UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

APELDYN CORPORATION, PLAINTIFF, VS. AU OPTRONICS CORPORATION, ET AL., DEFENDANTS.	CASE SA CV 10-1305-JVS(FFM) LOS ANGELES, CALIFORNIA SEPTEMBER 21, 2010 (10:50 A.M. TO 11:06 A.M.)

HEARING
BEFORE THE HONORABLE FREDERICK F. MUMM
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:	SEE NEXT PAGE
COURT REPORTER:	RECORDED; COURT SMART
COURTROOM DEPUTY:	JAMES MUNOZ
TRANSCRIBER:	DOROTHY BABYKIN COURTHOUSE SERVICES 1218 VALEBROOK PLACE GLENDORA, CALIFORNIA 91740 (626) 963-0566

PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING; TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.

APPEARANCES: (CONTINUED)

FOR THE PLAINTIFF: MC KENNA LONG & ALDRIDGE LLP
BY: ROBERT ANTHONY COCCHIA
ATTORNEY AT LAW
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14TH FLOOR
LOS ANGELES, CALIFORNIA 90071

FOR THE DEFENDANTS: LEWIS BRISBOIS BISGAARD & SMITH
BY: KENNETH D. WATNICK
ATTORNEY AT LAW
221 NORTH FIGUEROA STREET
SUITE 1200
LOS ANGELES, CALIFORNIA 90012

I N D E X

CASE NO. SA CV 10-1305-JVS(FFM) SEPTEMBER 21, 2010

PROCEEDINGS: PLAINTIFF'S MOTION TO COMPEL DEPOSITION OF THIRD PARTY VIZIO

LOS ANGELES, CALIFORNIA; TUESDAY, SEPTEMBER 21, 2010

10:50 A.M.

THE CLERK: CALLING CASE SA CV 10-1305, APELDYN CORPORATION V. AU OPTRONICS CORPORATION.

APPEARANCES, PLEASE.

MR. COCCHIA: GOOD MORNING, YOUR HONOR.

ROBERT COCCHIA FROM MC KENNA LONG & ALDRIDGE FOR PLAINTIFF APELDYN CORPORATION.

THE COURT: GOOD MORNING.

MR. WATNICK: GOOD MORNING, YOUR HONOR.

KENNETH WATNICK FOR THIRD-PARTY WITNESS VIZIO.

THE COURT: GOOD MORNING.

ALL RIGHT. THIS IS A MOTION TO COMPEL COMPLIANCE WITH A THIRD-PARTY SUBPOENA.

ALL RIGHT. I'VE READ THROUGH ALL THE PAPERS, AND THIS IS MY THINKING.

INITIALLY WITH RESPECT TO THE DEPOSITION CATEGORIES -- WELL, I GUESS I SHOULD START AT THE VERY BEGINNING. IT APPEARS AS IF VIZIO BELATEDLY SERVED OBJECTIONS TO THE SUBPOENA. SO, THE INITIAL QUESTION IS WHETHER OR NOT THERE IS A WAIVER OF ANY OBJECTIONS. AND I DON'T REALLY SEE ANY GOOD CAUSE FOR THE LATE OBJECTION. HOWEVER, GIVEN THE BREADTH OF THE REQUESTS, I THINK IT WOULD BE APPROPRIATE TO RELIEVE VIZIO OF ANY DEFAULT WITH RESPECT TO WAIVING OBJECTIONS. SO, I WILL GO AHEAD AND CONSIDER THE OBJECTIONS.

THEN, MOVING TO THE DEPOSITION CATEGORIES, CATEGORY NUMBER 1 IT SEEMS TO ME FAIRLY -- SHOULD BE LIMITED TO DEPOSING A PERSON WHO'S ABLE TO AUTHENTICATE THE DOCUMENTS RATHER THAN EXPLAIN THE SUBSTANCE OF EACH DOCUMENT.

AND WITH RESPECT TO CATEGORY NUMBER 11, IT SEEMS THAT IT IS APPROPRIATE TO HAVE A WITNESS TESTIFY AS TO WHAT EFFORTS WERE MADE TO SEARCH FOR THE DOCUMENTS AND TO EXPLAIN THE DOCUMENT AND EMAIL RETENTION POLICIES.

