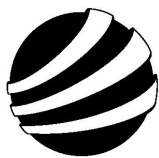


In the Matter Of:
Quasar Science vs Colt International Clothing

IPR2023-00611, IPR2023-00613, IPR2023-00614

FERNANDO SILVA

April 16, 2024



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

QUASAR SCIENCE LLC)
)
Petitioner,)
)
v.) Case:
) IPR2023-00611,
COLT INTERNATIONAL CLOTHING,) IPR2023-00613,
INC. d/b/a COLT LED) IPR2023-00614
)
)
Patent Owner.) Pages 1 - 113
)

DEPOSITION OF FERNANDO SILVA
TUESDAY, APRIL 16, 2024, 9:00 A.M.
1840 CENTURY PARK EAST, SUITE 1900
LOS ANGELES, CALIFORNIA 90067

ESQUIRE DEPOSITION SOLUTIONS, LLC
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REPORTED BY: JENNIFER PORTO, CSR NO. 14098
JOB NO.: J11101952



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UNITED STATES PATENT AND TRADEMARK OFFICE
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QUASAR SCIENCE LLC)
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) IPR2023-00611,
COLT INTERNATIONAL CLOTHING,) IPR2023-00613,
INC. d/b/a COLT LED) IPR2023-00614
)
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Patent Owner.)
)
_____)

DEPOSITION OF FERNANDO SILVA, commencing on Tuesday,
April 16, 2024, at 9:00 a.m., located at 1840 Century
Park East, Suite 1900, Los Angeles, California 90067,
before Jennifer Porto, Certified Shorthand Reporter
No. 14098, in and for the State of California.

A P P E A R A N C E S

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ALSO PRESENT:
(None.)

VIDEOGRAPHER:
(None.)

INTERPRETER:
(None.)



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I N D E X

WITNESS: FERNANDO SILVA

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By Mr. Hoffman	104

EXHIBITS

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Exhibit 1026	Printout of California Secretary of State Website, Search conducted for Motion Pictures Expendables and Services, LLC	31
Exhibit 1027	Motion Pictures Expendables and Services, LLC Invoice, 4977	33
Exhibit 1028	E-mail from Fernando Silva, "FW, Invoice #4977 from Motion Pictures Expendables and Services"	34
Exhibit 1029	Invoice from Motion Pictures Expendables and Services, True Blood	38
Exhibit 1030	Handwritten Document	40

PREVIOUSLY MARKED EXHIBITS

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(All Exhibits Attached to the Original Transcript)

INFORMATION REQUESTED:
PAGE LINE
(None.)



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CENTURY CITY, CALIFORNIA

TUESDAY, APRIL 16, 2024, 9:00 A.M.

-o0o-

FERNANDO SILVA,

called as a witness, having been first duly sworn, was
examined and testified as follows:

THE WITNESS: Yes, Miss.

EXAMINATION

BY MR. WARD:

Q Good morning, Mr. Silva.

A Good morning.

Q Can you please state your full name and address
for the record?

A Fernando Silva. 1030 North Cypress, La Habra,
California 90631.

Q Thank you.

Can I call you Fernando?

A Absolutely.

Q Thank you. My name is Trent Ward. I am an
attorney for petitioner, Quasar Science, in this matter.

Fernando, do you understand that you're here in
a deposition for three IPR proceedings?

A Can you repeat that again?

Q Yeah. Do you understand that you are here for



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1 a deposition for three IPR proceedings?

2 A Yes.

3 Q And IPR stands for inter partes review?

4 A Yes.

5 Q Okay.

6 A Patents, right?

7 Q Yes.

8 A Yes.

9 Q I am going to give the numbers for those cases
10 just so that we've got it on the record. They are
11 IPR2023-611, IPR2023-613, and IPR2023-614.

12 Fernando, do you understand that you are under
13 oath today?

14 A That I was what?

15 Q That you are under oath today.

16 A What does that mean? Can you explain that?

17 Q Sure. Do you understand that you've now given
18 a statement that the testimony that you make today is
19 under oath?

20 A Absolutely.

21 Q And do you understand that means you are sworn
22 to tell the truth --

23 A Yes.

24 Q -- as in front of a judge or a jury?

25 A Yes.



1 Q Okay. Is there any reason, Fernando, why you
2 cannot testify truthfully today?

3 A No. Everything is the truth.

4 Q Fernando, are you represented by an attorney in
5 this matter?

6 A Yes, I am.

7 Q And who is that?

8 A By Mr. Hoffman.

9 Q Okay. Have you signed an engagement agreement
10 with Mr. Hoffman?

11 A Yes, we did. Back in January, yes.

12 Q And what was the nature of Mr. Hoffman's
13 request to you in January?

14 A When --

15 MR. HOFFMAN: Objection. Form.

16 THE WITNESS: Okay.

17 MR. HOFFMAN: You can answer.

18 BY MR. WARD:

19 Q What was the nature of Mr. Hoffman's request to
20 you in January, Fernando?

21 A After we did -- after I did my signing, after I
22 did this, I says, You know, I want you to represent me,
23 you know. And he says, Yeah, I will represent you. So
24 that's what we signed off on.

25 Q And --



1 A Because I don't feel confident by me -- by
2 myself. You know, like, I never think -- I haven't done
3 this. I haven't got in this situation before, you know?

4 Q Okay. Are you compensating Mr. Hoffman for his
5 representation?

6 A No, I am not.

7 Q But he is your attorney?

8 A Yes.

9 Q But you are not paying him to represent you?

10 A No, I am not.

11 Q Do you understand that he is representing Colt
12 International Clothing?

13 (Reporter Admonishment.)

14 THE WITNESS: Yes, I do.

15 BY MR. WARD:

16 Q Fernando, are you being paid for your
17 attendance here today?

18 A No, I am not.

19 Q Are you receiving compensation based upon the
20 outcome of the matter?

21 A No, I am not.

22 Q Have you received any compensation with respect
23 to your involvement in these cases?

24 A No, I am not. No, sir.

25 Q So you have not previously received any



1 compensation?

2 A Nothing, nothing at all.

3 Q Fernando you mentioned you had been deposed
4 before; correct?

5 A Yes. For real estate.

6 Q I'm sorry?

7 A Real estate.

8 Q Real estate?

9 A Yeah.

10 Q What type of dispute was that?

11 A It's a -- I had a house in Hollywood that we
12 were in escrow. We were trying to sell it, and there was
13 a power line in the back, and I didn't disclose the power
14 line in the back, and they wanted to get out of escrow.
15 And I says, Well, you guys, do your intelligence of --
16 because, you know, they wanted to build apartments. And
17 because I didn't say that there is a power cord, that it
18 was going to cost them \$200,000 to move it.

19 They wanted -- they gave me a deposit and I
20 wasn't going to give them back a deposit. And I hired an
21 attorney and we ended up -- we went to a depo and
22 everything, and we ended up losing because I needed
23 to -- I needed to describe that, that it was a power pole
24 in the back -- a line in between. So I am like, okay.
25 That was the only time that happened.



1 Q So you have not been involved in any other
2 depositions?

3 A Never.

4 Q Okay.

5 A Other than that, no.

6 Q Well, Fernando, it sounds like you are
7 generally familiar with the rules for depositions, but I
8 am going to, kind of, lay out the --

9 A That is fine.

10 Q -- the groundwork for what we will be doing
11 today.

12 A Okay.

13 Q I am going to ask you some questions. I will
14 also ask you questions about documents relevant to these
15 cases. I will introduce those documents to you, and I
16 will provide you copies of them to review while we're
17 discussing the documents.

18 A Okay.

19 Q Jennifer is the court reporter here today. She
20 is going to be trying to take down exactly everything we
21 say --

22 A Got it.

23 Q -- as closely to what we say as possible, which
24 means that you and I are going to have to try not to
25 speak over each other.



1 A Got it.

2 Q We've already done it.

3 A Yeah.

4 Q We will do it again, but if -- I will make an
5 effort to wait until you stop speaking to ask a question,
6 and I will ask the same from you. If you could wait
7 until I have stopped speaking to answer my question.

8 A Got it.

9 Q Sure.

10 Fernando, if I ask you a question and you don't
11 understand it, can you ask me to clarify the question?

12 A Correct -- okay.

13 Q Okay. So if you answer one of my questions,
14 can I assume that you understood the question?

15 A Okay.

16 Q One thing, Fernando, we will need for the
17 record, as well, is yes-or-no answers are easier for
18 Jennifer to transcribe.

19 A Okay.

20 Q So when you are answering, try and provide a
21 yes-or-no answer. Kind of like talking over each
22 other --

23 A Yeah.

24 Q -- you will forget it and say uh-huh, but just
25 try to keep that in mind that yes or no is easier for the

1 court record.

2 If your counsel objects to one of my questions,
3 Fernando -- this happened already earlier -- you are
4 generally required to answer my question unless
5 Mr. Hoffman instructs you not to answer.

6 Do you understand that?

7 A Okay. Yes.

8 Q And you can let me know, Fernando, whether or
9 not you need a break today. My typical cadence is to go
10 about an hour on the record and take a break, but just
11 let me know if you need a break.

12 A Okay.

13 Q The only thing I will ask is that if I have
14 presented a question that you -- finish answering my
15 question before we go on break. Does that sound good?

16 A Correct. Okay. Yes.

17 Q Great.

18 The other thing today is to keep in mind that
19 when we are on a break, you are not to discuss your
20 testimony today with anyone including Mr. Hoffman. Is
21 that okay?

22 A Yes, sir.

23 Q Okay. Great.

24 Fernando, what did you do to prepare for
25 today's deposition?



1 A What did I do to prepare?

2 Q Yes.

3 A Just this morning, we just had coffee and we
4 went through what I said and that is it. There is
5 nothing for me to -- to prepare, you know.

6 Q And you said you went through what you said,
7 and what do you mean by that?

8 A We went through what I wrote and said in my
9 declaration. Yes.

10 Q Okay. What do you have in front of you there,
11 Fernando?

12 A It is my declaration of what I -- you know,
13 when I met Memo and to this date.

14 (Reporter Clarification.)

15 Q You are describing an individual named --

16 A Yes.

17 Q -- Memo; correct?

18 A Memo, yes.

19 Q Guillermo Macias?

20 A Guillermo, yes.

21 Q Did you review any other documents, Fernando?

22 A No.

23 Q And you said you had a conversation with
24 Mr. Hoffman?

25 A Yes. We just had breakfast, you know, to see



1 how we're doing this morning, and we are getting -- and
2 that is it.

3 Q Did you speak with anyone else prior to the
4 deposition?

5 A No.

6 Q Fernando, can you talk to me about your
7 educational background?

8 A Yes. I graduated from high school, and -- in
9 1996, May 1996, and started at Paramount July 7, 1996.

10 Q So you would have graduated high school, I
11 guess, May of 1996?

12 A Yes. I graduated May -- I think it was May
13 20th, 1996.

14 Q And you started at Paramount Pictures?

15 A July 7, 1996.

16 Q And how did you get connected to Paramount
17 Pictures?

18 A My brother -- well, my brother, he is a prop
19 maker, and we both got hired at Paramount as a prop maker
20 in construction in 1996.

21 Q What does a prop maker do, Fernando?

22 A Back sets. Does sets for the movie industry.
23 And in 1999, I moved departments from prop making to set
24 lighting.

25 (Reporter Clarification.)

1 Q As a prop maker, did your duties involve
2 carpentry work?

3 A Yes, building background sets.

4 Q And describe to me -- I am not familiar with
5 building background sets, but what's --

6 A It is building sets for the movie industry, for
7 the TV -- in the television division and feature
8 division, yes, for Paramount. So Paramount would have a
9 show and they will send us in to build sets for
10 that -- for them.

11 Q Were you a Paramount employee?

12 A Yes. I have always been a Paramount employee
13 since 1996.

14 Q And as of 1996, were you a full-time Paramount
15 employee?

16 A Yes.

17 Q You said in 1999 you were promoted to set
18 lighting; is that correct?

19 A I moved departments. I moved departments from
20 prop making to the set lighting department.

21 Q Why did you do that, Fernando?

22 A Because I wanted to have a different -- I
23 wanted to do a different avenue, a different thing. I
24 was -- that was not my thing, building sets, building
25 construction, heavy wood, and all of that. So they moved

1 me to the set lighting department as a laborer to sweep
2 the set lighting department -- to sweep and take out the
3 trashes at a good rate.

4 I mean, do not get me wrong, a good rate, so I
5 will do it. And being -- at the time being 18, 19, 20,
6 you know, it is, like, not bad. 20-something dollars an
7 hour, so I do it.

8 And after that, about -- I did that about a
9 year before I moved into the -- to the globe room. The
10 globe room -- it is a division that set lighting has that
11 has nothing but the light bulbs on the sales division.

12 So I moved over to the sales division and there
13 was four people there. At the time one left, another one
14 left, and then they put me in there with another person
15 doing the sales.

16 Then, like in 2000 -- 2000, they had big
17 layoffs, and they let everybody go and they kept me there
18 in the sales division.

19 Q So let me understand, Fernando, in 1999 you
20 moved from being a prop maker to working in the set
21 lighting department, but you were sweeping and cleaning
22 up; is that right?

23 A Correct.

24 Q And you spent a year in that job?

25 A Yes.

1 Q And at what point did you move from that role
2 into the sales role? What was the date?

3 A I don't quite remember. I don't know exactly
4 the date.

5 Q Were you doing both of the duties at the same
6 time?

7 A Yes. I was sweeping and doing the inventory,
8 doing the globes.

9 Q What do you mean by "doing the globes"?

10 A Checking out light bulbs. It was the set
11 lighting. Set lighting had a set lighting department for
12 rentals, and then they have a globe room. The globe
13 room, it was a sales division, and I was helping them,
14 pulling in orders for the sales division, and that is
15 when they let go of everybody and they kept me there.

