

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3 QUASAR SCIENCE LLC,

4 Petitioner, Case: IPR2023-00613

5 vs. U.S. Patent No.

6 COLT INTERNATIONAL 10,411,582

7 CLOTHING, inc. D/B/A COLT Case: IPR2023-00614

8 LED, U.S. Patent No.

9 Patent Owner. 10,566,895

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Virtual Zoom Deposition of
Mr. Todd Csernecky
April 9, 2024
At 2:30 p.m.

Reported by LeShaunda Cass-Byrd, CSR, RPR

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1 EXAMINATION OF TODD CSERNECKY

2 By Mr. Briggs 4

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5 DEPOSITION EXHIBITS

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1 TODD CSERNECKY,
2 having been first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. BRIGGS:

6 Q. Good afternoon, Mr. -- I just want to make
7 sure I get this right. You said Csernecky?

8 A. That is the easy way. Yes. That is fine.

9 Q. So I'm going to try to say that, and if I
10 mess it up, I apologize in advance.

11 A. And it's almost 56 years of that, so don't
12 worry about it.

13 Q. Fair enough.

14 As LeShaunda and David mentioned, my name
15 is Heath Briggs. I'm a patent attorney with the law
16 firm of Greenberg Traurig, and I represent Quasar
17 Sciences who is what's called the petitioner in a few
18 IPR proceedings before the U.S. Patent Office. IPR
19 stands for inter partes review. Those two proceedings
20 for the record, just so we get this for the trial, is
21 IPR 2023-00613 and IPR 2023-00614.

22 So, Mr. Csernecky, if I say "the IPRs," you
23 will understand I'm talking about those proceedings,
24 right?

25 A. Sure.

1 Q. Great.

2 Can you please state your full name for the
3 record?

4 A. Sure. Todd Andrew Csernecky.

5 Q. Great. And, Mr. Csernecky, do you
6 understand that you are here for your deposition in
7 connection with those IPR proceedings I just
8 mentioned?

9 A. I do.

10 Q. Great.

11 And before we begin, can you please let me
12 know if you are represented by counsel in this matter?

13 A. I am not.

14 Q. Okay. I see Mr. Hoffman is here today.

15 And so you didn't hire Mr. Hoffman to
16 represent you in this case, correct?

17 A. No, I did not.

18 Q. Okay. And you do understand that
19 Mr. Hoffman is here representing a client of his
20 called Colt International, Inc., which does business
21 as Colt LED, correct?

22 A. That is correct.

23 Q. So if it's okay with you, I'm just going to
24 refer to those two entities as Colt today. Okay?

25 A. Sounds good.

1 Q. Great.

2 Have you ever been deposed before?

3 A. I have.

4 Q. How many times?

5 A. I believe twice.

6 Q. Okay. Recently or a long time ago?

7 A. Recently, yeah. It was a workers' comp
8 case.

9 Q. Okay. So you probably understand the
10 ground rules, but I'm just going to go over them just
11 in case, so we are clear.

12 First, I'm going to be asking you some
13 questions about a declaration you submitted in the IPR
14 proceedings we discussed. And Mr. Hoffman, I believe,
15 has provided you copies of the documents, and so I am
16 going to be asking you questions about those
17 documents.

18 Do you understand that?

19 A. I do.

20 Q. And the court reporter here, LeShaunda, is
21 going to do everything she can to try to get
22 everything and you I say on the record --

23 A. Okay.

24 Q. -- so it's important that you and I don't
25 talk over each other. So what I'm going to do is I'm

1 going to be really -- I'm going to really try hard not
2 to interrupt you when you are answering my questions,
3 and I'd appreciate it if you can wait until I finish
4 answering my -- asking my question so you don't
5 interrupt me so the record is clear.

6 Does that work for you?

7 A. Works fine. Thank you.

8 Q. Great.

9 Also, it's important that you answer the
10 questions with a verbal answer. Shaking heads, she
11 can't really understand what you are saying. So if
12 you're going to say yes to a question, please say yes,
13 and similarly with no.

14 Is that okay with you?

15 A. Understood.

16 Q. Okay. When I ask my questions, I'm going
17 to do my best to ask what I believe is a clear
18 question, but if you believe my question is unclear or
19 you don't understand it, can you please let me know?

20 A. Will do.

21 Q. And what that means is that if you answer
22 my question, I'm going to assume that you understood
23 what my question was.

24 Is that okay?

25 A. That is okay.

1 Q. Great.

2 Third, from time to time, Mr. Hoffman here
3 is allowed to put objections on the record, and so he
4 will object, you know, similar -- something like
5 "objection, form," or something similar to that. He
6 is allowed to do that, and even despite those
7 objections, you are required to answer the question.
8 Okay.

9 Do you understand that?

10 A. I do.

11 Q. And that is unless Mr. Hoffman instructs
12 you not to answer, but since he is not your counsel,
13 I'm not sure how that is going to work.

14 We will take breaks about every 60 minutes
15 or so is typical for me, but we can go, you know,
16 shorter or longer as needed.

17 Does that work for you?

18 A. That is fine.

19 Q. We have a limit of a four-hour deposition
20 here. I do anticipate going about the full time, but
21 we will see how it goes.

22 A. Okay.

23 Q. All I do ask is if there is a pending
24 question, that you answer the question before we go on
25 break, that we don't leave questions unanswered before

1 we go on break. Okay?

2 A. Okay.

3 Q. And LeShaunda already administered the
4 oath.

5 So you understand that you are required to
6 testify truthfully here today?

7 A. I do.

8 Q. Is there any reason that you cannot testify
9 truthfully here today?

10 A. There is not.

11 Q. Okay. So you are not on any medications or
12 anything like that?

13 A. No.

14 Q. Okay. We are on a remote deposition, so we
15 kind of got to make sure that everything is going
16 kosher with that.

17 Can you just tell me where you are located?

18 A. I'm in Monrovia, California, currently.

19 Q. And are you at your residence, work office,
20 where are you?

21 A. I'm at my residence.

22 Q. Is there anybody else in the room with you?

23 A. There is not.

24 Q. Okay. Besides your laptop computer, do you
25 have any -- or maybe it's not laptop -- besides your

1 computer do you have any other electronic access
2 currently?

3 A. I have my -- my iPad with my declaration on
4 it.

5 Q. So you have an electronic copy of your
6 declaration on your iPad; is that what you said?

7 A. I do.

8 Q. Any other immediately accessible documents
9 on that iPad I should know about?

10 A. I believe I had the patent sent over to me.

11 Q. Okay. And there is probably a couple of
12 exhibits that go along with that. Look, as long as
13 you promise that you are only going to look at the
14 documents from the proceeding on that iPad, I'm good.

15 Can you make that promise?

16 A. Yeah. That is fine.

17 Q. Okay. Cell phone access, what's that
18 current state?

19 A. My cell phone is here. That is it. It's
20 just sitting here but charging. But that is it.

21 Q. If you wouldn't mind silencing or turning
22 it off, so we don't get interrupted, that would be
23 great.

24 A. Yeah, it's off.

25 Q. Okay. If there are any technical issues

1 during the deposition, you know, please let us know
2 and we will stop, we'll go off the record and we will
3 come back on the record when all of those technical
4 issues have been resolved. Okay?

5 A. Okay.

6 Q. Great.

7 Did you prepare for today's deposition?

8 A. I briefly reviewed my declaration itself
9 and quickly spoke with Mr. Hoffman that morning.

10 Q. And what was the substance of those
11 communications?

12 A. He was just instructing me on the
13 proceedings and how this would go and where -- he sent
14 me those documents, so that I could refer to them --

15 Q. And so --

16 A. Yes. Oh, that was just the gist of it.

17 Q. See, I did a bad thing. I interrupted you.
18 I wasn't trying to interrupt, but I did. So I'm going
19 to do better and try not to interrupt you. Okay?

20 A. Understood.

21 Q. Okay. Did Mr. Hoffman tell you how to
22 answer the questions today?

23 A. He did not.

24 Q. So is it fair to say, Mr. Hoffman gave you
25 the documents, told you what the proceeding is about,

1 and now you are here, basically?

2 A. That pretty much sums it up.

3 Q. Okay. Did you speak about the proceeding
4 with any other people in preparing for today's
5 deposition?

6 A. I did not.

7 (Petitioner Exhibit 2041 was marked for
8 identification.)

9 BY MR. BRIGGS:

10 Q. Okay. So, Mr. Csernecky, if you would,
11 could you please open Exhibit 2041. There is two of
12 them. One is from IPR 2023-00613, and the other is
13 from IPR 2024-00613 -- 614, excuse me.

14 A. I have --.

15 Q. Okay. The two IPR numbers, because I got
16 them wrong, my phone interrupted me, is IPR 2023-00613
17 and IPR 2023-00614. Both of those are Exhibits 2041
18 in those proceedings.

19 A. Sure.

20 Q. So you have Exhibit 2041 open?

21 A. 2041 is open, which is my declaration,
22 correct.

23 Q. And can you read to me the patent number
24 that is on the front of your declaration? I want to
25 make sure we are working off the same one.

1 A. Patent number 10,566,895.

2 Q. So that is the Exhibit 2041 or
3 IPR 2023-00614.

4 I would like you to look at the Exhibit
5 2041 from the other proceeding.

6 A. Okay. Hang on.

7 Okay. This is for patent number
8 10,411,582.

9 Q. Great. You and I are both looking at the
10 same document now at this time.

11 There are two declarations submitted in
12 this proceeding. Aside from the different patent
13 numbers and the different IPR numbers, are you aware
14 of any material differences between the two documents?

15 A. Not off the top of my head, I'm not.

16 Q. We ran a binary comparison of the two
17 documents, and I am also not aware of any material
18 differences between the two documents. So with that
19 understanding, let's just work off the Exhibit 2041
20 from IPR 2023-00613, which relates to US
21 patent 10,411,582. Okay?

22 A. Sounds good.

23 Q. Great. Thank you.

24 So, Mr. Csernecky, do you recognize this
25 document?

1 A. I do.

2 Q. What is it?

3 A. It's my declaration that I gave to
4 Mr. Hoffman.

5 Q. All right. How did you prepare this
6 declaration?

7 A. I -- how did I prepare...

8 Q. So this was obviously, submitted in a legal
9 proceeding.

10 Were you asked to prepare this declaration
11 by somebody?

12 A. Mr. Hoffman approached me and asked me if I
13 would give a declaration in this case.

14 Q. Okay. And so he asked you to prepare a
15 declaration in this case.

16 Did you draft the declaration then at that
17 point in time or what happened?

18 A. Yes. We -- well, I drafted it. We
19 spoke -- I spoke with Mr. Hoffman as to -- he had some
20 questions about some of the stuff that I do, and it
21 was, you know -- and then I inserted it into that
22 declaration.

23 Q. Okay. And did these discussions occur over
24 e-mail, phone?

25 A. I believe they were all over phone.

1 Q. Okay. Let's go to the last page --
2 actually, not the last page. Sorry. If you can go to
3 page 14 of your declaration and let me know when you
4 are there.

5 A. Okay. Final -- yeah, that is the final
6 page. Sure.

7 Q. Yeah. And under paragraph 31, it says: "I
8 declare under penalty of perjury that the foregoing is
9 true and correct."

10 Do you see that?

11 A. I do.

12 Q. And then there is a signature below that,
13 and it has the name "Todd Csernecky" listed, correct?

14 A. Yes, that is correct.

15 Q. And that is your signature?

16 A. That is.

17 Q. And this was signed on January 8th, 2024,
18 correct?

19 A. It was signed in January of 2024, that is
20 correct.

21 Q. Okay. Do you believe it was signed
22 January 8th of 2024, though?

23 A. I mean, that is what -- I see a highlighted
24 box on mine, but I'm not -- I -- that sounds about
25 right, but I can't say that to...

1 Q. Okay. Fair enough.

2 If you could please go back to the front
3 page of your declaration.

4 A. Sure.

5 Q. The front page of your declaration, it's a
6 legal proceeding format, right? And it says: Quasar
7 Science, LLC, Petitioner."

8 Do you see that?

9 A. I do.

10 Q. Do you know who Quasar Science, LLC, is?

11 A. I know who -- I'm aware of the company.
12 I'm not aware of the people who run the company for
13 that matter.

14 Q. Sure.

15 So how are you aware of the company?

16 A. They are an equipment manufacturer within
17 our industry, within the film industry.

18 Q. Do you know when you first learned about
19 Quasar Science, LLC?

20 A. I first learned of Quasar Science, LLC, I
21 would be speculating, approximately probably mid 2015,
22 2016-ish.

23 Q. And did you learn about them as part of
24 your duties as a person working on lighting on film
25 sets or TV sets?

1 MR. HOFFMAN: Objection to
2 foundation.

3 BY MR. BRIGGS:

4 Q. Do you understand my question?

5 A. I do.

6 Q. Okay.

7 A. Did I -- did I hear about them on film
8 sets? Sure. It was -- I'm sorry, do you want to
9 clarify? It was -- it was through our --

10 Q. Yeah.

11 A. -- through the industry grapevine, word
12 travels fast about products or availability.

13 Q. Okay. Staying on the front page of --
14 actually, strike that.

15 Are you aware that Quasar Science was
16 purchased by another company recently?

17 A. Yes. I was -- I was told that.

18 Q. And so there is two entities that people
19 generally refer to in the industry. My understanding
20 there is old Quasar and new Quasar. Have you heard
21 those terms?

22 A. I have not. I just always refer to them as
23 Quasar. I refer to them as Quasar.

24 Q. Okay. So from our purposes today, I might
25 use the words "old Quasar" and "new Quasar." And if I

1 do so, will you understand that old Quasar refers to
2 the company before it was purchased, and new Quasar
3 refers to the company after it was purchased?

