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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LAMPLIGHT LICENSING, LLC,)	
)	
Plaintiff,)	
)	C.A. No. 22-418-CFC
v.)	
)	
ABB, Inc.,)	
)	
Defendant.)	
)	
LAMPLIGHT LICENSING, LLC,)	
)	
Plaintiff,)	
)	C.A. No. 22-1017-CFC
v.)	
)	
INGRAM MICRO, Inc.,)	
)	
Defendant.)	
)	
NIMITZ TECHNOLOGIES LLC,)	
)	
Plaintiff,)	
)	C.A. No. 21-1247-CFC
v.)	
)	
CNET MEDIA, INC.,)	
)	
Defendant.)	
)	
NIMITZ TECHNOLOGIES LLC,)	
)	
Plaintiff,)	
)	C.A. No. 21-1362-CFC
v.)	
)	
BUZZFEED, INC.,)	
)	
Defendant.)	

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NIMITZ TECHNOLOGIES LLC,)
)
 Plaintiff,)
) C.A. No. 21-1855-CFC
)
 v.)
)
 IMAGINE LEARNING LLC,)
)
 Defendant.)
)
 MELLACONIC IP, LLC,)
)
 Plaintiff,)
) C.A. No. 22-244-CFC
)
 v.)
)
 TIMECLOCK PLUS, LLC,)
)
 Defendant.)
)
 MELLACONIC IP, LLC,)
)
 Plaintiff,)
) C.A. No. 22-541-CFC
)
 v.)
)
 DEPUTY, INC.,)
)
 Defendant.)

Friday, November 4, 2022
 10:05 a.m.
 Evidentiary Hearing

844 King Street
 Wilmington, Delaware

BEFORE: THE HONORABLE COLM F. CONNOLLY
 United States District Court Judge

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APPEARANCES:

CHONG LAW FIRM PA
BY: JIMMY CHONG, ESQ.
Counsel for the Plaintiff Lamplight
Licensing, LLC and Mellaconic IP, LLC

O'KELLY & O'ROURKE, LLC
BY: GEORGE PAZUNIAK, ESQ.
BY: GERARD M. O'ROURKE, ESQ.
Counsel for the Plaintiff Nimitz
Technologies

SAND, SEBOLT & WERNOW CO., LPA
BY: HOWARD WERNOW, ESQ.
Counsel for the Plaintiff Mellaconic
IP, LLC

FISH & RICHARDSON, P.C.
BY: JEREMY ANDERSON, ESQ.
BY: LANCE WYATT, ESQ.
Counsel for the Defendant CNET,
Buzzfeed and Imagine Learning

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P R O C E E D I N G S

(Proceedings commenced in the courtroom beginning at 10:05 a.m.)

THE COURT: All right. Please be seated.

All right. Good morning. We have a number of cases at issue here today. Let's begin with Lamplight Licensing.

Let's talk about that case, Mr. Chong.

MR. CHONG: Good morning, Your Honor.

THE COURT: Good morning.

Let me just get my papers together.

So the issue that prompted my order convening this hearing in this case had to do with concerns about whether there had been compliance with the third-party litigation disclosure.

And I think it's -- you can have a seat, Mr. Chong. It's going to take a little time to walk through the record because, unfortunately, I think we have to, because I set this hearing date at the request of you on behalf of Sally Pugal.

Is she here today?

MR. CHONG: She is not, Your Honor.

THE COURT: Okay. Now, she's the owner, the

1 exclusive owner, of the plaintiff, right?

2 **MR. CHONG:** That's correct, Your Honor.

3 **THE COURT:** All right. Why don't you just come
4 forward. What I need, then, is to get some background to
5 understand some things about Lamplight and why we are
6 where we are and why Ms. Pugal is not here.

7 **MR. CHONG:** Yes, Your Honor. Just to start why
8 she's not here, I had filed a letter earlier this week and
9 yesterday. So I was eventually able to speak with
10 Ms. Pugal last night. And she had sent me over some of
11 the medical records that she was referring to in her
12 declaration, and I have brought them.

13 And on October 19, she had gone in for a CT of
14 her abdomen and she had discovered a lesion, which -- I'm
15 not a doctor. It states that she needs to get an MRI
16 because of malignancy, and she feels that she has stomach
17 cancer. And she is terrified of her mortality.

18 And she essentially cut herself off from the
19 world. She didn't go to work. We actually had done
20 investigations, sent people to her job, and she hadn't
21 been to work. And she wasn't answering her door when we
22 went to her house because we wanted -- after October 21 --
23 she first informed us on October 21 that she had --

24 **THE COURT:** Well, when you say she -- here's
25 what you said in your letter of October 31st. And

1 actually -- but let's step back.

2 **MR. CHONG:** Okay.

3 **THE COURT:** So on October 12th, you wrote that
4 she's employed as an office manager at a surgery center.
5 This is DI-17. At that point, we had set a November 10
6 hearing, and you advised in the letter that because of
7 employment issue, that required her to be present at the
8 surgery center on November 10.

9 You respectfully request that the date be moved
10 to another date, and specifically, November 4. So we did
11 that. Now, that's on October 12. Fair enough.

12 So now you're saying on October 17, you've got
13 a medical record for that date which reflects some kind of
14 testing?

15 **MR. CHONG:** October 19, yes, Your Honor.

16 **THE COURT:** October 19.

17 **MR. CHONG:** So we --

18 **THE COURT:** And then -- sorry, just to finish.
19 So then you write on October 31. You say, "On October 21,
20 2022, I was first advised by Ms. Pugal's representative."

21 Who was her representative?

22 **MR. CHONG:** Okay. So let's start. So
23 Ms. Pugal is -- representative is a company called
24 Mavexar, who handles -- who I have been working with, that
25 handles a lot of, you know, is -- basically, speaks on her



1 behalf as her representative.

2 **THE COURT:** So, I'm sorry. How do you spell
3 the name of that entity?

4 **MR. CHONG:** Oh. M-A-V-E-X-A-R, I believe.
5 Mavexar.

6 **THE COURT:** Okay. So what is Mavexar?

7 **MR. CHONG:** My understanding, Mavexar is the --
8 M-A-V-E-X-A-R -- is the consulting company that Ms. Pugal
9 has retained in regards to Lamplight.

10 **THE COURT:** Okay. Now, your understanding is
11 that Ms. Pugal retained this consulting company. How do
12 you have that understanding?

13 **MR. CHONG:** I've been working with Mavexar
14 in -- with the Lamplight patents. So when I contact
15 Lamplight, I contact Mavexar who --

16 **THE COURT:** Who do you speak with at Mavexar?

17 **MR. CHONG:** So typically, it's going to be a
18 Papuol Chaudhari.

19 **THE COURT:** How do you spell that name?

20 **MR. CHONG:** P-A-P-O-O-L, C-H-A-U-D-R-H-I --
21 D-R-I.

22 **THE COURT:** Okay. So typically, that's the
23 person you deal -- do you deal with anybody else from
24 Mavexar?

25 **MR. CHONG:** Yes. I also speak with a



1 Brandon LaPray.

2 **THE COURT:** Brandon who?

3 **MR. CHONG:** LaPray.

4 **THE COURT:** How do you spell that name?

5 **MR. CHONG:** L-A-P-R-A-Y.

6 **THE COURT:** Is that person related to

7 Lori LaPray?

8 **MR. CHONG:** Yes, I believe so.

9 **THE COURT:** Do you know how they're related?

10 **MR. CHONG:** I believe that they're married.

11 Yes.

12 **THE COURT:** Okay. But the two people you deal
13 with from Mavexar are Papuol Chaudhari? Is he of the
14 Chaudhari Law Firm?

15 **MR. CHONG:** I work with him through Mavexar.
16 He may have had that law firm. He may -- but I deal with
17 him through Mavexar. But I believe he does have his own
18 law firm. Chaudhari Law Firm, yes.

19 **THE COURT:** But you deal with him through
20 Mavexar.

21 **MR. CHONG:** That is correct.

22 **THE COURT:** And what is Mavexar exactly? You
23 said it's a consulting firm. What do you mean by -- I
24 mean, that's a very broad, you know, term.

25 What do you mean it's a consulting firm? What

1 does it do?

2 **MR. CHONG:** So my understanding is that they
3 help Lamplight, advise them on, you know, handling
4 patents. But I -- you know --

5 **THE COURT:** Now, Lamplight, again, is
6 exclusively owned by Ms. Pugal, correct?

7 **MR. CHONG:** That is correct.

8 **THE COURT:** Okay.

9 All right. So let's just back up. So how did
10 you come -- you represent Lamplight, correct?

11 **MR. CHONG:** That is correct.

12 **THE COURT:** And you're the only counsel of
13 record for Lamplight in these two actions that we're
14 talking about, correct?

15 **MR. CHONG:** That is correct.

16 **THE COURT:** All right. How did you come to be
17 the lawyer representing Lamplight? How did you first hear
18 about Lamplight? Who talked to you from Lamplight
19 because -- for instance, when did you first speak with
20 Ms. Pugal?

21 **MR. CHONG:** When I first speak with Ms. Pugal,
22 I don't have that in my -- off the top of my head.

23 **THE COURT:** Have you ever spoken with
24 Ms. Pugal?

25 **MR. CHONG:** Yes.



1 **THE COURT:** Have you ever met her in person?

2 **MR. CHONG:** No.

3 **THE COURT:** Had you ever spoken with her before
4 you filed these cases?

5 **MR. CHONG:** I did not speak with her before I
6 filed these cases. Mavexar had reached out to me on her
7 behalf. And we had communicated through Mavexar, and had
8 our fee agreement, and so forth, signed as Mavexar was
9 acting as a representative of Ms. Pugal.

10 **THE COURT:** So you are representing an entity
11 that's exclusively owned by somebody, and you signed a
12 retention letter with whom? With Lamplight?

13 **MR. CHONG:** Yes.

14 **THE COURT:** And you had never met the owner of
15 Lamplight when you signed the retention letter, is what
16 you're telling me?

17 **MR. CHONG:** That is correct.

18 **THE COURT:** And, in fact, it sounds like you
19 never had any discussions with the owner of Lamplight when
20 you signed the retention letter with Lamplight.

21 **MR. CHONG:** I did not speak with her directly.
22 I spoke with the representatives.

23 **THE COURT:** Her representative who's not an
24 employee of Lamplight. This is a consulting firm, a
25 separate entity; is that right?

1 **MR. CHONG:** That is correct.

2 **THE COURT:** Okay. It's Mavexar.

3 **MR. CHONG:** That is correct.

4 **THE COURT:** All right. Do you know what the
5 rules of ethics are about having a relationship with a
6 client that is initiated by a third party?

7 I'm trying to think of any other context, so
8 help me out. I'm just trying to think what rules would be
9 applicable. I'm not judging. I'm asking questions here.

10 But I'm trying to understand how you end up in
11 an attorney-client relationship with an LLC that is
12 exclusively owned by an individual that you have never met
13 and you've had no conversations with an employee of the
14 LLC, and yet you end up in an attorney-client relationship
15 with the LLC.

16 Do you know what rules would be implicated by
17 that?

18 **MR. CHONG:** So Your Honor, I have to stop and
19 think.

20 **THE COURT:** How did you run conflicts? I mean,
21 I'm just trying to think how you would run conflicts when
22 you're dealing with a third party that's negotiating with
23 you to set up an attorney-client relationship with
24 somebody else, another entity.

25 I'm trying to figure out how you run conflicts.

1 Did you run conflicts?

2 **MR. CHONG:** Yes, Your Honor.

3 **THE COURT:** And it's all based on
4 representations from a third party, not from the client,
5 correct?

6 **MR. CHONG:** That is correct, Your Honor.

7 **THE COURT:** All right.

8 So when did you enter the relationship with
9 Lamplight? Ballpark.

10 **MR. CHONG:** I would have to find my fee
11 agreement.

12 **THE COURT:** Where is Lamplight located?

13 **MR. CHONG:** In Texas.

14 **THE COURT:** Where?

15 **MR. CHONG:** In -- let me -- just so I don't --
16 Austin, Texas.

17 **THE COURT:** So the complaint that was filed --
18 give me one second here.

19 The complaint that was filed in the 1017
20 action -- you familiar with that, right? That's one of
21 the actions we've got here.

22 **MR. CHONG:** Yes.

23 **THE COURT:** So it states, in Paragraph 1, that
24 "Plaintiff Lamplight Licensing, LLC, is a limited
25 liability company with its principle place of business at

1 3571 Far West Boulevard, Number 3144, Austin, Texas."

2 Now, as far as my chambers can tell, just from
3 quick research, that's a Post Office or FedEx drop.
4 There's no Lamplight Licensing, LLC, located at their
5 address.

6 Do you know anything about that?

7 **MR. CHONG:** No. That is the address that was
8 provided in the paperwork that was provided to me with
9 the -- when I did -- looked at the Certificate of
10 Formation LLC through the Secretary of State of Texas,
11 that was the address that was listed.

12 And I'm just going through, just to confirm,
13 that that's -- in all the paperwork that was provided to
14 me, that is the address.

15 **THE COURT:** When you say "all the paperwork,"
16 who provided you the paperwork, then?

17 **MR. CHONG:** Lamplight.

18 **THE COURT:** When you say "Lamplight," it
19 doesn't -- you've never had any contact with Lamplight
20 when you initiated this action, I thought you said.

21 **MR. CHONG:** Well, Lamplight -- the
22 representative of Lamplight. So I was -- you know, if you
23 go through -- this right here, I'm looking at, is from the
24 Secretary of State, a public document that has 37 -- I
25 mean, 3571 Far West Boulevard, 3144 Austin, Texas, as the

1 address.

2 And then, again, on this Office of Secretary of
3 State filing Lamplight, LLC. It showed the document, you
4 know, with the address of 3571 Far West Boulevard, 3144 --

5 **THE COURT:** Do you have any reason to believe
6 that that's anything other than a post office or a carrier
7 address, like a FedEx or other organization?

8 **MR. CHONG:** No. I mean, with all my clients,
9 when they provide me an address, that is the address that
10 is given. You know, I have many clients that provide me
11 their address. And, I mean, it's confirmed through these
12 documents, it's their address.

13 **THE COURT:** Right. Now, you -- this complaint
14 you filed in this case, is dated July 31 of 2022.

15 Now, you filed, actually, a case in Texas for
16 Lamplight on May 31, 2022; is that right? Lamplight
17 against Ametek, Inc.?

18 **MR. CHONG:** That is correct.

19 **THE COURT:** And in Paragraph 1 of the complaint
20 you filed in that case, you wrote that "Plaintiff
21 Lamplight, LLC, is a corporation organized and existing
22 under the law of Texas that maintains its principle place
23 of business" -- not its postal address -- "at 9901 Brodie
24 Lane, Suite 160, PMB 925, in Austin, Texas."