16 Q And though -- help me understand what the globe
17 room is, this is a showroom?

18 A It is a department. It is a department that
19 was called the globe room. It is a -- now it is an
20 expendable room --

21 (Reporter Clarification.)

22 A Expendable room.

23 It is on the sales division, yes.

24 Q And who are the customers that come into the
25 globe room?

1 A Every show that is filmed at Paramount, they
2 require to use us for all of the materials. For now,
3 they, you know, we -- they use us for all the tapes,
4 markers, light bulbs, everything that we have for the
5 sales. So every show there that is -- that they have a
6 contract, they have to use us. And at that time -- no,
7 that came at a later role. That we had a -- we had a
8 Vancouver -- Paramount had a Vancouver, New York,
9 Atlanta, and New Orleans division.

10 Q So in the 1999/2000 time frame, you started
11 working in sales. And can you describe to me what it
12 looks like as far as -- are we on the Paramount set where
13 there are multiple studios?

14 A It was just a studio for Paramount, just
15 Paramount studios.

16 Q So it is a single studio?

17 A Yes, single studio. Paramount studios.

18 Q How many sets can be constructed in the one
19 studio?

20 A There are 30 stages in each set, probably in
21 each stage, two or three sets. They could be big, they
22 could be small. You know, it varies.

23 Q And so from time to time, there could be as
24 many as 30 stages being active with shooting?

25 A Absolutely.

1 Q And those individuals shooting on those stages
2 can rent or buy equipment from the globe room; is that
3 correct?

4 A Correct.

5 Q And the globe room later became the expendables
6 department?

7 A Correct.

8 Q And are the individuals that use those 30
9 Paramount stages required to purchase or rent equipment
10 from the expendables room?

11 A Rent, I was only at that time -- the department
12 that I worked for -- my sales division, we only do the
13 sales. We have two divisions: We have the rental
14 division and the sales division, and my job is to take
15 care of the sales division.

16 Q Tell me about your job at this particular time
17 in '99, 2000. You were in the sales division?

18 A Yes.

19 Q And that is separate and distinct from the
20 rental?

21 A Correct.

22 Q In '99 or 2000, what was the name of the rental
23 department?

24 A It is still set lighting. Paramount set
25 lighting department, rental.



1 Q So the set lighting department is responsible
2 for rental equipment; correct?

3 A Correct.

4 Q And the expendables department is responsible
5 for sales of equipment; correct?

6 A Correct.

7 Q Okay. So in 2001, you were promoted to manager
8 of set lighting sales; correct?

9 A Correct.

10 Q How did you receive that promotion, Fernando?

11 A They told me, you know, it's -- you are -- you
12 are the guy now, so it is your -- it's your -- it is your
13 department, so you can grow it. And I am like, okay.

14 So I started dealing with different -- I
15 started dealing with different studios, tried to, you
16 know, promote. Tried to give them the best price.
17 Because I -- you know, it is -- I was dealing with
18 Universal, Warner Bros. Tried to get them the best price
19 that we get them, you know. So I tried to bring in a lot
20 of outside shows, and I accomplished a lot of outside
21 shows coming to Paramount.

22 Q Who was your boss when you -- in 2001 when you
23 were promoted to manager of set lighting sales, who was
24 your boss?

25 A In 2001, probably John Clayton.

1 Q What's the last name?

2 A John Clayton.

3 Q Clayton?

4 A Yeah.

5 Q And how long did you work for John Clayton?

6 A I don't recall.

7 Q Is he the one that gave you the instructions to
8 grow --

9 A Yes.

10 Q -- the set lighting department?

11 A Yes.

12 Q And did he give you instructions as to how to
13 grow it?

14 A He said just, Go get outside sales. That was
15 my job to bring outside sales, the best price possible to
16 Paramount.

17 Q And when you say the "best price possible," are
18 you saying that for the equipment that you were selling
19 in the expendables department, you wanted that equipment
20 to be the lowest price in comparison to other studios?

21 A It is not an equipment. Equipment would be
22 rentals. It was tapes, markers. No equipment at all at
23 that time. It is fluorescents, it is ballasts,
24 everything that you need to film. That it is -- that
25 will put it there for a couple months and then knock it

1 down and throw it in the trash, no equipment. I never
2 sold any equipment.

3 Q So you -- in your entire tenure with Paramount,
4 you have never been involved in the sale of equipment?

5 A No.

6 Q So you have been involved in the sale of
7 expendables?

8 A Expendables, correct.

9 Q Have you been involved in the rental of
10 equipment?

11 A Have I been involved?

12 Q Yes.

13 A The rental department took it over. So
14 Paramount decided to rent stuff, stuff that I was
15 selling. They says, No, we are not going to sell it no
16 more; we are going to rent it.

17 Q And what types of products are those?

18 A The Colt. The Colt, we were selling it. And
19 they were saying that it was a successful item that
20 nobody has. It is a successful item that everybody -- it
21 is, like, faster to rig, manpower, no gels, color
22 corrected.

23 Rental department seen it. They are, like, Oh,
24 what are we doing? Why are we selling it? Stop, no more
25 selling. We are going to rent it. And that came out of

1 my -- that went out of my face after that.

2 Q In 2001, you were the manager of set lighting
3 sales. At the time were you selling lighting equipment?

4 A I was selling light bulbs, light bulbs and
5 fluorescent tubes.

6 Q But not selling the actual light fixture?

7 A No.

8 Q Those were for rent?

9 A Those were for rent.

10 Q What was the first lighting fixture that you
11 sold at Paramount?

12 A I don't quite remember.

13 Q Did you sell, what, fluorescent lighting
14 fixtures?

15 A Yes, fluorescent lighting all day long.

16 Q The bulbs and fixtures?

17 A Just the bulb and the ballasts. So it is not a
18 fixture, it is the ballast that turns on for those
19 fluorescent tubes. So they put the ballast, they wire it
20 up, they put it in.

21 Q Did you sell any Tungsten lighting?

22 A Tungsten lighting? Well, yeah. I had to sell
23 the light bulbs that goes inside the fixture. That
24 was -- my job is to carry all the lights, the 20K
25 Tungsten, 12K Tungsten, the HMIs, that was my job to



1 carry all of those light bulbs to sell it to the rental
2 department.

3 Q So someone would rent an HMI light from
4 Paramount; correct?

5 A Correct.

6 Q And then they would purchase the HMI bulb from
7 you in expendables; correct?

8 A If they burn it out.

9 Q So when they rent the product, it comes with
10 the bulb in it?

11 A It comes with -- exactly, correct.

12 Q But if during their shooting the bulb burns
13 out, they come to you to purchase another bulb?

14 A Correct. They had spares. I give every show
15 spare -- 50 percent spares to all the shows. So every
16 show has a spare package for them to have it there. So
17 if they are filming at night, they have a burnout, they
18 could get it from there; and then the next day, they will
19 call me to replace that burnout.

20 Q How many years have you been at Paramount
21 total?

22 A July will be 28 years.

23 Q 28 years.

24 And in 2001, you were promoted to manager of
25 set lighting sales; correct?



1 A Correct.

2 Q Have you been in any other positions at
3 Paramount since 2001?

4 A No.

5 Q So you've been in the same position since 2001;
6 correct?

7 A Correct.

8 Q And what have your -- what were your duties
9 when you started in that position?

10 A Sales. Try to sell tape, you know. It
11 is -- once again, tape, markers, light bulbs, rope,
12 everything that they need -- that the electricians need
13 to film, to record -- light bulbs, gels.

14 Gels was very popular. It is a different kind
15 of gels, not only -- it is more than 100 different color
16 temperatures, fluorescent, incandescents, light bulbs.

17 When they go and film in different locations,
18 they need lights. They need -- not lights, but light
19 bulbs. They need stuff to rig, so prepare it, so film
20 goes there and they go in and film.

21 Q Fernando, can you describe to me, who is it
22 that's filming? Are these employees of Paramount?

23 A No. It is the people that film. It is TV
24 shows that come in to Paramount. Paramount has their own
25 network. So there is Paramount shows. There is Netflix

1 shows -- at the time there was no Netflix. At the time
2 it was nothing but Paramount shows that we used to do,
3 you know. TV shows and Paramount shows, because I worked
4 for that network, and CB- -- between Paramount and CBS,
5 that is it. There was no Paramount plus, now it is.

6 Q But you wanted your pricing to be competitive
7 so that non-Paramount employees would want to film in the
8 Paramount studio; correct?

9 A Not employees, but TV shows. TV shows,
10 productions, they will come to me and say, Can you beat
11 this price? And that was when I says, Yes, what price do
12 we have to beat? But no employees -- at no time -- at no
13 time I deal with any employees; I deal with productions.

14 Q And give me some examples of who those
15 individuals are employed by?

16 A It is -- today's or past?

17 Q You can start with today.

18 A Like, today, you have Netflix, you have Amazon,
19 you have Warner Bros., you have Paramount shows, you have
20 Universal shows, you have Hulu shows. So it -- at
21 Paramount now, these days, we have a lot of different
22 kind of -- different -- different networks that are
23 renting the stages to film there.

24 Q And who is it that you are competing against?
25 Whose prices are you trying to undercut?

1 A Like vendors that I deal with with prices?

2 Q It sounds like perhaps there -- if Netflix is
3 making a decision about whether or not to film at
4 Paramount, what are their other options for filming?

5 A They go anywhere. So once the show -- it is
6 there, they -- once again, they signed that they have to
7 use us, so it is the price that I give them. It is a
8 competitive price with my -- they strike a deal way
9 before me when they get the rental of the building, of
10 the stage, you know, so I do not go after them.

11 They come to me. So I know that a show is
12 getting filmed there, and then they are going to use our
13 equipment, they are going to use our materials.

14 Q Are they required to use your materials?

15 A Yes. They sign a contract that they have to
16 use us for everything. That is why they are renting the
17 stages.

18 Q Then, why are you worried about having
19 competitive pricing -- having competitive pricing if they
20 are required to use your equipment?

21 A I have a lot of outside shows. So the outside
22 shows, I have to be very competitive.

23 Q What do you mean by "outside show"?

24 A Like, outside shows. I have shows at Warner
25 Bros., I have shows at Universal that I have to compete

1 against other vendors for prices, and I give them the
2 best price.

3 Q So an example, if Netflix is shooting a
4 television show at Warner Bros., for their expendable
5 needs, they can come to you to purchase those?

6 A Correct.

7 Q Can they come to you to rent lighting?

8 A Not to me, that is a different division. They
9 have to go to the rental department. But Warner Bros.
10 has their own rental department, so they go to them.

11 Q In that same example, if Netflix is going to be
12 shooting at Paramount instead of Warner Bros., they are
13 required to purchase their expendables from you; correct?

14 A Correct.

15 Q Do you have different pricing that you give for
16 when they are shooting at Paramount versus when they are
17 not shooting at Paramount?

18 A Same price.

19 Q And are they required to rent lighting
20 equipment from Paramount when shooting at Paramount?

21 A Can you repeat that again?

22 Q The groups that are shooting at Paramount
23 pictures -- they are shooting a television show at
24 Paramount pictures, are they required to rent lighting
25 equipment from Paramount pictures?

1 MR. HOFFMAN: Objection. Form.

2 BY MR. WARD:

3 Q You can answer.

4 A That is correct. They have to rent it.

5 Q So they are not allowed to bring their own
6 lighting?

7 A Correct.

8 Q Their only option for lighting is to rent from
9 Paramount Pictures?

10 A That is not my division, so I don't understand.
11 I don't know how they do it on the rental division.

12 Q But you are required to supply bulbs for the
13 lighting equipment that is rented; correct?

14 A Correct.

15 Q So if they had a lighting fixture that you
16 didn't have stock of bulbs for, then you wouldn't be able
17 to provide them that bulb; correct?

18 A Correct.

19 Q Fernando, what is the Motion Picture
20 Expendables and Services, LLC?

21 A What is -- can you repeat that again?

22 Q Sure. What is the entity, Motion Pictures
23 Expendables and Services, LLC?

24 A I have no idea.

25 Q So you have never been involved with Motion

1 Picture Expendables and Services, LLC?

2 A That was a division that used to sell
3 expendables outside, and that was -- that was very, very
4 little time, and that is it.

5 Q When was that started?

6 A I have no idea. I don't remember the date.

7 Q Were you involved with Motion Picture
8 Expendables and Services?

9 A I was helping them at the one time, and that's
10 it.

11 Q And when you say "helping them," who was
12 "them"?

13 A It was one of my friends that was doing a lot
14 of outside shows, and I was helping them, giving them the
15 best price possible, and giving them connections how to
16 buy -- where to buy the product from.

17 Q And who was that, Fernando?

18 A I couldn't tell you.

19 Q So you helped identify vendors for that company
20 to use for lighting products?

21 A Yes.

22 Q And other expendables products?

23 A Yes.

24 Q When did that entity cease operations?

25 A I have no idea. I don't remember.

1 Q Do you roughly recall when it existed?

2 A Like 15 years, 20 years ago, or 15 years ago,
3 something like that.

4 Q Who was it that they were selling to?

5 A I don't know. That was not -- never on
6 my -- on my radar, so I don't know who they were selling
7 to.

8 MR. WARD: Fernando, I would like to show you
9 an exhibit now, which I will hand to the court reporter
10 and ask for you to mark. I would like for you to mark it
11 1026.