BUT THE CATEGORIES 2 THROUGH 10 APPEAR TO BE EXTREMELY OVERBROAD AND PARTICULARLY BURDENSOME GIVEN THAT MOST OF THE INFORMATION WOULD APPEAR TO BE AVAILABLE FROM DOCUMENTS. AND GIVEN THE FACT THAT VIZIO IS NOT A PARTY IN THIS CASE, I FIND IT MORE APPROPRIATE THAT FIRST THE DOCUMENTS BE OBTAINED, AND THEN IF IT BECOMES NECESSARY TO FLUSH SOMETHING OUT WITH RESPECT TO DOCUMENTS, THEN, NOTICING THE DEPOSITION.

SO, MY TENTATIVE WOULD BE TO GRANT THE MOTION TO COMPEL WITH RESPECT TO DEPOSITION CATEGORIES 1 AND 11, 1 BEING LIMITED TO AUTHENTICATION OF THE DOCUMENTS PRODUCED; AND TO DENY WITHOUT PREJUDICE 2 THROUGH 10 SO THAT THAT COULD BE REVISITED AFTER THE DOCUMENTS ARE PRODUCED AND AN ADDITIONAL DEPOSITION COULD BE SCHEDULED AT THAT TIME.

NOW, WITH RESPECT TO THE NEXT ISSUE, WHICH IS THE DOCUMENT PRODUCTION, VIZIO ASSERTS THAT AT ONE POINT THERE WAS AN AGREEMENT TO LIMIT THE SCOPE. AND IN LOOKING AT THE

DOCUMENT REQUESTS THEY SEEM VERY, VERY BROAD. IT MAY BE SOMETHING VERY APPROPRIATE FOR A PARTY, BUT IT SEEMS A LITTLE EXCESSIVE FOR A NON-PARTY.

SO, MY TENTATIVE WOULD BE ON THAT THAT THE WAY THAT VIZIO HAS EXPLAINED HOW THE PARTIES HAD AGREED TO LIMIT THE PRODUCTION, THAT APPEARS TO BE REASONABLE TO ME. AND, OF COURSE, I'LL HEAR FROM PLAINTIFF AS TO WHETHER OR NOT THEY REALLY DID AGREE TO THAT AND WHETHER OR NOT THAT'S GOING TO SATISFY WHAT IT IS THEY NEED TO DO. BUT TO THE EXTENT THAT IT WOULD, THE MOTION TO COMPEL MY TENTATIVE WOULD BE TO GRANT IT WITH RESPECT TO THE AGREEMENT ON LIMITING THE SCOPE OF THE PRODUCTION.

NOW, WITH RESPECT TO COPY COSTS, I THINK IT'S APPROPRIATE THAT THE PLAINTIFF PAY THE COPY COSTS. ORDINARILY WHEN YOU'VE GOT PARTIES IN LITIGATION EACH SIDE IS GOING TO PAY FOR THEIR OWN BECAUSE IT KIND OF CANCELS OUT. BUT WHEN YOU HAVE A NON-PARTY WHO'S NOT INVOLVED IN THE LITIGATION, AND THERE SEEMS TO BE SOME QUESTION AS TO WHETHER OR NOT THE COSTS ARE GOING TO BE REASONABLE OR NOT, WELL, MY TENTATIVE WOULD BE THAT I WOULD AWARD COPYING COSTS AS LONG AS THEY WERE STANDARD COSTS AND THEY WERE ACTUAL COSTS SO THAT THERE'S NO INFLATING OF THE COSTS IN ORDER TO MAKE MONEY OFF THE PRODUCTION.

WITH THE ATTORNEY'S FEES, IT'S JUST -- IT'S HARD FOR ME TO TELL ON THIS RECORD. IT MAY BE THAT EXCESSIVE FEES

WOULD BE INVOLVED AND IT MAY NOT BE.

WHAT MY TENTATIVE WOULD BE ON THIS WOULD BE TO ORDER COMPLIANCE AND, THEN, TO HAVE VIZIO ITEMIZE ITS FEES, SEE IF THE PARTIES CAN WORK THAT OUT. AND IF NOT, THEN, VIZIO COULD FILE AN ITEMIZATION OF ITS FEES.

AND THE PLAINTIFF COULD OBJECT, AND I WOULD RULE ON WHETHER OR NOT THEY'RE RECOVERABLE AND THE AMOUNT THAT WOULD BE RECOVERABLE DEPENDING ON HOW BURDENSOME THE ACTUAL PRODUCTION TURNS OUT TO BE.

SO, I GUESS I'LL HEAR FROM THE PLAINTIFF.

