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

Proceeding	91205483
Party	Defendant BabaSlings Limited
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Date	06/25/2014
Attachments	Redacted Public Final.pdf(510082 bytes) Exhibit A part 1.pdf(3253887 bytes) Exhibit A part 2 redacted public.pdf(1864445 bytes)

Even apart from this facial defect, there are genuine issues of material fact that preclude entry of judgment against Applicant. Specifically, there is a factual dispute regarding standing, in light of Opposer's admission as to the descriptive and/or generic nature of its purported mark, and also a factual dispute as to likelihood of confusion. Additionally, in the event judgment as a matter of law is not granted in Applicant's favor on priority grounds, there is at minimum a factual dispute as to that issue as well.

FACTS

On September 6, 2011, Applicant filed U.S. Application Ser. No. 79/103,197 –

THEBABASLINGS & Design for:

Bags, namely, all purpose carrying bags, baby carrying bags, and bags for carrying babies' accessories; trunks and traveling bags; carriers for babies and children worn on the body; slings for carrying babies and children; back frames for carrying babies and children; sling bags for carrying babies and children; baby changing bags in the nature of bags for carrying babies' accessories; nappy bags in the nature of diaper bags; baby care bags in the nature of bags for carrying babies' accessories sold empty; travel bags; backpacks; suitcases; reusable shopping bags; reusable shopping bags in frames on wheels; umbrellas; parasols; structural parts and fittings for all the aforementioned goods.

The mark is depicted as follows:



On June 5, 2012, Opposer, an Australian entity, initiated this proceeding, alleging that it is “the company behind the popular sling baby carriers sold under the mark BABA SLINGS,” that Applicant is a “rogue licensee” and that registration of THEBABASLINGS & Design would result in a likelihood of confusion with Opposer's purported BABA SLINGS mark. *See* Notice of Opposition. Applicant's answer denies the pertinent allegations.

On September 6, 2011, the deposition was taken of Shanti McIvor, the sole owner and director of Opposer. A copy of the transcript is appended as Exhibit A.

According to McIvor's sworn testimony, she personally owns the BABA SLINGS mark, either in addition to Opposer or instead of Opposer, McIvor Trans. at 27-29, though she is not personally an Opposer.

McIvor also testified that the only product sold under the purported BABA SLINGS mark is a baby sling, and "baba" means "baby." Exhibit A, McIvor Trans. at 18-19. However, the product is presently not sold in the United States through any distributors, and there have never been any distributorship agreements that resulted in sales. *See id.* at 31-32, 36-37. Sales, according to Opposer, are mostly through Opposer's website. *Id.* at 31-32. [REDACTED]

[REDACTED]

[REDACTED]

Applicant was formed by Ms. McIvor and two other individuals in 2005. Opposer's sole owner and sole director, however, contends that the shareholder agreement, which is relied upon in Opposer's Motion and appended as Exhibit 12 thereto, is "invalid." *See* McIvor Trans. at 79-80, 87. McIvor also contends that there was a *subsequent* agreement in 2007, "which was probably even worse to me to sign," terminating the first agreement – but that second agreement (which does not accompany Opposer's Motion and was not produced), terminating the first, *also* is "invalid." *See id.* at 78, 87-88. "Basically," summed up McIvor, "its all invalid." *Id.* at 88. In any event, after 2007, McIvor's role in Applicant was terminated.

Ms. McIvor's understandings of the terms of termination of the agreement were that Applicant would continue to sell, and that the parties could sell in various locations. *Id.* at 105-06. McIvor also admits that, per the terminating agreement of 2007, Applicant would be

permitted to use a different variation of the BABA SLINGS name, wherein “they would use it without a space or what have you.” *Id.* at 112. McIvor also contends that, though “not written in the contract,” the use of a variation of the mark without a space “was only going to be for a period of time.” *Id.* at 112.

McIvor admits that Opposer was accused of having breached that second agreement, *id.* at 109, and admits that it did in fact breach the agreement by selling under her BABA SLINGS purported mark in the E.U. *See id.* at 110 (“I’m talking we went over by maybe ten slings in a two-year period. So that’s how I breached that agreement . . . So, yeah, that’s how I breached the agreement, and I never got any money.”).

SUMMARY JUDGMENT STANDARD

A motion for or summary judgment is an appropriate method for disposing of an *inter partes* proceeding when "there is no genuine issue as to any material fact [such] that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); see also 37 C.F.R. § 2.116(a) (Federal Rules of Civil Procedure generally apply to *inter partes* proceedings). Summary judgment "is regarded as 'a salutary method of disposition,' and the Board does not hesitate to dispose of cases on summary judgment when appropriate." T.B.M.P. § 528.01 (citations omitted).

To establish a likelihood of confusion on a motion for summary judgment, Opposer must establish that there is no genuine dispute of material fact that (1) it has standing to oppose Applicant’s Mark; (2) it has priority of use; and (3) Applicant’s use of Applicant’s Mark is likely to cause confusion among consumers as to the sponsorship, affiliation or connection of goods offered under the parties' respective marks. *See, e.g., Lipton Indus., Inc. v. Ralston Purina Co.*, 213 U.S.P.Q. 185, 187 (C.C.P.A. 1982); *Hornblower & Weeks, Inc. v. Hornblower & Weeks Inc.*, 60 U.S.P.Q.2d 1733, 1735 (T.T.A.B. 2001).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

B. Alternatively, Factual Issues Preclude Summary Judgment Against Applicant.

1. *There is a Factual Dispute as to Whether Opposer Has Standing.*

As discussed previously, standing is an element of Opposer’s burden of proof – and in a 2(d) context, this means that “a party must prove that, vis-a-vis the other party, it owns ‘a mark or trade name previously used in the United States’” *Giersch v. Scripps Networks, Inc.*, 90 U.S.P.Q.2d 1020, 1022 (T.T.A.B. 2009). Here, Opposer does not own a prior registration. Therefore, “[i]n order for a plaintiff to prevail on a claim of likelihood of confusion based on its

ownership of common-law rights in a mark, the mark must be distinctive, inherently or otherwise” *Id.*, citing *Otto Roth & Co. v. Universal Foods Corp.*, 640 F.2d 1317, 209 U.S.P.Q. 40 (CCPA 1981). Here there is at least a factual question as to whether Opposer has met its burden to establish, as a matter of law, that the purported BABA SLINGS mark on which it relies in this proceeding is distinctive, inherently or otherwise.

According to Opposer’s sole owner and director, it uses “the mark BABA SLINGS” to sell “baby sling carriers.” Notice of Opposition, ¶ 1. At deposition, Opposer testified as follows:

Q. And what is the nature of Baba Slings’ business?

A. So we’ve designed a product which we manufacture and then we wholesale and retail that product worldwide.

Q. And what product is that?

A. It is Baba slings. It’s a baby sling.

Q. Does baba mean baby?

A. Yes.

Q. Does Baba Slings make any products other than this baby sling?

A. We have made other products but at this stage we’re only making Baba Slings.

Notice of Reliance at ___. Thus, according to Opposer’s pleadings, as amplified by its deposition testimony, it uses BABA SLINGS to sell baba slings – a.k.a. baby slings. These admissions come perilously close to admitting mere descriptiveness, if not outright genericism. A mark is considered merely descriptive if it immediately describes “an ingredient, quality, characteristic, function, feature, purpose [or] use ... of the goods or services to which it is applied.” *In re MetPath Inc*, 223 U.S.P.Q. 88, 89 (T.T.A.B. 1984); *In re Abcor Dev’t Corp.*, 200 U.S.P.Q. 215,

217-18 (C.C.P.A. 1978). An accepted definition of “baba” is “child,”³ and according to Opposer it means “baby” specifically, such that BABA SLINGS squarely describes its goods.

In sum, Opposer bears the burden of proof of establishing standing – which here necessitates proof that BABA SLINGS is distinctive – and here, Opposer’s own admissions establish that this is, at best, a factual question. At minimum, Opposer has failed to establish an absence of a genuine issue of fact in this regard to be entitled to summary judgment.

An additional question regarding standing is raised by McIvor’s sworn testimony, to the effect that she personally owns the alleged BABA SLINGS mark, either in addition to Opposer or instead of Opposer. McIvor Trans. at 27-29. Though Opposer now contends that rights in the mark were somehow transferred, Ms. McIvor’s own testimony is to the contrary, and at minimum creates and unresolved factual dispute as to ownership of the purported mark.

B. *There is a Factual Dispute as to Whether Opposer Has Priority.*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

C. *There is a Factual Dispute as to Likelihood of Confusion.*

In Opposer’s Motion, Opposer seeks to balance the various *Dupont* factors, contending that they cut undisputedly in Opposer’s favor. However, there are pertinent differences in the marks, as Applicant’s mark contains a prominent design element, in addition to the differences in

³ See http://www.oxforddictionaries.com/us/definition/american_english/baba#baba-2.

letters. Additionally, in light of Opposer's admission as to the weakness of its purported mark, *see* McIvor Trans. at 18-19, and its admission as to awareness of other third party users of variations of its name, *id.* at 23-25, it follows that Opposer's rights in its common law mark, if any, are weak at best. Viewing the facts in the light most favorable to the non-moving party, as is required, Opposer has failed to establish the absence of a genuine issue of material fact in this regard as well. Indeed, the intensely factual nature of a 2(d) opposition generally renders it inapt for resolution on summary judgment. *See, e.g., Lloyd's Food Prods., Inc. v. Eli's Inc.*, 987 F.2d 766 (Fed. Cir. 1993); *Opryland USA Inc. v. Great Am. Music Show, Inc.*, 970 F.2d 847 (Fed. Cir. 1992); *Old Tyme Foods, Inc. v. Roundy's, Inc.*, 961 F.2d 200 (Fed Cir. 1992).

D. ***There is a Factual Dispute as to Consent and/or Acquiescence.***

Even apart from the foregoing, the testimony of Ms. McIvor demonstrates that this is hardly a "rogue licensee" situation. Rather, McIvor disavows the validity of the agreement establishing the "license," as well as the agreement terminating it, *see* McIvor Trans. at 79-80, 87-88 – but in any event, what is clear is that Ms. McIvor agrees that continued use of some sort was permitted after her role in Applicant terminated.

Specifically, McIvor also admits that, per the terminating agreement of 2007, Applicant would be permitted to use a different variation of the BABA SLINGS name, wherein "they would use it without a space or what have you." *Id.* at 112. McIvor also contends that, though "not written in the contract," the use of a variation of the mark without a space "was only going to be for a period of time." *Id.* at 112. Though conspicuously omitted from Opposer's Motion, this testimony of the sole owner and director of Opposer establishes some measure of assent to use of the mark used by Applicant – and, at minimum, establishes genuine issues of fact which would bar entry of summary judgment.

CONCLUSION

For the foregoing reasons, the undisputed facts and admissions establish Applicant's priority over Opposer and, thus, Applicant is entitled to summary judgment on Opposer's Section 2(d) claim. In any event, Opposer's motion for summary judgment should be denied.

Dated: June 25, 2014

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that this 25th day of June, 2014, a true copy of the foregoing
APPLICANT'S OPPOSITION TO OPPOSER'S MOTION FOR SUMMARY JUDGMENT
AND CROSS-MOTION FOR SUMMARY JUDGMENT was served, via first-class mail,
postage prepaid, on:

Mark Borghese, Esq.
Borghese Legal, Ltd.
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145



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

In the matter of Trademark Serial No. 79/103,197
Filing Date: September 6, 2011
For the Mark: theBabaSling

BABA SLINGS PTY LTD,) ORIGINAL
Opposer,)
vs.) Opposition No.
BABASLINGS LIMITED,) 91205483
Applicant.)

* * * * *

The deposition of SHANTI MCIVOR was taken
via videoconference on Thursday, October 10, 2013,
commencing at 5:21 p.m., Eastern Standard Time, at
the offices of Drinker, Biddle & Reath, 1500 K
Street, N.W., Washington, D.C., before Deborah Wehr,
RPR, Notary Public.