4 A. We can agree that is what we will refer to,
5 yes.

6 Q. Okay. Great.

7 On the front of page 1 of your declaration,
8 the second party listed is Colt. We've already
9 discussed them.

10 Do you see that?

11 A. I do.

12 Q. How do you know Colt?

13 A. How do I know Colt? I didn't know them as
14 Colt at the time. I know -- I met Guillermo, and then
15 learned that his company was named Colt.

16 Q. So just to make it clear, you said you met
17 Guillermo.

18 I'm assuming you're referring to
19 Mr. Macias?

20 A. I am.

21 Q. Okay. And when you say Guillermo, we'll
22 agree you are talking about Mr. Macias; is that okay?

23 A. Sure.

24 Q. Okay. Great.

25 And you said you met Guillermo. Do you

1 know about when you met Mr. Macias?

2 A. I couldn't tell you -- I can give you an
3 approximation, but I couldn't tell you the exact date.
4 I know it was probably somewhere between 2010, 2015.
5 It's got to be earlier than 2015. Probably 2010 to
6 2012.

7 Q. Okay. Are you still in contact Mr. Macias?

8 A. Occasionally, I get a friendly text from
9 him once a year, twice a year, but that is about the
10 length of our discussions.

11 Q. Have you talked to him recently?

12 A. No, I have not.

13 Q. Okay. If you can now go to page 2 of your
14 declaration.

15 A. Sure.

16 Q. So at the top it says: "Declaration of
17 Todd Csernecky in Support of Patent Owner's Response."

18 Do you see that?

19 A. Yes, I do.

20 Q. And if you could just read paragraphs 1 and
21 2 of your declaration and refamiliarize yourself with
22 those, and let me know when you are ready.

23 A. I'm good. Yeah.

24 Q. So in reviewing your declaration, I didn't
25 see a current employer listed.

1 Who do you currently work for?

2 A. Well, if you -- I'm not sure how well you
3 understand our industry. We are basically gig
4 workers, so my employment can change by the day. I
5 literally started a new job yesterday.

6 So I'm currently a part-time employed for a
7 new television show for NBC called St. Denis Medical
8 where I'm the rigging gaffer. And I am also in the
9 midst of starting a commercial for a -- as the rigging
10 gaffer for Universal Studios.

11 Q. As a rigging gaffer, do you have your own
12 like LLC or company that you just kind of do your own
13 work out of, or is it just like on the side? I don't
14 really follow.

15 A. Yeah. Our business is kind of an odd
16 entity. Our employer of record is actually our
17 payroll companies because we -- we're union members
18 and work for -- we work for the employers NBC, but we
19 don't really have a way of tracking that without
20 having payroll companies.

21 Q. Got it.

22 So you don't technically work for NBC,
23 correct?

24 A. No. That is their -- that is their great
25 wall that they create is I don't technically work for

1 NBC, I work for the payroll company, and the payroll
2 company is endowed to that production company for that
3 time.

4 Q. Okay. Got it. That is very helpful.
5 Thank you.

6 A. Sure.

7 Q. And I'm going to try to get a little more
8 information about the industry now since this is not
9 my forte either.

10 But in paragraph 1 of your declaration, if
11 you could look at that, you explain the terms best boy
12 and gaffer?

13 Do you see that?

14 A. Sure.

15 Q. And it appears to me that a gaffer is what
16 is called a chief lighting technician; is that right?

17 A. Yes. So the old terms gaffer and best boy
18 are number 1 and number 2 in the department. Those
19 terms have now been moved to assistant chief lighting
20 technician and chief lighting technician.

21 And there is another dynamic at play there,
22 which is the rigging chief lighting technician, or the
23 rigging gaffer, and the assistant rigging chief
24 lighting technician, which is the best boy. They
25 decided to reclassify our names.

1 Q. Okay. Yeah, I mean, gaffer and best boy,
2 it appears those words have been around since the
3 industry started, almost, to me; is that correct?

4 A. Probably a hundred years, yes.

5 Q. Okay. So is it fair to say that a best boy
6 is an assistant chief lighting technician?

7 A. That is correct. They are --

8 Q. Thank you.

9 Okay. Now I just kind of want to go
10 through some of your work history. If you go to
11 Attachment A of your declaration, which begins on
12 page 15, please.

13 A. Sure. On page 15 you said?

14 Q. That is right.

15 A. Okay. Sure.

16 Q. It's a big blank page that says nothing but
17 "Attachment A," right?

18 A. Yes.

19 Q. And if you turn to page 16, it starts with
20 an IMDb listing.

21 Do you see that?

22 A. I do.

23 Q. And it's called a "Listing of Credits,"
24 correct?

25 A. Correct. It's my -- it's my television and

1 film credits, correct.

2 Q. Television and film credits. Thank you.

3 So to me this looks like kind of a resumÈ ;

4 is that fair?

5 A. Within reason, yes.

6 Q. Why do you say "within reason"?

7 A. Because it does -- the general IMDb does
8 not track anything we do outside of television and
9 film unless you pay them to track you outside of
10 television and film. So none of my commercial
11 credits, none of my music video credits, any other
12 productions that I'm involved in, those don't appear
13 on my list.

14 Q. Okay. Got it.

15 And at the top of page 16 of your
16 declaration, there is a listing called Camera and
17 Electrical Department.

18 Do you see that?

19 A. I do.

20 Q. And below that are a series of what appears
21 to be, like you just said, television shows and
22 movies; is that right?

23 A. That is correct.

24 Q. Okay. And, for instance, it says, in 2023,
25 you were either a rigging gaffer or a best boy for the

1 TV show American Auto, correct?

2 A. Correct.

3 Q. Okay. And I'm just trying to get a feel
4 for how this works.

5 And so each of the titles listed below
6 American Auto is an episode; is that right?

7 A. It is -- yes, correct.

8 Q. Okay. So for the show Judgment Day, for
9 instance, you were the rigging gaffer, correct?

10 A. Yes. Correct.

11 Q. And then if we go down a little bit, we get
12 to the show Hack in 2023.

13 Do you see that?

14 A. I do.

15 Q. And then you were the best boy for that,
16 correct?

17 A. Correct.

18 Q. Okay. Now I'm starting to understand.

19 And this list continues for several pages.

20 And if we go to page 2022 of your declaration, this is
21 the last page of your IMDb listing, correct?

22 A. That is correct.

23 Q. And it looks like your first job as
24 best boy was in 1998; is that right?

25 A. Best boy...

1 Q. For instance, at the top of the page it
2 says Bus to Queens.

3 A. Oh, yeah, yeah.

4 Q. And then --

5 A. So the answer is yes, but no, because these
6 dates represent the time that that show was released,
7 not the time that it was made.

8 Q. Okay. Understood.

9 So at least as early as 1998, you had
10 started working as a best boy; is that fair?

11 A. Correct. It was actually earlier than
12 that. But, yes, that is the date that that was
13 released was 1998.

14 Q. Okay. Do you want to put an earlier date
15 on the record here when you started as a best boy?

16 A. Yeah. My first best boy job was probably
17 in '96, '97, around that -- probably a year to a year
18 and a half earlier than that.

19 Q. Got it. Okay.

20 And then right below that, there is a show,
21 right below that on page 22 of your declaration, there
22 is a show called Upright Citizens Brigade.

23 Do you see that?

24 A. I do.

25 Q. And it says electrician. Do you see that?

1 A. I do.

2 Q. Can you tell me what the difference between
3 an electrician and a best boy is, please?

4 A. Sure. And there is another name that is
5 going to be flip-flopped. We used to be called
6 electrician, but technically, we are not electricians.
7 So the new term is set lighting technician, but they
8 are one and the same. And that is more you're part of
9 the -- you are part of the general staff. You don't
10 hold a position of power, so to speak; whereas,
11 assistant chief lighting technician or a chief
12 lighting technician, those are number 1 and 2 in the
13 department, essentially a manager and a supervisor.

14 Q. Okay. Got it.

15 And then if we turn back to page 21. It
16 appears to me you worked on several TV shows or
17 documentaries as a best boy, or a rigging gaffer, or
18 an electrician from 1999 through 2008, just on that
19 page, correct?

20 A. Correct.

21 Q. And if we go to the next page, it appears
22 you, again, worked as an electrician, or a best boy,
23 or rigging gaffer on shows such as Glee, Cold Case and
24 Everybody Hates Chris; is that right?

25 A. Yeah. Well, Cold Case, I was only an

1 electrician, so...

2 Q. Okay. Thank you for the clarification. I

3 appreciate that.

4 It looks like these shows that I just
5 mentioned were from 2006 to 2009, correct?

6 A. Correct.

7 Q. Just out of curiosity, are those Paramount
8 productions or are they different?

9 A. No. Let me see. Glee is a Fox production.

10 Q. Okay.

11 A. Curb Your Enthusiasm, what you see at the
12 top of the page -- I don't know if you want to include
13 that -- is an HBO production.

14 Q. Okay.

15 A. Cold Case was a Warner Brothers' production
16 I believe.

17 Q. Okay.

18 A. Everybody Hates Chris was -- they were tied
19 to Paramount, but I believe it was CW was the network.

20 Q. Okay.

21 A. I think that was right in the middle of
22 when CW became CW.

23 Q. Got it. Okay.

24 If we can go to page 16 of your
25 declaration.

1 A. Okay.

2 Q. And we see NCIS right in the middle of the
3 page, correct?

4 A. Yeah. NCIS Los Angeles, correct.

5 Q. And so it looks like, you know, 2009 to
6 2021, you were working on the NCIS television show as
7 either a best boy or a rigging gaffer; is that
8 correct?

9 A. I believe that show started earlier, but I
10 could be incorrect on that. It's been so long.

11 Q. So I'm looking at page 16, and just to the
12 right of NCIS, there is a date range listed. I'm just
13 saying what that says.

14 Do you see that?

15 A. Sure. I see on that page it says 2016 to
16 2019.

17 Q. Okay. I want to make sure we are working
18 from the same document. So you are on page 16 of
19 Exhibit 2041, right?

20 A. Yes.

21 Q. And in the middle of the page, it says NCIS
22 Los Angeles?

23 A. In the middle of the page it says NCIS Los
24 Angeles, correct, in 2009 to 2021.

25 Q. Okay. I'm sorry, that --

1 A. I was not the last two years. Sorry. I

2 was not on the last two years, but it was 2009 to
3 2021.

4 Q. Okay. What do you mean you weren't on the
5 last two years? You mean you stopped working on that
6 show in 2019?

7 A. I did. I left that show -- I'm sorry.
8 Hang on a second. Sorry, if I may for a minute. Was
9 it 2000? Yeah, no, that is correct. I'm sorry, 2021,
10 because the show went to 2022-ish, 2023. So that is
11 correct, yes, because it carried over.

12 Q. So just to make sure, you did work on NCIS
13 for about 12 years, from 2009 to 2021, correct?

14 A. I did, yes.

15 Q. And that was in the capacity as either a
16 gaffer or a best boy?

17 A. Correct.

18 Q. So going back to 2009, by the time you were
19 hired for NCIS, you had worked on what appears to me
20 dozens and dozens, if not more, of television shows or
21 films; is that correct?

22 A. That would be correct.

23 Q. So did you consider yourself an expert
24 gaffer by the time 2009 rolled around?

25 A. I got to say I never considered myself an

1 expert. This is an industry where it's always
2 changing, and there -- your expertise is ongoing and
3 on growing. So to say I was an expert, no.

4 Q. Would you say you were a highly skilled
5 gaffer at that point in time, 2009?

6 A. I was a highly skilled best boy at that
7 time.

8 Q. Okay. What are the qualities of a highly
9 skilled best boy in your mind?

10 A. The qualities one would -- number 1, would
11 be electrical knowledge, knowledge of the equipment
12 itself and how it's used.

13 Number 2 would be a strong part of my job
14 if I'm -- if I'm working as a best boy is -- is not
15 only management of people, but it is maintaining the
16 flow and distribution of equipment, because
17 oftentimes, we are in many different locations, so a
18 lot of logistics work.

19 And then just overall understanding -- the
20 best, best boys I work with understand not only the
21 equipment but how the equipment works and can utilize
22 that or repair it in the field, if need be, or
23 instruct people how to do so.

24 Q. Okay. Anything else?

25 A. People, equipment, logistics, politics of

1 the business, budgeting.

2 Q. Sure.

3 A. The normal business office stuff that we
4 all have to do.

5 Q. Okay. Fair enough.

6 Is there any special training that you have
7 to take to be a best boy, like certification or
8 anything like that?

9 A. There are no certifications required.
10 There are certifications should you decide to pursue
11 them. They are just coming to be within our industry
12 itself. There is training that we can do within our
13 union.

14 Q. As of 2009, though, was there any
15 certifications of any sort relating to best boy or
16 rigging gaffer that you are aware of?

17 A. Certifications? Not that I'm aware of.

18 Q. Okay. So you mentioned electrical
19 knowledge is an important part of being a highly
20 skilled best boy, right?

21 A. Correct.

22 Q. Can you just expand on what you mean by
23 electrical knowledge in that context, please.

24 A. So our electrical knowledge, because we
25 work differently than a household electrician would

1 be, we have to understand temporary power systems, so
2 that can be anything from a small generator up to a
3 very large generator where I can power, you know, ten,
4 12 -- the equivalent of ten, 12 houses, understanding
5 the equipment that is necessary for temporary power
6 systems to keep it safe, layout and design of that
7 electrical to be efficient, understanding how
8 electricity flows, how -- again, the amount of
9 consumption the equipment itself is using. In 2009, a
10 lot of our equipment was still consuming a large
11 amount of power.

12 Q. As part of that electrical knowledge, does
13 that include knowledge of different types of lighting?

14 A. Sure. Absolutely.

15 Q. Or is that a different bucket?

16 A. No. We still have to be -- because that
17 is -- the industry itself is a very broad spectra --
18 it uses a very broad spectrum of lighting, so we have
19 to understand and be able to utilize all of that
20 lighting and understand how it works within reason.

