

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:16-cv-21199-CMA

ANDREA ROSSI and LEONARDO
CORPORATION,

Plaintiffs,

v.

THOMAS DARDEN; JOHN T. VAUGHN;
INDUSTRIAL HEAT, LLC; IPH INTER-
NATIONAL B.V.; and CHEROKEE
INVESTMENT PARTNERS, LLC,

Defendants.

INDUSTRIAL HEAT, LLC and IPH INTER-
NATIONAL B.V.,

Counter-Plaintiffs,

v.

ANDREA ROSSI and LEONARDO
CORPORATION,

Counter-Defendants,

and

J.M. PRODUCTS, INC.; HENRY JOHNSON;
FABIO PENON; UNITED STATES QUANTUM
LEAP, LLC; FULVIO FABIANI; and
JAMES A. BASS,

Third-Party Defendants.

**THIRD PARTY DEFENDANTS, FULVIO FABIANI AND UNITED STATES
QUANTUM LEAP, LLC, OBJECTIONS AND RESPONSES TO DEFENDANTS'
FIRST REQUEST FOR PRODUCTION**

Defendants, United States Quantum Leap, LLC (“USQL”) and Fulvio Fabiani (“Fabiani”)(collectively referred to as “Third-Party Defendants”), by and through undersigned

counsel and pursuant to Federal Rules of Civil Procedure (“Federal Rules”) 26 and 33, hereby respond to Defendants/Third-Party Plaintiffs THOMAS DARDEN, JOHN T. VAUGHN, INDUSTRIAL HEAT, LLC., IPH INTERNATIONAL, B.V. and CHEROKEE INVESTMENT PARTNERS, LLC. (collectively referred to as “Defendants”) First Request for Production to USQL and Fabiani.

GENERAL RESPONSES AND OBJECTIONS

A. Third-Party Defendants reserve the right to object to the admissibility at trial of any of the information and or documents produced below pursuant to the Federal Rules of Evidence, particularly those rules pertaining to relevancy.

B. By producing information and/or documents, if any, Third-Party Defendants do not:

(i) admit that such information or documents (or related information or documents) are properly discoverable;

(ii) waive any objections which might otherwise be made to such information or documents; or

(iii) admit that any such information or documents are admissible at trial.

C. By objecting to any documents request, Third-Party Defendants do not admit or imply that such documents exist or are in their possession or control.

D. By asserting that documents will be produced, Third-Party Defendants will produce all responsive documents in their possession, custody and control and shall be made available for inspection and copying at the office of the undersigned counsel within fifteen (15) days of the date of this Response. In the alternative, the undersigned counsel will confer with counsel for Defendants and will coordinate to have copies of such responsive

documents/information made for Defendants at Defendants' expense. Third-Party Defendants are in the process of searching for responsive documents and additional documents may be located after the initial production and any additional documents shall be produced in accordance with the requirements of Federal Rule of Civil Procedure 26(e).

E. Third-Party Defendants object to the "time frame" contained in Instruction No. 7 to the First Request for Production because such claims made against the Third-Party Defendants involve and pertain to actions and omissions allegedly taking place when the Plant was being moved to Florida and then when the Plant was operated and tested in Doral, Florida. The relevant time period as set forth in the Third-Party Claims begin in June 2014 until the completion of the operation and testing on or about February 2016. Accordingly, all responses are being limited to production of documents during the relevant time of June 2014 through February 2016.

F. These general objections shall be deemed to be continuing throughout and incorporated in Third-Party Defendants specific responses and objections to these requests.

SPECIFIC RESPONSES AND OBJECTIONS

Request No. 1: All Documents/ESI that reflect, address, discuss, reference or memorialize any Test, or the results of any Test, performed by You or any other Person on the E-Cat or on any device that utilizes or was designed using the E-Cat IP (*e.g.*, the "Big Frankies", the 1MW E-Cat Unit, the Hot Cat, the Six Cylinder Unit, E-Cat reactors and/or any E-Cat Products) ("E-Cat Device"), including, but not limited to, any Tests conducted at the Doral Location, any Tests conducted at the Triangle Drive Facility, and any Tests conducted in connection with the Ferrara Report or Lugano Report. This request specifically includes, but is not limited to, Documents/ESI reflecting, addressing, discussing or referencing (i) any methodologies or

protocols used in conducting a Test, (ii) any data derived from a Test, and (iii) any observations, conclusions or reports resulting from a Test.

Response: Third-Party Defendants object to the overbroad nature of Request No. 1 because it seeks production of documents that are not contemplated by the USQL Agreement and seeks production of documents regarding “Tests” that are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Subject to these objections, Defendants shall produce all documents related to the work and tests conducted by Third-Party Defendants in Doral, Florida.