* * * * *

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A P P E A R A N C E S

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ON BEHALF OF THE OPPOSER: (Via telephone)

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(Appearances continued on next page.)

M.A.R. REPORTING GROUP

1 APPEARANCES: (Continued.)

2

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1	I N D E X	
2	DEPOSITION OF SHANTI MCIVOR	
3	THURSDAY, OCTOBER 10, 2013	
4		
5	EXAMINATION BY:	PAGE
6	Mr. Coleman	5
7		
8		
9	MCIVOR DEPOSITION EXHIBITS:	PAGE MARKED
10	(Exhibit marked electronically and retained by	
11	counsel.)	
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1 P R O C E E D I N G S

2 - - - - -

3 MR. COLEMAN: We are on the record. Now,
4 the first thing that happens is administering the
5 oath to you, Ms. Mcivor. Normally this happens --
6 normally this would happen with the court reporter
7 here, the notary public, they are physically present
8 with you, administering it to you face-to-face.

9 Given that the logistics here and that
10 we're all trying to make this work, Mr. Borghese and
11 I have agreed that the oath can be administered
12 remotely, as the court reporter here to my right can
13 see you on the screen.

14 And if that's correct, Mr. Borghese, I will
15 turn it over to the notary to administer the oath.

16 MR. BORGHESE: Yes. Yes, I agree this is a
17 good way to do it under the circumstances.

18 Whereupon --

19 SHANTI MCIVOR,
20 a witness, called for examination, having been first
21 duly sworn, was examined and testified as follows:

22 EXAMINATION

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1 BY MR. COLEMAN:

2 Q. Thank you. And again, my name is Brian
3 Coleman. I represent the applicant in this
4 proceeding, BabaSlings Limited. Could you please
5 state your name for the record.

6 A. Shanti Mcivor.

7 Q. Could you spell that, please.

8 A. S-H-A-N-T-I, and M-C-I-V-O-R.

9 Q. And would you like me -- I'll call you
10 Ms. Mcivor, unless you have another preference.

11 A. You can call me Shanti. That's fine.

12 Q. Have you ever been deposed before under
13 U.S. law?

14 A. No, I haven't.

15 Q. All right. Let me start just by explaining
16 a brief bit of the process and procedure here.
17 Again, there is a court reporter to my right who is
18 recording all of the questions and answers, and at
19 the conclusion it will be written up creating a
20 transcript which you will have the option to review
21 and sign if you wish at the conclusion.

22 Because everything that's being said is

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1 being recorded, what I would ask is that when I ask
2 a question, if you could wait until I complete my
3 answer or until I complete my question, rather,
4 before you answer, and likewise, I will endeavor not
5 to interrupt you if you are in the middle of an
6 answer before I proceed with my next question so
7 that the transcript remains clear. Is that all
8 right?

9 A. Yes.

10 Q. Okay. And also, if you are -- I don't
11 think this will be an issue since we're here on
12 video, but again, because it's being recorded, if
13 you could try to give an audible answer, that is a
14 yes or a no as opposed to a shake or a nod of the
15 head, again, just so that it can be accurately
16 transcribed, I would appreciate that as well.

17 A. That's fine.

18 Q. If any of the questions that I ask are
19 unclear to you, I would encourage you to ask me to
20 clarify or to -- if there's anything unclear, please
21 feel free to seek clarification. Otherwise, I will
22 assume that you understood the question that I was

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1 asking -- or that I'm asking.

2 And lastly, if at any point in time you
3 want to confer with your counsel or if you want to
4 take a break, that's fine. Just let me know. All I
5 would ask is that if we are in the middle of a
6 question, that you complete your answer and then
7 indicate that you would like to take a break and
8 that will be fine.

9 I realize that the logistics are such that
10 Mr. Borghese is on a separate line, but again, just
11 let me know what you would like to do and we will
12 accommodate it.

13 Now, is all of that acceptable to you?

14 A. Yes. One question.

15 Q. Certainly.

16 A. If you ask me a question and I'm saying I
17 need to look back through records, can we take a
18 break so I can look back through the records and
19 come back to the question or is that not possible?

20 Q. We can address that as it arises. If there
21 is a question that's posed where you don't know the
22 answer but you have the papers there from which you

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1 can discern the answer, then that may well be the
2 best way to go. But we can address that as it comes
3 up.

4 A. Okay.

5 Q. And just a word on timing here, because I
6 realize that we're all on strange time zones here,
7 that is, it's about 5:30 p.m. where I'm taking the
8 deposition in Washington, D.C., and I understand
9 it's, if I have it correctly, about 7:20 a.m. where
10 you are, if I have that correct, Shanti?

11 A. Um-hum, yes.

12 Q. So I want to be as accommodating as I can
13 of everyone's schedules. If we can complete this
14 today, although appreciating we're on different days
15 right now, then I'll certainly endeavor to do so.
16 But again, if the timing creates an inconvenience
17 for anyone and we need to take a break and resume on
18 a subsequent day, you know, then please let me know.
19 But in the meantime, we'll just move through this as
20 expeditiously as possible.

21 Now, Shanti, again, the proceeding here,
22 the case caption is Baba Slings, and this is PTY

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1 Limited versus BabaSlings Limited. Just so we can
2 work from the same page, if I'm referring to a
3 company name, I will endeavor to refer to the
4" opposer in this proceeding as Babà Slings and the
5 applicant as BabaSlings Limited.

6 If there's ever uncertainty on your part as
7 to who I'm referring to, please feel free to seek
8 clarification. But I just want to make sure that we
9 can do this with operating with the same
10 understanding.

11 A. Okay.

12 Q. Shanti, can you indicate your relationship
13 with the opposer in this case, Baba Slings PTY
14 Limited?

15 A. So we set up the company some years ago.
16 Sorry, sorry, okay. I misunderstood your question.
17 Sorry, can you just ask that again, please?

18 Q. Sure. And I'll ask it a slightly different
19 way. What is your position, if any, with the
20 opposer in this proceeding, Baba Slings PTY LTD?

21 A. Okay. I am the director of the company.

22 Q. Okay.

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1 A. The designer and the director.

2 Q. When was the company formed?

3 A. In 1999. December of 1999.

4 Q. And has it been in operation continuously
5 from then until now?

6 A. It has.

7 Q. And who are the owner or owners of Baba
8 Slings? Again, referring to Baba Slings PTY LTD.

9 A. I am. Well, I have set up a company and --
10 yes. Yes, I am.

11 Q. Are there any other owners of the company?

12 A. No. I have a trust. That's why I was just
13 seeking clarification. But the family trust, so,
14 yeah, I'm the sole owner of it.

15 Q. If you could clarify what you mean in
16 reference to the trust, that is, a trust owned by
17 you --

18 A. Well --

19 Q. Sorry.

20 A. Sorry.

21 Q. Do you mean a trust owned by you owns the
22 company?

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1 A. Yes. Well --

2 (Witness confers with counsel.)

3 I'm the owner of the company and I'm the
4 sole shareholder of the company. I did set up a
5 trust that is just, yeah, the tax entity of the
6 Mcivor Family Trust. Yeah, I'm the sole owner of
7 the company.

8 Q. Okay. Now, just a word about just
9 deposition procedure, and I understand that you are
10 communicating, I assume, with Mr. Borham with regard
11 to your answers?

12 A. Yes, I am, because he understands it all a
13 lot more than I do, just how entities work with each
14 other. So, sorry.

15 Q. No, that's okay. There's no need to
16 apologize. But just as a matter of procedure, the
17 rules are fairly strict about this.

18 What I would ask is that you answer a
19 question to the best of your understanding or to the
20 best of your recollection and, if during a break, if
21 you want to consult with Mr. Borham, that's fine.
22 But I want to make sure that we don't have any

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1 miscommunication about the source of the testimony.

2 Again, if you are not certain for an
3 answer, it's perfectly fine to say, I don't recall,
4 or, I need to check on that, or whatever the
5 truthful answer might be. But if you would be kind
6 enough to try to answer to the best of your
7 recollection and if there's -- if you need to
8 consult with your attorney during a break, that's
9 perfectly fine. Just let me know and we can take a
10 break.

11 A. Okay. Thank you.

12 Q. So I just want to make sure that I
13 understood what you indicated before. So the sole
14 owner of Baba Slings is a trust for which you are
15 the trustee? Do I have that correct?

16 A. I'm sole owner of Baba Slings. I'm the
17 sole owner and the sole director of it.

18 Q. Okay. In your personal capacity or as a
19 trustee of the trust?

20 A. In my personal capacity and I'm -- I'm
21 sorry. I actually don't understand the whole -- how
22 it all works. So you'll have to forgive me, but

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1 maybe I'll -- yeah, I'm the sole owner of Baba
2 Slings. So, yeah.

3 Q. Okay. So there's a trust that plays a role
4 in that. You are just not exactly sure how it
5 works?

6 A. Yeah. I'm not totally sure, yes. There is
7 a trust that -- so, yeah, Baba Slings is the trustee
8 of the trust. I don't know how all that stuff
9 works. I'm so sorry. I'm more an artistic soul.
10 So I design product and, I'm sorry, I have just
11 given that all to my lawyer and he set it all up.
12 Anyway, so sorry.

13 Q. That's all right. Who are the other
14 officers or directors or agents of Baba Slings?

15 A. There is no one else. There probably
16 should be, but -- sorry.

17 Q. Is there anyone else who has authority to
18 bind the company?

19 A. No.

20 Q. Has there ever been?

21 A. No.

22 Q. Are there any employees of Baba Slings?

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1 A. Yes.

2 Q. And how many?

3 A. There's two others.

4 Q. And can you give me their names, please.

5 A. There's Denis Lalor and Kristin Hill.

6 Q. Could you spell those names, please?

7 A. D-E-N-I-S and L-A-L-O-R. And Kristin Hill
8 is K-R-I-S-T-I-N and Hill, H-I, double L.

9 Q. And --

10 A. There is actually Amanda Hain and she's
11 kind of working occasionally. So she's A-M-A-N-D-A
12 and H-A-I-N. She was working full-time with the
13 business and then was moved interstate. So she's
14 not working as much now.

15 Q. So she is not a current employee now,
16 Amanda Hain, that is?

17 A. We've still got her on the books. Through
18 all of -- you know, she's been with the company for
19 quite some time. So, yeah, but she is -- yeah,
20 we've still got her on the books, but she's working
21 part-time now.

22 Q. Can you give me the approximate dates of

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1 employment and respective roles of those three
2 employees?

3 A. So Denis Lalor has been working since 2004.
4 2004 I can remember. And then Amanda -- and Denis,
5 he does all of our IT and sets up our accounts, and
6 he's just amazing. He does pretty much a bit of
7 everything.

8 Amanda Hain was helping at the front desk
9 and sending stock and answering e-mails and
10 managing. And Kristin is helping with dispatch.

11 Q. And for Kristin and Amanda, when did they
12 start working there?

13 A. Amanda started around maybe 2006, I think.
14 I think around 2006. Sorry. And Kristin has only
15 started recently in the last few months.

16 Q. Do you have any family members who are
17 affiliated or associated with the company?

18 A. My son and his partner, yeah, you know,
19 they have something to do with the business. You
20 know, they just went to the trade show in Germany
21 recently. Actually, they saw Daniel there.

22 Q. And what is their role with the company?

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1 A. Well, they have been looking at sales.

2 Q. And can you clarify the names here? You
3 said Samuel and his partner. Can you give me -- can
4 you clarify who you are referring to?

5 A. Zachariah, Zach, Turnbull and Kasia, his
6 partner.

7 Q. Okay. So I had thought you said Samuel.
8 So it's Zachariah?

9 A. Zachariah, Z-A-C-H-A-R-I-A-H, Turnbull,
10 T-U-R-N-B-U-L-L. And Kasia, K-A-S-I-A, Katurzuyo,
11 which I think is K-A-T-U-R-Z-U-Y-O. That's just
12 going on memory.