21 Q. Okay. And does that knowledge include
22 knowledge of what I'm understanding is the kelvin
23 temperature scale?

24 A. Absolutely.

25 Q. We will get back to it. I'm just trying

1 to -- okay.

2 So 2009, you consider yourself a highly
3 skilled best boy working on "NCIS"; is that correct?

4 A. Working on "NCIS Los Angeles," correct.

5 Q. Los Angeles, thank you for that.

6 Let's go, you know, back to the front of
7 your declaration, and let's look at paragraph 4,
8 please. For the record it's on page 3.

9 A. Sure. Got it.

10 Q. Just read paragraph 4 and let me know when
11 you are ready.

12 A. Okay.

13 Q. So we established earlier that you met
14 Mr. Macias or Guillermo, and you know, you talked to
15 him over text maybe once a year, but you have not
16 talked to him recently; is that fair?

17 A. That is fair.

18 Q. And you said you met him somewhere between
19 2010 and 2012; is that correct?

20 A. I believe so. That sounds about right.

21 Q. And so I'm going to read you something. I
22 just want to make sure that you understand this. It
23 says: "I have worked for the inventor Guillermo
24 Macias for several years" -- or I'm sorry, not for,
25 with -- "I have worked with the inventor Guillermo

1 Macias for several years, but I have no financial
2 stake in any of his patents or applications or
3 lawsuits or any other activities involving those
4 patents or the outcome of this proceeding."

5 So that statement is still true today,
6 correct?

7 A. That statement is still true today,
8 correct.

9 Q. Okay. And you said you've worked with
10 Mr. Macias.

11 What do you mean by you've worked with him?

12 A. Guillermo, when the original idea was
13 pitched for development of the bicolor tube, there
14 were discussions between us about what was necessary
15 and in -- I guess for my point, I worked as a
16 consultant on -- I was the face of -- I was the face
17 of the industry to him and what was need -- what I
18 thought was needed, in my opinion, what -- what would
19 make it a successful product to meet the needs of our
20 industry. And then we followed that up with I did
21 testing on its output, color temperature, and gave him
22 feedback on what was coming in when he would bring a
23 prototype.

24 Q. So when you say you had discussions with
25 Mr. Macias on what was necessary, can you tell me what

1 you told him about what was necessary?

2 A. Sure. When the idea for the bicolor tube
3 came up, we talked about color temperature. We talked
4 about CRI and how high the CRI needed to be for us to
5 start. It was around that time that video was just --
6 HD was just becoming used in the industry widely, and
7 its representation on both film and on video in terms
8 of color temp and how clean the -- how clean the
9 elements were.

10 Q. The color temp, CRI. Anything else?

11 A. Yes.

12 Q. I'm sorry?

13 A. I'm sorry, was there a question?

14 Q. Yes. So you -- you talked to him about
15 color temperature. You talked to him about CRI. Did
16 you talk to him about other requirements?

17 A. Yeah. We talked about light output. We
18 talked -- we spoke at length about getting the output
19 of the tube so that it was a smoother output and less
20 point source, so it was more reflective of a standard
21 fluorescent T12 tube.

22 Q. So color -- so just to make sure I'm
23 understanding. So you talked to him about color temp.
24 You talked to him about CRI. You talked to him about
25 light output. And you talked to him about a smoother

1 output and less of a point source; is that fair?

2 A. That sounds -- that sounds correct.

3 Q. Anything else?

4 A. Off the top of my head, no. Not that I
5 remember right now.

6 Q. And on the color temp issue, what did you
7 tell him?

8 A. As far as the actual color temp, our goal
9 was to, at the time, come close to what -- let me
10 backtrack.

11 There was a light at the time referred to
12 as a Kino Flo, which was a fluorescent tube used
13 within the industry. It required you to switch tubes
14 out if you wanted to be at 5600 or 3200, which were
15 the common color temps used in film, and that all kind
16 of stem from working with actual film as opposed to
17 video. It's continued to this day. And we discussed
18 getting the LED chips close to those same color
19 temperatures so that it would be seamless in its
20 transition.

21 Q. So just to make clear, you say you
22 discussed getting LED chips close to these
23 temperatures. I assume you mean 3200 kelvin and 5600
24 kelvin?

25 A. That is correct.

1 Q. Okay. Great. Thank you.

2 And those have been industry standards, as
3 far as I can tell from the literature, for decades; is
4 that fair?

5 A. That is correct.

6 Q. And on the CRI issue, what did you tell
7 him?

8 A. The original goal was to get 93 or above
9 because -- because to my knowledge, it was the early
10 days of LED, nobody had -- there were very few people
11 that were able to get into that world of how clean the
12 light output was.

13 Q. And again, I'm looking at the literature
14 that's in this case. I understand a CRI of 100 is
15 perfect, correct?

16 A. That is correct.

17 Q. Okay. And so a CRI of 93 percent or above,
18 again, is this 2010, 2011, 2012, somewhere in that
19 area?

20 A. Yeah. Early on, 2010, 2011, I believe.

21 Q. And the next thing you mention is light
22 output. What did you tell him about light output?

23 A. We were -- at the time, we were looking at
24 the photometrics of the light output of a Kino tube
25 and what it was producing, and we were trying to gear

1 it toward a -- at minimum, a similar output of a Kino
2 tube. I don't recall what the actual photometrics
3 were at the time, but that was what -- the numbers we
4 were putting it up against.

5 Q. Is one photometric for light output lumens?

6 A. Yes.

7 Q. Okay. Did you guys talk about lumen output
8 at all?

9 A. We -- at the time, I know we did. That was
10 discussed as part of the output. Lumens is a common
11 term.

12 Q. Do you recall any concrete numbers you were
13 hoping to achieve?

14 A. I don't. I don't.

15 Q. Okay. And then the last item you mention
16 is smoother output and less point source. What did
17 you guys talk about for that?

18 A. Again, we were looking at creating one of
19 the -- one of the benefits or -- that people liked
20 about a Kino Flo was the softness of the light on
21 skin. Frieder Hochheim's company was who owned
22 Kino Flo and -- or created Kino Flo at the time. It
23 was very widely known for just that, is they were a
24 great all-around light because they were lightweight,
25 easy to use, and they produced a nice soft light, and

1 we were going for a similar effect at the time. So we
2 talked about -- I know we went through multiple
3 prototypes of diffusion material that was on the
4 actual tube itself.

5 Q. When you say "diffusion material," you are
6 speaking of something like a light cutter or similar;
7 is that fair?

8 A. Yeah. Basically, it's like a milk plexi or
9 a frosted cover that goes in front of the tube to
10 soften it and create less -- less of a source field to
11 it so that you don't see the individual LED chips.

12 Q. And when you say multiple prototypes, was
13 that with different diffusion covers? Is that what
14 you were saying?

15 A. Yeah. The Memo was having -- had
16 several -- and I don't remember the number, but we
17 went through multiple prototype covers to -- to get
18 the clarity -- or to remove the clarity and get the
19 right feel of the light, the right softness to the
20 light.

21 Q. Okay. And do you know how Mr. Macias was
22 able to obtain these different covers?

23 A. I don't. I can't speak to that
24 specifically.

25 Q. Okay. But he knew, from talking to you,

1 that he needed to get a better diffusion cover to
2 achieve the goals that you guys were looking to clear;
3 is that fair?

4 MR. HOFFMAN: Objection to scope,
5 characterization.

6 BY MR. BRIGGS:

7 Q. You can answer.

8 A. To my knowledge, that would be correct.

9 Q. Okay. Thank you.

10 So you mentioned when you started the terms
11 bicolor when -- you know, a few minutes ago.

12 Do you remember that?

13 A. Yeah. Sure.

14 Q. When you say bicolor, do you mean an LED
15 that can do two colors?

16 A. At the time, to my knowledge, the idea of
17 bicolor was a tube that was able to -- because we are
18 referring to the Colt invention, is it was a tube that
19 could produce both colors, not the individual singular
20 chip but that could produce a daylight look or a
21 tungsten look. How they were going to achieve that
22 was in the hands of the engineers.

23 Q. Got it.

24 But when you say bicolor, you are saying, I
25 want -- and just tell me if I am wrong --

1 A. Sure.

2 Q. -- an LED tube that does two different
3 colors, it does tungsten and daylight, preferably at
4 3200 kelvin and 5600 kelvin; is that what you are
5 saying?

6 A. That is correct.

7 Q. Okay. Thank you.

8 Just going back to the financial question,
9 I forgot to ask you a couple of questions, so I'm
10 sorry to go back to that on this, but just to button
11 that up. You never provided funding to Mr. Macias or
12 Colt for this?

13 MR. HOFFMAN: Objection, scope.

14 THE WITNESS: To answer your
15 question, I provided a light to Mr. Macias
16 so that he could use it for testing. So I
17 went out and purchased that light.

18 BY MR. BRIGGS:

19 Q. Okay. And you don't have any stock or
20 ownership in Colt; is that correct?

21 A. I have no stock or ownership, no.

22 Q. Okay. So if you could please go to page 5
23 of your declaration.

24 A. Sure.

25 Q. And just read that and let me know when you

1 are ready.

2 A. Okay.

3 Q. So in this paragraph, you have a term
4 that's got the words around it -- quotes around it,
5 and it says "key lighting."

6 Do you see that?

7 It's the second line going into the third
8 line.

9 A. Key lighting. Hold on. Are we talking
10 about in paragraph 10?

11 Q. Paragraph 5.

12 A. Oh, I'm sorry, paragraph 5.

13 Yeah. Sure.

14 Q. Can you tell me what key lighting means?

15 A. Key lighting is essentially your primary
16 source of light within a scene. So if somebody is
17 standing in front of a window, and it's on a set, your
18 key light might be the window light coming through
19 that's supposed to be the sun on that person's face.
20 That might be the key light.

21 Q. Okay. Got it.

22 And let's turn the page now and let's go to
23 paragraph 6, please.

24 A. Okay.

25 Q. Just read that and let me know...

1 A. Okay.

2 Q. So I understand the first sentence which
3 says: "Key lighting is the main source of light in a
4 video or photo," and you just explained that.

5 I don't know that I understand the second
6 sentence. I believe there is a typo there. Maybe you
7 can help me. It says: "In the situation where there
8 is limited distance between the key lighting and the
9 set arises frequently on indoor studio sets."

10 Am I missing something?

11 A. Yeah, it looks like something got messed
12 up.

13 Situation where there is limited distance
14 between key lighting and -- so I think what -- I
15 believe what I was saying, and it looks like I hit the
16 edit or back button or something. So in a situation
17 in -- in key lighting, there are in -- when we are
18 indoors, frequently in sets, where there is close
19 distances, I think what I -- I believe what I was
20 going to was that oftentimes, that key lighting has to
21 be used in a very close proximity. But in more open
22 spaces, we can use a bigger, more powerful lighting
23 source to do that key lighting from a distance.

24 Q. Okay. So in other words, inside key
25 lighting, you have to be pretty close to the actors,

1 whereas outside it could be further away; is that what
2 you are trying to say?

3 A. That is correct.

4 Q. Okay.

5 A. That is correct.

6 Q. Thank you.

7 And then go to paragraph 7 now, please, and
8 let me know when you are ready.

9 A. Sure. Okay.

10 Q. So you say, you know: "I have often placed
11 lighting tubes in the ladder format."

12 Do you see that?

13 A. I do.

14 Q. I'm assuming the ladder format was around
15 before Mr. Macias's invention; is that right?

16 A. The ladder format itself in terms of layout
17 for LED tubes or for other tubes?

18 Q. Just the ladder format in general.

19 A. I had seen it used in other situations,
20 yes.

21 Q. Okay. And then if you can read
22 paragraph 8, please, and just let me know when you are
23 ready.

24 A. Okay.

25 Q. Again, were fluorescent tubes used in the

1 same manner here in paragraph 8?

2 A. In my personal experience, not in a ladder
3 format, as we speak here. There were situations,
4 there was a light from Kino Flo, it was called a
5 blanket light, and that was actually a prebuilt light
6 that was provided by Kino Flo that could be used
7 horizontally or overhead. But other than that, when
8 there were more ladder oriented like this, the only
9 time I would see it were when people custom made
10 lights to do that overhead.

11 Q. Got it. Thank you.

12 A. Sure.

13 Q. Let's go to the next page, please, and
14 please read paragraph 10.

15 A. Paragraph 10. Sure.

16 Q. So my question is, you say that you "looked
17 for a powerful light which would be strong enough
18 light output to be able to use the tubes as key
19 lighting and adjust up or down as needed for changing
20 scenes."

21 Do you see that?

22 A. Yes.

23 Q. Can you tell me what you mean by "adjust up
24 or down"?

25 A. Sure. Preferentially, most of our lights,

1 we want some of the light to adjust the output because
2 we have to match the needs of the director of
3 photography in terms of what f-stop he chooses to
4 shoot at.

5 So in this case, we were looking for a
6 light that has that ability, and part of that is the
7 knowledge of choosing the right light, and part of
8 that is also no -- having the adjustability, because a
9 lot of times, we are talking about miniscule changes
10 to match what the director of photography needs.

11 Q. So you type the adjust up or down to output
12 it sounds like to me.

13 A. Yes.

14 Q. Are you talking about like a certain amount
15 of -- I don't know what the units would be. Can you
16 explain this to me?

17 A. Sure. What you're referring to, this is
18 much like the dimmer switch in your house, the wall
19 switch where you can adjust it up and down. Some of
20 our lights allow us to do that and actually dim, which
21 is one of the things that the Colt LED tube did.

22 If it was a fluorescent tube, typically,
23 fluorescent tubes do not dim well, so you can't do
24 that. They begin to flicker if they do.

25 So we were essentially trying to match --

1 at the time it was film. The director of photography
2 would decide what f-stop, the exposure that he wanted
3 to give that film, and that was determined by the film
4 stock that he chose, how fast or slow the film stock
5 was reacting to light. So that would affect how we
6 chose a light to expose that film.