25 Now, that address, there's no suite there,

1 right? That's actually a mailbox at the Mail & More on
2 Brodie business, right?

3 **MR. CHONG:** I don't have that document in front
4 of me, but I trust your reading. Yes.

5 **THE COURT:** So did you have any reason to
6 believe somebody notified you that the principle place of
7 business of Lamplight had changed between May and July of
8 2022?

9 **MR. CHONG:** I do not have that file with me. I
10 would have to double-check. Just to -- and you're
11 emphasizing that the P.O. Box -- or the suite number, is
12 that of issue?

13 **THE COURT:** Well, if you're signing a pleading
14 in my court and you're saying that, first of all,
15 something had a principle place of business --

16 **MR. CHONG:** Yes.

17 **THE COURT:** -- that's certainly, I think, to be
18 a truthful statement, would have to be disclosing the
19 identity of a physical location or activity of the
20 business as being conducted, not a post office box.

21 **MR. CHONG:** Understood.

22 **THE COURT:** And if you were representing in a
23 pleading in my court that a P.O. Box was a suite, that
24 would have some questions to be addressed --

25 **MR. CHONG:** I understand. Okay.

1 **THE COURT:** -- because that's misleading. I
2 prosecuted fraud cases as a prosecutor against folks that
3 engaged in fraudulent schemes, you know, telemarketing
4 schemes, in part, by using suite numbers for what were
5 really P.O. Boxes.

6 **MR. CHONG:** I am not involved with any of those
7 fraud cases, that's why I questioned it. I did not know
8 that's where you were going. I have not been involved
9 with any fraud cases.

10 So this is, for me, I -- you know, this is
11 P.O. -- to me, this represented as a -- as -- like my
12 office is, you know, 2961 Centerville Road, you know,
13 Suite 350 --

14 **THE COURT:** You probably have people there. It
15 probably is a suite.

16 **MR. CHONG:** Yes, yes.

17 **THE COURT:** Right.

18 **MR. CHONG:** And that's -- that was my
19 understanding, yes.

20 **THE COURT:** Right. So on your understanding,
21 when you filed the complaint in Texas on May 31st, was
22 that Lamplight had a suite at 9901 Brodie Lane, is that
23 what you're saying?

24 **MR. CHONG:** Yes.

25 **THE COURT:** And then when you filed the

1 complaint in my case, the 1017 case two months later, you
2 thought they had a principle place of business. That's a
3 physical place, right? You thought it was at 3571 Far
4 West Boulevard, Number 3144; is that right?

5 **MR. CHONG:** That is correct, yes.

6 **THE COURT:** And that's all based on
7 representations made to you by whom?

8 **MR. CHONG:** By Mavexar, and through the state
9 of Texas filings. There's filings with the state of
10 Texas.

11 **THE COURT:** And you signed a retention letter.
12 Let's start for this case, the 1017. Who signed it on
13 behalf of Lamplight?

14 **MR. CHONG:** Ms. Pugal.

15 **THE COURT:** Okay.

16 **MR. CHONG:** And if I may, just -- we first
17 started with why Ms. Pugal was not present -- is not
18 present today. And if you wanted to explore that any
19 further, I was presented medical records last night that I
20 wanted to show the Court to -- you know, she does have
21 some major medical issues going on, and I wanted to let
22 the Court see those records.

23 **THE COURT:** Sure. You can hand them up. Go
24 ahead. And since they're medical records, I don't plan
25 on -- well, disclosing them, I guess. Actually, I don't

1 know what to say. You know, we've got to account for why
2 this person decides to write a letter to the Court. And
3 let's actually explore it. Right.

4 You couldn't get in touch with her?

5 **MR. CHONG:** I could not for -- from the
6 August -- I'm sorry, October 24 until last night. And I,
7 you know, inquired why. I was very upset.

8 And she had let me know that she has these
9 medical issues and that she fears -- you know, she has
10 something that is -- she's not -- you know, no offense to
11 the Court, but this is not on her mind as of now. She
12 wasn't in work last week. So I do believe she has a lot
13 on her mind.

14 So I wanted to present these medical records to
15 the Court, which all show that -- not all -- but, you
16 know, represent that she had these findings shortly prior
17 to October 21st.

18 **THE COURT:** Sure. Go ahead. Please hand them
19 up. Hand them up.

20 **MR. CHONG:** And if you're looking at those
21 records, Your Honor, I did highlight portions for you just
22 so it's easy for you to see the date and see what is of
23 concern for her.

24 **THE COURT:** Do you have your retention letter?

25 **MR. CHONG:** Yes, I do, Your Honor.

1 **THE COURT:** Do you want to hand that up?

2 So it's dated March 28 of this year.

3 **MR. CHONG:** That's correct, Your Honor.

4 **THE COURT:** It's signed by you and somebody who
5 claims to be Sally Pugal.

6 **MR. CHONG:** That is correct, Your Honor.

7 **THE COURT:** All right. And had you met
8 Ms. Pugal as of March 28, 2022?

9 **MR. CHONG:** I had not. I have not met with her
10 personally, Your Honor. I spoke with her representatives.

11 **THE COURT:** Okay.

12 **MR. CHONG:** Well, in person. I've never met
13 with her in person.

14 **THE COURT:** Right. And have you spoken with
15 her prior to March 28, 2022?

16 **MR. CHONG:** I have not. I did not. Not at
17 that time, no, Your Honor.

18 **THE COURT:** Had you exchanged e-mails with her
19 as of March 28, 2022?

20 **MR. CHONG:** I did not, Your Honor.

21 **THE COURT:** How did you get this physical
22 document, this attorney retainer agreement that's dated
23 March 28, 2022?

24 **MR. CHONG:** With communications through
25 Mavexar.

1 **THE COURT:** And in Paragraph 24 of this
2 agreement, it says -- and it's in caps, capital letters,
3 quote, "Client acknowledges that it was advised to retain
4 independent legal counsel to represent client in
5 connection with the negotiation and execution of this
6 agreement, and with respect to the arbitration clause
7 above. Client further acknowledges that it was advised
8 that firm has a conflict of interest that prevents it from
9 representing client in any way with respect to the
10 negotiation and execution of this agreement and firm has
11 not done so," unquote.

12 Do you see that language?

13 **MR. CHONG:** I do.

14 **THE COURT:** Since you never spoke with her, how
15 did you advise Lamplight Licensing, which is the client,
16 the only member of which is Ms. Pugal?

17 How did you actually advise Lamplight, LLC, to
18 retain independent legal counsel to represent it in
19 connection with the negotiation and execution of your
20 retainer agreement?

21 **MR. CHONG:** That was advised through its
22 representatives. So Mavexar was speaking on behalf of
23 Ms. Pugal and handled the discussions. So I had
24 discussed -- I had everything -- every discussion I've had
25 was with Mavexar as if it was Lamplight.

1 **THE COURT:** Mavexar is not a law firm, correct?

2 **MR. CHONG:** That is correct.

3 **THE COURT:** Where is Mavexar located, if you
4 know?

5 **MR. CHONG:** In Texas, Your Honor.

6 **THE COURT:** And so you're the only law firm
7 that has represented Lamplight in connection with the 1017
8 case, correct?

9 **MR. CHONG:** That is correct, Your Honor, for
10 the cases here in Delaware.

11 **THE COURT:** Okay. So the only patent that's
12 alleged -- or that's asserted, I should say, in the 1017
13 case is the '393 patent, correct?

14 **MR. CHONG:** That is correct, Your Honor.

15 **THE COURT:** Tell me what the -- what does the
16 '393 patent cover?

17 **MR. CHONG:** I haven't looked at it in quite
18 some time, but it is -- it deals with conserving the
19 battery life on phones. So if -- what it does is, it just
20 gives a longer-lasting battery. So it deals with, just,
21 battery backup. Just giving it, you know, more power to
22 it.

23 So I don't have -- I haven't looked at that,
24 actually, in quite some time. But that was the patent.
25 The general patent is to -- that was the design of the

1 '393 patent. And if you want, I could --

2 **THE COURT:** Did you read it before you filed
3 the complaint in this case?

4 **MR. CHONG:** Yes.

5 **THE COURT:** What is NWM in this agreement? Who
6 does that refer to?

7 **MR. CHONG:** Where?

8 **THE COURT:** I'm seeing it on the bottom of
9 Page 4. Because it's the first time I've seen the
10 document, I'm trying to understand who NWM is.

11 Okay. Whosever phone went off, please put the
12 sound off.

13 **MR. CHONG:** I'm sorry. What page was that on?

14 **THE COURT:** Page 4, Paragraph 10, at the
15 bottom. "NWM will obtain written pre-approval from the
16 client for any litigation expense expected to exceed
17 \$500."

18 **MR. CHONG:** NWM. I would have to -- because I
19 remember negotiating this specific sentence. I don't know
20 why NWM -- what I wanted -- because in this specific
21 sentence, I wanted to make sure that I wasn't going to be
22 burned on any costs that was over 500 -- \$500. So I
23 wanted to be sure that if it was over 500, the client
24 would have to either pay upfront.

25 And then we got into the whole negotiation of,

1 you know, what's going to be reasonable costs and so
2 forth. And I just can't recall what -- how NWM was -- I
3 just remember, this was a sticking point for me, is that I
4 didn't want to get caught with a 500-dollar -- any costs.
5 You know, to pay it upfront and then all of the sudden,
6 the client just disappears on me.

7 **THE COURT:** Right. But I guess what I'm trying
8 to figure out is, so who's NWM?

9 Here's why, especially -- it causes me to ask
10 you about it. The beginning of Paragraph 10, it says the
11 following: "Client" -- now client is Lamplight, right?

12 **MR. CHONG:** Correct.

13 **THE COURT:** So it says, "Client agrees to pay
14 within ten business days, all expenses reasonably incurred
15 in connection with the enforcement of the client patents."

16 Do you see that?

17 **MR. CHONG:** Yes.

18 **THE COURT:** Now, those are -- it's supposed to
19 pay -- the client is supposed to pay within ten business
20 days all expenses to whom?

21 **MR. CHONG:** To my firm.

22 **THE COURT:** To your firm. Okay.

23 **MR. CHONG:** Yes.

24 **THE COURT:** Then it says, quote, "Firm" -- that
25 would be you, correct?

1 **MR. CHONG:** Correct.

2 **THE COURT:** All right. And then it says,
3 quote, "Firm or client will be reimbursed for all
4 litigation expenses prior to distribution of the net cash
5 sum regardless of whether the litigation expenses were
6 incurred for the defendants corresponding to the gross
7 cash sum," unquote.

8 Do you see that?

9 **MR. CHONG:** Yes.

10 **THE COURT:** So I'm trying to understand why
11 this agreement is providing for reimbursement of
12 litigation expenses to the client.

13 **MR. CHONG:** Well, if there is a cost that I
14 found was too -- that I didn't want to take the risk on.
15 So it goes to the -- back to the 500. If there was
16 some -- like a huge cost.

17 Say, we go to trial and there's a cost that
18 we -- I don't know how -- I just -- if there was a
19 significant cost, I wanted the client to have to pay that.
20 And then at -- if the case does resolve with the benefit,
21 then the cost would go back -- you know, we account for
22 that in the accounting.

23 But I -- this is where I just didn't want to
24 get caught with these costs.

25 **THE COURT:** All right.

1 **MR. CHONG:** So I just --

2 **THE COURT:** But you don't know who NWM is?

3 That makes sense to me, I think. But --

4 **MR. CHONG:** So there's --

5 **THE COURT:** So who's NWM? Who's deciding this?

6 Who is deciding, in other words, how you're going to, or

7 whether, really, you're going to have certain litigation

8 expenses paid for?

9 **MR. CHONG:** You know what, I have to go back
10 and look at my notes. Because that's something where we
11 would determine together. We would have that discussion.
12 I mean, I just know there's a lot of back and forth with
13 this --

14 **THE COURT:** Well, let me ask you this: Is
15 there any chance that NWM is Mavexar or some other
16 third-party entity?

17 **MR. CHONG:** No. I would not have let them made
18 that decision. That was -- I know I was going back and
19 forth with them. And it was discussed --

20 **THE COURT:** And "them." Now, we're not talking
21 Lamplight. The "them" here is Mavexar; is that right?

22 **MR. CHONG:** That is correct. They're speaking
23 on behalf of Lamplight. So when I say "them" --

24 **THE COURT:** And they're not a lawyer. This is
25 some consultant you're speaking with, on behalf of

1 Lamplight, correct?

2 **MR. CHONG:** That is correct. So Lamplight had
3 retained them to speak on its behalf. So when I say
4 "them," I refer to as Lamplight, because Mavexar is
5 speaking on behalf of Lamplight.

6 And I would never -- this -- so we went through
7 a lot of redlining on this and a lot of back and forth.
8 And I need to figure out what we were thinking at that
9 time.

10 **THE COURT:** Was Mavexar represented by a lawyer
11 during the negotiations?

12 **MR. CHONG:** Mavexar?

13 **THE COURT:** Yes.

14 **MR. CHONG:** No. Mavexar did not have an
15 attorney. Mavexar, I believe, had -- you know, some of
16 them are attorneys. Like -- but Papuol is an attorney,
17 however. But in speaking with them, they did not have an
18 attorney representing them. They spoke on behalf of
19 Mavexar as Mavexar, not as an attorney of Mavexar, if that
20 makes sense.

21 **THE COURT:** And I just want to make sure,
22 Mavexar, at no point, represented to you that it was
23 employed by or was an owner in Lamplight.

24 **MR. CHONG:** They made it very clear that they
25 were not an owner.

1 **THE COURT:** They were an independent entity?

2 **MR. CHONG:** That is correct. They were very
3 clear that they were retained by Lamplight to -- for
4 consultant services.

5 **THE COURT:** All right. So you execute this
6 agreement with Ms. Pugal on or about March 28 of 2002.
7 And at this point, you've never had any communications
8 with her, correct?

9 **MR. CHONG:** That is correct.

10 **THE COURT:** All right.

11 All right. Then you file complaints in this
12 case. And at the time that you filed the complaints in
13 these cases, have you ever had communications with
14 Ms. Pugal?

15 **MR. CHONG:** No, Your Honor.

16 **THE COURT:** Now...

17 **MR. CHONG:** Just to make clear, Your Honor, it
18 was made clear to me, through, you know, this agreement,
19 that Mavexar was the representative of Lamplight. That's
20 my understanding, you know, the time. So --

21 **THE COURT:** Well, when you say
22 "representative," let's be clear, they're -- you just told
23 me they're not a law firm. They're an --

24 **MR. CHONG:** Correct.

25 **THE COURT:** They are an independent consulting

1 firm, correct?