13 Q. And when you say his partner, do you mean
14 business partner or a personal partner?

15 A. Personal partner.

16 Q. And are they employees of Baba Slings?

17 A. No. They are working on commissions.

18 Q. So what precisely is their role?

19 A. Sales.

20 Q. How are they compensated?

21 A. Through commissions. They have only just
22 started. They have recently started. So it's

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1 really quite new.

2 Q. Is there anyone else who is -- any other
3 employees or affiliates of the company that you
4 haven't mentioned?

5 A. I think that's it at this stage.

6 Q. Does Baba Slings have any offices?

7 A. There's Number 2/11 Banksia Drive, Byron
8 Bay, New South Wales 2481, Australia. So that's the
9 headquarters.

10 Q. Are there any other offices?

11 A. Are you talking -- I mean, obviously we've
12 got distributors in different countries that -- are
13 you just -- you want to know about distributors?

14 Q. Independent distributors aside, does Baba
15 Slings itself have any other offices apart from that
16 one?

17 A. That's the only one.

18 Q. And what is the nature of Baba Slings'
19 business?

20 A. So we've designed a product which we
21 manufacture and then we wholesale and retail that
22 product worldwide.

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1 Q. And what product is that?

2 A. It is Baba Slings. It's a baby sling.

3 Q. Does baba mean baby?

4 A. Yes.

5 Q. Does Baba Slings make any products other
6 than this baby sling?

7 A. We have made other products but at this
8 stage we're only making Baba Slings.

9 Q. Do you currently intend to make any
10 products other than the baby sling?

11 A. Yeah, possibly. But at the moment it's
12 Baba Slings.

13 Q. What are the other products, if any, that
14 you are -- that you intend to make?

15 A. Well, I mean, we can go in any direction,
16 but at this stage with looking at Baba Slings, yeah,
17 we have made -- in the past we've made baby blankets
18 and ponchos and I have branched out into women's
19 clothing and bags and accessories. So now we are
20 just concentrating solely on Baba Slings.

21 Q. So the past products, could you run through
22 those again? You mentioned baby blanket, clothing,

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1 bags.

2 A. Baba Blankets and Hugme Ponchos and then
3 Kombi Chic bags and women's clothing. But that was
4 through another label, actually. So -- yeah.

5 Q. And was there a particular trademark that
6 you used in connection with the sale of these
7 products?

8 A. Well, the Baba Blanket was like an offshoot
9 of Baba Slings and the Hugme Ponchos was, you know,
10 it was a kid's product. Yeah, but really we are
11 just focusing on Baba Slings now. That's kind of
12 our top product. So now we're just doing Baba
13 Slings.

14 Q. Just so we can be clear, because one of the
15 trademarks at issue here is Baba Slings, and we've
16 also been referring to your company name as Baba
17 Slings. If you could, in your answer, if you could
18 try to clarify if you are referring to Baba Slings
19 as a brand as opposed to your company Baba Slings,
20 just so we can be -- since ultimately this will be
21 in writing so one can understand.

22 And I guess with that preface, can you

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1 clarify, is there any particular trademark that the
2 products that you have identified have been sold
3 under?

4 A. Well, we didn't trademark any of these
5 other products. But we had Baba Blankets, like Baba
6 Baby Wraps. So, yeah, that was kind of using --
7 that was going -- an offshoot of Baba Slings.

8 Q. When you say offshoot of Baba Slings, you
9 mean an offshoot of the brand Baba Slings or an
10 offshoot of the company Baba Slings?

11 A. Well, I suppose of the company, actually.
12 And then the Hugme Ponchos is obviously totally, we
13 weren't -- we were selling it through our web site.

14 Q. Have you ever used -- I should say, has the
15 company, Baba Slings, ever used the brand Baba
16 Slings?

17 A. As the company Baba Slings, yes.

18 Q. And for what product or products has that
19 brand or trademark been used?

20 A. So Baba Slings themselves or the baby
21 slings?

22 Q. The baby slings. Any other products?

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1 A. Well, I mean, we sell Baba Blankets. I
2 mean, I don't really want to get stuck on this
3 because it wasn't something that we really were
4 going, like gung-ho and, you know. We made a few
5 and then, yeah, it's not really a biggie because --
6 yeah. We only made a few of these blankets and we
7 were just kind of doubling, and it didn't work out.
8 So -- I don't know, have I answered your question?

9 Q. Well, let me ask this. Do you currently
10 use the brand or trademark Baba Slings?

11 A. Yes.

12 Q. And is that only in connection with the
13 baby slings?

14 A. At this stage, yes.

15 Q. All right. And if I understood you
16 correctly, there's a possibility you might use it on
17 other products, but you don't presently have an
18 intention to use it on other products. Is that
19 fair?

20 A. Sorry. Yes, the possibility.

21 Q. And would you agree that Baba Slings fairly
22 describes the baby slings for which it's used?

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1 A. I think Baba Slings is a brand of baby
2 sling. So I don't really want it to get confused.
3 I think baby slings, which could be any baby slings,
4 and our brand is Baba Slings.

5 Q. Are there any other companies of which you
6 are aware that now or previously used the trademark
7 or brand Baba Slings?

8 A. Well, there's of course Babaslings Limited.
9 They call themselves the Baba Sling. Yeah, there
10 have been other companies. I mean, I saw something
11 on YouTube the other day, Queen Baba Sling.

12 I'm just thinking. I mean, there's
13 definitely been other companies that have, like,
14 used the product or taken the product, but I'm just
15 thinking of -- I think I might have to get back to
16 you on that one, actually.

17 Q. The one you can think of right now is you
18 mentioned Queen Baba Sling?

19 A. Yeah, I don't think she is actually selling
20 a lot of stuff, but I just found something on
21 YouTube the other day, Queen Baba Sling.

22 Usually we, like, keep an eye out and,

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1 yeah. So we try and stop anyone who is trying to
2 infringe and use the trademark.

3 Q. Has there been -- apart from Queen Baba
4 Sling has there been anyone else that you can think
5 of right now who used that name?

6 A. Well, your client. That's the main one at
7 the moment, yeah.

8 Q. And how about apart from my client?

9 A. Sorry. I would have to have a look through
10 our records. If we take a break, I can get back to
11 you on those.

12 Q. Are you aware of, as you sit here now, are
13 you aware of ever having asked someone to cease
14 using that name?

15 A. There's been plenty of instances where
16 people have been using the product or copying photos
17 and -- can I take a break and just talk with my
18 lawyer?

19 Q. Sure. If you have finished your answer,
20 then --

21 A. Yes.

22 Q. Okay. Certainly.

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1 A. Is that okay? Then I can let you know.

2 Q. Sure. That's fine. Just so you know,
3 there's probably a mute button there if you wanted
4 to -- I assume if you want to speak separately.

5 A. Okay. We'll be back in a second.

6 (A recess was taken.)

7 BY MR. COLEMAN:

8 Q. Okay. Shanti, is there a prior answer that
9 you wanted to clarify?

10 A. Actually, we may just need a quick break
11 for a little while.

12 Q. You want to go back off the record?

13 A. Yes, please. Sorry.

14 (A recess was taken.)

15 BY MR. COLEMAN:

16 Q. Shanti, do you personally own any trademark
17 rights in the name or brand Baba Slings?

18 A. Yes.

19 Q. And what is the nature of that ownership?

20 A. So I am the sole owner of -- as a company
21 we're branded -- we've trademarked the name in many
22 countries around the world and we've still got

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1 trademarks pending.

2 Q. Do you personally have any -- have you
3 entered into any agreements of any kind with the
4 company, Baba Slings? That is Baba Slings PTY
5 Limited.

6 A. In the past, yes. Yes.

7 Q. Are there any current such agreements?

8 A. No.

9 Q. And can you describe the past agreement or
10 agreements.

11 A. Well, we set up a company with Daniel and
12 Heath and it was -- we were all trade directors of
13 the company and we were all, you know, equal
14 shareholders of the company. And things -- because
15 they had the majority shareholder say, they
16 actually -- once -- do you want me to just tell you
17 everything that's happened?

18 Q. Let me clarify my question. I was actually
19 asking whether you had ever entered into any
20 agreements with the company that you own, Baba
21 Slings PTY Limited, as opposed to the applicant in
22 this case, BabaSlings Limited.

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1 A. Okay. I understand. Any agreements, no.
2 I mean, I'm the sole director of the company. So,
3 no.

4 Q. As between you and the company, Baba Slings
5 PTY Limited, do you have an understanding as to who
6 owns the trademark, Baba Slings?

7 A. In which country?

8 Q. In the United States.

9 A. Well, at this stage there's no trademark in
10 the United States.

11 Q. Do you currently use the trademark, Baba
12 Slings, in the United States?

13 A. Well, yeah. I mean, we sell product there.
14 Yes, we do.

15 Q. And just so I'm clear, when you say "we,"
16 do you mean you personally or do you mean the
17 company, Baba Slings PTY Limited or somebody else?

18 A. The company Baba Slings, yeah, Proprietary
19 Limited.

20 Q. Do you personally own any rights in the
21 name or brand, Baba Slings, as opposed to your
22 company in any country?

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1 A. I'll have to look at the documents, but to
2 the best of my knowledge, my name is on the
3 ownership and the company name is also on it. So
4 both names are on it. My personal name and Baba
5 Slings PTY Limited.

6 Q. Can you clarify your answer? I'm not sure
7 I follow.

8 A. Can I have a look at the documents? Is
9 that okay? Can I let you know by looking at
10 documents or do you want --

11 Q. Well, at this point in time, are you aware
12 of any rights that you personally now owned or have
13 ever owned in any country in the name Baba Slings as
14 opposed to the company?

15 A. Okay. I have memories of my name on
16 documents with the trademark, but I would have to
17 give you -- yeah, from memory, I can remember that I
18 do.

19 Q. Okay. I understand.

20 A. Yeah.

21 Q. If you had signed any documents stating
22 that you personally were the owner of trademark

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1 rights, would you have any reason to believe that
2 that's incorrect now?

3 A. I think that I do have -- that it is my
4 name on there and Baba Slings. So I mean, I would
5 have to actually have a look at the documents to
6 actually tell you whether or not. So I believe,
7 yes. I believe the answer is yes, that I do have my
8 personal name on the trademarks.

9 Q. And you are not aware of any inaccurate
10 representations in any documents you have signed as
11 to who owns rights to the name?

12 A. Everything has gone through my lawyers so
13 it's safe and legal. So they have all the
14 documents. And I'm sure that they have made sure
15 that everything is correct. So, yeah.

16 Q. Okay. Does the company -- does your
17 company, Baba Slings, does it currently have any
18 active license agreements with any other company?

19 A. We've got distributor agreements.

20 Q. Focusing just on the United States, is
21 there -- are you aware of any other companies that
22 has -- that has a license to use the trademark Baba

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1 Slings?

2 A. Are you talking of my brand Baba Slings or
3 are you talking of BabaSlings Limited? Or are you
4 talking about...

5 Q. Let's back up. Are you aware of any
6 company that's authorized to use the trademark or
7 the brand Baba Slings in the United States?

8 A. Well, I have given authorization to quite a
9 few different companies to distribute Baba Slings,
10 our Baba Slings. And we have been -- yes, I am
11 aware of different companies.

12 Q. Can you identify who those are?

13 A. Is it past or present or...

14 Q. For now we'll do present.

15 A. Present? We have Elephant Ears.

16 There's -- yeah, there has been -- there's Elephant
17 Ears and Agana Baby. So we have been selling to
18 different companies in the states.

19 Q. You mentioned Elephant Ears and what was
20 the second one?

21 A. Agana Baby. There's been quite a few
22 different companies that we have been selling to.

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1 I'm trying to just clarify, is that what you are
2 meaning, who we're actually selling stuff to? Is
3 that what you mean?

4 Q. Well --

5 A. I mean, we haven't -- we actually don't do
6 licenses where we allow somebody to manufacture for
7 us.

8 Q. Let me ask this way. Apart from
9 distributors, have you licensed the rights to use
10 the Baba Slings name to anybody in the United
11 States?

12 A. No. There's no license agreements in the
13 States at the moment.

14 Q. But you do currently have U.S.
15 distributors?

16 A. We have stockers in the States. At the
17 moment our potential distributors are holding off
18 until the trademark is settled.