7 In video, it's a little bit different.

8 Back then, video cameras weren't quite as sensitive as
9 they are now. We've gotten -- we've gotten much more
10 sensitive with the chips that we are using, so we have
11 a much better ratio of exposure.

12 But that is essentially what we are doing.
13 Before that, generally, tungsten lights and HMI lights
14 would require an actual physical placement of
15 something, a fil- -- what we call a scrim in front of
16 the light in order to adjust the output because some
17 of those lights cannot be dimmed.

18 Q. Can you explain to me what HMI lights is?

19 A. HMI?

20 Q. Yeah.

21 A. HMI lights are what we use in film and
22 photography to match daylight. So the 5600 you
23 referred to earlier, those are the lights that we use
24 to match outside light.

25 Q. So when you say "adjust the output" in the

1 this paragraph, it would have just been talking
2 about -- here, you are talking about the amount of
3 light that is put forth by either the fluorescent or
4 LED fixture; is that right?

5 A. Yeah. When we are talking output, that is
6 correct, yes. The actual lumens that are falling on
7 the subject.

8 Q. So lumens.

9 And that can be in the form of a dimmable
10 situation you were saying?

11 MR. HOFFMAN: Objection to form.

12 BY MR. BRIGGS:

13 Q. I'm sorry, I will ask a better question.

14 I believe you said just like the dimmer in
15 your house --

16 A. Yeah. So --

17 Q. -- something like that?

18 A. So certain types of lights allow -- allow
19 us to dim them. Typically, those lights are what we
20 refer to as tungsten, the 3200 kind that we referred
21 to earlier, 3200 kelvin. Those would be similar to
22 your indoor household lights, and they do allow you
23 to -- typically, most of them, or many of them, allow
24 you to dim them. Much like you would a household
25 dimmer, we can attach dimmers to these lights and

1 bring them up or down.

2 The problem with that is it affects color
3 temperature. So the color temperature shifts as you
4 dim the light. That is why in your house, your light
5 gets warmer. If you're using an old school light as
6 you dim it down, it gets warmer, or cooler, depending
7 if you go up or down.

8 Q. Okay. Got it. Thank you.

9 A. Sure.

10 Q. We have been going about an hour. Should
11 we take a five-minute break?

12 A. Sure.

13 Q. Great. So just to remind you, I don't
14 think I mentioned this at the beginning, but you're
15 not allowed to have any conversations while we go on a
16 break with outside people about the case, including
17 Mr. Hoffman here. Okay?

18 A. Yep. No problem.

19 Q. Okay.

20 (Recess taken.)

21 BY MR. BRIGGS:

22 Q. So when we left off, we were talking about,
23 I think, page -- excuse me -- paragraph 10 of your
24 declaration, and let's just keep going through your
25 declaration, please.

1 A. Sure.

2 Q. If you go now to page 7 and paragraph 13
3 and read that, and let me know when you are ready.

4 A. Okay.

5 Q. And you say: "Among the critical aspects
6 of lighting for the film and television set lighting
7 industry."

8 Do you see that?

9 A. Yes.

10 Q. And so I assume that the aspects that you
11 are talking about in paragraph 13 are aspects that had
12 been well known in the industry at the time, correct?

13 A. Correct.

14 Q. Like, for instance, I think it was known
15 that you wanted to have a high CRI; is that correct?

16 A. We -- in all honestly, at that point, we
17 really didn't refer to CRI as CRI. That was more of
18 an LED aspect that started to come into play -- from
19 my experience, that was more of an aspect that came
20 into play with LEDs. Because tungsten is always
21 tungsten, in general. The only time we would get into
22 clarity of light was -- or any real switches in light
23 was with HMIs can get finicky at times and we would
24 have to clean them up.

25 Q. And HMI is the daylight version; is that

1 what you were saying?

2 A. Yeah, our daylight lights that we use --
3 what we are using, and still use to this day.

4 Q. Okay. And daylight, again, I'm just
5 recalling from memory is typically 5600 kelvin; is
6 that fair?

7 A. That is correct.

8 MR. HOFFMAN: Objection.

9 BY MR. BRIGGS:

10 Q. Okay. So -- but irrespective of CRI, I'm
11 assuming color reproduction accuracy was important to
12 the film and television industry even before 2010,
13 correct?

14 A. That would be -- yes. The answer would be
15 yes.

16 Q. Okay. And so the next thing is avoidance
17 of spikes in any one color including too much green
18 and/or magenta hues.

19 Do you see that?

20 A. Yes, I do.

21 Q. And my understanding from reading the
22 documents in the record is that avoidance of spikes,
23 including too much green and/or magenta hues, was also
24 well known before 2010, correct?

25 A. That is correct.

1 Q. And in paragraph 13, you mention a high
2 CRI.

3 Do you see that?

4 A. I do.

5 Q. Is that -- when you say "high," what do you
6 mean by "high CRI"? What is high in your mind?

7 A. High in my mind is as we get above 90.

8 Q. Okay. So were you seeking above 90 around
9 the 2010 time frame?

10 A. Our goal was, I believe, was a minimum of
11 93. That was our -- kind of our -- our goal at the
12 time, because there weren't a lot of people even
13 remotely close to that.

14 Q. So by "our goal," I assume you mean you and
15 Mr. Macias's goal?

16 A. Yeah. That is that what I had explained to
17 him is that it was 93 where we started to see better
18 reproduction for light when it came to how it looked
19 on film and on video.

20 Q. So how do you -- so how did you come to
21 know that 93 was better for reproduction?

22 A. Just, one, experience from what I've seen;
23 and two, and what I was reading at the time in terms
24 of achieving CRIs are a higher CRI; and then the third
25 was that seemed to be at the time the goal I know -- I

1 believe at the time Kino Flo had in development, they
2 were developing a light, and they were shooting for
3 the 90 -- I think -- don't quote me on this, but I --
4 I believe it was 94, but that was kind of the goal.
5 You know, obviously the higher the better. 93 was
6 kind of the -- where we start seeing a lot of magentas
7 and greens start to show up in the colors.

8 Q. And so in the 2010 time frame, which is
9 what I'm asking about, you know, working on "NCIS" at
10 the time, was it known to be looking for a high CRI?

11 A. To the average person? No, but --

12 Q. No. So we are dealing with people skilled
13 in the art in the patent world, and so I'm asking
14 about people of your general skill level in the art.

15 Was it known to get it -- was it known to
16 get a high CRI?

17 MR. HOFFMAN: Objection, scope and
18 foundation.

19 BY MR. BRIGGS:

20 Q. You can answer.

21 A. It wasn't unknown to certain people within
22 the industry. I'm -- I'm a little more technical than
23 a lot of people that I work with, not all, but many,
24 and so I knew about it. But I can't say that every
25 best boy or every gaffer that I knew, knew even what

1 CRI was at the time.

2 Q. Would you say an average number of people
3 knew about CRI at the time of 2010?

4 MR. HOFFMAN: Objection, form.

5 THE WITNESS: I think it wasn't
6 unknown, let's just -- yes. I would say
7 that probably -- it was probably, you know,
8 in my best guesstimate, somewhere around 30
9 to 40 percent of the people knew what CRI
10 was.

11 BY MR. BRIGGS:

12 Q. And was that because it's tied to color
13 reproduction accuracy? Was it known?

14 A. It's because it -- that I can't speak to.
15 It's because -- it -- it was for -- I'm not sure -- I
16 guess I'm not sure where you -- where -- what you are
17 asking in terms of color reproduction accuracy.

18 Q. So maybe I should reorient you. I
19 apologize.

20 So paragraph 13 of your declaration, you
21 say "color reproduction accuracy," and then you have
22 parenthesis, "ICRI." So I'm assuming those are tied
23 somehow.

24 A. Yeah. Yes. Knowing what CRI is. But high
25 color reproduction accuracy, getting to the pure form

1 of the light. So in our case, if a color --
2 oftentimes, a -- like an HMI might be at 6 -- might
3 come out at 6,000 degrees kelvin. Well, we may want
4 it to be at 5600, so there are things we can do to
5 change that color reproduction. Fluorescent lights
6 oftentimes -- well, almost all the time, unless they
7 were Kino Flos or color-correct fluorescents, had
8 severe spikes of green. So we knew we need to correct
9 them to get reasonably correct light out of them for
10 film reproduction; otherwise, people's skin goes green
11 or depending on the color of their skin they can go
12 purple. There are other things that can happen, so...

13 Q. Thank you.

14 And I don't think I've asked this question.
15 I've read about it, but I guess I should ask you. Can
16 you describe to me what Kino Flo is?

17 A. Kino Flo? Kino Flo is a -- was a company.
18 I believe Frieder -- whose last name is escaping me, I
19 just know him as Frieder in the industry -- was the
20 founder of that company, and they produce a
21 fluorescent tube lighting system that was at the
22 time -- they had tubes available that were
23 color-correct in 3200 degrees kelvin and in 5600
24 degrees kelvin, as long as the tubes were new and not
25 old, because as they get older, they shift -- their

1 color shifted.

2 And they also created a ballast, which
3 fluorescent lights need, that allowed us to not
4 flicker on camera because oftentimes lights can
5 flicker on camera.

6 Q. Thank you. That is helpful.

7 So when you say Kino Flo, you are talking
8 about fluorescent tubes, correct?

9 A. At the time that this was --

10 Q. I'm sorry, yes, in --

11 A. No, I'm not just referring to that because
12 Kino Flo grew into other aspects of the industry.
13 That was their foundation, as far as I know. But at
14 this time, much of the time we were developing this,
15 they were in the middle of developing a light that
16 they called the Celeb, which was their first -- I
17 believe their first LED series of lighting.

18 Q. Can you spell that for me?

19 A. C-E-L-E-B.

20 Q. So it's celebrity without the R-I-T-Y,
21 correct?

22 A. Correct.

23 Q. So they were developing the Celeb, and you
24 think that is around the time you were working with
25 Mr. Macias; is that correct?

1 A. They came out, I would think -- again, time
2 frame, I don't recall exact time frames, but their
3 light came out within a year prior to -- I believe it
4 was about a year prior to Guillermo and finishing up
5 the final designs on his tubes.

6 Q. Okay. And do you know when Mr. Macias's
7 final design was complete?

8 A. I don't know the date. I can't...

9 Q. And you think, just ballpark, Celeb was
10 about a year before Mr. Macias's final design was
11 complete?

12 A. Yeah. Again, I'm speculating, but I don't
13 remember the exact release time as far as that goes.
14 I do know that toward the end of development that I
15 had purchased, that was the light I spoke to earlier,
16 that I -- we were -- our goal was to match them in
17 terms of color temperature.

18 Q. Got it.

19 And you say "match them in terms of color
20 temperature," I assume you mean to match the Kino Flo
21 3200K and 5600K tubes; is that correct?

22 A. No, but also to get as clean a source of
23 Kino Flo had gotten with their LED lighting.

24 Q. When you say "clean source" --

25 A. High CRI.

1 Q. You also mentioned, you know, the
2 requirement of a ballast. Can you explain to me what
3 a ballast is?

4 A. A ballast is in -- in Kino Flo's case, is
5 an electronic instrument. It's essentially a board --
6 an electronic board inside of a box that strikes the
7 actual light, meaning it ignites the light.

8 Q. Fluorescent tubes have to have some kind of
9 ignition source; is that what are you saying?

10 A. That is correct. Yeah. They basically
11 have to raise the voltage up, to my understanding, and
12 strike the light --

13 Q. Okay.

14 A. -- to get it to start burning, to get the
15 gases heated up.

16 Q. Got it.

17 Okay. So let me just reorient myself,
18 please.

19 Can we go to page 9 of your declaration,
20 paragraph 16, please.

21 A. Page 9, paragraph 16.

22 Q. Just read that and let me know when you are
23 ready.

24 A. You said paragraph 16?

25 Q. I did say paragraph 16, and it actually

1 starts on page 8. So I apologize, I wasn't looking
2 correctly.

3 A. Okay. Very good.

4 Okay.

5 Q. So towards the end of that paragraph, you
6 are talking about consistent light put out -- light
7 output over the course of a shooting day.

8 Do you see that?

9 It's like in the middle of the
10 paragraph 16.

11 A. Yeah. Okay. Go ahead.

12 Q. So it says: "Consistent light put" --
13 excuse me -- "consistent light output over the course
14 of a shooting day and from day to day are critical in
15 the TV and film industry to the quality of the movie
16 or show."

17 Do you see that?

18 A. I do.

19 Q. And so then you say, "i.e., consistency of
20 color temperature output."

21 What do you mean by "consistency of color
22 temperature output"?

23 A. We don't want the actual physical color
24 temperature to shift at all.

25 Q. So -- I'm sorry.

1 A. With some lights, as they heat up and/or as
2 they are used over time, can shift.

3 Q. So by "shift," you mean it starts like, for
4 instance, at 3200K and then it gets old and moves off
5 that output? Is that what you mean by shift?

6 A. Correct. Correct.

7 So, for instance, I spoke to earlier is as
8 Kino Flo tubes get older, their color shifts in the
9 tubes themselves, and they can start producing colors
10 that have not actually helpful in the industry.

11 Q. So back in 2010 time frame, what would have
12 been a consistent color temperature output?

13 A. What would be a consistent color
14 temperature output? That is kind of a hard question
15 to ask because it depends on what the situation calls
16 for. So are you shooting a daylight scene, you know,
17 a tungsten day scene, or are you shooting something in
18 between depending on what the director has chosen?

19 Q. Since we have been dealing with daylight
20 tungsten and I guess Kino Flo and LED tubes, why don't
21 you talk to me about, in 2010, consistency of color
22 temperature output for a daylight situation.

23 A. So I -- and, again, this all subjective to
24 the person lighting the scene and the director of
25 photography. But usually, we -- you know, in my

1 experience with the people that I've worked with, you
2 don't want things shifting more than a few hundred --
3 200 to 400 degrees kelvin in one way or the other;
4 otherwise, it starts to become noticeable. The more
5 you work in this industry, we can start picking out
6 200 degree kelvin differences just to our eye.