12 (Petitioner's Exhibit 1026 was
13 marked for identification by the
14 court reporter and is attached
15 hereto.)

16 BY MR. WARD:

17 Q Fernando, I am showing you what the court
18 reporter has marked as Exhibit 1026. This is a printout
19 of the California Secretary of State website. And it is
20 a printout of a search conducted for Motion Pictures
21 Expendables and Services, LLC.

22 Do you see that in the top right-hand of the
23 first page, Fernando?

24 A Correct, sir. I see it.

25 Q Is it okay if I refer to this as MPES?

1 A Correct. Motion Pictures Expendables.

2 Q Do you see in the top right-hand corner where
3 it lists the initial filing date for this company as
4 January 10th, 2011?

5 A Yes, I see it.

6 Q Does that refresh your recollection as to when
7 this entity existed?

8 A No, I don't, sir.

9 Q Do you recall it being around 2011?

10 A I never had -- I never -- I heard of this
11 company, but I never had any -- I don't know who is this
12 people.

13 Q I'm sorry, you didn't know who --

14 A I don't know who is this people. I don't know
15 who owns it.

16 Q Do you see where it indicates an inactive date
17 on the first page there of February 26, 2016?

18 A Inactive date? Yes, I see it.

19 Q Does that refresh your recollection as to when
20 this company would have been inactive?

21 A I don't know who -- I don't know.

22 Q There is a principal address given there of
23 1016 Chantilly Circle, Santa Ana, California. Do you
24 recognize that address, Fernando?

25 A No, not at all.

1 MR. WARD: I am going to ask the court reporter
2 to mark another exhibit for us, Exhibit 1027.

3 (Petitioner's Exhibit 1027 was
4 marked for identification by the
5 court reporter and is attached
6 hereto.)

7 BY MR. WARD:

8 Q Fernando, I have asked the court reporter to
9 mark this Exhibit 1027, and it provides an invoice from
10 Motion Picture Expendables and Services dated
11 December 18, 2012. Do you see that?

12 A Yes, sir, I see it.

13 MR. HOFFMAN: Objection. Relevance. Scope.

14 BY MR. WARD:

15 Q Fernando, can you tell us what type of
16 materials are identified in this invoice?

17 MR. HOFFMAN: Same objections.

18 BY MR. WARD:

19 Q Fernando, can you tell us what type of
20 materials are identified on this invoice?

21 A That is expendables here.

22 Q So what is 25-foot rubber --

23 A It is rubber matting. It is rubber. It is
24 rubber to lay down on the floor.

25 Q What is your understanding of what these



1 materials would have been used for?

2 A When -- they put wire or something so they
3 would be able to cross.

4 (Reporter Clarification.)

5 A Yes. They could be able to pass, nobody would
6 trip.

7 Q Would this have been expendables for use in a
8 shooting?

9 A Yes. They can use expendables for shooting.

10 Q The exhibit lists a bill to -- for SIC
11 Lighting. Do you see that in the top left-hand corner?

12 A Yes.

13 Q Are you familiar with that entity?

14 A No, I don't.

15 MR. WARD: Okay. We can go off the record.

16 (Brief Recess.)

17 MR. WARD: Back on the record.

18 I am going to hand the court reporter now a new
19 exhibit. And, Jennifer, if you can remind me what was
20 the last exhibit number?

21 THE STENOGRAPHIC REPORTER: The last one was
22 1027, so 1028.

23 MR. WARD: So this will be Exhibit 1028.

24 (Petitioner's Exhibit 1028 was
25 marked for identification by the

1 court reporter and is attached
2 hereto.)

3 BY MR. WARD:

4 Q Fernando, I am showing you now what has been
5 marked as Exhibit 1028. It is an e-mail thread. You
6 will see the earliest e-mail at the bottom; it indicates
7 it was sent on Wednesday, December 19, 2012. Do you see
8 that?

9 A Yes, sir. I see it.

10 Q And it says that it was from -- the From e-mail
11 message is Motion Picture Expendables and Services;
12 correct?

13 A Correct.

14 Q And it is sent to Fernando Silva; correct?

15 A Correct.

16 Q Can you explain to me what you understand about
17 this e-mail?

18 A Yes. This -- it looks like it was sent to me
19 from this person. And this person, his name is
20 Todd Young.

21 Q I'm sorry, what?

22 A Todd Young.

23 Q Who is Todd Young?

24 A Todd Young. It is -- it's a person that -- he
25 had a -- he was doing the MP Expendables.



1 Q Okay. So Todd Young started MP Expendables?

2 A Yes, sir.

3 Q And why was he sending you this invoice in
4 2012?

5 A He sent it -- he sent it to me so they could
6 be, like, Hey, can you beat these prices? And I said, I
7 can't beat it.

8 Q And at the top there is an e-mail header, it
9 says, (Reading:) From Fernando Silva. Correct?

10 A Correct, sir.

11 Q It appears to be dated December 18, 2012;
12 correct?

13 A Correct.

14 Q And these e-mails, the subject line is,
15 (Reading:) Invoice 4977. Correct?

16 A Correct.

17 Q And if we look back at the previous exhibit,
18 Exhibit 1027, do you see that on the top right-hand
19 corner, it lists invoice No. 4977?

20 A Correct.

21 Q So it is your understanding that Mr. Young
22 provided you this invoice 4977 and asked if you can beat
23 this pricing?

24 A Correct.

25 MR. HOFFMAN: Objection. Scope. Foundation.



1 BY MR. WARD:

2 Q And your response was that you could not beat
3 this pricing?

4 A Yes, I could not.

5 MR. HOFFMAN: Objection --

6 BY MR. WARD:

7 Q And why was he asking you this question,
8 Fernando?

9 MR. HOFFMAN: Objection. Scope. Foundation.

10 BY MR. WARD:

11 Q Why was he asking you?

12 A What are we here for? Colt stuff or this
13 stuff?

14 Q We are here in relation to the inter partes
15 review.

16 A But this has nothing to do -- that's nothing to
17 belong of what we are talking -- what I am here for.

18 Q Why would he have been asking you your opinion?

19 A He's asking me if I could beat this price, and
20 I said I can't beat these prices. I remember it was
21 back -- way back.

22 Q You said that you helped him to identify
23 vendors for the best pricing?

24 A Yes. So I couldn't beat that price. And he
25 says, like, I can't beat this price. That's the best



1 price. This is a good price. I can't beat it.

2 Q Did you, at any point, work for MP Expendables?

3 A Never.

4 Q How long did Mr. Young receive guidance from
5 you?

6 MR. HOFFMAN: Objection. Scope. Foundation.
7 Form.

8 THE WITNESS: I don't quite remember.

9 MR. WARD: I am going to introduce the next
10 exhibit, 1029.

11 (Petitioner's Exhibit 1029 was
12 marked for identification by the
13 court reporter and is attached
14 hereto.)

15 BY MR. WARD:

16 Q Fernando, I am showing you now Exhibit 1029.
17 It appears to be an invoice from MP Expendables; correct?

18 A Correct. I see it.

19 Q And on the first page, top left, it identifies
20 True Blood, 1041 North Formosa, West Hollywood, contact
21 Ray Gonzales. Do you see that?

22 A Correct.

23 Q Now, what do you understand to be identified by
24 True Blood?

25 A It is just a show that is in Formosa.

1 Q And do you recognize that address as a
2 particular studio?

3 A It is a studio at Formosa, yes.

4 Q Is that Paramount Pictures?

5 A No.

6 Q And what's provided on this invoice? What
7 materials are identified?

8 MR. HOFFMAN: Objection. Scope. Foundation.

9 THE WITNESS: It is expendables.

10 BY MR. WARD:

11 Q Do you remember providing expendables to True
12 Blood?

13 A Not at all, only through Paramount.

14 Q So True Blood filmed shows at Paramount?

15 A No. They filmed shows at Formosa.

16 Q And you provided equipment to --

17 A I did about a -- one season or two seasons of
18 that.

19 Q Would MP Expendables have been your competitor
20 in that?

21 A Yes. And Coyote, Cinelease, those are the
22 competitors that were dealing with those shows.

23 Q Do you know Ray Gonzales?

24 A I met him when he was doing a show at
25 Paramount. I don't remember what -- what was the name of

1 the show. But he did a show at Paramount, that is when I
2 first met him.

3 Q And do you roughly recall when that would have
4 been?

5 A In the -- probably 2000s.

6 Q So this would have been Ray coming to shoot a
7 series at Paramount?

8 A Yes, correct.

9 Q And he would have been a customer to you?

10 A Yes.

11 Q And do you remember who Ray was affiliated with
12 at that time?

13 A No, I do not.

14 Q Likely working for a show?

15 A He was working for a show.

16 MR. HOFFMAN: Objection. Scope. Foundation.

17 BY MR. WARD:

18 Q Have you had any interaction with Ray Gonzales
19 after that?

20 A No.

21 MR. WARD: Next exhibit, I'd like for you to
22 mark this as 1030.

23 (Petitioner's Exhibit 1030 was
24 marked for identification by the
25 court reporter and is attached

1 hereto.)

2 BY MR. WARD:

3 Q Do you recognize this document, Ray [sic]?

4 A Yes, I remember this. Jerry Mundy and
5 J.A. Byerly was creating a fixture, and they gave me
6 this.

7 He says, Here, just sign it, I'm giving -- we
8 are getting everybody's ideas of the lighting fixture
9 that they were creating.

10 They were creating a -- they wanted to do a
11 small light that would do -- that would do different kind
12 of color temperatures, like an RGBAW, together with
13 Charlie.

14 And that says this does not go out to nobody
15 else. And I am like, yeah, just -- they gave me this;
16 and they says here, You have to sign off on it that you
17 will not be telling anybody, so is -- this never went
18 nowhere.

19 Q Is that your signature at the bottom?

20 A That is my signature, correct.

21 Q And do you remember signing this in --

22 A Yes. But it was just a -- it was just them
23 protecting themselves of them making -- creating a light
24 that it would not take it nowhere else.

25 Q And who is Jerry Mundy?

1 A Jerry Mundy is a gaffer. He was a best boy.
2 He was doing the show Glee at Paramount. And J.A. Byerly
3 is the rigging gaffer -- the rigging gaffer for that
4 show.

5 They had a strip of RGBAW. It's like -- RGB --
6 different color temperatures. And they said, Hey, we
7 should design something, but -- I have ideas. I have
8 ideas. And all of us together, we could find out where
9 can you take it out so we could make this a better light.
10 But this never went nowhere else.

11 Q So Jerry Mundy and J.A. Byerly were customers
12 of yours?

13 A Yes, correct. They are customers of Paramount.

14 Q And were they long-time customers?

15 A Yeah. They did on Nip and Tuck [sic]. They
16 did Nip and Tuck for -- I believe, five seasons. And
17 they did Glee for another five seasons. And I haven't
18 seen them. I haven't seen them since then. I have not
19 seen them in probably ten years.

20 Q Fernando, the document says, (Reading:) Here
21 as the three partners, Jerry Mundy, Jr., J.A. Barley, and
22 Fernando Silver -- Silva, sorry -- enter into a mutual
23 agreement concerning all creations, inventions, ideas,
24 and patents, all discussions and concerns which relate to
25 all types of LED fixtures.

1 So do you understand that to mean all types of
2 LEDs, not just RGBAW?

3 MR. HOFFMAN: Objection. Scope. Foundation.

4 THE WITNESS: This never went nowhere, so I
5 don't even have to worry about that. We never discussed
6 this. They were just protecting it. And we never -- we
7 never did anything out of that. That -- that never came
8 up.

9 BY MR. WARD:

10 Q What is identified in Exhibit 1030 are
11 creations, inventions, ideas, and patents related to all
12 types of LED fixtures; correct?

13 MR. HOFFMAN: Objection. Scope. Foundation.
14 Form.

15 THE WITNESS: Once again, it never went
16 nowhere, so I don't have to -- we never did anything with
17 that.

18 BY MR. WARD:

19 Q Fernando, my questions is: Does it state that
20 it is for all creations, inventions, ideas, and patents
21 for all types of --

22 A Yeah, but I am not --

23 MR. HOFFMAN: Objection. Scope. Foundation.
24 Form.

25 THE WITNESS: -- I'm not a creator, so we are

1 good.

2 MR. HOFFMAN: Asked and answered.

3 BY MR. WARD:

4 Q Is that what the document states?

5 MR. HOFFMAN: Objection. Scope. Foundation.

6 Form. Asked and answered. Harassment.

7 BY MR. WARD:

8 Q Fernando, you can answer the question.

9 A I am not going to answer nothing. There is
10 nothing -- nothing happened.

11 Q What was the intent of this partnership
12 agreement?

13 MR. HOFFMAN: Objection. Scope. Foundation.
14 Form.

15 BY MR. WARD:

16 Q Are you refusing to answer my question?

17 A I am telling you nothing happened. We do not
18 know -- they were just telling me what to do. Like, how
19 we are going to do something, and we never did nothing
20 with it. So this -- this never went to nowhere.

21 Q So initially they were talking about perhaps
22 there would be some product development?

23 A Yes, the gave me --

24 MR. HOFFMAN: Objection. Scope. Foundation.
25 Form.

1 THE WITNESS: They will give us -- they gaved
2 us an RGBAW, like a ribbon, a RGB ribbon. Then he says,
3 We could do something like this; we could do a light.
4 And I was, like, I don't have the hookups. I do not have
5 the connections or nothing, so that never went nowhere.
6 So that's why this never went nowhere. And I started --
7 I kept on supplying them with their materials, with
8 expendables for their shows, and we left it like that.