19 Q. So do you presently have any active
20 distributors in the United States?

21 A. At this stage, we sell stock to like
22 stockers in the States, but we don't actually have a

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1 current distributor at this moment.

2 Q. So when you say you sell stock, you mean
3 sell direct as opposed to through a distributor? Is
4 that what you mean?

5 A. We sell to companies and we also sell
6 direct to -- on a retail level as well in the
7 States.

8 Q. When did you first sell product in the
9 United States using the Baba Slings name?

10 A. 2002. This is what we have -- like we
11 started the business in 1999. So we have sold
12 product into the States before 2002, but because we
13 had a change in computer systems and what have you,
14 we've only got records back to 2002. So there have
15 been previous sales to the States, but because we
16 changed the systems over then, yeah, we've only got
17 records to 2002.

18 Q. Focusing just on prior to 2002, do you know
19 how much product was sold to the U.S. -- in the
20 U.S.?

21 A. I'm sorry, I can't recall from memory. I
22 know that we did sell product, but I don't know how

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1 much.

2 Q. Okay. So -- but you don't have any
3 documents or records of any sales in the U.S. prior
4 to 2002?

5 A. No, we haven't. We sold occasional retail.

6 Q. I'm sorry?

7 A. We sold occasion -- occasionally we sold
8 retail like directly to the public before 2002.

9 Q. How so? Through what means?

10 A. Through our website.

11 Q. Have all of the sales to the United States
12 been through your website?

13 A. Mostly like, of course, over the years we
14 have been doing trade shows in the States and we've
15 had customers, you know, e-mailing us or making
16 contact mostly either through e-mail or through our
17 website and through trade shows.

18 Q. When was the first trade show that you
19 conducted in the United States? And by you, I mean
20 Baba Slings, the company.

21 A. The first show that we did was in 2011. We
22 had a stall at Louisville in Kentucky, and we had

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1 one last year, 2012. In 2010 we went to the ABC
2 show in Vegas. This was just to, you know, scope
3 things out and meet with people but we didn't
4 actually have a stand.

5 Q. Okay. So if I can just run through this,
6 2010 you went to the ABC show in Las Vegas, but as
7 you said, to scope things out. You didn't have a
8 stand?

9 A. Yes.

10 Q. That was your first trade show in the U.S.
11 that you attended?

12 A. Yes.

13 Q. And the next one was 2011 in Louisville?

14 A. Yeah.

15 Q. What was that trade show?

16 A. The ABC show.

17 Q. Same show?

18 A. Um-hum.

19 Q. Did you have a booth there?

20 A. Yes.

21 Q. And how about after that? What was the
22 next trade show you had after that?

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1 A. 2012, same location, Louisville.

2 Q. I'm sorry?

3 A. In Louisville.

4 Q. And apart from those three, have you
5 attended any other trade shows in the U.S.?

6 A. No. We did do a selling trip the year
7 before in 2009. We went to L.A. and San Francisco
8 and San Diego to meet with potential distributors
9 and manufacturers and also to meet with potential a
10 warehouse to stock and like a packing and forwarding
11 house back in L.A.

12 Q. And when was that in 2009?

13 A. 2009, I think it was in -- it was not long
14 after Michael Jackson died. So sorry, it was about
15 six weeks -- wait. Not long after he passed away.
16 Sorry, I have to look back on my records. Might
17 have been July or something or June.

18 Q. Did you sell any products at that time?

19 A. We took product with us. We went to baby
20 stores in San Francisco and we went to -- we met
21 with a potential distributor in San Diego, Agana
22 Baby, and we also went to a packing house in -- out

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1 the back of L.A. in, what's that area called?
2 Anyway, sorry. There was a few things that we did.
3 We were quite busy on that trip.

4 Q. Did you enter into any agreements at that
5 time?

6 A. We didn't -- from what I recall we didn't
7 actually enter any agreements, but we met with
8 stockers who were wanting to become distributors in
9 America.

10 Q. And do you recall the names of any of them?

11 A. Agana Baby. They were the main ones that
12 we actually went to meet in San Diego.

13 Q. Can you spell that, please?

14 A. A-G-A-N-A. There was also, we went to Baby
15 Love -- wait. No, there was Agana Baby and there
16 was another shop in San Francisco. I'm sorry. I
17 can't remember, but we went to quite a large
18 department store in San Francisco.

19 Q. This was in 2009?

20 A. Yes.

21 Q. Have you ever entered into any written
22 agreements or oral agreements with U.S. distributors

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1 or, I should say, with distributors to sell in the
2 U.S.?

3 A. We have -- we have had -- yeah, we have
4 entered into oral agreements but then when they
5 found out about the trademarks, this issue with
6 Daniel trying to get into America, they pulled out.
7 So -- until we've secured the trademark. But at
8 this stage, no.

9 Q. Have you -- have you been present in the
10 United States to market or sell any Baba Slings
11 products apart from those four occasions that you
12 discussed? That is 2009, your trip, and the three
13 trade shows in 2010, '11 and '12?

14 A. So those have been the only times that I
15 have physically been to America. But of course
16 we've had other interactions with America on
17 numerous occasions. But that's the only physical
18 trips that I have actually made there.

19 Q. Can you explain what the other interactions
20 are?

21 A. Through Skype, through e-mails, you know,
22 through our web shop. Yeah, mostly through Skyping

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1 and e-mailing and ringing telephone conversations.

2 Q. Have you sold any Baba Slings-branded
3 products in the United States apart from through
4 your website?

5 A. Yes. We've sold like large orders to
6 wholesalers.

7 Q. And what was the first such order?

8 A. Maybe -- I can't really recall, but I think
9 it may have been Agana Baby or -- I would have to
10 look back through my records. I'm sorry. I don't
11 have that much in my memory bank.

12 Q. It would be after the 2009 trip?

13 A. No. Well before then. Well before then.
14 We started -- we had already been selling to them
15 for quite some time, and because they were such good
16 customers and they were so interested, we made the
17 trip to meet with them. But we had already been
18 selling to them for quite some time.

19 Q. Now, is Agana Baby, do they have retail
20 outlets or are they a wholesaler?

21 A. They have retail and wholesale.

22 Q. So they have their own stores?

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1 A. Yes.

2 Q. And from a wholesale standpoint, do you
3 know if they ever sold your products to anybody
4 else?

5 A. Yes. Well, they wanted to distribute. So,
6 you know, they secured quite a lot of product. So I
7 believe they did.

8 Q. But you don't have any specific information
9 about that?

10 A. Not at this stage. Not unless I can have
11 time to look through my records. They mostly sold
12 through their website and through their stores, but
13 they did buy a lot of product. So...

14 Q. Were they the first company to sell your
15 products in the U.S.?

16 A. They weren't the first company, no. They
17 weren't the first company.

18 Q. Who was the first company?

19 A. I'm sorry, can I take a break to look or do
20 you want -- I can't really recall. I can't recall
21 at this stage. I would have to look back through
22 records. We're going back quite some years.

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1 Q. And we can do that in a moment. We can
2 probably do that all at once.

3 Do you recall when you first sold any
4 product using the Baba Slings name in the U.S. --
5 let me clarify. When you first sold any product to
6 anyone in the U.S. other than a sale through your
7 website?

8 A. Other than -- I would have to look back. I
9 can't recall at this stage.

10 Q. Do you know how much business you have done
11 in the United States?

12 A. Again, I would have to look through my
13 records.

14 Q. There is -- prior to commencing this
15 deposition, I believe there were some documents that
16 were printed out. These are a set of documents that
17 were produced in the discovery phase of this matter.
18 And this may be -- I'm not sure if there is a
19 question for you or for Mr. Borham, who I understand
20 is there with you. But do you have a set of
21 documents that were printed out that were produced
22 in this lawsuit?

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1 A. Mark Borham [sic] gave them to you?

2 MR. BORGHESE: This is Mark Borghese
3 speaking, if I can just interrupt really quick.
4 Shanti, he's referring to the PDF documents. They
5 are labeled BABA 1 through whatever number.

6 THE WITNESS: Okay.

7 MR. BORGHESE: The PDF documents is what
8 he's referring to. Do you have access to those?
9 Can you put those on a computer?

10 THE WITNESS: Yes, I have them here.

11 BY MR. COLEMAN:

12 Q. Do you have a hard copy set of those or is
13 it electronic?

14 A. It's electronic.

15 Q. Okay. If you have access to that, can you
16 take a look at it and confirm that it runs from
17 Numbers 1 through 434?

18 A. Let me have a look.

19 Q. Certainly.

20 A. 434 you said?

21 Q. Yes.

22 A. Yes.

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1 Q. Is it your understanding that that's the --
2 that those are the documents that were produced to
3 BabaSlings Limited in this proceeding?

4 A. Well, actually, I didn't know -- does this
5 mean that those documents, are they going to be --
6 this is actually confidential business information.
7 So actually, I really don't want Daniel to see all
8 this information.

9 Q. We will -- now, several of the documents do
10 have a confidentiality label. And I just want to
11 state for the record that there is a protective
12 order that has been entered in this proceeding which
13 governs confidentiality issues as it relates to this
14 matter. And it is -- and documents that have been
15 produced have, I can state for the record, have been
16 handled in accordance with the terms of that
17 protective order.

18 And also, Shanti, so you are aware, that
19 protective order, likewise, governs this deposition.
20 I'll let your attorney explain that to you
21 separately, but that too governs the transcript for
22 this matter.

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1 But circling back then to the documents, is
2 it your understanding that those are the documents
3 that were produced -- that were produced in this
4 proceeding by you or on your behalf?

5 A. We produced these documents, but I want --
6 I just want it to be known, I don't want this --
7 this is confidential. So I don't want it to be
8 getting to your client. So --

9 MR. BORGHESE: Shanti, this is Mark
10 Borghese again. I'll have to speak with the other
11 attorney about this, but let's just proceed with the
12 deposition and then we'll see what we need to do
13 about any portions of the deposition or any
14 particular documents.

15 THE WITNESS: Okay. Thank you. Yes, we
16 produced this for attorneys' eyes only.

17 BY MR. COLEMAN:

18 Q. Okay. Are there any other -- are there any
19 other documents on which you presently rely or
20 intend to rely in support of your position in this
21 proceeding other than those included within that set
22 of documents?

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1 A. I'm not entirely sure, but sorry, Mark, do
2 these include our schedule of --

3 MR. BORGHESE: Without revealing anything
4 that's protected by the attorney-client privilege,
5 like in the last day she sent me a handful of other
6 items. I don't know if we're going to use them or
7 not. I'm not sure if they are relevant. I haven't
8 really even looked at them. But if they are, we'll
9 produce them immediately, of course.

10 MR. COLEMAN: All right.

11 BY MR. COLEMAN:

12 Q. But as you sit here right now, are you
13 aware of any documents that are not included in that
14 set of information that you rely on in support of
15 your position in this proceeding?

16 A. I'm not entirely sure.

17 Q. Okay. And just for the record here, what I
18 would like to do ultimately is to have -- is to have
19 a set of those documents marked as Exhibit 1 for
20 this deposition and just simply attached to the
21 transcript.

22 Normally what I would do is to have it

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1 marked there on your end. So what I would ask is at
2 some point here, just so we can be on the same page
3 that you have identified the documents, is to create
4 a hard copy set or to -- it's probably sufficient to
5 identify them electronically. But then Mr. Borghese
6 and I can hopefully stipulate that the documents are
7 the same so that they can be added to the
8 transcript.

9 MR. COLEMAN: And since I'm suggesting
10 that, Mark, if I may just ask you if that's
11 acceptable to you.

12 MR. BORGHESE: Yeah, that sounds fine.

13 BY MR. COLEMAN:

14 Q. Ms. Mcivor, are you aware of any documents
15 reflecting or supporting any sales in the United
16 States other than any such -- other than those
17 documents included within Numbers 1 through 434 of
18 those documents?