7 So we -- again, like anything, as you get
8 more experience, you start picking out all the little
9 minutiae that starts to bother you. But usually that
10 is, in my experience, the range before people start
11 going, what is going on with that light.

12 Q. And you said plus or minus 200 for a
13 daylight situation; is that what you said?

14 A. In general --

15 MR. HOFFMAN: Objection,
16 mischaracterization.

17 THE WITNESS: It can be 200. It
18 could be 400. It depends on the director
19 of photography. To my eye, I can usually
20 tell when -- I'm pretty close on some
21 things, but it just depends on what their
22 feeling is. I -- that is the range I
23 usually go with is 2- to 400 either
24 direction, and then it starts to become a
25 problem.

1 BY MR. BRIGGS:

2 Q. I'm just trying to say, this is your
3 declaration, and you said consistency, so whatever you
4 believe consistency means --

5 A. That is my idea of consistent -- that was
6 my personal idea.

7 Q. Okay. That is helpful.

8 And then similarly, right next to
9 consistency of color temperature, I believe you say
10 consistency of lumen output.

11 What does that mean?

12 A. That means that the actual physical output
13 of the light does not fall off. So does that light
14 get dim with -- over time with the amount of use it's
15 getting. Some lights can do that. It's not often,
16 but that is a concern. We want that light to be able
17 to produce that light for a period of time and not
18 lose the output of that lighting.

19 Q. Were you measuring the consistency of lumen
20 output in 2010?

21 A. Was -- I'm sorry?

22 Q. Were you measuring for your job consistency
23 of lumen output in 2010?

24 A. Sure. In general, if we were using an
25 exposure meter, and then that would be measured

1 typically in f-stops.

2 Q. So consistency of lumen output is measured
3 in f-stops, typically?

4 A. Yeah, in general, in the film business, we
5 always refer to -- everything was always referred to
6 in f-stops because that is the exposure with the
7 camera.

8 Q. Is there a correlation between f-stops and
9 absolute lumen numbers I have seen on specs? For
10 instance, 1,000 lumens, 1200 lumens, 1500 lumens, is
11 there a correlation between those two?

12 A. I --

13 MR. HOFFMAN: Objection, scope.

14 THE WITNESS: Yes, sir, I can't speak
15 to that. I do not know.

16 BY MR. BRIGGS:

17 Q. Okay. Do you have a -- when you say
18 "consistency of lumen output," you would measure this
19 by -- what did you say you measured it by?

20 A. We typically measured -- at that time, we
21 were measuring everything in f-stops. I mean we still
22 use f-stops to this day.

23 Q. I'm sorry, I asked a bad question.

24 What equipment were you using to measure
25 it?

1 A. We were using -- those were exposure
2 meters.

3 Q. Exposure meters.

4 A. Incident meters.

5 Q. Exposure incident meters. Okay.

6 What kind of an exposure or incident
7 meter -- or what could an exposure or incident meter
8 measure in 2010?

9 A. So some of them would measure in -- well,
10 most of them, because they are geared toward film,
11 would measure in f-stops, based on the speed of the
12 film. There were some meters I believe at the time
13 that were measuring in lux and lumens. It just
14 depends on the manufacturer of the meter itself.

15 Q. Do those meters measure more than --

16 A. Some measure multiple -- they will give you
17 a -- you will be able to switch between menus and
18 choose different things. If there were an additional
19 meter, they would give you -- some of them would allow
20 you to switch between -- it's just commonly referred
21 on our end to as f-stops for the cameraman.

22 Q. And do they measure stuff besides output?
23 Did they measure -- for instance, you mentioned
24 magenta and green hues. Did they measure those as
25 well --

1 A. No.

2 Q. -- or was that a different tool?

3 A. That is a different tool.

4 Q. Okay. Good.

5 So just sticking in the sentence that we
6 have been talking about, do they measure consistency
7 of CRI?

8 A. No. At that time they did not measure
9 consistency of CRI. They would just give us actual
10 physical colors, color output.

11 Q. Okay. So the next thing you talk about in
12 this paragraph 13 in the sentence that we have been
13 talking about is "consistency of green and magenta
14 levels."

15 Do you see that?

16 A. Yes.

17 Q. What do you mean by consistency of green
18 and magenta levels?

19 A. We don't want that green or magenta to
20 shift on us. Again, we want something that is a
21 foundational light so that I don't have a shift in
22 greater -- as it gets hotter, does it create more
23 magenta or more green, is it going to color shift on
24 me. In general, just overall consistency of light.

25 Q. Okay. Again, thinking about the time in

1 2010, were you measuring lumen output of LEDs at that
2 time?

3 A. Was I measuring?

4 Q. As your role as a best boy or gaffer on
5 these -- like NCIS, for instance, would you be
6 measuring that?

7 A. We typically didn't -- again, we typically
8 didn't use lumen output as the subject of the measure.
9 It was always f-stops for our director of photography.
10 It wasn't that I didn't know what -- or wasn't
11 familiar with lumens, but we just didn't use that as a
12 reference.

13 Q. Do you know why -- I mean, you had --
14 scratch that.

15 You have seen those specifications for LEDs
16 where they advertise a certain lumen output, correct?

17 A. Yes.

18 Q. And I'm assuming you saw those even in
19 2010; is that correct?

20 A. LED output? I'm sure I probably had.
21 There were very few on the market at the time. There
22 were only a handful of companies that were producing
23 anything for our industry.

24 Q. Do you know why an LED company would
25 advertise a lumen output as opposed to an f-stop?

1 MR. HOFFMAN: Objection, foundation,
2 form and scope.

3 THE WITNESS: I don't know why. I
4 can -- I can't speak to why -- what their
5 version of it was. No, I can't speak to
6 that.

7 BY MR. BRIGGS:

8 Q. Okay. Fair enough.

9 Let's go back to paragraph 4 of your
10 declaration, please.

11 A. Sure.

12 Q. So in paragraph 4 you say in the second
13 sentence, it says: "Around the time of his
14 invention."

15 Do you see that?

16 A. Yes. Sure.

17 Q. What do you mean by "around the time of his
18 invention"?

19 A. Well, there was the initial invention --
20 well, it was the initial concept, and then there was
21 the prototyping, so it was during the prototyping. So
22 that would have been around the time of the invention
23 leading up to the final product.

24 Q. When you say "around the prototype," do you
25 have a month, day, year in mind?

1 A. No. I just remember we spent -- I kept
2 receiving prototypes for -- from the time of the
3 initial discussions and development, it was
4 probably -- I would be speculating, I want to say
5 somewhere around six months after that we started
6 getting prototypes. It may have been a little longer.
7 It may have been a little shorter. That, I can't
8 speak to.

9 Q. But you don't have a specific year in mind
10 or anything?

11 A. No. It was -- it was within -- I mean we
12 started -- we developed -- I said we -- he started
13 bringing in prototypes, and then it was another year
14 about approximately, that we kept receiving prototypes
15 before he finalized his design.

16 Q. Okay. Do you know about how many
17 prototypes you received from Mr. Macias?

18 A. I would -- to give you an exact number, no.
19 It was at least six, if not ten.

20 Q. Okay. Fair enough.

21 Right after that you say: "I assisted him
22 in measuring the performance of his prototype bicolor
23 lighting device."

24 Do you see that?

25 A. I do.

1 Q. So can you walk me through how you assisted
2 him in measuring performance.

3 A. Sure. I set up -- I set up a space where I
4 could take each one of the lights themselves and take
5 various measurements, not only color measurements but
6 also output measurements of those lights. I utilized
7 three different meters from three different sources at
8 the time, and I created -- without being -- it
9 wasn't -- it wasn't the black box or the photometrics
10 that an engineer would use, but we were just looking
11 at overall performance.

12 So I put a -- in this case, a Kino Flo tube
13 up against a -- up against his tube and took various
14 measurements at various distances, much like if you
15 spoke to a manufacturer about the photometric output
16 of their lights at various distances. That is usually
17 what they refer to us when they are sending
18 information to us in the industry.

19 Q. What exactly did you measure? Were you
20 measuring magenta, green? Walk me through exactly
21 what you were measuring.

22 A. Sure. I was measuring both the f-stop
23 output. I was measuring the lux output at the time.
24 I was also measuring the color temperature. And with
25 the color temperature comes color correction, whether

1 it's how much daylight or tungsten, how clean that is,
2 as well as how much green and magenta are in the
3 source itself.

4 Q. Got it.

5 So you measured f-stop output, lux output,
6 color temperature and color correction; is that what
7 you said?

8 A. Yes.

9 Q. Did you measure anything else?

10 A. I don't believe so. I don't believe so.

11 Q. Okay. So Mr. Macias brings you his first
12 prototype. You measure those four things. And you
13 tell him the results. And just explain to me, how
14 that process worked, please.

15 A. Sure. Sure. I would take -- I took those
16 measurements, and then I would go -- Mr. Macias and I
17 would either speak on the phone or he would -- at the
18 time I was doing NCIS Los Angeles. I had -- he had --
19 he would come -- occasionally, stop by there, so
20 occasionally, I would meet with him, and explain what
21 I was getting when he was dropping off prototypes.
22 And then I would just reiterate what needed to be
23 improved, what we were having problems with in terms
24 of the chips themselves.

25 The other thing that I was looking at was

1 overall performance, if there were any problems in
2 design. For one, being the original switch was a
3 problem, and I pointed that out, and then eventually
4 over several -- I think he managed to manufacture a
5 batch with the original switch, and they started
6 failing. So I retrofitted a new switch into those
7 based on the new design that we had come up with for a
8 switch -- or that we had spoke about with the switch.

9 Q. So you said you were giving feedback about
10 the chip themselves?

11 A. The overall color performance of the chips.

12 Q. Performance of the chips.

13 So this goes to color temperature/color
14 correction; is that what you mean by "chip
15 performance"?

16 A. Yes.

17 Q. Okay.

18 A. We can call it chip performance. But,
19 yeah.

20 Q. Yeah. I'm just trying to figure out the --
21 to tie it to the actual specs.

22 And then you say: "Problems in design."

23 Besides the original switch, was there
24 other problems in design that you were referring to?

25 A. That was -- the only other thing we worked

1 on was the diffuser itself in front of the chips.

2 Q. Okay. And how did you work on the
3 diffuser?

4 A. He brought in multiple samples over time,
5 and we went through them.

6 Q. And just going from memory, I believe you
7 said that you don't know where Mr. Macias got the
8 diffusers; is that what you said?

9 A. I can speculate. But, no, I don't know
10 exactly where he got them.

11 Q. That is okay.

12 So Mr. Macias would come with different
13 diffuser cover, and then you would run these tests for
14 him?

15 A. That is -- yes.

16 Q. So when you say "the original switch was a
17 problem," what do you mean by that?

18 A. The original switch, the mold that he had
19 made and the switch that they had chosen was a
20 push-button switch, and it just went in and out. And
21 the way it was cast in the end cap, which are the
22 housings -- the caps on the end, it was -- what I saw
23 was going to be prone to failure and -- over time.
24 And that is exactly what happened.

25 And he ended up, I believe, having a new

1 mold made. And they invested in a different style
2 switch for the light.

3 Q. Different style switch, do you know how he
4 decided on a different style switch?

5 A. I don't know how he decided on it. I
6 believe it was the engineers he was working with. I
7 do believe at one point he brought back several
8 samples of switch, if I recall, that we looked at.

9 Q. So did you test out different switches for
10 Mr. Macias too?

11 A. No. It was more a matter of discussion
12 about what would work better. And the next thing I
13 know, he was getting -- bringing in new samples with
14 the new switch on, as well as he brought me some new
15 end caps, and I actually repaired the other prototype
16 that he had and put that new switch in place.

17 Q. Now, here you say that you talked to
18 Mr. Macias about what would work better as a switch?

19 A. Yes.

20 Q. And what did you say?

21 MR. HOFFMAN: Objection to scope.

22 BY MR. BRIGGS:

23 Q. You can answer.

24 A. He -- again, if I recall, he brought, I
25 want to say two other styles of switch, maybe three,

1 and we just discussed what the advantages and
2 disadvantages were, and he ended up making a choice.
3 At that point it was in his hands.

4 Q. So these prototype lights that you are
5 testing for Mr. Macias, are they bicolor lights?

6 A. Yes.

7 Q. Okay. All right. So staying in
8 paragraph 4, you say: "I assisted him in measuring
9 performance of his prototype bicolor lighting device
10 of the type shown in his U.S. patent numbers
11 10,441,582 and 10,566,895, quote, the two patents
12 which I reviewed."

13 Do you see that?

14 A. I do.

15 Q. So when you say you reviewed the patents,
16 walk me through how you reviewed them.

17 A. I was -- Mr. Hoffman provided me with those
18 patents, and I just -- I looked over those before I
19 made my declaration.

20 Q. So when you -- have you looked at patents
21 previously?

22 A. No. I have not.

23 Q. Okay. But did you look at all of the parts
24 of the patents? Did you skim them? Walk me through
25 how you did your review.

1 A. I just -- I walked through -- or I read
2 through the whole patent for what I could understand
3 and what I -- obviously, I have very little knowledge
4 of the actual patent process and what some of these
5 references are. But, you know, just understanding
6 what it was referring to within our -- within our
7 discussions about our development of his product.

8 Q. Do you know the difference between the
9 specification and the claims of the patent?

10 A. I don't.

11 Q. Let's now look at the '582 patent, which
12 you just said you reviewed, and that is Exhibit 1001
13 from IPR 2023-00613. Let me know when you are ready.