9 BY MR. WARD:

10 Q Did you ever have a document to terminate this
11 agreement?

12 A No. Because I -- I never did nothing with
13 that. Nothing to terminate it because nothing ever
14 happened, so if they -- if something would have happened,
15 then it would have been -- you know, and that was Jerry.
16 Jerry was just saying, Hey, Fernando, we need to do
17 something. I am like, yeah, so. He told me, like, what
18 should we do? How should we do it?

19 And Charlie, at the time, that was his -- it
20 was Jerry's best boy. They was like, Hey, nothing is
21 happening. It never went nowhere. So that's why I let
22 it -- I let it go, and I never -- I never remember about
23 that again. So then they never came back to my -- even
24 to my mind to do something with that.

25 Q Do gaffers typically come to you for lighting

1 expertise?

2 A No. They come to the rental department. But
3 they come on the sales side that -- when -- to use
4 fluorescents. And that they have -- for example, like,
5 before we used to do the 3,200 and the 5,600, we used to
6 have a tube next to each other, so they manually have to
7 go up there, unplug the 32-, and plug in the 56- with a
8 ballast.

9 They were saying, What is the best way to do
10 it? And we was like, I don't know.

11 And at the time we were using -- they were
12 using -- I don't know if MacTech was existing. LED was
13 not popular back then.

14 Q At what time frame are we talking about?

15 A In the 2000s. In the early 2000s. You know,
16 it is the early -- it was -- the chips were not -- were
17 not in the color temperature for that. And people were
18 complaining with MacTech because they had a lot of
19 different green or magenta on it, yeah. So they were
20 using fluorescents, and they were tired with the
21 fluorescents. And the fluorescents have gas, and plenty
22 of times they have broken to people, you know. So that
23 is why -- they were doing -- Jerry and -- what is his
24 name -- Jerry and --

25 Q Byerly.



1 A -- and Byerly was doing the show Glee, and they
2 were using a lot of part 64s. Part 64 is just a big
3 light for, like -- because it was a show -- it was a Glee
4 show, so it was -- what do you call it?

5 What do you call it when you do dancing and all
6 that?

7 Q A musical?

8 A Musical. Sorry, musical.

9 So they were, like, it is too hot, you know
10 what I mean? And they were renting -- they were buying,
11 buying -- constantly were buying fluorescents to
12 eliminate that.

13 Q Uh-huh.

14 A But it was not good, you know. That is what
15 they were saying. And they were, like, Fernando -- and
16 what they were doing, they were just saying, Hey,
17 Fernando, we want to do something; we should talk to
18 somebody to see what can we do for the near future to
19 bring a better light, and that's it.

20 Q But for you nothing ever happened?

21 A Nothing ever happened. They went -- Byerly
22 went over to -- I think he moved to Atlanta, and he is
23 connected with Quasar now or was -- or he is now. And
24 Jerry moved over to being a gaffer, yeah.

25 Q And, Fernando, who is Sherry Xu, if I am saying



1 that correctly. But X-U is the last name, Sherry Xu.

2 A Sherry Xu, that was a vendor that came to
3 Paramount through Walters to sell -- to sell fluorescents
4 and LEDs.

5 Q Who is Walters?

6 A Walters Wholesale, lighting.

7 Q So Sherry was a vendor through Walters?

8 A Yeah, through Walters. She came to Paramount
9 to sell products, and nothing ever happened. She
10 got -- she got connected with Ray Gonzales, and I don't
11 know who else, but she left with them.

12 But they never returned my phone calls.
13 Because I was renting stuff, I was trying to buy stuff
14 from them, and nothing ever happened. I never did deals.
15 We tried to buy stuff from Walters, and Walters would
16 never give us a -- they lost track with that lady, so I
17 met that lady twice and that is it.

18 Q Do you remember what time that was, what year?

19 A I will be honest, I don't remember.

20 Q Did she demo an LED tube light for you?

21 A She just brought a regular -- regular
22 incandescent -- a regular incandescent light bulb that
23 said, Hey, this can beat MacTech, look at the color
24 temperature. And it has too much green in it. We
25 couldn't work with it.

1 Q Do you remember if it was called "the only
2 child"? Is that how she referred to it?

3 A No. I will be honest, I don't remember.

4 Q But you said she demoed to you twice. Did she
5 show you a different product at the time?

6 A She brought a Daylight and a -- and a Tungsten.
7 But Daylight, it was only a 5,000 Kelvin with a lot of
8 green. And then she showed a 3,000 Kelvin with a lot of
9 green that Home Depot had at the time, so I couldn't work
10 with those. We couldn't -- we couldn't -- I couldn't
11 sell them. People were not requesting for them.

12 Q They were LED devices?

13 A They were LED devices, yes. But you had to
14 power them up for both ways.

15 Q Do you recall that she worked for a company
16 called Energy Revolution?

17 A No, I don't. It was a representative from
18 Walters that brought her in.

19 Q And what do you recall about her interaction
20 with Ray Gonzales?

21 A I found out later that they were working
22 together with them. So I am like, okay, let them work
23 together.

24 Q So you were not involved?

25 A No, sir.

1 Q Did you ever see any of Sherry Xu's LED tubes
2 at a later point?

3 A No, sir.

4 Q So to your knowledge they never had success?

5 A No, sir, not that I remember. I don't -- I
6 don't know nothing about that after that.

7 Q Fernando, do you go to lighting trade shows?

8 A I went to -- we went to two. We went to
9 Cine Gear -- Cine Gear we had at Paramount. That is
10 a -- we did a -- we did a demonstration of the ladder
11 lights through code at Paramount. And I was showing
12 people at our VIP booth, and people were very surprised.
13 People says, We love these lights.

14 We went -- and then I went -- I remember --
15 when did we go to Vegas? I went with my ex-boss, John
16 Cylbusky; Al Onate, guy from the 40 [phonetic] shop. Who
17 else was it? Myself. We went through Paramount.

18 We went to walk the stages, and I was walking
19 it with them. And see what -- they were seeing what --
20 you know, I was looking at what to sell, what to see --
21 what can we be able to bring to sell. And they went to
22 go see what can they buy, so we could be able to rent and
23 meet the production. You know, meet, like, the vendors
24 to rent.

25 Q Do you know a gentleman named Steve Strong?

1 A I met -- I met him twice. He was Ray Gonzales'
2 best boy, or he was the rigging gaffer for -- for the --
3 for Ray.

4 Q Do you remember meeting Steve Strong and
5 Ray Gonzales in the gold room on stage at the lot?

6 A Yes. That is when I -- that is when I -- it
7 was me -- it was me, Sherry, and the vendor for Walters.
8 We went and showed them the light bulb and what she has.
9 And they were testing it, and they said, We do not like
10 it, and then I left.

11 Q Uh-huh.

12 A I left, and they were showing them and doing a
13 demonstration. And then what I remember is that after --
14 after we showed it and everything, she -- we -- me and
15 the vendor and the guy from Walters left, she came back.
16 And the reason that I know that she came back and met
17 him, the security guard told me. And at the time the
18 security guard was my neighbor across the street. And
19 she goes, Hey, be careful with her; she came back. Right
20 after you left, she came back and talked to them direct.
21 And I am like, Okay, no problem. So that's -- I left. I
22 cut ties.

23 Q Uh-huh.

24 A I do not want to be dealing with people, me
25 showing them product to sell and this is happening, no,

1 so I cut ties with her.

2 Q She essentially had an individual meeting with
3 your customer --

4 A Yes.

5 Q -- without you present?

6 A Yes, at the same time.

7 Q At the same time?

8 A Yeah. I -- we both left. I left with my car
9 with the guy from -- with the vendor from Walters. She
10 came right back. She was following me. And when I left,
11 she came right back. She did a U-turn and went and met
12 Steven Strong and Raymond Gonzales.

13 Q And she was showing them a Daylight LED tube
14 and a Tungsten LED tube?

15 A No. At the time she only had one. She only
16 had the -- just the regular 3,000 Kelvin LED, and she was
17 getting ideas from them.

18 Q And you are saying at that time you could buy
19 that product at Home Depot?

20 A Yes.

21 Q So essentially, she didn't have anything more
22 than you could get at Home Depot?

23 A No. No, she we wanted to get what color
24 temperature to get.

25 Q So she was asking Steve and Ray --

1 A Yeah.

2 Q -- what do you want?

3 A Yeah. Because I am just a sales rep, so they
4 don't -- they don't know -- I don't know the -- exactly
5 the color temperature, what temperature they really need.
6 She goes, I don't need you; I need them. So she went
7 directly to them.

8 Q But it was fairly well known that you would
9 want Tungsten and Daylight; correct?

10 A Yes. But the color correction at the movie
11 industry. The movie industry, the proper one is
12 3,200 Kelvin with no magenta and no green; that means no
13 gels and flicker-free. And the 5,600 is the more popular
14 one that everybody used for -- popular for -- 5,600 for
15 nighttime shoots that turns into daylight.

16 Q So after that meeting in the gold room --

17 A That is it, we never talked to them. I never
18 talked to Ray or nothing, nothing. And I seen him,
19 probably two or three years later when the -- when
20 Guillermo went Colt LED and brought me the tubes -- the
21 color correction, bicolor. He came to me and he said,
22 Hey, Fernando, I have sales for that. I could sell them.
23 I am like, Okay, you know. And he took two, and he went
24 away and never seen him again. He took two of the 4-foot
25 tubes.



1 Q And what year was that?

2 A I don't quite recall, sir.

3 Q So where was it that you met him?

4 A He came to Paramount.

5 Q He came to Paramount?

6 A Uh-huh.

7 Q Was he shooting at Paramount at that time?

8 A He was shooting a commercial.

9 Q So he would have been an active customer --

10 A Yeah.

11 Q -- for you at the time?

12 A Yeah.

13 Q And so what did he ask you?

14 A He says, Oh, you got the bicolor. And I am
15 like, Yeah, they brought them here, you know.

16 He goes, Can I take two? And he goes, Yeah, I
17 got a lot of clients for them. Okay. So he took two and
18 he never brought them back.

19 Q Did he order additional product?

20 A No, never heard from him again.

21 Q So he was never a customer of yours after that?

22 A After that, no.

23 Q Was he a customer of yours prior to that?

24 A When he was filming there. When he was filming
25 a show there years ago, you know.

1 Q So during this time when he asked for the LED
2 tube, he was an active customer?

3 A He was doing a show there and he goes, Hey, can
4 I take these two samples? I am going to bring them back
5 and I'm, like, I will show my client and he ever came
6 back.

7 Q And did you indicate that he should return the
8 products in a certain time frame?

9 A No.

10 Q Had you lent him products previously?

11 A No.

12 Q Do you lend samples to customers?

13 A Yes, so they can try them out.

14 Q Okay.

15 A It was a regular basis that I will show -- I'll
16 give it to people to try them out. And they will try it
17 out, and they will say, Okay, perfect, let me get some.
18 Let me get some to rent. You know, and that is out on my
19 side on the rental.

20 Q And so this was in 2013; correct?

21 A Yeah. Around there, yes.

22 Q And the -- you were providing the Colt LED
23 tubes to other sets at that time as well?

24 A Correct. They were using them for the ladder
25 lights.

1 Q So the Colt LED tubes were for sale at the
2 time?

3 A Yes. They were for sale and Paramount --
4 Paramount bought some -- Paramount bought some, and they
5 put them under rental.

6 And then Guillermo came and talked to the boss,
7 and says, Hey, you know, it is a -- it is -- here is a
8 lot of equipment. You guys can put them in rental. So
9 they took it away from me, and it went to the rental
10 division.

11 Q But they were publicly for sale; correct?

12 A Publicly for sale, yes.

13 So they were saying -- they were saying that
14 they were getting a lot of -- a lot of attention from
15 other studios, productions, everybody is calling for
16 them. It was successful for everybody, everybody wants
17 them.

18 Everybody says, I want them, I want them, I
19 want them. So they were, like -- Paramount was, like,
20 Why are we giving money away? Let's put them for rental.

21 Q But it -- it would have been possible for
22 someone to purchase the Colt bicolor tubes off the market
23 and use them somewhere other than Paramount; correct?

24 MR. HOFFMAN: Objection. Foundation.

25 ///

1 BY MR. WARD:

2 Q You want me to restate the question?

3 A Yes, correct. I didn't understand.

4 Q So would it have been possible if I wasn't
5 shooting at Paramount in 2013 to buy the Colt bicolor
6 tubes and shoot somewhere else?

7 MR. HOFFMAN: Objection. Foundation.

8 THE WITNESS: He was only selling to big
9 studios, to big studios and is nothing but rental. And
10 they decided not to sell them anymore and put them into
11 rentals.

12 BY MR. WARD:

13 Q You said earlier that they were available for
14 public sale; correct?

15 A At one time. And then they says, Nope, none no
16 more, they are going to put them in rentals.

17 Q And when did that happen?

18 A I do not quite remember.

19 Q But there was a time period in which they were
20 for public sale?

21 A Yes, correct.

22 Q And then other studios put them in the rental
23 program to your knowledge?

24 A Yes. He was -- they were using a -- they were
25 using another company called Wamco to sell the tubes, and

1 that's it.

2 (Reporter Clarification.)

3 A Yeah, Wamco was selling the light bulbs. Just
4 for -- in a small period of time, and then Guillermo
5 decided not to sell them anymore and put them in rentals.

