

WRITTEN STATEMENT NO. 2 – THEFT OF IVIEWIT INTELLECTUAL PROPERTIES

Basic Allegation

Iviewit Holdings, Inc. (“Company”) alleges the **THEFT OF AND MISAPPROPRIATION OF MULTIMEDIA INVENTIONS THAT THEREBY FURTHER CONSISTS OF FRAUD OF THE UNITED STATES PATENT AND TRADEMARK OFFICE (“USPTO”) AND THAT THEREBY CONSISTS OF FRAUD OF THE UNITED STATES POSTAL OFFICE AND THAT THEREBY CONSISTS OF A FRAUD OF THE UNITED STATES FEDERAL BANKING REGULATORY BODY BY THE FOLLOWING INDIVIDUALS: BRIAN UTLEY, CHRISTOPHER WHEELER, KENNETH RUBENSTEIN, WILLIAM DICK, DOUGLAS BOEHM & STEPHEN BECKER.**

All witnesses and perpetrators are collectively identified by name, address, and telephone number attached herein as Exhibit A.

Material Facts

On our about August 2000, the Company discovers a one Brian G. Utley (“Utley”), then President & Chief Operating Officer of the Company, adding his name to and directing Company counsel, under the director and oversight of Kenneth Rubenstein a partner of Proskauer Rose, to add his name to a variety of the Company’s inventions, wherein, in addition to the fraudulently inserted name of Brian Utley’s, non-provisional patent applications were being written and filed with the true inventors missing from the patent applications and pertinent disclosures missing, all to the detriment of the Company and its shareholders. Further, it is found that Mr. Utley with the help of Iviewit counsel steals off with several inventions of Iviewit and writes them in his own name and fails to assign or disclose these inventions to the Company or it’s investors, the patents are attached herein as Exhibit B.

Moreover, it should be clear to Bureau of Investigative Operations of Boca Raton Police Department (“BOI”) that by virtue of Section 115 of U.S.C. Title 15 (more commonly known as Patent Act) that the violation of the oath of applicant, under the direction and oversight of Rubenstein, in this section, can render the patent invalid at the date of issuance, thereby materially damaging a patent portfolio estimated to be worth billions of dollars in royalties annually. The Company claims that knowingly filing false statements to the patent office constitutes a fraud not only to the Company but the US Patent and Trademark offices, and it is the Company’s contention that Mr. Utley acted with patent counsel from Foley and Lardner and Proskauer Rose whom all knowingly acted to deceive the shareholders and the government.



Factually, said inventions were first made in mid 1998, provisional¹ patent applications were filed in early to mid 1999, and Utley later joined the Company commencing in mid 1999. Moreover, to further complete the picture, BOI should note that the Company had prior problems with its patent counsel, Kenneth Rubenstein of Proskauer Rose LLP (“Proskauer”) as overseer of Raymond A. Joao formerly of counsel to Meltzer Lippe Goldstein & Schlissel LLP of Mineola, N.Y., who were found removing some inventors and switching content of the original applications; these allegations, among others, are the subject of criminal conspiracy discussions currently pending in the West Palm Beach office of the Federal Bureau of Investigation.

Furthermore, upon learning of Company’s problems with Joao’s work, under the direction and oversight of Rubenstein, Utley and the Company’s then counsel, a one Christopher C. Wheeler, Esq. (“Wheeler”) a Partner in the Boca Raton office of Proskauer recommend a one William J. Dick, Esq. (“Dick”) of Foley & Lardner of Milwaukee, Wis. Still further, to his new task, Dick assembled a team composed of Steven Becker, Esq. (“Becker”) and Douglas Boehm, Esq. (“Boehm”) to correct the mistakes of Joao and move the patent prosecution process from provisional status to non-provisional, patent pending status.

Additionally, Foley & Lardner, under the direction and oversight of Rubenstein, after several meetings with all the inventors wherein said inventors make full disclosures of the technologies, soon complete non-provisional filings, and send those patents for review and signatures. Unfortunately for the Company, and hours before the one-year time deadline for the filing of non-provisional patent applications from provisional filings, Utley presents to the Company’s main inventor, Eliot I. Bernstein, only signature pages for the filings scheduled to occur in a few short hours.

Moreover, Bernstein refused the requested signature until which time that he had an opportunity to review and authorize the whole filings. When Utley refused Bernstein’s request to review the entire filing, a struggle ensued wherein Bernstein and a one James F. Armstrong physically removed the patent documents from Utley’s possession and gave the documents to an executive assistant, a one Jennifer Kluge, to secure copies.

Furthermore, upon receiving the copies from Kluge, Bernstein and Armstrong retire to a local restaurant, and begin their review of the documents; the findings were mind-boggling. Mind-boggling in that, the filings completed by Foley & Lardner, and under the direction and oversight of Rubenstein, and demanded signatures of by Utley, were replete with: (i) different inventors than what was told to the Foley & Lardner attorneys, Dick, Becker, and Boehm; (ii) incorrect math; (iii) changing of the embodiment of the inventions that severely hamper the value upon subsequent issuance; and (iv) a narrowing of the claimed environments of the inventions. Most notably, Utley adds himself or directs Foley & Lardner to add his name as an inventor to all the applications, although, even more remarkably, the Company did not employ Utley at such time as they were

¹ BOI should be apprised that provisional filings are a low cost way to “time stamp” an invention in the US patent system, and that a more formal non-provisional filing with claims attached are what those in the industry commonly refer to as a patent application.



invented, and in each instance he factually drops an inventor or directs Foley & Lardner, under the oversight of Rubenstein, to drop an inventor to add Utley's name.

Subsequent to discovering these problems, meetings were arranged with the members of Foley & Lardner, James Armstrong, Christopher Wheeler, William Dick, Simon L. Bernstein, a then director of the Company, and one Maurice Buchsbaum, a then representative of the Company's lead investor, Crossbow Ventures ("Crossbow") of West Palm Beach, Fla., as a means to determine what exactly occurred and how much damage had been caused (Appendix II); investigations were to be handled by Wheeler and Rubenstein as to how to again repair these major errors. While two days of discussions proceed with Foley & Lardner to correct the patents, they are filed wrongly nonetheless, thereby constituting another alleged fraud on the USPTO by both Foley & Lardner, as overseen by Rubenstein and Utley.

Still further, in January 2001, Utley flies to California and threatens Bernstein to both destroy the Company and to kill Bernstein should the Company proceed with more investigations of the dealings by and between Utley and Foley & Lardner with respect to the Company's intellectual property portfolio, further stating that Wheeler and Dick are both members of extremely powerful law firms and that Bernstein should "watch his back" upon returning to his family in Boca Raton, Fla. Mr. Bernstein does not return to Boca Raton and instead is forced by these threats to move his family to a hotel located in Los Angeles, CA for safety, at the advice of investors, management and others aware of the threats made upon his life. Mr. Bernstein does not return for almost 2 years to Boca Raton while he built a case against the perpetrators of these crimes

Moreover, at about this time, May 2001, Iviewit and Crossbow engaged the intellectual property law firm of Blakely Sokoloff Taylor & Zafman LLP ("BSTZ") of Los Angeles, California and its of counsel a one Norman Zafman to analyze the status of the Company's intellectual property portfolio, as Buchsbaum had informed the Company that Utley might be trying to misappropriate patents for his own gains and that due to the missing inventors, bad math and changed content that investor fraud could and might be claimed by Iviewit's investors, see Buchsbaum comments in the taped transcript call in Appendix II. BSTZ, upon securing the patent files from Foley & Lardner, began their review, finding Utley had in fact been writing or had directed Foley & Lardner, under the direction and oversight of Rubenstein, to write patents into his own name, without assignment to the Company, without notifying the Company of their existence thereby perpetrating a fraud on the USPTO through the US Postal services thereby constituting a fraud on the US Post Office and finally constituting theft against the Company and it's investors. The two patents Utley wrote into his own name and sent to his home are the main allegation regarding theft of Company inventions and property, he was aided and abetted in these crimes by; William Dick, Kenneth Rubenstein, Christopher Wheeler, Douglas Boehm and Steven Becker. Once stolen, considerable expenses were incurred by the Company to find such stolen patents and then have them returned to the Company's possession and the Company is still uncertain if this represents all patents misappropriated by Utley, et. al. In fact, Utley denied even these patents when questioned in his deposition.



Further, BSTZ found a clause in the employment agreement of Utley granting the company powers of attorney to assign the misappropriated inventions to the Company, a true copy of those reassignments attached herein as Exhibit D. Further, Foley & Lardner and Proskauer Rose were fully aware that Mr. Utley was not the inventor of any Iviewit technologies and further was in possession of his employment contract and thereby it is clear that they aided and abetted Mr. Utley in absconding and stealing Iviewit patent inventions, similar to the crime perpetrated against Diamond Turf Lawnmower at Utley's prior employ again with Mr. William Dick of Foley & Lardner acting as his patent attorney.

Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that Crossbow Ventures through a one H. Hickman Powell III and Stephen J. Warner begin to cast suspicion over what was occurring in the Boca Raton office and it was apparent that Utley and his management team were beginning to destroy records and steal computers². Crossbow Ventures and the Board then institutes the firing of all Christopher Wheeler referred management, Utley, Reale and Hersh and closes the entire Boca Raton offices.

Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that, after Utley was introduced to the Company by Wheeler, the Company finds numerous materially false statements in the resume provided by Wheeler and presented to the Board of Directors ("Board") of the Company, including but not limited to, the fact that Utley was terminated by his last employer, a one Monte Friedkin of Diamond Turf Lawnmower for intellectual property misappropriations, wherein the Utley resume presented to the Board is attached herein as Exhibit E.

Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that regarding a proposed private placement of Company stock by Wachovia Securities, a unit of Wachovia Corp. of Charlotte, N.C., Utley and Wheeler knowingly and willfully insert false statements regarding the background of Utley and the status of the Company's intellectual property portfolio into a private placement memorandum drafted by Wachovia and reviewed, billed for and approved by Proskauer Rose thereby perpetrating a fraud upon a registered financial holding company of the NASD and perpetrating a fraud upon a registered bank holding company of the United States Federal Reserve system.

Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that in an unrelated litigation by and between the Company and Proskauer, and in the deposition statements of Utley, not only does Utley admit to the problem at Freidkin's company, but claims that Wheeler was fully cognizant of the crimes committed; in diametric opposition to Utley's deposition statements, Wheeler's deposition statement states that he was not aware of Utley's background and past patent malfeasances, all statements of which are attached herein as Exhibit F.

² At this juncture, the Company encourages BOI to cross reference Boca Raton Police Department Case No. 2001-054580 pertaining to the theft proprietary equipment by Utley and others.



Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that Rubenstein as overseer of the company's patent portfolio and member of the Advisory Board of the Company noticeably distances himself from the Company and Bernstein upon questioning in his deposition in an unrelated litigation by and between the Company and Proskauer, attached herein as Exhibit G; factually, Rubenstein later walks out of his deposition in the midst of questioning after being confronted with evidence contrary to his statements, further the judge orders Rubenstein back to complete his deposition, which is still pending. Rubenstein, later tries to deny any involvement with the Iviewit companies and patents of which Exhibits contained in Exhibit G will show to be ludicrous and untrue.

Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that Dick had been the patent attorney involved in the past crimes against Friedkin's company, wherein the Company only learned of this at Utley's deposition statement wherein Utley claimed it was Dick that had been involved in the patent disputes at Diamond Turf Lawnmower, but this never disclosed to the Company by Wheeler, Dick and Utley, perpetrating yet another fraud on investors in Iviewit and Banking institutions underwriting Iviewit's private placement.

Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that former employees of the Company, ones Anthony R. Frenden and Matthew Mink provide statements that pointedly show that Utley was stealing not only computers but highly proprietary Company intellectual property processes contained on those computers and attempting to bribe Frenden and Mink with the alleged stolen cash of Written Statement No. 1 to give processes to Utley and one Michael A. Reale, former Vice President of Operations of the Company for use with Wheeler and a referred Wheeler investor of the Company, a one Bruce Prolow of Tiedemann Prolow LLC of New York; statements of Frenden and Mink are attached herein as Exhibit H.

Additionally, the Company removes reasonable doubt pertaining to its allegations by stating that with regard to the circumstances surrounding the recent events at Florida Atlantic University, Utley and Wheeler were both members of that Foundation and further that Wheeler has been represented as non-cooperative to a KPMG audit of the Foundation which it is noted that the audit may have been impacted by his refusal to cooperate and that further Mr. Wheeler tried to take a tax deduction on an item he knew as a Board member had never been approved or voted on, pending current investigation by the Florida Law Enforcement Department. Appendix III

Lastly, the Company removes reasonable doubt pertaining to its allegations by stating that with regard to the circumstances surrounding the bankruptcy filing by the Florida Philharmonic organization, Utley and Wheeler were both members of that Board.

Finally, the most concise statement of the entire events surrounding the status of the patent portfolio of the Company is contained in that certain litigation titled *Proskauer Rose LLP v. Iviewit.com, Inc. et. al.*, Case No. CA 01-04671 AB (Circuit Court of the



15th Judicial Circuit in and for Palm Beach County, Florida filed May 2, 2001), the Defendant's Motion for Leave to Amend to Assert Counterclaim for Damages, which is, attached herein as Appendix I. Also enclosed with this complaint is a CD ROM containing the following:

NY Bar complaints; Kenneth Rubenstein and Raymond Joao
FL Bar complaint; Christopher Wheeler
Full Deposition statements in the Florida Litigation referenced above for:
Christopher Wheeler
Brian Utley
Kenneth Rubenstein
Eliot Bernstein
Simon Bernstein
Gerald Lewin
William Kasser
Taped testimony of Zakirul Shirajee
Taped meetings regarding patent errors with Foley and Lardner

IVIEWIT HOLDINGS, INC.

I swear to the best of my knowledge that the information contained herein is true and correct and that the events described herein are based on the evidence currently in the Companies possession. This statement may be used as evidence in the investigation of the above-mentioned crimes.

Very truly yours,

A handwritten signature in black ink, appearing to read "E.I. Bernstein", written in a cursive style.

Eliot I Bernstein
Founder
I View It Technologies, Inc.



EXHIBIT A



a

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EXHIBIT B

[Insert Utley patents]



The two patents found stolen from Iviewit by Mr. Utley are listed below, these are clear attempts of Fraud on the Company and the US Patent and Trademark offices by the listed perpetrators.

05707

VIEWIT.COM PATENT STATUS REPORT

TITLE	MATTER	INVENTOR/ PATENTEE	COUNTRY	SERIAL NO./ PATENT NO.	FILED/ISSUE DATE	ASSIGNEE
<u>Zoom and Pan Imaging Using a Digital Camera</u>	P020 (fka 122)	<u>Brian Utley</u>	United States	Serial No. 60/223,344	Filed 09/18/00	<u>Not assigned.</u>
<u>Zoom and Pan Imaging Design Tool</u>	P021 (fka 123)	<u>Brian Utley</u>	United States	Serial No. 60/233,341	Filed 09/18/00	<u>Not assigned.</u>

Blakely, Sokoloff, Taylor & Zafman

3

Note that Zoom and Pan Using a Digital Camera does not contain Eliot Bernstein as an inventor but that the document provided herein by Foley and Lardner attempts to insert Mr. Bernstein, although no signature of Mr. Bernstein is provided and he has no knowledge that this was ever presented to him. Note that although this document shows no assignment of the patents, that Mr. Utley claims to have assigned them to Iviewit in his deposition statements.

The following patent applications in Mr. Utley's name were stolen from the Company and were recaptured through assigning them back to the Company. These two patents were neither disclosed by Mr. Utley or the law firms of Proskauer Rose and Foley and Lardner to the Company, investors and were not disclosed to banks seeking to raise funds for the Company. These patents also represent Fraud on the USPTO and were facilitated through the US Postal Services constituting Mail fraud and were sent via fax to Mr. Utley constituting Wire Fraud.



Atty. Dis. No. 57103/123

U.S. PROVISIONAL PATENT APPLICATION

for

**ZOOM AND PAN IMAGING
DESIGN TOOL**

Inventors:



Brian G. Utley
1930 SW 8th Street
Boca Raton, FLORIDA 33486
Citizenship: U.S.



FOLEY & LARDNER
Attorneys at Law
777 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202
(414) 271-2400

In this next invention, Utley claimed in his deposition that he was unaware of camera applications of the Iviewit processes and this further shows intent to lie and cover up his thefts. Also, Eliot Bernstein was never aware of this patent filing and never signed for this patent, although records recovered are minimal provided by Foley and Lardner, the Company alleges that Mr. Bernstein's name was disingenuously inserted to attempt to cover up their part in the crime. We respectfully request the Boca Raton PD to attempt to gather the true documents submitted for this application from the patent office.



Atty. No. 57103/122

COPY

U.S. PROVISIONAL PATENT APPLICATION

for

**ZOOM AND PAN IMAGING
USING A DIGITAL CAMERA**

Inventors:

Brian G. Utley
1930 SW 8th Street
Boca Raton, FLORIDA 33486
Citizenship: U.S.

Eliot I. Bernstein
500 S.E. Mizner Boulevard
Boca Raton, FLORIDA 33432
Citizenship: U.S.

FOLEY & LARDNER
Attorneys at Law
777 E. Wisconsin Avenue
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(414) 271-2400

Other Inventions Claimed by Utley and signed by Utley that were property of Iviewit and not invented by Utley that he attempted to claim as his inventions. The signatures on the following notarized documents are those of Mr. Utley and Martha Mantecon, a former



employee that Mr. Utley had used at his prior employ of Diamond Turf Lawnmower were they (Martha and Utley) attempted to abscond with patent ideas and were fired for these actions.

Invention of Controllable Image Presentation with Audio and/or text Accompaniment

Object: To control a presentation image by a program within the computer or remotely over a network such that when the program is initiated it will control the presentation image by selecting panoramic and/or zoom parameters in order to focus the attention of the viewer on particular elements of the image. The program may also control an audio track or text box to explain to the viewer details of the image.

The program may be initiated by the viewer or automatically upon selection of the image.

Martha Marteen
Witness
Date: 3/8/00

[Signature]
Inventor
Date: 3/8/2000



**Invention of Image Overlay Over the Web
To Facilitate Expanded Presentation Facilities**

Object: To create an image overlay for the purpose of further defining the image, superimposing graphics and superimposing text. The overlay is controlled by software on the computer hosting the display device or over a network. The software may be initiated by the operator/viewer or automatically upon selection of the first level image.

This invention also contemplates multiple layers of overlay for complex presentation purposes.

Maura Marticono
Witness
Date: 3/8/00

[Signature]
Inventor
Date: 3/8/2000

The following deposition statements from Mr. Utley clearly show him to be lying and committing perjury in regards to these issues.



that what it is?

A. Yes.

Q. And Iviewit would be listed as a primary patent holder; is that how it would be?

A. They were assigned to Iviewit.

Q. They were assigned to Iviewit. Are you aware of any police report that was ever filed involving Mr. Mike Real and yourself?

MR. PRUSASKI: Objection, relevance.

By MR. SELZ:

Q. Go ahead and answer the question, if you can, sir.

A. There was a dispute over the nature of the equipment that I bought from Iviewit as --

Q. Well, that really wasn't my question. My question was are you aware of a police report? And it's really a yes or no type of answer.

MR. PRUSASKI: Objection, relevance.

THE WITNESS: I believe there was a report.

By MR. SELZ:

Q. Okay. Do you know who filed that report?

A. Iviewit filed that report as far as



1 picture that would be transmitted across the 114
2 internet at a given speed, I identified that
3 which he had discovered by an ad hoc process; I
4 discovered the structural basis for that
5 optimization.

6 Q. Okay. So that was something that
7 was outside the scope of what he had already,
8 what Eliot had already discovered?

9 A. It really established why it worked.

10 Q. And is your name on any patent or
11 patent application with regard to that particular
12 technology?

13 A. It possibly is. I don't recall how
14 many of those my name is on since I didn't keep
15 any of those records.

16 Q. How about camera zoom applications?
17 A. Okay. How about camera zoom
18 applications?

19 Q. Is there any patent or patent
20 application dealing with camera zoom
21 applications?

22 A. Not specifically. It was, it was
23 determined that there is a correlation between
24 the zoom and pan that had been developed and what
25 is being used in cameras.

1 Q. Okay. And the correlation was for 115

2 development of future cameras or was that simply

3 an observation that was made?

4 A. It was an observation that current
5 camera technology incorporates zoom and pan
6 technology.

7 Q. Okay. How about any patent or
8 patent applications dealing with scales video or
9 zoom video imaging applications other than what
10 we've already discussed?

11 A. Without looking, and I apologize for
12 this, without looking at the specific patent
13 filings by name and number, I think, you know,
14 we're not really going to be able to get much
15 further on this discussion.

16 Q. Okay.

17 A. I don't want to put you off at all,
18 but I just want to say that to pursue a detailed
19 questioning in this specific area, I need to be
20 able to refresh my mind with what is in the
21 record.

22 Q. Okay. And are those documents that
23 you have in your possession someplace?

24 A. No.

25 Q. You don't have any of the paperwork



1 on, it was a result of some work I did with IBM 117

2 that relates to the ability to digitally

3 recognize writing by a stylus on a surface. You

4 may recognize it in palm devices.

5 Q. Okay. With regard to that, that was

6 obviously prior to your employment with Iviewit;

7 is that correct?

8 A. Yes.

9 Q. Has there ever been any things that

10 you've either sought a patent for or applied for

11 a patent since your employment with Iviewit?

12 A. No.

13 Q. Are you aware of any copyright,

14 trademark or patent applications for either cable

15 system, set top boxes or anything related that

16 are similar to those of the technology that

17 Iviewit owned or made application for?

18 A. No.

19 Q. Do you have any knowledge of any

20 other patent or patent application, intellectual

21 property that might infringe upon patents or

22 applied for patents for Iviewit?

23 A. No. And just to parenthetically

24 state, I have studiously avoided anything which

25 might appear to be or be in any way connected

1 with that work. 118

2 Q. Have you had any discussions or had

3 any meetings with Mr. Wheeler after your

4 cessation of employment with Iviewit?

5 A. Only of a personal nature.

6 Q. And when was the last time you met

7 with him?

8 A. About three weeks ago?

9 Q. And where was that? Was that here

10 down in south Florida?

11 A. Yes.

12 Q. And what was the purpose for your

13 trip down here?

14 A. Is that, is that -- I have to ask

15 this question, I'm not trying avoid it, but is

16 that anything to do with this interrogatory?

17 Q. Well, it does have to do with the

18 person who introduced you to the company so

19 certainly it's relevant to find out what your

20 relationship is.

21 A. Well, let me just say this, that my

22 visit to Boca Raton had nothing to do with

23 Mr. Wheeler in any event. It was, we got

24 together on a social basis as a circumstantial

25 opportunity based on being there.



1 described in other context? 151

2 A. No.

3 Q. How about with regard to

4 Mr. Wheeler?

5 A. None.

6 Q. How about with regard to Raymond?

7 A. There was some deficiencies in his

8 provisional product descriptions.

9 Q. Okay. How about with regard to

10 Foley & Lardner?

11 A. I'm not aware of any deficiencies of

12 Foley & Lardner.

13 Q. Other than what you -- was that the

14 deficiencies in the sense of the weakness of the

15 descriptions that you described earlier?

16 A. No. No. In fact, Foley & Lardner

17 worked very hard to overcome those and construct

18 the best case possible.

19 Q. How about a situation where they

20 provided patent or patent applications to your

21 home address rather than the corporation's

22 address?

23 A. As a matter convenience in order to

24 obtain signatures.

25 Q. Okay. So you're saying that was



1	done as a matter of convenience; that wasn't an	152
2	error?	
3	A. No. If that happened. I don't	
4	<u>recall it happening, but if it did, that would be</u>	
5	<u>the only circumstance under which that would</u>	
6	<u>happen.</u>	
7	Q. Well, but you're speculating because	
8	you don't recall the situation?	
9	A. I do not recall ever receiving	
10	<u>anything at home, but if it happened, it would be</u>	
11	<u>as a point of convenience and not as a point of</u>	
12	<u>procedure.</u>	

And Later from his deposition regarding William Dick's involvement with past patent malfeasances at Diamond Turf Lawnmower



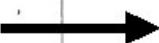
we're talking about them because you said billing statements, which could be something totally different, I don't know.

MR. SELZ: That's the attached exhibits to the Amended Complaint in this matter that we're referring to.

MR. PRUSASKI: Okay. Thanks.

By MR. SELZ:

Q. Now, you had referenced Mr. Dick doing some patent work for yourself; is that correct?

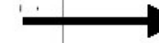


A. Yes.

Q. And was that any patents arising from your employment with Diamond Turf?

A. It was arising from the technology and engineering work that I did, yes.

Q. So the hydro-mechanical work that you had done at Diamond Turf?



A. Yes.

Q. And was there ever a dispute between yourself and the owner of Diamond Turf with regard to the patents involved for that hydro-mechanical work?

MR. PRUSASKI: Objection, relevance and to the form.



THE WITNESS: There was a

disagreement as to ownership of the intellectual property.

By MR. SELZ:

→ Q. There was a dispute?

→ A. Yes.

Q. Did you ever advise the owner of Diamond Turf that you were going to patent these intellectual properties under your own name?

A. I did.

Q. Did you do that prior to patenting those or after?

A. They were never, they were not patented.

Q. Okay. They were not patented. Was the application for patent made?

A. No.

Q. Since your employment with Iviewit.com or Iviewit, yeah, dotcom, LLC, what patents have you taken out in your name, sir?

→ A. I have not taken out any patents in my name, other than what has been appended to patents filed by Iviewit and assigned to Iviewit.

Q. Okay. So they're all patents held by Iviewit and you're named as a co-inventor; is



that what it is?

267

A. Yes.

Q. And Iviewit would be listed as a primary patent holder; is that how it would be?

A. They were assigned to Iviewit.

Q. They were assigned to Iviewit. Are you aware of any police report that was ever filed involving Mr. Mike Real and yourself?

MR. PRUSASKI: Objection, relevance.

By MR. SELZ:

Q. Go ahead and answer the question, if you can, sir.

A. There was a dispute over the nature of the equipment that I bought from Iviewit as --

Q. Well, that really wasn't my question. My question was are you aware of a police report? And it's really a yes or no type of answer.

MR. PRUSASKI: Objection, relevance.

THE WITNESS: I believe there was a report.

By MR. SELZ:

Q. Okay. Do you know who filed that report?

A. Iviewit filed that report as far as



EXHIBIT C

STATEMENT OF BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

The second patent Utley has in his own name with no assignment to the Company is **ZOOM & PAN IMAGING USING A DIGITAL CAMERA**. This summary page was provided to Iviewit's investor Crossbow Ventures by Blakely Sokoloff Zafman and Taylor, and Crossbow then pulled funding on the Company in what appeared to be related to the discovery of such information, investigation pending. As you can see Utley is sole inventor of ideas that were created prior to his employment at iviewit.

Please refer to the footnote in the following document from Blakely Sokoloff Zafman & Taylor after finding such stolen patents and having to try and re-assign them to the Company.



BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

A LIMITED LIABILITY PARTNERSHIP
INCLUDING LAW CORPORATION

TELEPHONE (310) 207-3600

FACSIMILE (310) 820-4988
(310) 820-5270

ESTZ_MAIL@BSTZ.COM
WWW.BSTZ.COM

INTELLECTUAL PROPERTY LAW

12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1025

OTHER OFFICES

AUSTIN, TX
SUNNYVALE, CA
COSTA MESA, CA
SAN DIEGO / LA JOLLA, CA
PORTLAND / WILSONVILLE, OR
SEATTLE / KIRKLAND, WA
DENVER / ENGLEWOOD, CO

**Confirmation
Copy**

August 4, 2001

**CONFIDENTIAL COMMUNICATION
ATTORNEY-CLIENT PRIVILEGED**

Via E-MAIL

(And Confirmation By Mail)

Eliot Bernstein
IVIEWIT.COM, INC.
505 North Brand Boulevard, Suite 1420
Glendale, California 91203

Re: Powers of Attorney for Six PCT Applications:

Apparatus and Method for Producing Enhanced Digital Images Serial No. PCT/US00/07772 Our File No. 005707.P009PCT Foley's Reference No. 110	System and Method for Playing a Digital Video File Serial No. PCT/US00/15406 Our File No. 005707.P012PCT Foley's Reference No. 113
System and Method for Streaming an Enhanced Digital Video File Serial No. PCT/US00/15408 Our File No. 005707.P010PCT Foley's Reference No. 111	System and Method for Video Playback Over a Network Serial No. PCT/US00/15602 Our File No. 005707.P016PCT Foley's Reference No. 118
System and Method for Providing an Enhanced Digital Video File Serial No. PCT/US00/15405 Our File No. 005707.P011PCT Foley's Reference No. 112	System and Method for Providing an Enhanced Digital Image File Serial No. PCT/US00/21211 Our File No. 005707.P018PCT Foley's Reference No. 120

Dear Eliot:

Being e-mailed (and enclosed herewith) are six (6) Powers of Attorney for the subject PCT Patent Applications, one Power for each inventor named in any one or more of the PCT patent applications, and one Power for the corporation, Iviewit Holdings, Inc. Three of the Powers require your signature, as follows: (i) one by you in your individual capacity; (ii) a second by you in your capacity as designee of the corporation to sign on behalf of Brian Utley (we hope the PCT Office will recognize Utley's having granted a Power of Attorney to his corporate employer); and (iii) a third by you for the corporation in your capacity as its Secretary. Kindly sign where your





BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

A LIMITED LIABILITY PARTNERSHIP
INCLUDING LAW CORPORATIONS

Eliot Bernstein
IVIEWIT.COM, INC.
August 4, 2001
Page 2 of 2

signature is indicated on the three Powers of Attorney and return the original executed Powers to our office via mail (we need to have each Power with an original signature). Also fax each Power to us at (310) 820-5988, to expedite the process.

As we discussed, we request that you also forward each of the three remaining Powers to Jude R. Rosario, Jeffrey S. Friedstein and Zakirul A. Shirajee, respectively, for their signatures. Kindly instruct each of them to execute the Powers and to return the originals to our office by mail. In order to expedite the matter, request each of them to fax a copy to us, if possible.

If you have any questions, please feel free to contact my Assistant, Jan Gass. We appreciate your attention to getting the subject Powers executed and returned to us. We will then attend to their filing with the PCT Office.

Best personal regards,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Digitized Signature

Norman Zafman

NZ/jg
Enclosures

cc: Ross Miller (w/Enclosures via E-Mail) ✓

P.S. to Ross Miller:



Ross, please attend to getting a Board Resolution appointing Eliot as the corporation's designee for signing the subject Power on behalf of Brian Utley. We talked about this in the context of giving Eliot comfort; however, the PCT Office may well request such a Resolution (in addition to a copy of Utley's Employment Agreement, which we already have).