2 **MR. CHONG:** Correct. That's -- so --

3 **THE COURT:** So you're having negotiations with
4 them to ultimately consummate an attorney-client
5 relationship with Lamplight, correct?

6 **MR. CHONG:** That is correct.

7 It's not like when I deal with my -- I'm trying
8 to think of a -- so, you know, when I rent space, I don't
9 deal with the -- you know, the business owner, I deal with
10 the representative. And I've never, ever talked to my
11 employer once -- I mean, not employer -- my landlord once.
12 I mean, not -- yeah, the landlord/owner.

13 I've never had any communications -- I don't
14 even know anyone that is part of the corporation. I just
15 deal with the representative that they retained to -- we
16 negotiate the leases. We -- everything, we work out.

17 So it's just -- it's the same --

18 **THE COURT:** Do you have an attorney-client
19 relationship with your landlord?

20 **MR. CHONG:** I do not.

21 **THE COURT:** Okay. I didn't think so. I just
22 wanted to make sure I understand. Now --

23 **MR. CHONG:** But under --

24 **THE COURT:** And incidentally, your
25 conversations with the management company that deals with

1 your landlord, those are not privileged conversations,
2 right, because they are a third party?

3 **MR. CHONG:** Well, so under Rule point 18(f), it
4 permits an attorney to be engaged by a nonclient to
5 represent a client with the client's consent.

6 **THE COURT:** So I'm just asking, is your -- are
7 your conversations with your management company privileged
8 in the context of your negotiations with your landlord?

9 **MR. CHONG:** I would have to think about that.
10 I would have to do that analysis and think about that.

11 **THE COURT:** And you do not have an
12 attorney-client relationship with Mavexar, do you?

13 **MR. CHONG:** I do not.

14 **THE COURT:** Do you know what the financial
15 terms of Mavexar's relationship with Lamplight are?

16 **MR. CHONG:** I don't. That's something that
17 they have worked out themselves.

18 **THE COURT:** So you don't have any knowledge?

19 **MR. CHONG:** I wasn't involved in that.

20 I do have some of the documents that they have
21 with each other; however, I haven't gone through their
22 percentages with each other, I have not. So -- but I do
23 have an agreement between Lamplight and Mavexar.

24 **THE COURT:** And when did you obtain that?

25 **MR. CHONG:** I've had it for several months now.

1 I don't know the exact date.

2 **THE COURT:** Okay. Does it relate to this
3 litigation?

4 **MR. CHONG:** Not directly to this litigation.
5 It -- well, it just is a general agreement between
6 Lamplight and Mavexar.

7 **THE COURT:** You want to hand it up or is
8 something that -- I mean, I'm not --

9 **MR. CHONG:** Well --

10 **THE COURT:** Why don't you to hand it up at this
11 point. I'm just trying to understand.

12 You brought it up in response to my question
13 about your knowledge of the financial relationship and the
14 terms that govern the relationship financially between
15 Lamplight and Mavexar.

16 **MR. CHONG:** I don't -- since my client is not
17 here, I don't feel that it's something that I am -- I
18 would like to discuss it with my client before --

19 **THE COURT:** Well, you seem to have a hard time
20 getting in touch with your client. Your client is
21 Ms. Pugal, right?

22 **MR. CHONG:** That is correct. And for a week
23 and a half, I did. And I was able to, I guess, speak with
24 her last night. And, again, it's -- she was -- has a
25 pretty serious illness and I think that's why she shut

1 down. And she wasn't even at work.

2 So I believe that should cease, you know,
3 unless the diagnoses get worse. I don't know. I know
4 she's terrified right now.

5 **THE COURT:** On July 31st, you filed a corporate
6 disclosure statement for Lamplight, in which you said, "It
7 does not have a parent corporation. No publicly held
8 corporation owns 10 percent or more of the stock."

9 Do you recall that?

10 **MR. CHONG:** Yes.

11 **THE COURT:** How did you know that, as of
12 July 31, 2022, if you had never spoken with Ms. Pugal or
13 anybody employed by that company?

14 **MR. CHONG:** I spoke with her representative,
15 Mavexar.

16 **THE COURT:** Okay.

17 On September 2, 2022, you filed an amended
18 corporate disclosure statement, in which you said that
19 Lamplight Licensing, LLC, is a Texas limited liability
20 company. And its sole owner and managing partner is Sally
21 Pugal.

22 And how did you know that, as of September 2,
23 2022, when you filed that amended disclosure?

24 **MR. CHONG:** That was in response to your
25 standing order, where -- 7.1, where, you know, you

1 required additional information. And that's when the
2 additional information was provided to you.

3 So that information was known, it's just -- you
4 know, it wasn't provided in the July disclosure. So in
5 the September disclosure, we inserted Ms. Pugal's name in
6 response to your standing order, Your Honor.

7 **THE COURT:** When did you know that she was the
8 sole owner of Lamplight?

9 **MR. CHONG:** In March of 2022, Your Honor.

10 **THE COURT:** All right. It doesn't say -- just
11 for the record, so it's clear, the retainer agreement
12 identifies her as "Signatory, member."

13 **MR. CHONG:** And --

14 **THE COURT:** So but you're saying you knew the
15 corporate structure of Lamplight as of March 28, 2022?

16 **MR. CHONG:** Yes, Your Honor. That was what was
17 represented in the state of Texas LLC formation documents,
18 Your Honor.

19 **THE COURT:** That she was the sole and exclusive
20 owner?

21 **MR. CHONG:** Yes, Your Honor.

22 **THE COURT:** Okay.

23 On October 6, you filed a statement regarding
24 third-party litigation funding arrangements, and you said
25 that all other funding -- well, actually, let me read this

1 statement in its entirety.

2 It says, that "Pursuant to the Court's
3 April 18, 2022, standing order regarding third-party
4 litigation funding arrangements, Plaintiff, Lamplight,
5 hereby states that it has made arrangements with
6 Jimmy Chong, Plaintiff's lead counsel in this litigation,
7 to represent plaintiff on a contingent basis."

8 I've read that correctly?

9 **MR. CHONG:** I don't have that in front of me
10 now, but I trust your --

11 **THE COURT:** All right. And then this is
12 what's -- the next sentence says, "Plaintiff further
13 states that all other funding" -- so it suggests that now
14 you're referring to something different than the
15 arrangements you have on a contingent basis with the
16 plaintiff. Right.

17 It says, "Plaintiff states that all other
18 funding, including any advances for fees and/or expenses
19 is provided on a recourse basis," unquote.

20 So the statement doesn't say whether your
21 financial relationship involves any nonrecourse funding,
22 does it?

23 **MR. CHONG:** There's only recourse funding,
24 Your Honor. I apologize for that.

25 **THE COURT:** That's okay. I just want to make

1 sure. You're saying, for the record, your financial
2 relationship involves solely recourse funding?

3 **MR. CHONG:** Yes.

4 **THE COURT:** All right.

5 **MR. CHONG:** Very much so.

6 **THE COURT:** How do you know that Lamplight does
7 not receive any other funding on a nonrecourse basis?

8 **MR. CHONG:** In discussions with Lamplight
9 that --

10 **THE COURT:** When you say "Lamplight," who do
11 you mean?

12 **MR. CHONG:** Well, at this point in time, it was
13 with Ms. Pugal --

14 **THE COURT:** It was.

15 **MR. CHONG:** -- with Mavexar, and it was very
16 clear that there was -- very clear discussions that there
17 were no nonrecourse funding whatsoever. And I discussed
18 the standing order. It was -- Your Honor. We had this
19 discussion with Ms. Pugal and with Mavexar.

20 **THE COURT:** All right. Was Mr. Ramey ever
21 involved in any of these relationships?

22 **MR. CHONG:** Oh, no. The --

23 **THE COURT:** Yeah. Different -- different
24 relationship, right?

25 **MR. CHONG:** Yeah, yeah, yeah, yeah.

1 **THE COURT:** Because what gave prompt -- what
2 prompted your filing of some of these forms was that
3 hearing that we had, that had to do with the cases that
4 you were working with Mr. Ramey in, correct?

5 **MR. CHONG:** That is correct, Your Honor.

6 **THE COURT:** All right. Now, do you know how
7 Ms. Pugal came to acquire or form Lamplight Licensing?

8 **MR. CHONG:** I do not, Your Honor.

9 **THE COURT:** Do you know how Lamplight came to
10 acquire the '393 patent?

11 **MR. CHONG:** I do not, Your Honor.

12 I know that the patent -- you know, there's a
13 patent assignment, you know, of record, but I don't know
14 the exact details of it. But if you are asking, you know,
15 the chain, I'm not quite sure that that's...

16 **THE COURT:** Are you familiar with Magnolia
17 Licensing?

18 **MR. CHONG:** I don't know, other than that
19 they're, you know -- I don't know anything about Magnolia
20 Licensing, no, Your Honor.

21 **THE COURT:** The affidavit that Ms. Pugal
22 apparently signed, that you filed on October 6, 2022, are
23 you familiar with that?

24 This is what you filed in support of the
25 amended litigation funding disclosure.

1 When you spoke with Ms. Pugal about -- did you
2 speak with her about the affidavit?

3 **MR. CHONG:** Yes.

4 **THE COURT:** Okay. And when you did, was any
5 third party involved in those discussions?

6 **MR. CHONG:** At that, that specific -- I've had
7 conversations with her, with just Ms. Pugal, and at times
8 with Ms. Pugal and with representatives from Mavexar. I
9 can't recall whether or not -- I've had conversations --
10 I've had multiple conversations with her, so -- with and
11 without Mavexar, Your Honor.

12 **THE COURT:** Has Mavexar provided you draft
13 pleadings?

14 **MR. CHONG:** I don't understand.

15 **THE COURT:** Has Mavexar ever provided you any
16 draft pleadings?

17 **MR. CHONG:** For?

18 **THE COURT:** For filing in one of our cases.

19 **MR. CHONG:** Oh, have they? No, but what I do
20 is, I would obviously say, this is what we are going to
21 file. And then they will -- my understanding is, will
22 then approve or disapprove of certain facts and so forth.

23 **THE COURT:** But you don't have an
24 attorney-client relationship with Mavexar, right? You
25 already said that.

1 **MR. CHONG:** Yes, I do not.

2 **THE COURT:** All right. I'm not willing to just
3 accept the conclusory assertions that have been thrown out
4 by Ms. -- apparently by Ms. Pugal.

5 We need to get her in here at some point.
6 Obviously, she needs to take care of her pressing health
7 matters.

8 But I'm not able to make any more definitive
9 judgments about the accuracy of the third-party funding
10 statements, which is what gave rise to this hearing to
11 amend the cases in the first instance without hearing
12 directly from her.

13 How do you think we should go about, then,
14 getting that accomplished?

15 **MR. CHONG:** I think -- I know she has to have
16 an MRI. I know she has, you know -- I mean, I don't know,
17 tell you the truth. I just had -- discussed with her
18 health. I know stomach cancer. I don't want to put that
19 for the record. There's some underlying major health
20 issues that I believe --

21 **THE COURT:** Well, you said that, in the letter
22 you wrote to me, that she had flight reservations and
23 hotel accommodations.

24 Did you make those? Is that how come you know
25 that?

1 **MR. CHONG:** She had let me know that she made
2 those, yes.

3 **THE COURT:** Okay.

4 **MR. CHONG:** It was all intention for her to be
5 here. She made -- spoke with her employer. And that's
6 why we had moved the date.

7 **THE COURT:** And her employer -- what does she
8 do for a living?

9 **MR. CHONG:** She is an office manager at a
10 surgical center. And on surgery days, she is the one who
11 makes sure the surgeries are running smoothly. And her
12 employer required her to be on the surgical days. So
13 today was a day where she -- there was no surgery in the
14 office.

15 **THE COURT:** But she's an office manager,
16 correct?

17 **MR. CHONG:** Yes. Yes.

18 **THE COURT:** All right. Just wanted to make
19 sure.

20 So I think what we'll have to do is leave in
21 abeyance resolution of the matters in these two cases, the
22 Lamplight cases, until we can get her here for a hearing.

23 I'm open to suggestions about how to proceed.
24 If you want to -- you know, do you have any ideas you want
25 to offer?

1 **MR. CHONG:** I don't, Your Honor. This is a
2 first, maybe. The biggest issue, we don't know where she
3 is with her health.

4 **THE COURT:** Right. You want to maybe set a
5 30-day marker and do a status report?

6 **MR. CHONG:** I think that makes sense,
7 Your Honor.

8 **THE COURT:** Let's do that.

9 So let's have you provide the Court with a
10 status report within 30 days, or whatever the next
11 business day would be after the 30th day, as to her
12 situation.

13 If before then, you become aware that she's
14 fine and can attend the hearing in person, then let us
15 know, but no later than 30 days, file the status report
16 about that issue, and we will address it.

17 **MR. CHONG:** Yes, Your Honor.

18 **THE COURT:** Okay? All right. Thank you.

19 **MR. CHONG:** Thank you.

20 **THE COURT:** So Mr. Pazuniak, why don't we deal
21 with the Nimitz cases next, please.

22 Is Mark Hall here?

23 **MR. PAZUNIAK:** Yes, Your Honor.

24 **THE COURT:** And, Mr. Chong, is Hau, and I
25 pardon me for the pronunciation -- Hau Bui, is he here?

1 **MR. CHONG:** Yes, Your Honor.

2 **THE COURT:** All right.

3 **MR. CHONG:** Your Honor, I know Mr. Curfman has
4 come down with Covid. However, a parter from his firm,
5 Attorney Howard Wernow, who is here in place of
6 Mr. Curfman, just -- would introduce him to the Court. He
7 has been, I believe, practiced in Delaware in the past.
8 Not in this case specifically, but in the past, he has,
9 Your Honor.

10 **THE COURT:** Okay.

11 And Mr. Bui, I think it would be good if you
12 and Mr. Hall stepped out for right now, if you don't mind.

13 All right, Mr. Pazuniak.

14 So the Nimitz story is a little bit different
15 than the other matters. I think, you recall -- and I see
16 the standing orders. I'm the first one to say, you know,
17 they're hard to keep track of in the court. So --

18 **MR. PAZUNIAK:** I'm sorry, Your Honor, I'm
19 having trouble hearing you.

20 **THE COURT:** Well, I said the Nimitz case is a
21 little bit differently situated than some of other the
22 cases.

23 **MR. PAZUNIAK:** I don't know --

24 **THE COURT:** Well, I was going to -- what I
25 meant by that was that -- so if you recall, there was --

1 and I think it was just perhaps, because you practice in
2 our court and, you know, as I used to practice, sometimes
3 it's hard to keep track of standing orders.