MR. COCCHIA: THANK YOU, YOUR HONOR.

FIRST I'D LIKE TO ADDRESS THE ISSUE OF THE WAIVER AND ASK THAT THE COURT RECONSIDER THAT. I DON'T THINK THERE'S ANY DISPUTE BETWEEN THE PARTIES AS TO THE LAW REGARDING WAIVER. AND WE BOTH CITE TO -- OR THE PAPERS CITE TO THE CASE REGARDING MC COY VERSUS SOUTHWEST AIRLINES. AND SAID, "IN ORDER FOR THERE TO BE A RELIEF FROM WAIVER IT WOULD HAVE TO BE SOME UNUSUAL CIRCUMSTANCES."

THOSE UNUSUAL CIRCUMSTANCES DO NOT APPLY HERE.

THE THREE FACTORS THAT ARE ALL REQUIRED ARE, NUMBER ONE, THAT THE SUBPOENA BE OVERBROAD ON ITS FACE. I KNOW THAT YOU FOUND THAT THE SUBPOENA IS OVERBROAD ON ITS FACE. AND I WON'T PUSH THAT POINT BECAUSE I THINK THE THIRD POINT MAKES IT CLEAR THAT THERE IS A WAIVER.

AND THAT THIRD POINT IS THAT THE COUNSEL FOR THE

WITNESS IS IN CONTACT WITH THE SUBPOENAING PARTY CONCERNING THE WITNESS'S COMPLIANCE PRIOR TO THE TIME THE WITNESS CHALLENGED THE LEGAL BASIS FOR THE SUBPOENA.

HERE THE SUBPOENA WAS SERVED ON FEBRUARY 2ND. IT WASN'T JUST SERVED THROUGH CT CORPORATION. IT WAS SERVED BY CERTIFIED MAIL TO THE GENERAL COUNSEL OF VIZIO ON FEBRUARY 2ND.

AND THE REASON THAT WAS DONE WAS BECAUSE A PRIOR SUBPOENA HAD BEEN SERVED BACK IN AUGUST -- BACK ON AUGUST 25TH OF 2009. AND THERE WAS NO RESPONSE FROM VIZIO WHATSOEVER.

SO, THIS TIME AROUND -- AND THERE WAS A PROCEDURAL DELAY IN THE CASE. THIS TIME AROUND AN AMENDED SUBPOENA WAS SERVED. AND JUST TO MAKE SURE THEY GOT IT, AND THEY UNDERSTOOD THEY NEEDED TO RESPOND TO IT, A COPY WAS SERVED ON GENERAL COUNSEL. AND THEN THERE WAS SILENCE.

THERE WERE TWO VOICEMAILS LEFT FOR THE GENERAL COUNSEL PRIOR TO THE DATE -- THE RETURN DATE ON THE SUBPOENA. NO RESPONSE. THERE WAS A LETTER PRIOR TO THE RETURN DATE. NO RESPONSE. AND ALL THESE ARE EXHIBITS IN THE MOTION.

AND IT WASN'T UNTIL EXHIBIT H THAT WE SENT A LETTER TO GENERAL COUNSEL SAYING, OKAY. WE HAVE NO CHOICE HERE. YOU PASSED THE RESPONSE DATE. WE'VE GOT NO RESPONSE TO OUR VOICEMAILS AND LETTER. WE'VE GOT TO FOLLOW LOCAL RULE 37.1. LET'S GET THE PROCESS STARTED.

THEN, THEY RESPOND. AND THERE'S A MEET AND CONFER, AND THERE'S SOME BACK AND FORTH.

AND THERE WERE SOME CONCESSIONS BY MY CLIENT. AND THAT'S CONTAINED IN EXHIBIT R. I THINK IT'S THE APRIL 20 LETTER, WHERE WE AGREED FOR SOME OF THE THINGS SUCH AS THE SALES NUMBERS. WE'LL AGREE TO A SUMMARY CHART FOR THE THINGS RELATED TO WHAT PARTS VIZIO IS SHIPPING OUT THAT WE CLAIM ARE INFRINGING OUR PATENT. WE'LL ACCEPT A SUMMARY CHART OF WHAT THOSE MODEL NUMBERS ARE. WE WERE TRYING TO WORK WITH THEM. AND IF THAT'S THE CONCESSIONS WE'RE TALKING ABOUT, WE'RE STILL AGREEABLE TO THAT.