EXHIBIT D

REASSIGNMENT OF UTLEY PATENTS TO THE COMPANY

[Insert reassignment document]



Our Ref.: 005707.P019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)	
Eliot I. Bernstein and Brian Utley)	
Serial No.: 09/630,939)	Art Unit:
Filed: 08/02/00)	Examiner:
For: SYSTEM AND METHOD FOR PROVIDING AN ENHANCED DIGITAL IMAGE FILE)	

REVOCATION AND POWER OF ATTORNEY

The Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

The Applicant of the above-identified Application, hereby revokes all previous powers of attorney given in this Application, and appoints the firm of:

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, a firm including: William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; William Thomas Babbitt, Reg. No. 39,591; Carol F. Barry, Reg. No. 41,600; Jordan Michael Becker, Reg. No. 39,602; Lisa N. Benado, Reg. No. 39,995; Bradley J. Berezna, Reg. No. 33,474; Michael A. Bernadico, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Andrew C. Chen, Reg. No. 43,544; Jae-Hee Choi, Reg. No. 45,288; Thomas M. Coester, Reg. No. 39,637; Robert P. Cogan, Reg. No. 25,049; Donna Jo Coningsby, Reg. No. 41,684; Florin A. Corie, Reg. No. 46,244; Dennis M. deGuzman, Reg. No. 41,702; Stephen M. De Klerk, Reg. No. P46,503; Michael Anthony DeSanctis, Reg. No. 39,957; Daniel M. De Vos, Reg. No. 37,813; Justin M. Dillon, Reg. No. 42,486; Sanjeet Dutta, Reg. No. P46,145; Matthew C. Fagan, Reg. No. 37,542; Tarek N. Fahmi, Reg. No. 41,402; Mark C. Farrell, Reg. No. 45,988; George Fountain, Reg. No. 36,374; James Y. Go, Reg. No. 40,621; James A. Henry, Reg. No. 41,064; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; William W. Kidd, Reg. No. 31,772; Sang Hui Kim, Reg. No. 40,450; Walter T. Kim, Reg. No. 42,731; Eric T. King,

005707.P019

-1-

NZ/TMC/jg



Reg. No. 44,188; Steven Laut, Reg. No. 47,736; George Brian Leavell, Reg. No. 45,436; Samuel S. Lee, Reg. No. 42,791; Gordon R. Lindeen III, Reg. No. 33,192; Jan Carol Little, Reg. No. 41,181; Robert G. Litts, Reg. No. 46,876; Julio Loza, Reg. No. 47,758; Joseph Lutz, Reg. No. 43,765; Lawrence Lycke, Reg. No. 38,540; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, under 37 C.F.R. § 10.9(b); Raul D. Martinez, Reg. No. 46,904; Paul A. Mendonsa, Reg. No. 42,879; Clive D. Menezes, Reg. No. 45,493; Chun M. Ng, Reg. No. 36,878; Thien T. Nguyen, Reg. No. 43,835; Thinh V. Nguyen, Reg. No. 42,034; Daniel E. Ovanezian, Reg. No. 41,236; Kenneth B. Paley, Reg. No. 38,989; Gregg A. Peacock, Reg. No. 45,001; Marina Portnova, Reg. No. P45,750; Michael A. Proksch, Reg. No. 43,021; Randol W. Read, Reg. No. 43,876; William F. Ryann, Reg. 44,313; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Jeffrey S. Schubert, Reg. No. 43,098; George Simion, Reg. No. P47,089; Maria McCormack Sobrino, Reg. No. 31,639; Stanley W. Sokoloff, Reg. No. 25,128; Edwin H. Taylor, Reg. No. 25,129; Lance A. Termes, Reg. No. 43,184; John F. Travis, Reg. No. 43,203; Joseph A. Twarowski, Reg. No. 42,191; Kerry D. Tweet, Reg. No. 45,959; Mark C. Van Ness, Reg. No. 39,865; Thomas A. Van Zandt, Reg. No. 43,219; Lester J. Vincent, Reg. No. 31,460; Gleun E. Von Tersch, Reg. No. 41,364; John Patrick Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. P46,322; Thomas C. Webster, Reg. No. P46,154; and Norman Zafman, Reg. No. 26,250; my patent attorneys, and Firasat Ali, Reg. No. 45,715; and Richard A. Nakashima, Reg. No. 42,023; my patent agents, of BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

Please direct all communications concerning this Application to:

Thomas M. Coester, Esq.
 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN
 12400 Wilshire Boulevard, Seventh Floor
 Los Angeles, CA 90025
 (310) 207-3800

Date: _____

By: _____
 Eliot I. Bernstein

Date: _____

By: _____



[Handwritten signature]
Brian Utley, by Eliot Bernstein, his attorney-in-fact
[Handwritten signature]
Attorney
in fact



EXHIBIT E
RESUME OF BRIAN G. UTLEY

[insert Utley resume]



1930 SW 8th Street
Boca Raton, FL 33486

Personal Resume

Professional History:

President, Diamond Turf Equipment, Inc. July, 1995 to July 1999.
In 1995 the company was engaged in refurbishing obsolete and run-out golf course maintenance equipment and had annual sales of \$250K. Since that time the company has been transformed into a manufacturer of new machines which compete favorably with the best of the market leaders and an expected revenue for 1999 of \$6M. The design of the machines was by Brian and was accomplished while putting together a manufacturing and marketing team capable of supporting the rapid growth of the company.

President, Premier Connections, Inc., November, 1991 to present.
Premier Connections provides consultation and support services in computer and related business management. Customers have included IBM and other small businesses.

IBM, October, 1955 to October, 1991.
Brian retired from IBM as Vice-President and General Manager, IBM Boca Raton. Prior to his assignment in Boca Raton Brian spent 5 years in Europe as Group Director for PC's and small systems. This responsibility covered all aspects of product management for all European, Middle East and African countries.
In 1983 Brian was appointed General Manager, IBM Biomedical Systems and asked by the IBM President, John Opel, to evaluate develop the long range strategy for this business unit. Brian subsequently reported back to the President that the Business Unit, while quite viable, should be sold to a related business in the medical community. Having received approval to do so, he negotiated a profitable sale for IBM.
Between 1965 and 1983 Brian was the project and systems manager for many major IBM computer systems which earned IBM billions of dollars in revenue. The most notable of these was the S/38 and AS400, one of IBM's most technology aggressive development programs ever and still one off IBM's most popular systems.
Brian entered the IBM laboratories in 1959 and immediately became the most prominent engineer on his first project with many innovative designs. As a result of this he was assigned to the German IBM laboratories to train German engineers in computer technology. He has been awarded a number of patents the most recent of which was granted in 1998.
From his start in October 1955 to the time he entered the laboratories Brian was a customer engineer responsible for maintaining IBM equipment on customer premises. During this time he self taught computer technology and transistor theory and developed the first IBM field course in transistors. This is the accomplishment which led to his assignment in the laboratories.

Education:

Having been born in England, he attended Beverley Grammar School and graduated in 1948 at 16. In 1949 he emigrated to the United States and completed his senior year at Ogden High School, Ogden, Utah.
He attended college at Weber College, Ogden, Utah and San Francisco City College completing two years of study.

Hobbies:

Brian is a jogger and for 40 years has been an avid glider pilot with many competitive successes.

Per Friedkin he was fired for patent theft and the company was closed



1930 SW 8th Street
Boca Raton, FL 33485

Personal Resume

Professional History:

President, Diamond Turf Equipment, Inc. July, 1995 to July 1999.
In 1995 the company was engaged in refurbishing obsolete and run-out golf course maintenance equipment and had annual sales of \$250K. Since that time the company has been transformed into a manufacturer of new machines which compete favorably with the best of the market leaders and an expected revenue for 1999 of \$6M. The design of the machines was by Brian and was accomplished while putting together a manufacturing and marketing team capable of supporting the rapid growth of the company.

Truth was per Monte Friedkin that Utley was that he was fired for patent theft and Company was shut down!

Wheeler sets up Premier no COI, Utley lies in depo saying Wheeler never did work for him. Wheeler depo says he did it and did not disclose this to Company, lies to Bar of Florida and says he did????

President, Premier Connections, Inc., November, 1991 to present.
Premier Connections provides consultation and support services in computer and related business management. Customers have included IBM and other small businesses.

IBM, October, 1955 to October, 1991.
Brian retired from IBM as Vice-President and General Manager, IBM Boca Raton. Prior to his assignment in Boca Raton Brian spent 5 years in Europe as Group Director for PC's and small systems. This responsibility covered all aspects of product management for all European, Middle East and African countries.

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Between 1965 and 1983 Brian was the project and systems manager for many major IBM computer systems which earned IBM billions of dollars in revenue. The most notable of these was the S/38 and AS400, one of IBM's most technology aggressive development programs ever and still one of IBM's most popular systems.

No formal engineering degree ever obtained.

Brian entered the IBM laboratories in 1959 and immediately became the most prominent engineer on his first project with many innovative designs. As a result of this he was assigned to the German IBM laboratories to train German engineers in computer technology. He has been awarded a number of patents the most recent of which was granted in 1998.

From his start in October 1955 to the time he entered the laboratories Brian was a customer engineer responsible for maintaining IBM equipment on customer premises. During this time he self taught computer technology and transistor theory and developed the first IBM field course in transistors. This is the accomplishment which led to his assignment in the laboratories.

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He attended college at Weber College, Ogden, Utah and San Francisco City College completing two years of study.

Hobbies:

Brian is a jogger and for 40 years has been an avid glider pilot with many competitive successes.

Wachovia PPM says he was graduate, in his own deposition he says he was not!!



Utley – Confused about his past

- (11) Q. In New York. Okay. Now, going back
- (12) to something that Mr. Prusaski started but I
- (13) don't think he completed with was some of your
- (14) background information about your education. If
- (15) you can just tell me from undergraduate onward
- (16) what your educational background is, Sir, schools
- (17) you attended, years of attendance and degree.
- (18) A. I don't have a degree.
- (19) Q. Okay.
- (20) A. I attended Weaver State University,
- (21) which was then Weaver College, 1950.
- (22) Q. Okay.
- (23) A. San Fransisco City College, 1957,
- (24) 1958.
- (25) Q. Okay. And you graduated from San

Page 95

- (1) Francisco College or did not?
- (2) → A. I don't have a degree.
- (3) Q. Okay. So you never completed your
- (4) course at San Fransisco then?
- (5) → A. Right.

Here, Utley suddenly becomes graduate of San Francisco college in resume submitted for Wachovia bank OM – Private Placement offer. Here he claims he is a graduate of SF City college!!!

Brian G. Utley, President (67) - For over 30 years, Mr. Utley was responsible for the development and world-wide management of many of IBM's most successful products such as the AS400 and the PC. Entering IBM's executive ranks in the early 1980s, Mr. Utley's impact was felt in all areas of IBM's advanced technology product development, including Biomedical Systems, European Operations, and most importantly, IBM's launch of the Personal Computer. Following the introduction of the PC in the United States, Mr. Utley moved to Europe where he was responsible for a number of IBM's overseas activities including managing the launch of the PC across Europe and the Middle East. His career with IBM culminated with his responsibility as Vice President and General Manager of IBM Boca Raton with a work force of over 6,000 professionals. **He is a graduate of San Francisco City College. WHAT IS DEGREE??**



Management

Whereas the Company has retained Korn / Ferry to assist in the identification and recruitment of a high impact Chief Executive Officer (preferably from the media or entertainment industry) and Chief Technical Officer, iviewit has assembled a complementary and seasoned, management team with Fortune 100 and early-stage, entrepreneurial experience. This team consists of the following personnel:

Brian G. Utley, President (67) — For over 30 years, Mr. Utley was responsible for the development and world-wide management of many of IBM's most successful products such as the AS400 and the PC. His career with IBM culminated with his responsibility as Vice President and General Manager of IBM Boca Raton with a work force of over 6,000 professionals. He is a graduate of San Francisco City College.

Eliot I. Bernstein, Founder and Vice Chairman (37) — Prior to founding iviewit, Mr. Bernstein spent 15 years with SB Lexington where he was President of the West Coast Division creating and developing many innovative, computer-based multi-media marketing tools which remain in use supporting multi-billion dollar service industries. Mr. Bernstein is a graduate of the University of Wisconsin.

Michael A. Reale, Vice President of Operations (60) — Mr. Reale has over 20 years of operations experience, including P&L, quality, and delivery performance accountability. Most recently, Mr. Reale was the Chief Operating Officer for Boca Research (Nasdaq:BOCI), a manufacturer of personal computer enhancement and Internet thin client products. Mr. Reale received his BA and MBA from Pace University.

Raymond T. Hersh, Vice President of Finance (58) — Mr. Hersh has over 35 years of successful business and operating experience involving financial services, telecommunications, manufacturing, and corporate strategic planning. For over 20 years, Mr. Hersh has operated and grown companies in Florida, and most recently, he was co-founder and President/CEO of New Medical Concepts, Inc., a telecom company specializing in providing healthcare information. Earlier, he spent five years as an Enforcement Attorney with the U. S. Securities and Exchange Commission in New York City where he exited as a Branch Chief. He is a member of the New Jersey and New York Bars. Mr. Hersh received his BA from Lafayette College and his LLB/JD from the University of Pennsylvania.

Kevin J. Lockwood, Vice President of Sales and Business Development (40) — Mr. Lockwood joins iviewit from Cylex Systems where he held the position of Executive Vice President of Sales and assisted in securing three rounds of funding exceeding \$20 million. He also held the position of Head of Sales for Acer America, Inc. where he increased sales from a run rate of \$150 million annually to over \$1.5 billion annually in only a 17-month time. In addition, Mr. Lockwood successfully launched the Fujitsu P.C. into the U.S. and in the first year amassed revenues of over \$200 million. He is a graduate of the University of Maryland with a Bachelor of Science degree in Business Administration.

Guy Iantoni, Vice President of Sales (35) — Prior to joining iviewit in 1999, Mr. Iantoni was Senior Financial Representative with Fidelity Investments. From 1995 to 1997, he served as an Investment Management Consultant to the private client group of Morgan Stanley Dean Witter & Company, Inc. Mr. Iantoni has developed computer databases and systems to effectively market and target segments in both the financial markets and the healthcare industries. Mr. Iantoni is a graduate of the University of Wisconsin with an advanced degree in Pharmacy.

Strategic Alliances

iviewit is creating a stable of strategic partners in the areas of technology, R&D, applications development, and video hosting and delivery. The Company has partnered with key industry leaders to develop precedence in the market. Partners include Greg Manning Auctions, Atlas Entertainment, Medical Online, Digital Island, Burst.com, and Versifi.



EXHIBIT F

DEPOSITION STATEMENTS OF UTLEY & EVIDENCES OF PERJURED DEPOSITION STATEMENTS

The first exhibit of statements will illustrate that Mr. Utley and Mr. Wheeler try to deny the involvement of Kenneth Rubenstein and Proskauer Rose in the handling of the patent matters. In this first series it will become apparent that Mr. Utley and Mr. Wheeler perjure themselves in denying that Mr. Rubenstein was an Advisory Board member.

From Utley's deposition we cite:



1 engagement agreement refers to the parent company 138
2 of Iviewit.
3 Q. Well, let's go to my next question
4 on this whole thing, and that is, with regard to,
5 with regard to the approval by the board of
6 directors, we've talked prior about the board of
7 directors and Ken Rubenstein, was Ken
8 Rubenstein -- you've previously stated that he
9 didn't have any role with regard to the company,
10 no active role?
11 A. That's correct.
12 Q. And I hate to bounce back and forth
13 to you about this, he was never, like, an advisor
14 or consultant or anything like that; he was just
15 someone who was Proskauer Rose's person who did
16 work on IP?
17 A. Yeah, I can't speak to the
18 discussions that may have taken place between
19 Mr. Wheeler and Mr. Rubenstein, but --
20 Q. I'm not asking you to. I'm just
21 saying from what you know because obviously this
22 deposition testimony is given on your own
23 personal knowledge.
24 A. Yes. He played no active role in
25 the company other than having directed the



1 company to work with Meltzer and this gentleman 139
2 Rolf as the patent attorney.
3 Q. And that was his totality of his
4 role from what you know?
5 A. Yes.
6 Now, let me parenthetically add,
7 that I do understand and know that it was Eliot's
8 desire to see him involved in an advisory role.
9 Q. Okay.
10 A. But that was never, that was never
11 consummated.
12 Q. Okay. Did you ever want him to act
13 in an advisory role?
14 A. I did not take any position on that.
15 Q. Okay. Did you ever represent that
16 he should be in an advisory role?
17 A. No.
18 Q. Okay. So you really didn't have any
19 opinion on what Mr. Rubenstein should or should
20 not be doing with Iviewit?
21 A. Right.
22 Q. Okay. Did you have any discussions
23 or correspondence at all with Rubenstein and
24 Raymond Joao, I think it is? Is that how you
25 pronounce it, J-O-A-O?

Now in direct contradiction to this statement from Mr. Utley's deposition you will find in the next correspondence that Mr. Utley sends to Mr. Wheeler and the ENTIRE Board of Directors that he refers to Mr. Rubenstein as an Advisor to the Company.



Subject: FW: Minutes of the Board Meeting of April 14, 2001

-----Original Message-----

From: Brian G. Utley [mailto:brian@iviewit.com]

Sent: Wednesday, April 18, 2001 11:17 AM

To: Eliot I. Bernstein; 'simon@adelphia.net'; 'kanderson@myCFO.com'; 'dg_kane@msn.com';

'glewin@goldsteinlewin.com'; 'hankpow@gate.net'; 'bprolow@tiedemannfunds.com'; Maurice Buchsbaum

Cc: 'Christopher C. Wheeler (E-mail)'

Subject: RE: Minutes of the Board Meeting of April 14, 2001

I was advised by Proskauer Rose that anyone who was in an active due diligence stage and who was reviewing our intellectual property as part of that due diligence should receive a copy of the examiners opinion. Therefore the opinion was forwarded to the same people who have received copies of the patent filings namely, Warner Brothers and Irell & Manella. Ken Rubenstein, as our advisor, was also copied. Your father suggested that, because of the importance of our intellectual property, our own Board of Directors should be aware of the current status of our applications. With respect to Irell & Manella, it is quite likely that we will need to engage them or some other alternative counsel in order to respond to the opinion. I have a copy of Alvear's book if you need it.

-----Original Message-----

From: Eliot I. Bernstein

Sent: Tuesday, April 17, 2001 7:07 PM

To: 'simon@adelphia.net'; 'kanderson@myCFO.com'; 'dg_kane@msn.com'; 'glewin@goldsteinlewin.com';

'hankpow@gate.net'; 'bprolow@tiedemannfunds.com'; Maurice Buchsbaum

Cc: Brian G. Utley; Christopher C. Wheeler (E-mail)

Subject: RE: Minutes of the Board Meeting of April 14, 2001

Brian - several board members asked that you specify which of our attorneys advised you and on what legal references you were cited to disseminate the PCT report. Also, was there some reason that you have recently decided to share patent news of any nature with those involved, prior you had never disclosed to the Board or potential clients anything that was regarding the patents?

I had already discussed with David the examiners report and we had begun to research the reference to Jose Alveraz's book, it does not look particularly relevant to our process.

Also, I find it in poor taste that you are encoding pornography with a 17 year old girl present in the room, this could potentially be a risk to the company, so I ask that all further business relating to pornography be handled outside the office and without iviewit personnel or equipment. Could you please have our attorney's advise on the risks you may be subjecting us to in this matter. These matters were brought to my attention by several of our employees who were offended.

Best,
Eliot

Again, contrary to this Board letter by Mr. Utley he perjures himself in his deposition:



6 Q. Okay. So Rubenstein's sole role,
 7 from what you understand, is he referred Iviewit
 8 to the Meltzer Law Firm in New York?
 9 A. Yes.
 10 Q. Was he ever part of an advisory
 11 board member or was he an advisory board member
 12 to Iviewit? And we're talking about
 13 Mr. Rubenstein.
 14 A. I have never used him as an advisory
 15 board member?

And again, in a letter to Mr. Wheeler before placing Mr. Rubenstein in the business plans as an Advisory Board member, we find the following letter sent by Mr. Utley to Mr. Wheeler:

MR. UTLEY, REVERSING COURSE AGAIN, ASKING WHAT ROLE TO PROVIDE FOR RESPONDENT

-----Original Message-----
 From: Brian G. Utley [mailto:brian@iviewit.com] On Behalf Of Brian
 Sent: Thursday, January 13, 2000 9:33 AM
 To: 'cwheeler@proskauer.com'; 'cwhlaw@aol.com'
 Subject: Business Plan

Your name and Ken Rubenstein's name are proposed as members of an iviewit advisory board. Does this give you a problem?
 Brian

And here again in the Wachovia Private Placement Memorandum authored and disseminated by Wheeler and Utley, we find he has again perjured his deposition statements in regards to Rubenstein and either is guilty of committing fraud on bank or perjuring his deposition as Rubenstein is clearly listed as an Advisory Board member.



Lorraine Christine Hoffman, Esq.
 Assistant Staff Counsel
 The Florida Bar
 File No. 2003-51, 109(15C)



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II. INVESTMENT HIGHLIGHTS

- ◆ **Unique processing technologies for video and imaging**

iviewit's patent pending processing technologies can create high-definition images with "scan, pan, and zoom" capabilities, high-fidelity audio streams, and full-screen, full-frame rate video for streaming over the Internet. The iviewit video technology is a highly scalable process. The resulting files are approximately 25% less than comparable quality files. iviewit 220Kps streams are equivalent to competitive 300Kbps streams. The Company's imaging process delivers images that are photo-quality, resistant to pixelation even at magnification levels of 30+:1. Images produced by iviewit's proprietary process are identical in quality regardless of the end-user's Internet connection speed. File size options are tailored to minimize download times and optimize the end-user's experience.

- ◆ **Complementary and Seasoned Fortune 100 and Entrepreneurial Management Team**

iviewit has assembled a complementary and seasoned management team with Fortune 100 and early-stage, entrepreneurial experience. Management consists of former IBM operations executives who have experience in building video delivery capabilities and of marketing talent from successful venture-backed technology companies. The Company recognizes its strength in operations and product development and recognizes the need to attract a capable, experienced CEO and CTO to accelerate the Company's development. iviewit has retained Korn / Ferry to assist in the identification and recruitment of this talent.

- ◆ **Strong and Experienced Board of Directors and Advisory Board**

iviewit's Board of Directors and Advisors consist of several well-established individuals from the technology, entertainment, and financial community. Directors have extensive backgrounds with top-tier firms such as Goldman Sachs, Kidder Peabody, and McKinsey & Co. Crossbow Ventures has provided \$3.0 million in funding and sits on the Board. Technology and entertainment guidance comes from a partner at Armstrong Hirsch Jackoway & Wertheimer and from Kenneth Rubenstein, the head of the MPEG-2 patent pool.

- ◆ **Significant Intellectual Property Position and Strategy**

iviewit has protected its enabling technologies by filing 6 patent pending applications in both the United States and abroad for its video streaming and imaging capabilities, covering a wide array of enabling technologies. The Company also has two remaining provisional patent pending applications that will be converted to patent pending status within the allowable period. The Company has retained Foley & Lardner to shepherd its patent development and procurement. In addition, the Company has retained Kenneth Rubenstein of Proskauer Rose, LLP to oversee its entire patent portfolio. The Company's strategy is to establish market precedence through licensing of trade secrets and know-how.

- ◆ **Substantial Market Penetration and Growing Customer Acceptance**

The Company commercialized its products in May 2000. In just 5 months, iviewit has experienced a 75% success rate in obtaining service and licensing customers, securing 17 customers to date – primarily in the entertainment, advertising, and hotel markets. The Company expects to realize approximately \$400,000 in revenues by year-end from these customers. High profile customers include Ellen DeGeneres, Z.com (Alanis Morissette), Hyatt Hotels, Gear Magazine, and Hollywood.com. Highly probable for closing by year-end 2000 include Warner Brothers and Greg Manning Collectibles.

- ◆ **Focused on Media Rich Target Markets – Unlocking the Value of Content**

The Company's business strategy is to first target high-profile content owners and distributors as clients to process video and images and to brand those images with iviewit's logo. Secondly, iviewit plans to co-brand with famous celebrities and



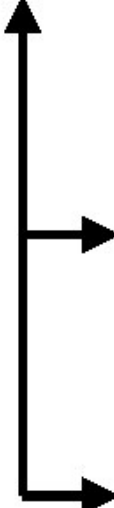
And further from that certain Private Placement Memorandum:



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Investment Management, both based in London. Among his primary areas of expertise are technology research and economic research, including electronics, telecommunications and computer software. Most recently, he was Senior Technology Analyst and Vice President of Southeast Research Partners, Inc. where he worked with leading technology companies. He earned a bachelor of arts degree at Yale University and a master of business administration degree at Stanford University.

Advisors



Alan J. Epstein

Partner, Armstrong Hirsch Jackoway Tyerman & Wertheimer, P.C.

Mr. Epstein's law practice consists of advising Internet companies on various issues pertaining to the entertainment and sports industries, including the creation, licensing and acquisition of content, the introduction and negotiation of strategic partner relationships, and various other matters relating to the convergence of technology and content. Mr. Epstein also advises his firm's numerous celebrity clients on the exploitation and protection of their name and likeness rights and content on the Internet, as well as merchandising, endorsement and sponsorship deals. Prior to entering the UCLA School of Law, Mr. Epstein was a certified public accountant at Deloitte Haskins & Sells in Dallas, Texas.

Kenneth Rubenstein

Partner, Proskauer Rose LLP

Mr. Rubenstein is a partner at Proskauer Rose LLP law firm and is the patent attorney for iViewit. He is a registered patent attorney before the U.S. Patent & Trademark Office. Mr. Rubenstein counsels his clients with respect to the validity and infringement of competitors' patents, as well as prosecutes patent applications. For the past several years he has worked on the formation of a patent pool, for MPEG-2 technology, involving large consumer electronics and entertainment companies. He is also a former member of the legal staff at Bell Laboratories. Mr. Rubenstein received his law degree, cum laude, from New York Law School and his Ph.D. in physics from the Massachusetts Institute of Technology where he also graduated with a B.S. Degree.

Christopher C. Wheeler

Partner, Proskauer Rose LLP

Mr. Wheeler is a member of Proskauer Rose LLP's Corporate Department and as a partner in the Florida office has a versatile transactional practice. He has had extensive experience in real estate and corporate law, institutional lending and workouts, administrative law and industrial revenue bond financing. Moreover, he serves as a strategist and counselor to many clients in handling their other legal and business matters. Mr. Wheeler is well-versed in general corporate law as well as mergers and acquisitions and securities matters. He has guided companies from startup through initial private placements to public offerings. A graduate of Hamilton College and Cornell Law School, Mr. Wheeler was a member of the managing Board of Editor of the Cornell Law Review.

Legal & Accounting Counsel



Arthur Andersen, LLP

Arthur Andersen's vision is to be the partner for success in the New Economy. The firm helps clients find new ways to create, manage and measure value in the rapidly changing global economy. With world-class skills in assurance, tax, consulting and corporate finance, Arthur Andersen has more than 70,000 people in 83 countries that are united by a single worldwide operating structure that fosters inventiveness, knowledge sharing and a focus on client success. Since its beginning in 1913, Arthur Andersen has realized 86 years of uninterrupted growth, with 1999 revenues over \$7 billion. Arthur Andersen is a business unit of Andersen Worldwide.

Proskauer Rose, LLP

This law firm is one of the nation's largest law firms, providing a wide variety of legal services to major corporations and other clients through the United States and around the





DEPOSITION STATEMENTS OF WHEELER & EVIDENCES OF PERJURED DEPOSITION STATEMENTS

The first exhibit is a statement circulated by Proskauer Rose for investment to several investment groups, followed by his denial of such claims in his deposition.



Christopher C. Wheeler
Member of the Firm
Direct Dial 561.995.4702
cwheeler@proskauer.com

April 26, 1999

Mr. Richard Rossman
Lewinter and Rossman
16255 Ventura Blvd., Suite 600
Encino, CA 91436

Re: iviewit, Inc.

Dear Richard:

Under separate cover I have forwarded you a revised Confidentiality Agreement.

As you know we have undertaken representation of iviewit, Inc. ("iviewit") and are helping them coordinate their corporate and intellectual property matters. In that regard, we have reviewed their technology and procured patent counsel for them. We believe the iviewit technology is far superior to anything presently available with which we are familiar. Iviewit has filed a provisional patent application on a method for providing enhanced digital images on telecommunications networks. We are advised by patent counsel that the process appears novel and may be protected by the patent laws. While in all matters of this sort, it is far to early to make any final pronouncements, we do believe that there is an extremely good prospect that iviewit will protect their process which is novel and superior to any other format which we have seen.

Very truly yours,

Christopher C. Wheeler

CCW/gb

1 Company Certificate as Exhibit to opinion, et cetera,
 2 et cetera. There were more - I would imagine they
 3 were corporate matters. We wouldn't have opined - we
 4 never opined to the intellectual property.

Wheeler's deposition p.200:

20 Q. So you never made any representation to
 21 any party with regard to anything concerning the
 22 invention or the process or however we're going to
 23 describe this particular zoom and pan or enlargement
 24 without pixilation?
 25 A. No, no. I mean, what would I have said?

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1 What you see is what you get. Look at - this is what
 2 we have, and this is what the company intends to do.
 3 Q. Was there ever any representation made
 4 that you can recall that the technology, to the extent
 5 that it was going to be protected or was in a soon to
 6 be protected form, would be compensated by royalties
 7 almost immediately?
 8 A. No.



Wheeler's deposition p.102-103:

Further in a letter to secure investment from Wayne Huizenga, Mr. Wheeler again completely contradicts his deposition statements.



JUL 23 1999 17:17 FR PROSKAUER ROSE

561 241 7145 TO 0894H40017001H41 P.03/09

PROSKAUER ROSE LLP

2255 Glades Road
Suite 140 West
Boca Raton, FL 33431-2360
Telephone 561.241.7400
Elsewhere in Florida
800.402.7740
Fax 561.241.7145

NEW YORK
LOS ANGELES
WASHINGTON
CHICAGO
MIAMI

Christopher C. Wheeler
Member of the Firm

Direct: Dial 561.995.4702
cwheeler@proskauer.com

July 23, 1999

VIA FAX

Mr. Cris V. Branden
Huizenga Holdings, Inc
450 East Las Olas Blvd., Suite 1500
Ft. Lauderdale, FL 33301

Dear Cris:

Per our discussion, enclosed please find Evaluation Feedback and proposed Confidential Term Sheet. Please note the last sentence of the Evaluation Feedback. We view this as a validation of our technology and an indication of Rea 3D's intent to move forward.

Best regards,

Cordially,


Christopher C. Wheeler

CCW/gb

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And finally, Mr. Wheeler drafts the following letter for circulation to his Partners at Proskauer Rose regarding the impact of the Iviewit technologies.



Dear Colleagues,

As a firm, we are in a unique position to impact the effectiveness of the Internet and to profit from the same. The firm of iviewit.com, Inc. is one of my clients and Proskauer, Rose, LLP, is a 2.5% shareholder. I have worked closely with iviewit, for the past 18 months, establishing and fine-tuning their corporate structure. My objective with this letter is to introduce you to this forward-thinking company and to ask for your support and assistance.

The Internet is quickly evolving from a text-based medium that users have been forced to read, into a multimedia platform that users can begin to *experience*. The importance that this evolution has to e-commerce has been likened to the impact felt by television when it was embraced as a marketing and communications tool. iviewit's intellectual property positions them as a leader in the streaming video, streaming audio and virtual imaging online markets. Their technologies have broad ranging applications for many different industries including: entertainment, auctions, education, healthcare and retail.

Because of the extensive applicability of iviewit's products, the vast majority of Proskauer's client relationships represent potential clients for iviewit. Please join me as I endeavor to introduce my clients to iviewit and, in the process, help those clients to gain a competitive advantage through the utilization of iviewit's technologies. Please contact me with any opportunities that you identify and I will arrange an introduction to a member of iviewit's management team. I have enclosed a descriptive flyer from iviewit and a multimedia CD-ROM that will serve as an introduction to iviewit. Additional information can be found at their website, www.iviewit.com.

Thank you for your time and attention. I look forward to working together to help this valued client and to further enhance the value of our equity position in iviewit.

Sincerely,

Christopher C. Wheeler

The next set of deposition and Florida Bar statements by Mr. Wheeler concern his recommendation of Brian Utley, his "best" friend to Iviewit, without disclosing his past patent malfeasances and his prior work for Mr. Utley. What is interesting to note is that first Mr. Wheeler claims to the Florida Bar that he fully disclosed his past dealings with Mr. Utley and then later claims in another statement to the Florida Bar that he did not. His first statement contradicts his deposition testimony.