6 Q So once they were in the rental program, it
7 wouldn't have been possible to purchase them publicly?

8 A Exactly.

9 Q And do you remember Raymond Gonzales placing an
10 order with you for the Colt LED tubes?

11 A To purchase? No. And to rental, no.

12 Q Did you ask Ray for the LED tubes back?

13 A I never -- never talked to him again.

14 Q Would you typically ask for product that you
15 loaned out and expected to be returned?

16 A We -- he -- we send out to a lot of different
17 people to try it out as a courtesy. He says -- Memo
18 says, Send them out to different people so they can try
19 them out and see if they are interested. And we sent
20 some to New York, Atlanta, New Orleans. It is just a
21 courtesy, you know, to try it out.

22 Q How many of those samples made it back to you?

23 A They are probably -- they probably shipped out
24 about 60 to different locations to try it out, and then
25 people started putting in orders.

1 Q How many of the samples were returned to you?

2 A Samples? Probably -- they kept them.

3 They -- a lot of people kept them, so they were showing
4 them. It was in their showroom. So they were, like,
5 Just leave them there. Just put them in the showroom and
6 let me know the feedback.

7 Q So it wasn't uncommon to give someone a sample
8 and for them to keep it?

9 A Exactly. Just to show them at the showroom and
10 try them out.

11 Q What were the Fernando Flo's?

12 A Everybody -- everybody was calling them
13 Fernando Flo's because at the time there was no name to
14 that. So Mark, Todd, John, everybody was -- tried to
15 rent them, tried to sell their stuff. And they didn't
16 know at the time what -- what were they called, so
17 Paramount -- so everybody was calling me and saying, I
18 want the Fernando Flo's. I want the Fernando Flo's.

19 Because I was -- I was doing all of
20 the -- showing them to different locations, to different
21 people. And at the time we were -- there is no name for
22 it. There was no name. There was no manufacturer for
23 it. It was -- it was -- it was Colt. People didn't know
24 it was Colt. People didn't know who it is.

25 So in order for them to find out what they

1 were, they were saying -- everybody was calling it -- I
2 don't know why they called it Fernando Flo's, but
3 everybody was calling it Fernando Flo's.

4 They goes, Oh, you are popular, Fernando.
5 Everybody is calling your flows Fernando Flo's. I am
6 like, Oh, cool, you know.

7 So it is like -- it is, like -- it's something,
8 that I get happy of that, you know. So I was like --
9 Hey, you are famous. You are famous.

10 But they did not know who is the name, you
11 know. Because they were like Colt, Who the heck is Colt?
12 But they knew me because I was -- I was the sales --
13 sales behind it.

14 We were doing demonstrations, you know, from
15 back of the car, showing them to people at MBS, different
16 places. You know, and we were showing them to different
17 people, and people were very excited and they did not
18 know the name of the company. So that's why everybody
19 was calling them Fluorescent Flows [sic] for one time --

20 STENOGRAPHIC REPORTER: I'm sorry, slow down.

21 (Reporter Clarification.)

22 THE WITNESS: So they were calling them
23 Fernando Flo's, because they didn't know who was Colt.

24 So I was, like, Oh, cool. You know, it is,
25 like -- and everybody was, like, calling Fernando Flo's,

1 Fernando Flo's, Fernando Flo's, you know, so that is --
2 that's why it is taking that name. But then after --
3 after the rental division got them, they were still
4 calling them Fernando Flo's, but it was just a name that
5 they see me under it because I was giving them a
6 demonstration. And they are, like, What do you call
7 that? And I am, like, I don't know, you know. So they
8 were calling it the Fernando Flo's.

9 BY MR. WARD:

10 Q Did you talk to Mr. Macias, about calling them
11 Fernando Flo's?

12 A Yeah, he -- he laughed and said, I'm going to
13 call them by my name. I'm, like, yeah, call them your
14 name, you know.

15 Q So he didn't approve of you calling them
16 Fernando Flo's?

17 A No. No, because that was his company, you
18 know. That was his company.

19 Q But they were at one time generally known as
20 Fernando Flo's?

21 A Yeah. Fernando Flo's, uh-huh.

22 Q And was that a name that you created?

23 A No, people put it in. You know, if I would've
24 created that, I would have put Fernando Flo's on the
25 tube, but, no, people were saying that. You know, so it

1 was just behind it that we got a -- he got a good product
2 that I was representing, you know.

3 Q And when did you first meet Mr. Macias,
4 Fernando?

5 A Probably -- I don't recall. Probably 2012 or
6 '13. I was introduced by his brother. His brother is a
7 security guard -- he was a security guard at Paramount.
8 And his brother came to me and he says, Hey, Fernando, I
9 know you do all of these sales for Paramount. And I am
10 like, Yes, I do.

11 And he is, like, Hey, I want to -- I want to
12 introduce you to my brother. My brother could make
13 anything, you know, he could -- he could, you know -- he
14 sells a lot of light bulbs, and different items,
15 different things from his -- with his partner. And I was
16 like, Okay, just bring them over, you know.

17 So he came over, and he was passing by our
18 downstairs -- we used to have a -- probably a bench twice
19 as big as this and long.

20 Q That is a big bench?

21 A And they were changing fluorescents. They
22 were -- they had the fixture, and it was the Kino Flos,
23 so they were changing them from -- they were changing
24 Daylight, Tungsten, Daylight, Tungsten, tube. So they
25 were, like, what is that? And they are, like, They are



1 changing -- they are changing the light, you know, the
2 fixture. They are changing them to that -- you know, so
3 they could be able to -- from one switch, change from
4 Daylight to Tungsten.

5 He goes, Oh, and what happens? Okay, I got
6 something. And I'm like, All right.

7 So then he left. I did not see him for three
8 months. And he came back and he goes, Try this one out.

9 And I still remember at the time, he came and
10 he showed us -- he showed the -- my department -- sales
11 department and the rental department, they all came
12 together, he goes, Check this out, check this light out.
13 It is 50 watts, and it goes from 32- to 56- just with one
14 connection.

15 And I was like, What?

16 And it's full dimmable, no flicker, and
17 everybody liked it. And it was, like, Oh, wow, you're
18 into something good here, you know.

19 Q So was that 2013 when you showed Mr. Macias the
20 bench?

21 A Yes. In -- I remember about that time.

22 Q So he --

23 A I don't quite recall.

24 Q -- he didn't have any LED light products at the
25 time?

1 A He had -- he only -- the only time that he --
2 the only stuff that he was selling is just the -- it is
3 just LED regular -- regular bulb that he has all of the
4 lights around. It is just the regular LED that -- plug
5 it in and just gives you the -- the light -- the lights
6 on the -- turns on the lights.

7 Q He didn't have an LED tube?

8 A He didn't have an LED tube. But he goes -- I
9 have connections, I have connections that I could get
10 that done. And I am like, Okay.

11 So he just -- out of nowhere, he came three
12 months later; and he goes, Look. And everybody was,
13 like, Wow, you know.

14 Q So do you remember what time of year it was
15 when you first showed him the bench?

16 A I don't quite remember. I do not quite
17 remember. It was right after I met him. He is like, Oh,
18 I got something for you guys.

19 And he was always like a -- he has always been
20 like a -- what do you call that person? When you want to
21 make something -- I forgot what was the name of it.

22 He is like, Oh, I got connections that I could
23 be able to get you that done, and that is what he did.

24 Q He had connections with a Chinese --

25 A Yeah.

1 Q -- lighting manufacturer?

2 A Yeah. Manufacturers, yeah.

3 Q And so you described the problem to him, and he
4 said I think I can address that?

5 A No. But he was talking to other people there
6 on the lamp dock. And he was telling them, Hey, this
7 is -- this is the ins and outs from this product. And he
8 was like, Okay.

9 So he got everybody's information, everybody's
10 ideas of, like, what to do, and he came back and he
11 brought it.

12 Q And did you know Mr. Macias' clothing company?

13 A No, I don't, uh-uh.

14 Q So you are not familiar with the Colt
15 International Clothing?

16 A No, I don't. Until after the fact that they
17 say it is Colt and clothing and LED, and I am like, Okay.

18 Q You never had any experience with his clothing
19 company?

20 A No, not at all. Yeah, not at all.

21 Q And would that have been a company
22 that -- would that have been a vendor for Paramount?

23 A No, no.

24 Q Who would that -- who uses Colt clothing, do
25 you know?

1 A No -- nobody.

2 MR. HOFFMAN: Objection. Form. Foundation.

3 BY MR. WARD:

4 Q And did -- you said it was a security guard at
5 Paramount that was Mr. Macias' brother?

6 A Yes, correct.

7 Q And how was it that Mr. Macias was able to get
8 on campus, if you will, at Paramount?

9 A He got him a pass. And he came to us, and he
10 talked to all of us there at the lighting department.

11 Q Did he show you any products at the time?

12 A No. He was just seeing what came -- what he
13 has to -- for him to bring. And he goes, I got samples
14 for you guys.

15 Q And you stated in your declaration that you
16 described issues with the lighting tubes at that time to
17 Mr. Macias; is that correct?

18 A Yes. The issues with the Kino Flo, with the
19 swapping and having the manpower. People were
20 complaining, production was complaining about manpower.
21 And the gels, that you have to gel it, whatever, you
22 know, color temperature you want it to be to. And it is
23 just a fluorescent that gives you the light all of the
24 way around.

25 Q Was this a problem that you described to other

1 individuals?

2 A No. They -- he got -- he got all of that from
3 everybody there. I was telling you, it was, like, ten
4 people working on the bench. It was, like -- working
5 like that (indicating), and I am like, Damn, I could
6 eliminate all that.

7 Q That is not a conversation that you have had
8 with other vendors?

9 A No, correct.

10 Q Were other lighting vendors aware of the
11 problems that you identified?

12 A No, uh-uh.

13 Q So let's say the MacTech lighting providers
14 were not aware of those issues at studios?

15 A No.

16 MR. HOFFMAN: Objection. Form. Foundation.

17 THE WITNESS: No, I never -- I never talked
18 to --

19 (Reporter Clarification.)

20 THE WITNESS: I never -- I never talked to
21 MacTech, so I never -- MacTech was only used for
22 Universal only.

23 BY MR. WARD:

24 Q So would you say it was pure coincidence that
25 Mr. Macias visited you and witnessed this problem?

1 MR. HOFFMAN: Objection. Form. Foundation.

2 THE WITNESS: Correct. He just showed up and
3 he seen the problem.

4 BY MR. WARD:

5 Q And three months later he provided you a demo?

6 A Exactly. I don't know how long. Three months,
7 four months, I don't know.

8 Q But a short time?

9 A Yeah. He brought it to everybody there and
10 it -- and everybody -- to show it.

11 Q And what happened after that?

12 A He just -- everybody started liking them, and
13 says, I love them. He goes -- he goes, Bring them in.

14 So he brought -- he brought a lot of them in,
15 and they started -- they started being out there for --
16 for rental, and people loved them. People loved the
17 product. And say no more, everything was successful.
18 Everybody wants them for rental.

19 So then the rental department took them away,
20 and they started renting to everybody because I didn't
21 have time for that. I only had time for sales, so the
22 rental department took care of all of that.

23 Q I want to introduce now a copy of your
24 declaration. I just ask that you use this copy,
25 Fernando. This is a clean copy of your declaration.

1 A Got it.

2 Q This is Exhibit 2066.

3 (Petitioner's Exhibit 2066 was
4 marked for identification by the
5 court reporter and is attached
6 hereto.)

7 BY MR. WARD:

8 Q So, Fernando, you have never designed an LED
9 light; correct?

10 A Correct.

11 Q And turning to paragraph 3 of your declaration,
12 Fernando.

13 A Paragraph 3. Got it, sir.

14 Q You say, (Reading:) In my position of manager
15 of set lighting sales, it was an important part of my job
16 to know all of the lighting products that gaffers might
17 want to use on set for the TV or movie productions they
18 were working on, so I could help them in renting lights
19 for their productions.

20 What do you mean by -- you say it was an
21 important part of my job to know all of the lighting
22 products. What do you mean by "know"?

23 A To "know," it is -- to find out because there
24 is a lot -- now there are a lot of different lights that
25 people use, so they were using fluorescents. Again, they

1 were using fluorescents with ballast, and the ballast was
2 this big. And the fluorescents was -- you have all of
3 the wires and all of that, so it is my job to get the
4 best product to show them because they don't have
5 time -- our clients don't have time to see what is the
6 best product out there. So you will have designs that
7 says, Hey, what do you think about this? I have these
8 other options. And people would be like, Oh, wow there
9 is a better decision than having -- having ten guys for
10 two days just building sets. Building with ballast, I
11 have to buy ballast, I have to the buy wire, I have to
12 buy connectors, I have to buy tombstones. So there are
13 five or six different items that they need. And with
14 the -- and with the LED tube, it's just plug and go and
15 go and go and go.

16 Q The next paragraph, Fernando, you say,
17 (Reading:) At the time Paramount Pictures was still
18 using fluorescent tubes.

19 What year would you say that is?

20 A We were using -- I was there in '99 and we were
21 still using fluorescent tubes, and they have been using
22 fluorescent tubes way before that.

23 Q And up to what year?

24 A They are still using fluorescent tubes up to
25 this date. But they are being -- a lot of -- they are

1 being -- what do you call it?

2 They do not want you to carry that no more
3 because it has the gas inside. You know what I mean? It
4 has fumes.

5 And like right now to this date when I want to
6 get rid of fluorescents, I have to call -- I have to call
7 a company to come and get them. You know what I mean?
8 Because it is fumes, everything. And it is against -- it
9 is against -- so that's why in the -- like Lowe's and
10 Home Depot don't carry fluorescents anymore, you know.