19 A. I'm sorry, I'm still not sure. I would
20 have to -- I would have to look through it again
21 and -- yeah, I'm not sure at this stage.

22 Q. You have conducted a search to identify any

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1 documents supporting or reflecting any sales in the
2 United States?

3 A. We have. We have conducted a search and I
4 think we have basically just tried to reflect that
5 we have been selling in the States since 2002. So I
6 would have to look back through all the records.

7 Q. And you turned all of those over to your
8 counsel?

9 A. Yes. I believe so, yes.

10 Q. Have you ever advertised any Baba
11 Slings-branded product in the United States?

12 A. Well, I believe that doing the trade shows
13 is definitely advertising. We have done reviews.
14 We have had reviews done on very popular blogs. We
15 have put it through our U.S. targeted Google adware
16 and the website.

17 We've actually -- we have a lot of
18 traffic -- throughout the period we've had a lot of
19 traffic, U.S. traffic, to our site. In fact,
20 sometimes it's overtaken the rest of the world.
21 Well, Australia.

22 Q. So we are -- you mentioned the trade shows

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1 earlier. Turning to Google AdWords, when did you
2 first start advertising or marketing using that
3 function?

4 A. Within, well, I mean -- I mean, really, I
5 mean, since we've had the website up, of course we
6 have been trying to promote it to the States. But I
7 think it may be like 2007. I would have to look
8 back through my records.

9 Q. So you believe that you purchased Google
10 AdWords in 2007?

11 A. Maybe even earlier, actually. So I would
12 have to -- I would actually have to -- I would have
13 to look back through the records.

14 Q. Would you have a record of any purchase or
15 participation in the Google AdWords program?

16 A. Yes, there would be records, but I would
17 have to search for them.

18 Q. Okay. And was that targeted to the United
19 States in any fashion specifically with regard to
20 Google AdWords?

21 A. Yeah. We've been trying to break into the
22 U.S. market for a long time. So we've done whatever

M.A.R. REPORTING GROUP

1 we could to do so.

2 Q. Can you say what specifically that you did?
3 And again, we mentioned the trade show, but now
4 focusing on the Google AdWords.

5 A. I would have to look back through our
6 records, but, you know, we've purchased, you know,
7 even just like the Google ads and -- we'll have to
8 look back through the records. But our Facebook
9 page which has been in operation since -- I would
10 have to look, but I think it's 2007 maybe. Wait.
11 I'll have to look back through the Facebook page
12 actually. Maybe it's later than that.

13 But yeah, and also meeting with
14 distributors who have also been promoting us on
15 their websites or -- not that we've been actually
16 signed up with a distributor, but people who have
17 been wholesaling or distributing our products. Not
18 that they have had exclusive rights, but...

19 Q. For each of these, if we could focus on the
20 time frame prior to 2009 or, more specifically,
21 prior to the occasion that you testified that you
22 traveled to the U.S. in 2009. What specific

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1 advertising or marketing activities can you identify
2 which predate that point in time?

3 A. I will have to go back through my records,
4 if that's possible. Is it okay if I can go back
5 through records to give you specifics? Otherwise I
6 would have to --

7 Q. At this point I just need the best of your
8 recollection.

9 A. Okay. Well, before 2009 it's mostly --
10 it's been mostly trying to -- like through our web
11 shop. That's been our main source, our web shop.
12 And also securing -- well, people who are shop
13 owners or distributing our product in America and
14 who do their own advertising as well. And so, you
15 know, the AdWords. We have had -- I mean, we're
16 sold on eBay here and there as well, which is -- you
17 know, that's international.

18 What else? I mean, I would have to look
19 back through the records if you want more
20 information.

21 Q. Now, when you refer to your web shop, you
22 are referring to the website operated by your

M.A.R. REPORTING GROUP

1 company, Baba Slings PTY Limited?

2 A. Yes.

3 Q. And what is the domain name for that
4 website?

5 A. It's BabaSlings.com. So
6 B-A-B-A-S-L-I-N-G-S, dot com.

7 Q. Is there any other websites owned or
8 operated by your company?

9 A. We have a lot of different domain names and
10 basically we just have them all pointing towards
11 that BabaSlings.com.

12 Q. And do you recall what the other domain
13 names are?

14 A. We have domain names like Bubba Slings,
15 like B-U-B-B-A, slings. We have Baba Slings Asia,
16 BabaSlings.co.nz, BabaSlings.com.au, BabaSlings.jp.
17 We actually went through, we've listed a whole lot.
18 We've purchased a whole lot of names. It might be
19 Bubba Slings, like, B-U-B-B-A, Slings, dot UK, I
20 think it is. I think we've got BabaSlings.net.

21 I would have to actually have a look. We
22 went ahead and bought a whole heap of them and then

M.A.R. REPORTING GROUP

1 we just redirect them back to BabaSlings.com.

2 Q. So focusing again, circling back and
3 focusing on any advertising or marketing activities
4 prior to 2009, is there -- was the BabaSlings.com
5 domain name and the other domain names, were they
6 international in nature in terms of their focus?

7 A. Yes.

8 Q. And how about the eBay listings, same
9 thing?

10 A. eBay listings, yeah, we've had like we can
11 ship internationally. And we've also been offering
12 free international post on our website, which is
13 very popular. This is to secure overseas sales.
14 Especially a lot of stock has been going to the U.S.

15 Q. And that's available internationally?

16 A. Yes.

17 Q. And the Google AdWords, is there -- were
18 those AdWords purchases tethered to any specific
19 country or was it for searches irrespective of the
20 country in which the web search is conducted?

21 A. Do you know, I would have to speak with my
22 counsel about that. I mean, you know, Denis -- he

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1 is basically the mastermind behind all of that. So
2 I would actually have to speak with him.

3 Q. Who is that again?

4 A. Denis Lalor.

5 Q. And do you know specifically if there were
6 eBay sales -- first, if there were eBay listings
7 prior to 2009?

8 A. Yes, there have been.

9 Q. Do you know if there were eBay sales to the
10 U.S. prior to 2009?

11 A. I would have to look through my records,
12 but I'm pretty certain there would be.

13 Q. If there were, that would be included
14 within the documents that were produced in this
15 proceeding?

16 A. I don't know actually about that. I would
17 have to -- I'm so sorry. I would have to look back.
18 Without having -- being able to go through the
19 documentation, it's hard for me to answer some of
20 these questions.

21 Q. So sitting here right now, you can't
22 specify any specific ones?

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1 A. I can't. Not off my -- like, you know,
2 obviously we have so many orders going out here,
3 there and everywhere, it's hard to keep track of it
4 all in my memory. I would have to look through my
5 computer.

6 Q. Have you ever advertised in any periodicals
7 or magazines in the U.S.?

8 A. We've advertised -- we've also been in the
9 ABC book for the shows. I'll have to have a look
10 back, but it's been -- we've done, you know,
11 obviously, online stuff, like working with people
12 who have popular blogs and doing giveaways and what
13 have you and other types in that capacity.

14 Q. So no specific recollection of a periodical
15 or magazine in the U.S.?

16 A. Not at this stage.

17 Q. You mentioned the ABC book. You are
18 referring to the brochure in connection with the
19 annual ABC trade show?

20 A. So they put out a book and of course we
21 have been in that book.

22 Q. I'm sorry, go ahead.

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1 A. Sorry, you carry on.

2 Q. Is that book sort of independently sold to
3 the public or is this something that's given to
4 participants of the ABC trade show?

5 A. Yeah, I think it's given to the show.

6 Q. You mentioned blogs a couple of times.
7 What is the earliest such blog with circulation in
8 the United States that you are aware of?

9 A. I would have to have a look again. I'm
10 sorry to have to keep on saying this for the record,
11 but it's a blog that I can remember off the top of
12 my head. There's probably others before that, but
13 it's Jen Loves Kev. She's got a very big following.
14 And that was in -- I think it might have been in
15 2010, I think.

16 Q. Could you spell that again?

17 A. J-E-N, Loves, L-O-V-E-S, K-E-V.

18 Q. You mentioned a Facebook page. Is that --
19 you are not sure the date that that was launched?

20 A. I'll have to have a look back through, but
21 I don't think it's -- I think it was around -- I
22 think it was around 2007. May have been 2008. I

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1 would have to have a look. But also like uploaded
2 onto YouTube is the Mom and Baby Shop on YouTube
3 dating from 2009. That's like about some
4 instructions on YouTube as well.

5 Q. Of these various examples, can you point to
6 any that are specifically targeted to the United
7 States as opposed to being international in general
8 prior to 2009?

9 A. This was actually posted by one of our
10 potential distributors from Michigan, Mom and Baby
11 Shop.

12 Q. I'm actually asking the question more
13 broadly. I mean, for the various advertising and
14 marketing that you have done, is there any that you
15 can point to that is specifically targeted to the
16 United States as opposed to online generally and
17 available internationally generally prior to 2009?

18 A. I would have to look through the records.

19 Q. But just based on your recollection right
20 now?

21 A. I'm sorry, I can't recall at the moment.
22 Sorry, I would have to look through the records.

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1 Q. Okay. That's fine. So am I correct that
2 your first sales to the United States of products
3 bearing the Baba Slings brand were via your
4 BabaSlings.com website?

5 A. I believe so.

6 Q. And were -- and how did they arise? That
7 is, were those people who -- from the U.S. who, to
8 your understanding, had seen your website and
9 contacted you about purchasing a product?

10 A. Yes, I would say they probably found us
11 through Google and then contacted us or went on to
12 our website.

13 Q. Do you recall the first -- do you recall
14 the first sale that you had, the first sale that you
15 had which was not as a result of someone having
16 contacted you through your website?

17 A. I'm sorry, no, I don't recall. I can look
18 through the records and let you know, though.

19 Q. For the website that you operate or any of
20 the websites that you operate, are any of them
21 targeted specifically to sales at one particular
22 country in any way?

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1 A. I think -- I mean, obviously, we are just
2 trying to get the word out internationally. So I
3 mean, we've targeted Japan, we've target different
4 countries. But yeah, I mean, I suppose if you look
5 at our website, we've got all the different
6 countries, I think, where people can actually click
7 onto Australia or, you know, the U.S. and they can
8 actually specifically go to that section of the
9 website so it can go to the U.S. directly.

10 Q. Is there any aspect in which any of your
11 websites have specifically or actively targeted the
12 United States?

13 A. Yes. We have the U.S. flag on our website.

14 Q. And are you referring to the point of the
15 website in which one chooses where the product would
16 be sent?

17 A. So people would -- there'd be a flag and
18 then people would click on that and then go to, like
19 U.S. pricing and what have you.

20 Q. And where is the flag --

21 A. Sorry --

22 Q. I'm sorry, go ahead.

M.A.R. REPORTING GROUP

1 A. We've had it -- I'm sorry. Can I look at
2 the website at the moment, is that okay, on my
3 computer?

4 Q. If we could do it during a break, but first
5 just based on your recollection.

6 A. We have had it there in the past but
7 recently a little while ago we've had it removed.
8 It's in the Google from like -- I would have to look
9 at the computer, but we have had different
10 countries. So then we just decided to have it
11 all -- I think we've only maybe got Japan listed at
12 the moment and then the rest of the world, I think.
13 Yeah.

14 Q. When was the U.S. flag first put on the
15 website?

16 A. Do you mind if I have a look? It was --

17 Q. Would you be able to tell from looking at
18 the website right now when it was first put up?

19 A. It was first put up in September of 2010.
20 Sorry, I think it's January. January the -- wait.
21 Sorry. I think it's December 3, 2009. Sorry.

22 Q. That's the earliest date that a U.S. flag

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1 was made visible on your website?

2 A. Sorry. Can you just hold on? Can I
3 look -- can we just take a little moment to have a
4 look and get the actual date? We're just looking
5 back through the archives. Is that okay?

6 Q. Sure.

7 MR. BORGHESE: Shanti, just so you know,
8 just as part of the way the deposition works, all
9 the attorney is really looking for is your best
10 answer. So just give your best answer, okay.