IV. Misrepresentation of Mr. Utley's background by Mr. Wheeler on a false resume where Utley lies about termination from his prior employer, Monte Friedkin of Diamond Turf, failing to inform the Company that he was involved in patent disputes that led to closure of the Company and his being fired. More shocking is that Utley testifies that Wheeler was "fully cognizant" of such termination and reasons surrounding such termination.

From the response filed by Mr. Wheeler we quote:

B. Misrepresentations: Mr. Bernstein alleges that Mr. Wheeler misrepresented: (i) Brian Utley's background while recommending him for a position with Iviewit; (ii) patent attorney William Dick's background; (iii) that Raymond Joao was a Proskauer attorney, and (iii) that Kenneth

C. Conflicts of Interest: Mr. Bernstein alleges that Proskauer: (i) represented other clients with a conflict of interest to Iviewit; (ii) failed to disclose the prior representation of Brian Utley; and

IV. No Misrepresentations Were Made To Eliot Bernstein

In his complaint, Mr. Bernstein alleges that Mr. Wheeler somehow misrepresented the credentials of several people to Iviewit, most notably Brian Utley, Iviewit's former President and COO. According to Mr. Bernstein, Mr. Wheeler misrepresented the background of Mr. Utley in order to induce Iviewit to hire him.

It is worth noting that, at the time of his hiring as the President of Iviewit, Mr. Utley was retired from a thirty-seven year career with IBM, serving as the Vice-President and General Manager in charge of the Boca Raton, Florida operations. Contrary to Mr. Bernstein's allegations, Mr. Wheeler merely introduced Mr. Utley to Simon Bernstein and advised him that he first met Mr. Utley in 1990 on a social level and subsequently served with him on the Florida Philharmonic and Florida Atlantic University Foundation Boards. (Deposition of Christopher Wheeler ("Wheeler dep.") at 113-18, 131-20). The introduction was made because Simon Bernstein was looking for someone to run Iviewit and asked Mr. Wheeler for a recommendation. Mr. Wheeler disclosed his social relationship with Mr. Utley to Simon Bernstein and told him that Mr. Utley was the site manager of IBM's Boca Raton office when they first met in 1990. *Id.* at 115-12, 117-1. Mr. Wheeler advised Mr. Bernstein to explore with Mr. Utley whether he was a good fit for Iviewit. *Id.* at 115-12. At no point did Mr. Wheeler submit any "false resumes" on behalf of Mr. Utley and he is unaware of the existence of any such document.

We respectfully submit Mr. Utley's resume as given to Iviewit by Mr. Wheeler for circulation to approve Mr. Utley to the Board and Investors and a confirmation email that Mr. Wheeler was in receipt of Mr. Utley's resume. Further in every business plan that was authored, reviewed, billed for by Proskauer Rose and disseminated by Mr. Wheeler to investors, potential investors, clients, shareholders, potential clients and Wachovia Securities for a Private Placement of 12-20M, Mr. Utley's background was included, with false statements. We ask that the Florida Bar contact Mr. Monte Friedkin ((954) 972-3222 x310) for testimony that Mr. Utley's statements are false in regard to his past employment. When contacted by Iviewit after Mr. Utley's termination we got a far different story on what happened at Diamond Turf Lawnmower, which is that Mr. Utley had attempted to steal patents which led to his being fired and the Company being closed. Since Mr. Wheeler, Mr. Utley and Mr. Friedkin all sat on the FAU Board together, Mr. Friedkin was confident that Wheeler had full knowledge of the situation, but more telling is that in Mr. Utley's deposition



Lorraine Christine Hoffman, Esq.
 Assistant Staff Counsel
 The Florida Bar
 File No. 2003-51, 109(15C)

he claims that Mr. Wheeler was fully "cognizant" of the reasons surrounding his departure. Mr. Wheeler in his deposition is unclear of his knowledge and in the letter submitted to the Bar of Florida he is in complete denial.

1930 SW 8th Street
 Boca Raton, FL 33485

Personal Resume

Professional History:

President, Diamond Turf Equipment, Inc. July, 1995 to July 1999

In 1995 the company was engaged in refurbishing obsolete and run-out golf course maintenance equipment and had annual sales of \$250K. Since that time the company has been transformed into a manufacturer of new machines which compete favorably with the best of the market leaders and an expected revenue for 1999 of \$6M. The design of the machines was by Brian and was accomplished while putting together a manufacturing and marketing team capable of supporting the rapid growth of the company.

Truth was per Monte Friedkin that Utley was that he was fired for patent theft and Company was shut down!

Wheeler sets up Premier no COI, Utley lies in depo saying Wheeler never did work for him. Wheeler depo says he did it and did not disclose this to Company, lies to Bar of Florida and says he did?????

President, Premier Connections, Inc., November, 1991 to present.

Premier Connections provides consultation and support services in computer and related business management. Customers have included IBM and other small businesses.

IBM, October, 1955 to October, 1991.

Brian retired from IBM as Vice-President and General Manager, IBM Boca Raton. Prior to his assignment in Boca Raton Brian spent 5 years in Europe as Group Director for PC's and small systems. This responsibility covered all aspects of product management for all European, Middle East and African countries.

In 1983 Brian was appointed General Manager, IBM Biomedical Systems and asked by the IBM President, John Opel, to evaluate develop the long range strategy for this business unit. Brian subsequently reported back to the President that the Business Unit, while quite viable, should be sold to a related business in the medical community. Having received approval to do so, he negotiated a profitable sale for IBM.

Between 1965 and 1983 Brian was the project and systems manager for many major IBM computer systems which earned IBM billions of dollars in revenue. The most notable of these was the S/38 and AS400, one of IBM's most technology aggressive development programs ever and still one of IBM's most popular systems.

No formal engineering degree ever obtained.

Brian entered the IBM laboratories in 1959 and immediately became the most prominent engineer on his first project with many innovative designs. As a result of this he was assigned to the German IBM laboratories to train German engineers in computer technology. He has been awarded a number of patents the most recent of which was granted in 1998.

From his start in October 1955 to the time he entered the laboratories Brian was a customer engineer responsible for maintaining IBM equipment on customer premises. During this time he self taught computer technology and transistor theory and developed the first IBM field course in transistors. This is the accomplishment which led to his assignment in the laboratories.

Education:

Having been born in England, he attended Beverley Grammar School and graduated in 1948 at 16. In 1949 he emigrated to the United States and completed his senior year at Ogden High School, Ogden, Utah.

He attended college at Weber College, Ogden, Utah and San Francisco City College completing two years of study.

He attended college at Weber College, Ogden, Utah and San Francisco City College completing two years of study.

Hobbies:

Brian is a jogger and for 40 years has been an avid glider pilot with many competitive successes.

Wachovia PPM says he was graduate, in his own deposition he says he was not!!

Confidential

Page 81 of 722

4/30/2003

And now from Mr. Wheeler's deposition he denies that he knew why Utley was fired from Diamond Turf over patent disputes which Utley claims Wheeler was fully aware of such situation, one of them has perjured themselves. It is further interesting to note that Wheeler again feigns confusion when he knows the owner of Diamond Turf well and sits on the Board of Florida Atlantic University with him and Mr. Utley.

1 A. Uh-huh. He was the site manager, or the
2 equivalent of the title.

3 Q. And when you introduced him to Sy and
4 Eliot Bernstein, do you know what he was doing at that
5 point in time?

6 A. He was working at a - and running a - a -
7 what could we call it, a company that was
8 manufacturing - developing and manufacturing greens
9 cutting equipment. It's called Diamond Turf, I think.
10 Or something like that.

11 Q. Do you know if he was terminated from his
12 job at Diamond Turf or did he leave voluntarily?

13 A. I don't know which.

14 Q. At the time that he took the job with
15 iViewit, do you know if he was gainfully employed at
16 that point or not?

17 A. No. I don't know if he was still employed
18 by Diamond Turf or not.

19 Q. Did you ever see Mr. Utley's resume?

20 A. I don't recall if he was -- Did I ever see
21 his resume? Not to my recollection.

22 Q. Did he ever provide you with any
23 background information?

24 A. He could have, but I don't recall it.

25 Q. C.V. or anything of that nature to give to

1 the Bernsteins?
2 A. I don't recall.
3 Q. Are you aware of any patents that
4 Mr. Utley holds?
5 A. No. No, I'm not.
6 Q. Have you ever -- I'm sorry, go ahead.
7 A. I'm not aware of anything other than if he
8 referenced patents in his own deposition, but I
9 didn't - I didn't follow that closely in his
10 deposition.
11 Q. So you - you read a transcript of his
12 deposition?
13 A. Yes.
14 Q. Now, with regard to his - I'll take
15 Mr. Utley's employment by iViewit, have you ever
16 represented Mr. Utley personally in any matters?
17 A. We formed a corporation for him in - I
18 believe in 1993.
19 Q. Do you recall the entity, the corporation?
20 A. I think it was a consulting corporation.
21 We just formed it. I mean, we just formed it. That's
22 all we did.
23 Q. Right.
24 A. We didn't do any more work for him.
25 Q. Just formed the consulting corporation?

KEN SCHANZER & ASSOCIATES, INC. (954) 922-2660

We respectfully submit the following evidence from Mr. Utley's deposition whereby he claims that Mr. Wheeler was fully cognizant of his being fired and the circumstances surrounding them from Diamond Turf:

The Company will now show that Mr. Wheeler was fully aware of the reasons surrounding Mr. Utley departure from his prior employer and failed to disclose this information not only to the Company but to investors and banks, perpetrating a fraud on all parties, in that had anyone known of Utley's past patent problems he would have never been hired. The fraud is material in that it ends up causing similar patent theft problems and the destruction of the Iviewit companies. Once Wachovia and other investors became aware of the patent problems and patent thefts it caused catastrophic damages to the Company, leaving the current patents in a state of unknown damages.



A. We shared nondisclosure agreements and communicated as required in order to construct the business plan.

Q. And did they require or request that you provide them with a CV as part of the business plan to evidence your expertise.

A. I believe so.

MR. PRUSASKI: Objection to form.

MR. SELZ: I'll restate the question.

By MR. SELZ:

Q. Did Wachovia Bank request that you provide personal information to them as part of that business plan?

A. Yes.

Q. And did you provide that personal information in the form of a curriculum vitae or CV?

A. It was integrated in prior editions of the business plan and flowed into the one that was developed with Wachovia.

Q. Now, when Chris Wheeler first introduced you to Iviewit, was he aware of the situation at Diamond Turf and yourself and





101 kauer Rose vs. Iviewit.com, et al. 8/23/02
 102 Mr. Monte Freedkin or what was Mr. Wheeler's 244
 103 knowledge of your position at Diamond Turf, to
 104 the best of your knowledge?
 105 MR. PRUSASKI: Objection to form.
 106 MR. SELZ: Okay. I'll restate the
 107 question. I'm sorry. Getting a little tired.
 108 MR. PRUSASKI: I'm just objecting to
 109 the extent that you're asking him what Chris
 110 Wheeler's personal knowledge was.
 111 MR. SELZ: Okay.
 112 By MR. SELZ:
 113 Q. To the extent that you know, what
 114 was Chris Wheeler's personal knowledge of that
 115 situation?
 116 MR. PRUSASKI: Objection to form.
 117 → THE WITNESS: I believe Chris,
 118 Mr. Wheeler was fully cognizant of my
 119 relationship to Diamond Turf Equipment and to
 120 Mr. Freedkin.
 121 By MR. SELZ:
 122 → Q. And he was aware about your
 123 departure from that company and that situation?
 124 A. Yes.
 125 Q. Involving your employed and your
 126 change of employment when you left Diamond Turf?

101 Carl & Associates (763)591-0535 or (800)591-9PCA (722)

101 kauer Rose vs. Iviewit.com, et al. 8/23/02
 102 A. Yes. 245
 103 Q. Other than your retirement at IBM,
 104

Now after reading that Utley claims in his deposition that Wheeler was “fully cognizant” of the reasons for his departure, Mr. Wheeler then claims in his deposition:

1 MR. TRIGGS: Object to form.
2 Q. Did Proskauer assist Mr. Utley in
3 prosecuting any patents or having any other
4 intellectual properties protected by copyright or
5 trademark?
6 A. No.
7 Q. Are you aware of any claims by Diamond
8 Turf that Mr. Utley improperly received intellectual
9 properties or patented them that belonged to Diamond
10 Turf?
11 A. Aware that --
12 Q. Mr. Utley is alleged to have improperly
13 received or taken intellectual properties of Diamond
14 Turf.
15 A. By Diamond Turf? No.
16 Q. Okay. On the amended deposition

Now this next set of deposition and Florida Bar statements by Wheeler and Utley, again exhibit a pattern of lies and deceit, that end up forcing Mr. Wheeler to apologize to the Florida Bar that he lied to them, making his deposition statements perjured. This relates to the fact that Mr. Wheeler failed to disclose his past representations of Utley and that Mr. Utley again lies under deposition stating Wheeler never represented him.

V. Conflicts of interest in representing Mr. Utley to Iviewit and failure to disclose to the Company that a conflict existed between Mr. Utley being represented by Mr. Wheeler and Proskauer Rose in the past and not disclosing such information upon referral of Mr. Utley. Mr. Wheeler had



started a computer consulting business (Premier Consulting Inc.) that is still in existence and had conflicting clients, i.e. IBM, that was not properly disclosed to Iviewit. Mr. Wheeler's deposition testimony will contradict his statements to the Bar of Florida and represents yet another perjured statement.

IV. No Misrepresentations Were Made To Elliot Bernstein

In his complaint, Mr. Bernstein alleges that Mr. Wheeler somehow misrepresented the credentials of several people to Iviewit, most notably Brian Utley, Iviewit's former President and COO. According to Mr. Bernstein, Mr. Wheeler misrepresented the background of Mr. Utley in order to induce Iviewit to hire him.

C. Conflicts of Interest: Mr. Bernstein alleges that Proskauer: (i) represented other clients with a conflict of interest to Iviewit; (ii) failed to disclose the prior representation of Brian Utley; and

V. No Conflicts Of Interest Existed In Proskauer's Representation Of Iviewit

Mr. Bernstein also alleges the existence of a conflict of interest on the part of Mr. Wheeler based on his prior representation of Mr. Utley in other matters. At the time Mr. Wheeler introduced Mr. Utley to Mr. Bernstein, Mr. Wheeler disclosed that Proskauer had previously formed a corporation for Mr. Utley in approximately 1993. At the time the introduction was made, Mr. Utley was not a current client of the firm. In short, there was no conflict of interest arising out of Mr. Wheeler merely

And this next part of Mr. Wheeler's deposition is in direct contradiction to his statements to the Florida Bar in this matter, in that he has claimed to the bar that he notified Iviewit of his involvement with Mr. Utley on a professional basis and in his deposition testimony contrarily denies such, thus constituting perjury.

Lorraine Christine Hoffman, Esq.
Assistant Staff Counsel
The Florida Bar
File No. 2003-51, 109(15C)

118

1 the Bernsteins?

2 A. I don't recall.

3 Q. Are you aware of any patents that
4 Mr. Utley holds?

5 A. No. No, I'm not.

6 Q. Have you ever -- I'm sorry, go ahead.

7 A. I'm not aware of anything other than if he
8 referenced patents in his own deposition, but I
9 didn't - I didn't follow that closely in his
10 deposition.

11 Q. So you - you read a transcript of his
12 deposition?

13 A. Yes.

14 Q. Now, with regard to his - I'll take
15 Mr. Utley's employment by iviewit, have you ever
16 represented Mr. Utley personally in any matters?

17 A. We formed a corporation for him in - I
18 believe in 1993.

19 Q. Do you recall the entity, the corporation?

20 A. I think it was a consulting corporation.
21 We just formed it. I mean, we just formed it. That's
22 all we did.

23 Q. Right.

24 A. We didn't do any more work for him.

25 Q. Just formed the consulting corporation?

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Assistant Staff Counsel
The Florida Bar
File No. 2003-51, 109(15C)

119

1 A. Right.

2 Q. Did you ever advise anyone at iviewit

3 other than, obviously, Mr. Utley, who knew that you

4 had represented him in the past, that you had

5 represented Mr. Utley at one point?

6 A. No.

7 Q. Was there any - any question of any

8 conflict?

9 A. No.

10 Q. Was there any employment agreement signed

11 by Mr. Utley between Mr. Utley and iviewit?

12 A. Yes.

13 Q. And who prepared the employment agreement?

14 A. Proskauer.

15 Q. And did you not think that potentially

16 posed a conflict?

17 A. No.

18 Q. And who did you represent in the

19 preparation of that employment agreement?

20 A. The company. We did not represent

21 Mr. Utley.

22 Q. So there was no waiver of conflict, no

23 conflict letter, nothing went out with regard to

24 Mr. Utley and iviewit?

25 A. No.

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And further evidence from Mr. Utley's deposition as contrasted to Mr. Wheeler's will further show they both commit perjury. From Utley's deposition we submit deposition in which he clearly perjures himself in that Wheeler in the previous testimony says that he did represent Utley:

From Utley's deposition we submit the following contradictory evidence to Wheeler's statements.

Lorraine Christine Hoffman, Esq.
Assistant Staff Counsel
The Florida Bar
File No. 2003-51, 109(15C)

Proskauer Rose, et al. vs Iviewit.Com, Inc., et al. 8/22/02

1 least nine years before you were introduced to 108
2 Iviewit then?

3 A. Yes.

4 Q. Did you keep up any communications
5 with him or talk to him on a regular basis?

6 A. Well, we had a mutual friend, as it
7 turned out, and we were involved in local
8 philanthropic activities together, so we, yes, we
9 had fairly frequent contact.

10 Q. Okay. Could you say, then, that you
11 developed a friendship of sorts with Mr. Wheeler?

12 A. Yes.

13 Q. Other than socially and through your
14 immediate contact through IBM, did you know
15 Mr. Wheeler in any other setting?

16 A. No.

17 Q. No other business dealings, no other
18 representation by yourself of Mr. Wheeler,
19 nothing of that sort?

20 A. Well, I don't know how you want to
21 classify being on the same board. We were both
22 on the philharmonic board. We were both involved
23 with Community Hospital. I recruited him to
24 Florida Atlantic University Foundation Board,
25 which I chaired.

Pat Carl & Associates (763)591-0535 or (800)591-9PCA (722)

Lorraine Christine Hoffman, Esq.
Assistant Staff Counsel
The Florida Bar
File No. 2003-51, 109(15C)

Proskauer Rose, et al. vs Iviewit.Com, Inc., et al. 8/22/02

Q. Okay. Other than that, he never represented you as an attorney; he never represented you in any case, nothing of that sort?

A. No.

Q. Now, when Mr. Wheeler first introduced you to Iviewit, did he specify, other than what we've already discussed, the purpose for his introduction? Did he talk to anything about a scope of employment or what your purpose would be at the company, other than what you've already described?

A. No. He said he was looking for someone with a technology background who had the potential to run the company.

Q. Now, with regard to Eliot Bernstein, Jude Resario and Zakirul Shirajee, am I pronouncing that correctly?

A. Why don't you spell it.

Q. Let's see, I got Z-A-K-I-R-U-L, last name is S-H-I-R-A-J-E-E. Do you remember meeting with those gentlemen, Eliot Bernstein and Jude Resario and Zakirul Shirajee?

A. At a later point in time, yes.

Q. Okay. What was the time that you

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Finally, on this set of perjured statements by Mr. Wheeler and Mr. Utley, Mr. Wheeler upon being confronted with his contradictions to the Florida Bar, footnotes in his response the following statement that shows clearly that he perjured himself.



² We do note that Iviewit has pointed out a misstatement in our April 7, 2003 submission to you, based on the deposition testimony of Mr. Wheeler taken in the litigation between Proskauer and Iviewit. In his deposition, Mr. Wheeler stated that he did not advise Iviewit of the fact that he assisted Mr. Utley, years prior, in forming a corporation for him prior to Mr. Utley's employment with Iviewit. In my letter to you dated April 7, 2003, I erroneously advised you that Mr. Wheeler discussed this representation with Iviewit. Having had a chance to discuss the issue with Mr. Wheeler, I can confirm that his deposition testimony as to that issue is correct. He did not discuss the issue with Iviewit. I apologize for this oversight. Importantly, however, we are unaware of any ethical obligation that would have required Mr. Wheeler to volunteer such information.

These next sets of deposition statements show Mr. Wheeler again committing perjury regarding his knowledge of the Iviewit patent processes in an attempt to claim ignorance and deny his involvement in the patent theft by Mr. Utley and others.

Lorraine Christine Hoffman, Esq.
Assistant Staff Counsel
The Florida Bar
File No. 2003-51, 109(15C)

1 doing nothing more than harassing at this point.

2 MR. SELZ: Well, with all due respect to
3 your objection, obviously, speaking objections
4 aren't appropriate, certainly in a deposition,
5 but with regard to that, I think it's actually
6 something that's referenced in Mr. Wheeler's own
7 letter.

8 So I think I certainly have an ability to
9 inquire as to what this process was that he was
10 referencing.

11 MR. TRIGGS: You're wasting time, is what
12 you're doing.

13 MR. SELZ: Well, you're certainly entitled
14 to your opinion.

15 Q. Okay. Now, with regard to this image, was
16 there something also, pan and zoom, or something of
17 that nature, that was demonstrated to you?

18 A. I'm not familiar with that.

19 Q. How about something called -- I'm sorry.

20 A. It wasn't demonstrated at all at this
21 stage.

22 Q. I'm talking about at any time during your
23 representation of iviewit?

24 A. Okay. I'm not familiar with the terms,
25 pan and zoom.

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1 Q. How about - how about full-screen video?

2 MR. TRIGGS: Object to form. What about
3 full screen video?

4 Q. Are you familiar with the term?

5 A. Not in any technical sense.

6 Q. Okay. It isn't in your opinion or your
7 knowledge any way related to the process that
8 Mr. Bernstein was involved with?

9 MR. TRIGGS: Object to the form,
10 foundation.

11 A. The process was larger pictures than
12 available on - presently available on the Internet, as
13 I understood it.

14 Q. So it was basically an enlargement of a
15 picture without pixilation. That was your
16 understanding of the process.

17 A. Right.

18 Q. That you referred to in your letter.

19 A. Correct.

20 Q. Was there any other technology that you
21 were aware of that iviewit had developed?

22 A. No.

23 Q. Were there any specific applications that
24 were discussed between iviewit and yourself in the
25 sense of the purpose of these corporations?

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Next in Wheeler's own hand notes of meeting he attended regarding the errors in the Zoom & Pan technology, you can see at the top of the sheet the words "Zooming & Panning" clearly written and the meeting was completely about this technology.

March - Zooming + Panning

March - Zooming + Panning
told Elliott and Ray

told Elliott and Ray

Discovered in March -

Discovered in March -
Elliott never sat down and reviewed in detail -
assumed (assured) patent attorney

Ray did not have complete understanding as to how
it worked - never focused on intrinsics of invention

Elliott never sat down + reviewed in
detail - assumed patent
att

Ray did not have complete
understanding as to how it
worked - never focused on
intrinsics of invention -

September - meeting
with Ray

(WD) didn't raise level
of understanding
superficial (WD) -

Sept → meeting with Ray

Hinjins didn't raise
→ level of understanding superficial -

March → can't get in now - pick up next
time - Ray didn't have enough time -
what he was filing → exactly provisional

March - Can't get in now - pick up next time -
Ray didn't have (enough time) - what he was
filing - exactly provisional

Brain didn't spend lot of time trying to figure
out if complete

Brain didn't spend lot of time trying
to figure out if complete

PROSK000533

Also, you will find in Appendix II many references to Zoom and Panning technology and Mr. Wheeler using the terms quite liberally and with full knowledge, contrary to his deposition statements.

Further contradiction to his deposition statements regarding knowing of the video technology are more hand written notes by Mr. Wheeler, again referencing patent meetings held at Proskauer's New York offices.

Wells
Meeting of Proskauer in NY
Ray + Bryan met at Tilgher -
copy of non-disclosure coming

Document 4.1
+ Document 1

5 + 6 are intensions -

Steve - "my concerns, issues" - very
uncomfortable with what I have read -
Bryan leaves
Ray says walked to train + no issues

Brian calls Chris K. -
"everything OK"
"on video side - could not give
response to video question"

"did not feel comfortable with video -"
- couldn't explain how it worked -
Steve taken aback by question -
they asked - "what is your view about
quality of video + how it works"
didn't get into how it works -

that is important and needs to be covered -

video - working - not recently → locked 7 -
not filed → very important that we complete -



Now from a Private Placement memorandum wherein Mr. Wheeler lists himself as an advisor to the Board, bills for review of the plan, and joint authors and disseminates it with Mr. Utley, you will see that Mr. Wheeler was fully aware of the Iviewit technologies.



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 Assistant Staff Counsel
 The Florida Bar
 File No. 2003-51, 109(15C)



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I. EXECUTIVE SUMMARY

Transaction Overview

Wachovia Securities, Inc. ("WSI") has been engaged by iViewit Holdings, Inc. ("iViewit" or the "Company") as its exclusive agent to assist the Company in raising up to \$12 million in preferred equity capital to become a leading end-to-end solutions provider of video and imaging products for delivery over the Internet. The Company is a developer and provider of proprietary, leading-edge visual and audio enabling, processing technologies supporting rich media streaming and imaging over the Internet. The Company can process and encode (digitize and compress) virtually all types of audio and video media into a variety of Internet-enabled formats while also optimizing the content for distribution across a variety of bandwidths. Using its technology, iViewit can provide multimedia solutions for Internet and CD-based applications. Also, iViewit can store, host, and distribute media content at its data centers or through multiple hosting partners.

iViewit is the leadership company providing video streaming technologies that deliver a rich video experience with virtually distortion-free, full screen capability at normal, TV-equivalent frame rates of 29.97 fps (frames per second) and providing imaging technologies that deliver rich images over the Internet. Similarly, iViewit is the first and only company to provide virtual imaging that preserves and delivers full image quality and detail of the original image - without distortion - not only during compression (up to 100:1), but also through high resolution zooming and panning.

The Company's revenue model is based primarily on encoding, serving, and licensing revenues. The Company commercialized its products in May 2000. Within a short period of time, iViewit has secured 17 customers - primarily in the entertainment, advertising, and hotel markets and many are high profile industry customers. The Company expects to realize approximately \$400,000 in revenue by year-end from these customers.

The Company has developed and launched the following three breakthrough video/audio streaming and image enhancement technologies that enable:



- 1. full-screen, full-frame rate video (including CD quality audio) at 150-300 Kbps, and at lesser bandwidths, a markedly improved video quality over current industry standards, as depicted below:

Bandwidth Range	iViewit Frame Rate	Industry Typical Frame Rate
28-56 Kbps	8-13 frames/sec.	4-8 frames/sec.
56-150 Kbps	15-30 fps	12-20 fps
150-300 Kbps	30 fps	12-24 fps



- 2. full-screen, high definition pictures that have "scan, pan and zoom, and virtual tour" capabilities at all bandwidths



- 3. high fidelity, audio streams at bandwidths as low as 56 Kbps and mono streams at bandwidths as low as 28.8 Kbps.

iViewit, located in Boca Raton, Florida, was formed in 1999 under the laws of the state of Delaware. Over the past year, iViewit has confirmed the efficacy and reliability of its technologies, initiated digital imaging production, established a demonstration website, developed an initial key management infrastructure, and hired an initial sales and production staff.

The Company continues to pursue an aggressive intellectual property strategy. iViewit has protected its enabling technologies by filing 6 patent pending applications in both the United States and abroad for its video streaming and imaging capabilities, covering a wide array of enabling technologies. The Company also has two remaining provisional patent pending applications that will be converted to patent pending status within the allowable period. The



Lorraine Christine Hoffman, Esq.
Assistant Staff Counsel
The Florida Bar
File No. 2003-51, 109(15C)

And other evidences throughout the plan of the applications of the technologies:

iViewit plans to leverage its imaging and video technologies into three primary markets: Entertainment, E-commerce, Distance Learning/E-Learning. For intellectual property owners, including film studios, record companies, independent film producers, television networks, sports leagues, etc., iViewit's technologies mean that video streaming can finally become a revenue source. Most of these firms have already begun to stream promotional clips over the Internet. Few, if any, have monetized their content.

p.5 Wachovia BP

Currently, the Company is in negotiations with several large, video-content providers regarding licensing its video streaming technologies. iViewit is moving aggressively towards executing two or three landmark licensing agreements in order to facilitate the broader market adoption of its video streaming technology as the industry standard. As the Company continues these negotiations, it anticipates honing its pricing strategy for other comparable, large-content providers.

p.6 Wachovia BP

And as late as 12/2000 we are still "retaining" Kenneth Rubenstein per the Wachovia Private Placement. It is interesting to note that in Mr. Rubenstein's statements to the Bar of New York, he denies knowledge of being an advisor to the Board and claims it was done without his knowledge. The plan was sent to Mr. Rubenstein repeatedly and was authored under sworn statements as to the accuracy by Mr. Utley and reviewed and billed for by Proskauer Rose.

From Mr. Rubenstein's response to the New York Bar we submit the following statements, which try and minimize the role he played and somehow state that Mr. Bernstein listed Mr. Rubenstein without his permission as an advisor. We submit the entire content of Mr. Rubenstein's response as Exhibit H:



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The Florida Bar
File No. 2003-51, 109(15C)

Mr. Bernstein's complaint also alleges that Mr. Rubenstein served as a member of Iviewit's advisory board. Although the relevance of this claim is unclear, there is no truth to it. Iviewit apparently listed Mr. Rubenstein as an advisory board member on its website without Mr. Rubenstein's permission. Indeed, Mr. Utley confirmed at his deposition that Mr. Rubenstein was not on Iviewit's advisory board:

- Q. Okay. So Rubenstein's sole role, from what you understand, is he referred Iviewit to the Meltzer Lippe Law Firm in New York?
- A. Yes.
- Q. Was he ever part of an advisory board or was he an advisory board member to Iviewit? And we're talking about Mr. Rubenstein.
- A. I have never used him as an advisory board member.
- Q. Are you aware of whether or not he ever attended any board meetings with the directors of Iviewit?
- A. He never attended a board meeting. I've never met the man.

Page 9 – Rubenstein response to New York Bar.

From the Wachovia Private Placement that was distributed again and again by Mr. Wheeler to potential clients and was billed for over and over again by Proskauer, we submit in direct contradiction to Mr. Rubenstein's and Wheeler's bogus claims:



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 The Florida Bar
 File No. 2003-51, 109(15C)



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II. INVESTMENT HIGHLIGHTS

• **Unique processing technologies for video and imaging**

iViewit's patent pending processing technologies can create high-definition images with "scan, pan, and zoom" capabilities, high-fidelity audio streams, and full-screen, full-frame rate video for streaming over the Internet. The iViewit video technology is a highly scalable process. The resulting files are approximately 25% less than comparable quality files. iViewit 220Kps streams are equivalent to competitive 300Kbps streams. The Company's imaging process delivers images that are photo-quality, resistant to pixelation even at magnification levels of 30:1. Images produced by iViewit's proprietary process are identical in quality regardless of the end-user's Internet connection speed. File size options are tailored to minimize download times and optimize the end-user's experience.

• **Complementary and Seasoned Fortune 100 and Entrepreneurial Management Team**

iViewit has assembled a complementary and seasoned management team with Fortune 100 and early-stage, entrepreneurial experience. Management consists of former IBM operations executives who have experience in building video delivery capabilities and of marketing talent from successful venture-backed technology companies. The Company recognizes its strength in operations and product development and recognizes the need to attract a capable, experienced CEO and CTO to accelerate the Company's development. iViewit has retained Korn / Ferry to assist in the identification and recruitment of this talent.