11 Q And when did you -- when do you recall first
12 seeing LED lights being used at Paramount?

13 A They start -- when they started -- when they
14 started coming out?

15 Q Yes. Any type of LED light, what year would
16 you say that you first saw LED lights being used?

17 A Probably like in 2012, '13.

18 Q Do you recall flat panel LED lights being used?

19 A No, because that is not my division.

20 Q Okay.

21 A That was the rental division.

22 Q So you --

23 A But at the time they were using -- they were
24 using just the regular ribbon, regular light gear ribbon.

25 (Reporter Clarification.)

1 Q You mean a ribbon of LEDs?

2 A Yeah, that comes in a reel.

3 Q But since there were no expendable products
4 associated with that, it would not have been part of your
5 department?

6 A It would not be part of my department, exactly.

7 Q Paragraph 5 of your declaration, you say,
8 (Reading:) TV and movie productions which filmed at
9 Paramount would often rent 100 or more of these tubes and
10 use them as key lighting on sets.

11 A Correct.

12 Q And is that a -- does it vary from set to set?

13 MR. HOFFMAN: Objection.

14 BY MR. WARD:

15 Q The number of tubes?

16 A Correct.

17 MR. HOFFMAN: Sorry. Objection. Form.

18 BY MR. WARD:

19 Q What would you say the range is? What's the
20 smallest number of tubes used and the largest number?

21 A They rent probably 50 to 60 for different sets
22 to put them behind -- like, on a computer to show. So
23 they will put ballast -- they will put a ballast and then
24 a fluorescent, so you could be able to show when they are
25 filming or whatever. Like, if it is a night, they want

1 light to come out. So it is -- it varies.

2 And then -- and sets, they will put them on
3 top, like with this. They will put them on top, put a
4 ballast. Because if there is no fixture, they will put a
5 ballast and the tubes and then just put soft, so it could
6 look like a fixture.

7 Q In paragraph 6 you say, (Reading:) When I
8 first met Guillermo, Memo, Macias he told me that he was
9 the president of a company called Colt International
10 Clothing.

11 In paragraph 6, are you referencing what we
12 talked about earlier as your meeting with Mr. Macias when
13 you showed him the bench?

14 A Yes, when I showed him the bench. But I never
15 knew that it was a clothing. He says my company is just
16 Colt.

17 Q AKA Colt LED. Did he describe it as Colt LED
18 or just Colt?

19 A Just Colt.

20 Q Did he represent himself as a lighting expert?

21 A He says he has a lot of people in the trades, a
22 lot of friends in the trades.

23 Q And did you understand that to mean friends in
24 lighting manufacturing?

25 A Yes, correct.

1 Q When he brought the tube back to you a few
2 months later, did you ask how he created it?

3 A No, I don't.

4 Q Did anybody else ask?

5 A Well, he said everybody -- people don't --
6 people were there just to see -- they got the meter out,
7 and they are, like, Oh, wow, it is a good color
8 temperature. You know what I mean? So they did not even
9 ask him how you did it, how you got the chips, or all of
10 that, you know.

11 So they like -- everybody was with the meter,
12 and they are, like, Oh, perfect, this is what we needed.

13 Q But it was something that you say they hadn't
14 seen before; correct?

15 A They have not seen before with the Tungsten and
16 Daylight switchable.

17 Q Nobody asked him how he did it?

18 A Nobody asked him. They just says, Hey, I just
19 got you the temperature. I got you the color
20 temperature, color corrected, exactly what you guys
21 wanted with the switchable.

22 Q When did you first start providing the Colt LED
23 tubes; do you remember the time?

24 A To be honest, I do not. If I tell you a date,
25 it is probably -- you know, it's like --



1 Q It would be a guess?

2 A Yeah.

3 Q Okay.

4 A It would be a guess, and I don't want to tell
5 you a guess. But it was probably a year after I met him,
6 you know.

7 Q In paragraph 10, you say, (Reading:) Colt's
8 bicolor LED tube was switchable between Daylight (cool)
9 and Tungsten (warm) light settings, was bright in either
10 mode, yet the light emitted was even (no hotspots/point
11 sources) was over 90CRI in either mode and essentially no
12 green and magenta hues in either mode.

13 How did you verify that it was over 90CRI in
14 either mode?

15 A People were telling Memo and saying, Hey, If
16 you want a good tube to be out there in the market, it
17 has to be over 85CRI.

18 And I will be honest with you, I don't know
19 what this means. But it is just -- he went and he got
20 it, and he told his manufacturer to put it to that
21 color -- to that CRI.

22 Q But you didn't personally verify there was over
23 90CRI?

24 A No.

25 Q And did you personally verify that there were



1 no green and magenta hues?

2 A I don't know how to read that. It's a meter
3 that they get. And he put it in and it tells you the
4 color temperature with no magenta and no meter. It is
5 called a -- I forget the name of the meter. But it is a
6 special meter that the movie industry uses for lighting.

7 Q But you didn't conduct a test with the meter?

8 A No, he brought it downstairs. They did the
9 meter together with the -- I remember at the time, I
10 think Todd Csernecky showed him, and Todd Csernecky was
11 like, Okay, yeah, this is good. So they were working
12 together with them -- with Todd Csernecky, helping each
13 other out.

14 Because I am just a salesman. I was never in
15 the lighting department. You know, I am never out in the
16 field. So I just hear and see what people want, so that
17 was out of my hands. So that is why he got the
18 connections and got all of the people involved. And
19 says, Oh, he was, you know, getting ideas from him, ideas
20 from him, and, like, What do I need to get it better, and
21 that is it.

22 Q But you didn't personally verify that it had
23 any of these --

24 A No --

25 Q -- particular --



1 A -- I don't know how. I am lying to you if I
2 tell you I know how, but I don't know how.

3 Q And so you said that it was -- there was high
4 demand for the tubes once you started stocking them?

5 A Correct. Correct.

6 Other people, Cinelease, everybody was calling
7 me. Coyote, Santa Clarita Studios, Warner Bros.,
8 everybody was calling me that they wanted to rent them.
9 They wanted to rent them. They didn't want to buy them.

10 Because LEDs go away. After a while they start
11 fading away. But they wanted to rent them, so Memo
12 bought a big stock to rent them out. And it was a
13 popular renting them; and Paramount was, like, Hey, we
14 are going to take care of it, so they took it.

15 Q Yeah.

16 A And they says, Okay. And then after that it
17 was -- say no more, everybody wants them.

18 And I don't know how much they rent for
19 now-now. It is the rental department.

20 Q But you are getting a lot of phone calls
21 saying, I want the Fernando Flo's?

22 A Yeah, I want the Fernando Flo's. And I was
23 like, Well, call the rental department, you know. I
24 don't have them anymore. I do not have them for sale,
25 you know.

1 Q And do you remember what month that was that
2 they made the switch to the rental department?

3 MR. HOFFMAN: Objection. Foundation --

4 THE WITNESS: I will be honest with you --
5 Sorry.

6 MR. HOFFMAN: Foundation and form and asked and
7 answered.

8 THE WITNESS: I don't know, sir. I do not
9 remember. I will be honest with you, if I tell you
10 again -- but I don't know the time.

11 BY MR. WARD:

12 Q Do you think it was after 2013?

13 A Oh, yeah, like right around there probably.

14 Q So 2014?

15 A No, around -- 2012 or 2013, around there. They
16 sold very, very little, very little time, yeah.

17 Q Did you have an agreement with Memo to help
18 sell them during that time?

19 A Like, which way?

20 Q Did you and Memo talk about you assisting him
21 in the sales of this product?

22 A No. My boss at Paramount told me to go ahead
23 and sell them.

24 Q Uh-huh.

25 A But we couldn't -- we couldn't sell them

1 because it was a big number, big capital to sell them.
2 So that's why we did not want to sell them because we had
3 to get verbal approval from higher-ups to sell them. So
4 it was, you know, what are we selling, you know? And we
5 couldn't sell stuff that we bought, so I am like -- they
6 says no, no sell them no more, nothing but rentals.

7 Q Did Memo ever ask you to help him sell his
8 product outside of Paramount?

9 A No. He just brought them to Paramount and
10 Paramount would do the work.

11 Q Was he selling them to other studios as well?

12 A At the time, no. At that time he only brought
13 them to me, only brought them to me and I showed them my
14 boss at that time; and he was, like, Okay, let's sell and
15 rent them. And he went and talked to the boss and the
16 boss agreed at -- we are going to rent them.

17 Q Did Memo ever offer to compensate you for the
18 sales of the products?

19 A Not at all.

20 Q So you didn't benefit?

21 A Nothing. Nothing. And I don't know what I am
22 doing here, you know. So I only met Memo
23 probably -- since 2013, probably ten times, you know.
24 And I always hear him, everybody is like, Hey, I want to
25 rent tubes, I want to rent tubes, I want to rent tubes.

1 It's out of my hands.

2 Q Why are you here today, Fernando?

3 A To talk about how did this happened.

4 Q Why were you interested in assisting in this
5 case?

6 A Like, in this case?

7 Q Yes.

8 A Because I was called in by this gentleman, you
9 know, Mr. Hoffman. And Guillermo called me, he goes,
10 Hey, Fernando, can you go out here and give them a
11 testimony of what happened, how we met. I am like, Sure,
12 I do not have a problem.

13 Q He didn't offer to compensate you?

14 A Not at all.

15 Q Did he offer to give you a payment if this case
16 is successful?

17 A Not at all.

18 Q And did you --

19 A That's a true story.

20 Q Did you ask for any compensation?

21 A No, I am busy with my stuff. You know what I
22 mean? I am busy with my stuff, going with my family,
23 with my kids, you know.

24 Q Do you understand that there is other
25 declarants in this case?



1 A Can you explain that?

2 Q Do you understand that there's other
3 individuals who have submitted a declaration, like Todd
4 Csernecky had submitted a declaration --

5 A No, I don't. I don't ask those questions. I
6 just told them I will come and help him. You know what I
7 mean? I am even losing a day of work, you know,
8 so -- for being here.

9 Q Do you understand that the other declarants
10 like Todd Csernecky are being compensated for their
11 participation?

12 A I don't even talk to him. I haven't talked to
13 him in a long time.

14 MR. HOFFMAN: Objection. Foundation.

15 THE WITNESS: I haven't talked to him in a long
16 time. The last time I talked to him, he was doing a show
17 named NCIS about four years ago.

18 BY MR. WARD:

19 Q So you have never had a conversation with Memo
20 about helping him with the sales of his products?

21 A Correct. He just brought them to me, and my
22 job was to make Paramount bigger, you know. So Paramount
23 says, Hey, we need to be successful. I want to make my
24 boss look good. So my boss, he's a superhero now with
25 the rentals, you know. So it is -- it is their division,

1 I just help them to get it there, and I hooked them up
2 with Memo, and that is it. I am out of the way. I am on
3 my own, doing my own -- my own stuff with my own clients,
4 try to bring outside business to Paramount as -- you
5 know, as promised.

6 Q Did your boss appreciate that you brought
7 interest in the Colt LED tubes?

8 A Yes, they are happy. They are happy. They do
9 not even -- they don't -- he doesn't even -- you know, it
10 is a revenue that the rental department has that bring in
11 more work for Paramount. And Paramount is exclusive to
12 them, you know, that Colt is exclusive to Paramount.

13 Q So still today, are there any bicolor LED tubes
14 available at Paramount other than Colt?

15 A No, that is the only thing that they carry. I
16 don't carry nothing on my sales division -- on my sales
17 department, I do not have nothing no more. I haven't had
18 nothing in a long time.

19 Q But the rental department, do they rent any LED
20 tubes other than Colt's tubes?

21 A No. I believe them and -- I see Asteras. I
22 don't know. I don't even go down there. I just see
23 them, Hi and bye. And I see what they bring and then the
24 ARRI equipment, LEDs.

25 (Reporter Clarification.)

1 Q Fernando, in paragraph 12 of your declaration,
2 you say, (Reading:) When Colt's bicolor LEDs was first
3 introduced, Paramount charged twice for rental of
4 Bolt -- I'm sorry -- charged twice for rental of Colt's
5 bicolor LEDs as fluorescent tubes and customers were
6 happy to pay that.

7 A Correct. Because of the -- once again, the
8 manpower, that they will save money in there. So -- and
9 at the time when it was renting, they were renting that
10 thing as \$15, \$15 a week rental. And everybody was happy
11 because it is a no discount. So people say -- you know,
12 people were like, Okay, it is 100 tubes, \$1,500, it is
13 cheaper to rent them than to buy the tubes. Because the
14 tubes, you have to buy, again, the bulb, the ballast, the
15 wire, the connector, the wire nuts, the tape, the
16 manpower. So you are eliminating seven stuff.

17 Q Uh-huh.

18 A So seven -- and it is only twice, two things,
19 plug and go. People were befitting, and production was
20 like, I would rather spend -- I would rather rent \$1,500
21 than spending \$10,000 on the purchase.

22 Q When you say Paramount charged twice, what do
23 you mean by "charged twice"?

24 A The rental on the bulb was about 7.50 for the
25 rental of the fluorescent tube, so it is twice that, \$15.



1 Q So they were charging more. It is not as if
2 they charged you two weeks for one week. They just
3 charged you more for one week?

