

EXHIBIT 5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 surrounding the process in question, as opposed
2 to express opinions. So if I can simply have
3 interrogation continue on that basis it would
4 be time well served.

5 MR. PACE: I understand the position. I
6 just want to be clear that he is not willing to
7 provide the opinion. So let me circle it to
8 this way.

9 BY MR. PACE:

10 Q Whatever your opinion is it did not
11 influence any of the testing or measurements you did
12 on the E-Cat?

13 A No.

14 Q Let me take you back to the validation
15 test in 2013. Do you recall that?

16 A (Nods head.)

17 Q Do you recall that there was a change to
18 what was going to be tested --

19 MR. ANNESSER: Objection.

20 BY MR. PACE:

21 Q -- shortly before the test occurred?

22 MR. ANNESSER: Object to the form.

23 THE WITNESS: A change related to what?

24 BY MR. PACE:

25 Q Do you remember there being a change to

1 the number of units, E-Cat units that were going to
2 be tested?

3 MR. ANNESSER: Object to the form.

4 THE WITNESS: You are referring to the
5 problem generated by -- by the relation with
6 the Italian requirements?

7 BY MR. PACE:

8 Q The Italian requirements, did you say
9 Ferrara in there?

10 THE INTERPRETER: Sorry?

11 BY MR. PACE:

12 Q I was listening to his answer. I thought
13 he said Ferrara in there so ...

14 A Ferrara.

15 Q Let me ask you. What was the Italian law
16 limitation or requirement?

17 MR. ANNESSER: Object to the form.

18 THE WITNESS: I was trying to remember.
19 Whatever the generated power could have been
20 higher than, if I remember 35 kilobytes because
21 it was necessary to obtain all sorts of
22 authorizations long -- requiring a long time
23 and complication in order to have. And if you
24 are referring to this, it appears that for
25 these reasons there has been a change.

1 BY MR. PACE:

2 Q Who told you what the Italian law was?

3 MR. ANNESSER: Object to the form.

4 THE WITNESS: Dr. Rossi preparing the
5 environment to affect the signal -- he weighed
6 this problem. He suggested that this was a
7 problem to be solved.

8 BY MR. PACE:

9 Q I understand. So Dr. Rossi explained the
10 problem to you and came up with the solution?

11 MR. ANNESSER: Object to the form.

12 THE WITNESS: Yes.

13 BY MR. PACE:

14 Q Let me see if I can...

15 MR. PACE: Do we have -- number 24.

16 (Thereupon, Defendant's Exhibit 24 was
17 marked for identification.)

18 BY MR. PACE:

19 Q I am going to hand you what is marked as
20 Exhibit 20...

21 MR. PACE: That's very strange.

22 BY MR. PACE:

23 Q I am going to hand you what's been marked
24 as Exhibit 24.

25 MR. PACE: Sorry. My left is not my

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OATH OF INTERPRETER

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

I, DIANA SANTOS, Notary Public in and for
the State of Florida at Large, certify that the
Interpreter, UGO V. CHIARATO personally appeared
before me on February 22, 2017 and was duly sworn by
me.

WITNESS my hand and official seal this
22nd day of February, 2017.



DIANA SANTOS
Notary Public, State of Florida
at Large

Notary #FF030013
My commission expires: 7/7/17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OATH OF WITNESS

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

I, DIANA SANTOS, Notary Public in and for the State of Florida at Large, certify that the witness, FABIO PENON, personally appeared before me on February 22, 2017 and was duly sworn by me.

WITNESS my hand and official seal this 22nd day of February, 2017.



DIANA SANTOS
Notary Public, State of Florida
at Large

Notary #FF030013
My commission expires: 7/7/17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S DEPOSITION CERTIFICATE

I, DIANA SANTOS, certify that I was authorized to and did stenographically report the deposition of FABIO PENON, the witness herein on February 22, 2017; that a review of the transcript was requested; that the foregoing pages numbered from 1 to 206 inclusive is a true and complete record of my stenographic notes of the deposition by said witness; and that this computer-assisted transcript was prepared under my supervision.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action.

DATED this 22nd day of February, 2017.



DIANA SANTOS