• **Strong and Experienced Board of Directors and Advisory Board**

iViewit's Board of Directors and Advisors consist of several well-established individuals from the technology, entertainment, and financial community. Directors have extensive backgrounds with top-tier firms such as Goldman Sachs, Kidder Peabody, and McKinsey & Co. Crossbow Ventures has provided \$3.0 million in funding and sits on the Board. Technology and entertainment guidance comes from a partner at Armstrong Hirsch Jackoway & Wertheimer and from Kenneth Rubenstein, the head of the MPEG-2 patent pool.

• **Significant Intellectual Property Position and Strategy**

iViewit has protected its enabling technologies by filing 6 patent pending applications in both the United States and abroad for its video streaming and imaging capabilities, covering a wide array of enabling technologies. The Company also has two remaining provisional patent pending applications that will be converted to patent pending status within the allowable period. The Company has retained Foley & Lardner to shepherd its patent development and procurement. In addition, the Company has retained Kenneth Rubenstein of Proskauer Rose, LLP to oversee its entire patent portfolio. The Company's strategy is to establish market precedence through licensing of trade secrets and know-how.

• **Substantial Market Penetration and Growing Customer Acceptance**

The Company commercialized its products in May 2000. In just 5 months, iViewit has experienced a 75% success rate in obtaining service and licensing customers, securing 17 customers to date - primarily in the entertainment, advertising, and hotel markets. The Company expects to realize approximately \$400,000 in revenues by year-end from these customers. High profile customers include Ellen DeGeneres, Z.com (Alanis Morissette), Hyatt Hotels, Gear Magazine, and Hollywood.com. Highly probable for closing by year-end 2000 include Warner Brothers and Greg Marring Collectibles.

• **Focused on Media Rich Target Markets - Unlocking the Value of Content**

The Company's business strategy is to first target high-profile content owners and distributors as clients to process video and images and to brand those images with iViewit's logo. Secondly, iViewit plans to co-brand with famous celebrities and



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 The Florida Bar
 File No. 2003-51, 109(15C)

And further from that certain Private Placement Memorandum:



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Investment Management, both based in London. Among his primary areas of expertise are technology research and economic research, including electronics, telecommunications and computer software. Most recently, he was Senior Technology Analyst and Vice President of Southeast Research Partners, Inc. where he worked with leading technology companies. He earned a bachelor of arts degree at Yale University and a master of business administration degree at Stanford University.

Advisors

Alan J. Epstein

Partner, Armstrong Hirsch Jackway Tyerman & Werthelmer, P.C.

Mr. Epstein's law practice consists of advising Internet companies on various issues pertaining to the entertainment and sports industries, including the creation, licensing and acquisition of content, the introduction and negotiation of strategic partner relationships, and various other matters relating to the convergence of technology and content. Mr. Epstein also advises his firm's numerous celebrity clients on the exploitation and protection of their name and likeness rights and content on the Internet, as well as merchandising, endorsement and sponsorship deals. Prior to entering the UCLA School of Law, Mr. Epstein was a certified public accountant at Deloitte Haskins & Sells in Dallas, Texas.

Kenneth Rubenstein

Partner, Proskauer Rose LLP

Mr. Rubenstein is a partner at Proskauer Rose LLP law firm and is the patent attorney for iViewIt. He is a registered patent attorney before the U.S. Patent & Trademark Office. Mr. Rubenstein counsels his clients with respect to the validity and infringement of competitors' patents, as well as prosecutes patent applications. For the past several years he has worked on the formation of a patent pool, for MPEG-2 technology, involving large consumer electronics and entertainment companies. He is also a former member of the legal staff at Bell Laboratories. Mr. Rubenstein received his law degree, cum laude, from New York Law School, and his Ph.D. in physics from the Massachusetts Institute of Technology where he also graduated with a B.S. Degree.

Christopher C. Wheeler

Partner, Proskauer Rose LLP

Mr. Wheeler is a member of Proskauer Rose LLP's Corporate Department and as a partner in the Florida office has a versatile transactional practice. He has had extensive experience in real estate and corporate law, institutional lending and workouts, administrative law and industrial revenue bond financing. Moreover, he serves as a strategist and counselor to many clients in handling their other legal and business matters. Mr. Wheeler is well-versed in general corporate law as well as mergers and acquisitions and securities matters. He has guided companies from startup through initial private placements to public offerings. A graduate of Hamilton College and Cornell Law School, Mr. Wheeler was a member of the managing Board of Editor of the Cornell Law Review.

Legal & Accounting Counsel

Arthur Andersen, LLP

Arthur Andersen's vision is to be the partner for success in the New Economy. The firm helps clients find new ways to create, manage and measure value in the rapidly changing global economy. With world-class skills in assurance, tax, consulting and corporate finance, Arthur Andersen has more than 70,000 people in 83 countries that are united by a single worldwide operating structure that fosters inventiveness, knowledge sharing and a focus on client success. Since its beginning in 1913, Arthur Andersen has realized 86 years of uninterrupted growth, with 1999 revenues over \$7 billion. Arthur Andersen is a business unit of Andersen Worldwide.

Proskauer Rose, LLP

This law firm is one of the nation's largest law firms, providing a wide variety of legal services to major corporations and other clients through the United States and around the



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The Florida Bar
File No. 2003-51, 109(15C)

◆ ***Significant Intellectual Property Position and Strategy***

iviewit has protected its enabling technologies by filing 6 patent pending applications in both the United States and abroad for its video streaming and imaging capabilities, covering a wide array of enabling technologies. The Company also has two remaining provisional patent pending applications that will be converted to patent pending status within the allowable period. The Company has retained Foley & Lardner to shepherd its patent development and procurement. In addition, the Company has retained Kenneth Rubenstein of Proskauer Rose, LLP to oversee its entire patent portfolio. The Company's strategy is to establish market precedence through licensing of trade secrets and know-how.

◆ ***Unique processing technologies for video and imaging***

iviewit's patent pending processing technologies can create high-definition images with "scan, pan, and zoom" capabilities, high-fidelity audio streams, and full-screen, full-frame rate video for streaming over the Internet. The iviewit video technology is a highly scalable process. The resulting files are approximately 25% less than comparable quality files. iviewit 220Kps streams are equivalent to competitive 300Kbps streams. The Company's imaging process delivers images that are photo-quality, resistant to pixelation even at magnification levels of 30+:1. Images produced by iviewit's proprietary process are identical in quality regardless of the end-user's Internet connection speed. File size options are tailored to minimize download times and optimize the end-user's experience.

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The Company commercialized its products in May 2000. In just 5 months, iviewit has experienced a 75% success rate in obtaining service and licensing customers, securing 17 customers to date – primarily in the entertainment, advertising, and hotel markets. The Company expects to realize approximately \$400,000 in revenues by year-end from these customers. High profile customers include Ellen DeGeneres, Z.com (Alanis Morissette), Hyatt Hotels, Gear Magazine, and Hollywood.com. Highly probable for closing by year-end 2000 include Warner Brothers and Greg Manning Collectibles.

p.11 Wachovia BP

And this business plan referenced a new technology, a new era for camera's and imaging devices with out pixilation and now commonly referred to as "digital zoom" available on almost every digital camera being produced.



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The Florida Bar
File No. 2003-51, 109(15C)

3. Digital Cameras and Instrumentation

The broadness of iviewit's technologies and its applications outside an Internet based environment depict the scope of the pending patents and their uses in other markets. One such application is in the huge and growing market for digitization, instrumentation, and consumer products such as the digital camera market. Recently, iviewit and Eastman Kodak began a series of discussions that are now formative, and an agreement could provide significant revenue as early as summer 2001.

The applications for Kodak would follow a logical path to create a value added option that would initially be available on its "high end" digital cameras, and then be led downstream to the broad and sizeable moderately priced digital camera lines. In each case the following would be the applications provided to Eastman Kodak for its new and future camera entries:

p.22 Wachovia BP

Mr. Wheeler is also listed as an advisor to the Board in the Wachovia Private Placement which as will be evidenced he also billed for such review of the plan prior to dissemination.

We cite as evidence:

Finally, Wheeler again under deposition perjures himself, claiming he had no idea of the camera applications for Iviewit's technology.



We submit from Wheeler's deposition:

3 || Q. Was there ever any representation made
 3 Q. Was there ever any representation made
 4 that you can recall that the technology, to the extent
 5 that it was going to be protected or was in a soon to
 6 be protected form, would be compensated by royalties
 7 almost immediately?

8 A. No.

9 Q. Was there any discussion with regard to
 10 any kind of digital camera usage for the technology
 11 that you can recall?

12 A. Digital camera usage? Not to my
 13 knowledge.

14 Q. Was there ever anything with a Nikon
 15 camera that was presented at any board meeting or any
 16 meeting with investors?

17



EXHIBIT G

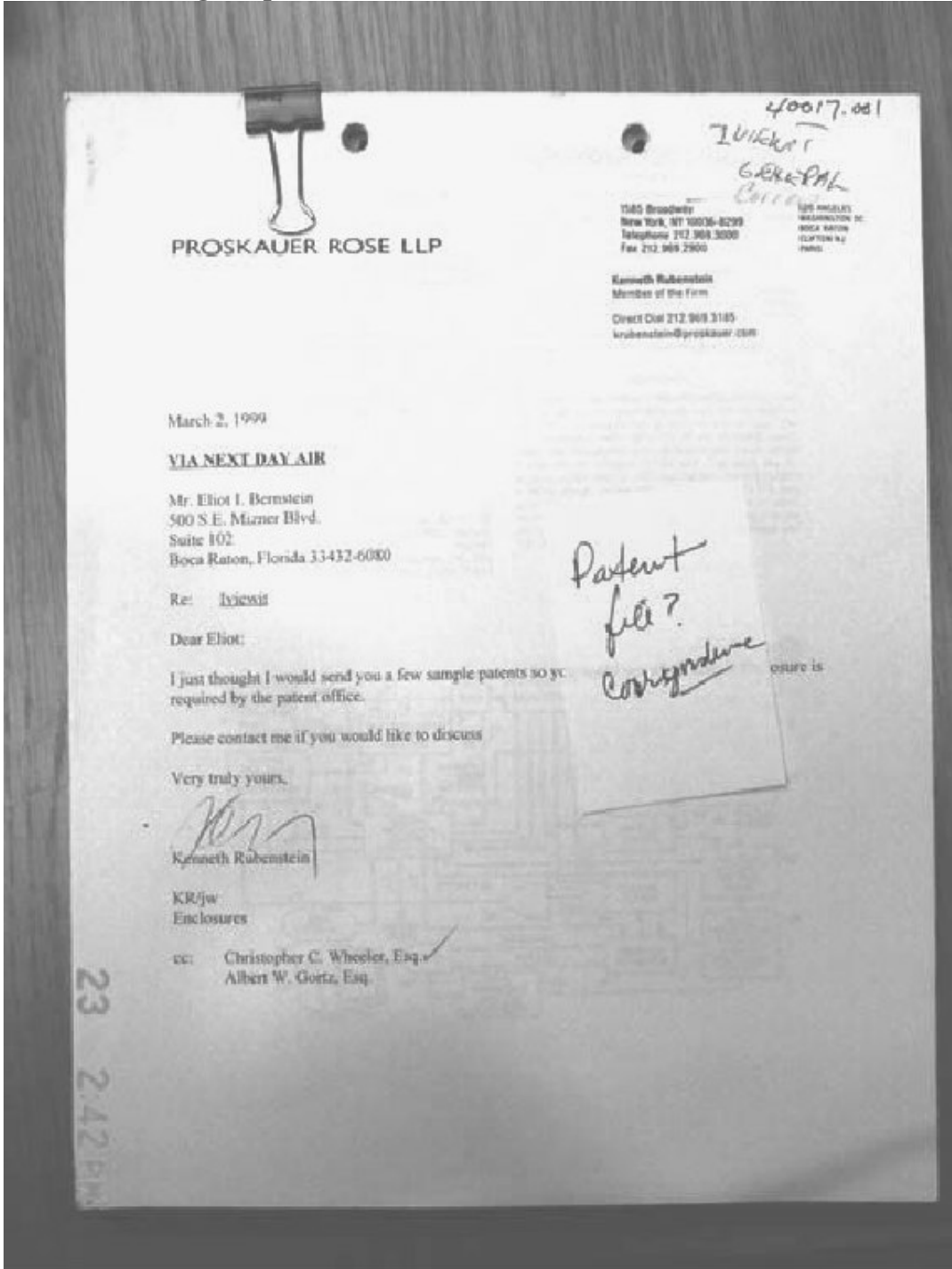
DEPOSITION STATEMENTS OF RUBENSTEIN & EVIDENCES OF PERJURED DEPOSITION STATEMENTS

In the opening statement of Mr. Rubenstein he flatly denies any knowledge or involvement with Iviewit and Eliot Bernstein. The denial comes from the fact that upon being requested for deposition, Proskauer Rose stated to Judge Jorge Labarga that he had never heard of or had dealings with Iviewit and thus had no idea why he was being deposed other than harassment.

2 Q. Do you have any information at all
3 with regard to any of the IViewIt entities?
4 A. Not at this time, no.
5 Q. "Not at this time." Did you have
6 any information at any time in the past, sir?
7 A. Not that I know of right now.
8 Q. Do you have any files or records
9 indicating that you had any dealings with -- [
10 and I will go through a list here --
11 IViewIt.com, Inc.?
12 A. Not that I know of.
13 Q. IViewIt, LLC?
14 A. Not that I know of.
15 Q. UViewIt?
16 A. Not that I know of.
17 Q. IViewIt, Inc.?
18 A. Not that I know of.
19 Q. Have you ever heard of an
20 individual named Eliot Bernstein?
21 A. I might have.
22 Q. Well, sir, that's either a "Yes"
23 or "No" question.
24 A. Like I said, I think he works for
25 IViewIt, and I may have heard his name.



Here Mr. Rubenstein pens a letter to Eliot Bernstein whom he denies knowing above, enclosing several hundred pages of patent applications for Mr. Bernstein to review in writing the patents for Iviewit.



PROSKAUER ROSE LLP

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New York, NY 10016-6299
Telephone 212 968 3000
Fax 212 968 2900

Kenneth Rubenstein
Member of the Firm
Direct Dial 212 968 3185
krubenstein@proskauer.com

March 2, 1999

VIA NEXT DAY AIR

Mr. Eliot I. Bernstein
500 S.E. Mizner Blvd.
Suite 102
Boca Raton, Florida 33432-6000

Re: Iyessit

Dear Eliot:

I just thought I would send you a few sample patents so you
required by the patent office.

Please contact me if you would like to discuss

Very truly yours,

Kenneth Rubenstein
Kenneth Rubenstein

KR/jw
Enclosures

cc: Christopher C. Wheeler, Esq.
Albert W. Gortz, Esq.

Patent
file?
Correspondence

enclosure is

23 2:42 PM



Next Mr. Rubenstein denies knowing of any of the Iviewit inventions and following his statements will come hosts of contradictory evidence to his statements.

Rubenstein Lies About Involvement

8 Q. well, sir, this is your testimony
9 at your deposition.

10 A. That's right, which you are making
11 me do. I consider the deposition nothing but
12 harassment, considering that I had nothing to
13 do with the company. It's just a form of
14 harassment.

page 15

12 Q. Are you familiar with something
13 that's called "pan and zoom technology"?

14 A. I am not sure what you mean by
15 that.

16 Q. well, let me start very simply,
17 and say this. Are you familiar with a concept
18 that an image can be enlarged while being
19 transmitted on a narrow bandwidth?

20 A. I don't know what you are talking
21 about.

22 Q. Okay. well, let me go back to
23 this, then, sir. Are you familiar at all with
24 the technology involved with IViewIt.com?

25 A. No.

Page 9

HE CLEARLY STATES AND LIES AND SAYS HE IS NOT FAMILIAR!



page 75 we see Ken switch stories in direct contradiction of his own testimony as evidence has begun falling,

10 Q. You previously testified that you
11 had never reviewed any of IViewIt's
12 technologies; is that correct?

13 A. I never testified to that. what I
14 told you is, I don't have any knowledge of it
15 right now.

16 Q. Okay.

17 A. I don't know whether I reviewed it
18 or not.



p. 75

This is in direct contradiction to his prior dep.

KEN RUBENSTEIN DEPOSITION

3 A. Not that I recall.



4 Q. Did you ever opine with regard to
5 the validity of any patent applied for or
6 received by IViewIt.com?

7 A. Like I say, I was not in any way
8 involved with getting patents for IViewIt.

9 Q. what were you involved with, if
10 you were, with IViewIt?

11 A. The only thing I did for IViewIt
12 is I referred them to another patent lawyer.



3 Q. Okay, if you don't have a
4 recollection of reviewing it, but then it's
5 possible that you had; is that correct?

6 MR. PRUSASKI: Anything's
7 possible. I think we could stipulate to
8 that.

9 A. Right, I don't think it's possible
10 but -- and I don't think it happened.

11 Q. Do you have any clearer
12 recollection of it because of this letter?

13 A. No, I don't have a detailed
14 recollection or any recollection of it at this
15 point in time.

Now a letter from an executive at AOLTW/WB regarding Mr. Rubenstein's opining on the technologies for them.



LETTER OF MR. COLTER RELYING ON RESPONDENT'S OPINION

Subj:iviewit
Date:1/14/2002 9:51:08 PM Pacific Standard Time
From:David.Colter@warnerbros.com (DColter0264)
To:John.calkins@warnerbros.com
CC:Chuck.dages@warnerbros.com, Alan.Bell@warnerbros.com (ABell0648)
Sent on: AOL 6.0 for Windows US sub 10551

John,

In all the review we have done with iviewit it seems to boil down to the status of the patents and their inherent value. At that point it is a risk-reward evaluation -- without awarded patents it is difficult to completely assess the value. I would suggest that we consider one other perspective...

Prior to iviewit (approx Feb 2000) the video we (WB Online) delivered on the web was QCIF (160x120) or smaller and was below full frame rate. At the time of our first meeting we also identified On2 along with iviewit as two solid players who could deliver full screen full frame rate web video. All who saw it were impressed. Greg and I visited iviewit in August and reported back that they had filed patents on scaling techniques that hinged upon a visual 'trick' which allowed the human eye to accept 320x240 video scaled to 640x480 at 30 fps as close to VHS quality. We checked with Ken Rubenstein and others who provided some solid support for iviewit, and Chris Cookson asked Greg and I to continue to work with iviewit in an R&D capacity.

In the fall of 2000 iviewit also met with a number of folks at WB Online (in September and October) and demonstrated their process and techniques to Sam Smith, Houston, Joe Annino and others. Sam contacted iviewit a number of times and requested the patents, along with specifics of the iviewit process to evaluate what they were doing. I was not part of these meetings, but was aware they had occurred, as Jack Scanlon kept me up to date.

When I sat down with Morgan and Houston in March 2001 to see what technology they were using to encode video, it was clear that they were using some of the techniques that would overlap with iviewit's filed process patents (still pending), but it is not clear that these were all learned from iviewit -- we may wish to explore this a little. This meeting was to determine what equipment we would get for our lab at 611 Brand. This same information was also provided to iviewit by Morgan as they were establishing the company as an outsourcing facility for encoding our content.

I am aware of several meeting held between iviewit and WB Online to share information of techniques and process, and was invited to a few of them.

We all signed iviewit's confidentiality agreement. So to the other perspective....

We have an opportunity to establish a license with iviewit for a modest fee at this time, and establish a MFN. In good faith we signed the confidentiality agreement, iviewit revealed their processes and techniques, and we now use those techniques in encoding. As we have discussed on a few occasions, these techniques now appear in the public domain to some extent in documentation for Real Producer, WMP Developer Guides, Media Cleaner Pro, etc, but they were not available in 2000. I would not suggest we learned the techniques completely from iviewit (I actually do not know the answer), but a modest licensing fee may be appropriate and honorable considering our good faith relationship in signing the confidentiality doc.

If we choose to pass at this time the risk is primarily from iviewit's main investor, Crossbow Ventures, gaining control of the IP and approaching WB later for a license -- I do not believe they will be as friendly considering their dealings with iviewit and it's employees since Feb of 2001. It is estimated that the patents will be completed in 8-12 months.



As you are all aware I have a personal relationship with Eliot Bernstein, the founder of iviewit, and as a result, I left the evaluations and decisions to Greg, and others, and only assisted iviewit to get to the correct people in WB and AOLTW. I wanted to add this perspective as we consider if there is an option to pursue with iviewit -- they are facing continued financial pressure right now. There are many other threads to our interaction with iviewit and I would be happy to discuss.

Thank,
David

And yet another letter regarding Rubenstein opining on the technologies is sent to the AOLTW Venture fund to secure investment for Iviewit.



LETTER OF MR. COLTER DESCRIBING RESPONDENT'S INVOLVEMENT

-----Original Message-----

From: David.Colter@warnerbros.com [mailto:David.Colter@warnerbros.com]

Sent: Wednesday, August 01, 2001 10:28 PM

To: HeidiKrauel@aol.com

Cc: HPowell@cb-ventures.com; Eliot@iviewit.com

Subject: Re: Today -- iviewit

Heidi,

Here is the info for Hank Powell from Crossbow Ventures. I have copied him above to make the introduction.

iviewit has undergone a restructuring of their business from an encoding focused business to a technology licensing business focus over the past 4-5 months. They are in the process of establishing a new executive team to handle this 'new' direction and have been working on the new business plan. They have indicated that we should have the revised plan next week.

They currently are finalizing a contract with WB Online to provide encoding services as a hold over from our original collaboration, and as a showcase for the technologies and patents.

Their site www.iviewit.com contains good demonstrations of the zooming and video encoding technologies. I have also copied the inventor/founder Eliot Bernstein, who I will ask to provide some specific links on the site to see the best representation of their work and technical capabilities.

Their patents are pending, but have received favorable opinions from people such as Ken Rubenstein on the merit of the patents, as well as thorough review by Greg Thagard and myself.

Let's talk further after you see the business plan and connect with Hank.

Thanx,
David

Then from Mr. Rubenstein's deposition he states regarding the above letters and conversations leading to them:



Ken Rubenstein Deposition

6 ever seen that E-mail before?

7 A. Is this an E-mail from David
8 Colter to Heidi Krauel?

9 Q. Correct.

10 MR. PRUSASKI: The one dated
11 August 1, 2001?

12 MR. SELZ: Correct.

13 A. Right, I see the E-mail.

14 Q. Okay.

15 MR. SELZ: Let's get it marked as
16 2.

17 (Deposition Exhibit Defendants' 2,
18 fax transmittal cover sheet and E-mails,
19 was marked for identification, as of
20 this date.)

21 Q. Sir, do you have any reason to
22 know why your name is mentioned in that
23 E-mail?

24 A. No, because I don't recall giving
25 any opinions about the patents.

□

88

1 Rubenstein

2 Q. And you never, to the best of your
3 recollection, had any discussions with
4 Mr. Thagard with regard to same, either?

5 A. Like I say, any discussion I might
6 have or might not have had with Mr. Thagard
7 would be privileged.

8 Q. I am going to put you on hold for
Page 79



Next we find Mr. Wheeler sending over the entire Iviewit patent portfolio for Mr. Rubenstein to review, although, Rubenstein, Wheeler and Utley all deny in their depositions his having ANY involvement with Iviewit.

PROSKAUER ROSE LLP

NEW YORK
LOS ANGELES
WASHINGTON DC
BOCA RATON
CLIFTON NJ
PARIS

Intraoffice Memo

Re: iviewit.com, Inc.
To: Kenneth Rubenstein
From: Christopher C. Wheeler
Date: August 25, 2000
Client-Matter: 40017.001

Enclosed is a copy of iviewit's Patent Portfolio binder.

PROSK000536

0894/40017-001 BRLIB1/274961 v1

08/25/00 05:37 PM (11402)

Next Rubenstein is seen attending patent meetings.



Eliot I Bernstein

From: Eliot I. Bernstein [res0bf4a@verizon.net]
Sent: Monday, July 09, 2001 3:38 PM
To: H. Hickman "Hank" Powell (E-mail); H. Hickman "Hank" Powell (E-mail 2)
Subject: FW: Tuesday Meeting

-----Original Message-----
From: Christopher Wheeler [mailto:CWHEELER@proskauer.com]
Sent: Friday, May 28, 1999 6:26 AM
To: alps@netline.net
Subject: Tuesday Meeting

**** High Priority ****

Eliot,

Ken Rubenstein will be available on Tuesday morning sometime between 8:30 and 9 to discuss the patents. We can conference him in after we start with Joao and ourselves. Have you already made sure that Joao will be available? Please advise immediately.

Best regards,

Chris

Next Mr. Rubenstein and Proskauer Rose deny Mr. Rubenstein's involvement and that he is not involved in the Iviewit billings.

From Mr. Rubenstein's response to the New York Bar:



time entries. Importantly, in all of the bills submitted to Iviewit, there is not a single time entry for Mr. Rubenstein. The reason for this is simple : he did not provide legal services on behalf of Iviewit. Apparently realizing the significance of this fact, Mr. Bernstein claims without any factual basis that Proskauer improperly altered its billing statements. There is simply no truth to this unsupported accusation, which we find very troubling. The billing statements are attached to this response. Should you have any question whatsoever as to whether the bills are genuine, our billing file is available for your review.

In addition to Proskauer’s billing statements, which are devoid of any time entries by Mr. Rubenstein, both Proskauer attorneys and corporate representatives of Iviewit have confirmed under oath that neither Mr. Rubenstein nor Proskauer performed any patent work for Iviewit.

A. Patent Work: Most of Mr. Bernstein’s allegations derive from his claim that Mr. Rubenstein mishandled certain patent work. To the contrary, as we show below (see Section II), there is overwhelming testimonial and documentary evidence showing that this allegation is false. Approximately twenty Proskauer attorneys performed legal services for and billed time to Iviewit matters. Mr. Rubenstein wasn’t one of them. Of the almost \$370,000 owed by Iviewit for legal services rendered by Proskauer, Mr. Rubenstein did not bill a minute of time to the engagement. Further, even ignoring Mr. Rubenstein’s lack of involvement, no one else at

Proksauer performed patent work for Iviewit. Iviewit’s patent work was handled entirely by patent attorneys at other law firms. Whether there were any errors or omissions with the patent work is immaterial. Proskauer simply did not perform that work.

And from Mr. Rubenstein’s deposition we find:

16 Q. Are you aware, sir, that your name
 17 is referenced in billing statements from
 18 Proskauer Rose to IViewIt more than a dozen
 19 times?
 20 A. No, I am not.

From the Proksauer Rose billings we find quite a different story:



**BILLINGS OF MR. WHEELER FROM PROSKAUER BOCA RATON, FLA.
OFFICE**

02/18/99 C WHEELER .25 Conf with Mr. Rubenstein

01/14/99 C WHEELER .50 Follow up on status on intellectual property review and new incorporation

01/28/99 A GORTZ .75 Ken Rubenstein call, cf call Eliot Bernstein & Ken Rubenstein, cf Mara Robbins re confidentiality agreement

02/01/99 C WHEELER .25 Conf as to status of intellectual property work

02/16/99 C WHEELER .25 Conf with Mr. Bernstein; call to Mr. Rubenstein

02/17/99 C WHEELER .25 Call to Mr. Rubenstein re patent advice; call with Ms. Coleman re financial advisor

02/18/99 C WHEELER .25 Conf with Mr. Rubenstein

03/16/99 M ROBBINS .50 Inter-office conference with Wheeler re: intellectual property matters.

03/29/99 K HEALY 1.25 Tc w/C. Wheeler; tcs w/Eliot Bernstein re intellectual property protections; tc w/Raymond Joao re patent pending; tcs w/E. Bernstein and Jerry Levin re license business models; review protectability of web-sites

03/31/99 K HEALY .25 Tc w/K. Rubenstein re Patent advice

04/22/99 K HEALY .25 Tc w/R. Joao; e-mail to E. Bernstein

05/12/99 C WHEELER 1.00 Conf with Messrs Bernstein and Lewin; call to R. Joao; transmittal of agreement

05/12/99 C WHEELER .50 Conf with Mr. Joao re stock ownership, subsidiary and patent protection

05/12/99 C WHEELER 2.00 Conf with Joao; meeting with Thompson to arrange for confid. agreements and generic agreements



05/20/99 C WHEELER .75 Conf with Mr. Joao

05/20/99 C WHEELER 2.00 Call to Mr. Lewin; conf with Ken Rubenstein; conf with Mara Lerner; numerous conf with Elliot Bernstein

05/20/99 C WHEELER 1.00 Conf with Mr. Joao

05/25/99 C WHEELER 11.00 Trip to Orlando for meeting with Real 3D technology staff

05/26/99 C WHEELER 1.00 Review of patent; set up patent conference; arrange follow up on shares;

05/27/99 C WHEELER .50 Conf with Mr. Rubenstein

05/27/99 C WHEELER 1.50 Overview of Iviewit patent matters and corporate matters

05/28/99 C WHEELER .50 Confirmation on Joao meeting

05/28/99 C WHEELER 2.00 Meeting as to patent issues and management matters

05/28/99 C WHEELER .50 Conf. w/K.Rubenstein

05/28/99 K HEALY .50 Tcs w/C. Wheeler re IP Issues; review web-site

05/31/99 C WHEELER 1.00 Review of patent and other materials

05/01/99 C WHEELER 4.00 Conf with Mr. Rubenstein; conf with Mr. Lewin; conf with Mr. Healy; conf with Mr. Joao; conf with Mr. Akselrod re patents, tax ramifications, copyright work;

05/01/99 K HEALY 1.50 Conference call w/E. Bernstein, R. Joao, K. Rubenstein, C. Wheeler, and others re iviewit I.P. issues; review cd.rom

06/03/99 C WHEELER 2.00 Call to Mr. Joao; call to Mr. Healy; conf with Mr. Bernstein; review of numerous correspondence; conf with Mr. Lewin

06/04/99 C WHEELER 2.00 Prep of revised confidentiality agreement; call to Ms. Bibona; conf with Mr. Joao;

06/11/99 C WHEELER .25 Call to R.Joao

06/16/99 C WHEELER 4.00 Meeting with Mr. Joao and Messrs. Bernstein re patent and other matters

06/23/99 S KAPP .50 Conf. with CCW regarding various matters pertaining to structure, patents, confidentiality agreements

06/18/99 C WHEELER 3.50 Review of patents with Mr. Joao; conf with Mr. Lewin re status; conf with Mr. Bernstein; Check of status of new corporate documents

06/23/99 S KAPP .50 Conf. with CCW regarding various matters pertaining to structure, patents, confidentiality agreements

07/28/99 C WHEELER 3.50 Conf with Mr. Lewin; conf with Mr. Buchsbaum; review of corporate status; conf with Mr. Thompson; review of corres. from Mr. Epstein; call to Mr. Joao; conf with Mr. Wilson; conf with Mr. Joao; call to Mr. Lewin

07/31/99 C WHEELER 1.50 Review and organization of various matters involving meetings, venture capital, patents and prospects

08/04/99 S KAPP .25 T/c with Ray Joao

09/09/99 K HEALY .50 Review files to prepare IP Materials for E. Bernstein and B. Utley

09/10/99 C WHEELER .25 Arrange for patents

09/10/99 C WHEELER 2.00 Conf with Mr. Brandon; conf with Mr. Brandon; conf with Mr. Rubenstein; transmittal of materials to Mr. Rubenstein; Call to Mr. Joao

09/13/99 C WHEELER 1.00 Conf with Mr. Brandon; conf with Mr. Joao;

09/13/99 J ZAMMAS 1.25 Discuss patents with C. Wheeler's secretary;

09/21/99 C WHEELER .25 Call to Mr. Utley re patent meeting

09/21/99 C WHEELER 1.00 Conf with Mr. Utley re patent meeting and status of negotiations; call to Mr. Brandon



09/22/99 J ZAMMAS 3.00 Work on patent binders and trademark binders for C. Wheeler; telephone Raymond Joao regarding all patents; compile all documents by shareholder/notcholder

09/23/99 J ZAMMAS .25 Telephone Raymond Joao regarding patents.