11 THE WITNESS: Okay. I think -- okay.
12 Sorry. September 13, 2009.

13 BY MR. COLEMAN:

14 Q. Okay.

15 A. I just have to look back a bit. Sorry.

16 Q. Are you aware of anyone -- of anyone having
17 confused anybody else's brand for your Baba Slings
18 brand?

19 A. Yes. Yes. Well, obviously your client.
20 Yeah, it has caused a lot of confusion in the
21 marketplace.

22 Q. Are you aware of any confusion in the

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1 marketplace in the United States?

2 A. Yes.

3 Q. Can you --

4 A. It's caused a lot of confusion in the
5 marketplace in the States.

6 Q. Can you explain the basis upon which you
7 say that? And again, specific to the United States.

8 A. So for example, I got a woman e-mail me the
9 other day and she had seen your client's sling and
10 had said it looks similar, it's got the same name,
11 what is the difference?

12 And I mean, without, you know, telling her
13 everything that's happened, it's very confusing for
14 anyone in the marketplace trying to get a Baba Sling
15 and working out what's going on.

16 Q. And you say that was an e-mail that you
17 received? Is it through your website?

18 A. This is, yeah, that's an example. It's
19 happened so many times where people have contacted
20 us, yeah.

21 Q. Can you --

22 A. Even the wholesale -- a wholesaler who was

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1 interested and they put an order in a few years ago,
2 she put an order in and we sent her the stock and
3 then she was quite upset because she thought it was
4 your client's products, but in fact it was ours.

5 And then we had to explain to her we are
6 the original Baba Slings company, we're the designer
7 and blah, blah, blah. So she ended up keeping the
8 stock, but she was -- she was quite cranky for a
9 little bit. We had to pacify her and it definitely
10 caused a lot of confusion.

11 Q. Who was that wholesaler?

12 A. Elephant Ears. I think she's based in
13 Michigan.

14 Q. And when was this purchase made?

15 A. I think it was in 2011 or early 2012,
16 around those times, just from memory.

17 Q. And forgive me if I asked this before, but
18 are you aware of any sales to distributors or
19 retailers in the United States prior to 2009?

20 A. From us are you saying?

21 Q. Yes.

22 A. I'm pretty sure that, yeah, we

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1 definitely -- I'm pretty sure we have. I would have
2 to look through the records, but, yes, there has
3 been.

4 Q. To whom?

5 A. Can I look through records or --

6 Q. Well, just based on your recollection
7 today, can you identify anyone, any company or
8 retailer or wholesaler to whom you sold goods in the
9 United States prior to 2009?

10 A. So previous to 2009 like Mom and Baby Shop,
11 I'm pretty sure she put in orders before 2009.
12 Possibly Agana Baby, I think, but I would have to
13 look through the records.

14 Q. For those two, for Mom and Baby Shop and
15 Agana Baby, do you know when their earliest such
16 purchases were? Again, just your best recollection.

17 A. I'm sorry, I don't know. I can't give you
18 exact times because I just can't -- my memory is not
19 that good.

20 Q. Okay. When did you -- you are familiar
21 with BabaSlings Limited?

22 A. Sorry?

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1 Q. Are you familiar with BabaSlings Limited?

2 A. Am I familiar? Yes.

3 Q. And how did you first become familiar with
4 that company?

5 A. I first heard from them in, I think it was,
6 yeah, 2004. I received some e-mails from Heath
7 O'Connor and he had -- I mean, do you want me to go
8 through the whole story here?

9 Q. Sure.

10 A. So his auntie had purchased the Baba Slings
11 from us and had sent it over to the U.K., and he had
12 been sitting in some French restaurant in Bratton in
13 England and was wearing the product with his newborn
14 baby and your client, Daniel Lucas. So he
15 approached him and said, I'm an entrepreneur. This
16 looks great.

17 So they kind of got talking and then they
18 started contacting me. And so it started with
19 e-mails and then led to phone calls. And as far as
20 I thought they would just become a distributor in
21 the U.K.

22 So Heath and I met in India and we started

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1 looking for a factory in India, which I had already
2 been manufacturing in Australia and I have been in
3 business for five years previously and manufacturing
4 in Australia.

5 And then so we briefly met and we were
6 going to find a contract. And in my mind I'm
7 thinking, okay, they are going to be a distributor.
8 But then when I went to the U.K. the next year, it
9 turns out that they wanted --

10 Q. Can you clarify what year you are talking
11 about?

12 A. In 2005. So I went in July 2005. I can
13 remember because we left -- I was leaving the day
14 that the bombs were going off, which kind of was
15 symbolic of the whole business relationship.

16 So basically they wanted to set up this
17 company and I felt -- basically I felt quite bullied
18 into doing something that I didn't want to do. I
19 had my business mentor back in Australia who was
20 reading over the contract and she's saying, Don't
21 you sign that.

22 And then I was in the U.K. and Daniel was

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1 saying, With our product, you don't have any
2 protection. I could just take this product but I'm
3 just going to be a nice guy here and do the right
4 thing.

5 But so far he's been bought out of business
6 now, I understand. But he has been trading, you
7 know, he's been a rogue -- well, not licensee,
8 because it wasn't a licensee agreement. We had
9 formed a contract that he has been selling
10 everywhere without -- he's never paid me one pound
11 so far for the product.

12 So as far as I'm concerned, he lied to me
13 because he said that he was going to trademark the
14 name in my -- the trademark name, he was going to
15 trademark the name, sorry, into my name and that I
16 wasn't able to do it because I wasn't a citizen of
17 the U.K. and then I found out that he had actually
18 trademarked it into his name. Sometime later I
19 found that out.

20 So as far as I'm concerned, Daniel has no
21 right to be trademarking, applying for a trademark
22 in the States. This is wrong. This is wrong. For

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1 start, the original agreement was for Europe, which
2 I still have not seen one pound from. So that needs
3 to be dealt with separately. But the fact that he's
4 gone on the sly to try and trademark the name, it's
5 wrong. It's wrong. And if he was to get the
6 trademark --

7 Q. If you could give me one moment, I think we
8 might be having an audio connection problem. Can
9 you hear me all right?

10 A. I can hear you.

11 Q. It went a little blank for me and I assume
12 it did for the court reporter as well. Maybe I can
13 ask the court reporter where it left off. I'm going
14 to ask the reporter to read back the last portion of
15 your answer because I think there was a portion
16 where I saw your lips moving but we couldn't hear
17 it.

18 (The record was read as requested.)

19 THE WITNESS: Okay. I was just saying that
20 if he wants to get the trademark in the U.S.,
21 there's something seriously wrong with the justice
22 system because he has no rights and I have never

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1 given my blessing to him to move outside of Europe
2 even.

3 And still Europe has not even been dealt
4 with. He has never paid any money for the product
5 yet. I'm the designer of the product. This is how
6 I feed my children. So at this stage he needs to
7 fix up Europe before he can even think about moving
8 anywhere out of Europe. So that's basically --

9 Q. If you can give me one moment.

10 THE REPORTER: Again, you could see she was
11 blanking out and it was choppy there.

12 BY MR. COLEMAN:

13 Q. I think we had a slightly choppy connection
14 again.

15 MR. COLEMAN: Did you want to read it back
16 again.

17 (The record was read as requested.)

18 BY MR. COLEMAN:

19 Q. Did you catch that? Again, I apologize,
20 but I don't want any of your answer to get lost due
21 to a poor connection.

22 A. So okay. So I think after that I said that

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1 he needs to fix up Europe. He needs to pay for
2 Europe. He has no -- he does not have my blessing
3 or my permission as the designer of the product and
4 the owner of the trademark in many countries and we
5 still have trademarks pending in many countries, and
6 we had already applied for a trademark in the
7 States.

8 But he has not got my blessing to move
9 anywhere out of Europe. So he still needs to pay
10 for Europe. So he has gone behind my back to try
11 and trademark the name in the States. It's wrong.
12 It's not right. It's unethical. It's unethical
13 business practices. So...

14 Q. Let me -- I'm sorry. I didn't mean to cut
15 you off.

16 A. That's okay. Sorry.

17 Q. I'm going to take a couple of steps back.
18 I'm going to start by taking a somewhat larger step
19 back. Who, to your understanding, first came up
20 with the name Baba Slings as a brand for baby
21 slings?

22 A. I did.

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1 Q. And when you say "I," do you mean you
2 personally?

3 A. Yes. Yes. Early in the business I had a
4 friend who was helping me. Her name was Beata
5 Witkowski.

6 Q. Could you spell that, please?

7 A. B-E-A-T-A, Witkowski, W-I-T-K-O-W-S-K-I.

8 Q. Okay.

9 A. And so this was way in the beginning of the
10 project. And she, I think, after like two or
11 three months she pulled out. So she pulled out very
12 early in the case and before it was even -- you
13 know, had been taken anywhere. I think we were just
14 doing the local markets. But she had little babies
15 and it was too much for her.

16 Q. This is 1999 or so?

17 A. Like early 2000. First the name was
18 registered, I believe, it was the 6th of
19 December 1999. And we registered it in Australia.

20 So Baba Slings, the name came from -- it
21 wasn't just implying baba representing baby. It was
22 also implying that it's an endearing word the world

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1 over. In Russia it's like grandmother. In
2 different countries it's grandmother and in other
3 countries it's grandfather, and in India where I
4 have spent time in India, it implies teacher.

5 So baba, it's an endearing word and it's
6 also baba for baby, goo, goo, goo, the sound a baby
7 makes. So, yeah. We were hoping that we would be
8 able to reach out to many different cultures and use
9 a word that's endearing to different cultures. And
10 everyone has -- and the family can, you know, the
11 grandmother and the grandfather can carry the baby.

12 Q. So I'm sorry, what was the name again of
13 the acquaintance of yours at that point in time?

14 A. So she is my -- she is a dear friend.
15 Beata Witkowski. Beata, she's Polish.

16 Q. And so did she come up with the name or did
17 you?

18 A. Well, actually, I did because I spent time
19 in India and around the babas in India, which are
20 like spiritual teachers. And I received a lot of
21 guidance from these spiritual teachers. And my
22 baba, he actually came in my dream and pretty much

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1 started the business from that dream. That's how it
2 came about, yeah.

3 Q. So what other reasons did you use for
4 selecting the name Baba Slings?

5 A. Well, as I just said, you know, I spent
6 time in India and I received a lot of spiritual
7 guidance from the spiritual babas in India. And I
8 had had a dream and I was doing the meditation. So
9 it all just kind of came to me.

10 And then I was like, baba and babies, and
11 baba, like to me personally, the name, like baba
12 would come in my dream and it had personal meaning
13 as well as I felt like -- well, I researched the
14 name. When I was looking at all these different
15 cultures that had some connection to the name baba,
16 which is, like I said, in Russia, it's like
17 grandmother, and in India, baba means father or
18 spiritual teacher.

19 So it was kind of along those lines of
20 having the connection. And I just wanted to -- for
21 everyone in the world to be able to connect to that
22 name and think of it as a nice thing to carry a baby

M.A.R. REPORTING GROUP

1 in.

2 Q. Was there -- I'm sorry, go ahead.

3 A. No, no, that's okay.

4 Q. Was there a period of time in which you
5 were selling your baby slings in which -- under a
6 different name or otherwise not using the Baba
7 Slings name?

8 A. It's always been Baba Slings.

9 Q. And when did you first affix the name to
10 the product itself?

11 A. Well, we first registered the name Baba
12 Slings on the 6th of December 1999. I think it was
13 the 6th or the 12th. I'm pretty sure it was the 6th
14 of December 1999. That's when it was first
15 registered.

16 Q. First registered where?

17 A. In Australia.

18 Q. When was -- what was the first time that
19 the name Baba Slings actually physically appeared on
20 the product itself, like as part of the label on the
21 product?

22 A. As soon as we started selling it in 1999 it

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1 was -- yeah. So, yeah, we first had the product on
2 the shelves at Woodford Folk Festival in 1999.

