

Exhibit 3

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

ANDREA ROSSI and LEONARDO)
CORPORATION,)
)
)
Plaintiffs,)
)
)
v.)
)
THOMAS DARDEN; JOHN T.)
VAUGHN; INDUSTRIAL HEAT,)
LLC; IPH INTERNATIONAL,)
B.V. and CHEROKEE)
INVESTMENT PARTNERS, LLC,)
)
Defendants.)

C O N F I D E N T I A L

Video Deposition of THOMAS BARKER DAMERON, III
(Taken by the Plaintiffs)
Raleigh, North Carolina
Thursday, December 1, 2016

Reported by: Marisa Munoz-Vourakis -
RMR, CRR and Notary Public

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1 BY MR. ANNESSER:
 2 Q. And your answer?
 3 A. No.
 4 MR. ANNESSER: We'll take a break.
 5 THE VIDEOGRAPHER: We're off the
 6 record at 10:56.
 7 (Recess.)
 8 THE VIDEOGRAPHER: Video number two,
 9 we're on the record at 11:13.
 10 BY MR. ANNESSER:
 11 Q. Sir, before we left on our short break, we
 12 were talking about three perceived flaws in the test
 13 setup for the guaranteed performance test in Doral,
 14 Florida, correct? Do you recall that?
 15 A. Yes.
 16 Q. I think we covered the first two, but the
 17 third was that there were no traplines in place, is
 18 that correct?
 19 A. Correct, yes.
 20 Q. Okay. And how do you know there were no
 21 traplines in place?
 22 A. In my visit, about February 24, that was an
 23 observation I made. There may have been another
 24 picture of that area that came from somewhere else, but
 25 I do not recall.

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1 Q. And had there been a trapline in place, is
 2 it possible that it could have been something you just
 3 didn't see?
 4 A. It was -- when I laid the unit out and had
 5 it kind of setup, before we kind of packed it up and
 6 sent it, it was not where I had put it.
 7 Q. I'm sorry, I didn't follow. Say that
 8 again, please?
 9 A. The unit was -- when it was constructed, it
 10 had pipes on the outside of it that had to be taken off
 11 for shipping. And so that's where those traplines and
 12 some of that extra stuff was, extra piping, places for
 13 instruments were located. And that was not there when
 14 I observed it in Florida.
 15 Q. Did you say anything at the time you didn't
 16 see it?
 17 A. I did not.
 18 Q. Now, you had mentioned with all three of
 19 these perceived problems with the test, that you didn't
 20 have the opportunity to mention it to Andrea Rossi or
 21 to Mr. Penon. But you were there February 24,
 22 thereabouts, with Dr. Rossi. Was Mr. Penon there as
 23 well?
 24 A. I think not, I'm pretty sure --
 25 Q. Have you ever met Mr. Penon?

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1 A. Yeah, I met him in the trip to Italy, but
 2 as I recall, that's the only time I met him.
 3 Q. Are there any other errors that you see in
 4 the test that tell you automatically that hey, this is
 5 not proper, this is not correct?
 6 MR. PACE: Objection, form.
 7 BY MR. ANNESSER:
 8 Q. Other than the three we've discussed?
 9 A. There may be others. Those are the main
 10 ones that come to mind.
 11 Q. And do you perceive those to be big
 12 problems or little problems?
 13 A. Big problems.
 14 Q. Now, you knew what this test was in Miami,
 15 correct? You knew that it was the guaranteed
 16 performance test pursuant to the contract?
 17 MR. PACE: Objection to form.
 18 BY MR. ANNESSER:
 19 Q. I remind you, sir, you're under oath.
 20 MR. PACE: Objection to form.
 21 A. What was the question?
 22 Q. You knew, sir, that the guaranteed
 23 performance test, the test in Doral, Florida, was the
 24 test pursuant to the contract?
 25 MR. PACE: Objection to form.

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1 BY MR. ANNESSER:
 2 Q. Is that correct?
 3 A. No, I'm not -- I wasn't sure exactly --
 4 there was some question about selling steam to a client
 5 at one point. There were -- the answer, the things you
 6 mentioned earlier about what was the test and when did
 7 the test start, so there's confusion in my mind about
 8 even when I was there, was that the guaranteed test?
 9 If that's what it was, I'm not sure what was when.
 10 Q. Sir, you knew that the guaranteed
 11 performance test was to take place in Doral, the 350
 12 out of 400 day test, you know what I'm talking about,
 13 correct?
 14 MR. PACE: Objection to form.
 15 A. I -- the whole what was a test was in some
 16 question to me. It may have been known by other
 17 people. I, I think I can say pretty -- that there was
 18 going to be a test, and it was likely to be in Florida
 19 or at this location.
 20 Q. And you knew that Mr. Penon was the ERV for
 21 that test, as he had been for the validation test,
 22 correct?
 23 A. No, there seemed to have been some question
 24 about was he qualified, was he agreed upon and so on.
 25 That was not part of what I was -- that's not part of

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1 Q. Sir, looking at Exhibit 12, Mr. Penon
 2 submitted a report that the operation of the plant had
 3 begun, and that report was as of -- that was the first
 4 report on May 28, 2015.
 5 A. Okay. Got you.
 6 Q. Did you review that report?
 7 A. I did see that report, yes.
 8 Q. In writing to any person.
 9 Did you tell them that you thought that the
 10 results of that report were incorrect?
 11 A. Not that I recall.
 12 Q. Did you see any other reports from Engineer
 13 Penon regarding the operation of the E-CAT plant in
 14 Doral, Florida, between February 2015 and February
 15 2016?
 16 A. My recollection is I saw this report. I
 17 may have seen another report sometime between this
 18 report and the end of the test, but I think I've seen
 19 one at the end of the test.
 20 Q. And with those reports, did you ever send
 21 an email to anybody, whether it be Engineer Penon,
 22 Dr. Rossi, Mr. Vaughn, Mr. Darden, indicating that you
 23 disagreed with those reports?
 24 A. Not that I recall.
 25 Q. Sir, did you ever prepare a design