09/24/99 C WHEELER 1.00 Call on utilities; follow up on space requirements; conf on patent questions

09/24/99 J ZAMMAS .50 Update shareholder list; telephone Raymond Joao's secretary regarding patents; advise C. Wheeler.

09/27/99 J ZAMMAS 2.50 Revise consents to indicate that Brian Utley is elected as Chief Operating Officer of the three entities; telephone calls from Mr. Joao's office regarding patents; complete work on patent binders for C. Wheeler; send stock certificate of uview.com, Inc. to Patricia Daniels; send iviewit.com LLC subscription letters to James Armstrong, Andrew Dietz, Lisa Friedstein and James Osterling.

11/29/99 J ZAMMAS .25 Copy official filing receipts for two patents, insert in patent binders and give two copies to Brian Utley to insert in his binders.

01/11/00 C WHEELER 1.00 Conf with Mr. Bernstein re patents and infringement

01/11/00 C WHEELER 1.00 Conf with Mr. Joao re patents

01/11/00 C WHEELER .50 Conf with Mr. Lewin re patents

10/11/00 C WHEELER 1.50 Conf with Mr. Utley re Ken Rubenstein and Time Warner; conf with Mr. Rubenstein

Finally, with regard to Mr. Rubenstein's involvement are several statements from Ivieuit investors regarding Mr. Rubenstein's involvement with Ivieuit that completely contradict his denials of involvement.



**ELECTRONIC MAIL MESSAGE FROM SIMON L. BERNSTEIN, FORMER
CHAIRMAN OF THE BOARD OF DIRECTORS OF THE COMPANY**

-----Original Message-----

From: Alyssa Zeiger [mailto:alyssa@lifeinsuranceconcepts.com]
Sent: Friday, May 16, 2003 10:33 AM
To: 'iviewit@worldnet.att.net'
Cc: 'simon@lifeinsuranceconcepts.com'
Subject: FW: response to your letter

Eliot,

Here is my account of those questions you of asked for regarding iviewit Technologies, Inc.

1. Not having Wheeler's testimony it's difficult for me to respond to the 1st question. However, Real 3d (Jerry Stanley) was introduced to us and their opinion including the opinion of their engineering staff was that the patents that we showed them were outstanding and extremely valuable. Mr. Stanley told myself, Eliot, Jerry Lewin and Chris Wheeler that we were onto something big.
2. The problems that were encountered by Ray Joao's work were that is seemed to be incomplete, sloppy and certainly not in a professional manner for which the billings indicated it were. With regard to Foley and Lardner's work, there work also seemed to be incomplete with regard to accomplishing the patent approvals. It was also noted that including work with Mr. Utley they were writing patents in his name.
3. In the same regard Mr. Utley told me when I confronted him with this that it was common for the writer to put new patents in his name but assured me that all patents were assigned to iviewit Technologies, Inc. This was passed on to one of the partners at Proskauer Rose and I was assured that this with in proper conduct.
4. With regard to Ken Rubenstein, I was told by Brian Utley and Chris Wheeler that he was a partner of Proskauer Rose and that he was in fact overseeing our patent work and it also was mentioned that he advised the board of directors with regard to raising capital.
5. It is my opinion that Hank Powell a partner of Crossbow Ventures and also a member of the board of iviewit Technologies, Inc. violated his fiduciary responsibility as said board member to iviewit Technologies, Inc. by recommending iviewit Technologies, Inc. move forward and securing additional loans from Crossbow Ventures. He also told me that Crossbow had no intention of ever collecting on the notes but in fact it gave further protection of iviewit Technologies, Inc. from any other creditors. It is my opinion that this convinced the board of directors to vote on such loans.



6. With regard to Chris Wheeler's recommendation of Bryan Utley it's my opinion that he knew of the past problems Mr. Utley had with Monte Friedkin and withheld this information to myself and to Eliot.
7. My understanding of the relationship between Mr. Utley and Mr. Wheeler is that they are good friends both socially and professionally. Also they served on many boards together.

I believe this covers the pertinent questions you asked me for. I hope this helps.



STATEMENT OF GUY IANTONI, FORMER VICE PRESIDENT OF SALES OF THE COMPANY

June 13, 2003

The following information may be used as my sworn testimony in describing the history and events relating to iviewit (The Company) and its affiliated management and advisors.

As an existing shareholder and personal investor in the Company, I am appalled by the fraud and mismanagement demonstrated by the former President, Brian Utley and legal counsel including: Raymond Joao, Kenneth Rubenstein, Christopher Wheeler and others. I was an employee of the Company since its inception in 1998 to February 2001. I was personally in meetings where Christopher Wheeler recommended Brian Utley as a strong candidate for the President position at iviewit with his experience at IBM. I was one of the first individuals to witness iviewit's zoom and pan technology as well as full-screen, full-frame rate video streaming. I recall viewing iviewit's technologies as early as February of 1998. I attended many meetings with the technologies inventors: Eliot Bernstein, Jude Rosario and Zakirul Shirajee at iviewit's Florida office and witnessed several meetings between the inventors and Raymond Joao. I had discussions with Eliot Bernstein in late 1999 when Eliot expressed his reservations and concerns that the patent work of Raymond Joao, Kenneth Rubenstein and Brian Utley was both incomplete and not representative of the inventors' true findings. I was also present later 1999-2000 as William Dick and Foley and Lardner continued the errors in the patents caused by Raymond Joao and Kenneth Rubenstein.

My personal investment into the Company was largely due to the remarks of attorney Kenneth Rubenstein on a conference call with Eliot Bernstein stating "iviewit's technology will be extremely valuable as part of the MPEG patent pool." I helped author many business plans with Eliot Bernstein, Jim Armstrong, Wachovia Securities and others including Kenneth Rubenstein as a key Company advisor. I attended many face-to-face meetings where Christopher Wheeler both witnessed iviewit's technology and introduced potential clients and investors to the management team. Mr. Wheeler had hand picked the management team and controlled their actions.

It was abusive the amount of unnecessary legal services generated by Christopher Wheeler and Proskauer Rose at such an early stage in the Company's development as we were mislead to believe that these costs would offset revenue by Wheeler/Rubenstein/PR clients and patent pool royalties. I recall the company going through several legal changes including: C-corp, several LLCs, Holding companies, name changes etc. I was stunned to hear that the Company had hundreds of thousands of payables due Proskauer Rose. Brian Utley had primary fiduciary responsibility (or more like irresponsibility) for the use of all investment proceeds, legal services and vendor contracts.

I welcome the opportunity to be personally involved in defending the Company and its assets

Sincerely,

Guy T. Iantoni



**STATEMENT OF JAMES F. ARMSTRONG, FORMER VICE PRESIDENT OF
SALES & MARKETING OF THE COMPANY**

Wednesday, April 30, 2003

Mr. Eliot I. Bernstein
10158 Stonehenge Circle
#801
Boynton Beach, FL. 33437-3546

Dear Eliot,

I have spent the past several evenings reviewing the depositions taken from Wheeler, Utley and Rubenstein and I am stunned. The extent of their lies and their orchestrated obfuscation compels me to reduce to writing some of the experiences that I had with these men. Please use this letter and the statements contained herein as my sworn statement of fact in your continuing effort to expose the truth, punish the evil and reward the deserving.

As a friend of Eliot's, since childhood, I was aware of iviewit from its beginnings but it was only after learning from Chris Wheeler about Ken Rubenstein's favorable opinion regarding iviewit's video and imaging technologies that I became seriously interested in the company. I resigned from a lucrative senior management position with Prudential Securities to help Eliot with his "project". Ultimately, I invested over \$20,000 and declined significant career opportunities in order to begin formally working for iviewit in the fall of 1999. Amongst the most egregious of the statements contained in the depositions is that made by Ken Rubenstein when he claims he does not know iviewit or anything about its technologies or processes. Ken is one of the primary reasons why I and many others invested their time and resources in the company. It was the extremely positive opinions of this highly respected attorney, who has direct links to the MPEG patent pool, which compelled so many of us to make the commitments that we made. Mr. Rubenstein is lying in his deposition.

Similarly, Chris Wheeler denies having any role in the patent work performed for iviewit other than referring us to patent counsel that ultimately ripped us off (but that's a different issue). Eliot, you have done a fine job putting together the billing evidence which is irrefutable. Not only did Wheeler play an instrumental and ongoing role in the handling of the patents, he was the primary contact point with Ken Rubenstein. I also remember Chris, in a meeting held at Real 3D, espousing the novelty of iviewit's inventions and discussing the apparent absence of any prior art in this area. In addition, Chris publicly shared Ken Rubenstein's opinion that the iviewit technologies were "novel". It was during this meeting of Intel and Lockheed engineers that a member of Real 3D's senior management, Rosalie Bibona, stated that iviewit's inventions could be worth billions of dollars. Wheeler states in his deposition that he was unfamiliar with any video inventions until sometime after the Real 3D meeting. Mr Wheeler is lying and everyone present at that meeting can testify to that fact. I was at a meeting held at Si Bernstein's house where Eliot Bernstein, Gerry Lewin, Chris Wheeler, Si Bernstein and Hassan Mia were in attendance. This meeting took place prior to the Real 3D meeting and its purpose was to show Hassan the video streams. It was at this meeting that



Hassan Mia stated "... if what I'm seeing is true, you've found the Holy Grail". The term "Holy Grail" can be found in many early versions of iviewit's business plans.

Let's talk about Brian Utley. This man is a stammering buffoon. Were it not for his resume full of accomplishments and the glowing recommendation of our trusted counsel, he probably never would have passed an initial candidate screening. Unfortunately, we learned too late that many of Brian's accomplishments were fabricated and our trusted advisor, Chris Wheeler, was a liar. I remember a meeting of Eliot, Guy Iantoni, Brian Utley, Mike Reale, Si Bernstein, Chris Wheeler and two investment bankers from Wachovia, Mr. Joe Lee and his associate (I forget his name). Guy and I had prepared a detailed sales forecast that Joe Lee later referred to as the most complete and detailed he'd ever seen. Brian's task was to complete the financials for Joe's review. The work that he presented to Joe Lee was pitiful; it was incomplete, inaccurate and inadequately referenced. In short, it was a disastrous embarrassment. We soon learned that that was the best Utley could deliver. Joe Lee insisted that I complete the financial projections for the business plan and that Utley be removed from the project. This is the sort of talent that our trusted advisor, Chris Wheeler, brought to his client!

From unauthorized patent disclosure to Danny Sokoloff without the protection of an NDA to outright patent sabotage through the use of bad math in patent applications, Utley never failed to disappoint. He was equally inept in corporate matters. I notified Brian on numerous occasions of the firm's responsibility to communicate to shareholders at least once per year and that iviewit was in default on its notes for not having made an interest payment. Like a child, he chose to bury his head in the sand instead of addressing the problem. His exorbitant use of T&E monies is legend and is only exceeded by his inability to complete a sentence without the excessive use of the word "um".

As they say, "hindsight is 20/20". In this case, it's now clear that Wheeler never had iviewit's interests in mind. He was positioning himself and his friends to benefit from iviewit's inventions and creativity. What makes his crime so heinous is that he masqueraded as our friend.

Sincerely,

James F. Armstrong
126 Buttonwood Drive
Fair Haven, NJ, 07704
732-747-4353
email: jimarmstrong@comcast.net



STATEMENT OF SHAREHOLDER MITCHELL A. WELSCH, CFP

Date: 12/11/02

Dear Eliot;

I wanted you to know how I feel about all that I have read recently. As a shareholder and someone that has been around this company since the beginning, I don't know how lawyers like Chris Wheeler and law firms like Proskower Rose could allow statements in a business plan that are not true. Therefore, if the business plan were correct then Mr. Utley would have to be lying under oath. In today's world of fair disclosure, this kind of inconsistency makes me outraged. As a shareholder I encourage and would support action taken to bring any wrongdoing to justice. If nothing else, I am unwilling to allow these deceptions to continue. We should pursue action and be compensated for wrongdoing. I know that if Mr. Rubinstein had not been involved with Iviewit it would have significantly affected my decision to contribute funds when I did. His involvement was communicated to me by Mr. Utley, Mr. Wheeler as well as other involved with the company but as legal representation and president of the company they carried the greatest weight. These inconsistencies are unacceptable and criminal in my opinion. What can we do to bring resolution to this situation and whom do we hold accountable?

Sincerely;

Mitchell A. Welsch, CFP

Mitchell A. Welsch CFP



PASSAGES FROM DEPOSITION OF JERRY LEWIN A PRINCIPAL OF GOLDSTEIN LEWIN, AND THE COMPANY'S FORMER OUTSIDE AUDITOR⁵¹

17 Q. Do you recall ever having discussions or
18 hearing discussions among principals of iViewit that
19 they weren't happy with Proskauer's services?
20 A. The only discussions related was -- Was
21 it Ken Attelman, the one that -- Who was --
22 Q. I can't - I can't answer that.
23 A. You can't answer. There was an attorney
24 in New York that was supposed to oversee the - or
25 involved somehow with the patent. And the

KEN SCHANZER & ASSOCIATES, INC. (954) 922-2660

17

1 discussions were related to was he doing a good
2 enough job overseeing Foley's firm, you know,
3 handling the patent or he supposed --
4 Q. Is this Ken Rubenstein?
5 A. Ken Rubenstein. That's the guy, yes.
6 There were discussions related to Ken Rubenstein and
7 the patents. That was it.
8 Q. Who had those discussions? Who were the



...STILL MORE MR. LEWIN⁵²

5 Q. Did Proskauer do patent work for iViewit?

6 A. I'm trying to remember. They did consult

7 an attorney in New York, one of Proskauer's attorneys

8 in New York. I don't recall his name. And I do have

9 to tell you I'm not very good with names.

7 Q. Were there any disagreements concerning
8 the manner in which the patents had been filed or the
9 names under which the patents had been filed?

0 A. I don't recall on the names. I recall
1 there were maybe disagreements of - you know, which I
2 don't understand - I do not understand patents - of
3 whether papers were prepared this way or that way or
4 properly or improperly or -- You know, maybe those
5 were discussions.



STATEMENT OF CEO LAMONT

I met with Mr. Rubenstein in the New York offices of Proskauer Rose LLP on Monday January 7, 2002 at 11:30 A.M. Moreover, the purpose of my visit was three fold: (I) to invite him to **REJOIN** the Advisory Board along with David Colter, Vice President of Advanced Technology of Warner Bros. and Greg Thagard, formerly of Warner Bros. and left with him a copy of the Company's January 2002 Business Plan, an Advisory Board Member Agreement, and a Warrant Grant to purchase 450 share of the Company as compensation; (II) to begin a series of discussions pointing to the essentiality of the Iviewit patents pending in his role as patent evaluator of the multimedia patent pools known as MPEG 2 and MPEG 4; and (III) to have a face to face discussion as a means to allow me to ask him to speak to Wayne M. Smith, Vice President & Senior Litigation and Patent Counsel at Warner Bros. to reiterate his prior statements to Warner Bros. executives and overcome his purported conflict that was previously waived. Much to my surprise, during our discussion, Mr. Rubenstein disavowed any knowledge of the Company's patents pending, at which time I felt a bit of embarrassment. Embarrassed, because, once assuming the CEO position, I had prior knowledge of his speaking to people at Warner Bros., such as, but not limited to David Colter, Greg Thagard, and Chris Cookson, and thought I might have interpreted an incorrect picture of those prior discussions. Lastly, I advised him of my discussions with Warner Bros. pertaining to an Advanced Royalty Agreement ("ARA").

Moreover, in reviewing Company documentation, I came across more instances of business plans naming him as an Advisory Board Member, multiple emails of investors and potential licensees naming Mr. Rubenstein as an individual entirely familiar with the Company's technologies, and parole evidence stating that Mr. Rubenstein, when initially the recipient of the Company's disclosures claimed the technologies were "novel," and that "he had missed that," and that "we had never thought of that," and finally that "this changes everything."

Furthermore, although I became a bit suspicious after the meeting with Mr. Rubenstein, and as the Warner Bros. discussions began to break down due to Mr. Rubenstein's reticence at speaking to Warner Bros., I felt comfortable enough in asking Mr. Rubenstein to place a phone call to Mr. Smith of Warner Bros., for what amounts to the third time, who was the patent attorney assigned the task of reviewing the Company filings for purposes of evaluating the ARA and the AOL Time Warner investment. Mr. Smith had been requesting a conversation with Mr. Rubenstein dating back to December 20, 2001, for the purposes of describing for good or bad his aforementioned knowledge of the Company's patents pending, and that he had formerly described as "novel," on varied occasions to Mr. Colter, Mr. Thagard, and others at Warner Bros. At this point, and based on nearly ten years experience as a technology executive, I suspected that something was wrong in the Company's patent filings, as in my prior experiences, the patent applications or patents issued usually had spoken for themselves, but in this instance, Mr. Smith was seemingly interested in a check of his reading and view of the Company's filings.

Much to my surprise, **AGAIN**, Mr. Rubenstein, not now disavowing knowledge of the Company's patents pending, refused said request based on conflicts of interest as Warner Bros "is a big client here." Surprised, **YET AGAIN**, as I was aware of his prior representations to Warner Bros, where no conflicts of interests were stated, at least not to my knowledge and in my review of Company documentation, I may have advised Mr. Rubenstein in still another phone conversation, that his purported conflicts of interest were waived on both sides, but that at least "could Mr. Smith call you [Mr. Rubenstein]," to which he agreed, however, paraphrasing, "he would not be positive or negative" in that regard. Moreover, he refused to place calls himself much in the same way as he had previously, only this time with anxiety and/or anger in his voice. Subsequent to his refusal, Warner Bros. declined the ARA and AOL Time Warner declined an investment in the Company, based on their confusion surrounding the lack of critical elements of the inventions in the Company's patents pending.

Additionally, it appears that Mr. Rubenstein's refusal to again speak affected not only the Warner Bros ARA, the AOL Time Warner investment, but had direct impact on the next discussions with, including but not limited to, SONY Corporation and what was to become Movielink, LLC (a five studio digital download movie service that was to generate licensing revenue for the Company as envisioned by the Company's business plans).

Still further, as my suspicions grew, I consulted with the Company's founder and main inventor, Mr. Bernstein, who contacted Caroline P. Rogers, Esq. to enlist her help in finding a law firm to conduct an independent review of the Company's patents pending. As of April 2002, the Chicago office of Greenberg Traurig LLP submitted their review at the behest of Ms. Rogers, and advised the Company of the missing critical elements of the Company's inventions that would materially not support the claims in said filings.

Lastly, much to my dismay, and when viewing the Company's inventions as a direct, competitive threat to, including but not limited to Mr. Rubenstein's MPEG 2 and MPEG 4 patent pools of which Mr. Rubenstein who, by his own admission is counsel to the MPEGLA LLC entity that functions as licensor of those pools, and is, to the best of the Company's knowledge, the patent evaluator who decides the "essentiality" of any patent with a view to admission to those pools, my suspicions grew even stronger.

As a result of discussions on the events with Mr. Bernstein, and by my own hand, I drafted the following letter to Mr. Rubenstein on April 25, 2002, and as evidenced by right clicking the document and choosing "Properties" wherein it evidences the date of creation and the date of modification (despite the WORD document's "update automatically" function), not so much, as it appears as an invitation to engage, but as a mechanism to allow Mr. Rubenstein to "save his soul," as my suspicions of the events surrounding the Company's patent prosecution process from 1998 to 2001, were grave indeed; I have knowledge that this letter, in draft form, was submitted to Mr. Rubenstein in his deposition in the Litigation, where he was given time to read and comment upon its contents:



IVIEWIT HOLDINGS, INC.

P. Stephen Lamont
Chief Executive Officer
Direct Dial: 914-217-0038

By Electronic Mail and Facsimile

June 18, 2003

Kenneth Rubenstein
Partner
Proskauer Rose LLP
1585 Broadway
New York, NY 10036

Re: Iviewit Patents Pending

Dear Ken:

Last we spoke, Wayne Smith of Warner Bros. requested a conversation with you pertaining to Iviewit patents pending, of which you denied indepth knowledge of same and, additionally, stated conflict of interest issues. Sadly, Iviewit has submitted Return of Property papers and a soon to be issued Cease and Desist letter to Warner Bros. for breach of a Confidentiality Agreement executed in August 2000, and ignorance of a reasonable license agreement to remedy said breach.

In any event, I am writing for another reason as I came across a piece of perplexing information earlier today. I stumbled upon some documentation that named you as an Advisory Board member of the company somewhere between the fall of 1999 and the spring of 2000.

Moreover, recalling your own words, as I sat in your office earlier in the year, of your present unfamiliarity with the Iviewit techniques and unwillingness to speak on behalf of what I have since heard you describe as "novel" approaches to video perplexes me to a certain extent when I view you as a former Advisory Board member, if you ever held such a designation.

Further, and I should not be relaying this to you, but there are rumors swirling around the company with finger pointing and all from Florida to Los Angeles wherein it catches the jet stream and arrives very soon in New York of alleged breaches of confidentiality pertaining to Iviewit technology, transfers of trade secrets, and, even in certain circumstances, knowing and willful invention fraud by the outright switching of signature



Kenneth Rubenstein
June 18, 2003
Page 2

pages of patent filings by some earlier patent counsels appointed by the company, including, but not limited to one Mr. Ray Joao, formerly, it is my understanding, of Meltzer, Lippe, Goldstein & Schlissel, P.C., and an individual that, it is also my understanding, you have worked closely with in the past pertaining to Iviewit and other matters. Moreover, it is also my understanding, that you were the first individual to be presented with the Iviewit proprietary techniques, and passed along the work to your past associate, Mr. Joao, and “reviewed” same prior to, during, and, perhaps, after your transition from the Meltzer firm to Proskauer, and in whatever capacity “reviewed” refers to.

At this juncture in my tenure as Iviewit CEO, I have ordered a full legal audit of the company both from a business perspective and an intellectual property perspective. With the results of said audit nearly complete, the preliminary intellectual property conclusions relayed astound me to the point that I have been told that the Iviewit patents pending are akin to patenting “peanut butter.”

Furthermore, I have been told of your past involvement with the Iviewit proprietary techniques, of your conversations about the Iviewit techniques with, including, but not limited to, Greg Thagard, Greg Cookson, and David Colter among others, and your initial conclusion of the novelty of the Iviewit techniques, and I ask myself, “Why, why has past patent counsel failed to patent the inventions as specified by our inventor?” Moreover, I ask myself “Why do the description of the inventions fail to lead one to believe that Iviewit had invented anything at all?”

Still further, I think back to the comments I have heard of your initial reaction to the Iviewit techniques and describing them as “novel,” which leads me to the conclusion that in your role as overseer of many patent pools, combined with your description of the novelty of the Iviewit techniques, you had not seen scaling in your review of patents pertaining to the essentiality of any given pool, and I ask my self further, “Why is the Iviewit scaling method now so far reaching and ubiquitous in many, varied patent pools overseen by yourself and others of similar stature?”

As such, I would like to enlist your assistance, if available, to review the conclusions of past and present patent counsel, and to further assist Iviewit in further defining the inventions in any intellectual property arena of our choosing, whether it be by a petition by what process is available at the United States Patent and Trademark Office, or any administrative, state, or federal court of appropriate jurisdiction armed with executed



Kenneth Rubenstein
June 18, 2003
Page 3

documents, memos, emails, and parole evidence all pointing to fraudulent, or at the least entirely malpractical occurrences regarding the filings of the past Iviewit patents pending.

Lastly, as I mentioned above, I have ordered a full legal and accounting audit of the company many weeks ago, and I expect the completion of same shortly, and I would appreciate a response at your earliest convenience.

Best regards,

P. Stephen Lamont
Chief Executive Officer

EXHIBIT H

STATEMENTS OF FORMER EMPLOYEES FRENDEAN AND MINK



Eliot I Bernstein

From: Tony Frenden [t.rex@sbcglobal.net]
Sent: Thursday, May 15, 2003 10:21 PM
To: iviewit@bellsouth.net
Subject: Fw: statement

----- Original Message -----

From: [Tony Frenden](mailto:Tony.Frenden)
To: iviewit@worldnet.att.net
Sent: Wednesday, May 14, 2003 11:38 PM
Subject: statement

May 14, 2003

I swear the following to be true:

Upon the closure of the Iviewit office in Boca Raton FL, I was retained for about an extra week by Brian Utley and Mike Reale, assisting in shutting down operations. It was during this time in which Mike Reale entered the video encoding lab, where I was present along with Tammy Raymond, (former Head of IT) and Zakirul Shirajee (former Systems Developer). Reale was smiling broadly as he set down a large silver suitcase onto my computer desk. Upon opening it, he revealed rows and rows of one hundred dollar (\$100) bills in U.S. currency, going down as deep as the case. I would estimate the amount to be near a half million dollars. Upon my inquiry of where the cash came from, Reale said it was from Bruce Prolow. He implied that the money was entrusted to he and Utley to continue Iviewit operations, but to me, it seemed Reale was careful to never explicitly state that Prolow authorized this transaction or not.

It is my belief that the suitcase of money was presented to me, in front of Tammy and Zakirul, to convince us that Utley and Reale were the ones reaping benefits from the Iviewit core processes, and if we were smart, we should join them.

A day or two prior to this incident, Mike Reale called me into a private office. He spoke of a new operation he and Utley wanted to embark on which utilizes Iviewit's core processes. The plan consisted of encoding video porn at an ambiguous island location in Puerto Rico. It was known that Eliot Bernstein had made available the option for me to work at the newly forming Iviewit in Glendale, CA. Reale wanted to steer me from going to the West coast operation, and spoke of me receiving a title and large pay raise should I go along with the Puerto Rico porn plan, instead.

Also, on one of these last closure days at the Boca Raton offices, Mike Reale approached me in the lab regarding another issue. He inquired which computers would be best to use, if one were to have the need to process Iviewit's core technologies. He asked me which 3 were the strongest computers to do the job. I had a feeling that he wanted to make off with whichever units I spoke of. I had already begun to make up my mind that I wanted no part of the Puerto Rico porn operation, so I told him about 3 computers I didn't care for. They were called, THE BOMBER, THE REALTIME NITRO, and one more unnamed computer. These were all very powerful and expensive units, but were not necessarily suited to encode video. As expected, these 3 units turned out to be the same ones found in Brian Utley's possession, months later. When the cops returned the items to us, the units

5/31/2003



contained several new media files, mostly long distance learning applications which were created well after the Boca offices were closed down.

Anthony Rex Frenden
859 Hollywood Way #374
Burbank CA 91505

Incoming mail is certified Virus Free.
Checked by AVG anti-virus system (<http://www.grisoft.com>).
Version: 6.0.480 / Virus Database: 276 - Release Date: 5/12/2003

5/31/2003



-----Original Message-----

From: Eliot I. Bernstein [mailto:res0bf4a@verizon.net]
Sent: Wednesday, June 13, 2001 9:21 PM
To: Ross Miller (E-mail); Ross Miller (E-mail 2); William R. Kasser (E-mail); William R. Kasser (E-mail 2); Simon L. Bernstein (E-mail)
Subject: Missing Boca Equipment

Please read this email from Matt Mink it clearly indicates that Mike and Brian have iviewit equipment.

-----Original Message-----

From: Minkvideo@aol.com [mailto:Minkvideo@aol.com]
Sent: Wednesday, June 13, 2001 4:50 AM
To: tyrexden@yahoo.com
Subject: Re:

Tony,

Everything is good. I finally have my computer back and I am editing again. I am trying a little marketing right now. I have an ad going into a local vendors magazine and I have been meeting and contacting other video companies in my field to let them know that I am available to shoot and edit. I met with Zakirul one day at his school and everything seems to be going well with him too. Mike Reale has contacted me twice too. I guess he has the bomber and the computer I worked on and there is an administration password he can't get by. I couldn't help him there. I guess Tammy won't help him out.

When my computer went down I lost Dreamweaver, Fireworks and my encoders. I didn't have any backups for them. I know better this time. I am backing up everything.

Take care and I'll talk to you soon.

Matt

-----Original Message-----

From: Minkvideo@aol.com [mailto:Minkvideo@aol.com]
Sent: Wednesday, May 01, 2002 5:15 PM
To: t.rex3@verizon.net
Subject: Re: from Tony!

speaking of New Jersey....Mike Reale called me after i was let go....could have been a few weeks to a month about passcodes to computers and if I wanted to go to New Jersey to help set up their new operation with the distance learning because I knew the iviewit processes. If you mean stuff like that let me know

Matthew



-----Original Message-----

From: Tony Frenden [mailto:tyrex.den@verizon.net]

Sent: Thursday, July 19, 2001 1:39 AM

To: 'Bill Kasser'

Subject: RE: Encoding Machines

Bill,

Both machines were accessed, and used during the time they weren't in our hands. On the Bomber, i didn't find any streaming media files, but it was indicated that the encoding software (to create streaming files) had been used frequently. On the Nitro, i have not yet searched for streaming files, but i did find many images that pertain to the InternetTrane product. These images were to appear as pages within InternetTrane's software. These files were created by someone using the Nitro in early June.

It was shown that both machines were part of a network environment together, while in our absence. The drives of each computer was 'shared' or accessible to the other computer. Bomber's drive was called 'Production', while the Nitro was named "Video". Furthermore, the Bomber recieved an upgrade of its 'operating system' (from Windows NT to Windows 2000) to facillitate its network environment. I don't believe the Windows 2000 upgrade to be legitimate.

A side note reveals that both computers had pirated software installed on them in June or July, and files resulting from them were created as late as July 11, 2001.

If you require further details, let me know.

Tony Frenden





APPENDIX I



[INSERT COUNTERCLAIM]

IN THE CIRCUIT COURT OF THE
15TH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

PROSKAUER ROSE L.L.P.,
a New York limited partnership,

CA 01-04671 AB

Plaintiff,

v.

IVIEWIT.COM, INC., a Delaware
corporation, IVIEWIT HOLDINGS,
INC., a Delaware corporation, and
IVIEWIT TECHNOLOGIES, INC.,
a Delaware corporation.

COPY / ORIGINAL
RECEIVED FOR FILING

JAN 28 2003

DOROTHY H. WILKEN
CLERK OF CIRCUIT COURT
CIRCUIT CIVIL DIVISION

Defendants.
_____ /

**DEFENDANTS MOTION FOR LEAVE TO AMEND TO ASSERT
COUNTERCLAIM FOR DAMAGES**

Defendants, IVIEWIT.COM, INC., IVIEWIT HOLDINGS,
INC. and IVIEWIT TECHNOLOGIES, INC., by and through their undersigned
counsel, hereby move this Court for Leave to Amend their Answer so as to assert a
counterclaim in this matter pursuant to Rule 1.170(f) of the Florida Rules of Civil
Procedure and as grounds therefore would state as follows:

1. That the Defendants move to amend their answer in this matter so as to
include a counterclaim in this matter, which by its nature appears to be a compulsory
counterclaim to the extent that the issues arise out of the same nexus of events, as



justice requires that the counterclaim be tried at the same time as the complaint and answer so that all pending issues between the parties may be adjudicated in this action.

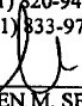
2. That as a result of fact that additional evidence in support of the Defendants' counterclaims is found in the Plaintiff's own files and records, the Plaintiff will not be prejudiced by the amendment of the Defendants' answer in this matter, nor will this matter be delayed as to the trial of same.

3. Defendants have attached hereto a copy of the proposed counterclaim.

WHEREFORE the Defendants, move this Honorable Court for the entry of an order permitting the Defendants to amend their answer in this matter.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S. Mail and fax transmission this 20th day of January, 2003 to: Christopher W. Prusaski, Esq., Proskauer Rose, LLP, 2255 Glades Road, Suite 340 W, Boca Raton, FL 33431.

