. Yes, we did.

17 Q. What due diligence did you do?

18 A. We talked to him about his background and
19 the experiences he had had. And he was very
20 forthcoming that he had been in jail. He was -- said
21 that it was a function of him having not agreed to give
22 half of his business to the Mafia and that after
23 refusing to do that the police came and arrested him,
24 that his business was operating well at the time that
25 they came.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 1:16-cv-21199-CMA

ANDREA ROSSI, ET AL.,

Plaintiffs,

vs.

THOMAS DARDEN, ET AL.,

Defendants.

_____ /

PERLMAN, BAJANDAS, YEVOLI &
ALBRIGHT, P.L.
282 CATALONIA AVENUE
SUITE 200
CORAL GABLES, FL 33134
Monday, February 13, 2017
9:07 a.m. - 5:18 p.m.

VIDEOTAPED DEPOSITION OF JOHN THOMAS VAUGHN
(Corporate Representative of Industrial Heat, LLC)

Taken on behalf of the Plaintiff before
Elizabeth Cordoba, RMR, CRR, FPR, Notary Public in
and for the State of Florida at Large, pursuant to
Plaintiff's Notice of Taking Deposition in the above
cause.

1 So we were trying to go back and reconstruct a
2 timeline of what had happened in the field of LENR, as
3 well as with regard to Andrea. So that with regard to
4 Andrea, aside from his field, you know, he also -- there
5 were a number of people who clearly did not believe that
6 he was a legitimate character, a legitimate actor. And
7 they voiced their opinions very strongly online and, you
8 know, we raised concerns about his past. And so it was an
9 -- I would say it was an interesting process and
10 interesting timeline that was built around both the field
11 of LENR, as well as Andrea personally at that time.

12 Q. What specifically did you learn about
13 Dr. Rossi's background?

14 A. We learned that, you know, there are a number
15 of claims at that time about him having previously gone to
16 prison. I believe we confronted him about these claims.
17 He explained it -- he never denied having been in prison.
18 But he explained it as tax fraud and that it was --
19 effectively, there was no way for him to be compliant or
20 it was almost impossible for him to be compliant under
21 Italy's tax code. And he hadn't done a good job of
22 compliance, and so he ended up in jail for that.

23 You know, his other partners AEG seemed to also
24 kind of affirm that that was the case. And so we didn't
25 -- you know, in retrospect, maybe we should have dug a

1 I believe, is the attachment to that e-mail.

2 A. Okay. Thank you.

3 Q. Exhibit 4 has been Bates stamped 831 -- IH83131
4 through 83149. I believe that is the attachment to that
5 e-mail.

6 Do you recall seeing this? And you can take a
7 minute, to make sure. And I just have a real simple
8 question.

9 A. Okay.

10 Q. It relates to the e-mail, not necessarily the
11 report.

12 A. Okay.

13 Q. But in the e-mail it seems that, at least as of
14 August 16, 2012, Tom Darden had a copy of this report.
15 Would you agree with that?

16 A. I would agree with that, based on this e-mail.

17 Q. Okay. And at least he considered that Fabio
18 Penon could have been part of a fraud regarding this
19 technology. Would you agree with that?

20 A. Well, he did say, "Of course, the report could
21 be by someone who was part of a broader fraud. The
22 writer/professor is at the university there in Bologna, I
23 think. It has not been released."

24 So I am wondering if Tom was -- I agree this
25 report is appears to be about Penon. As I read Tom's

1 e-mail, I am wondering if he was referring to Penon or to
2 Levi when he says "professor at the university there in
3 Bologna." Because I was -- and Penon references a
4 validation test on July 16, 2012. Which I think that was
5 conducted by Levi. If you have that, it might help us
6 out.

7 Q. I don't have a copy of it right now.

8 A. Yeah.

9 Q. But my question, I don't mean to interrupt you,
10 but my question is really simply, do you recall having any
11 conversations with the team about, you know, this report
12 and Penon and whether or not he was -- could be, you know,
13 part of a greater fraud.

14 A. I recall that we -- that one of the possible
15 scenarios, right, is that this could be a pathological
16 scientist. So that was a term developed by LENR critics.
17 Which means that these guys want something to happen so
18 badly that they believe that it is happening, even though
19 it is really not happening. There was one scenario.
20 Another scenario that could be outright fraud. Right?

21 But do I recall specifically discussing Penon
22 and fraud in this time period? I don't. It is not to
23 say that it -- it may have been discussed, and as you are
24 pointing out, this appears to be from Penon. But offhand
25 I recall more particularly Levi and having questions about

1 Levi and his group, who had done -- I believe they did the
2 July 16th test and then they later did a -- I believe it
3 was December and March, December '12 and March '13 test,
4 which were combined and one report was written about both
5 of them. So -- but, you know, Penon it appears was doing
6 some work at that time, as well.

7 Q. You know, before I go any further, I wanted to
8 ask this question I forgot to ask. Are you also going to
9 be appearing as the corporate representative for IPH at
10 tomorrow's deposition?

11 MR. BELL: Why is that appropriate to ask him
12 now?

13 MR. CHAIKEN: So I don't have to duplicate a
14 lot of the work.

15 THE WITNESS: I think we are still working to
16 determine who -- who that is going to be.

17 BY MR. CHAIKEN:

18 Q. Okay.

19 A. But we are still trying to decide about that.

20 Q. Okay. Are you currently an officer or director
21 of IPH?

22 A. I am not.

23 Q. Okay. Are the -- well, I will ask that later.

24 When approximately did your team complete its
25 due diligence on Dr. Rossi and the E-Cat technology?