AFTER THAT WAS DONE, AGAIN, RADIO SILENCE FOR SEVERAL WEEKS FORCING US TO GO AGAIN AND THREATEN THE MOTION TO COMPEL. AND, THEN, WE GET MR. WATNICK'S FIRM INVOLVED.

IN THESE CIRCUMSTANCES THE PRIVILEGES HAVE BEEN WAIVED -- THE ATTORNEY-CLIENT PRIVILEGE HAS BEEN WAIVED. AND THE REASON WHY THAT IS IMPORTANT IS BECAUSE I THINK IT BEARS ON THE ATTORNEY'S FEES ISSUE. WHAT WE'RE ASKING FOR IS SALES NUMBERS, PRODUCT NUMBERS, AND COMMUNICATIONS WITH THE DEFENDANT IN THE CASE.

THE ATTORNEY-CLIENT PRIVILEGE HAS BEEN WAIVED. I DON'T SEE HOW THERE'S GOING TO BE ANY NEED FOR ATTORNEY'S FEES IN THIS CASE. CERTAINLY, NOT THE 30 TO 60 THOUSAND DOLLARS THAT WERE ESTIMATED BY VIZIO OR THE 200 HOURS OF ATTORNEY TIME THAT WAS ESTIMATED BY VIZIO, BOTH OF WHICH

THERE WAS NEVER ANY SUPPORT GIVEN FOR.

SO, IT WOULD BE OUR POSITION -- AND I UNDERSTAND THE TENTATIVE WITH RESPECT TO HAVING THE DOCUMENTS FIRST AND THE DEPOSITION SECOND. WHOLEHEARTEDLY AGREE WITH THAT. THE ONLY REASON IT WASN'T DONE ORIGINALLY IS BECAUSE OF THE SCHEDULING ORDER IN THE CASE THAT SAID IT ALL HAD TO BE COMPLETED BY OCTOBER 15TH. IT'S MY UNDERSTANDING THAT WE CAN TAKE THE DEPOSITION AFTER OCTOBER 15, BUT WE STILL NEED THE DOCUMENTS BEFORE THAT DATE ACCORDING TO THE COURT'S SCHEDULING ORDER.

SO, WE ARE FINE WITH GETTING THE DOCUMENTS FIRST AND DETERMINING WHO MIGHT BE THE RIGHT PERSON TO DEPOSE. IT MAY NOT HAVE TO BE A PMK ON EVERY COMMUNICATION. IT MIGHT BE THIS DOCUMENT WE WANT TO TALK ABOUT FROM THIS DATE AND THIS PERSON.

AND WE'RE AGREEABLE TO THE CONCESSIONS GIVEN THAT ARE STATED IN EXHIBIT R. BUT WE DO BELIEVE STRONGLY THAT THE COURT SHOULD RULE THAT ATTORNEY'S FEES AREN'T ALLOWABLE OR CREDIBLE IN THIS CASE. PERHAPS FOR THE DEPOSITION PREP THAT'S A DIFFERENT ISSUE, BUT FOR THE DOCUMENT REVIEW AND PRODUCTION, THE ATTORNEY-CLIENT PRIVILEGE HAS BEEN WAIVED. THERE'S NO NEED FOR ATTORNEYS TO GO THROUGH THESE DOCUMENTS TO DETERMINE WHETHER OR NOT THE PRIVILEGE EXISTS. AND, SO, THERE SHOULDN'T BE ANY COST FOR ATTORNEY REVIEW.

AND OTHER THAN THAT, I'M AGREEABLE WITH THE

TENTATIVE.

THE COURT: ALL RIGHT. THANK YOU.

MR. WATNICK: YOUR HONOR, WE'D SUBMIT ON THE TENTATIVE WITH RESPECT TO THE ISSUE OF ATTORNEY'S FEES. WHETHER THEY'RE REASONABLE OR NOT, I UNDERSTAND THAT'S FOR ANOTHER DAY. SO, I WON'T RAISE ANY ARGUMENTS ON THAT.

WITH RESPECT TO THE ISSUE OF WAIVER, I THINK THE CASE LAW ALLOWS IT. AND REGARDLESS IN THIS CONTEXT WHEN WE'RE DEALING WITH A SITUATION OF VERY, VERY BROAD REQUESTS AND A MOTION TO COMPEL, YOU ALSO HAVE DISCRETION.