4 A Yeah, they charged you more for one week, you
5 know.

6 Q Is that typical for new products?

7 A Well, yeah, because it is high in demand. They
8 set up the rental price. So they are, like, Okay, this
9 is high in demand, and they need it and charge one day a
10 week instead of charging a .6, .6 is half rent. And I
11 don't know -- and then that is how -- that is how they do
12 it.

13 Q In paragraph 13, you say, (Reading:) Memo gave
14 me some samples also in or about 2013.

15 Do you recall how many samples he gave you
16 initially?

17 A He gave me about 60 samples. He gave me two
18 cases, and I think it's -- I do not quite remember if it
19 is 20 in a case or 30 in a case.

20 Q And you mentioned earlier that you gave these
21 samples out to customers; correct?

22 A To clients, correct. And I was telling them,
23 Hey, try this one out, try this one out, and people were
24 like, Oh, okay. You know, it was -- people liked them.

25 Q In paragraph 15, you say, (Reading:) Also in

1 2013, Ray Gonzales who had been buying old equipment from
2 Paramount to re-sell for years, was at Paramount and saw
3 Colt's bicolor LED tubes.

4 And then you later say, (Reading:) I loaned
5 him a few of Colt's bicolor LED tubes.

6 Was that part of the initial samples that you
7 were receiving from Memo?

8 A Correct. Correct, yeah.

9 Q So of the 60 samples that you received, two of
10 them went to Ray Gonzales?

11 A Correct.

12 Q And the other 58?

13 A Went to different places, different clients to
14 try them out.

15 Q And of those 60 tubes, how many were returned
16 to you?

17 A I don't quite remember. A lot of them kept
18 them so they can put them in their display in the
19 showroom and try them out.

20 Q So they were tubes that you provided others
21 that were not returned to you?

22 A Exactly.

23 Q And just to confirm, Paramount does not
24 currently rent other bicolor LED tubes than Colt?

25 A I can't tell you that because that is not my

1 department, but I -- I think so.

2 MR. WARD: Okay. Let's take a break and go off
3 the record.

4 (Brief Recess.)

5 MR. WARD: I'm ready when you guys are.

6 All right. Fernando, I am going to show you
7 what has been marked as 1023.

8 (Petitioner's Exhibit 1023 was
9 marked for identification by the
10 court reporter and is attached
11 hereto.)

12 BY MR. WARD:

13 Q And, Fernando, Exhibit 1023 is a press release.
14 It's titled "B&M Lighting and Universal Studios Partner
15 on MacTech LED Lighting." If you see, it is dated
16 June 3, 2011; correct?

17 A Correct, sir.

18 Q And are you familiar with MacTech?

19 A I heard of them.

20 Q Have you ever had any interaction with MacTech
21 products?

22 A Not at all.

23 Q Okay. This June 3, 2011 press release, the
24 first paragraph there on the first page says, (Reading:)
25 B&M Lighting and Universal Studios announce an

1 evolutionary new lighting product, MacTech LED, using
2 specially developed LED lighting tube technology. B&M
3 Lighting has created four product lines that use 30 to 70
4 percent less power than conventional lighting, offer
5 consistent color temperatures at both Daylight and
6 Tungsten and are lightweight for easy load-in and strike.

7 Were you aware of the MacTech LED products in
8 2011, Fernando?

9 A This product was only used at Universal
10 Studios.

11 Q Oh, okay.

12 A Yeah.

13 Q So this would have been -- Universal Studios
14 would have been the exclusive provider of this product?

15 A Exactly. Correct.

16 Q And on the second page, there is a photo there,
17 what do you understand to be shown in the photo?

18 A It's fixtures with tubes inside.

19 Q And --

20 A Like -- like -- almost like something like Kino
21 Flo.

22 (Reporter Clarification.)

23 Q Would you understand those to be LED tubes?

24 A Yes, I knew they were LEDs.

25 Q On the back page, the fourth page, Fernando,

1 there is a feature list. And for the features, it says,
2 (Reading:) There are four product lines, LED Sled,
3 Slimline, Soft Boxes, and China Lights.

4 The second bullet says, (Reading:) Consistent
5 color temperatures at both Daylight and Tungsten and
6 almost zero percent green at 93CRI.

7 So did you understand the MacTech LEDs to have
8 these features?

9 A No.

10 MR. HOFFMAN: Objection. Foundation. Form.

11 THE WITNESS: What I -- they were just only one
12 Daylight or Tungsten.

13 BY MR. WARD:

14 Q But did you understand that they were almost
15 zero percent green at 93CRI?

16 A Never heard of that.

17 MR. HOFFMAN: Objection. Foundation.

18 BY MR. WARD:

19 Q So you were aware that MacTech had a Daylight
20 LED tube; correct?

21 A Correct.

22 Q And you were aware that they had a Tungsten LED
23 tube; correct?

24 A Correct.

25 Q But you were saying they were different tubes?

1 A Correct.

2 Q Not in the same tube?

3 A Correct.

4 Q But do you remember individuals talking about
5 using MacTech LED tubes?

6 A No.

7 Q Was this seen as a competitor to the Colt LED
8 tubes?

9 A No.

10 Q Why not?

11 A Because it was -- Memo brought the bicolor and
12 this was just one color. So it was not even in a
13 competition for them because you didn't have to swap
14 tubes.

15 Q But you understand that the -- other than being
16 bicolor, the MacTech LEDs provided similar features?

17 MR. HOFFMAN: Objection. Foundation. Form.
18 Mischaracterization.

19 THE WITNESS: It was not the same character
20 so -- same feature.

21 BY MR. WARD:

22 Q And what feature was different other than
23 bicolor?

24 A They just -- once again, this is just a
25 Daylight or a Tungsten from MacTech, that is what they

1 had. Either you choose Daylight or you choose Tungsten.

2 Q But other than having a bicolor tube, what
3 different feature did the MacTech provide?

4 A There is nothing to provide because there is
5 only one color temperature. And in the bicolor, it has a
6 switchable for both Tungsten and Daylight.

7 Q In the Daylight mode, did the MacTech LED tube
8 and the Colt LED tube perform the same?

9 MR. HOFFMAN: Objection. Foundation. Form.

10 THE WITNESS: I don't know. I don't know on
11 this one. I just seen them a couple of times in trade
12 shows.

13 BY MR. WARD:

14 Q And so you did see the MacTech product at a
15 trade show?

16 A At a trade show at Paramount.

17 Q Oh, a trade show at Paramount?

18 A Yeah.

19 Q Oh, okay. So you guys host trade shows?

20 A Yeah.

21 Q Oh.

22 A Well, not Paramount. They do a trade show
23 called Cine Gear.

24 Q Okay.

25 A At Paramount.

1 Q It is an annual show?

2 A It is an annual show. It travels from
3 different locations. They do it in Atlanta. I think it
4 is Atlanta or Florida in Paramount. And they always do
5 it there. They probably done it two or three times at
6 the convention center, but it wasn't as successful. But
7 they used to do that trade show. Cine Gear used to do it
8 back in Universal Studios, and then they moved over to
9 Paramount. It is wherever is available for stages to do
10 the trade show at that time. And they do it around June.

11 Q So you are never seeing MacTech's product at a
12 June trade show --

13 A Yeah.

14 Q -- in June 2011?

15 A Yeah. I do not remember the date, but I
16 remember I seen it at a trade show.

17 Q Was it prior to when you had the Colt LED
18 tubes?

19 A I don't quite remember. I am pretty sure,
20 yeah. Yeah.

21 Q Do you remember the people talking about the
22 possibility of using the MacTech product?

23 A People were complaining because it had a clear
24 lens, and it says you can see the chips, so Colt has the
25 frosted lens. And they don't want to see the chips, so

1 they were using -- they were using gel to cover them up
2 so that is another work.

3 MR. WARD: I will now show you, Fernando,
4 Exhibit 2047.

5 (Petitioner's Exhibit 2047 was
6 marked for identification by the
7 court reporter and is attached
8 hereto.)

9 BY MR. WARD:

10 Q Exhibit 2047 is the declaration of Kevin
11 Baxter. Do you know Kevin Baxter?

12 A No, I don't, sir.

13 Q Are you familiar with Litepanels?

14 A No, sir.

15 Q I'd like for you to turn to paragraph 25 of the
16 declaration. It is on page 6.

17 A 25, got it.

18 Q It says, (Reading:) Litepanels, as an Emmy
19 award winning developer of LED-based lighting systems for
20 the film and television industry, had the technical
21 capability to develop and manufacture a full range of
22 4-foot LED tubes -- I'm sorry -- 4-foot LED tube lights
23 starting at least as early as 2009. More specifically,
24 at time of the evaluation, Litepanels had the technical
25 capability to build, No. 1, single-color LED tube

1 versions, e.g., single tubes with either 5,600K cool
2 white or 3,200K warm light LEDs.

3 Fernando, the declarant here, Mr. Kevin Baxter,
4 who is a cofounder of Litepanels has made a statement in
5 support of Colt. And his declaration that in -- at least
6 as early as 2009, Litepanels had the technical capacity
7 to build a single-color LED tube vision with either
8 5,600K cool white or 3,200K warm light LEDs.

9 Would you agree with that statement that as of
10 2009, it was known to have a single-color LED tube?

11 MR. HOFFMAN: Objection. Form. Foundation.

12 THE WITNESS: I don't know nothing about --

13 MR. HOFFMAN: Scope.

14 THE WITNESS: I don't know nothing about that,
15 sir. That is out of my plate -- that is out of my way
16 that I am...

17 BY MR. WARD:

18 Q So when was the first LED tube that you saw,
19 Fernando?

20 A I don't quite recall the time, but it was about
21 2010, but just a -- regular 3,000 -- again, 3,000 or
22 5,000 Kelvin, nothing color temperature.

23 And the one that MacTech has was not color
24 correction. It was just a regular cool white 5,600. If
25 it was 5,000 Kelvin, people were putting gel in front of

1 it to make it the color temperature.

2 Q So you saw one before you saw the MacTech
3 product; correct?

4 A Well, yeah. I saw it. The ones that you sell
5 at Lowe's and Home Depot. But they used to gel them to
6 put them with the color correction, putting enough gel to
7 put it at that color temperature.

8 Q So in 2010, people were using LED tubes but
9 they were correcting them?

10 A Yeah, they were correcting them. Correct.

11 Q And those would have been tubes they could have
12 bought at Home Depot or Lowe's?

13 A Yeah. Home Depot, correct.

14 Q Do you remember seeing any other LED tubes?

15 A No.

16 Q So you were aware of the LED tubes at
17 Home Depot and Lowe's; correct?

18 A Correct.

19 Q And then you saw the MacTech LED tubes?

20 A Correct. With the clear lens. I just seen
21 them at a trade show, but we never -- I never rented
22 them, so it was -- I don't know if the rental --
23 sometimes -- sometimes the rental -- excuse me --
24 sometimes the rental department would get calls when we
25 get new shows that they want to use that product, so the

1 rental department would use that product. It is on --
2 often a request from the client. It is whatever the
3 client needs to light up that shows.

4 Q Back to this declaration. Paragraph 25, it
5 states, (Reading:) Litepanels had the technical
6 capability to build two color models, e.g., single tubes
7 containing both 5,600K cool white and 3,200K warm white
8 LEDs collectively bicolor.

9 So would you agree that it was known in 2009 to
10 make bicolor LED tubes?

11 MR. HOFFMAN: Objection. Form. Foundation.
12 Scope.

13 THE WITNESS: That is not my department, so I
14 don't know.

15 BY MR. WARD:

16 Q When was the first bicolor LED tube that you
17 saw?

18 A Like in 2013.

19 Q And that was the Colt tube?

20 A Correct.

21 Q And what other bicolor LED tube products are
22 you aware of today? What else is in the market now?

23 A You got -- now, you have the Quasars, you have
24 Sourcemaker, the Colts, and the -- the Asteras.

25 Q I'm sorry?



1 A Astera.

2 Q Astera?

3 A Yeah.

4 Q Okay.

5 A That is the only tubes that I know. But I
6 don't -- I don't rent them, so I heard of them, you know.

7 Q And are you aware of studios having exclusive
8 agreements such as Paramount's agreement with Colt for
9 bicolor LED tubes?

10 A That Colt has agreements with them?

11 Q Oh. So you told me earlier, my understanding
12 is that Paramount only provides Colt bicolor LED tubes;
13 correct?

14 A Yes, correct.

15 Q They have an exclusive --

16 A They have an exclusive --

17 Q Are you aware of other --

18 A They -- it was way before -- it was way, way
19 beyond me, my boss. My boss and Guillermo's got that
20 exclusively together with Paramount, so that is when I
21 see them there, you know, that they carry exclusive --
22 their equipment.

23 Q Are you --

24 A And I don't know -- I do not talk to Guillermo,
25 so I don't know who is he exclusive with.

1 Q Are you aware of other studios having
2 exclusivity with other LED tube makers, let's say, for
3 instance, Universal and MacTech?

4 A It was Universal and MacTech. But I think
5 there is another guy at Universal that -- they used to be
6 MacTech because the guy that was running Universal was --
7 he brought in MacTech and now MacTech -- I don't think
8 MacTech even exists.

9 Other than that, I don't know. I do not get
10 involved. I don't want to even get involved with all of
11 that, you know. I just worry about my stuff with my
12 sales, you know.

13 And thank God I got rid of that because that
14 was a big headache for just, you know, getting paid the
15 same thing that I am getting paid now, you know. So I
16 just do nothing but expendables now.

17 Q Do you know Bruce Wonderlick?

18 A Bruce is our rental agent. Same position that
19 I have but under the rental department downstairs. He is
20 the rental manager.