Request No. 2: All Communications between You and Fabio Penon.

Response: Third-Party Defendants object to the overbroad nature of Request No. 2 because it seeks production of communications that are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Subject to these objections, Defendants are in the process of determining if there are any responsive communications in their custody, control or possession for the relevant time period and to the extent that any communications are related to the operation of the Plant in Doral, Florida. All responsive communications shall be produced.

Request No. 3: All Communications between You and J.M. Products.

Response: Third-Party Defendants object to the overbroad nature of Request No. 3 because it seeks production of communications that are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Subject to these objections, Defendants are in the process of determining if there are any responsive communications in their custody, control or possession for the relevant time period and to the extent that any communications are related to the operation of the Plant in Doral, Florida. All responsive communications shall be produced.

Request No. 4: All Communications between You and Giuseppe Levi, Evelyn Foschi, Torbjorn Hartman, Bo Hoistad, Roland Pettersson, Lars Tegner and/or Hanno Essen.

Response: Third-Party Defendants object to the overbroad nature of Request No. 4 because it seeks production of communications that are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Subject to these objections, Defendants are in the process of determining if there are any responsive communications in their custody, control or possession for the relevant time period and to the extent that any communications are related to the operation of the Plant in Doral, Florida. All responsive communications shall be produced.

Request No. 5: All Communications reflecting, addressing, discussing or referencing the E-Cat, the E-Cat IP, or any E-Cat Device, between You and any of the following Persons:

- (a) John T. Vaughn
- (b) Thomas Darden
- (c) T. Barker Dameron
- (d) Henry Johnson
- (e) Andrea Rossi
- (f) Leonardo Corporation
- (g) James Bass

- (h) Barry West
- (i) Joseph Murray
- (j) Norman Cook
- (k) Craig Cassarino
- (l) Ron Engleman
- (m) Richard Noceti
- (n) Robert Gentile
- (o) Karl Norwood
- (p) John Mazzarino

Response: Third-Party Defendants object to the overbroad nature of Request No. 5 because it seeks production of communications that are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Subject to these objections, Defendants are in the process of determining if there are any responsive communications in their custody, control or possession for the relevant time period and to the extent that any communications are related to the operation of the Plant in Doral, Florida. All responsive communications shall be produced.

Request No. 6: All Documents/ESI that reflect, address, discuss or reference the License Agreement, the First Amendment, the Proposed Second Amendment and/or the Term Sheet, including, but not limited to, all drafts of the License Agreement, First Amendment, Proposed Second Amendment or Term Sheet, and any negotiations over or involving the License Agreement, First Amendment, Proposed Second Amendment or Term Sheet.

Response: Third-Party Defendants object to the overbroad nature of Request No. 6 because it seeks production of documents that are outside of the scope of the USQL Agreement and are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Through the date of this response, no such documents are in Defendants custody, control or possession.

Request No. 7: All Documents/ESI that reflect, address, discuss or reference the operation, measurement or monitoring of any E-Cat Device at the Doral Location, from December 1, 2014 through the present, including, but not limited to, all Documents/ESI reflecting, addressing, discussing or referencing: (i) maintenance, repairs, replacement of parts, alterations, modifications or any other type of work done on or for any E-Cat Device at the Doral Location, (ii) monitoring of the activity of any E-Cat Device at the Doral Location (including the event log required by the License Agreement), (iii) data collected in connection with the operation, measurement or monitoring of any E-Cat Device at the Doral Location (including power data collected by Fulvio Fabiani and the original power data files generated by the “PCE-830” power and harmonics analyzer) and (iv) costs and expenses associated with the operation any E-Cat Device at the Doral Location.

Response: Third-Party Defendants object to the overbroad nature of Request No. 7 because it seeks production of documents that are outside of the scope of the USQL Agreement and are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Subject to these objections, Defendants shall produce all documents related to the work and tests conducted by Third-Party Defendants in Doral, Florida.

Request No. 8: All Documents/ESI that reflect, address, discuss or reference (i) visits by any Person to the Doral Location or (ii) the use of any equipment (including computer equipment), materials, machinery or devices in connection with the operation, measurement or monitoring of any E-Cat Device at the Doral Location, from December 1, 2014 through the present.

Response: Third-Party Defendants object to the overbroad nature of Request No. 8 because it seeks production of documents that are outside of the scope of the USQL Agreement and are not relevant to the allegations in the Third-Party Claims dealing with the alleged acts and omissions surrounding the testing and operation in Doral, Florida.

Through the date of this response, no documents relating to subparagraph (i) are in Defendants custody, control or possession. Subject to these objections, Defendants shall produce all documents related to subparagraph (ii) in connection with the work and tests conducted by Third-Party Defendants in Doral, Florida.

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