3 THE REPORTER: I'm sorry, what festival?

4 BY MR. COLEMAN:

5 Q. Could you clarify which festival?

6 A. The first place that we sold a Baba Slings
7 we sold four Baba Slings at Woodford Folk Festival
8 in 1999. And then after that it was Emami markets.
9 So like it was right around that time that we were
10 doing -- we started Emami markets. So we started
11 off very humbly.

12 Q. And you are referring to locations in
13 Australia?

14 A. Sorry?

15 Q. You are referring to locations in
16 Australia?

17 A. Woodford Folk Festival is a massive music
18 festival here in Australia that attracts crowds of
19 thousands and thousands of people that come to that
20 festival. So we thought it would be a good place to
21 launch. But I think people partied quite hard,
22 because we only sold four. But anyway...

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1 Q. So fast forwarding the BabaSlings Limited,
2 there came a time that you entered into a written
3 agreement with Daniel Lucas and Heath O'Connor?

4 A. Yes, there was a time that I did that,
5 unfortunately.

6 Q. And --

7 A. Sorry. I just need to get water.

8 Q. Would you like to take a break?

9 A. I just need a glass of water. It's very
10 upsetting still to this day. It's been a lot of
11 stress for me over these years.

12 Q. If you need a break, just let me know.

13 A. Okay. Before we start with Daniel, maybe I
14 should just have a little break.

15 Q. That's fine.

16 A. Is that okay? And then I'll come back.

17 Q. That's fine. We'll go off the record.

18 (A recess was taken.)

19 BY MR. COLEMAN:

20 Q. All right. So I believe -- I think where
21 we left off you had indicated that you entered into
22 an agreement with Daniel Lucas and Heath O'Connor in

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1 2005?

2 A. Yes.

3 Q. Do you recall the terms of that agreement?

4 A. At that stage, I would have to, again, look
5 back through the records. We've got the contract
6 here, yeah, so I can't -- yeah, I mean I would have
7 to look through it.

8 Q. You have a copy of an agreement, a
9 shareholders' agreement dated July 6, 2005?

10 A. July 6, 2005, yeah, we've got a copy here
11 of the contract that was signed in 2005.

12 Q. All right.

13 A. But we would have to get it. I don't have
14 it right here at my fingertips.

15 Q. We can circle back to that. Is it your
16 understanding that that agreement was -- concerned
17 the formation of the applicant in this proceeding,
18 specifically BabaSlings Limited?

19 A. What was that?

20 Q. The agreement in 2005, was that concerning
21 the formation of BabaSlings Limited as the
22 shareholder agreement?

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1 A. Yes, it was. Yes.

2 Q. And do you recall what your role was or
3 position was in that agreement?

4 A. I was a shareholder and a director of the
5 company.

6 Q. So there were three original shareholders
7 and directors of the company, you, Mr. Lucas and
8 Mr. O'Connor; is that correct?

9 A. That's correct.

10 Q. Was Baba Slings PTY LTD, were they a party
11 to that agreement?

12 A. At that stage I believe I was a sole
13 trader.

14 Q. The sole, I'm sorry?

15 A. I believe I was the sole trader at that
16 stage.

17 Q. Could you clarify what you mean by sole
18 trader?

19 A. So I was a sole trader, I mean, do you have
20 that term in the States? Maybe --

21 Q. Perhaps you can explain what you mean.

22 A. Okay. So I was -- as an individual, I was

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1 trading. And my product, I had already trademarked
2 the name. I'm pretty sure I had trademarked the
3 name already in Australia and Japan. This is going
4 from memory. And so I hadn't set up a company at
5 that stage. I was a sole trader and a designer of
6 the product Baba Slings. So it means I was selling
7 my product as myself, Shanti Mcivor, and as a sole
8 trader, a solo trader.

9 Q. Okay. So at that point in time, that other
10 company, the Baba Slings PTY Limited, they weren't
11 involved in the trading?

12 A. Well, at that stage, BabaSlings Limited was
13 not a company. It was -- I formed that -- the Baba
14 Slings PTY Limited, like, after. So at that stage I
15 was a sole trader and I trademarked the name Baba
16 Slings and I owned the name.

17 Q. And do you recall if that shareholders'
18 agreement was ever -- if there were any subsequent
19 agreements that affected that shareholders'
20 agreement?

21 A. I'm sorry?

22 Q. Do you recall if there were any subsequent

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1 agreements that affected that original shareholder
2 agreement?

3 A. With Daniel and Lucas -- Daniel and Heath?

4 Q. Right.

5 A. So after, when everything went pear shaped,
6 there was another agreement which was probably even
7 worse to me to sign. So there was another agreement
8 that that was -- I think that was in 2006, perhaps.
9 2006.

10 Q. Have you reviewed any of these agreements
11 recently?

12 A. Not recently.

13 Q. What was -- what induced you ultimately to
14 enter into that original 2005 agreement with
15 Mr. Lucas and Mr. O'Connor?

16 A. Basically because we had already been to
17 India in 2004 and they pretty much had the product
18 already when I saw what they were trying to kind of
19 rope me into signing, and I was very uncomfortable
20 about it.

21 But basically I felt like even though I
22 wasn't under physical duress, I felt like I was

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1 under -- Heath was very threatening towards me and
2 very overbearing. And Daniel had said, We've
3 already got the product. You know, basically, like,
4 You are better off signing this agreement because at
5 least you'll be, you know, involved. But, you know,
6 because, you know, you haven't -- you are not
7 protected, so we could just take the product.

8 And I was so naive at the time I just
9 believed them and signed the agreement. But it
10 was -- you know, when I started working with them, I
11 was under -- I just thought that will be distributed
12 and like I was selling already in Japan. And I had,
13 you know, always maintained a really good working
14 relationship with the girl in Japan, which they were
15 prior to -- I had been selling in Japan prior to
16 even meeting Heath and Daniel.

17 But they are distributors and that's how I
18 wanted to work. I wanted them to just put in an
19 order, purchase the stuff from me and then, you
20 know, work like that. But once they pretty much --
21 sorry. I'm going off track now. So I mean...

22 Q. Just to clarify, you alluded to duress or

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1 pressure in connection with the agreement. Is it
2 your contention that the 2005 agreement with
3 Mr. O'Connor and Mr. Lucas is not a valid agreement?

4 A. Well, my name is on the paper, but I can
5 just remember being in tears. I was in the U.K., I
6 was by myself, and I really did feel like I was
7 cornered into signing that contract.

8 And, you know, Daniel said, Well, we've got
9 the product, you know, like -- and Heath was -- he
10 would actually reduce me to tears. He would take me
11 out from the trade show. We were five minutes late
12 anyway one day, and he took me aside and was
13 actually yelling at me. And I was really upset.

14 So, yeah, I believe that basically I felt
15 like if I didn't sign the contract, they would
16 just -- they had the product and they were just
17 going to run with it anyway. So at least if I had
18 my name on it, they couldn't just go off rogue and
19 take the product.

20 But I believe that, you know, I believe
21 that Daniel lied to me by saying to me that he was
22 going to trademark the name into my name, this brand

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1 into my name. And he said to me that I wouldn't be
2 able to do it because I wasn't a citizen of the
3 U.K., which I've since found out to be incorrect.

4 And he put the brand into his name. And
5 you know, they said that, well, they have got the
6 product. And they also put the patent into their
7 name, which they said they were going to -- you
8 know, they came and they got the patents off me.
9 They came and they filmed my sewers in Noosa here on
10 the Sunshine Coast in Australia. He came and filmed
11 my sewers making the product and took it to India
12 and showed the sewers there how to make it.

13 We did photo shoots and I showed them step
14 by step. I have still got the book of how to wear
15 the Baba Slings, how to put it on, how to take it
16 off, how to tweak the -- you know, everything. I
17 have still got to book here which I gave them and
18 then they made the instructions. It's like
19 everything has come from me, the design, the name,
20 everything.

21 And in fact, I mean, you can look back
22 through my bank balances, there has never been a

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1 payment to me. He's never paid me for the product
2 that he is selling. He's never paid any money for
3 it.

4 So he needs to actually right this. He
5 needs to make it right now. Enough is enough. I
6 have lost sleep. I have been so ill, you know, it's
7 taken me away from my kids. It's caused me so much
8 stress, this whole thing.

9 And the fact that he went -- I saw him in
10 2011, I mean, I'm really getting quite upset about
11 it all. I saw him in 2011 and he said -- at the
12 show in Kentucky and he's like, Yeah, we're going to
13 make a deal.

14 And I was like, Good, yeah, let's do that.
15 And then I was at the show with Premier Image from
16 Las Vegas, who were going to be my distributors, and
17 they have got an awesome warehouse there that I went
18 and checked out. They put in a good order.

19 And we did the show together and I bumped
20 into Daniel. I had no idea he was going to be
21 there. And he said to me, Okay, let's fix this.

22 Because he is a smooth talker, Daniel. He

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1 talks the smooth talk and it's very easy to get
2 duped by that. And that's what happened in the
3 beginning. You know, like he's very smooth.

4 And so I was doing the show with them and
5 he's like, Yeah, yeah, let's fix this up and we'll
6 make it all right.

7 I'm thinking I don't know how this is going
8 to be sorted out. And basically the next thing you
9 know, Premier Image, they were going to be my
10 distributors, have told me he's trying to trademark
11 the name in the States. And of course they pulled
12 back. They didn't want to be my distributor until
13 this was all sorted out.

14 I felt sick to the core that Daniel, one
15 moment he's telling me that he's going to -- he's
16 going to fix this up and then the next minute he's
17 gone behind my back and he's trying to trademark the
18 name in the States. He has never had my blessing to
19 do that. He's never had my blessing to move outside
20 of Europe. And in fact, I said that he still hasn't
21 paid for Europe.

22 So, you know, he's gone -- what he is

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1 doing, he's rogue. He's gone behind my back and
2 trying to branch out and he's getting greedy. It's
3 like, no, he can't do that. He can't do that.

4 So, yeah, that's -- anyway, sorry.
5 Obviously it's been very distressing, the whole
6 thing. And then the next year I saw him in 2012 at
7 the show, and I was so upset with him that the year
8 before I had seen him and he's like, Yeah, we'll fix
9 this up, and the next thing he's trying to trademark
10 the name in the States. And it was lucky that I had
11 had a few drinks, because -- sorry. Anyway, so
12 that's where it's at, at this stage.

13 Q. So just to back up for a moment, prior to
14 signing this agreement, and by this agreement, I
15 mean the one from the shareholders' agreement from
16 2005, did you -- so you traveled to the U.K. I
17 mean, how much time would you say that you spent
18 with Mr. O'Connor and Mr. Lucas leading up to this
19 agreement?

20 A. Well, actually, leading up to the
21 agreement, I pretty much -- I only just met Daniel
22 when I went there in -- when did I go there? It was

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1 either June or July. What was the date on the
2 contract? What date did he say it was on the
3 contract?

4 Q. July 6, 2005.

5 A. So I think the bombs went off -- sorry. I
6 remember things by strange dates. So I think that
7 was the 13th of July -- no, was it? Whenever the
8 London bombs went off. So, yeah, it was around that
9 time.

10 So it had only been, I think I was there
11 for a total -- how long was I there for at that
12 time? I think it was -- it might have been around a
13 month or something like that, that I was there. And
14 that was the first time I ever met Daniel. I had
15 spoken to him on the phone. But I had met Heath, I
16 think it was November 2004 in India. So, yeah.

17 Q. And so about how much time would you say
18 you spent just quantifying the hours or days prior
19 to entering into the agreement?

20 A. Well, it wasn't very long at all. I mean,
21 we had spoken on the phone, but in physical terms of
22 actually -- it was maybe a few weeks, I think. I'm

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1 just trying to remember how long. It was either two
2 weeks or a month. It was around -- it may have been
3 like two weeks before the contract was signed, but
4 that was with Daniel.

5 But I had met Heath for a few weeks --
6 maybe three weeks or two. About three weeks, three
7 or four weeks in India in 2004. I think it was
8 November. So it was around about, you know, maybe
9 four to five weeks with Heath and two to three weeks
10 with Daniel before the contract was signed.