SELZ & MUVDI SELZ, P.A.
214 Brazilian Avenue, Suite 220
Palm Beach, FL 33480
Tel: (561) 820-9409
Fax: (561) 833-9715

By: 
STEVEN M. SELZ
FBN: 777420



IN THE CIRCUIT COURT OF THE
15th JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY,
FLORIDA

PROSKAUER ROSE, LLP, a New York
limited partnership,

CASE NO.: CA 01-04671 AB

Plaintiff,

vs.

IVIEWIT.COM, INC., a Delaware
corporation, IVIEWIT HOLDINGS,
INC., a Delaware corporation and,
IVIEWIT TECHNOLOGIES, INC.,
a Delaware corporation,

Defendants,

_____ /

COUNTERCLAIM FOR DAMAGES

COME NOW the Counter Plaintiffs, IVIEWIT.COM, INC., IVIEWIT
HOLDINGS, INC., IVIEWIT TECHNOLOGIES, INC. and IVIEWIT LLC,
hereinafter collectively referred to as "IVIEWIT" or Counter Plaintiffs, and hereby
sues Counter Defendant, PROSKAUER ROSE, LLP, hereinafter "PROSKAUER",
a New York limited partnership, and alleges as follows:

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action for damages in a sum greater than \$15,000.00, exclusive



of interest, taxable costs and attorneys fees.

2. Counter Plaintiff, IVIEWIT.COM, INC., is a Delaware corporation, formed by PROSKAUER, which at all times relevant hereto was authorized to conduct and conducted business in Palm Beach County Florida and the State of California.

3. Counter Plaintiff, IVIEWIT HOLDINGS, INC., is a Delaware corporation, formed by PROSKAUER, which at all times relevant hereto was authorized to conduct and conducted business in Palm Beach County Florida and California.

4. Counter Plaintiff, IVIEWIT TECHNOLOGIES, INC., is a Delaware corporation, formed by PROSKAUER, which at all times relevant hereto was authorized to conduct and conducted business in Palm Beach County Florida and the State of California.

5. IVIEWIT LLC, is a Florida limited liability company, formed by PROSKAUER, which, at all times relevant hereto, was authorized to conduct and conducted business in the Palm Beach County Florida and the State of California.

6. Counter Defendant PROSKAUER ROSE, LLP, (hereinafter "PROSKAUER") is a New York limited partnership, operating a law office in Boca Raton, Palm Beach County, Florida.



Boca Raton, Palm Beach County, Florida.

7. BRIAN G. UTLEY, (hereinafter "UTLEY") was at all times relevant hereto a sui juris resident of the State of Florida and who on or about September of 1999 was the president of Counter Plaintiff, IVIEWIT LLC.

8. CHRISTOPHER WHEELER, (hereinafter "WHEELER") is a sui juris individual and resident of Palm Beach County, Florida, who at all times relevant hereto was a partner of PROSKAUER and who provided legal services to the Counter Plaintiffs.

9. KENNETH RUBENSTEIN, (hereinafter "RUBENSTEIN") is a sui juris individual believed to be a resident of the State of New York and who various times relevant hereto was initially misrepresented by WHEELER as a partner of PROSKAUER and later became a partner of PROSKAUER, and who provided legal services to the Counter Plaintiffs both while at Meltzer, Lippie, et al., and PROSKAUER.

10. RAYMOND JOAO, (hereinafter "JOAO") is a sui juris individual believed to be a resident of the State of New York and who at all times relevant hereto was represented to be RUBENSTEIN's associate at PROSKAUER, when in fact JOAO has never been an employee of PROSKAUER but in fact was an employee of Meltzer, Lippie, et al.



11. That beginning on or about November of 1998, the Counter Plaintiff, IVIEWIT, through its agent and principal, Eliot I. Bernstein ("Bernstein"), held discussions with WHEELER with regard to PROSKAUER providing legal services to the company involving specific technologies developed by Bernstein and two others, which technologies allowed for:

i) Zooming of digital images and video without degradation to the quality of the digital image due to what is commonly referred to as "pixilation"; and,

ii) The delivery of digital video using proprietary scaling techniques; and,

iii) A combination of the image zoom techniques and video scaling techniques described above; and,

iv) The remote control of video cameras through communications networks.

12. That Bernstein engaged the services of PROSKAUER to provide legal services to the company to be formed, including corporate formation and governance for a single entity and to obtain multiple patents and oversee US and foreign filings for such technologies including the provisional filings for the technologies as described in Paragraph 11 above, the "Technology", and such



other activities as were necessary to protect the intellectual property represented by the Technology.

13. That at the time of the engagement of PROSKAUER, Bernstein was advised and otherwise led to believe that WHEELER was the PROSKAUER partner in charge of the account.

14. Upon information and belief, WHEELER, RUBENSTEIN and JOAO upon viewing the technologies developed by Bernstein, and held by IVIEWIT, realized the significance of the technologies, its various applications to communication networks for distributing video data and images and for existing digital processes, including, but not limited to digital cameras, digital video disks (DVD), digital imaging technologies for medical purposes and digital video, and that WHEELER, RUBENSTEIN and JOAO conspired to undertake and in fact undertook a deliberate course of conduct to deprive Bernstein and IVIEWIT of the beneficial use of such technologies for either the use of third parties, who were other clients of PROSKAUER and WHEELER, or for WHEELER, RUBENSTEIN and JOAO's own financial gain, to the detriment and damage of the Counter Plaintiffs.

15. That WHEELER, who was a close personal friend of UTLEY, recommended to Bernstein and other members of the board of directors of



IVIEWIT that the IVIEWIT engage the services of UTLEY to act as President of the Iviewit.com, LLC based on his knowledge and ability as to technology issues.

16. That at the time that WHEELER made the recommendation of UTLEY to the board of directors, that WHEELER knew that UTLEY was in a dispute with his former employer, Diamond Turf Products and the fact that UTLEY had misappropriated certain patents on hydro-mechanical systems to the detriment of Diamond Turf Products.

17. Additionally, WHEELER was fully aware of the fact that UTLEY was not the highly qualified "engineer" that UTLEY represented himself to be, and that in fact UTLEY lacked real engineering expertise or even an engineering degree and that UTLEY had been fired from Diamond Turf Products due to his misappropriation of patents.

18. That despite such knowledge, WHEELER never mentioned such facts concerning UTLEY to any representative of IVIEWIT and in fact undertook to "sell" UTLEY as a highly qualified candidate who would be the ideal person to undertake day to day operations of IVIEWIT and work on the patents, acting as a qualified engineer.

19. Additionally, WHEELER continued to assist UTLEY in perpetrating such fraud on both the Board of Directors of IVIEWIT and to third parties,



including Wachovia Bank, by approving a false resume for UTLEY to be included in seeking approval of a private placement for IVIEWIT.

20. That based on the recommendations of WHEELER, as partner of PROSKAUER, the board of directors agreed to engage the services of UTLEY as president.

21. That almost immediately after UTLEY's employment and almost one year after initially providing of services, WHEELER provided a retainer agreement for the providing of services by PROSKAUER to IVIEWIT LLC, addressed to UTLEY, a true and correct copy of such retainer agreement (the "Retainer") being attached hereto and made a part hereof as Exhibit "A". That the services provided were in fact to be paid out of the royalties recovered from the use of the Technology, which was to be included in patent pools overseen by RUBENSTEIN.

22. That the Retainer by its terms contemplated the providing of corporate and general legal services to IVIEWIT LLC by PROSKAUER and was endorsed by UTLEY on behalf of IVIEWIT LLC, the Board of Directors of IVIEWIT LLC would not have UTLEY authorized to endorse same as it did not include the intellectual property work which PROSKAUER had already undertaken.

23. That prior to the Retainer, PROSKAUER and WHEELER had provided



legal services to iVIEWIT, including services regarding patent procurement and acted to coordinate such services both internally and with outside counsel, including RUBENSTEIN and JOAO, including times when they were misrepresented as PROSKAUER attorneys.

24. That PROSKAUER billed iVIEWIT for legal services related to corporate, patent, trademark and other work in a sum of approximately \$800,000.00.

25. That PROSKAUER billed iVIEWIT for legal service never performed, double-billed by the use of multiple counsel on the same issue, and systematically overcharged for services provided.

26. That summaries of the billing statements provided by PROSKAUER to iVIEWIT are attached hereto and made a part hereof as Exhibit "B".

27. That based on the over-billing by PROSKAUER, iVIEWIT paid a sum in of approximately \$500,000.00 plus together with a 2.5% interest in iVIEWIT, which sums and interest in iVIEWIT was received and accepted by PROSKAUER.

28. That WHEELER, UTLEY, RUBENSTEIN, JOAO and PROSKAUER, conspired to deprive iVIEWIT of its rights to the technologies developed by Bernstein by:



a) Transferring patents using Foley & Lardner so as to name UTLEY as the sole holder of multiple patents in his individual name and capacity when in fact they were and arose from the technologies developed by Bernstein and others and held by IVIEWIT prior to UTLEY's employment with IVIEWIT, and;

b) Upon discovery of the "lapses" by JOAO, that WHEELER and PROSKAUER referred the patent matters to WILLIAM DICK, of Foley & Lardner, who was also a close personal friend of UTLEY and who had been involved in the diversion of patents to UTLEY at Diamond Turf Products; and,

c) Failing to list proper inventors of the technologies based on improper legal advice that foreign inventors could not be listed until their immigration status was adjusted, resulting in the failure of the patents to include their rightful and lawful inventors and the payment by IVIEWIT for unnecessary immigration work; and,

d) Failing to ensure that the patent applications for the technologies, contained all necessary and pertinent information relevant to the technologies and as required by law; and,

e) Failing to secure trademarks and copyrights and failing to complete trademark and copyright work for the use of proprietary names of IVIEWIT and source code for the Technologies of IVIEWIT as intellectual property, and;



f) Allowing the infringement of patent rights of IVEIWIT and the intellectual property of IVIEWIT by other clients of PROSKAUER and WHEELER, and;

g) Aiding JOAO in filing patents for IVIEWIT intellectual property by intentionally withholding pertinent information from such patents and not filing same timely, so as to allow JOAO to apply for similar patents in his own name, both while acting as counsel for IVIEWIT and subsequently.

29. As a direct and proximate result of the actions of the Counter Defendant, Counter Plaintiffs have been damaged in a sum estimated to be greater than \$10,000,000,000.00, based on projections by Gerald Stanley, CEO of Real 3-D (a consortium of Lockheed, Silicone Graphics and Intel) as to the value of the technologies and their applications to current and future uses together with the loss of funding from Crossbow Ventures as a result of such conduct.

30. All conditions precedent to the bringing of this action have occurred or have been waived or excused.

COUNT I- LEGAL MALPRACTICE

31. This is an action for legal malpractice within the jurisdiction of this court.

32. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.



33. PROSKAUER employed by IVIEWIT for purposes of representing IVIEWIT to obtain multiple patents and oversee foreign filings for such technologies including the provisional filings for the technologies as described in Paragraph 11 above.

34. That pursuant to such employment, PROSKAUER owed a duty to ensure that the rights and interests of IVIEWIT were protected.

35. WHEELER, RUBENSTEIN, JOAO and PROSKAUER neglected that reasonable duty of care in the performance of legal services in that they:

a) Failed to take reasonable steps to ensure that the intellectual property of IVIEWIT was protected; and,

b) Failed to complete work regarding copyrights and trademarks; and,

c) Engaged in unnecessary and duplicate corporate and other work resulting in billing for unnecessary legal services believed to be in excess of \$400,000.00; and,

d) By redacting information from the billing statements regarding services provided so to as to give the appearance that the services provided by PROSKAUER were limited in nature, when in fact they involved various aspects of intellectual property protection; and,

e) By knowingly representing and agreeing to accept representation of



clients in conflict with the interests of iVIEWIT, without either consent or waiver by iVIEWIT.

36. That the negligent actions of PROSKAUER and its partners, WHEELER and RUBENSTEIN, resulted in and was the proximate cause of loss to iVIEWIT.

WHEREFORE, Counter Plaintiff demands judgement for damages against Defendant together with reasonable attorneys fees, court costs, interest and such other and further relief as this Court deems just and equitable.

COUNT II- CIVIL CONSPIRACY

37. This is an action for civil conspiracy within the jurisdiction of this court.

38. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.

39. Defendant, PROSKAUER and UTLEY, WHEELER, RUBENSTEIN and JOAO, jointly conspired to deprive the Counter Plaintiffs of their rights and interest in the Technology.

40. That UTLEY, WHEELER, RUBENSTEIN, JOAO and PROSKAUER with such intent, directed that certain patent rights be put in the name of UTLEY and/or that such patent rights were modified or negligently pursued so as to fail to provide protection of the intellectual property, resulting in the ability of other clients of WHEELER, RUBENSTEIN, JOAO and PROSKAUER to make use of such



technologies without being liable to iVIEWIT for royalties normally arising from such use.

41. That PROSKAUER, without either consent of the Board of Directors or proper documentation, transferred securities to Tiedemann/Prolow Investment Group, which entity was also referred to by WHEELER, who acted as counsel for such unauthorized transaction.

42. That upon the discovery of the above-described events and conspiracy, iVIEWIT's lead investor, Crossbow Ventures, ceased its funding of iVIEWIT.

43. That Crossbow Ventures, which was a referral of WHEELER, took a security interest in the Technology under the guise of protecting iVIEWIT and its shareholders from the actions of UTLEY, based on the filing of an involuntary bankruptcy (which was later withdrawn), and as to WHEELER and PROSKAUER based on the instant law suit, when in fact such conduct was motivated by Crossbow's attempts to wrongfully detain the interests of iVIEWIT in the Technology. Such conduct, upon information and belief, was undertaken with the knowledge and assistance of WHEELER and PROSKAUER.

44. As a direct and proximate result of the conspiracy and acts of PROSKAUER, UTLEY, WHEELER, JOAO and RUBENSTEIN, the Counter Plaintiffs have been damaged.



WHEREFORE, Counter Plaintiffs demand judgement for damages against Defendant together with court costs, interest and such other and further relief as this Court deems just and equitable.

COUNT III- BREACH OF CONTRACT

45. This is an action for breach of contract within the jurisdiction of this Court.

46. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.

47. Defendant, PROSKAUER, breached the contract with Counter Plaintiff, IVIEWIT LLC by failing to provide services billed for pursuant to the billing statements presented to the Counter Plaintiffs and over-billing for services provided.

48. That such actions on the part of PROSKAUER constitute breaches of the contract by and between IVIEWIT LLC and PROSKAUER.

49. That as a direct and proximate result of such conduct on the part of PROSKAUER, IVIEWIT LLC has been damaged by overpayment to PROSKAUER and the failure of PROSKAUER to perform the contracted for legal services.

WHEREFORE, IVIEWIT demands judgement for damages against Counter Defendant together with court costs, interest and such other and further relief as this Court deems just and equitable.



**COUNT IV- TORTIOUS INTERFERENCE WITH AN ADVANTAGEOUS
BUSINESS RELATIONSHIP**

50. This is an action for tortious interference with an advantageous business relationship within the jurisdiction of this Court.

51. Counter Plaintiff re-alleges and hereby incorporates that allegations of Paragraphs 1 through 30 as if fully set forth herein.

52. Counter Plaintiff was engaged in negotiations of technology agreements with both Warner Bros. and AOL/Time Warner as to the possible use of the Technologies of the Counter Plaintiffs and investment in Counter Plaintiffs as a strategic partner.

53. That despite the prior representations of RUBENSTEIN, at a meeting held on or about November 1, 2000, by and between UTLEY, RUBENSTEIN and representatives of Warner Bros. as to the Technology of IVIEWIT and the efficacy, novelty and unique methodology of the Technology, RUBENSTEIN refused to subsequently make the same statements to representatives of AOL and Warner Bros., taking the position that since Warner Bros./AOL is "now a big client of Proskauer, I can't comment on the technologies of Iviewit." or words to that effect in response to inquiry from Warner Brother/AOL's counsel as to the status and condition of the pending patents on the intellectual property.



54. That RUBENSTEIN, having served as an advisor to the Board of Directors for IVIEWIT, was aware of the fact that at the time of the making of the statements set forth in Paragraph 50, above, IVIEWIT was in the midst of negotiations with AOL/Warner Bros. as to the possible funding of the operations of IVIEWIT in and sum of between \$10,000,000.00 and \$20,000,000.00.

55. Further, RUBENSTEIN as a partner of PROSKAUER, and despite his clear prior actions in representing the interests of IVIEWIT, refused to answer questions as to the enforcement of the Technology of IVIEWIT, with the intent and knowledge that such refusal would lead to the cessation of the business relationship by and between IVIEWIT and Warner Bros./AOL and other clients familiar with the Warner Bros./AOL technology group then in negotiations with IVIEWIT, including, but not limited to Sony Corporation, Paramount, MGM and Fox.

56. That the actions of RUBENSTEIN were and constituted an intentional and unjustified interference with the relationship by and between IVIEWIT and Warner Bros./AOL designed to harm such relationship and further motivated by the attempts to "cover-up" the conflict of interest in PROSKAUER's representation of both IVIEWIT and Warner Bros./AOL.

57. That indeed, as a direct and proximate result of the conduct of RUBENSTEIN, Warner Bros./AOL ceased business relations with IVIEWIT to the

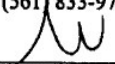


damage and detriment of Counter Plaintiffs.

WHEREFORE, Counter Plaintiffs demand judgement for damages against Counter Defendant together with court costs, interest and such other and further relief as this Court deems just and equitable.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by U.S. Mail and fax transmission this 10th day of January, 2003 to: Christopher W. Prusaski, Esq., Proskauer Rose, LLP, 2255 Glades Road, Suite 340 W, Boca Raton, FL 33431.

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By: 
STEVEN M. SELZ
FBN: 777420



APPENDIX II

CORRECTED VERSION - CORRECTED ON 5/14/2003
Transcription of Telephone Conference
Conducted July 31, 2000

Participants:

Simon Bernstein, Eliot Bernstein, Maurice Buchsbaum,
Brian Utley, Doug Boehm, Chris Wheeler

Note: Square brackets [] are used to indicate inaudible or indecipherable text. Text found inside brackets indicates transcriptionist's best guess. Since speaker names are not specifically identified, transcriptionist has made an attempt to identify based upon comments made in conversation but cannot guarantee that each speaker has been accurately identified. Note also that this recording has numerous instances of participants speaking at once or carrying on simultaneous side conversations that make it difficult to follow and transcribe the entire line of discussion.

Utley: <begins midstream>...status of the original digital image filings, and basically the fact that the original filings do not cover the full subject matter of the imaging technology; and to wit, one of the omissions, in particular in reading the claims section of the provisional and the formal filing, relates to the zooming and panning capability that is inherent in the technology. This has become a topic due to the fact that we are currently in the second phase of filing imaging patent protection which is driven by the provisionals that were filed later last year, between August and December of last year. So the concern that were expressed by Eliot in reviewing this is that this omission of the zooming and panning capability was attributable to a failure, for whatever reason, on the part of Ray Joao, the patent attorney of record, in constructing and putting together the provisional and formal filing<tape cuts out here> did I say it is that right Eliot

E Bernstein I believe so

Utley Is that your understanding

E Bernstein Correct

Utley The purpose of this meeting is to review the facts and I think there are two particular points that are

...that are important to moving ahead. The first is: "Given that the filings are what they are, and given what we know about the filing which is scheduled to take place this week on Wednesday, what means do we have to correct the situation; and given whatever corrections we find, what then is the impact or exposure to iviewit based upon what actions we can take. Then, lastly, what, if any, recourse might iviewit have vi sa vi the omissions in the original filings Are there any other issues, Doug?

Bernstein: Yeah, just correcting back to Ray Joao's work of the formal filing that he filed. Do we have a copy of that?

Utley: I do have that.

Bernstein: I don't. I've got the provisional and I've got...

Boehm: Everything is on the table



Utley: you should have...the formal.

Bernstein: This one?

Utley: Yes, that's the formal.

Bernstein: Okay.

Simon Bernstein: I just have one question. Does anybody have, or are we allowed to get, the files of Ray Joao?

Boehm: I have them.

Wheeler: Do you have all of the work that he had?

Bernstein: No, not all of it.

Utley: What was purported to be in the files?

Bernstein: And he also claimed to us that he destroyed part of his files.

Boehm: And I have some of his files. I have what was purported to be all of the firms' files.

<Inaudible comment.>

Utley: Well, there's a whole history, then, because I tried to get complete copies of the files originally, and found out later that not only did he not send us all the files, he didn't even mention that there was an extra filing out there that we didn't even know about.

Bernstein: This one that's in question.

Boehm: Yep

Simon Bernstein: You have no notes, no data on...?

Boehm: No, I have the application. I have things that you could get from the US patent office—that I could get from the US patent office. I have very few notes. I do have some scribbled Ray Joao's notes, but I think you gave me those notes.

Utley: I did. I gave you Bill Dick after Bill yourself[] the notes that I had.

Bernstein: And Ray's made disclosures to us that he destroyed the documents to protect us, which I don't know what he was thinking.

Simon Bernstein: Destroyed what documents?

Bernstein: Whatever he had in his files. Other patent copies, copies of the drafts as they proceeded...all that he destroyed to protect us from something I asked him to explain, and his reasoning...because I said to him, you know, usually you destroy documents when you are protecting somebody from something illegal or something. Have I done something that would force you to hurt me possibly? He said it was typical, normal, that all lawyers destroy their records.

Simon Bernstein: If that, in fact, is the case—I've never heard of a lawyer you know other than Nixon destroying anything the



work is ours. Am I right Chris when we pay for a lawyer and we pay for the work, the work is ours.

Wheeler: The work product is yours. He may maintain copies of his files and everything; or his confidential notes to himself are not necessarily yours. But the work "product" is...

Simon Bernstein: Would you say that anything germane to the issue belongs to him?

Wheeler: Well, I mean if he wrote notes...in sidebars...yeah.

Bernstein: How about revised patents[]. How about copies? Works in progress

Wheeler: But things which would reinforce your patent, obviously, that is germane to the strength of your patent yes, you would be entitled to copies I don't think we disagree.

Bernstein: He's claiming He destroyed all faxes.

Wheeler: Can I ask you a question?

Bernstein: Yes.

Wheeler: Just so both of us understand...was this patent done prior to his flying down here, or was this patent done as a result of his flying down here and having discussions with you? I was under the impression that when he flew down here--this was before Brian came--I was under the impression that followed our meeting with Reel 3-D. I was under the impression that he was coming down to discuss, at the very least, the video aspect so that you could complete that; but were you also completing the imaging patent?

Bernstein: Correct.

Wheeler: So he went to your [kitchen]?

Bernstein: Right. And we spent days there

Wheeler: And the two of you spent all the days...

Bernstein: Correct.

Wheeler: And did he, in front of you, write notes?

Bernstein: Tons. Hundreds

Wheeler: And did he then produce them on his computer and type out certain things?

Bernstein: Yes.

Wheeler: I was under the impression he was doing that with you.

Bernstein: He did.

Wheeler: And did you read those?

Bernstein: I did. I did - now going to that same nature, that's the provisional I think we're talking about...

Wheeler: Right.



Bernstein: But he flew out here again with me and Brian and went through this as he went to file this--this is a 3/23/2000 file--that also fails to make mention of.

Wheeler: So that's the formal file...the formal one?

Bernstein: The formal file. So both also missed the point.

Wheeler: I just wanted to know and to put things in proportion, when you read the provisionals, because Brian wasn't with the company right now and then, and when there were all those drafts, because obviously we didn't see them...

Bernstein: Well, you saw because we gave you all the documents. I'd get a document from Ray and bring it to you so you would have records of everything up to that point because I didn't want to keep them at my house.

Wheeler: The final...the final...but I'm not reviewing the patent. I was keep maintaining it as...

Bernstein: Okay, but you have every record...

Wheeler: Everything you gave me we maintain. We don't...

Simon Bernstein: Any notes should be produced...

Wheeler: We don't throw away anything.

Bernstein: Yeah, I know.

Simon Bernstein: I know you don't you're very thorough.

Wheeler: So, I'd file it away; so if you gave it to me, it's in our archives.

Bernstein: Right.

Wheeler: I wanted to know, when you read those drafts...

Bernstein: Oh, it was...it was clear

Wheeler: Answer my question...when you read the drafts, did you see the panning and scanning elements?

Bernstein: Yeah, and zooming, up to 1,000 times we thought it was. That was the big...you know, we had it in there...as a matter of fact, he just said it...somewhere it's in there up to 1,000 times, isn't it?

Utley: 1,700.

Bernstein: Right. That was our old mistaken a number of times. So, yeah, for him to miss that, Chris, would be the essence of stupidity.

Wheeler: So it was in there?

Bernstein: Absolutely.

Utley: The zooming, it was in the body, but not in the claim.

Boehm: But a provisional doesn't really...doesn't have to have claims.



Utley: It doesn't have claims.

Bernstein: But then in our claims of our patent, it's not there. This is what you're representing, correct?

Wheeler: So you're saying that it wasn't put in the file, but it was put in the provisional.

Boehm: No, I could see where he's going to argue that it's there.

Bernstein: Let's see. Let's take a look.

Wheeler: ...what the language of the patent claims are that he filed.

Bernstein: Okay, let's see what he...

Wheeler: And this isn't the final decision because I can go back right now and amend those claims.

Bernstein: Wow, yes, but we have elements of exposure that creep in correct?

Wheeler: I'm just telling you the whole thing, then we'll go back. So you did look it over, and there are no claims in the provisional?

Boehm: There are no claims in a provisional. You can file them, but they are never examined.

Wheeler: But the zooming and the panning and the scanning element was incorporated in that?

Boehm: Go ahead, Brian.

Utley: Let me make sure that we say that properly. The provisional filing had a claims section which migrated into the final filing, but Eliot is correct in saying that the provisional does not need a claims section.

Boehm: The provisional never gets examined, so it doesn't need the claims. It just holds your place in line for one year.

Bernstein: But then when I look through this...

Simon Bernstein: Hold on, Eliot, I need to understand this. What you're saying, then, is assuming any negligence on his part, to that point the negligence doesn't become realistically damaging to the company until since he actually made a claim...since he actually made a provisional filing. Which took our place in line.

Boehm: If the provisional filing covered the invention, your place in line is only as good as the subject matter described in accordance with the law.

Simon: Obviously, it should have had the panning and zooming in there.

Boehm: Well, the word "zoom" is in there.

Bernstein: But not really to describe what we're doing.

Boehm: But do you see what I'm saying? It's only to the amount of subject matter that and attested where the average person skilled in the art could make and use an invention as it's



described in this document, and without "undue" experimentation, without inventing it himself.

Simon Bernstein: Right.

Boehm: Now, this provisional application, you throw it...different patent attorneys do different things with it. On one end of the spectrum, you do an invention disclosure. Most big corporations have invention disclosure forms which leads the inventor to write out good disclosures and figures and things, and I've seen people actually file that invention disclosure because if you're coming up on a bar date, you don't have time to write an application or think about what your invention is. All you've got to do is get something on file, and then hope that it will protect...that whatever you had on file covered your invention.

Simon Bernstein: Is that what we've done so far?

Bernstein: No.

Boehm: I don't want to answer that, but that's the line.

Boehm: It's a grey question, it's a grey area, I think.

Wheeler: That's what we're aiming to do, that's what we're hoping to do.

Boehm: But on one end of the spectrum, you file very minimal work, and that's what Ray did on some of the applications, like on the one...

Wheeler: He was trying to do it in a broad...

Wheeler: He did say conceptually that his method was to do a broad stroke of it.

Boehm: Right. Well, a broad stroke on drafting the claims.

Wheeler: Okay. Right.

Eliot Bernstein: He's got to put the invention in!

Boehm: That doesn't happen in a provisional at all, generally. If you want to, you can write the provisional claims just so you know what you're doing, and it's actually used as subject matter; but the claims are never examined. It doesn't matter if it's in proper format or anything, it just sits there. Now, if you pick up the provisional a year later—it has to be within that year—if it's a real well done application, you just file it. There's no money involved in turning the provisional into a regular filing. Oftentimes, with these one-page disclosures, there's a substantial amount of money involved in taking that from there to there. The problem is you cannot add subject matter to the patent application later on once it's filed.

Bernstein: Unless it's really the patent application, correct?

Boehm: No, the subject matter has to be supported—has to be described—

Simon Bernstein: In the provisional.



Boehm: Uhhuh To that text, or you lose your filing date.

Wheeler: But the zooming element, then, is not in addition.

Boehm: Is not in addition? You mean...

E. Bernstein: It's not even in there.

Wheeler: You can't add subject matter. So if he did describe zooming, then it's not in addition.

Bernstein: Did he, ?

Wheeler: I am asking you whether he did or not?

Boehm: I'm not clear on what you mean. You can't add additional subject matter after the filing date of an application or you'll lose the right to that filing date.

Wheeler: The provisional? You can't add subject matter to the provisional?

Boehm: To any application...any patent.

Wheeler: But if he did describe the zooming, then the zooming element is not an addition in the formal.

Boehm: Right. It's supported. If he described it in the original, you can base claims on it later.

Wheeler: And have we said that the zooming is in the provisional?

Bernstein: Nowhere that I can see.

Simon Bernstein: Wait. You're the lawyer reading another lawyer's work. Is it in there?

Boehm: Do you have a copy of it?

Bernstein: Yeah, right here. It isn't in there if it bites you.

E. Bernstein: It's not in the filing either.

Simon Bernstein: It's obviously not in the filing if it's not in the provisional.

Bernstein: No.

Simon Bernstein: Can you make reference to something...let's say he uses the word "zoom".

Boehm: Exactly. I'm pretty sure the word "zoom" is in there, isn't it Eliot?

Bernstein: But what Doug's saying is that had you written the patent, you would have described the invention as the ability to do this cool zoom that we all...and just said this is the cool part of what we're doing. What Ray's missing in the outline is the ability for you to put a picture on a Web page.

Wheeler: He did know that an important element was the fact that when we went in and made it bigger, we didn't pixelate.



Bernstein: It didn't pixelate. Not in here at all.

E. Bernstein: Not even mention to that concept.

Bernstein: Complete failure. It's not.

Wheeler: But if said it doesn't distort when we zoom...

Bernstein: Nope. Nothing like that.

Wheeler: That's the same thing, isn't it?

Bernstein: Yeah, but he hasn't said anything...he doesn't even tell you ...

Wheeler: What about the panning element, or is that element not patentable?

Bernstein: No, that's part of the whole process is to be able to zoom while panning.

Wheeler: Here it is. "The above process can be utilized in order to create higher zoom capabilities with each new depth layer of an image..."

Bernstein: No, but that's a new depth layer which is bringing in another hotspot image, so it's really a completely different subject.

Boehm: Oh. Okay.

Boehm: Okay. Where is that?

E. Bernstein: I read it to, he's very crafty you know.

Boehm: "Where the zoom capacity of up to 1700 times or greater may be easily obtained with the [present conventions.]" Are they talking about the hotspot now?

Bernstein: No.

Boehm: No, it's the general zooming capability.

Wheeler: So it's not in addition.

Bernstein: Well, explain to him where it's missing.

Wheeler: You guys didn't put it in the formal...I don't mean you...he didn't put it in the formal one in the depth in that what we want to do it but he could have without it being construed as an addition.

Boehm: Yes.

Boehm: Well play lawyer on you now<Laughs; cannot understand his comment.>

Wheeler: Right - sorry

Boehm: Whether or not it's supported is a question that's going to be determined either between you and the examiner...probably not, it's between you and another lawyer someday when the case is litigated. The question is And again, the test is: Can the average person skilled in the art—the average



designer of this type of software—can he read this document and make and use of your invention without inventing it? That's the test. Now, whether he uses the word "zoom" in here and "magnification" later, that doesn't matter as long as he would have gotten it. If it is so simple to build by reading this, you don't need any subject matter. If you're combining three elements A, B, and C, and A, B, and C are standard in the art, and you tell them these are standard in the art, go combine A, B, and C, that could be a one-page application. The average person will pick it up and he could. It's a patent test. Are you with me? The more complex it is, the more you want it supported in this text.

