

02/16/2017 Thomas Darden

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ANDREA ROSSI and LEONARDO
CORPORATION,

Plaintiffs,

VS.

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.

No. 1:16-cv-2119-CMA

Videotaped Deposition of
THOMAS DARDEN

(Taken by Plaintiff)

3509 North Haworth Drive, Suite 403, Raleigh, North Carolina

February 16, 2017

Reported in Stenotype By
Leslie Christian

Transcript produced by computer-aided transcription

1 But we wanted it to be tested in a manner
2 -- not a trick test. Not a test that was sort of
3 designed to be obfuscated but a test that was designed
4 to be extremely transparent where everybody -- we would
5 know. It would be clear to us that the technology
6 actually worked as opposed to the test where we weren't
7 able to get access to it, our instruments weren't -- we
8 weren't allowed to put separate instruments on it.

9 We were saying, "This is ridiculous. We've
10 got to know that this technology works." So we wanted
11 to continue working on it with him, notwithstanding
12 this prior behavior, to say, "Well, let's see if it
13 might work."

14 Q. So I think you said earlier that after this
15 test, the validation test -- and this took place in
16 approximately or approximately as of April 30th/May
17 1st, 2013; is that correct?

18 A. Um-hm.

19 Q. After the test concluded, Industrial Heat
20 did, in fact, make a 10 million dollar payment to
21 Leonardo; is that correct?

22 A. We did.

23 Q. Do you contend sitting here today that
24 Industrial Heat is entitled to return of those funds?

25 A. I think we are.

1 **A. Yes.**

2 Q. Have you done any type of calculation as to
3 how you've been damaged or how Industrial Heat has been
4 damaged as a result of these breaches?

5 **A. Well, we don't know yet what damages we
6 might have depending on whether someone is successful
7 with the technology.**

8 Q. So would it be fair to say you haven't made
9 a computation of damages?

10 **A. We have not made a computation. Sorry. I
11 didn't answer the question.**

12 Q. And you had mentioned some specific
13 instances where you felt that the nondisclosure had
14 been breached. Were there any others that come to mind
15 now that you've had a break?

16 **A. I didn't think about it any further. It's
17 not coming to mind right now, sir.**

18 Q. Okay. The second item mentioned in this
19 paragraph four on page 23 states, "Failing to assign
20 certain patents and/or patent applications to IPH." Do
21 you know specifically any patents or patent
22 applications that plaintiffs had failed to assign?

23 **A. I think there were several. I mean, our
24 counsel got involved in this, and I think we had
25 conversations with Rossi and/or his counsel's office.**

1 A. I haven't seen the tax return, and I don't
2 have anything clearly documented that says he didn't
3 pay taxes except my recollection that he said that.

4 Q. "He" being someone from Ampenergo?

5 A. Well, Andrea.

6 Q. Andrea told you directly that he didn't pay
7 his taxes?

8 A. He said either he didn't pay the taxes or
9 he wasn't going to owe the taxes. And I couldn't
10 figure out how that could be the case because it was a
11 U.S. company.

12 Q. And how, in fact, has IH or IPH been harmed
13 as a result?

14 A. Well, our credibility is, unfortunately,
15 tied to Rossi's credibility. And so if Rossi has legal
16 problems or credibility problems associated with
17 compliance then it affects us.

18 Q. But sitting here today you don't know if
19 that's true or not?

20 A. I don't know if -- if it has been
21 manifested at this point. I don't know.

22 Q. And have you done anything to count -- to
23 compute what your actual damages are as a result of any
24 failure to pay taxes?

25 A. I don't believe that any of us -- I have