14 A. You said it's which one?

15 Q. It's Exhibit 1001 of IPR 2023-00613.

16 A. Okay. I hope I am on the right one.

17 Q. Well, we can verify that. Tell me when you
18 are ready.

19 A. What's the patent number?

20 Q. At the top right-hand corner you can see
21 10,411,582-B1.

22 Do you see that?

23 A. Yep. I just went into the wrong one.

24 There we go.

25 Q. No problem.

1 A. Okay. The last three numbers are 582?

2 Q. Yeah. 582.

3 A. Okay. I'm on it.

4 Q. So just make sure we are on the same
5 document, you see something that says U.S. patent
6 number U.S. 10,411,582-B1, correct?

7 A. I do. Correct.

8 Q. And right below that, it says "Date of
9 Patent: September 10th, 2019"?

10 A. Yes.

11 Q. Okay. Great.

12 So is it okay if I refer to this document
13 as the '582 patent, just to make it easy?

14 A. Sure.

15 Q. Great.

16 So if you could please go to page 8.

17 So on the left-hand side, you'll see
18 column 1.

19 Do you see that?

20 A. I see -- I'm on page 8 of 15; is that
21 correct?

22 Q. That should be right.

23 A. With tube light with improved LED array.

24 Q. Right. And you see a number 1 right above
25 that?

1 A. I do.

2 Q. So that means column 1. Okay?

3 A. Okay.

4 Q. And just to the right of that you see a
5 number 2, it says column 2.

6 A. Right.

7 Q. And why that's helpful is because I'm going
8 to refer you to certain parts of Mr. Macias's patent,
9 and we will be talking about it. Okay?

10 A. Sure.

11 Q. Great.

12 And so in column 1, if you go to line
13 basically 15, you see where it says "Background"?

14 A. Column 1, background. Yes. Okay.

15 Q. And then right below that you see "Field of
16 Invention."

17 Do you see that?

18 A. I do.

19 Q. And then right below that on line 25,
20 approximately, do you see "Description of Related
21 Art"?

22 Do you see that?

23 A. Yes.

24 Q. And then if we go over to column 2,
25 starting at line 2, it talks about what you and I have

1 been talking about for quite a long time. It says:

2 "The two most frequently used."

3 Do you see that?

4 A. I do.

5 Q. So can you read that and let me know when
6 you are ready.

7 A. Okay.

8 Q. So it says: "The two most frequently used
9 and desired color temperature ranges in the lighting
10 industry for stage and set lighting have been found to
11 be 3050 to 3300 kelvin for tungsten (warm white) and
12 5400 to 6400K for daylight white."

13 Correct?

14 A. I see that. Correct.

15 Q. And you agree with that?

16 A. In general, yeah. I would say those are --
17 those are definitely the most common ranges.

18 Q. Right. And the next sentence says: "These
19 ranges represent ideal color temperature ranges for
20 producing ideal lighting for TV, photography and film
21 studio scenarios."

22 Right?

23 A. It does.

24 Q. Yeah. And as we discussed, those two
25 temperature ranges were well known before 2010,

1 correct?

2 A. Yes.

3 Q. Okay. So now let's go down to column 2,
4 starting at line 28, the sentence says:

5 "Alternatively, LED."

6 Do you see that?

7 A. Yes.

8 Q. Can you just read that paragraph, and then
9 let me know when you are done.

10 A. Okay.

11 Q. So it says, starting at line 36: "There
12 are two primary types of LED lighting used to create
13 white light. One is to use individual LEDs that emit
14 three primary colors (red, green and blue) and mix the
15 colors to form white light."

16 Do you see that?

17 A. I do.

18 Q. Did you know this to be the case in 2010?

19 A. I knew there was potential there.

20 MR. HOFFMAN: Objection, scope.

21 THE WITNESS: I was -- I was aware
22 that it was -- that they were -- that was
23 coming to be at the time.

24 BY MR. BRIGGS:

25 Q. Okay. And the next sentence says: "The

1 other is to use a phosphor material to convert
2 monochromatic light from a blue or ultraviolet LED to
3 broad-spectrum white light, also referred to as a
4 phosphor-based LED."

5 Do you see that?

6 A. I do.

7 Q. Do you have familiarity with phosphor-based
8 LEDs?

9 A. I'm familiar with the terms. I'm not
10 familiar with the technology.

11 Q. Okay. But, again, phosphor-based LEDs were
12 phone around 2010, correct?

13 MR. HOFFMAN: Objection, scope.

14 THE WITNESS: I -- I would be hard
15 pressed to say when I learned about them.

16 BY MR. BRIGGS:

17 Q. Fair enough.

18 Do you see it says "broad-spectrum white
19 light" in line 41?

20 A. I do.

21 Q. You also used the term "broad-spectrum
22 white light" in your declaration. I can find it if
23 you want but --

24 A. No, that is fine.

25 Q. -- what -- what do you and this patent you

1 think mean by "broad-spectrum white light"?

2 MR. HOFFMAN: Objection, scope.

3 THE WITNESS: To me broad-spectrum

4 white light, as it's -- as it's referred

5 to, is it's -- if you have a single peak of

6 light in the kelvin scale, if I was at

7 5600, but I had no other qualities beyond

8 the 5600, then I -- and it falls off

9 immediately, that is a single pinpoint in

10 my mind of light. I have one single color.

11 And if you have 5600, you have blue. You

12 don't have all the qualities that go with

13 it.

14 So more of a broad spectrum is, is

15 that it's producing a length of wavelength

16 of -- that it's producing a -- a group of

17 light, and that is -- that is the peak

18 light or the most prominent.

19 BY MR. BRIGGS:

20 Q. So I'm just trying to understand

21 broad-spectrum white light. Was that term used in the

22 industry in 2010?

23 A. It was used, but it wasn't like super

24 commonly used.

25 Q. Okay.

1 A. It wasn't unusual, but it was there.

2 Q. And so the opposite of broad-spectrum, what
3 I just heard, is like a light source that admits like
4 a single wave point, like exactly at 5600 kelvin; is
5 that what you said? I'm trying to figure this out. I
6 don't know. I'm not trying to --

7 A. Sure. That could be one way of doing it.
8 If you have a -- because kelvin is the color
9 temperature, you could have a light that just produces
10 a very narrow band of light being red and, well, that
11 doesn't do me any good, I don't need red. But if you
12 look at a tungsten light, a 3200 kelvin light, that --
13 it's 3200 degrees, but there is a lot of other
14 qualities that go with that, and those can be good or
15 bad depending on the purity of the light.

16 Fluorescent light has a very high spike of
17 green in it, so whatever that -- whatever that kelvin
18 rating or rigging is for that green, it can have a
19 very big spike in green, and that is not preferential.
20 That is why fluorescent lights are not great in
21 photography.

22 Q. Is broad-spectrum white light a
23 specification that is used when you are putting
24 together a film or TV program?

25 A. It's not something that is thrown around a

1 lot.

2 Q. Are there any industry specifications on
3 broad-spectrum white light that you are aware --

4 MR. HOFFMAN: Objection to scope --
5 I'm sorry. Objection to scope.

6 BY MR. BRIGGS:

7 Q. -- that you are aware of?

8 A. Not to my knowledge.

9 Q. Okay. Why don't you go ahead and read the
10 next paragraph, which begins, it looks like to me, on
11 line 43 of column 2 of the '582 patent.

12 MR. HOFFMAN: Are we going in order?

13 MR. BRIGGS: I'm sorry, yeah, we are
14 just going to the next paragraph, right
15 below the one you read.

16 THE WITNESS: Okay.

17 BY MR. BRIGGS:

18 Q. So the first sentence says -- it refers to
19 a T8 or T12 size fluorescent bulb.

20 Do you see that?

21 A. Sure. I do.

22 Q. How long have T8 and T12 size fluorescent
23 bulbs been used in the industry?

24 A. Exact dates, I don't know.

25 Q. Were they used in 1998 when you were

1 starting --

2 A. Yes, they were.

3 Q. Would it be fair to say that T8 and T12
4 size fluorescent bulbs were common in the 2000s?

5 A. In the early 2000s, sure.

6 Q. Okay. Why not in the late 2000s?

7 A. They have been replaced almost totally with
8 LEDs, for the most part. I mean, we do on occasion
9 have situations where we do use fluorescent tubes, but
10 it's -- it's very rare these days.

11 Q. And we are talking about by the time you
12 started at "NCIS," that's the time period we're
13 talking about?

14 A. By the time I started at "NCIS," we were
15 still using fluorescent tubes.

16 Q. So my question was -- I said was it fair
17 that fluorescent lights, such as T8 or T12, were used
18 in the 2000s, and you said early 2000s, so there was
19 an implication --

20 A. Okay. I'm sorry, I misunderstood. Because
21 we are in 2024, right? Early 2000s to me is -- we
22 were starting to phase out by 2010, 2011.

23 Q. Fair enough. I meant early 2000s, like
24 2000 to 2009. I -- I apologize.

25 A. I lose track of my time.

1 Q. And so this sentence does say, though: "In
2 order to match tubular form of a fluorescent bulb,
3 arrays of LEDs may be placed within a tube having the
4 same form factor as a fluorescent lamp, such as a T8
5 or T12 size."

6 Correct?

7 A. Yeah, unless somebody has come up with a
8 better idea, that would be the approach I would use,
9 yes.

10 Q. Right. And right below that it says: "One
11 such bulb is made by Dialight and is called DuroSite."

12 Do you see that?

13 A. I do.

14 Q. Were you aware of Dialight?

15 A. I was not.

16 Q. And so you never used the T8 or T12 sized
17 LED by Dialight?

18 A. Not to my knowledge.

19 Q. But right below that it says: "For
20 example, in size T8, the bulb in one form uses SMD
21 LEDs in a four foot long tube and provides 1500 Lumens
22 of Natural White light using 17 Watts, 300 LEDs, with
23 90 volts to 277 volts and it's ETL/UL approved."

24 Right?

25 A. That is what it says.

1 Q. Right. What does SMD LEDs mean?

2 A. I can't speak to the exact technical jargon
3 that is used there, but it's a type of LED. I believe
4 it's how it's mounted on the board, but again --

5 Q. Fair enough. I just didn't know if you had
6 used those specification as your role as a gaffer.

7 A. No.

8 Q. Thank you.

9 But I think four foot long tubes were
10 common in the fluorescent variety, correct?

11 A. That is absolutely correct.

12 Q. And then now we see provides 1500 lumens of
13 natural white light, correct?

14 A. That is what it says, yes.

15 Q. Did you recall around, again, 2010, seeing
16 lights that have 1500 lumens of natural white light
17 that were LED based?

18 MR. HOFFMAN: Objection, form.

19 THE WITNESS: The short answer is no,
20 I would have in general, never measured a
21 light in lumens that we're using on set.

22 BY MR. BRIGGS:

23 Q. Fair enough.

24 So then line 55, it says: "Sufficient
25 intensity of the light is preferably at least 1000 lux

1 for such an application."

2 What is the difference between lux and
3 lumens?

4 MR. HOFFMAN: Objection,
5 foundation -- I'm sorry -- scope.

6 THE WITNESS: To be honest with you,
7 I don't recall the relationship between
8 those two.

9 BY MR. BRIGGS:

10 Q. Okay. Fair enough.

11 Let's go to paragraph 12 of your
12 declaration, please. Just read that and let me know
13 when you are ready.

14 A. Okay. I'm on 12.

15 Q. So you are talking about an LED lighting in
16 tube form that was around at that time.

17 Do you see that language?

18 A. I do.

19 Q. What do you mean "at that time"?

20 A. At the time that this was all in
21 development.

22 Q. Okay. So you had seen a Mac LED when
23 Mr. Macias was working on his -- developing his --

24 A. I have.

25 Q. Okay. And just tell me what you know about

1 Mac LEDs as of that time.

2 A. Mac LEDs were available at the time, if I
3 recall, available in either a tungsten format, a 3200
4 format, or a daylight 5600K format, one or the other,
5 you had to switch tubes. They were a clear covered
6 housing. I believe they, if I remember right, drew
7 about 45 Watts apiece.

8 Other than that, I -- you know, they were
9 essentially a bulb tube format that -- and they
10 required power, if I remember right, at both ends. So
11 both ends of the tube had to be powered up.

12 Q. Okay. So was that important that that
13 was -- what that a drawback, that they had to be
14 powered at both ends?

15 A. No. It was just a design that they had
16 chosen.

17 Q. And then you say: "MacTech, like Kino Flo,
18 was a well known lighting manufacturer in the set
19 lighting industry."

20 Do you see that?

21 A. I do.

22 Q. So Kino Flo is a different company than
23 MacTech LED, though, right?

24 A. That is correct.

25 Q. Okay. Here is where you talk about that

1 "was only single color temperature, either daylight or
2 tungsten," correct?

3 A. Correct.

4 Q. And you say: "It was not bicolor even
5 though bicolor had existed for years in panel light."

6 Do you see that?

7 A. I do.

8 Q. What do you mean by "panel light"?

9 A. There was a company at the time -- I
10 believe technically, they're still in existence.
11 They've been purchased, I don't know by which company.
12 Many of the companies have been swallowed up -- called
13 Litepanels. And Litepanels produced a -- at first,
14 they produced either a daylight or a tungsten, much
15 like MacTech, and then they started producing first
16 small panels, which were, if I recall, like maybe two
17 or three inches by six inches or eight inches. They
18 were small rectangles. And then they got bigger into
19 what we refer to as a one-by-one, a one foot by one
20 foot panel, and they did some bicolor work in that
21 realm.

22 Q. And by "bicolor," you mean a single device
23 that can switch between daylight and tungsten?

24 A. Yeah. If I recall, the Litepanels were
25 able to actually mix the two. I could be incorrect at

1 that time, but I believe that was what had come onto
2 the market was they had the ability to mix both
3 daylight and tungsten together.

4 Q. The bicolor -- so you used the word bicolor
5 here. Do you mean that they were projecting -- I
6 guess just tell me what you mean, how they functioned,
7 the bicolor Litepanels panel lights?