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1 schematic for the layout of the plant and how it should
 2 be at the Doral facility, in your opinion?
 3 A. Yes.
 4 Q. Did you ever share that with Dr. Rossi?
 5 A. I thought that I did. I don't guarantee
 6 it.
 7 Q. If it's not in the emails that are
 8 produced, is it fair to state that it was not shared
 9 with Dr. Rossi?
 10 A. No, because it may have been shown to him
 11 in a hand sketch.
 12 Q. When would you have shown that to him?
 13 MR. PACE: Objection to the form of
 14 the question.
 15 A. That would be very near the time it was
 16 shipped, as that would have been when that was being
 17 laid out.
 18 Q. Isn't it true, sir, that Dr. Rossi was in
 19 fact in Miami prior to it being shipped?
 20 A. He was back and forth at various times.
 21 Q. Do you know whether the layout of the plant
 22 was done in line with your design schematic?
 23 A. I think it was not.
 24 Q. How so?
 25 A. When I went down there and looked at it, it

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1 was not there, and I have heard from Barry West it was
 2 rearranged, consciously rearranged.
 3 Q. What do you mean by consciously rearranged?
 4 A. Andrea changed the design -- layout of it
 5 and put it in a different way.
 6 Q. And what was the difference?
 7 A. It didn't have a steam header in it. It
 8 didn't have the steam traps in it. It didn't have the
 9 drains in it.
 10 MR. ANNESSER: Sorry, gentlemen, I
 11 can't hear. Gentlemen, please.
 12 Q. So you said it did not have a steam header,
 13 correct?
 14 A. Did not have --
 15 Q. I want to go through these again. I want
 16 to go through one by one to make sure I understand.
 17 A. The steam header that was made to go on the
 18 unit was not on the unit.
 19 Q. What is the steam header?
 20 A. Steam header is a piece of pipe that comes
 21 out, has taps in it for pressure and temperature,
 22 thermal wells for temperature. It had a place to
 23 put -- it had a drip leg in it where you could get
 24 condensate out, a place for a trap to drain that. It
 25 had a place to install two steam meters. It had a way

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1 to connect it back together again and connect to the
 2 pipe going to the JM Products.
 3 Q. And, sir, what was there in place of this
 4 steam header?
 5 A. A line came out of the one megawatt unit
 6 and turned and went straight to the JM Products.
 7 Q. Were there any temperature devices there,
 8 temperature gauges?
 9 A. I don't -- there may be, I don't recall.
 10 Q. Pressure gauges?
 11 A. I don't think there were any pressure
 12 gauges there. There was a pressure gauge inside the
 13 unit.
 14 Q. And when you were there on February 24,
 15 2015, did you pull Andrea Rossi aside and say hey, this
 16 isn't what we planned?
 17 A. No, I did not.
 18 Q. When you returned, did you tell Mr. Vaughn
 19 or Mr. Darden that --
 20 A. Most likely, yes.
 21 Q. Did you ever tell Mr. Penon?
 22 A. No.
 23 Q. And you don't know sitting here today
 24 whether Mr. Darden or Mr. Vaughn ever told Dr. Rossi or
 25 Engineer Penon --

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|---|---|
| <p style="text-align: right;">Page 266</p> <p>1 THE VIDEOGRAPHER: We're off the 2 record at 5:50 p.m. 3 (Whereupon the deposition was 4 concluded at 5:50 p.m.) 5 (Signature reserved.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p style="text-align: right;">Page 268</p> <p>1 ERRATA PAGE 2 MMV 3 4 CASE NAME: Rossi vs. Darden 5 6 WITNESS NAME: THOMAS BARKER DAMERON, III 7 DATE: December 1, 2016 8 9 PAGE LINE READS SHOULD READ REASON FOR CHANGE 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____</p> |
| <p style="text-align: right;">Page 267</p> <p>1 SIGNATURE PAGE 2 3 4 5 6 7 _____ 8 THOMAS BARKER DAMERON, III 9 10 11 SUBSCRIBED AND SWORN to before me this _____ 12 day of _____, 2016. 13 14 15 _____ 16 NOTARY PUBLIC 17 18 My Commission expires: _____ 19 20 21 22 23 24 25</p> | <p style="text-align: right;">Page 269</p> <p>1 CERTIFICATE 2 I, Marisa Munoz-Vourakis, RMR, CRR and Notary Public, 3 the officer before whom the foregoing proceeding was 4 conducted, do hereby certify that the witness(es) whose 5 testimony appears in the foregoing proceeding were duly 6 sworn by me; that the testimony of said witness(es) were 7 taken by me to the best of my ability and thereafter 8 transcribed under my supervision; and that the foregoing 9 pages, inclusive, constitute a true and accurate 10 transcription of the testimony of the witness(es). 11 I do further certify that I am neither counsel for, 12 related to, nor employed by any of the parties to this 13 action in which this proceeding was conducted, and 14 further, that I am not a relative or employee of any 15 attorney or counsel employed by the parties thereof, nor 16 financially or otherwise interested in the outcome of the 17 action. 18 IN WITNESS WHEREOF, I have hereunto subscribed my name 19 this of _____, 2016. 20 MARISA MUNOZ-VOURAKIS 21 Notary #20032900127 22 23 24 25</p> |

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