Simon Bernstein: What if it is basically simple, and he just wrote it as basically simple, does that support our position anyway though?

Boehm: Does that support our...Sure...

Simon Bernstein: I mean, if we were to litigate against another person that infringes on our...

Boehm: An infringer.

Simon Bernstein: Supportable for the sake of argument?

Boehm: Right. Yes. That is a fair argument

Simon Bernstein: OK so then I don't know that, at least from first blush

Bernstein: That's the provisional you're reading though, right?

Boehm: Aren't they the same? I think they're identical, aren't they?

Boehm: You can check in his notebook.

Boehm: Are there differences?

Bernstein: Where did you find that piece that you just read?

Wheeler: Is the reason...now continue answering my question...is the reason we came to the formal in March of this year, which I didn't realize that Joao. I thought that we had agreements for doing everything, but apparently Joao filed...

Boehm: For that one, yes.

Wheeler: But he didn't bother telling anybody.

Boehm: That's the one that we didn't find out until way late.

Wheeler: Okay, perhaps the reason that he did that was that was the easiest way to do it and the course of least resistance, and he thought he could go back...is there an amendment procedure?

Boehm: Yeah, there's an amendment procedure.

Wheeler: That he could do it a few months later or something like that?

Utley: We had a conversation before the formal filing, and, in fact, I have my notes here from that conversation.



Wheeler: Okay.

Bernstein: And you mentioned that there was no zoom.

Utley: Yeah, I said...

Bernstein: Claim one.

Utley: Yeah, Here are my notes. This is my original copy. Claims do not reference stitching. The patent app does not cover providing enhanced digital image with zoom and pan controls. It covers for creating enhanced images to show zoom and pan functionality without distortion." Those are my notes.

Bernstein: And you told him that.

Simon Bernstein: Here's a man that was cognizant of what was necessary to be in there. How did a guy to file a patent without any of us—obviously, not me, but Eliot, Brian.?

Boehm: Jim wasn't around yet.

Simon Bernstein: Okay, but Chris was and so on and so forth—how did they get through the crack that he did this?

Wheeler: It didn't get through the crack. Brian addressed it with him.

Bernstein: And everything is shredded now, too. Everything else is shredded.

Utley: Kind of what he was going to do—his time factor—he was going to...he didn't think he would get this in. He would submit it and then would turn right around and amend it.

Boehm: Did he really say that?

Bernstein: Yeah.

Utley: I wouldn't say amended, it was because of the stuff that was coming...

Bernstein: It was supposed to be in there.

Utley: ...he was going to smash that all together and file it.

Simon Bernstein: Was that the same time, Brian, that he was leaving the firm?

Bernstein: Yeah.

Simon Bernstein: So would you say that probably...

Utley: he knew at the time that he probably would be leaving?

Utley: Right.

Simon: But he wanted to get all of this in place so he could do the billing and get that part of it in...

Utley: I don't know that.



Boehm: Just speculating.

Eliot Bernstein: What day did you give him those notes?

Simon Bernstein: I don't ever have to speculate on billing

Utley: I don't have my address book with me...I didn't write the date down, but it was the date that he was here. He came.

Wheeler: He wanted to get it done to take care of you, make sure it was filed for you.

Simon Bernstein: That could be too. One other reason is...

Wheeler: We're just speculating.

Wheeler: And I'm not trying to... <Everyone talking at once.> I thought he was trying to work on our best behalf, but one time or two times that I met him, it seems like he was earnestly trying to help. Who knows? Maybe he was incompetent. I mean we're only suggesting that it would have been incompetence

Bernstein: Well, the fact that it's not in your patents, right up front, this is the invention, is a gross neglect. And the fact that it doesn't say, "this is what the invention is trying to do. This is the feature..."

Simon Bernstein: The point is not whether it's gross neglect or not, it's what the damage is if there is...if, one, gross neglect is of any import; and two, what is the damage? it has caused iVIEWIT. That's what I think we need to ascertain here, and if we can ascertain it.

Utley: How do we fix it?

Simon Bernstein: Of course lets try to fix it, if we can't fix it then we'll worry about...

Eliot Bernstein: Well 1st lets fix it

<Everyone talking at once.>

Boehm: Let me go over the procedures so everybody's clear. Again, on one end of the spectrum you file a very sparse, like a one-page provisional application, and it's cheap, and the purpose of the provisional is to get you in line...it is to protect your date. What you're trying to do is get the benefit of your priority date. When you invented it. When you're in line in terms of whose the next guy that invented it. Whose the first inventor?

Simon Bernstein: Someone comes after you the second day after...

Boehm: Who's the first inventor, that's what you're after.

Simon: I understand. I really understand...you don't physically stand...

Boehm: Not physically in line in the patent office is right, not or even in physically in line in order as well. Okay. One-year letter, the provisional expires and you have to file a non-provisional patent application, okay? Many times it's identical. If you do a good job up front, you just file



that, but you need to put claims on at this time. When I do a provisional, I try, if there is money and time up front, to do it once up front. I even write the claims. As a matter of fact, I don't even like to file provisionals because there's not much of an advantage. If you've got the time and the money up front to do a good job, well then, just file it as a regular application.

Simon: Understand that at the beginning, the time and the money...I mean, the time was certainly available, but the money was a short substance. So it was obvious that Ray would be working in a most expeditious way.

Boehm: Well, that's why the..

Simon: Which might have short-circuited us because of all of the lack of funds.

Wheeler: Well, that's true because the filing date is 3/24/99 to endorse that...that was very early in the game.

Simon: We did it in your office Chris in your library...in your conference room. The only meeting I had with him was while we were going to file the patent and that was in your office.

Boehm: Okay, 3/24/99 is the provisional application.

Bernstein: That's what I'm saying. Well, Chris,

Boehm: So even at a year, he filed the second one with claims.

Buchsbaum: Yeah two things happened during the year. One, the Company was doing other things, even though they knew that was coming up, and two, I guess there wasn't a whole lot of money to allocate towards doing that much.

Simon: Here's what we did. We hired Ray Joao on the monies that were raised by the investors; and then when Huizenga was coming in with their money, and when that money came in, we made a company decision that the first and foremost thing was to get the patent filed properly. So the fact that we were going to spend more money and get them completed at that point had already been made.

Simon: Okay, but prior to that, we were working on short forms. Then after that, we started to raise capital, and we always knew that the priority was intellectual property, so were going to make sure that those got done right. Brian's been working on it ever since, and I felt comfortable...I never did feel comfortable with Ray Joao...just an observation.

Boehm: Hmm...is it all patent attorneys? <Laughter>

Simon: No, no, there's nothing wrong. He came in, he's a nice guy, he tried hard, you know, all the nice things, but his work always appeared sloppy, okay? And that's the only thing I can say. You're a patent attorney, you see what he did. If I'm wrong, then let me know; but to me, it looked like it was a little slipshod. And then he made some statements that really bothered me, too, that I don't think he should have made to a client, and that is that he was filing his own patent. <Chuckling.> I mean, horseshit personally, I haven't heard of a patent attorney in my life telling me



that he's an inventor filing his own patent. It really did bother me.

<Everyone talking at once.>

Bernstein: Transmitting video files on a communication network for airlines and...

Simon: It probably meant nothing because I don't think the guy was of the nature to be stealing from us, but I don't know! But I'll tell you this, it did ring a bell. From a pure novice, it made me a little nervous. I asked Eliot why he was dealing with somebody, but we were assured that this was a good firm...

Boehm: Let me look back in my own spiel...here with the provisional. You file a provisional, then within one year, you file a regular application with the claims. You can add claims to it; but if you add subject matter to it—in other words, if the zoom and pan concept wasn't well described, you have lost the benefit of that first phase. Right. Now why is that going to hurt you? Two main reasons. One is if you put it on sale—offered it for sale— or you publicly disclosed it, there are certain regulations that say you've got to get something on file, so if you had publicly disclosed it, that would protect...getting the application on file will protect you from losing your date because of public disclosure and offer for sale. I think that's what he was trying to get the earlier dates for.

Simon: Sure.

Boehm: I spoke with Ray when I was trying to get all of these files, and his comments to me were...when we were on the phone—you remember, we were asking him where was this stuff, and he said, well, he kept building on and he learned more it got in there. After I reviewed these applications, I agree that you're learning more as you go along. I'm doing the same thing. So it's kind of a learning curve.

Bernstein: If they ever find a zoom description that adequately makes...especially in the claims...I mean, if you're reading the claims...

Boehm: But Eliot, he's going to say that the claims are of no import right now. All you have to do...

Bernstein: In the filings?

Boehm: In the filings. I can go amend those right now. We can sit down today and re-write them.

Simon: If it can be amended amend it. There's no problems.

Boehm: There's no problems.

Simon Bernstein: There's always maybe a little money that's been duplicated and that's it.

Boehm: Here's the problem, and that's what I want to get across about that. If he's trying to claim zoom and pan and I rewrite the claims to claim zoom and pan, and the examiner says, that's great, but it's new matter



Bernstein: But it's in the provisional that you can zoom up to 1700 times.

Boehm: If my claim is supported by the spec on that date, then you're fine.

Bernstein: Isn't it?

Boehm: I can't answer that without going into the...

Bernstein: But when we read the provisional and we see that, it says...

Simon Bernstein: Before this meeting took place, before we called this meeting, aren't you privy to everything that's been done?

Boehm: Oh, sure. I have everything.

Simon Bernstein: So when Eliot asked you that question, why can't you answer it?

Boehm: Because there's no...in my opinion, there's no clear-cut answer, yes or no, on the quality of the work product. It's a judgment call.

Bernstein: So that's an exposure, and what if the judgment is against us?

Wheeler: It's [an examiner] judgment call is what we're saying.

Boehm: The damage?

Wheeler: No, the examiner. <Everyone talking at once.>

Wheeler: Whether the subject matter is new or not.

Boehm: The examiner would...hold on...it's...

Wheeler: whose judgment call is it?

Boehm: It could be the examiner's, if he catches it. If it's not caught, and you get it to patent and you litigate the patent, ... at court. Or if the examiner catches it and I want to appeal it to the board of appeals in the patent office, it's their judgment call

Wheeler: Okay, so we go to court and we're fighting over the patent, we would argue that it's supported by the zoom 1700 in our language, and the other side would, say that's baloney that's too broad you didn't describe it enough

Boehm: You didn't have your invention...

Bernstein: Then you lose.

Boehm: We would lose only if you had a bar date come in there if somebody else invented before you, or if you put something on sale...or if we offered something up for sale.

Bernstein: Which we did.

Boehm: But the offer-for-sale date from our first meeting is not until September.

Bernstein: Right.



Boehm: So the offers for sale won't normally kick off a foreign...

Simon Bernstein: Could you explain to me what offer for sale means?

Boehm: Sure. As soon as you...you can't get a patent on a product after you've been using it for more than a year. As soon as you publicly disclose your invention, you've got one year in the United States to get a patent on file, okay? Even if you don't publicly disclose it...let's say I've got a method of making [] in my factory, but it never gets outside. I'm starting to commercialize it, I'm making money off my invention...the commercialization date a year later is you can't patent it in the U.S. So that's that one-year grace period.

Simon Bernstein: Aren't we within that period?

Boehm: Yes. As far as we know, yeah. As far as we know.

Utley: Yes-yes we are within that grace period

Simon: Okay, somebody explain to me, what am I doing here? Why am I sitting here? Are we saying that Ray Joao, other than being sloppy, but there's not much damage that could have been done or can be done because we can fix it, which really would make me the happiest to hear that.

[not in transcript: PSL look at change above although minor it indicates perhaps the change in text to match new text]

Utley: Can I jump in? Let's just say there are two steps. We're going to make a filing this week; and to the best of our knowledge, we have swept up all this in this filing, and that will be within the commercialization period. The second thing that we're going to do is we're going to look at filing an addendum to the original formal filing to strengthen the claims - broaden the claims ... to the maximum extent that we can.

Boehm: if we need it...if we need it.

Boehm: It'll be a lot of this was swept up into the application.

Utley: What we're trying to do is protect the date day of March 24

Boehm: The original...

Utley: The original date as March the 24th, but filing should remain an objective.

Simon Bernstein: Brian, if you broadened the language now, would that be a red flag to the commissioner that you should have done it earlier? Or should we just say that this has always been there?

Buchsbaum: You mean the examiner of the commission

Bernstein: We're not going to be able to say it was in the claim.

Simon Bernstein: What happens when you start those amendments or broaden them is you start to admit that you didn't do it.

Boehm: Um, yes and no. We...I do that all the time.



Simon Bernstein: It's common then?

Bernstein: If they do it all the time, then we have to do it.

Simon Bernstein: But not until I feel more comfortable with it.

Boehm: We normally have a search done. The patent examiner will do a patentability search, and he will come back and reject it. The problem is if the claims are too narrow to begin with, he will not come back and reject it, he'll allow it, and boom! Now I can't amend it he's in. [], we're done. But I can file a continuation on it. I can keep dragging this out and get broader claims as long as the subject matter is...

Wheeler: So that's why he stated it broadly versus narrowly?

Boehm: No.

<Somebody comes into the room to take food/and or drink orders.>

Boehm: No, but as far as, doing it broadly, if you're saying to claim it broadly it's our job to claim... as prior art which I doubt the claim is as broad as the [] allows...

Wheeler: Right. That's what I'm saying.

Boehm: And this is claimed broadly.

Wheeler: Right.

Boehm: And that's the normal tactic, to claim things broadly, and then wait for the examiner to come back and say, "Oh, you can't get it that broad," and then narrow down your claim.

Wheeler: Okay, so isn't that what he was in part trying to do? That's what he's been saying, yeah.

Boehm: Yeah.

Wheeler: Well, would that not be consistent with how patent attorneys try to do things?

Bernstein: Well, claim one, if you look at their claim one, Chris, that they've written, it identifies...

Wheeler: Who's they?

Bernstein: Foley & Lardner. It identifies what you're trying to do.
[not in transcript: Stephen note how Dicks name is deleted and Foley's name is screwed up, may indicate who was changing this transcript]

Wheeler: Okay, so maybe it should have been written differently.

Boehm: You won't get two patent attorneys to write the same claims.

Bernstein: Well, no, but you try to write the claim, and that's the teaching you and Steve both represented us here, to describe in its broadest term...

Boehm: Right.

Bernstein: ...the invention.



Boehm: Well, I can't say that this isn't broad. This is very broad. This might be rejected for indefiniteness...I don't know what it is...but now he's got the opportunity to go back and...

Bernstein: And Brian, you know, there's print film image in here, it's all supposed to be out of here.

Wheeler: What you're telling me is that in your forum of law there's always going back and refining and refining and refining that was wrong.
<Everyone talking at once; two different conversations going on at once.>

Bernstein: This is like he just completely ignored what we said over a year. He didn't do a thing. Nothing. No comments, nothing.

Utley: Almost nothing between the provisional and the formal process.

Boehm: And some people intentionally file narrow just to get something on file. Then they can come back and repair it without damage to it.

Bernstein: But you don't know that because an examiner...

Simon Bernstein: You'll never know that until you have a litigation.

Bernstein: And then the question is what potential damage does that...

Simon: That damage potential and that remedy will be then taking place at that time, not now.

Boehm: That I agree with. Even if we decide something now, you won't know what the outcome is for five and a half months.

Simon Bernstein: ...wouldn't happen anyway. You wouldn't even know that.

Utley: Let me come back where I was. We are going to file on the 7th, Wednesday. As far as we know, that will cover every element of this invention that we have our arms around at this point in time.

Boehm: I believe so, yes.

Utley: And we should go back and address what amendments we can make to the claims in the filing of March this year and determine within the spec of the filing how broad those claims can be. I mean, that's going to be the test. Within the spec of that filing, how much leverage have we got to broaden those claims so that we do have a priority date which is back about a year ago last March.

Bernstein: So we want to insert everything going into this one into that one?

Utley: No, it'll be...

Utley: It'll be based upon the preamble, if you will, of what's in here.

Boehm: We do reference it. As a matter of fact, this is the cover page, Brian, of the application we're going to file.

Utley: Yeah, you reference it right there.



Bernstein: But you can add claims to that one that you're referencing that would encompass what we have in today's filing, which is really...we do want it in there.

Boehm: Yes, I can claims to the zoom and pan to get you back to the original date in this one since I claim to this onto his.

Bernstein: Well, we should do both.

Boehm: Well, you can't get two patents on the same invention, so it depends on where we want to go.

Bernstein: Well, we want to definitely get it in on his because it gets us an earlier date. Correct?

Boehm: No. It's a mess with these dates. What will happen is...nobody will worry about the date unless there's an occurrence, and that occurrence might... it's a major problem. You won't find out about that occurrence until you sue somebody, and then they go search in Australia, and they find a reference that somebody's done this before in the library, and then you worry about the date. Were you before him?

Bernstein: Well, that's what I'm worried about. I'd like to go back to our earliest date.

Wheeler: Can I point out one other thing? I know we look for the word...Eliot looks for the word...I know we look for the word "zoom," but there's also other language in here too. Sometimes we get caught up in a word "zoom," when what is zooming other than enlarging or reducing? And he does have language in here, "when enlarged or reduced, these pixels of the digital image becoming distorted a feature which typically results in the digital image being fixed to an original size or being available at low magnification, such as, for example, magnification from 200 to 300 times. These digital images are also difficult to enlarge to a full screen without a tremendous amount of distortion present in the end product."

Wheeler: I mean, he's describing I mean that's zooming. Reducing and enlarging is zooming.

Bernstein: But he's not putting it in your claims, that's what he's saying. You see, this is different.

Boehm: But it doesn't matter right now

Wheeler: But it doesn't have to be if you've made mention. The opinion is that it doesn't have to be as long as he's ...if you made mention...if you've gone on record of having described this

Boehm: This is the background that's...problem. He's got...

Boehm: That kind of invention, right, it's got to state...

Wheeler: Well, I didn't get to that either.

Bernstein: Right. And that's where it's not.

Boehm: I pointed out a couple of things. It's not as...

Bernstein: Within the claims, the claims I'm reading, you could not...



Boehm: The claims really don't matter.

Bernstein: In the patent?

Boehm: The patent claims on a pending application basically don't matter.

Bernstein: No, the ones he filed.

Boehm: Yeah, they basically don't matter. I can go back and change them.

Bernstein: Okay. Why? So we want to change back to the original one he's filed, put as much language as we can that we have today...oh, it's all supported. Everything you wrote in that new one is supported in this one because it's the same process.

Boehm: That's the ultimate problem that Steve and I—Steve is Becker, the other patent attorney that actually wrote these patents <in audible>—but that's the ultimate problem that we're worried about, and that's the problem that you always worry about unless you first of all have a handle on the invention, inside and outside, and second of all, unless you really have a handle on Prior Art so you know where you want to go with this. Then you spend the time and the money to do a good original provisional filing. You've got a pretty good shot that it's supported then. But when you file as, oh, I've got to try and cover this base, and when you do this kind of stuff, there's always going to be a question of what was supported when.

Bernstein: But that's fine. It is supported.

Simon Bernstein: We're off the subject matter.

Bernstein: So we should definitely claim back to the earlier date?

Boehm: We may get a rejection, or you may find out in litigation five years from now, that none of this was supported. Some court may say that you never talked how to do this because your software wasn't in the patent application.

Bernstein: It is, though.

Boehm: Well, the code isn't. They might say that these broad diagrams and these flowcharts aren't good enough. There's always that risk.

Bernstein: But we're trying to say that if they accept it, we want it to be to the furthest filing date that we can, which is March 3, 2000, and that's where it should lie; and if it's going to get argued let it live or die at that date.

Boehm: That's what we're trying to do right now.

Bernstein: Okay, good. So I'm under the impression from this point that we're going to encompass what we've learned what we're filing even in this other one even into the original one so we can claim back to a March 3 filing date that claims back to our original March patent...

Boehm: March 24th, yeah, all of that will go back toward what is supported in here, in the original. Not supported in ours.



Bernstein: Okay. And it's all going to be supportable because you're going to be able to pull up an image of the nature that we are discussing, and anybody with an eye can see that you've now done this.

Boehm: <Inaudible comment.>

Bernstein: Well, you're going to be able to show your invention, aren't you?

Boehm: No, no.

Bernstein: You can't?

Boehm: You live or die on what's in the specs. That's why...

Bernstein: Then get it in there.

Boehm: Yeah.

Bernstein: You can't bring it in as evidence what the invention is?

Boehm: Only outside evidence of what the average level of skill in the art is, okay? If somebody says that the flowchart isn't detailed enough, I'm going to go, "Oh, yes it is. Here's 29 programmers who are going to testify and say yeah, I can do that in my sleep with this document." So, there's always going to be a battle about the level of support.

Simon: Maurice and I—that's why I asked him to come in—Maurice and I were talking because neither one of us understands patents or how you file them or invention actually. What we do understand a little bit about is the theory in business; and now that we know that Ray Joao was somewhat sloppy—I'm not suggesting that he's not a fine attorney or anything else—you have been...you have reviewed all these patents that we have, whether there are eight or ten of them...

Boehm: There were eight original filings, and then...eight original filings.

Utley: Okay. And then how many do we have now?

Boehm: Let's look at the chart right now, but it's basically. We've got 17 applications that have been filed. These old ones are dead now because they were provisionals, and we've basically covered all...we pointed out basically covering two, maybe three inventions, so there's not...I mean, if we were to start over, maybe you'd do this with two patents, maybe one patent. So.

Simon Bernstein: Who owns them?

Boehm: Who owns it? iviewit Holdings, Inc.

Utley: Owns all of them?

Boehm: Except for...<Pause, and then text comes in that doesn't seem to be answering this open question.>

? Video playback over a network

Wheeler: How did he get in? [not in transcript but this refers to Jeff Friedstein on an invention]



Bernstein: He's part of the invention.

Boehm: An inventor - inventorship.

Boehm: So I've so I've got a document right here for him to sign. If he signs, then I do a couple of things.

Bernstein: He signed that when you faxed it to him originally.

Wheeler: I have copies of each one of these. Can I get a copy of your []?

Boehm: of this? Sure.

Wheeler: I have a copy of each one of these, I believe, or most of them...

Buchsbaum: Can I ask you a question? Your saying everybody that has an obligation to sign is on the list of names in these patents?

Boehm: You preferably don't...well, unless you have the new ones...

Wheeler: I don't have the new ones, but...

Bernstein: That's an old one. That's old.

Buchsbaum: You're saying everybody that has an obligation to sign is on the list of names in these patents right, because the company was part because the Company was doing, is that what you're saying? Because I don't even know if everybody has signed because you may due corporate due diligence for financial reasons or if...and they will say has everybody signed off on these patents, and if three people don't...if one person hasn't, he has an obligation to sign?

Boehm: Brian, have you signed?

Buchsbaum: Has everybody signed off on these? Brian?

Boehm: See these tabs [refers to tabs for inventors Bernstein, Shirajee, Friedstein and Rosario to sign] right here? That's what I'm trying to do today. As soon as...I'm going to have people sign, me sign...all the inventors sign. I've got to get a hold of Jeff

Bernstein: I thought we did that when we filed.

Boehm: You only signed one real document, didn't you? Did you actually a declaration? I know you didn't sign an assignment over but you're real clean on it because these are all based on the original filing, which is assigned to iviewit holding already

Bernstein: What's that mean?

Boehm: So all of the other inventors would have a helluva problem trying to say they owned anything.

Simon: Again, this is a little off the subject matter, but I have asked Chris about it before. If something were to happen to iviewit, and it were it went into bankruptcy, what would happen to those patents? How would those patents []?



Wheeler: It depends on which at iviewit you're talking about.

Simon Bernstein: The one that they are held in.

Wheeler: Well, first of all, holdings is held separately versus...we're operating the company out of a separate entity, correct? iviewit.com. So, let me think there...

Buchsbaum: The operating company is iviewit.com.

Simon Bernstein: All I'm concerned about is, for example, that the largest creditor...it wouldn't be a creditor, it would actually be an investor...would then...

Bernstein: They're not a creditor.

Buchsbaum: Okay, then the largest creditor could come in and pierce the corporate veil of iviewit.com and say that this is just a way of protecting the only valuable asset of the company away from creditors. Is there a possibility of that?

Boehm: Obviously there is.

Wheeler: There is a possibility, but that's one of the main reasons... But the loan, they made the company who wrote the patent, join in as a guarantor anyway on it.

Bernstein: Well, that would be all of us. All of those would be all of the investors getting a piece back?

Wheeler: No, no, no. On the \$800,000 loan, those people, it's secured by the patent.

Simon Bernstein: What about the \$600,000...or the other \$800,000 loan?

Wheeler: The others weren't loans. The others were equity, as I recall.

Simon Bernstein: No, no, they have claims.

Bernstein: Well, they're supposed to be converted to equity, which is another issue.

Utley: But there where note holders

Wheeler: No, because there was no quid pro quo at that time. The note holders I mean you can't go back and do it, we had that talk Si

Wheeler: I mean, you can't go back...

Bernstein: The note? I believe they're not final, even though we told people they would be by this time.

Wheeler: The note holders took their money in without taking security. Now you...<Indecipherable. Everyone talking at once.> ...new considerations...I said now you can't ... back to a failure to the corporation

Simon Bernstein: ...Board if everybody that was a creditor found, everybody that was a note holder at that point there was no what would you call it - problem



Buchsbaum: and that would be protected by the courts anyway usually. The court would see this probably as a you know a fraud

Wheeler: You could have two frauds: fraud of creditors and fraud of shareholders.

Simon: No, Chris I'm not worried about fraud. I'm really concerned with the fact that what we did here, the last loan that we took in, from...

Bernstein: Crossbow.

Simon: No, not from Crossbar...

Bernstein: Crossbow.

Wheeler: Crossbow

Simon: ...is secured by the...

Wheeler: ...the term of the deal, right.

Simon: And that's perfectly acceptable to me except that everybody else that had loans prior to that at that time should have been considered with the same equity because ...posses able and Chris told me that that was the perfect time to get it done

Bernstein: Yeah, but would Huizenga lose his?

Bernstein: Would Huizenga lose his stake in it to Crossbow?

Wheeler: No, no, no, it wasn't...I said that if there was going to be new considerations from those people, we all could of...??

Simon: We all could have put in another \$10. I mean, at the time we did it with Crossbow, we should have made sure that our other people...

Bernstein: Are protected.

Utley: No, no, no. We would have had to issue new contracts out for everyone.

Wheeler: There would have had to have been some material consideration, not just \$10. It would have been...

Simon: So it would have been \$10,000...

Wheeler: Well, then, you could have...Crossbow, we didn't even talk about Crossbow at that moment, and I said you couldn't go back and just collateralize. You couldn't go back for money that you already put in. But if you put in new considerations that you could demand as a condition to be collateral.

Simon: What we should have done, or what we maybe we still should do to protect our original group of investors, is to have them pony up a few more thousand or whatever you think is legitimate, and amend the contracts to protect them as well.

Utley: That's new subject matter.

Simon: Well, I only brought it up because it had to do with the patents.



Utley: I know but can we finish the patent discussions before we bring up new subject matter.

Simon: You can, but I want to make sure that we do finish.

Utley: No, I agree with you Si.

Si: The problem is that I made claims to certain people like Don Kane, who put up \$100,000, who thinks...

Bernstein: Let's get back to that. No, let's get back to it. It's a definite point. There are people.

Buchsbaum: This is a business issue for later.

Bernstein: No, we're asked by these very people these questions.

Boehm: Did you get your question answered on the...

Buchsbaum: Yeah, I just wanted to understand...you know, I got an answer. It had to do with the obligations Si I was trying to understand if somebody does due diligence now with regards to understanding what is there and what has to be done, like those yellow tabs. [Yellow tabs indicate signatures of missing inventors]

Boehm: Yeah, but after...I find everybody, we can get guys to sign.

Buchsbaum: We aren't that many. I don't know on that sheet what you have, but I don't think there are that many names. There's what about five names?

Buchsbaum: There aren't that many...you don't have that many. I don't know on that sheet you have, I don't think there's that many names.

Boehm: No, there's not.

Boehm: So we have everybody but Jeff, if we can get Jude and Zak.

Buchsbaum: You just have to get people around and sign.

Boehm: No, that should not be an issue.

Buchsbaum: That might be questions brought up when people do due diligence. Is everybody else on these?

Bernstein: That's why we're closing it. Right?

Boehm: We'll record what was in the patent office(...???) can do.

Utley: The other piece that's not in any part of the original filings, which is the reduction of the technology to a disciplined process—the mathematical representations of what's in and how it works and stuff like that.

Wheeler: (...???)

Buchsbaum: That will also be included in there, right?

Utley: We'll put it in the new filing...one of the new filings.

Wheeler: I form my opinion of everything, and we can talk about post solutions but I think Brian wants to get this back on track, but to me there's bad news and there's good news in this. The bad news is, just like anything in life, perhaps



we would have liked to have tidied up some things better, like to have had Mr. Joao tidy them up. The good news is considering the state that the corporation was in in the early stages and the variable limited resources that it had, I'm glad that we have an awful lot on record that we do have on record, to be honest with you.

Simon: As long as it's not to the detriment of what we thought we were filing, I have no...I couldn't agree with you more.

Wheeler: But I think I like your approach, and I assume it's your approach, too, in that I assume that you're doing a fairly comprehensive new one, but then you're going to probably...

Utley: Claim priority back to the old one.

Wheeler: Right, but you're also going to do your amendment because now we're finding out that it's not an uncommon procedure and it's not a red flag.

Utley: Two things: the new filing on Wednesday will claim priority all the way back for as much as possible back to March 24th last year. Second, we will look at the March 24th year 2000 filing and determine how we should amend that to include additional claims and broaden that filing so that it more fully represents the knowledge of the invention as of that time.

Bernstein: Does it claim all the way back?

Wheeler: It'll go all the way back...

Boehm: as long as you don't go outside what was described.

Bernstein: No, the math is just describing the original invention.

Boehm: We'll, I'll never know the answer to that until it's litigated.

Utley: Due diligence.

Bernstein: Right, but from your perspective here, that's what we're setting up. Correct?

Boehm: We're going to try.

Bernstein: Okay.

Boehm: The question never even gets answered half the time in the real world. I will claim priority back on the document, and then if the examiner doesn't care, nobody cares

Bernstein: It gets through.

Boehm: It gets through.

Wheeler: Would it be a fair assessment—I'm posing this more as a novice, not as an attorney here—since we're not at IBM and we don't sit down at the very beginning and work out all these equations and all that, that in an invention such as this by a Ma-and-Pa type of inventor, and now since we're getting into the nuts and bolts and really uncovering, in essence, what's behind it, as Brian dissected it as we moved along, but that's all we're doing? I mean, that Ma-



and-Pa inventors do that as they go along? They add the flesh to the bones as they go along?

Boehm: Boy, that happens, and we try not...we try to minimize the amount because if the flesh that you have to add is new subject matter and you've already sold your invention a year ago, you're dead.

Wheeler: Well no, Let me at it a different way. It does this, but I can't describe how it does this. But now we find out...we tell you what it does, now we're telling you in detail how it does it.

Boehm: Yeah, in terms of we claimed it properly.

Wheeler: So I'm not adding flesh in defense...

Simon: New flesh.

Wheeler: ...new flesh. I've got the box, now I'm disclosing what's in the box including the gears and how it works.

Bernstein: No.

Utley: No. Here's what the big difference is. The original filing claims a process for print film imaging.

Bernstein: Well, that was all stricken, by the way. That's why I'm having a big problem. I was going to get to that next, Brian.

Utley: Okay, good.

Bernstein: But we have discussed with Ray Joao numerous times to take out the references to print images out of this right here. Over the course of the year in the 59,000 modifications back and forth, we continuously pushed him away from the words that I see in this filing, and that's what's so disturbing to me because we sat here when...