THE COURT: ALL RIGHT. WELL, YOU HEARD THE ARGUMENTS BEFOREHAND IN THE EARLIER MATTER. AND I THINK THAT THE WAY THAT THE RULE 45 IS WORDED THAT WHEN THE MOTION IS BROUGHT, THAT I HAVE TO HAVE SOME APPORTIONMENT OF COSTS. AND, SO, YOU KNOW, BEFORE THE FACT IT'S SORT OF HARD TO FIGURE IT OUT. IT'S THE -- THE ONLY THING THAT I THINK I CAN DO IS GIVE SOME GUIDELINES SO THAT THE PARTIES HAVE SOME IDEA OF WHAT THEY'RE EMBARKING UPON BEFORE --

AND THE FIRST THING WOULD BE THAT EVERYONE HAS AN OBLIGATION TO COMPLY WITH DISCOVERY REQUESTS. AND WHETHER YOU'RE A PARTY OR NOT JUST BEING IN THIS COUNTRY THAT'S ONE OF THE DUTIES THAT YOU HAVE.

SO, I DON'T THINK THAT YOU AUTOMATICALLY SHOULD HAVE ALL OF THE ATTORNEY'S FEES COVERED. ON THE OTHER HAND, NOT BEING A PARTY TO THE CASE, IT IS UNFAIR FOR THE PARTIES

TO SHIFT THE BURDEN OF COSTS ON TO THE RESPONDING PARTY.

SO, THAT WAS ESSENTIALLY IN THE TENTATIVE WHEN I SUGGESTED THAT THE PARTIES LOOK AT IT AFTER HAVING COMPLIED. I WILL SUGGEST THAT I WOULD BE UNLIKELY TO AWARD AMOUNTS LIKE 30, 40 THOUSAND DOLLARS OR WHATNOT.

I WOULD AWARD ACTUAL COPYING COSTS AND, THEN, DEPENDING ON WHAT HAPPENED WITH THE LAWYERS, MAYBE SOME ATTORNEY'S FEES BUT, AGAIN, NOT NEARLY AS HIGH AS APPARENTLY VIZIO IS LOOKING AT.

NOW, WITH RESPECT TO THE WAIVER ISSUE, I WILL TAKE ANOTHER LOOK AT IT. BUT I'M PRETTY CONVINCED THAT I CAN RELIEVE THE WAIVER. IT IS TRUE HERE THAT THERE WAS ABSOLUTELY NO CONTACT PRIOR TO THE DATE REQUIRED FOR COMPLIANCE WITH THE SUBPOENA. AND THE CASES THAT ARE CITED WOULD SEEM TO SUGGEST THAT THAT IS ONE OF THE FACTORS, BUT I HAVE TO THINK THAT I'M NOT LIMITED BY THAT. I NOTE THAT THE CASES ARE FOR THE MOST PART DISTRICT COURT CASES. I DON'T KNOW IF ANYONE HAS REFERRED TO A NINTH CIRCUIT CASE. THAT WOULD SEEM TO LIMIT --

MR. COCCHIA: THE MC COY CASE I CITED IS A CENTRAL DISTRICT OF CALIFORNIA CASE.

THE COURT: OKAY. SO, THERE'S NO -- THERE'S NO NINTH CIRCUIT COURT OF APPEAL CASE.

MR. COCCHIA: OH.

THE COURT: THAT'S WHAT I MEANT.

MR. COCCHIA: THAT'S CORRECT, YOUR HONOR.

THE COURT: YES.

SO, YOU KNOW, CERTAINLY THEY MAY BE PERSUASIVE, BUT THAT'S NOT BINDING ON ME. BUT I'LL TAKE ANOTHER LOOK AT THAT.

NOW, WITH RESPECT TO THE -- MY TENTATIVE WOULD STAND WITH RESPECT TO THE DEPOSITION CATEGORIES.

AND, THEN, WITH RESPECT TO DOCUMENT PRODUCTION I WANT TO MAKE SURE THAT EVERYBODY IS CLEAR AS TO WHAT IT IS THAT'S GOING TO BE PRODUCED. BECAUSE IT SOUNDS LIKE THERE MIGHT BE SOME -- I DON'T KNOW IF IT'S A MISCOMMUNICATION, MISUNDERSTANDING OR NOT QUITE BEING ON THE SAME PAGE --

MR. COCCHIA: RIGHT.

THE COURT: I NOTE THAT VIZIO IN THEIR DOCUMENTS WENT THROUGH ITEM BY ITEM SAYING THIS HAS BEEN RESOLVED, THIS HAS BEEN RESOLVED. AND, SO, I'M NOT SURE IF PLAINTIFF AGREES WITH THAT OR NOT.