4 So there was -- but for whatever reason, I
5 think, you know, there had not been timely compliance with
6 the disclosure forms, but then the forms were filed,
7 right.

8 And let me just pull up the forms.

9 So these forms, the third-party litigation
10 forms, say that the plaintiff has not entered into any
11 arrangement with the third-party funder as defined in the
12 Court's standing order regarding third-party litigation.

13 Is there a third-party funder here?

14 **MR. PAZUNIAK:** There is no third-party funder.
15 And, in fact, if I -- may I just try to explain some?

16 **THE COURT:** That would be great.

17 **MR. PAZUNIAK:** Okay. I listened, obviously, to
18 Your Honor's questions to Mr. Chong. My answers to some
19 of them may be somewhat different.

20 **THE COURT:** Okay.

21 **MR. PAZUNIAK:** And maybe I would just say some
22 things upfront and save us a lot of trouble.

23 **THE COURT:** That would be great.

24 **MR. PAZUNIAK:** Similar to Mr. Chong, yes, I was
25 contacted by what I understood to be an agent for Nimitz

1 Technologies.

2 **THE COURT:** A nonlawyer agent, right?

3 **MR. PAZUNIAK:** It's not a lawyer. It's a lady
4 by the name of Linh Dietz, L-I-N-H D-I-T-Z.

5 **THE COURT:** Wait. I'm sorry. L-I?

6 **MR. PAZUNIAK:** L-I-N-H.

7 **THE COURT:** Okay.

8 **MR. PAZUNIAK:** And the second name, D-I-T-Z.
9 Hopefully, I got it right.

10 But the -- she was representing Nimitz
11 Technologies. And she had provided the basic information.

12 Thereafter, I did my own investigation, in the
13 sense of double-checking the patent, double-checking the
14 Nimitz Technology. For example, I did go to the Texas
15 Secretary of State's Website to gain the information about
16 Nimitz Technology, and that's what I put down into the
17 complaint.

18 Similar, I went to the Delaware Secretary of
19 State's office to obtain information on the defendants,
20 and making sure that the correct entities were named,
21 correct spellings and correct addresses.

22 The complaint was entirely drafted by me.

23 Prior to that, we, of course, had the retainer
24 agreement. That retainer agreement, again, I drafted.

25 And it was forwarded to Linh Dietz, to forward to

1 Mark Hall as the principle of Nimitz Technologies.

2 I knew that he was the principle because of
3 the -- I had double-checked the Secretary of State's
4 office before I prepared the retainer letter.

5 **THE COURT:** Okay.

6 **MR. PAZUNIAK:** And --

7 **THE COURT:** So you knew he was the principle
8 based on the Secretary of State's disclosure --

9 **MR. PAZUNIAK:** And --

10 **THE COURT:** -- he was the principle of Nimitz?

11 **MR. PAZUNIAK:** He is -- Mr. Hall is the -- I
12 think that -- I want to make sure I have the phrase right.
13 He's the managing member of the entity. And it was
14 confirmed by Ms. Dietz that he was the sole, 100 percent,
15 owner of the entity.

16 **THE COURT:** Okay.

17 **MR. PAZUNIAK:** When Your Honor's order came
18 out, again, I did the investigation.

19 With respect to the funding in this litigation,
20 I knew pretty much what the funding was, because the only
21 funding that had been provided had been by myself, or my
22 firm.

23 **THE COURT:** Well, actually, can I stop you
24 there? How did you know that? I mean, you obviously know
25 whether you're providing funding or not.

1 **MR. PAZUNIAK:** Yeah.

2 **THE COURT:** How do you know there isn't some
3 third party out there that's providing funding?

4 **MR. PAZUNIAK:** Well, again -- yes, I was
5 getting to that.

6 **THE COURT:** Oh, okay. So I thought you just
7 said that you knew that, since you were the only funder.

8 **MR. PAZUNIAK:** I should say that I knew that,
9 what funding had been required, you know, for the filing
10 of the -- and maintaining of the lawsuits, and that had
11 been provided by my firm as an advance. And we, of
12 course, have a retainer agreement that required Nimitz
13 Technology to be responsible for all costs.

14 Once Your Honor's question was brought up, I
15 did consult with Ms. Dietz. She provided, to me, the
16 agreement between Mavexar and the Nimitz Technology, which
17 I double-checked and confirmed that any funds advanced by
18 Mavexar are -- would be the responsibility of Nimitz
19 Technology. Which, of course, at that point, was kind of
20 moot because, to my knowledge in the litigation, no other
21 funds had been expended, other than those that I -- my
22 firm had incurred.

23 **THE COURT:** I just -- I'm now wondering is --
24 so is your reading of the order, that it's limited to
25 funds that have already been expended?

1 **MR. PAZUNIAK:** My understanding, it didn't
2 matter. My understanding was that the Court's interest
3 was in the litigations in which the order was granted, but
4 the answers would not matter whether the -- a broader
5 meaning was intended or not.

6 In other words, I don't have the --
7 Your Honor's standing order in front of me. But in my
8 response to the Court, I specifically stated as provided
9 in the Court's order. And I was trying -- I was looking
10 at the Court's language, and I responded accordingly.

11 Now, the fact of the matter is, there are no
12 funds that have been provided to Nimitz Technology on a
13 nonrecourse basis, period. And this was confirmed to me
14 by all the interested parties, and so I'm comfortable with
15 that information.

16 I was just pointing out that as far as
17 delitigation is concerned, or delitigations because
18 there's several, all the funding that are litigation
19 specific, those -- that information, I knew firsthand.

20 **THE COURT:** Why did you say "litigation
21 specific"?

22 **MR. PAZUNIAK:** Well, because the Court's order
23 were filed in the litigations and --

24 **THE COURT:** If I have a security interest in a
25 portfolio of patents, and the patents are being litigated

1 in specific cases, and I have a security interest in them,
2 it's not -- doesn't necessarily mean litigation specific.
3 And I still have a security, a nonrecourse relationship
4 with the portfolio, right?

5 **MR. PAZUNIAK:** Yeah. It could be a
6 nonrecourse, but that's why I said I can -- it didn't
7 matter to me how the order, how broadly the order
8 extended. Because, in fact, I did go and check and there
9 was no nonrecourse funding of any sort provided to Nimitz
10 Technology, period.

11 And this was -- and, again, I'm trying to be
12 very careful because we have attorney-client relationship
13 issues. And --

14 **THE COURT:** Yeah. I don't know how you have
15 attorney-client relationship issues if you're dealing with
16 the client through a nonlawyer third party. That, right
17 away, I mean -- and I'm willing to hear you. But that
18 doesn't sound right to me.

19 Either you have that or, then, I think you have
20 unauthorized practice of law issues that are arising
21 perhaps in other states.

22 **MR. PAZUNIAK:** Well, Your Honor, but there is
23 communications between me and Mr. Hall, i.e. Nimitz.

24 **THE COURT:** I hear you. I get that.

25 **MR. PAZUNIAK:** And that's why I'm trying to be

1 careful.

2 **THE COURT:** Okay.

3 **MR. PAZUNIAK:** When I say "confirmed,"
4 obviously, I did my due diligence in accordance with
5 Rule 11 in making the representations. And -- so I'm
6 trying to be careful not to inadvertently, you know,
7 create doubt on my ability to invoke the privilege.

8 **THE COURT:** Sure. Okay. And that's fair.
9 That's a good thing to be concerned about. Give me one
10 minute, please.

11 So you wrote this in your amended disclosure
12 statement: "The sole owner and member of Nimitz
13 Technologies, LLC, is Mark Hall, an individual. To avoid
14 any misunderstanding, Plaintiff understands that the
15 Court's standing order regarding disclosure statements
16 required by Federal Rule of Civil Procedure 7.1, requires
17 parties to identify, direct or indirect, ownership
18 interest, and does not require disclosure of entities who
19 may have a financial interest in the outcome of the
20 litigation, such as, for example, counsel contingency
21 arrangements," unquote.

22 And I think the answer is, well, it depends on
23 the nature of the financial contingency interest. And if
24 so, if you have an individual -- I guess, even if it
25 happened to be a lawyer, and they had a secured interest

1 in patents that was part of the financial relationship,
2 that clearly would have to be disclosed by my order.

3 Would you agree with that?

4 **MR. PAZUNIAK:** I'm not sure. I'm trying to be
5 very careful. There are -- no one has an interest in the
6 patent, other than Nimitz Technologies.

7 So if Your Honor's referring to, you know, the
8 kind of situation that you had addressed before, there is
9 no one other than Nimitz Technologies.

10 What I was saying --

11 **THE COURT:** Right. It wouldn't be limited to
12 the patent that's been asserted if they had a secured
13 interest. If they have a security, a secured interest of
14 any nature that would -- that is part of the financial
15 relationship between that entity and the client, the
16 financial relationship that governs, in any way, the
17 litigation of this case, that would have to be disclosed.

18 **MR. PAZUNIAK:** I'll take Your Honor's word for
19 it. I have not had the situation come up, so I have not
20 researched the issue.

21 In this case, there are no secured interests.
22 There is -- only Nimitz Technologies owns 100 percent by
23 Mr. Hall. And that's the end of the story.

24 Now, when I said "financial interest," it's not
25 financial interest in the patent. It's -- you know, there

1 are other, such as myself, who have a financial interest
2 in the litigation, in the sense that if there is no
3 recovery, I -- you know, I forfeited my time and efforts.

4 And if there is a recovery, obviously, I will
5 get a contingency fee out of it. You know, this is just
6 normal law.

7 **THE COURT:** Okay.

8 **MR. PAZUNIAK:** And that's all I was saying.

9 **THE COURT:** All right. I think what I'd like
10 to do is have Mr. Hall take the stand.

11 **MR. PAZUNIAK:** I'm sorry?

12 **THE COURT:** I'd like to have Mr. Hall take the
13 stand.

14 **MR. PAZUNIAK:** Sure. Of course.

15 **THE COURT:** And then I'd just like to ask him
16 questions. If you want to ask him questions. We can --
17 but I'd like to know about how he came to come in
18 possession of this patent and Nimitz and its financial
19 relationships.

20 **MR. PAZUNIAK:** That's -- Your Honor, the only
21 request I would make is that the information be provided
22 in a closed courtroom. This is information that is
23 private. It's business related. It's -- if we get in
24 other situations, this kind of information would be
25 subject to a protective order.

1 **THE COURT:** I don't know how it would be. I
2 don't know how I can possibly preside over this case
3 without knowing who the parties really are in front of me.
4 That has all sorts of horrible implications. And I don't
5 think I should be operating in a sealed star chamber to
6 ascertain that.

7 The public has a right to know who the parties
8 are in the case. There's very rare circumstances where
9 the case law has permitted the identification of the
10 parties to be kept under seal.

11 **MR. PAZUNIAK:** Well, obviously, I have no
12 interest, and I'm not asking the Court to be precluded
13 from pursuing its intended line of inquiry. I was just
14 pointing out that this kind of detail is the kind of stuff
15 that, over the years, I have seen repeatedly held
16 confidential under protective orders.

17 And this is rather a unique situation, perhaps
18 unprecedented. And I just want to make sure that, as we
19 go forward, we're not waiving any rights. And therefore,
20 I do formally request that because the questions and
21 answers may involve matters of personal privacy and
22 business arrangements that are not public, and have always
23 been intended to be kept confidential, that the
24 information be heard in a closed courtroom.

25 **THE COURT:** All right. So I think the way

1 we'll address that is, let's take it on a
2 question-by-question basis.

3 **MR. PAZUNIAK:** Okay.

4 **THE COURT:** And, you know, you can make an
5 objection or ask, if I put to the witness a certain
6 question, you can stand up and say you think this
7 implicates some kind of interest that would be sufficient
8 under Third Circuit law.

9 Which you should make sure you've read Third
10 Circuit law. It is very, very hard to keep something
11 under seal in the Third Circuit, and it's the Third
12 Circuit that governs.

13 **MR. PAZUNIAK:** Your Honor has previously warned
14 us. I think at the last hearing we had here, Your Honor,
15 had made that point.

16 **THE COURT:** Yeah.

17 **MR. PAZUNIAK:** That's why I was a little
18 hesitant, but I think we need to raise the issue.

19 **THE COURT:** You should feel free to make your
20 record, absolutely.

21 All right. So let's do this. Let's take a
22 few-minute break, and then we'll come back and have
23 Mr. Hall take the stand.

24 Does that work?

25 **MR. PAZUNIAK:** That's fine, Your Honor. Thank

1 you.

2 **THE COURT:** All right. Now, actually, just
3 hold on. Thank you. You can sit down. But before you
4 go, the third set of cases are the Mellaconic cases,
5 right? And Mr. Chong's here for those?

6 And Mr. -- is it Bui? How do you pronounce his
7 name?

8 **MR. CHONG:** Bui.

9 **THE COURT:** Bui.

10 **MR. WERNOW:** No, it's Bui.

11 **THE COURT:** Oh, it is Bui. I was right. It's
12 rare I'm right on the pronunciation, so that's good.

13 But I still want to keep those two gentlemen
14 sequestered.

15 Let me just ask: Is anyone from IP Edge here?

16 Is Lori LaPray here?

17 Is Papuol Chaudhari here?

18 Is Brandon LaPray here?

19 Is anyone from Mavexar here?

20 Okay. All right. So you want to do
21 ten minutes and then we will come back?

22 Thank you very much.

23 (Whereupon, a recess was taken.)

24 **THE COURT:** Please be seated.

25 Mr. Pazuniak, you mentioned Linh Dietz. You've

1 spoken with her.

2 **MR. PAZUNIAK:** I'm sorry?

3 **THE COURT:** Linh Dietz.

4 Linh Dietz.

5 **MR. PAZUNIAK:** Yes.

6 **THE COURT:** You mentioned her name.

7 **MR. PAZUNIAK:** Yes.

8 **THE COURT:** You've spoken with her?

9 **MR. PAZUNIAK:** Yes, many times.

10 **THE COURT:** Many times.

11 Where does she work?

12 **MR. PAZUNIAK:** I'm sorry?

13 **THE COURT:** Where does she work?

14 **MR. PAZUNIAK:** Oh, yes. She's in Texas. She's
15 associated with Mavexar.

16 **THE COURT:** Do you know how she's associated
17 with Mavexar?

18 **MR. PAZUNIAK:** I don't fully understand the
19 Mavexar structure, so...

20 **THE COURT:** Okay.

21 **MR. PAZUNIAK:** But this was not the first time
22 I had dealt with her. And we had -- if I may just
23 explain.

24 I had previously -- we had another case. And
25 because it did involve some transfer or money from Korea

1 to a client here, we had to -- Korean law is crazy in
2 financial. Transactions are crazy. So we had to go
3 through quite a lot in dealing with the principle in that
4 case and Mavexar.