<End Side 1; begin Side 2>

Buchsbaum: That would be conditional, probably.

Simon: Right, they probably will.

Wheeler: Their not going to want in fact their going to say take it off aren't they

Utley: No Crossbow notes would be converted to equity when someone else comes in.

Si? Of course, and that's gone. And those issues are gone.

Wheeler: Well, Yeah, so that it was the ...it was intelligent way to do it...and I'm not...

Buchsbaum: Crossbow would probably manage the million dollars anyway

Wheeler: By the way, if we did do a deal by which we tried to collateralize it even further, then we'd have to have some sort of provisions as well to get rid of your collateral.

Simon: Yes, of course. As soon as it converts to equity, it's gone.



Wheeler: But I mean, what if you didn't convert yours to equity[]?

Simon: Then you'd have to lose it anyway.

Wheeler: But at a point.

Utley: It just becomes a normal stockholder...

Simon: Right.

Wheeler: It would have to drop away or something. For instance, it would drop away when theirs drops away.

Utley: The stockholders, in the event of a default, the stockholders, the distribution that takes place, includes all the stockholders according to the rank of the preference. So the preferred get first cut, and the common stockholders get the second cut, whatever is left for distribution. But of that amount[] unless there's nothing to distribute.

Simon: Not if one of the preferred stockholders has a collateralized position and the others don't. If one of these preferred stockholders...

Utley: There's no stockholders that have a collateralized position.

Simon: That's true.

Buchsbaum: You're talking about the small amount of money, that have any value, it should be reasonable value, and those would be taken out anyway.

Simon: Except that we seem to feel that we have an obligation to those, to protect the other stockholders who...had all good...I think its prudent anybody to ask permission

Buchsbaum: A good way to do it is the way he said to do it, and that's to [?].

Utley: Will you look it up and see what it's going to take to do it?

Wheeler: I'll coordinate that

Utley: I'm not clear. What are we trying to do? Are we trying to provide for collateral for new money coming in, or are we trying to...? We're not trying to collateralize money which has already been...

Simon: I don't know. Can you handle the old money the same way? I don't think so.

Wheeler: We have to see. We might be able to consider it for the full amount in the view of the fact that if you had enough substantial new consideration, ...

Buchsbaum: The problem is that you may have to go back to Crossbow to do that, and you may be better off just to do it on subsequent money.

Simon: Well, but to ask Don Kane to put up \$10,000 when he's got \$160,000 in the...\$135,000 in the company, and then he only gets 10%...\$10,000 worth of consideration...I'd like to protect his whole \$165,000, which is what he has.



Buchsbaum: The answer is you go back and ...

Utley: I don't think you can do that because that's equity. It's in common stock.

Bernstein: It's not equity. It's a loan.

Bernstein: Don had the stock prior to his putting up the money. These are loans. There's \$400,000 that's on the books. Then there's another \$100,000 besides what he put in originally. Sal has a loan on the books of \$25,000. Your guy should have had a loan on the books for \$250,000.

Utley: No, that's equity. Okay.

Simon: At any rate, <tape cuts out[tape does not cut out on my tape]>...While I got Chris here I'm going to take advantage of his being here.

Simon: One of the issues we tried to do when we raised the last \$80,000 that came form Eliot's two friends Anderson and Mitch Welsch. []

Bernstein: Ken Anderson.

Simon: It was my knowledge, according to Jerry, that those monies were to go to Eliot, and then Eliot was theoretically to loan the money to the company so that Eliot would have a loan on the books and he would have sold his stock because Eliot has some personal needs that he needs to accomplish as soon as we get funded or we get some money in here. I'm under the understanding again. It could be way off.

Bernstein: How do we work that out, Brian? The 10? A loan?

Utley: Yeah, that's better because otherwise you will get taxed.

Bernstein: Will they loan me \$10,000 to pay the taxes?

Simon: Who loaned you?

Bernstein: The company just today?

Utley: So I took that as a loan?

Utley: Yes.

Bernstein: The money went to the company, which spent the money already—the stock money—from Ken and Mitch.

Simon: You haven't sold any of your stock?

Bernstein: No.

Simon: You just made an officer's loan.

Wheeler: Right.

Simon: Is that how you handle it?

Simon: You loan the loan back by some method at some point.

Bernstein: Right. Correct.



Buchsbaum: That's the way to do that?

Utley: Well, there's no tax impact...

Simon: but he would have had a [] gain.

Bernstein: Right. And there were other things at the time...right, things. At the time, the company needed the money and I didn't...not that I didn't

Simon: Sure, I just wanted to make sure that it was done. I didn't even know ...???that bank account

Bernstein: Not that I didn't.

Simon: Let's finish up.

Utley: Eliot, let me summarize. I want to make sure we have an agreement of this meeting. Let me interject two final two points that we kind of skimmed over. One is you said that we want to go ahead and change the claims to go all the way back on this US, but we have sort of got covered on the one we're filing? The one we're filing is a PCT. It won't pop to the US for 18 or 30 months. Or we could file another PCT and a US, then the claims would hit the US. In other words what I'm saying is it would matter if we do the claims here. We could either fix up the claims here or file a PCT and a parallel US if you want US patent protection sooner. The PCT will split out to US, but not until later. You can file a US anytime...

Simon: Let me ask you. You're not a lawyer, what do you recommend?

Boehm: Well, it's more money up front.

Simon: How much money? A great sum of money?

Boehm: No, it's another grand to file.

Simon: For what we've spent already, let's do it.

Bernstein: And that protects us better?

Boehm: Quicker. You'll get a quicker US patent. It'll get you in line quicker.

Utley: The other point that you're making because in this week's filing we are going to claim all the way back...

Boehm: We're going to claim all the way back but this is what is supported

Utley: Right. So if we claim all the way back to March of last year, do we need to touch the filing that's already in motion?

Boehm: The one that's out there?

Utley: Yes the PCT. Do we need to touch that?

Boehm: No, no. There's a PCT and a US.

Utley: Right.



Boehm: The PCT, we will get a search back. In fact, we should get it in a month or so, and then you'll decide what you want to do with that, what foreign country and possibly the US, but he files the same thing basically in the US, and now it's in line in the US.

Utley: Right, right. But what I'm saying is if the new filing that we make this week creates priority all the way back and embraces all of the teachings of the prior...

Boehm: Zoom and pan stuff.

Utley: Zoom and pan stuff, filings, do we need to go and modify and update and amend those earlier filings?

Boehm: Those other two.

Buchsbaum: That's a good question would there be new recommendation?

Boehm: It depends on two things. One is how quickly do you want to get the US for the new filing? This is a PCT that we're preparing right now. If we file the US right away with it, then it makes less difference.

Bernstein: Less?

Boehm: Less difference because he's in line sooner. That's all. It just depends on how soon you want to get your patent.

Bernstein: Well, we want to go for the sooner.

Utley: The sooner the better.

Boehm: The sooner the better then let me play with this

Bernstein: Right.

Boehm: Plus you're gonna get an office action back from the patent office on him...

Bernstein: On that.

Boehm: For free. There's nothing involved.

Bernstein: Right, but it doesn't claim anything.

Boehm: I don't know yet. It claims...he'll get this blasted. It will will be rejected.

Bernstein: Yeah.

Boehm: It will be rejected. The question is do we want to fix this, or where are we with the other things? So there's no decisions to be made now on this, it's just that do you want to file a US and a PCT?

Utley: The answers yes

Boehm: Yes

Bernstein: And we do want to fix the original work?

Boehm: We can decide that later.

Bernstein: Well, why would we leave it unfixed?



Boehm: Because you can't get two patents on the same thing. So if we fix this, you're not going to get it over here.

Bernstein: But then we lose the date.

Buchsbaum: No we don't.

Simon: That's what he's saying.

Buchsbaum: You really don't lose the date.

Wheeler: So were not going to...???

Utley: Because he's claiming all the way back.

Boehm: We may not. It depends on...

Bernstein: May and less, these are words that scare me.

Boehm: You don't like that, do you?

Bernstein: No, I do not.

Boehm: But I don't think this is the right time to make that decision now.

Utley: What is the right time?

Boehm: When we get some office action back on this patent. And when we hear from the patent office, we'll sit down say do we want to fix this, or do we want to fix this, or have we uncovered some killer Prior Art that blows this whole thing out of the water? You don't want to spend money right now if you can avoid it.

Wheeler: We've never done a search, have we?

Boehm: We did a search...I've done a search on...<Everyone talking at once.> on a dozen patents that really weren't on point. We didn't find any close Prior Art; and all I can tell these...

Wheeler: This was on imaging and video?

Boehm: Yeah.

Wheeler: That's incredible.

Buchsbaum: Yeah, it was huge.

Bernstein: If it is found impossible to do these things, why would people be doing them?

Boehm: I want to make...the tape recorders off, right? <Recorder turned off>

Buchsbaum: What does PCT mean?

Boehm: Patent Cooperation Treaty. It's a formal filing process for filing foreign patents.

Buchsbaum: Oh, that's the thing with the different countries?



Boehm: Yeah. So we file one application that splits out later to different countries.

Buchsbaum: Two years?

Boehm: Yes, but we'll get indicators before that. Our search comes in nine months, which is three months from now for the first one. But, Brian, they're searching this claim; this claim is crap. You're not going to get a good search on it.

Buchsbaum: So what? In six months or nine months, we'll start hearing from them?

Boehm: Yeah.

Bernstein: Well then we should do an alternate search on what you have.

Boehm: It's a judgment call. I mean, you asked me this question a while ago, and you said what would it take to get me comfortable because I'm kind of a pessimist and I'm an engineer, so I have that background where I look at it that it's half empty. It would take more searching, and it would take more searching inside the technical articles. And it would take quite a bit of work. I mean, I guess \$5,000, I don't know. It depends on what happens. Then, again, that will only raise you to a different level of comfort, that's all.

Bernstein: And then they'll say the same thing, and for another five grand, well get Rays to another indiscriminate level of comfort.

Boehm: Exactly. But we don't have to do that because we will be getting an article...

Bernstein: Right, from the searches.

Boehm: And from your investors because if I was working for them...

Buchsbaum: Let me put it another way. If you have somebody that will take this company and auction off the technology, okay? As it is existing...as it is unfolding, okay? And as the licenses come along. It's strategy. Some of these people bid on that. What are they really bidding on? It's potentials, right? Basically?

Boehm: Well, no, there's a present value of the technology. If you...

Buchsbaum: Well, not if you don't have patents issued on it.

Boehm: Well, sure there is. Sure there is. If he can get a royalty based on 2% of their products—or whatever it is—per minute, whether or not it is patented, absolutely.

Buchsbaum: My question is at what point does it become...is the efficacy there significantly enough from the standpoint of others now that would be doing their own review. You know, like, say a firm that would do the option. They'd have their patent lawyers take a look at what you're doing to see if they think it has a real good value. At what point does that come along? Is it six or nine months from now, basically? Is that when that probably would start to unfold as far as having a real relevant potential value? I've been trying to get a general..



Boehm: I understand your question. I guess I would answer...

Buchsbaum: General idea.

Boehm: If your licensees are spending a lot of money...

Buchsbaum: On your technology.

Boehm: On your technology, they're going to have their patent attorneys right now, today, go do a search, and they will have a good indication. They may come up with Prior Art that blows you out of the water. They may find nothing. They may not search it. They may say, we don't care about patents; it's the technology.

Buchsbaum: Reality, though, this is not the...more likely six to nine months as some licenses start to unfold here and as things start to come back, and that's when this thing will start to have some relevance more than it does right now? From the standpoint of the...

Boehm: That the patent will have relevance?

Buchsbaum: No, no. The technology has a value that can be created in the marketplace and turned to bidding.

Wheeler: Well, you can look at the technology as almost value added to the company. I mean, the company has worth because of the process and what we can provide and we can build it up. But it'll even astronomical more worth assuming that we have...that it's totally proprietary to ourselves. Now some companies have great technology that's proprietary to themselves, and it doesn't earn them money. For instance, Wang Laboratories went down the tubes. They had the best word processing, and they had the best of everything else. And, of course, a lot of their technology is licensed out there, as I understand it, to VisionAire and to...they did the true ones, and...

Buchsbaum: It's was also to get to the possible strategy for the company's investors, okay?

Utley: Right.

Buchsbaum: Or it may be at some point a window of huge value placed on this technology where you may take advantage of it.

Wheeler: Well, and to our investors, we have said, and we can continue to say, we are attempting to create a pool of intellectual property and protect it.

Buchsbaum: Okay.

Wheeler: But there can be no assurances that this will withstand the test of time.

Boehm: That is exactly it. And you never want even when it issues. You will get a good comfort level when you have a US patent issued in your hands.

Bernstein: Why?

Boehm: Because you've had an examination.



Buchsbaum: Because you've got some review.

Boehm: Because you have a presumption of validity.

Bernstein: That's why I'd like to get that first one corrected because that's the first one that's going to be examined.

Boehm: No, we've got one...oh, yeah, it is. It's the US.

Bernstein: And therefore I want that to be approved. The investors are going to say...

Buchsbaum: The first one that we're going to be issued will be issued in May.

Bernstein: And the investors are going to say what happened to patent one.

Boehm: 3/10 of 2000 was when it was filed. Typically a year...they'll get around to it within a year. Maybe it'll issue in 18 months to two years

Buchsbaum: From right now or from then?

Boehm: From 3/10.

Bernstein: What is the process speed up? If you can show...

Boehm: If you can show somebody's infringing, you can have an expedited examination; but that doesn't always buy you much time, and you really have to get into the patent office the first time, and I'm not sure we can do that.

Wheeler: Wouldn't a good example of one way be that Apple had really great patents, and Microsoft was still able to come in and duplicate it, even though everyone knows they violated the hell out of the patent of Apple.

Boehm: Um, hum.

Wheeler: So I mean you could have a good patent and it could still go down the tubes. But another one I'm thinking of that did stand up was Polaroid had patents and Kodak tried to come in and do everything to distinguish, and wasn't able to and got clobbered, right? And there's probably a lot of every variation in between.

Boehm: Yeah. Wheeler: [Not in transcript this is strange here]

Wheeler: Are those the two extremes?

Boehm: Yeah,

Wheeler: those would be the two extremes.

Utley: Especially when it comes to method patents and software patents.

Wheeler: Yeah, what was the first thing that Brian

Boehm: ...and the more patents you have, the less chances. It's like putting out mine fields...less chances people to get around



you. But if the original concept is broad enough and claimed right, Yeah, we can be okay.

- Boehm: But what, the test - I guess what you're asking for is when we have that first claim promised, probably within two years of when you filed, which is March 10, 2000, I would probably say
- Utley Doug come back, close it out again.
<Inaudible comment.>
- Boehm: There were two points. One was the PCT and I got that in correct.
- Buchsbaum: Right.
- Boehm: The second point was everybody was saying you don't destroy documents. Lawyers do destroy documents; and in the patent realm, it is common practice to get rid of all of our attorney notes, but it depends on what the practice is in your law firm and your corporation. Most patent attorneys who use this practice that I've seen, it happens after it issues. You never do it before. I don't even like to do it then. I like to do it after all the...
- Bernstein: I don't even understand why you're destroying it. If you've got nothing to hide and everything's on the up-and-up.
- Boehm: But throw in the concept that I'm leaving the law firm. Let's say I'm leaving the law firm, my notes, who's going to follow up and destroy my notes to benefit you, because I do want them six months from now. Maybe that's what he's doing.
- Wheeler: Yeah, he could have done it to protect you. He didn't want them around in the other office.
- Bernstein: I don't know. I don't know. I don't even know if he knew he was leaving then.
- Boehm: Now it's intentional!
- Utley: But I want to comeback were going to file PCT and US on the new one. We're going to wait for the old one to get kicked back; and when it gets kicked back by the examiners, we'll then determine how we want to amend it. Is that what you said?
- Boehm: No, I want to say something on that again. I think if you want a patent to pop quickly-if that's the goal, which sounds like it's a good goal-then, no, I think we should amend the claims with a preliminary amendment before the examination.
- Utley: A preliminary amendment?
- Boehm: A preliminary amendment.
- Bernstein: Encompassing everything we can throw in there?
- Boehm: Yeah, whatever support there is. But a preliminary amendment on whatever it is on the...
- Bernstein: So we're going back to the original
- Boehm: So I'll fix the 119 case yeah



Bernstein: March 3, 2000, to encompass what we've embraced.

Utley: When will you be in a position to recommend what that amendment will look like?

Bernstein: It should look a lot like the one we just did.

Boehm: Yeah, that's...

Bernstein: That's my guess.

Utley: When will you be in a position to...

Boehm: I'd have to...a few days...

Utley: About a week or so?

Boehm: Oh, Yeah, within a week, sure.

Bernstein: Okay. That's good.

<End of meeting.>



APPENDIX III

Updated on August 14, 2003

Today: Thunderstorms with a high of

80

LOCAL NEWS

Audit clears FAU Foundation in Corvette scandal despite lack of cooperation
Gimelstob chides Guggenheim for not talking to auditors, misstating involvement to authorities

Published Thursday, August 14, 2003
by Brian Bandell

Florida Atlantic University's fund-raising arm didn't approve giving former FAU President Anthony Catanese a Corvette with donated funds, but several people were cited for not participating in an audit conducted by KPMG that was released Wednesday.

FAU officials agreed to audit the \$42,000 that former Foundation head Carla Coleman gave to Catanese for the car under the guise of a payment for his wife's interior decorating services, the capital campaign Coleman used to justify her raise and the use of donated funds at the DeSantis Center. KPMG was hired to conduct the reviews.

The results came with a disclaimer from the auditor. While KPMG reviewed law enforcement documents that led to Coleman being charged with official misconduct, the auditing firm had "significant limitations" that could have affected their conclusion.

KPMG didn't receive cooperation from Coleman, Catanese, former FAU Foundation Chairman Howard Guggenheim, interior designers Stephen and Rita Lloyd, or foundation executive committee members William French and Chris Wheeler.

"The above-mentioned individuals may have provided KPMG with pertinent information regarding the circumstances surrounding the alleged gift," KPMG wrote in the report.

The auditor was given the minutes of an April 4, 2002 Foundation meeting where Coleman mentioned a non-specific gift for Catanese, but it wasn't given a copy of the minutes of an April 11, 2002 Foundation executive board meeting where, according to a law enforcement investigation, Catanese said he'd like a Corvette as a gift. FAU President Frank Brogan said that if KPMG had more access to information and individuals, it wouldn't have changed the conclusion that the FAU Foundation didn't approve the car.

However, the foundation's new chairman, Herb Gimelstob, criticized former chairman Guggenheim for not telling law enforcement officials about his involvement in the Corvette deal and not talking to auditors despite agreeing to the audit. Guggenheim told a Florida Department of Law Enforcement investigator that



he didn't hear anything about the gift after the foundation meeting where Catanese brought it up, but documents and testimony show Guggenheim solicited donations and made his own contribution toward the car.

"The executive board [of the FAU Foundation] will be meeting shortly and if we don't get further cooperation from the former chairman [Guggenheim], we will take the appropriate legal actions," Gimelstob said.

Guggenheim has refused comment to the press on the advice of his lawyer.

Kenneth Lipman, Coleman's attorney, said his client didn't talk to auditors because of the criminal investigation that was taking place at the time. While the FAU Foundation Board didn't formally approve of the Corvette gift, members of the executive committee donated toward it and Guggenheim made calls to find donors, Lipman said.

"Guggenheim is quite happy with the blame being laid at Carla Coleman's feet," he said.

A deposition was scheduled for Sept. 22. in her criminal case after Coleman pled not guilty.

Capital campaign overstated by \$21 million

KPMG's audit also found that the FAU Foundation's capital campaign was overstated by \$21.1 million due to faulty accounting.

Coleman told FAU's Board of Trustees that her fund-raising campaign, which ran from July 1994 to November 2001, raised \$220.3 million. She cited that figure when she requested a raise from \$141,000 to \$185,000 a year for herself and large raises for several of her co-workers. It was approved despite the concerns of some trustees. The audit determined that the actual total from the capital campaign was \$199.1 million.

"We are forever grateful and indebted to the foundation for delivering double what the original goal was," said George Zoley, chairman of the Board of Trustees, noting that the bar was originally set at \$100 million. "The adjusted \$20 million was from accounting issues related to the designation and appropriation of state funds."

Most of the adjusted figure came from state matching funds that were included in the campaign but not received from the Florida Legislature because of a budget shortfall. The largest misstatement was a \$6 million state match for a payment to be received upon death of the donor, who died after the capital campaign ended.

Mistakes involving smaller amounts were attributed to errors ranging from a lack of evidence for reported donations to over- or understatements of donation amounts. KPMG didn't find enough documentation to verify 11 deferred gifts worth \$3.1 million, a deferred \$1.5 gift from an anonymous donor, and a \$100,000 gift. In several cases, the auditor determined pledges shouldn't be listed because the estates of the donors couldn't afford to make them.

However, KPMG had no explanation for a \$6.1 million "variance" between the original campaign estimate and the revised total. The firm said it wasn't provided with any information or documentation regarding the difference.

FAU President Brogan characterized the problem as "just accounting issues."

"The categorization should have been determined prior to beginning the capital



campaign," Brogan said.

FAU Trustee Dr. Frederick Hoffman, a math professor, said the actual shortfalls were "really insignificant." Hoffman thought Coleman's raise was too big, but he doesn't feel that she inflated the results of the capital campaign to generate the raises.

"If you're bragging about your fundraising, you're not going to be conservative. I think it was just normal to make it look as good as you can," Hoffman said. "That's enough of an error to say you have to do better, but not enough to accuse them of wrongdoing."

DeSantis Center cleared

The audit determined that funds from the DeSantis Center, a film study center started with a donation from Boca Raton businessman, Carl DeSantis, were used appropriately. It was the center's third audit in just over a year.

Anonymous letters accused Zoley, Business Dean Bruce Mallen and FAU General Council Ondina Felipe of misusing funds for trips to the Cannes Film Festival in France, but the audit found that Zoley and Felipe paid most of their expenses. KPMG also determined that other uses of donated funds were consistent with the center's mission.

That wasn't enough for some officials. Gimelstob said he'd put strict controls in place that would require future expenses to be justified beforehand and afterward.

"The [FAU Foundation] executive board still believes some of the expenses were excessive and didn't do enough to benefit the university or its students," Gimelstob said, asking why limos were need for travel to Fort Lauderdale.

Trustee Bruce Warshal called for the mission of the DeSantis Center to be reviewed, but Brogan warned that a fourth audit of the center would be "whipping a dead horse."

That didn't stop trustees Llywd Eccestone and Norman Tripp from demanding that Zoley and Felipe prove that they paid back the university for their trips to France.

"It's like a fox in a hen house," Eccelstone said.

Zoley said that a previous audit by FAU's inspector general adequately addressed the issue and cleared them of wrongdoing. KPMG's report showed that Felipe was credited with \$862 for lodging and Zoley \$458 for admission to the Cannes Film Festival.

Mallen said he invited Zoley to Cannes to foster relationships with local business. Zoley is the chairman and chief executive officer of Boca-based Wackenhut Corrections Corp. After he returned, Zoley donated \$10,000 to the center, Mallen said.

Felipe said she participated in legal workshops while at the festival.

"They seem to be focusing in on it over and over again. One has to wonder if something other than the issue at hand is motivating them," Mallen said.

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Several officials warned against buying Corvette for ex-FAU president

By Jennifer Peltz and Neil Santaniello
Staff Writers
Posted July 11 2003

The former head of Florida Atlantic University's fund-raising foundation last summer contrived to buy her boss a sports car despite red flags from foundation and university administrators, a lawyer and one of the foundation's board members, according to investigative documents released Thursday.

The documents sketch prosecutors' case against former **FAU** foundation chief Carla Coleman, who faces a felony charge of official misconduct. She's accused of funneling the \$42,000 price of former **FAU** President Anthony Catanese's red Corvette through the foundation, which supports the university but is run separately.

The car was intended as a parting gift after Catanese left **FAU** last July for the private Florida Institute of Technology in Melbourne.

According to sworn statements released Thursday, university finance chief Kenneth Jessell expressed "strong concerns" to Coleman about having the tax-exempt charity give such a gift. After talking with an outside accountant, foundation finance head Diane Freaney suggested Coleman consult a tax lawyer before going ahead with the gift.

Edward Yevoli, an outside lawyer, told investigators he had expressed concerns to another attorney who had consulted him on the foundation's behalf.

When the idea came up at an April 2002 meeting of the foundation's decision-making committee, Freaney told investigators, treasurer Ramon A. Rodriguez vehemently opposed it.

"I didn't think it was appropriate," Rodriguez explained Thursday. "We should be supporting the students and the university."

But Coleman has said, through a lawyer, that she didn't believe she did anything wrong. Some foundation board members and Catanese knew about the arrangements, made with money donated specifically for the gift, according to Coleman's lawyer, Kenneth Lipman.

"She certainly told a number of people she was doing it," Lipman said Thursday. "Nothing was lost, and there was no money taken by her or by anyone ... She honestly believed it was all right."

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Then-foundation chairman Howard Guggenheim and current chairman Herbert Gimelstob have said they were unaware of the Corvette gift, which the decision-making committee never voted to approve. And Catanese has said, through a lawyer, that he wasn't aware the gift wasn't proper, despite its circuitous delivery. The money was routed as a consulting fee to Catanese's wife, Sara, through a decorating firm that worked on **FAU's** presidential manse.

But one of Coleman's deputies, Susan Peirce, told investigators in a sworn statement that Guggenheim had told her he had solicited contributions for a gift for Catanese. According to a memo she acknowledged writing in May 2002, Guggenheim agreed to put in \$5,000 of his own. Guggenheim could not be reached Thursday, despite several attempts by phone.

Four other **FAU** supporters -- Richard Davimos, Christopher **Wheeler**, William French and William E. Morris -- agreed to put up another \$11,500 among them, according to Peirce's memo.

"All insist[ed] that their donations be gifts that go through the Foundation; want tax benefits," she wrote in the memo, which was released among the investigative documents. In an October letter also released Thursday, **Wheeler, a lawyer,** specifically asked for a "charitable deduction receipt" for his \$3,000 contribution toward Catanese's gift.

Wheeler, Davimos and Morris could not be reached Thursday. French declined to comment. All are members of the foundation's leadership.

As a tax-exempt charity, the foundation is not supposed to spend money for any non-charitable purpose. Internal Revenue Service officials wouldn't say this week whether the foundation could face any IRS penalties because of the Corvette gift.

Handwritten notes on the memo, which Peirce said were Coleman's, suggest then-vice chairman Gimelstob was contacted about pitching in \$5,000. But Gimelstob denied knowing anything about it.

"I never gave money for a car," Gimelstob said Thursday. " ... Maybe she thought she could get something, but it never came about."

The handwritten notes also suggest that foundation investment committee chairman Casey Gunnell was contacted about giving \$5,000, and foundation board member Monte Friedkin about \$1,000. Gunnell couldn't be reached Thursday. Friedkin has said he gave \$1,000 after receiving a letter asking for donations toward



an unspecified gift to Catanese, but didn't learn until recently what the gift was.

The documents released Thursday don't include any statements from Coleman or the Cataneses. Anthony Catanese directed inquiries Friday to lawyer Richard Lubin, who could not be reached.

Decorators Stephen and Rita Lloyd told investigators that Sara Catanese had worked closely with them -- but as a client, not a hired consultant. Nonetheless, they didn't object when Coleman asked them to pay Sara Catanese \$42,000, with the foundation reimbursing the firm.

Lloyd acknowledged that Coleman told him what the money was for. He told investigators he asked whether the transaction was legitimate, and Coleman assured him it was.

"My initial feeling about it was ... this is kind of weird," he told investigators in a sworn statement. " ... [But] I didn't question her further. I mean, we were basically working for the university. And she was like our boss."

But when **FAU** officials started asking questions in February, the designers called the Cataneses to explain that they were being asked for documentation of Sara Catanese's work.

Anthony Catanese seemed startled to hear about the payment to his wife, Rita Lloyd told investigators. Nonetheless, the Lloyds arrived in their office a few days later to find a handwritten fax from Sara Catanese, listing dates and numbers apparently intended to represent hours she had worked.

The Lloyds struck a deal with prosecutors to avoid prosecution. Coleman, released on \$4,500 bond, is awaiting court hearings.

Staff writer Jon Burstein contributed to this report.

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Updated on August 20, 2003

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LOCAL NEWS

Guggenheim says he was truthful to investigators, FAU officials call for his ouster
Gimelstob wants Guggenheim off Foundation board for "lying" to investigators and



not cooperating with audit

Published Saturday, August 16, 2003

by Brian Bandell

Howard Guggenheim, the past chair of Florida Atlantic University's fund-raising foundation, said he was "100% honest" with law enforcement inquiries into the misuse of FAU Foundation funds to buy a Corvette for the school's former president. Meanwhile, FAU officials are calling for him to resign from the Foundation's board for not telling investigators that he raised money for former FAU President Anthony Catanese's car and for not cooperating with an audit ordered by the university. Former fundraising head Carla Coleman is facing charges of official misconduct for directing \$42,000 through an interior designer to Catanese so he could buy the car. Catanese has since returned the money and Coleman has pled not guilty. Guggenheim has raised more than \$10 million to benefit the university and personally donated about \$250,000, but the Boca Raton stockbroker's actions have recently come under scrutiny.

"How can we have people trust their money with someone who lies to police and doesn't cooperate with investigators?" said Herb Gimelstob, the current FAU Foundation chair. "We will chat with him and look at the legal ramifications of what we have to do if he doesn't agree."

Gimelstob said the matter would be discussed next week at a Foundation executive board meeting. FAU President Frank Brogan and Board of Trustees Chairman George Zoley are also urging Guggenheim to step down, Gimelstob said. Brogan confirmed that he spoke with Guggenheim, but he didn't reveal what was discussed.

In a statement issued through his lawyer on Thursday, Guggenheim said he'd decide about resigning at a later date and defended his actions.

"Mr. Guggenheim has fully participated in the investigation at issue and at no time lied, covered-up, or misrepresented the facts to any investigative agency," the statement from Guggenheim's lawyer read.

When a Florida Department of Law Enforcement officer asked Guggenheim whether fundraiser Coleman ever asked him to authorize FAU Foundation funds to purchase the car, Guggenheim responded: "No. That was never discussed with me."

Guggenheim said the topic of a Corvette for Catanese was brought up at a Foundation executive board meeting in April 2002 but no vote was taken. The investigator asked Guggenheim if he had any conversations about how the gift would happen after that meeting and he again said no.

That would appear to contradict what former Associate Vice President for Advancement Susan Peirce told investigators: that Guggenheim called her last year and asked her to help him raise money for a gift for Catanese but she told him she wouldn't help because she opposed the idea.

A document found on Peirce's computer showed that Guggenheim was making calls to solicit donations for a "gift" to Catanese. The May 22, 2002 note was addressed from Peirce to Coleman and cited a total of \$16,500 in contributions from foundation board members.



"Mr. Guggenheim's understanding was that the question was asking about 'how' the funds were directed to President Catanese (i.e. through Lloyd Interior Design)," Guggenheim's statement read. "Mr. Guggenheim knew nothing about the way the funds were directed to President Catanese and likewise never had a conversation with anybody about this and therefore when he answered the question 'no' he was honest and accurate."

The statement by Guggenheim admitted that he made calls to raise money for the Corvette but said he had no role in the collection, recording or allocation of the funds. FAU ordered an audit to determine whether the Foundation approved the Corvette gift. Audit firm KPMG determined it did not, but cited Guggenheim for not responding to a request to be interviewed. **The auditing firm said its investigation might have turned out differently if Guggenheim, among others, had cooperated.** Guggenheim said he didn't meet with the auditors because he was "advised that KPMG had everything they needed including the transcript from Mr. Guggenheim's voluntary interview with the FDLE."