MR. WATNICK: YOUR HONOR, NUMBER ONE, I THINK IN THE JOINT STIPULATION STARTING ON PAGES 30 THROUGH 34, I'VE SET FORTH THE AGREEMENT. AND I'M HAPPY TO WORK WITH MR. COCCHIA TO MEET AND CONFER AND MAKE SURE -- I DON'T THINK WE HAVE ANY DISAGREEMENT ON THESE ISSUES, BUT I THINK WE SHOULD BE ABLE TO RESOLVE IT IN TERMS OF SCOPE --

THE COURT: ALL RIGHT.

MR. WATNICK: -- INFORMALLY.

THE COURT: ALL RIGHT. WELL, MY ORDER THEN WOULD BE THAT I'M GRANTING THE MOTION WITH RESPECT TO HOW THE PARTIES HAD AGREED ON IT. AND IF YOU HAVE SOME PROBLEM, AND YOU HAVEN'T REALLY AGREED, THEN, LET ME KNOW, AND WE CAN -- I'LL HAVE A FURTHER HEARING.

SO, I'M RESERVING THE ACTUAL AWARD OF FEES. I'M GRANTING THE MOTION AS INDICATED. AND I WILL TAKE ANOTHER LOOK AT THE WAIVER ISSUE. BUT I SEE THAT WAIVER ISSUE AS MORE AFFECTING PROBABLY THE COMPUTATION OF FEES THAN ANYTHING ELSE.

MR. COCCHIA: THAT'S CORRECT.

THE COURT: ANYTHING ANYONE ELSE WANT?

MR. COCCHIA: NO.

MR. WATNICK: JUST REAL QUICK, YOUR HONOR, I THINK WE NEED APPROXIMATELY TWO WEEKS TO GET THIS DONE.

THE COURT: AND WHAT IS THE DISCOVERY CUT-OFF?

MR. COCCHIA: FOR THIRD PARTIES, IT'S OCTOBER 15TH FOR WRITTEN DISCOVERY, FOR DOCUMENT PRODUCTION.

MR. WATNICK: I THINK WE CAN GET IT DONE BEFORE OCTOBER 15TH. AND I'M GOING TO DO MY BEST TO GET IT DONE WITHIN TWO WEEKS.

THE COURT: ALL RIGHT. SO, I'LL ORDER THAT THE PRODUCTION BE WITHIN TWO WEEKS.

AND, THEN, WITH RESPECT TO THE DEPOSITION, HOW DO YOU WANT TO SCHEDULE THAT? YOU'VE GOT --

MR. COCCHIA: WELL, IT'S MY UNDERSTANDING THAT WE CAN DO IT AFTER OCTOBER 15TH, YOUR HONOR, SO WE CAN SCHEDULE IT. ONCE WE HAVE THE DOCUMENTS AND DETERMINE, A, IF WE NEED THE DEPOSITION AND, B, MORE POINTEDLY, WHO IT WOULD BE. IT WOULD PROBABLY BE THE CUSTODIAN OF THE ACTUAL -- OR THE AUTHOR OR RECIPIENT OF THE DOCUMENT TO MAKE IT EASIER.

MR. WATNICK: THAT'S FINE.

MAY I ASK FOR THREE WEEKS OUT OF AN ABUNDANCE OF CAUTION. BECAUSE THE BIGGEST PROBLEM I KNOW IS THEY WERE LOOKING FOR PRODUCT MANUALS GOING BACK TO 2002, AND THAT'S A LITTLE BIT OF A TASK.

THE COURT: ALL RIGHT. SO, THAT WOULD STILL PUT US BEFORE THE CUT-OFF.

MR. COCCHIA: YES, IT WOULD.

THE COURT: ALL RIGHT. SO, THREE WEEKS FOR THE PRODUCTION.

MR. COCCHIA: OKAY. THANK YOU, YOUR HONOR.

MR. WATNICK: THANK YOU, YOUR HONOR.

THE COURT: THANK YOU, COUNSEL.

THE CLERK: COURT IS NOW ADJOURNED.

(PROCEEDINGS CONCLUDED 11:06 A.M.)

C E R T I F I C A T E

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

DOROTHY BABYKIN 1/11/11

_____ _____

FEDERALLY CERTIFIED TRANSCRIBER DATED

DOROTHY BABYKIN