5 And so I did come to understand that she knew
6 what she was doing and could be trusted.

7 **THE COURT:** Okay.

8 **MR. PAZUNIAK:** A trustworthy person.

9 **THE COURT:** Great.

10 **MR. PAZUNIAK:** And, Your Honor, I was
11 neglectful, when I first came up here, in not to point out
12 to the Court that Jerry O'Rourke is here also.

13 He is not -- has not entered an appearance in
14 the Nimitz cases, but he's with the O'Kelly & O'Rourke.
15 He is the O'Rourke of the O'Kelly & O'Rourke firm that's
16 representing Nimitz, Your Honor.

17 **THE COURT:** Well, he's not representing Nimitz
18 here. He didn't file an appearance?

19 **MR. PAZUNIAK:** Yeah. He's just the
20 representative of the firm.

21 **MR. O'ROURKE:** Of our firm, Your Honor. I'm
22 here as a representative of our firm.

23 **THE COURT:** I apologize. The firm being
24 Nimitz?

25 **MR. PAZUNIAK:** No, no. The firm

1 O'Kelly & O'Rourke.

2 **THE COURT:** That's a law firm?

3 **MR. PAZUNIAK:** The law firm here, yes. The law
4 firm representing Nimitz.

5 **THE COURT:** I thought you were representing
6 Nimitz.

7 **MR. PAZUNIAK:** Well, yes, but if Your Honor
8 looks at the signature lines, it's George Pazuniak,
9 O'Kelly --

10 **THE COURT:** Oh, he's entered an appearance?

11 **MR. O'ROURKE:** Our firm has, yes.

12 **THE COURT:** Okay.

13 **MR. O'ROURKE:** George has. George works for
14 our firm.

15 **THE COURT:** Right. Okay. But you have not
16 entered an appearance.

17 **MR. O'ROURKE:** Not personally, that's right.
18 I'm here as a representative of the firm, and to show
19 support for Mr. Pazuniak.

20 **THE COURT:** I understand. I apologize. Yes.
21 Okay. Now I get it. Thank you.

22 **MR. O'ROURKE:** You're welcome, Your Honor.

23 **MR. PAZUNIAK:** In any event, Your Honor,
24 Mark Hall is here.

25 **THE COURT:** Okay. Just give me one more

Mark Hall

1 second.

2 All right. So Mr. Hall, do you want to take
3 the stand, please.

4 **THE WITNESS:** Where would Your Honor like me to
5 be? At the podium or sit --

6 **THE COURT:** Actually, whatever makes you more
7 comfortable. Happy to --

8 **THE WITNESS:** Okay.

9 **THE COURT:** All right. Sir, if you just remain
10 standing and raise your hand. Would you please state and
11 spell your name for the record.

12 **THE WITNESS:** Mark Hall, M-A-R-K H-A-L-L.

13 MARK HALL, having been called as a witness, being
14 first duly sworn under oath or affirmed, testified as
15 follows:

16 **BY THE COURT:**

17 **Q.** Thank you. Have a seat. And there's a microphone
18 there, sir, if you could just try to talk into that, and
19 I'll try to do the same.

20 **A.** Are you saying this thing right here is the
21 microphone?

22 **Q.** Yes.

23 **A.** Okay.

24 **Q.** Just give me one second.
25

Mark Hall

1 Q. Where do you live?

2 A. Houston, Texas.

3 Q. And how long have you lived in Houston?

4 A. Sixteen years.

5 Q. What do you do for a living?

6 A. Sales.

7 MR. PAZUNIAK: Your Honor, may I sit -- I can't
8 hear the witness. May I sit over there?

9 THE COURT: Yes. And let me turn up the
10 microphone.

11 BY THE COURT:

12 Q. Okay. I'm sorry.

13 What do you do for a living?

14 A. Sales.

15 Q. What kind of sales?

16 A. Software.

17 Q. What kind of software?

18 A. Energy analytic software.

19 Q. What's your background? Do you have an engineering
20 degree?

21 A. No. Actually, I have a biology chemistry degree.

22 Q. Where did you go to school?

23 A. Southwest Texas State.

24 Q. And when did you graduate?

25 A. '99.

Mark Hall

1 Q. Okay. What did you graduate with at that point,
2 degree-wise?

3 A. Biology chemistry degree.

4 Q. Where did you go to work, when you graduated after
5 1999?

6 A. Pharmaceutical company.

7 Q. What was the name of the company?

8 A. It's no longer around. It was iNovex, I believe.
9 (Court reporter clarification.)

10 **THE WITNESS:** iNovex.

11 **THE COURT:** I'm going to have to ask you to
12 speak more into the mic, if you could, please.

13 **BY THE COURT:**

14 Q. So it was a company called iNovex?

15 A. Correct.

16 Q. How long did you work at iNovex?

17 A. I don't know, it was a while ago. Six years.

18 Q. And what did you do at iNovex?

19 A. I sold medications.

20 Q. What did do you work-wise after you were at iNovex?

21 A. I went to a different pharmaceutical company called
22 Galderma.

23 Q. Where?

24 A. That was in Fort Worth, in Dallas.

25 Q. And this would have been around 2005, then; is that

Mark Hall

1 right?

2 **A.** Roughly, yeah.

3 **Q.** And what did you do at Galderma?

4 **A.** Sold medications.

5 **Q.** How long were you at Galderma?

6 **A.** Well, so iNovex was a contract pharmaceutical
7 organization. They had a contract with Galderma at the
8 time. So you could say I was dually employed with both.
9 It's however you want to term it.

10 The bottom line was, I was with Galderma for about
11 six years. I believe iNovex for a year and a half on a
12 separate contract.

13 I don't have my resume in front of me, so I can't
14 give you exact dates.

15 **Q.** All right. So is it fair, then, for approximately
16 the first six or seven years after college, you worked for
17 either Galderma or iNovex in pharmaceutical sales?

18 **A.** Correct.

19 **Q.** So that would put us around 2005 or so, roughly.

20 What did you do next?

21 **A.** I went to work for a software company that sells ERP
22 software.

23 **Q.** And what was the name of that company?

24 **A.** Shoptech.

25 **Q.** And what is ERP software?

Mark Hall

- 1 **A.** Enterprise Resource Planning.
- 2 **Q.** Okay. In lay terms, what does that mean?
- 3 **A.** Manages costs of manufacture from bill of goods, all
4 the way through AR and AP.
- 5 **Q.** And you sold that on behalf of Shoptech to what type
6 of companies?
- 7 **A.** Manufacturing companies, specifically.
- 8 **Q.** How long were you at Shoptech?
- 9 **A.** About six years.
- 10 **Q.** What did you do after you were with Shoptech?
- 11 **A.** Shoptech.
- 12 **Q.** Oh, Shoptech. Thank you.
13 What did you do after you were with Shoptech?
- 14 **A.** I went to a boutique staffing firm called iSphere.
- 15 **Q.** And how do I spell that?
- 16 **A.** I-S-P-H-E-R-E.
- 17 **Q.** Where is that located?
- 18 **A.** Houston.
- 19 **Q.** And what does iSphere do?
- 20 **A.** They're a boutique staffing firm dealing specifically
21 with contract employees for programming.
- 22 **Q.** For computer programming?
- 23 **A.** Correct.
- 24 **Q.** How long were you with iSphere?
- 25 **A.** About a year and a half.

Mark Hall

1 Q. And what did do you after that?

2 A. I went to work for ADP.

3 Q. What did you do for ADP?

4 A. I sold payroll and HR software into the enterprise
5 level space.

6 Q. Just so I have it. You sold payroll and HR services
7 to the --

8 A. Software. Software, not services.

9 Q. Oh, okay. Payroll and HR software?

10 A. Correct.

11 Q. I see.

12 To the enterprise level space?

13 A. Correct.

14 Q. What is enterprise level? What does that mean,
15 enterprise level?

16 A. 10,000 and above employees; companies with.

17 Q. All right. And where were you located with ADP?

18 A. Houston.

19 Q. And how long were you there?

20 A. About a year and a half, two years.

21 Q. And what did you do next?

22 A. I ended up where I'm at now.

23 Q. So where are you now?

24 A. I am at a company called Enverus. E-N-V-E-R-U-S.

25 There you go.

Mark Hall

- 1 **Q.** E-E-N or E-N, sir?
- 2 **A.** E-N --
- 3 **Q.** Okay.
- 4 **A.** -- V-E-R-U-S.
- 5 **Q.** Gotcha.
- 6 Where is it located?
- 7 **A.** They have dual headquarters. One is in Canada and
- 8 one is in Houston -- actually, one's in Austin, I forget
- 9 which.
- 10 **Q.** What is Enverus?
- 11 **A.** Energy analytic software company.
- 12 **Q.** And what is your title?
- 13 **A.** Regional manager.
- 14 **Q.** And what are your responsibilities?
- 15 **A.** I deal with, specifically, midstream oil and gas
- 16 companies. I'm an account manager and also sales.
- 17 **Q.** It's a full-time job?
- 18 **A.** Correct.
- 19 **Q.** Do you have a physical office?
- 20 **A.** Correct.
- 21 **Q.** Where is your physical office?
- 22 **A.** It is 10375 Richmond Avenue, Suite 1800, I believe is
- 23 the address.
- 24 **Q.** Is it Houston? I'm sorry.
- 25 **A.** Correct.

Mark Hall

1 Q. It's Houston? Okay.

2 A. Correct, it's Houston.

3 Q. And you've been with Enverus for about how long?

4 A. Seven months.

5 Q. Seven months.

6 And did you go directly from ADP to Enverus?

7 A. Correct.

8 Q. And when you were with ADP, was it a full-time job,
9 ADP?

10 A. Yes.

11 Q. Now, it's been represented to me that you own an LLC
12 named Nimitz Technologies?

13 A. Correct.

14 Q. Is that true?

15 A. Yes.

16 Q. How did you -- when did you form Nimitz -- or did you
17 form Nimitz, or did you buy it? Or how did you come to
18 become the exclusive owner of Nimitz?

19 A. I formed Nimitz with the state of Texas.

20 Q. When did you do that?

21 A. I don't have my documentation in front of me.

22 Roughly, a year ago, maybe a year and a half.

23 Q. Did you form it with the assistance of anybody?

24 A. I'm not sure what you mean.

25 Q. Did anybody help you form it?

Mark Hall

1 **A.** No. I signed all the documentation and went through
2 the legal processes with the state of Texas.

3 **Q.** Was it your idea to form Nimitz?

4 **A.** Yes.

5 **Q.** Do you own any other LLCs?

6 **A.** Yes.

7 **Q.** How many?

8 **A.** Three.

9 **Q.** What are their names?

10 **A.** Endeavor Sales Consulting.

11 **Q.** How do you spell that, please?

12 **A.** Endeavor, E-N-D-E-A-V-O-R.

13 **Q.** And that was Endeavor what?

14 **A.** Sales Consulting.

15 **Q.** Okay. Are there any other members of Endeavor Sales
16 Consulting besides you?

17 **A.** No.

18 **Q.** When was it formed?

19 **A.** About three years ago.

20 **Q.** And what does it do?

21 **A.** Not to be -- it's sales consulting.

22 **Q.** But you -- and is it still in existence?

23 **A.** Correct.

24 **Q.** It is.

25 In the meantime, you work directly for a company in

Mark Hall

- 1 sales, correct?
- 2 **A.** Correct.
- 3 **Q.** And that's okay with the company, I gather, then?
- 4 **A.** Correct.
- 5 **Q.** It is. Okay.
- 6 All right. What's the name of other LLC, please?
- 7 **A.** Valyrian.
- 8 **Q.** How do you spell that?
- 9 **A.** V-A-L-Y-R-I-A-N.
- 10 **Q.** Is it a Texas LLC?
- 11 **A.** They're all Texas LLCs, yes.
- 12 **Q.** What does Valyarian do?
- 13 **A.** Similar to what Nimitz does.
- 14 **Q.** Well, what does Nimitz do?
- 15 **A.** Nimitz monetizes patents.
- 16 **Q.** What does that mean, to "monetizes patents"?
- 17 **A.** Make money off of existing patents.
- 18 **Q.** How many patents does Nimitz own?
- 19 **A.** I don't know offhand. I'd have to look back at the
- 20 paperwork.
- 21 **Q.** You said more than five?
- 22 **A.** Sure.
- 23 **Q.** Is it more than 100?
- 24 **A.** No.
- 25 **Q.** More than 50?

Mark Hall

1 **A.** Not sure.

2 **Q.** Nimitz owns the patent that's been asserted in these
3 cases; is that right?

4 **A.** Correct.

5 **Q.** Do you know what the name of that patent is?

6 **A.** I do not.

7 **Q.** In one of the complaints filed in this case, it said
8 plaintiffs Nimitz is -- has its office address at
9 3333 Preston Road, Suite 300, in Frisco, Texas.

10 Do you work out of an office at Frisco, Texas?

11 **A.** I do not.

12 **Q.** Is there a suite that's either owned or leased by
13 Nimitz at 3333 Preston Road?

14 **A.** I don't understand the question. If that's what the
15 documentation says, then yes.

16 **Q.** Well, you're the sole owner, and you don't know if
17 you have a suite located at Preston Road in Frisco, Texas?

18 **A.** I've never been to the suite in Frisco, Texas.

19 **Q.** Do you own a suite? Is it Nimitz? You're -- again,
20 you're the sole owner. Does it own any office space?

21 **A.** No.

22 **Q.** Does it lease any office space?

23 **A.** No.

24 **Q.** So then, I take it, it doesn't own or lease a suite
25 at 3333 Preston Road; is that right?

Mark Hall

1 **A.** Correct.

2 **Q.** So it wouldn't be an accurate statement to say that
3 Nimitz has an office address at 3333 Preston Road,
4 Suite 300, correct?

5 **A.** Oh, I didn't know who was going to talk. I'm sorry,
6 what was your question?

7 **Q.** So it would not be accurate to state that Nimitz has
8 an office address at 3333 Preston Road, Suite 300,
9 correct?

10 **A.** I guess not.

11 **MR. PAZUNIAK:** Your Honor, may I address the
12 Court on this point?

13 **THE COURT:** If you want to testify, but, you
14 know, we're having testimony right now. Do you want to --
15 if you want to make a legal objection, that's fine.

16 **MR. PAZUNIAK:** Well, the objection is that the
17 Court is asking, actually, what is a legal question of a
18 lay witness. And --

19 **THE COURT:** That's overruled, because it's not.
20 It's a fact question. You may have a seat on that.

21 **MR. PAZUNIAK:** Okay.

22 **BY THE COURT:**

23 **Q.** What technology is covered by the '328 patent?

24 **A.** I haven't reviewed it enough to know.