8 A. Sure. So I get -- I think I understand
9 what you are asking.

10 So we can be daylight, we can be tungsten,
11 but we don't always want to be just daylight or just
12 tungsten. Sometimes we want to mix the colors and get
13 a slightly different color. Maybe we want a tungsten
14 light that is just a little bit cooler on the skin.
15 Depending on a skin tone, depending on the scene, it's
16 subjective. So it's the ability to cross the two and
17 mix them together to create different color
18 temperatures in that spectrum from say 32- to 5600 by
19 mixing the two.

20 Q. Okay. So did they have three modes then,
21 or at least three, they had daylight, they had
22 tungsten, and they had mix?

23 A. Yes. You could go full daylight, full
24 tungsten, or you could mix the two, if I recall.

25 Q. Okay. And so then you say had existed for

1 years in that sentence. What did you mean --

2 A. It had been going on for -- again, don't
3 quote me on these numbers. I want to say at least a
4 couple of years they had developed their panel. They
5 were one of the first -- if I remember, they were one
6 of the first in the market with LEDs on the market.

7 Q. And when you say "existed for years," is it
8 your perspective that's at the time Mr. Macias was
9 working on his prototype, that as of that time frame
10 is the way I'm understanding what you are saying?

11 A. Yes. Yes.

12 Q. Thank you.

13 MR. BRIGGS: We have been going
14 another hour. You know, I've probably got
15 another half hour to an hour questions, not
16 much more than that. Why don't we take a
17 quick break.

18 THE WITNESS: Absolutely.

19 MR. BRIGGS: Okay. Thank you.

20 (Recess taken.)

21 BY MR. BRIGGS:

22 Q. Mr. Csernecky, can you please look at
23 paragraph 14 of your declaration.

24 While you are doing that, you did not have
25 any discussions with anybody during the break,

1 correct?

2 A. Nope.

3 Q. Okay. Thank you.

4 A. Okay. We are good.

5 Q. So paragraph 14 of your declaration says:

6 "Memo's" -- if I said it right, apologize if I

7 didn't -- "bicolor LED tube, quote -- or parenthesis,

8 the claimed bicolor LED lighting tube shown and

9 explained in the two patents."

10 Do you see that?

11 A. I do.

12 Q. Earlier when I asked if you knew the

13 difference between what specification and claims were,

14 you said no, but here you say the claim. Do you know

15 what that means?

16 A. Yeah. I mean, he is claiming on his behalf

17 that this is what it does.

18 Q. Okay. And then the last sentence says:

19 "More specifically, Memo's bicolor LED tube invention

20 embodied as Colt's bicolor T12 tubes."

21 Again, this is a patent law thing. Do you

22 know what "embodied as" means in this context?

23 A. No, I have -- for your sake, no, I don't

24 but...

25 Q. Okay. Fair enough.

1 And then below that we have a list of
2 things that you believe it appears to me -- I guess
3 let me just read it. You say: "More specifically,
4 Memo's bicolor LED tube invention embodied as Colt's
5 bicolor T12 tube includes the following features," and
6 then you have a list A through G.

7 Do you see that?

8 A. Right.

9 Q. And then the first item on the list is A,
10 LED tube lights in the form of a T12 or less?

11 A. Yes. I see that.

12 Q. But I think we saw earlier that people have
13 been making LED tube lights in T12, correct?

14 A. To my knowledge, they were making LED
15 tubes, yes. Single color tubes, correct.

16 Q. Right. And then the next one is B,
17 tungsten and daylight white lighting modes?

18 A. Yes. I see that.

19 Q. Those existed outside of Mr. Macias's
20 invention. I think you said MacTech had separate
21 tubes, correct?

22 MR. HOFFMAN: Objection, form.

23 THE WITNESS: That is correct. There
24 were both daylight and tungsten tubes that
25 were produced.

1 BY MR. BRIGGS:

2 Q. And then switchable -- Item C, switchable
3 between the tungsten and daylight white lighting
4 modes.

5 Can you explain to me what you mean by
6 that?

7 A. That it had -- the tube itself had the
8 ability to switch from daylight to tungsten or back.

9 Q. Does this go to that switch you were
10 talking about earlier that Mr. Macias had put on the
11 product?

12 A. Sure. Yes. Yes, that is correct.

13 Q. So if you cross that switch or move the
14 switch, I don't know how it works, it changes from
15 tungsten to daylight, or vice versa?

16 A. Yes, that is correct.

17 Q. Okay. And then you say Item D, diffusion
18 cover so the light blends well and is not too harsh
19 (too much light point sources) to be suitable for
20 filming, right?

21 A. That is correct.

22 Q. And I think we had already talked about
23 this a bunch, which is Mr. Macias would take your
24 feedback and go bring different cutters, and then you
25 would do some additional testing; is that right?

1 A. That is correct.

2 Q. And then Item E, produce enough light
3 output, whether in tungsten or daylight mode, suitable
4 for use as key lighting.

5 Do you see that?

6 A. I do.

7 Q. Did Mr. Macias ever explain to you how he
8 was able to get, Item E, to produce enough light
9 output, or he would just bring you the devices and
10 say, try this?

11 A. No. They -- if I recall, at the time,
12 they -- there were several prototypes that were
13 brought to me, and the output was not enough. There
14 were not enough chips on the board itself. And I
15 believe they came back with a redesign to include more
16 chips on the board itself.

17 Q. Oh, okay. Got it.

18 So there is a correlation between the
19 number of chips and the light output?

20 MR. HOFFMAN: Objection,
21 characterization.

22 BY MR. BRIGGS:

23 Q. I'm asking a question. I don't know.

24 A. I can -- I can't speak to the electronics
25 or the engineering behind it because I -- at this

1 point in my life, I'm aware that certain chips have a,
2 higher output than other chips, but at the time I
3 assume that more was better.

4 Q. Right.

5 A. I can't speak to it.

6 Q. Got it. So moving to Item F then, having
7 acceptable threshold of green and magenta for filming,
8 and then you've got the goal of color deviation of
9 less than 5 points of green and magenta, whether in
10 daylight or tungsten mode, so that gels are not
11 necessary in either mode, right?

12 A. Correct.

13 Q. Do you know how Mr. Macias was able to
14 achieve that?

15 A. How he achieved it? I -- again, I can't
16 speak to the engineering behind it. I know that he
17 was bringing us new samples that were less magenta,
18 less green. We went back and forth.

19 Q. Okay. And the last one, have a suitable
20 CRI for filming, i.e. greater than 90, whether in
21 daylight or tungsten mode, so that gels are not
22 necessary, right?

23 A. Correct. That was the goal.

24 Q. And again, did Mr. Macias ever explain to
25 you how he was able to achieve that item, i.e., item

1 G?

2 A. The only thing I can speak to is he
3 explained to me that they were having at the time to
4 go through multiple batches of chips, LED chips. I
5 don't know what the process there was or whatever, but
6 they were looking for the right mix. That is all I...

7 Q. So you said you had been testing for
8 Mr. Macias of his prototypes many, many times,
9 correct?

10 A. I'm sorry?

11 Q. You said over several -- I don't -- let me
12 just strike that.

13 I believe you said, or you indicated that
14 you tested many of Mr. Macias's prototypes, correct?

15 A. That is correct.

16 Q. Did you provide like a testing record or
17 something to go with that testing?

18 A. I would just write it up and give him
19 feedback on -- sometimes verbal, and sometimes it was,
20 you know, showing him, these are the numbers that I
21 had if he happened to come around. But I spoke to him
22 where there were issues with that -- that particular
23 prototype itself. It was -- you know, it was a fairly
24 informal process, but it was in terms of the dialogue
25 happening between us.

1 Q. And in return, would Mr. Macias come back
2 with any testing reports of his own for you to look at
3 or evaluate?

4 A. He on a couple of occasions, if I remember
5 right, brought back some -- some actual engineering
6 black box data --

7 Q. Okay.

8 A. -- that he brought with the actual tubes
9 themselves.

10 MR. BRIGGS: So we are going to need
11 to look at Exhibit 2023, then -- or 2123,
12 Mr. Hoffman. Can you provide Mr. Csernecky
13 Exhibit 2123, which is the Macias
14 provisional application.

15 It's going to be a few minutes while
16 he e-mails that to you. Let's wait.

17 THE WITNESS: Is this going to the
18 Dropbox?

19 MR. HOFFMAN: No, I'm just going to
20 directly e-mail it to you.

21 THE WITNESS: I have the application
22 for patent cover sheet; is that what we are
23 looking for?

24 BY MR. BRIGGS:

25 Q. That is exactly what we are looking for.

1 So to make sure we're looking at the right thing at
2 the bottom, it should say: "Colt International
3 Clothing, Inc., Exhibit 2123, page 1 of 21."

4 A. And that looks to be it, yes.

5 Q. Great. So why don't you go to page 10 of
6 that.

7 A. Okay.

8 Q. And you will see a Figure 1 and a Figure 2
9 listed.

10 A. Okay.

11 Q. And earlier you had mentioned a switch. Is
12 Figure 2 showing a switch or is that something
13 different?

14 A. Figure 2 is not showing a switch.

15 Q. Is that where the LED tube is connected to
16 the electrical, that input?

17 A. It is -- correct.

18 Q. Is that configuration typical of LEDs at
19 the time?

20 MR. HOFFMAN: Objection, scope.

21 MR. BRIGGS: Counsel, he can testify
22 about --

23 THE WITNESS: There were several
24 approaches to how to power these, and this
25 was one of several. But if I recall, at

1 the time, this was a less common way of
2 doing it. Most people were still powering
3 from those.

4 BY MR. BRIGGS:

5 Q. Would a Kino tube have a similar
6 arrangement as this?

7 A. In terms of the pin structure --

8 Q. Yes.

9 A. -- you can see at the end? Yeah, it was a
10 match to basically teach -- well, fluorescent.

11 Q. Right. And the reason I wanted to ask you
12 about this as well is if you go to page 13, please.

13 A. Sure.

14 Q. And you see a spectrophotocolor meter test
15 report?

16 A. Right.

17 Q. And I asked if you'd seen any test reports
18 from Mr. Macias?

19 A. I --

20 Q. Is this just what you were talking about?

21 A. Yeah. I recall seeing a report to this
22 extent or something similar.

23 Q. Can you explain this report to me? What
24 does it mean?

25 A. Not -- let me take a look. Let me see if I

1 can...

2 Q. Take your time.

3 A. I understand little bits of it, but I can't
4 tell you that I understand it from an engineering
5 standpoint, what all of it is referencing to.

6 Q. Do you see rendered index?

7 A. Yes.

8 Q. And it says RE equals 92.8.

9 Do you see that?

10 A. I can see that.

11 Q. Is this an indication of CRI?

12 A. I -- I can't speak to that. I do not know.

13 Q. Okay. Fair enough.

14 So can you go to page 19.

15 A. Okay.

16 Q. Have you seen this -- I don't know what to
17 call it. It says "application" at the top. Have you
18 seen this document before?

19 A. I have not.

20 Q. And if you could go to page 20, the very
21 next page.

22 A. Uh-huh (affirmative).

23 Q. Have you seen this document before?

24 A. I have not.

25 Q. Okay. And then the last page, 13, have you

1 seen Figure 13 on page 21?

2 A. I have not.

3 Q. Okay. And then one more, we are going to
4 go back to page 12, which shows Figure 4. In working
5 with Mr. Macias, have you seen this document before?

6 A. I can't say that I have seen this
7 particular document. It's similar to something I have
8 seen before, but I can't say where I, you know -- and
9 this is also a common layout for identifying certain
10 aspects of lights, period.

11 Q. Okay. Fair enough. I am now done with
12 Exhibit 2123. Let's go back to your declaration,
13 please, when you have a second and let's go to
14 paragraph 23.

15 A. Okay.

16 Q. Just read that and let me know when you are
17 ready.

18 A. Okay. Go ahead.

19 Q. So in the middle of page, you say: "I have
20 seen a handful of sets using single color LED tube
21 lights where it was my understanding that the
22 production did not have a budget for bicolor LED tube
23 lights."

24 Do you see that?

25 A. I do.

1 Q. Did you mean at the time Mr. Macias was
2 developing this, or can you put a time frame on this
3 please?

4 A. How about all the way up till today.

5 Q. I mean the first time.

6 A. The first time I saw somebody who was using
7 it without our -- or was using single color because it
8 was cheaper? The time frame, couldn't speak to that,
9 but -- I'm sorry. Go ahead.

10 Q. No, I interrupted you. I apologize.

11 A. I can't speak to the actual time frame the
12 first time I've seen somebody using it as an alternate
13 case. It's not unusual in our industry to try to cut
14 corners from a production standpoint.

15 Q. Okay. The specific language that I was
16 asking about, and I didn't do a very good job, is you
17 see where it says "where it was my understanding"?

18 A. Yes.

19 Q. What I mean is, the understanding that you
20 are talking about, what time period do you mean that
21 understanding, I'm sorry?

22 A. That understanding that production didn't
23 have the budget?

24 Q. Yeah.

25 A. Would have been discussions I had with the

1 gaffer and/or best boy at the time, as early as 2015,
2 2016.

3 Q. Okay. So this is --

4 A. To put a time frame on it, to be honest,
5 would be difficult.

6 Q. So this is later than when Mr. Macias and
7 you were working on the prototypes?

8 A. Yes.

9 Q. Okay. So paragraph 24, can you please just
10 read that and let me know when you are ready.

11 A. Sure. Go ahead.

12 Q. So it says: "Lighting tubes in TV and film
13 industry are often used under unfavorable conditions
14 for the lights such as where air flow is blocked or
15 limited."