21 Q And how long have you known Bruce?

22 A Since I have been at Paramount, 1996, '97.

23 Q Did you ever work for Bruce?

24 A Never. We are coworkers.

25 Q So who is your boss today?



1 A Carl DiStefano.

2 Q How long has Bruce been over the rental
3 department?

4 MR. HOFFMAN: Objection. Foundation.

5 THE WITNESS: I do not have no idea. Probably
6 '99, 2000.

7 BY MR. WARD:

8 Q Do you know Todd Csernecky?

9 A Yes. He was one of my clients when he was
10 doing a show there, NCIS. And I know him for over ten
11 years. He did NCIS there for over ten years, 14 seasons,
12 12 seasons.

13 Q That is a long time.

14 A Uh-huh.

15 Q A lot of shows.

16 A Yeah, well, NCIS -- the main NCIS is 24 years
17 already in, and they did Jag before that for ten years.
18 So there is people there being in that one show, two
19 shows for 34 years.

20 Q Do you know Ken Fisher?

21 A No, I don't. Never met him before. This is
22 the first time I hear of him.

23 Q How about Bruce Finn?

24 A Never.

25 Q Do you know Gary Alan?

1 A No.

2 MR. WARD: Okay. Let's go off the record.

3 (Brief Recess.)

4 MR. WARD: Okay. I'm ready to go back on the
5 record. I just have one more question and I'll be done.

6 BY MR. WARD:

7 Q Fernando, just one final question for you. The
8 petitioner, the party that I represent in this -- in
9 these cases proposes a definition for a person of
10 ordinary skill in the art with respect to Mr. Macias'
11 invention. And I am going to read to you that proposed
12 definition, (Reading:) Petitioner proposes that a person
13 of ordinary skill in the art would have had at least a
14 bachelor of science degree in electrical engineering or a
15 closely related field and two or more years of experience
16 in the design of entertainment lighting systems along
17 with the design and use of LED lights.

18 Do you consider yourself a person of ordinary
19 skill in the art in accordance with that definition,
20 Fernando?

21 A No.

22 MR. HOFFMAN: Objection. Foundation. Scope.
23 And he is not sitting as an expert, but he's already
24 answered.

25 ///

1 BY MR. WARD:

2 Q You do not consider yourself a person of
3 ordinary skill in the art; correct?

4 Fernando, you can answer my question.

5 THE WITNESS: We good?

6 MR. HOFFMAN: You -- you can answer. I have
7 the same objections, but you can answer.

8 THE WITNESS: Yeah, no.

9 Thank you.

10 MR. WARD: Thank you. I have no further
11 questions.

12 MR. HOFFMAN: We're going to need about 10
13 minutes and then do a redirect.

14 (Brief Recess.)

15 MR. WARD: Ready to go back on the record?

16 BY MR. WARD:

17 Q Fernando, earlier in your discussion today you
18 talked about moving into the globe room of Paramount?

19 A Correct.

20 Q And is that G-L-O-B-E?

21 A Correct.

22 Q And the globe room is -- was the original name
23 for what is now the expendables department?

24 A Correct.

25 Q And later we discussed the gold room, you had a



1 meeting in the gold room, do you recall our discussion
2 about that?

3 A It is the gold room at the Formosa studios. We
4 went and -- it was me, Sherry, and the guy, Bryan, from
5 Walters, showing them a -- you know, showing Ray and
6 Steven Strong -- and there was another guy, and -- what
7 is it, Andrew -- it was his gaffer, showing them that LED
8 tube that is just a regular 5,000 Daylight. And
9 they -- they showed them at that gold room. The gold
10 room is a place where -- each of the departments have
11 their own place where it is set lighting, grips.
12 Different departments, they have their little rooms;
13 that's where they keep all of their stuff. That's why it
14 was called -- I don't know why they call it the "gold
15 room," but it's just a little break room for them.

16 Q Okay.

17 A And that is when I showed them that.

18 Q That is separate from the globe room --

19 A Exactly.

20 Q -- which is the department that you worked in
21 at Paramount?

22 A Correct.

23 Q And the globe room is responsible for selling
24 expendables; correct?

25 A At the time -- at the time it was only light

1 bulbs, light bulbs -- it was everything that -- that the
2 set lighting department -- they need all the heads, we
3 was -- it was there and we had a little bit of tape. We
4 did not have a lot of much stuff there.

5 Q So when the department changed from the title
6 of globe room to expendables, that is when you expanded
7 the products you were providing?

8 A Correct. Correct.

9 Q And those products have never included lighting
10 fixtures; correct?

11 A Correct.

12 Q So you --

13 A Only -- sorry. It was only a special order
14 when people come and says, Hey, I need a fixture. But a
15 fixture is just a regular -- regular fluorescent fixture
16 that you could get from Home Depot, so that you could be
17 able to -- it is already a fixture that has a ballast
18 inside and you just put a tube. And they will buy 20, 30
19 of them just to hang them for work lights.

20 Q So you never sold a lighting fixture for
21 Paramount; correct?

22 A Correct.

23 Q You never sold a Colt bicolor LED tube for
24 Paramount?

25 A We did. We did sell them at one time.

1 Q So you have sold lights for Paramount?

2 A Yes. But it was just a tube, but no fixtures.
3 He didn't have no fixtures at the time. So we sold a
4 couple of tubes -- just very, very little, and then they
5 told me that they couldn't -- we couldn't sell those.

6 Q How did you get them to work if they didn't
7 have a fixture? Just plugged them directly into --

8 A Plug and go.

9 Q So there was a time period that you were
10 selling Colt bicolor LED tubes?

11 A Yes.

12 Q Other than that, you haven't ever sold any
13 other lighting fixtures for Paramount?

14 A Correct.

15 Q And do you remember the time period in which
16 you were selling those Colt tubes?

17 A In 2013.

18 Q How many months would you estimate?

19 A Probably four or five months. They did not
20 want me to sell big amounts because we needed corporate
21 to have a big sign off on it to purchase them and to sell
22 it. So they were, like, Oh, we can't do that.

23 Q Did you buy a set of inventory from Colt?

24 A No. As -- as I sell them -- as I have clients
25 to sell them, I will order it from Colt and sell them.

1 Q And the customers paid Paramount or they paid
2 Colt?

3 A They paid Paramount.

4 Q And Paramount paid Colt?

5 A Yes, correct.

6 Q And were those customers part of the group that
7 you provided samples to?

8 MR. HOFFMAN: Objection. Form.

9 THE WITNESS: I don't know. Some of them are,
10 but it was basically a lot of studios -- other studios.
11 BY MR. WARD:

12 Q So Paramount was selling Colt LED tubes to
13 other studios?

14 A Very little. Very little until they says we
15 are not going to sell them no more, we are going to rent
16 them.

17 MR. WARD: Okay. No further questions.

18 MR. HOFFMAN: Okay. So I would like to do a
19 redirect.

20 EXAMINATION

21 BY MR. HOFFMAN:

22 Q Mr. Silva, who at Paramount sets the prices for
23 the products you sell?

24 A It is a standard 50 percent markup of anything
25 that I purchase. It is a 50 percent markup

1 automatically.

2 Q And you talked about Ray Gonzales having seen
3 him at a show in Paramount in the 2000's. Do you recall
4 saying that?

5 A Yes.

6 Q And then it -- it wasn't clear to me whether
7 you said you didn't see him after that or -- because you
8 mentioned some -- later you referred to some incidents
9 with Ray Gonzales, so I just want to be clear. Is it
10 that you didn't see Ray Gonzales after this show in 2000,
11 or you did not see him in connection with the show that
12 was going on at that time in 2000?

13 MR. WARD: Objection. Form.

14 THE WITNESS: I'd seen him in different --
15 after the show, it is over -- after the show is over, I
16 don't see those clients anymore. If they do not come
17 back to Paramount, I do not see them. If they do not
18 call me for materials, then I don't see them again.

19 BY MR. HOFFMAN:

20 Q Did there come a time when you saw him later?

21 A Yes.

22 Q Okay. That was after this show that you had
23 first seen Ray Gonzales in connection with?

24 A Correct.

25 Q And then you also talked about a lady named

1 Sherry, who was from China, who was selling bulbs. Do
2 you recall talking about that?

3 MR. WARD: Objection. Form.

4 THE WITNESS: Yes.

5 BY MR. HOFFMAN:

6 Q And so Sherry had bulbs, did you -- did Sherry
7 have any bicolor bulbs?

8 A No, not at all.

9 Q Sherry -- did Sherry have only Daylight bulbs?

10 A Daylight and Tungsten. But just a regular, not
11 color corrected, 3,000 Kelvin and 5,000 Kelvin.

12 Q And were these separate bulbs?

13 A Separate bulbs, correct.

14 Q Okay. I want you to -- I am going to give you
15 Exhibit 2066 which is, again, the exhibit that is a copy
16 of your declaration, and I want you to take a look at the
17 last sentence of paragraph 15.

18 A Got it.

19 Q Okay. Now just reread that to yourself?

20 A Got it.

21 Q Okay. Now, when -- when you gave Ray Gonzales
22 some bicolor tubes, did Ray mention anything about
23 returning them?

24 MR. WARD: Objection. Foundation.

25 THE WITNESS: He said he will bring them back



1 in a couple of weeks. He was going to show some DPs and
2 some gaffers, and get the feedback. And he was going to
3 let me know back and he never called me back.

4 BY MR. HOFFMAN:

5 Q Did you show Ray Gonzales some -- did you give
6 Ray Gonzales any tubes to take?

7 A Correct. I gave them some. Couple 4 footers,
8 and I don't remember if I gave them another 2 footer
9 because I was -- I had 4 footers, 2 footers, and
10 1 footers, and I was giving them to people so they could
11 be able to show them. So they would give me feedback and
12 see if they were going to want some.

13 Q And did Ray Gonzales say anything about
14 bringing them back?

15 A Objection. Foundation.

16 THE WITNESS: He never called me back. He
17 never came through.

18 BY MR. HOFFMAN:

19 Q And you say here in the last sentence,
20 (Reading:) He said he would bring them back in about one
21 week.

22 Is that true to the best of your recollection?

23 A Correct.

24 Q Did -- to your knowledge, does Raymond Gonzales
25 have a showroom where he would show tubes for sale?

1 MR. WARD: Objection. Form.

2 THE WITNESS: He had -- he had different
3 friends, different clients, different gaffers and DPs,
4 that -- he would show them the product. And then he was
5 going to let me -- he was going to let us know how many
6 he was -- they --you know, the show was going to get
7 some.

8 BY MR. HOFFMAN:

9 Q Now I want to direct your attention to
10 paragraph 10, and I want you to take a moment to just
11 reread that paragraph to yourself.

12 A Okay.

13 Q Did anyone tell you that the Colt tube had a
14 CRI over 90 in either mode of Daylight or Tungsten?

15 MR. WARD: Objection. Foundation.

16 THE WITNESS: No. It was from different people
17 that seen that bulb and tested it. They were giving them
18 the feedback back to Memo.

19 BY MR. HOFFMAN:

20 Q Okay. Did those different people say anything
21 about the amount of green and magenta hues in the light?

22 A That bulb was perfect, no magenta, no green.
23 And it is over 90 -- 90 CRI and they loved it.

24 Q And so when you made your statements in
25 paragraph 10 about CRI and about no green and magenta

1 hues in either mode, were you relying on what you had
2 heard at the time?

3 A Yes. I heard -- I heard it from not just the
4 people at Paramount, but from different stages there,
5 that I took it to them and says, Here, try this one out.
6 How are you liking it? He goes, They love it.

7 MR. HOFFMAN: Okay. I have nothing further.

8 MR. WARD: Off the record.

9 STENOGRAPHIC REPORTER: Counsel, would you like
10 a certified copy of the transcript?

11 MR. HOFFMAN: Yes, reserve read and sign.

12 THE STENOGRAPHIC REPORTER: And would you also
13 like a certified copy?

14 MR. HOFFMAN: Oh. No, no.

15 THE STENOGRAPHIC REPORTER: Okay.

16 (Ending time: 11:41 a.m.)

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1 ASSIGNMENT NO.: J11101952

2 CASE CAPTION: QUASAR SCIENCE LLC V. COLT
3 INTERNATIONAL CLOTHING, INC. D/B/A COLT LED
4

5 DECLARATION UNDER PENALTY OF PERJURY

6 I, the undersigned, declare under penalty of
7 perjury that I have read the entire foregoing transcript
8 of my deposition or the same has been read to me, and the
9 same is true and accurate, save and except for changes,
10 corrections, additions or deletions indicated by me on
11 the DEPOSITION ERRATA SHEET hereof, with the
12 understanding that I offer these changes as if still
13 under oath.
14

15 Signed on the _____ day of _____,
16 2024, at _____ , _____ .
17 (City) (State)
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19
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22 _____
23 FERNANDO SILVA
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1 I, JENNIFER PORTO, CSR No. 14098, certify:
2 That the foregoing proceedings were taken before me at
3 the time and place herein set forth; at which time the
4 witness was duly sworn; and that the transcript is a true
5 record of the testimony so given to the best of my
6 ability.

7
8 Witness review, correction and signature was
9 () by code. (X) requested.
10 () waived. () not requested.
11 () not handled by the deposition officer due to party
12 stipulation.

13
14 The dismantling, unsealing or unbinding of the
15 original transcript will render the reporter's
16 certificate null and void.

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

21 Dated this 29th day of April, 2024.

22
23 

24 JENNIFER PORTO, CSR 14098
25

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