25 **Q.** How did you come to acquire the '328 patent?

Mark Hall

- 1 **A.** I was presented an opportunity.
- 2 **Q.** By whom?
- 3 **A.** Mavexar.
- 4 **Q.** Who is Mavexar?
- 5 **A.** As an entity? I'm not sure what you mean.
- 6 **Q.** Well, you're the one who used the phrase. So what
7 did you mean when you said you were presented an
8 opportunity by Mavexar. I'm just following up on your
9 question, sir.
- 10 **A.** Okay. Consulting agency.
- 11 **Q.** What did you mean by Mavexar?
- 12 I'm sorry?
- 13 **A.** Consulting agency.
- 14 **Q.** Consulting agency that does what?
- 15 **A.** My understanding is they look for patents.
- 16 **Q.** How did you first learn of Mavexar?
- 17 **A.** I was presented an opportunity by Mavexar and we
18 discussed what they did, and what the opportunity would
19 entail.
- 20 **Q.** Where did that presentation of the opportunity occur?
- 21 **A.** Over the phone.
- 22 **Q.** Whom did you speak with?
- 23 **A.** Linh Dietz.
- 24 **Q.** Had you ever met Linh Dietz before?
- 25 **A.** Yes.

Mark Hall

1 Q. How long have you known Linh Dietz?

2 A. Eight years.

3 Q. What does Linh Dietz do for a living?

4 A. She works for Mavexar.

5 Q. How did you come to meet her?

6 A. Mutual friends.

7 Q. And when did she offer you the opportunity -- first
8 offer you the opportunity to have Mavexar look for patents
9 for you to own?

10 A. Rough estimate, about two years ago.

11 Q. When did you buy the '328 patent?

12 A. I couldn't tell you right offhand. I don't have the
13 documentation in front of me.

14 Q. Now, did you review the patent before you bought it?

15 A. I reviewed it, yes.

16 Q. How did you pay for the patent?

17 A. There was an agreement between Mavexar and myself
18 where I would assume liability.

19 Q. What does that mean?

20 A. No money exchanged hands from my end.

21 Q. You have to -- I'm not a financial guy, so you have
22 to explain it to me.

23 So you own the patent, but no money -- you didn't
24 exchange any money for it?

25 A. No.

Mark Hall

1 Q. So is that what you're saying?

2 A. Yes.

3 Q. So how do you come to own something if you never paid
4 for it with money?

5 A. I wouldn't be able to explain it very well. That
6 would be a better question for Mavexar.

7 Q. Well, you're the owner?

8 A. Correct.

9 Q. How do you know you're the owner if you didn't pay
10 anything for the patent?

11 A. Because I have the paperwork that says I'm the owner.

12 Q. Did you have a lawyer represent you in your
13 negotiations to assume ownership of the patent?

14 A. No.

15 Q. And did you deal with anyone other than Linh Dietz
16 when you took ownership of the patent?

17 A. No.

18 Q. So all of your information, then, about the patent
19 would have come from Linh Dietz; is that fair?

20 A. Correct.

21 Q. And you didn't pay any money for the patent? Did you
22 buy it -- well, see, I don't want to use the term "buy
23 it," then.

24 Did you take ownership of it, along with any other
25 patents?

Mark Hall

1 **A.** Yes.

2 **Q.** So it was a portfolio of patents?

3 **A.** One at a time, but correct.

4 **Q.** Do you remember when you assumed ownership of the
5 '328 patent, how many other patents you assumed ownership
6 of?

7 **A.** I do not.

8 **Q.** Now, you said that you would assume liability for the
9 patent, is that right, when you took ownership of it?

10 **A.** Correct.

11 **Q.** What does that mean?

12 **A.** Liability in case of -- any monetary liability from a
13 case that did not proceed well.

14 **Q.** So is it your understanding, then, if, in this case,
15 for instance, the Court assigned -- or awarded attorney
16 fees to the other side, that you personally would have to
17 pay for them; is that right?

18 **A.** I believe that's true, yes.

19 **Q.** Do you have the documents with you today --

20 **A.** I do not.

21 **Q.** -- that reflect your assumption of ownership of the
22 '328 patent?

23 **A.** I do not.

24 **THE COURT:** Mr. Pazuniak, do you have them?

25 **MR. PAZUNIAK:** Yes, Your Honor.

Mark Hall

1 **THE COURT:** Would you care to hand them up.

2 Thank you.

3 **BY THE COURT:**

4 **Q.** Now, the document that Mr. Pazuniak has handed me, it
5 says -- it's titled "Patent Assignment Agreement." And it
6 has it in Exhibit A Patent Assignment that lists the '328
7 patent.

8 In the document, it says that the -- it identifies
9 the assignor as Hau By, H-A-U-B-Y.

10 Do you know him?

11 **A.** I do not.

12 **Q.** The agreement is dated August 20 of last year, 2021.

13 Does that refresh your recollection at all about what
14 you knew at the time that you assumed ownership of the
15 patent, what it covered?

16 **A.** No.

17 **Q.** Did you know -- you knew Mavexar was a consulting
18 group; is that right?

19 **A.** Correct.

20 **Q.** And Linh Dietz, did you know what she -- what her
21 role was there?

22 **A.** Not specifically, no.

23 **Q.** Is she a lawyer?

24 **A.** No.

25 **Q.** So the Exhibit A to the assignment says that "For

Mark Hall

1 good and valuable consideration, the receipt of which is
2 hereby acknowledged, the patent is transferred to you."

3 What was the good and valuable consideration you
4 received?

5 **A.** I'm not sure what you mean there.

6 **Q.** Or I should say, rather, what is the good and
7 valuable consideration you paid for the patent?

8 **MR. PAZUNIAK:** Objection.

9 **BY THE COURT:**

10 **Q.** Do you understand what good and valuable
11 consideration is?

12 **A.** I believe I understand what you're asking. And
13 the --

14 **Q.** Well, put it in your own words. What do you think
15 that means? What does "consideration" mean?

16 **A.** I would think -- I think you mean some kind of
17 payment.

18 **Q.** Right. And so what did you pay them that persuaded
19 somebody to give you the patent?

20 **A.** My understanding of what it is, it's a business
21 opportunity presented to me from Mavexar, similar to when
22 I retained a management company for my rental properties.

23 I don't know the renters. I don't deal with the
24 renters. They do. That's the agreement that we have.

25 If there's proceeds to be made, there's an agreement

Mark Hall

1 between us as to what we split. If there's losses
2 incurred, it's my property, I pay for the losses, similar
3 to this.

4 **Q.** Okay. And how much, then -- well, then, is it your
5 understanding that the revenue, the money that will be
6 made from the patent, will be obtained through litigation
7 of the patent; is that fair?

8 **A.** Yes.

9 **Q.** What percentage of the litigation do you recover for
10 assuming all this liability?

11 **A.** I believe it's 10 percent.

12 **Q.** So you're the owner of the patent, but you only get
13 one-tenth of it?

14 **A.** Correct.

15 **Q.** Well, did anyone explain to you why Mavexar wanted
16 you to assume liability for the patent?

17 **A.** No one explained it, no.

18 **Q.** Do you have an understanding as to why you're
19 assuming liability for the patent if you only would
20 share -- or obtain 10 percent of the proceeds from it?

21 **A.** No. I viewed it as an investment, just like stocks.

22 **Q.** Were you involved in the litigation decisions in the
23 cases that are filed that assert the patent?

24 **A.** No.

25 **Q.** And is it your understanding that all the litigation

Mark Hall

- 1 decisions are made by the lawyers and Mavexar?
- 2 **A.** Correct.
- 3 **Q.** Have you dealt with anyone else from Mavexar, besides
- 4 Linh Dietz?
- 5 **A.** No.
- 6 **Q.** Do you know of anyone else at Mavexar, besides
- 7 Linh Dietz?
- 8 **A.** The name Papuol is familiar.
- 9 **Q.** I'm sorry. Papuol?
- 10 **A.** The name Papuol is familiar.
- 11 **Q.** Have you met that person?
- 12 **A.** Once, at the beginning of our relationship. I can't
- 13 recall the date.
- 14 **Q.** How about Lillian Woung, W-O-U-N-G?
- 15 **A.** No.
- 16 **Q.** How about Sanjay Pant, P-A-N-T?
- 17 **A.** No.
- 18 **Q.** Have you ever heard of IP Edge?
- 19 **A.** I have.
- 20 **Q.** What do you know about it?
- 21 **A.** Not much.
- 22 **Q.** Have you ever had any interactions with IP Edge?
- 23 **A.** Other than Linh Ditz's e-mail address, no.
- 24 **Q.** And that's the only knowledge you have of IP Edge, is
- 25 the fact that she has an IP Edge e-mail address; is that

Mark Hall

1 right?

2 **A.** Correct. Correct.

3 **Q.** Have you ever had to pay any costs?

4 In other words, have you ever -- has your liability
5 ever resulted in the payment of any costs?

6 **A.** No.

7 **Q.** And does that go for all the patents owned by Nimitz?

8 **A.** Yes.

9 **Q.** Do you have any reimbursement agreements with anybody
10 to take on any costs that would be incurred as a result of
11 liability?

12 **A.** No.

13 **Q.** And you mentioned you didn't have any involvement in
14 the litigation decisions. So do you have prior knowledge
15 of the filing of complaints?

16 **A.** No.

17 **Q.** Do you have any prior knowledge of any settlements
18 reached in litigation filed --

19 **A.** No.

20 **Q.** -- to assert the patent -- let me --

21 **A.** Sorry.

22 **Q.** I'm sorry. That's all right.

23 Do you have any prior knowledge of settlements that
24 are reached in litigation in which Nimitz patents are
25 asserted?

Mark Hall

1 **A.** No.

2 **Q.** So you're just told after the fact?

3 **A.** Correct.

4 **Q.** So from your perspective, this is purely an
5 investment opportunity, fair?

6 **A.** Fair.

7 **Q.** And although you are in name the owner of the patent,
8 you defer solely to Mavexar and the lawyers to make all
9 the decisions associated with how the patent is asserted
10 and how cases are settled, fair?

11 **A.** Correct.

12 **Q.** And that's really the motivation for you as an
13 investor, fair?

14 **A.** Correct.

15 **Q.** Is there anything else you want to tell me?

16 **A.** No.

17 **THE COURT:** Do you have any questions?

18 **MR. PAZUNIAK:** No, Your Honor, but I did want
19 to address the point where I raised the objection.

20 **THE COURT:** Well, we'll do that after he steps
21 down, because he's testifying.

22 **MR. PAZUNIAK:** I'm sorry?

23 **THE COURT:** Well, let's let him step down and
24 we'll have him --

25 **MR. PAZUNIAK:** Well, I'm hoping that if there's

Mark Hall

1 any follow-up questions, the witness can answer.

2 **THE COURT:** Well, let's do this. I'm going to
3 put some white noise on and then you can come to sidebar.

4 **MR. PAZUNIAK:** Okay. But I would like to have
5 it on the record.

6 **THE COURT:** I don't do it off the record.

7 (The following discussion occurred at sidebar:

8 **MR. PAZUNIAK:** Your Honor asked the question
9 about the complaint. It's a legal document. I wrote it.
10 I stand by it. Even with the testimony, I think it should
11 be explained on the record why it's a correct statement.

12 **THE COURT:** Okay. I will let you have that
13 opportunity. I don't want him to be influenced, his
14 testimony.

15 **MR. PAZUNIAK:** I understand that, but I was
16 going to give the explanation.

17 **THE COURT:** You want to do it in public?

18 **MR. PAZUNIAK:** If Your Honor wants to follow up
19 after that, that's why I thought...

20 **THE COURT:** Okay. That's fine. I will let you
21 have the opportunity to state publicly whatever you want.
22 So try not to talk too loudly, so he doesn't hear you.
23 Tell me --

24 **MR. PAZUNIAK:** When I first started practicing
25 here in Delaware in 1976, what I discovered very quickly

Mark Hall

1 is that entities, such as corporation, trusts aren't the
2 offices of probably thousands, if not hundreds of
3 thousands of companies.

4 The Delaware Code requires that every Delaware
5 LLC, corporation, whatever company, have a registered
6 office. That office may be nothing more than a name on a
7 list in corporation, trust, but it's still the office.
8 Therefore, the term "office" is not under the Delaware
9 law, and I think under the laws of every other state do
10 not require a physical office.

11 And when someone says in this case, the
12 secretary of state for Texas has documentation that says
13 this address is the office of Nimitz Technology, that's
14 the office, just like corporation, trust, is the office of
15 100,000 companies. And so when the term "office" means
16 not a physical office.

17 **THE COURT:** So the, I will call it, objection
18 is well noted, and I don't think the word "office" is
19 really the problem. I think "suite" is a problem.

20 But, look, this is -- I will let you say
21 whatever you want in public.

22 This does prompt a few questions I will have
23 for the witness, probably not the way you think. Anyway,
24 that's so noted. You are welcome to say whatever you want
25 on the record in public.

Mark Hall

1 **MR. PAZUNIAK:** On that point, the suite is the
2 official address. I mean, if you go to the secretary of
3 state's office, that's what's written.

4 **THE COURT:** Just to be clear, Mr. Pazuniak, I
5 don't doubt your integrity at all on this point. I don't
6 doubt you did exactly what you said, which is you went to
7 the secretary of state filings. And, in fact, that is how
8 Nimitz listed, in its formation papers, its address, and
9 so I have no doubt about that. I'm not questioning
10 anything you did in that regard.

11 I do -- I would question, and I will question,
12 this witness about why somebody thought it was necessary
13 to disingenuously put a suite to identify a post office
14 box. That's nothing to do with you; that's some other
15 people who are involved.

16 **MR. PAZUNIAK:** If I may Your Honor. If you go
17 to a lot of -- I will give you an example.

18 There's a building a few blocks from here
19 that -- probably couple thousand companies have,
20 quote-unquote, their offices. And all of those offices
21 are, again, nothing more than, you know, names on a list,
22 but they all say "suite." And everyone has a different
23 number for the suite. So again, this is even when the
24 term "suite" is used.

25 All I can say is, there's an awful lot of

Mark Hall

1 Delaware entities that have offices here with the word
2 "suite" in it that are actually nothing more than that.

3 **THE COURT:** It could be.

4 **MR. PAZUNIAK:** I am not justifying. I am
5 saying this is the practice that I can truthfully say I am
6 very familiar with, because I have encountered this many,
7 many times over the years.

8 So again, the word "suite," is just a name,
9 just a name -- a name that's included in an address of
10 people.

11 And I, up until Your Honor raised this
12 question -- frankly, I think all of these people who have
13 used the word "suite" as part of their address, even
14 though it's just an address -- I don't think anyone has
15 ever, you know, thought or perceived the implication of
16 it.