16 I am assuming you mean that that problem
17 has existed for decades?

18 A. It has been a problem, yes.

19 Q. So -- but for decades, right?

20 A. Sure.

21 Q. Let me rephrase.

22 In 1998, what you have in here, in the
23 first sentence of paragraph 24, a problem?

24 A. The problem was not unusual.

25 Q. In 1998?

1 A. Yeah. The problem was not unusual to have
2 limited space at times.

3 Q. So with the block of air flow, were you
4 aware of any heat issues with block of air flow?

5 A. Absolutely.

6 Q. And did Mr. Macias ever talk to you about
7 heat issues due to block of air flow?

8 A. We discussed his application in terms of
9 being able to use that in smaller spaces, so that it
10 can function in smaller spaces.

11 Q. What did you discuss?

12 A. I think just the applicable -- us looking
13 for alternative applications where we could use this
14 as a tool because a lot of times we are limited on
15 space because, you know, we are defined by -- in many
16 cases by a stage that we're in, and depending on the
17 production designer, who they are and their
18 understanding of what our needs are, that can affect
19 how much space we have to light a backdrop or how much
20 space we have to light a window.

21 And many times, that may only be a foot,
22 two foot, three feet, and some of the lights that we
23 use, it's very difficult to use them in that kind of
24 space because they would actually start fires.

25 Q. When you were doing your testing for

1 Mr. Macias, was testing of heat an issue?

2 A. It wasn't a major focus. It was mentioned,
3 but it wasn't -- it wasn't the finite thing that
4 were -- our goal was when I was working on this for
5 him.

6 Q. Did you ever measure any heat dissipation
7 of the prototypes?

8 A. I did not. I did not.

9 Q. Paragraph 27, please.

10 A. Sure.

11 Okay.

12 Q. So use of lighting tubes in boxes is also
13 common.

14 Do you see that?

15 A. Yes.

16 Q. What kind of boxes are you talking about?

17 A. Sure. So we build boxes overhead. So a
18 lot of what you see on television in many situations,
19 not all, but in many situations, especially comedies
20 where things are very bright, we tend to use a lot of
21 top light. So to bring up the overall ambient level
22 of the room, so we'll build boxes overhead, and then
23 we will mount the bulbs inside those boxes in order --
24 and to work as one unit and bring up the overall
25 ambient of the room.

1 Q. Okay. And those boxes, I'm assuming, have
2 been around, again, for decades, those types of boxes?

3 A. Building soft boxes overhead has been
4 around for decades, yes.

5 Q. Okay. And those are the types of boxes
6 that you are talking about in paragraph 27?

7 A. That is correct.

8 Q. If you guys wouldn't mind giving me a
9 couple of minutes to go through my notes, I think I'm
10 done, so just bear with me.

11 A. Sure.

12 Q. I guess I did miss something. I apologize.
13 Can you go to paragraph 9 of your
14 declaration.

15 A. Absolutely.

16 Okay.

17 Q. And in the middle of the page you say: "In
18 this image, the lighting tube is shown in a vertical
19 orientation, which I have seen often."

20 Do you see that?

21 A. Yes.

22 Q. I'm assuming when you say, "I have seen
23 often," you mean even before you started working with
24 Mr. Macias?

25 A. Well, not an LED tube in this situation

1 but...

2 Q. Sure. I mean, I'm sorry. I'm assuming
3 fluorescent tubes were mounted horizontally and
4 vertically --

5 A. Yes.

6 Q. -- before LED tubes were? Okay.

7 And then the configuration right below that
8 where there's a multi-tube block 6 bank.

9 Do you see that picture?

10 A. Yes.

11 Q. I'm assuming fluorescent tubes were used in
12 a similar, if not the same configuration; is that
13 true?

14 A. You are correct.

15 Q. So can you go to paragraph 17.

16 A. Sure.

17 Q. Okay. You say, the very first sentence:

18 "I note that Quasar Science's bicolor T12 LED lighting
19 tubes were released after Colt's bicolor T12 LED tubes
20 and have the same features as listed in paragraph 14
21 above."

22 Do you see that?

23 A. I do.

24 Q. And so earlier we went through all of the
25 aspects of paragraph 14A through G.

1 How do you know the Quasar Science tubes
2 had all of those aspects?

3 A. They appeared in form and function to be a
4 matching pair to the Colt LED tube. And obviously,
5 using my -- using my color meter on set and using my
6 incident meter on set, they appeared to produce the
7 exact same -- or roughly the same output and both
8 green and magenta and overall light layout.

9 Q. Okay. Can you go to paragraph -- never
10 mind.

11 MR. BRIGGS: I have no further questions.

12 MR. HOFFMAN: I'm sorry. I will need
13 a little break, and we'll probably do some
14 redirect.

15 (Recess taken.)

16 EXAMINATION

17 BY MR. HOFFMAN:

18 Q. Mr. Csernecky, I just have, you know, a few
19 questions for you regarding the MacTech LED product.

20 A. Yes.

21 Q. You mentioned in your deposition earlier
22 that it had some 43 or possibly 45 watts.

23 Do you recall that?

24 A. I do.

25 Q. At what point in time was it that you saw

1 that MacTech product with 43 or 45 watts?

2 A. That is kind of our -- my reference numbers
3 that I used because they are currently installed on a
4 set that I am -- that I rigged recently.

5 Q. Yeah. I'm just asking you at what point in
6 time did you first see a MacTech product with 43 or 45
7 watts.

8 A. Probably a year ago, maybe a year and a
9 half ago.

10 Q. Okay. So as of 2013 and earlier, do you
11 have any knowledge as to whether or not MacTech had
12 any 43 or 45 watt LED tubes?

13 A. I would -- no. Not specifically, no.

14 Q. Now, regarding the MacTech tubes, you
15 mentioned that they had a daylight tube and a separate
16 tube that had tungsten, correct?

17 A. That is correct.

18 Q. Okay. And do you have any knowledge of
19 MacTech ever having a bicolor tube?

20 A. Not specific -- not specifically, I have no
21 knowledge of them having one.

22 MR. HOFFMAN: Okay. That is it.

23 Nothing further.

24 MR. BRIGGS: I have two questions.

25

1 EXAMINATION

2 BY MR. BRIGGS:

3 Q. The first is, Mr. Csernecky, before you
4 left, you said, "Hi, David."

5 Were you talking to Mr. Hoffman?

6 A. He did call me, yes.

7 Q. What did you guys talk about?

8 A. He just let me know that he sent me a
9 MacTech of -- I guess one of your exhibits and --

10 Q. What exhibit is it?

11 A. I think it's 2123. Does that sound right?

12 MR. HOFFMAN: No, I can represent it
13 was Exhibit 20- -- no, I'm sorry. It was
14 exhibit -- where did it go -- oh, that is
15 right -- no, 2045. It's 2045.

16 THE WITNESS: Okay.

17 BY MR. BRIGGS:

18 Q. So he sent you Exhibit 2045; is that
19 correct?

20 A. Yes.

21 Q. And did you guys discuss 2045?

22 A. No. He just sent it to me, and he asked me
23 to review it. And then, yeah.

24 Q. Did you guys discuss anything else?

25 A. He just informed me that he would be asking

1 me about MacTech tubes.

2 Q. Okay. I'm going to ask -- I need some time
3 to look at 2045. So let me look at it in a second.

4 A. Of course.

5 Q. You did testify in your declaration that
6 you were aware of MacTech tubes in paragraph 12
7 that -- I'm going to quote it so we are clear.
8 Paragraph 12 your declaration says: "The only LED
9 lighting in a tube form that was around at that
10 time" -- which I think you and I agreed was the time
11 that Mr. Macias was working on his prototypes --

12 A. Sure.

13 Q. -- "that I had seen or aware of was made by
14 MacTech LED."

15 So my question is, what watts were used by
16 MacTech at that time?

17 A. That, I can't speak to.

18 Q. So you don't know the wattage of the
19 MacTech tubes?

20 A. At that time.

21 Q. At that time. Okay.

22 Let me look at 2045, and then I will be
23 right back.

24 Mr. Csernecky, if you could look at page 2
25 of that Exhibit 2045.

1 A. Yes.

2 Q. Do you see the top graph?

3 A. I do.

4 Q. What is that graph?

5 I'm sorry, did my question come through?

6 Maybe it got lost.

7 A. I did not hear. All I heard was, do you
8 see that page.

9 Q. So sorry. It must have cut out.

10 My question is, what is the graph at the
11 top of page 2 of Exhibit 2045?

12 A. It looks like it's a power consumption
13 graph. That is what it appears to me. Trying to
14 suggest that it's a lower cost of use of power.

15 Q. So then below that it says: "One, two,
16 three, easy to install and strike."

17 Correct?

18 A. Oh, sorry. I'm looking at the graph. I
19 had to blow it up.

20 Yeah, easy to install, correct.

21 Q. In the context of LEDs, what does it mean
22 "and strike"?

23 A. For us, strike is to wrap, to basically
24 take down and put away.

25 Q. Oh, okay. And then below that it says:

1 "Made from 100 percent recyclable aluminum."

2 What is that?

3 A. I assume they are -- they are grinding up
4 cans and retreating aluminum.

5 Q. Sure. But what piece of the MacTech LED
6 fixtures are 100 percent aluminum?

7 A. I can't speak to that. I could guess, but
8 I can't speak to that. The only piece that I know is
9 aluminum is the back of the tube itself.

10 Q. Okay.

11 A. If I recall right.

12 Q. Were aluminum fixtures common in this time
13 frame?

14 A. Were they common? No, because they were
15 just coming to be. So I don't -- I can't speak to
16 what -- who was doing what.

17 Q. Okay. So then below that we see "superior
18 quality."

19 Do you see that?

20 A. I do.

21 Q. And it says: "These products use specially
22 developed 50K hour high output LED chips."

23 Do you see that?

24 A. I do.

25 Q. What does 50K hour mean?

1 A. 50,000 hours.

2 Q. And that is their lifetime; is that right?

3 A. That is -- they're suggesting that is their
4 lifetime on those chips, yes.

5 Q. Okay. Did Mr. Hoffman tell you why he was
6 sending you this exhibit?

7 A. Not specifically, no.

8 Q. But in looking at this exhibit, I see
9 nothing about the wattage. Do you?

10 A. I do not.

11 Q. Okay.

12 MR. BRIGGS: No further questions.

13 Thank you for your time, Mr. Csernecky.

14 It's been very helpful.

15 THE WITNESS: Thank you.

16 MR. BRIGGS: I do need a rough today,
17 expedited final by Friday.

18 MR. HOFFMAN: I would like a rough
19 and a regular is fine. Actually, just a
20 rough.

21 (Deposition adjourned at 5:22 p.m.)
22
23
24
25

REPORTER'S CERTIFICATE

I, LeShaunda CASS-BYRD, CSR No. B-2291, RPR,
Registered Professional Reporter, certify that the
foregoing proceedings were taken before me at the time
and place therein set forth, at which time the witness
was put under oath by me;

That the testimony of the witness, the questions
propounded, and all objections and statements made at
the time of the examination were recorded
stenographically by me and were thereafter
transcribed;

That the foregoing is a true and correct
transcript of my shorthand notes to taken.

I further certify that I am not a relative or employee
of any attorney or the parties, nor financially
interested in the action.

I declare under penalty of perjury under the laws
of North Carolina that the foregoing is true and
correct.

Dated this April 12, 2024.

LeShaunda CASS-BYRD, CCR-B-2291, RPR

1 Reference No.: 11105587

2

3 Case: Quasar Science v Colt International

4

5 DECLARATION UNDER PENALTY OF PERJURY

6

7 I declare under penalty of perjury that
8 I have read the entire transcript of my Depo-
9 sition taken in the captioned matter or the
10 same has been read to me, and the same is
11 true and accurate, save and except for
12 changes and/or corrections, if any, as indi-
13 cated by me on the DEPOSITION ERRATA SHEET
14 hereof, with the understanding that I offer
15 these changes as if still under oath.

16

17

18

Todd Csernecky

19

20 NOTARIZATION OF CHANGES

21

(If Required)

22

23 Subscribed and sworn to on the _____ day of

24

25 _____, 20____ before me,

26

27 (Notary Sign) _____

28

29 (Print Name) _____ Notary Public,

30

31 in and for the State of _____

1 Reference No.: 11105587
Case: Quasar Science v Colt International

2

3 Page No. _____ Line No. _____ Change to: _____

4

5 Reason for change: _____

6 Page No. _____ Line No. _____ Change to: _____

7

8 Reason for change: _____

9 Page No. _____ Line No. _____ Change to: _____

10

11 Reason for change: _____

12 Page No. _____ Line No. _____ Change to: _____

13

14 Reason for change: _____

15 Page No. _____ Line No. _____ Change to: _____

16

17 Reason for change: _____

18 Page No. _____ Line No. _____ Change to: _____

19

20 Reason for change: _____

21 Page No. _____ Line No. _____ Change to: _____

22

23 Reason for change: _____

24

SIGNATURE: _____ DATE: _____

25 Todd Csernecky

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1 Reference No.: 11105587
Case: Quasar Science v Colt International
2
3 Page No.____ Line No.____ Change to:_____
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8 Reason for change:_____
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15 Page No.____ Line No.____ Change to:_____
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17 Reason for change:_____
18 Page No.____ Line No.____ Change to:_____
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20 Reason for change:_____
21 Page No.____ Line No.____ Change to:_____
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23 Reason for change:_____
24 SIGNATURE:_____ DATE:_____
25 Todd Csernecky

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DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.



Todd Csernecky

NOTARIZATION OF CHANGES

(If Required)

Subscribed and sworn to on the _____ day of

_____, 20____ before me,

(Notary Sign) _____

(Print Name) _____ Notary Public,

in and for the State of _____



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Page No. 88 Line No. 6-7 Change to: housing. I don't
remember the actual wattage of MacTech's tubes from 2013 or anytime,

Reason for change: My correction is for accuracy because I

Page No. Line No. Change to: Inadvertently
answered with my recollection of the wattage for Colts' bicolor tube in 2013

Reason for change:

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

Page No. Line No. Change to:

Reason for change:

SIGNATURE: Todd Csernecky

DATE: 5/14/24



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