17 **THE COURT:** So for what it's worth, we are both
18 now speaking without evidence. Since you've done so, let
19 me offer my perspective.

20 There are entities like CSC and other
21 registered agents that are located in our state. They
22 actually have office space. And although they serve as a
23 maildrop for clients, they also have rooms in which those
24 clients can fulfill their obligations under Delaware
25 corporate law to hold meetings.

Mark Hall

1 I don't think it a fair comparison to identify
2 those types of registered agents in Delaware for which a
3 suite address is used, as being comparable to a FedEx drop
4 or a post office box. But for what it's worth, we don't
5 have to resolve that right now.

6 All right. Thank you.

7 (Sidebar ends.)

BY THE COURT:

8
9 **Q.** Thank you for being patient. Were you able to hear
10 anything that we were saying?

11 **A.** No. I'm not that good.

12 **Q.** I've mentioned before, we talked about the suite.
13 You've never been to this address; is that fair?

14 **A.** Correct.

15 **Q.** You have no idea if it's an office space or a post
16 office or a FedEx center, fair enough? You don't have any
17 idea?

18 **A.** Correct.

19 **Q.** Has Nimitz received any money from settlements
20 relating to its patents?

21 **A.** Yes.

22 **Q.** Approximately how much?

23 **A.** \$4,000.

24 **Q.** In total?

25 **A.** (Witness nods head.)

Mark Hall

1 Q. And have you received any money from settlements for
2 these patent litigations, independent of what Nimitz
3 receives?

4 A. No.

5 Q. No.

6 I mean, you're treated -- that's your investment
7 vehicle, fair? That's how you receive your money?

8 A. Correct.

9 THE COURT: Thank you very much. You may step
10 down.

11 Mr. Pazuniak, if you want to put anything on
12 the record for the public, I will offer you that
13 opportunity.

14 MR. PAZUNIAK: If it's in the Court record from
15 the sidebar, I don't need to.

16 THE COURT: Okay. And we'll make that public.

17 And, incidentally, I will note for you, though,
18 at least according to my clerk's research, one of the
19 suite addresses appears to be a federal post office. And
20 I just want to note that for the record given your
21 comments at sidebar.

22 MR. PAZUNIAK: Okay.

23 THE COURT: Could we -- is there anything else
24 anybody wants to address in terms of the Nimitz cases?

25 MR. PAZUNIAK: No. I'm prepared to answer any

Mark Hall

1 questions the Court may have.

2 But since I -- I'm not sure what -- this is a
3 rather unprecedented proceeding, and I'm not sure what
4 Your Honor's interests are. It's rather hard for me to
5 provide additional information without Your Honor asking
6 for it.

7 **THE COURT:** Well, why don't we get to that
8 later. Let's continue with the factual matters since we
9 have witnesses here.

10 Just give me a second. Actually, maybe what we
11 should do is take a break. No, hold on a second.

12 **MR. PAZUNIAK:** Your Honor?

13 **THE COURT:** Yes. You want a break?

14 **MR. PAZUNIAK:** Mr. Hall flew in yesterday and
15 he --

16 **THE COURT:** Oh, he can be excused.

17 **MR. PAZUNIAK:** Okay.

18 **THE COURT:** I'm sorry. Yeah, Mr. Hall, thank
19 you very much. You may be excused. You may stay or you
20 may leave, it's up to you. Whatever you want to do, sir.

21 **MR. PAZUNIAK:** Thank you, Your Honor.

22 **THE COURT:** Why don't we have Mr. Bui take the
23 stand.

24 **MR. PAZUNIAK:** Okay.

25 **THE COURT:** Mr. Bui, take the stand.

Hau Bui

1 Mr. Bui, come on up here, please. Thank you.

2 Please raise your hand, remain standing.

3 Would you please state and spell your name for
4 the record.

5 **THE WITNESS:** Hau Bui, H-A-U, B-U-I.

6 HAU BUI, having been called as a witness, being first
7 duly sworn under oath or affirmed, testified as follows:

8 **BY THE COURT:**

9 **Q.** Mr. Bui, where are you from?

10 **A.** Waco, Texas.

11 **Q.** And how long have you lived there?

12 **A.** Like, 2016. So five -- six years, five years.

13 **Q.** Do you have any college degrees?

14 **A.** Associate's.

15 **Q.** Okay. And what are they in, sir?

16 **A.** It's applied sciences for X-ray.

17 **Q.** For X-rays?

18 **A.** Uh-huh.

19 **Q.** Well, what do you do for a living?

20 **A.** Right now, I'm a business owner.

21 **Q.** What kind of business do you own?

22 **A.** Restaurant.

23 **Q.** What kind of restaurant?

24 **A.** Like, a fried seafood, fried chicken.

25 **Q.** Is it a food truck?

Hau Bui

1 **A.** It's a -- I have a food truck, yes. And then I have,
2 like, a fried chicken joint, too, at the same time.

3 **Q.** This is in Waco, or where?

4 **A.** Waco.

5 **Q.** So you have a lot of students, I'm going to guess, as
6 customers, Baylor?

7 **A.** Students, and then just, like, neighborhood people.

8 **Q.** Gotcha.

9 And how long have you been in the restaurant
10 business?

11 **A.** Me personally, two years.

12 **Q.** All right. Now, the reason you're here is because
13 you've been identified as the owner of Mellaconic IP.

14 Is that accurate? You're the owner?

15 **A.** Yes.

16 **Q.** Does anyone else own Mellaconic?

17 **A.** No.

18 **Q.** What does Mellaconic do?

19 **A.** Yeah. Mellaconic owns patents, the rights to
20 patents.

21 **Q.** All right. How many patents?

22 **A.** I believe six.

23 **Q.** And what types of patents?

24 **A.** I haven't really looked over them.

25 **Q.** Okay. How much did you pay for the patents?

Hau Bui

1 **A.** I didn't pay for the patents.

2 **Q.** So how do you come to own patents if you don't pay
3 for them?

4 **A.** I was -- came up -- someone pushed me with the
5 opportunity, selling the patents.

6 **Q.** Who was that? Mellaconic?

7 **A.** Mellaconic -- no, Mavexar. Sorry.

8 **Q.** Mavexar.

9 Well, how did you come in touch with Mavexar?

10 **A.** Linh.

11 **Q.** Is this Linh Dietz?

12 **A.** Linh Dietz.

13 **Q.** How do you know her?

14 **A.** She's a friend.

15 **Q.** When did she first approach you about this idea of
16 assuming ownership of patents?

17 **A.** I believe in 2020, right when the pandemic hit.

18 **Q.** And what did she tell you?

19 **A.** She just came up to me and just told me if I would
20 like an opportunity to deal with patents and make passive
21 income.

22 (Court reporter clarification.)

23 **THE WITNESS:** Passive income.

24 **THE COURT:** There is a microphone. I'll lean
25 forward; you lean forward. That will be good.

Hau Bui

1 **BY THE COURT:**

2 **Q.** So it's make a passive income. What does that mean?

3 **A.** Like, income. Coming in without, you know -- I don't
4 know how to describe it. Just like, kind of like --

5 **Q.** How about this? You don't have to do anything; is
6 that fair?

7 **A.** Yeah, you don't have to do much, yeah.

8 **Q.** Well, what do you have to do?

9 **A.** As far as?

10 **Q.** As far as getting ownership of patents. I assume the
11 patents are worth something, in your mind?

12 Do you think the patents are worth anything?

13 **A.** Yes.

14 **Q.** All right. Do you have any sense of how much they're
15 worth?

16 **A.** I'm not an expert in patents. I wouldn't know.

17 **Q.** Well, did Ms. Dietz or anyone else, when you took
18 ownership of the patents, give you any sense of what they
19 thought the patents were worth?

20 **A.** No.

21 **Q.** Did you have to give up anything in order to assume
22 ownership of the patents?

23 **A.** No, sir.

24 **Q.** Did you have to take on any responsibilities to
25 assume ownership of the patents?

Hau Bui

1 **A.** As far as, just like, viewing the litigations and
2 everything that come through.

3 **Q.** Oh, so you do review the litigations?

4 **A.** Yeah.

5 **Q.** Tell me about what you do in that regard?

6 **A.** So Mavexar will send me the litigations of what's
7 going on or the, you know, attorney engagements. And then
8 I, essentially, if I sign -- I approve of them or
9 disapprove of them.

10 **Q.** How do you know whether to approve or disapprove of
11 an attorney?

12 **A.** I mean, I chose Mavexar and they're -- they're --
13 what is it? -- they're good. Like, you know, they haven't
14 done me wrong.

15 **Q.** Well, so do you get a share, then, of lawsuits or
16 settlements that are brought using these six patents?

17 Is that how you make money, passive income, as you
18 call it?

19 **A.** Yeah.

20 **Q.** About how much income have you made so far?

21 **A.** Year to date?

22 **Q.** Well, when did Mellaconic buy its first -- or not
23 buy -- when did it assume ownership of its first patent,
24 if you remember?

25 **A.** I can't remember off the top of my head.

Hau Bui

- 1 Q. Was it last year or the year before?
- 2 A. I know it was formed in 2020, so...
- 3 Q. What's Mellaconic mean, as a name?
- 4 A. It's just a name.
- 5 Q. I mean, whose idea was the name?
- 6 A. I don't know.
- 7 Q. You don't know?
- 8 A. I don't know.
- 9 Q. Were you, basically, just provided the paperwork to
10 form the LLC?
- 11 A. Yes. They formed the LLC for me.
- 12 Q. And so did they come up with the name?
- 13 A. Yes, sir.
- 14 Q. Have you ever -- has Mellaconic sold any patents?
- 15 A. Sold any patents? No.
- 16 Q. Has it assigned any patents to anybody else?
- 17 A. As far as license -- licensing?
- 18 Q. Licensing? Okay.
- 19 Has it licensed patents to other people?
- 20 A. They have licensed to, like, other companies to use
21 them.
- 22 Q. Okay. Do you get a share of those proceeds?
- 23 A. From what the settlement -- from the litigations, I
24 do.
- 25 Q. So is it fair to say, the licensing have all occurred

Hau Bui

1 in connection with litigation?

2 **A.** Yes.

3 **Q.** Okay. And you get a share of that?

4 **A.** Yes.

5 **Q.** What's your share?

6 **A.** With?

7 **Q.** Of the litigation or settlements.

8 What's your share? Do you get a percentage share?

9 **A.** Percentage.

10 **Q.** And what is it?

11 **MR. WERNOW:** Objection, Your Honor. Just
12 confidential business information.

13 **THE COURT:** Go ahead.

14 **THE WITNESS:** 5 percent.

15 **BY THE COURT:**

16 **Q.** 5 percent. Okay.

17 Now, before a lawsuit is brought, do you read the
18 complaint?

19 **A.** What was that?

20 **Q.** Before a lawsuit is brought -- tell me how it comes
21 to be, the fact that a lawsuit is brought by Mellaconic?
22 How does it work?

23 **A.** So they will meet with the documentations, and I have
24 to review the documentations, and then I either approve it
25 or deny it.

Hau Bui

1 Q. Have you ever denied it?

2 A. No.

3 Q. Okay. And who sends you the documentation? Is it
4 Mavexar?

5 A. Mavexar, yes.

6 Q. Have you ever had an attorney represent you in any of
7 these litigations?

8 A. What's that?

9 Q. Have you ever had an attorney represent you, to your
10 knowledge, in these litigations?

11 A. I mean, like, with the Mellaconic? Yeah.

12 Q. Okay. And what attorneys have represented
13 Mellaconic?

14 A. Sand Sebolt, as far as I know.

15 Q. Anybody else?

16 A. I would have to go back and look.

17 Q. Okay. And that would be -- would that be
18 Mr. Curfman?

19 A. What was the name again?

20 Q. Andrew Curfman; is that right?

21 A. Uh-huh.

22 Q. You to have say it.

23 A. Yes. Sorry.

24 Q. No, that's all right. No problem.

25 So have you ever met Mr. Curfman?

Hau Bui

1 **A.** Yes, virtually.

2 **Q.** Virtually.

3 When did you first meet him?

4 **A.** Probably two months ago.

5 **Q.** So that's after lawsuits have been filed?

6 **A.** Yes.

7 **Q.** Have you ever had any communications with

8 Mr. Curfman?

9 I don't need to know what they are. But have you
10 ever had any communications with Mr. Curfman before
11 two months ago?

12 **A.** No.

13 **Q.** So how was he retained to represent Mellaconic?

14 **A.** Through Mavexar.

15 **Q.** So you didn't have any discussions with him. Mavexar
16 handled all the negotiations with Mr. Curfman; is that
17 right?

18 **A.** Yeah. On my behalf, yes.

19 **Q.** All right. Did you deal with anyone else, other than
20 Linh Dietz, at Mavexar?

21 **A.** Linh Dietz was my primary communication with Mavexar.

22 **Q.** So I want you to try to help me understand this idea
23 that you can take ownership of a patent without paying for
24 it.

25 You know, normally, when you get something of

Hau Bui

1 value -- you think these patents have value, don't you?

2 **A.** Yes.

3 **Q.** All right. So normally, when you get something of
4 value, you have to pay something for it?

5 **A.** Uh-huh.

6 **Q.** Do you agree with that?

7 **A.** Yes.

8 **Q.** So what did you have to pay to take on these patents?

9 **A.** With the previous owners?

10 **Q.** The patents that you own now. What did you have to
11 give up in value for you to be able to assume ownership of
12 these patents?

13 **A.** I didn't give nothing.

14 **Q.** You didn't give them anything. So were they a gift?

15 **A.** No. It's --

16 **Q.** So what's the -- then help me. I'm just trying to
17 understand this concept.

18 If it's not a gift, you're not paying anything, why
19 is someone giving you these patents?

20 **A.** You would have to ask Mavexar that.

21 **Q.** Did you take on any liability as a result of assuming
22 ownership of the patents?

23 **A.** What do you mean by "liability"?

24 **Q.** Well, so you don't know?

25 **A.** What's that?

Hau Bui

1 Q. You don't know what "liability" means?

2 A. I mean, I have a general idea, but...

3 Q. Was there any risk that you assumed when you assumed
4 ownership of the patents?

5 A. Oh, there's always a risk in everything.

6 Q. So what's the risk?

7 A. I mean, if things fall through, then I would have to
8 come out of pocket.

9 Q. And what kind of things would you have to come out of
10 pocket, is your understanding?

11 A. So if, like, litigation goes wrong, Mavexar has the
12 right to come after me for the costs of what was loaned.

13 Q. And what would happen if you couldn't afford to pay,
14 you didn't have enough cash, if that happened? What
15 happens to the patent?

16 A. I'm not sure.

17 Q. Did anybody suggest that Mavexar, or somebody else,
18 could come and take the patent if you couldn't afford to
19 pay any costs?

20 A. I was not informed.

21 Q. Of that?

22 A. Of that.

23 Q. Did you have to have your credit checked or provide
24 any financial information to anyone in order to assume
25 ownership of the patents?

Hau Bui

- 1 **A.** No.
- 2 **Q.** So whoever assigned the patent to you would have no
3 idea whether you could pay for any costs if the litigation
4 went bad; is that fair?
- 5 **A.** That's fair.
- 6 **Q.** For all they knew, you had no money whatsoever, fair?
- 7 **A.** Fair.
- 8 **Q.** Who pays for the lawyer fees to go out and sue people
9 using the patents owned by Mellaconic?
- 10 **A.** Mavexar.
- 11 **Q.** And what is -- do they loan you the money for that?
- 12 **A.** Yes. It's a recourse.
- 13 **Q.** What do you mean by "recourse"?
- 14 **A.** Like a loan.
- 15 **Q.** Well, how did you come up with the terms "recourse"?
16 I'm just -- what does that mean?
- 17 **A.** All I know is it's like a loan.
- 18 **Q.** You filled out an affidavit in this case, right?
- 19 **A.** What was that?
- 20 **Q.** Did you fill out an affidavit for that case?
- 21 **A.** Affidavit?
- 22 **Q.** Yeah. A declaration?
- 23 **A.** Oh, yes.
- 24 **Q.** And who -- did you write it?
- 25 **A.** Did I write it?

Hau Bui

1 Q. Yeah.

2 A. No.

3 Q. All right. Who provided it to you?

4 A. Mavexar.

5 Q. Was it Linh Dietz who provided it to you?

6 A. She gave me the -- yes, she e-mailed me.

7 Q. And I've got the affidavit here, and it says -- it
8 says, "Mellaconic, therefore, has no" -- well, sorry.
9 Hold on a second.

10 It says, "Mellaconic does not have arrangements to
11 receive from a person or entity that is not a party
12 funding for some or all of the parties attorney fees
13 and/or expenses to litigate this on a nonrecourse basis."

14 What did you understand that to mean, a "nonrecourse
15 basis"?

16 A. I don't know the exact definition of "nonrecourse."

17 Q. So you signed it, and it's under oath.

18 I mean, how do you feel comfortable signing that if
19 you don't really know what it means?

20 Did anybody explain to you, what it means?

21 A. I just know that the basis of recourse basis.

22 Q. What's a recourse basis, to your understanding?

23 A. Under my understanding, it's like a loan.

24 Q. Okay. And so what would be a nonrecourse basis?

25 A. Not a loan, I guess. I'm guessing.

Hau Bui

1 **Q.** Okay. I apologize if I asked you this because there
2 was another witness.

3 Have you ever had to pay any expenses associated with
4 any litigation for Mellaconic?

5 **A.** Have I ever paid any litigation expenses, no.

6 **Q.** Okay. And have you -- again, apologize, if I asked
7 you.

8 But have you -- has Mellaconic ever made any money
9 from any of the patents it's owned?

10 **A.** From the litigations?

11 **Q.** Yes.

12 **A.** Yes.

13 **Q.** And how much, about, is that?

14 **A.** I want to say -- I don't know top of my head.
15 11,000, maybe.

16 **Q.** Okay. And then you also mentioned licensing that
17 came out of settlements. Does that include -- is that
18 part of the 11,000, or is that different?

19 **A.** That's just with the settlement. That's what I've
20 gotten.

21 **Q.** So the total you've gotten, is it fair to say --

22 **A.** Yes, 11,000 or so.

23 **Q.** All right. And is it all through settlements that
24 were connected with litigation?

25 **A.** Yes.

Hau Bui

1 **Q.** Okay. Do you know how much other people get? You
2 know what you get, right?

3 Do you know how the 95 percent is broken up, who gets
4 it?

5 **A.** I do not know the exact, who gets, you know,
6 percentage.

7 **Q.** No?

8 **A.** Well, I know that the -- like the back-end pay to the
9 previous patent owners.

10 **Q.** Do you recall ever assigning one of the patents
11 owned, at least in title, by Mellaconic to Mark Hall?

12 **A.** Mark who?

13 **Q.** Let me make sure I have the name right. Yeah,
14 Mark Hall.

15 **A.** Mark Hall. That doesn't ring a bell.

16 **Q.** No?

17 Do you recall ever signing documents to transfer a
18 patent owned by Mellaconic to another entity or another
19 person?

20 **A.** No.

21 **Q.** Is it fair to say that your involvement in all the
22 litigation was performed through Mavexar?

23 **A.** Mavexar.

24 **Q.** Mavexar. Sorry.

25 **A.** Yes.

Hau Bui

1 Q. Thank you very much.

2 That would be fair?

3 A. Yes.

4 Q. And, basically, is it fair to say that you do
5 whatever they advise?

6 A. Yes.

7 Q. You don't have any other knowledge to challenge any
8 of their advice; is that fair?

9 A. Yeah. They've been doing it. I don't have any
10 knowledge to object against them.

11 Q. Right. Do you own any other LLCs besides Mellaconic?

12 A. Yes.

13 Q. And what are they?

14 A. Workshire.

15 Q. I'm sorry?

16 A. Workshire.

17 Q. Okay.

18 A. And I have to think of the other one.

19 Q. Is it Burley?

20 A. Burley, yes.

21 Q. Are these LLCs, were they formed by -- who were they
22 formed by?

23 A. Mavexar.

24 Q. Mavexar, okay.

25 And is it fair to say, they follow the same pattern

Hau Bui

1 that you pursued with Mavexar with respect to Mellaconic?

2 **A.** Yes.

3 **Q.** Did anyone ever tell you, from Mavexar, why it was
4 important or why it was necessary to have you or your LLC
5 be the owner of the patent?

6 **A.** No.

7 **Q.** And you mentioned you met Mr. Curfman about
8 two months ago remotely?

9 **A.** Remotely, yeah.

10 **Q.** Yeah. I don't want to know about the conversation
11 you had with him, the specifics, but why did you not meet
12 him until two months ago?

13 What was it that prompted the meeting two months ago?

14 **A.** This hearing.

15 **Q.** Is it fair to say that you're aware that there was an
16 order issued by the Court that required you to participate
17 here?

18 **A.** Yes.

19 **Q.** Was that what prompted the meeting?

20 **A.** Yes.

21 **Q.** Okay. And prior to that, you had -- fair to say, you
22 had had no discussions with Mr. Curfman; is that fair?

23 **A.** Yes.

24 **Q.** Had you had any discussions with anybody from
25 Mr. Curfman's law firm prior to that meeting?

Hau Bui

1 **A.** No.

2 **Q.** Anything else you want to tell me?

3 **A.** No, sir.

4 **THE COURT:** Okay. Thank you very much.

5 **THE WITNESS:** Thank you.

6 **THE COURT:** You may be excused, and good luck
7 with your business.

8 **THE WITNESS:** Appreciate it. Thank you.

9 **MR. WERNOW:** Your Honor, can we put Mr. Bui
10 back on the stand just to correct a statement?

11 **THE COURT:** Well, you are not of record, so the
12 answer is -- you're not here before this Court, so the
13 answer is no to that.

14 **MR. CHONG:** Okay. Well, Your Honor, I have
15 a --

16 **THE COURT:** So the record reflects, you just
17 had this discussion with the witness when he left the
18 stand. And I want that to be the record. And now
19 you're -- go ahead.

20 **MR. CHONG:** So Your Honor, I have a motion for
21 a pro hac vice of Howard Wernow into this case of
22 Mellaconic -- TimeClock and Mellaconic v Deputy, Your
23 Honor. I'd like to submit this motion, along with
24 verification of Mr. Wernow's -- and pursuant to local
25 rule, Your Honor.

Hau Bui

1 **THE COURT:** Let me look at it.

2 All right. I'll grant the motion.

3 And if you want to ask Mr. Bui questions, we'll
4 put him back on the stand.

5 **MR. WERNOW:** Thank you, Your Honor.

6 Howard Wernow.

7 **THE COURT:** And, Mr. Bui, you remain under
8 oath.

9 **THE WITNESS:** Yes.

10 **THE COURT:** All right. Thank you.

11 **MR. WERNOW:** Your Honor, may I present what
12 I've marked Exhibit 2 and Exhibit 3 to the witness and the
13 Court?

14 **THE COURT:** Sure.

15 **MR. WERNOW:** Exhibit 2 is the Patent Assignment
16 Agreement from the previous patent owner to Mellaconic.
17 And Exhibit 3 is the Consulting Agreement between
18 Mellaconic IP and Mavexar.

19 **THE COURT:** Okay. Thank you.

20 **BY MR. WERNOW:**

21 **Q.** Mr. Bui, I just wanted to clarify some things I heard
22 when you were speaking with his Honor earlier.

23 If you could please look at what I've labeled
24 Exhibit 2. It's the Patent Assignment Agreement.

25 Do you recognize that?

Hau Bui

1 **A.** Yes.

2 **Q.** And is that between Mellaconic IP, LLC --

3 **THE COURT:** So actually, I'm going to object to
4 leading questions. I mean, if you want to make attorney
5 argument, you can bring the documents up, and you can show
6 me and make your argument.

7 But one of the important reasons why I wanted
8 to have a hearing, is to find out the reality, and find
9 out who really is the beneficial owner, who's got the real
10 interest in the litigation. And the best answers you get
11 are from -- the most truthful answer you get to things
12 like that are open-ended questions. I don't want you to
13 walk this witness through a legal document.

14 **MR. WERNOW:** Sure.

15 **THE COURT:** All right. And I can read the
16 legal document.

17 **MR. WERNOW:** Sure. Can we just ask --

18 **BY MR. WERNOW:**

19 **Q.** In reviewing Page 2 -- or Section 3, the
20 considerations section of Exhibit 2, can you please tell
21 the Court how Mellaconic has paid for these patents?

22 **THE COURT:** I don't need that. I can read the
23 document. You want to ask him open-ended questions, go
24 ahead. Ask him what he remembers. Ask him what he knows.
25 Ask him his understanding. Let's not have him go read a

Hau Bui

1 document.

2 **MR. WERNOW:** Sure.

3 **BY MR. WERNOW:**

4 **Q.** What do you remember about this patent purchase
5 agreement, Mr. Bui?

6 **A.** There was 50 percent take back towards the previous.

7 **Q.** For consideration?

8 **A.** For consideration of the net proceeds.

9 **Q.** Okay. Can you please go to Exhibit 3.

10 What's your recollection of Exhibit 3 with respect to
11 the recourse base repayment?

12 **A.** With Mavexar?

13 **Q.** Correct.

14 **A.** So Mavexar basically pays for the litigations of
15 the -- fees for litigations. And then if all goes wrong,
16 they have the right to come after me for the litigation
17 fees.

18 **Q.** Okay. And the lawyers, what's your recollection of
19 the attorneys' fees in this case?

20 **A.** That it's contingent basis, just depending on how far
21 it goes along.

22 **Q.** The attorneys' fees are contingent, correct?

23 **A.** Yes.

24 **Q.** But the attorneys' expenses, were they part of this
25 agreement with Mavexar?

Hau Bui

1 **A.** Mavexar is going to pay the fees as a loan on a
2 recourse basis.

3 **Q.** You said "fees," but do you mean "expenses"?

4 **A.** Expenses.

5 **THE COURT:** I mean, I don't know. What's the
6 difference between fees and expenses, sir? Do you know?

7 **THE WITNESS:** I feel like -- I mean, I run a
8 restaurant. I feel like fees and expenses are kind of the
9 same, just to me, category, kind of. Something toward
10 like a business or...

11 **BY MR. WERNOW:**

12 **Q.** And what's your recollection of the complaints that
13 our office, or Mr. Curfman, has sent to you through
14 Mavexar, you review those --

15 **THE COURT:** Object to leading. Ask him what he
16 does.

17 **BY MR. WERNOW:**

18 **Q.** What do you do from Mavexar when someone sends you a
19 complaint?

20 **A.** What was that?

21 **Q.** What do you do for Mellaconic IP, LLC, when you
22 receive a complaint?

23 **A.** I review it and I either confirm it or deny it.

24 **Q.** And you can deny it, correct?

25 **A.** I can deny it.

1 **MR. WERNOW:** Thank you. Nothing further, Your
2 Honor.

3 **THE COURT:** All right. Thank you very much.
4 And, Mr. Bui, you are excused, if you want.

5 All right. Mr. Anderson, you have been sitting
6 here. Do you have any thoughts?

7 **MR. ANDERSON:** No, Your Honor. We have nothing
8 to add to this. Thank you.

9 **THE COURT:** Anybody else want to say anything?

10 **MR. WERNOW:** Nothing further, Your Honor.

11 **THE COURT:** Well, I need to think about what I
12 think are the issues that have been raised by the
13 testimony we've heard today.

14 I think the testimony has to give pause to
15 anybody who really is concerned about the integrity of our
16 judicial system, the abuse of our courts, and potential
17 abuse, lack of transparency as to who the real parties
18 before the Court are, about who is making decisions in
19 these types of litigation.

20 But it's a lot to digest, and I may ask for
21 supplemental briefing. I'm actually considering inviting
22 amici to come in to help. And I would be open to
23 receiving recommendations for amici.

24 Anything else?

25 All right. If you have any recommendations for

1 amici, please submit them no later than a week from today.
2 And the cases are going to remain where they are, as I
3 consider these issues.

4 All right. We are adjourned.

5 (The proceedings concluded at 1:07 p.m.)

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BY MR. WERNOW: [5] 103/20 104/18 105/3 106/11 106/17 BY THE COURT: [10] 56/16 57/11 58/13 67/22 72/3 73/9 82/8 85/8 88/1 91/15 MR. ANDERSON: [1] 107/7 MR. CHONG: [154] MR. O'ROURKE: [5] 54/21 55/11 55/13 55/17 55/22 MR. PAZUNIAK: [74] 39/23 40/18 40/23 41/14 41/17 41/21 41/24 42/3 42/6 42/8 43/6 43/9 43/11 43/17 44/1 44/4 44/8 45/1 45/22 46/5 46/22 46/25 47/3 48/4 48/18 49/8 49/11 49/14 49/20 50/11 51/3 51/13 51/17 51/25 53/2 53/5 53/7 53/9 53/12 53/14 53/18 53/21 54/8 54/10 54/19 54/25 55/3 55/7 55/23 57/7 67/11 67/16 67/21 71/25 73/8 77/18 77/22 77/25 78/4 78/8 78/15 78/18 78/24 80/1 80/16 81/4 83/14 83/22 83/25 84/12 84/14 84/17 84/21 84/24 MR. 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