11 Q. Just so I'm clear, sitting here today, do
12 you contend that that agreement is invalid by reason
13 of some sort of -- any sort of pressure you were
14 under?

15 A. Yeah, I feel like they completely put me
16 under pressure and I feel I was under duress. Not
17 in the physical sense like they beat me up or
18 anything like that. But I feel I was under -- I was
19 in a foreign country. I was traveling by myself and
20 I feel the two of them absolutely pushed me into a
21 corner and got me to sign that contract when my
22 business mentor had been saying, No, don't sign the

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1 contract.

2 And you know, everyone was saying, Don't
3 sign the contract. But then on the other hand,
4 Daniel was saying, Well, we've got the product. So
5 you know, you are probably better off signing the
6 contract because we've already got the name and the
7 product. So we can basically do whatever we like,
8 but we're doing the right thing by, you know,
9 including you in on this.

10 So far he has never done the right thing to
11 me as the designer of the product and the creator of
12 the product. So, yes, I believe that I was under
13 duress and I signed the contract under duress.

14 Q. But to be very specific, do you contend
15 that that's an invalid agreement now?

16 A. Yes. I mean, yeah, I think it's invalid.
17 Yes. And same with the next contract. I feel like
18 he's breached any agreement that we had. He hasn't
19 looked after me as the designer or as an entity.

20 Q. So the subsequent agreement that you made
21 reference to terminating your role with that
22 company, you believe that agreement is invalid as

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1 well?

2 A. Yes. Basically, I mean, it's all invalid.
3 Until -- Daniel needs to pay for -- he's had a good
4 reign with this business and he's made a lot of
5 money. He has not paid for the right to do that
6 yet.

7 Q. With regard to the 2005 agreement, do you
8 recall who drafted the agreement?

9 A. The 2005 agreement was drafted by -- I
10 believe it was -- I think it was drafted by them.
11 I'm sorry, I would have to check it, check the
12 records. But I think it was drafted by them.

13 Q. Do you recall if you played any role in the
14 drafting of that document?

15 A. I think it went backwards and forwards a
16 bit. And I mean, Tim, my lawyer, Tim, who is
17 sitting here, he said -- obviously, I wish I had him
18 by my side then. But --

19 MR. BORGHESE: Shanti, you don't have to
20 disclose any communications with your attorney. So
21 I would advise you not -- any discussions between
22 you and your attorney don't talk about. Any other

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1 discussions you can talk about.

2 THE WITNESS: Okay. Thank you. Anyway,
3 you know, signing the first agreement was bad
4 enough, but then signing the second agreement was
5 even worse.

6 BY MR. COLEMAN:

7 Q. Can you clarify if you did work with legal
8 counsel on the 2005 agreement subject to
9 Mr. Borghese's qualification?

10 In any of my questions, I don't want you to
11 disclose the substantive content of any
12 communications that you had with your attorney then
13 or now. But did you -- do you recall if you worked
14 with legal counsel in connection with the drafting
15 of the 2005 shareholder agreement?

16 A. Yeah, I -- yeah, actually, I think I did
17 have someone working with me at that time. And I
18 think his name was -- I can't remember. I think it
19 was Peter. But yeah, I -- it was so long ago now
20 that -- yeah. I think the money was the issue,
21 trying to afford legal representation at that time.
22 So I think it was not -- I didn't have, you know,

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1 full legal access, so to speak. So it was more, you
2 know, what I can afford. And then I would just take
3 little bits from here and there.

4 Q. Up until that point in time, up until that
5 July 6, 2005, agreement, can you quantify the extent
6 of sales, if any, of Baba Slings, of your Baba
7 Slings company to the United States?

8 A. So can I quantify it? I would have to look
9 back through my records.

10 Q. Do you have an approximation of the volume
11 or dollar amount?

12 A. I'm sorry, I don't. I would have to look
13 back through the records.

14 Q. But that would be reflected in the
15 documents that you produced in Exhibit Numbers 1
16 through 434?

17 A. Yes.

18 Q. Okay. After -- so to clarify, did anyone
19 physically force you to sign the July 6, 2005,
20 agreement?

21 A. Not physically. No, not physically.
22 Emotionally, yeah, I felt like I was really bullied,

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1 especially by Heath. And then Daniel was working on
2 this other level of, you know, we've got the
3 product. So, yeah, not physically, though.

4 Q. All right. So during the period of time
5 that you were a shareholder and director of
6 BabaSlings Limited, and again, are we talking
7 approximately the 2005 to 2007 time frame? Does
8 that sound accurate?

9 A. Well, it was until the second contract was
10 drafted, yeah.

11 Q. Okay. So were all sales of the baby sling
12 product done through -- executed through BabaSlings
13 Limited?

14 A. Not all sales, no.

15 Q. Who else sold the product?

16 A. So do you mean the product like of your
17 client?

18 Q. No, I just want to make sure I understand.
19 After the shareholders' agreement was signed, who
20 was selling the BabaSlings product? Was it just
21 BabaSlings Limited or were there other sellers as
22 well?

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1 A. Well, I mean, can we just -- maybe it will
2 be easier to say the U.K. sling. Maybe that will
3 help me to --

4 Q. Actually, that's a -- so is it your
5 understanding that the BabaSlings Limited was to
6 sell only in the U.K. or E.U.?

7 A. Yes.

8 Q. Can you specify where exactly?

9 A. Well, it was for the U.K. and Europe. And
10 then I'm trying to remember the actual contract. I
11 think -- yeah, my intention was that they could just
12 sell there.

13 Q. Well, I want to make sure -- I'm just
14 trying to get the best of your understanding right
15 now as to what your understanding of that agreement
16 was.

17 A. Yes. So it was -- for them to sell in
18 Europe, in the U.K. and Europe. And then basically
19 the second agreement was they were going to pay me
20 5,000 pounds if I didn't sell into that area. And
21 they said they were going to -- like, so this is it.

22 Verbally Heath said, Yeah, well, we're just

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1 going to keep the name Baba Slings for, like a
2 little bit of time, and then we'll give it back to
3 you and we're going to change the name. So -- I'm
4 sorry, I have gone off a little bit.

5 Q. Before we get to your withdrawal as a
6 director, during the period of time that you were a
7 director and shareholder of BabaSlings Limited, so
8 we're focused on that window of time, right?

9 A. Okay.

10 Q. Were you also selling through your other
11 company or was there any other -- did you have
12 another company that was selling? Was Baba Slings
13 PTY, LTD, were they in existence yet?

14 A. So, no, that wasn't in existence. As I
15 said, I was a sole trader and I had my website. So
16 that's why back at that time we had, like, the flags
17 on our website where people could click onto the
18 U.K. and that would go through to them. And then
19 the rest of the world could just stay on our website
20 and we would be distributing to the rest of the
21 world.

22 Q. Up until that point in time, were you

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1 operating under any company? I understand that Baba
2 Slings PTY LTD didn't exist yet. Was there any
3 other business entity that had been formed?

4 A. No, it was just me operating as a sole
5 trader and, you know, I was trademarking the name.
6 And there was also, like I was selling, obviously,
7 to Japan to distributors and, you know, those other
8 parties interested as well.

9 But since 1999 I have been selling as Baba
10 Slings. So that's what the front to the world has a
11 been, is Baba Slings.

12 Q. Just so we're clear for the record, when
13 you say since 1999 you have been selling as Baba
14 Slings, you mean selling it under the name Baba
15 Slings PTY LTD?

16 A. No. Just I have been selling Baba Slings
17 without the -- I hadn't formed a company. But I
18 have trademarked the brand.

19 Q. I'm sorry. Okay. I misunderstood.

20 A. Yeah.

21 Q. So during the period of time that you were
22 a shareholder and director of BabaSlings Limited,

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1 did you continue to sell Baba Slings products
2 outside that context? That is, to sell them
3 personally.

4 A. Sorry, can you please repeat that?

5 Q. During the period of time that you were a
6 shareholder and director of BabaSlings Limited, did
7 you continue to sell Baba Slings products yourself
8 outside the context of BabaSlings Limited?

9 A. Absolutely, yes.

10 Q. Where did you sell during that period of
11 time?

12 A. I sold everywhere in the world except to
13 the E.U., because that was their territory.

14 Q. And are you aware of any sales by
15 BabaSlings Limited while you were a shareholder or
16 director to anywhere other than the E.U.?

17 A. I'm not aware of any.

18 Q. Do you recall the extended territory under
19 the 2005 agreement, meaning the rest of the world
20 except for Australia and New Zealand? Does that
21 ring a bell?

22 A. No.

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1 Q. Okay. Do you have any reason to dispute
2 that BabaSlings Limited sold Baba Slings products to
3 the United States during the period in which you
4 were a shareholder and director?

5 A. Well, I wasn't made aware of any times that
6 they were selling outside of the E.U. So I mean, to
7 tell you the truth, the whole period of time from
8 when I signed the contract, it was so distressing
9 for me that I hadn't really gotten into the
10 nitty-gritty of what was going on business-wise. It
11 was more -- it just seemed to be fraught with
12 complications from the word go of signing that
13 contract.

14 Q. So is it fair to say that you weren't aware
15 of any sales to the United States, but that there
16 could have been sales to the United States? You
17 just weren't aware of them, again, by BabaSlings
18 Limited, while you were a shareholder and director?

19 A. Yeah, I was not aware of it.

20 Q. You indicated there came a time that you
21 withdrew from BabaSlings Limited?

22 MR. BORGHESE: Objection. Misstates

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1 testimony.

2 Go ahead and answer, Shanti.

3 THE WITNESS: Sorry, can you please repeat
4 the question?

5 BY MR. COLEMAN:

6 Q. Did there come a time that your
7 relationship with BabaSlings Limited came to an end?

8 A. Was there a time?

9 Q. Did that happen?

10 A. Yeah. Yes.

11 Q. And you made reference to an agreement
12 resulting from that?

13 A. Yes. Yes.

14 Q. Can you please explain what happened.

15 A. Well, basically, after we signed the
16 original contract and I had come back to Australia
17 and I think I had gone back again in November and
18 whenever it was, maybe it was October, actually, to
19 do a baby show there. We did a baby show in London.
20 And it was just -- it was so distressing. There
21 were so many nasty e-mails going backwards and
22 forwards. I mean, I don't know if they are even

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1 on -- anyway, there were so many nasty e-mails and
2 it was just very stressing the whole period of time.

3 And it was so upsetting to me that I
4 just -- I couldn't emotionally deal with it anymore
5 because it was so distressing for me. And so I feel
6 like I just had to get -- for my own sanity, I just
7 had to seek some kind of way out of the situation.

8 And so, you know, whatever that second
9 contract is, I mean, I haven't actually had to look
10 at it for a long time myself. So I can't even
11 really remember the specifics of what I signed
12 there. But, yeah, I don't know if I have answered
13 your question.

14 Q. Do you recall if you -- do you recall any
15 sales that you made to the United States from the
16 2005 to 2007 time period?

17 A. Yes, I was. Like from my own -- from my
18 Australian-based company, you mean, or business?

19 Q. Right.

20 A. Yeah.

21 Q. Was there ever a period of time in which
22 you did not sell to the United States?

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1 A. Only like before -- you know, like when I
2 was first starting out. But no, we've always
3 consistently sold to the States, like, since --
4 well, we've got records back to 2002. So it's just
5 always been consistently people have, yeah, been
6 buying from us.

7 Q. With regard to the termination of the
8 agreement with BabaSlings Limited, do you recall
9 that resulting in a written agreement as well?

10 A. Sorry, I missed the last part of that.

11 Q. With regard to the termination to your --
12 to the termination of your relationship with
13 BabaSlings Limited, do you recall that resulting in
14 a written agreement as well?

15 A. That was the one that was signed in 2006.
16 Yeah. I can recall, yeah, we made a written
17 agreement.

18 Q. And that was -- is that the agreement that
19 you can -- I believe you alluded to before that you
20 contended that there was some money owed to you
21 under that agreement?

22 A. Well, Daniel made a ridiculous amount that

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1 I was not to sell over, I think it was like -- I
2 don't know. It was like 24 units or something that
3 I was not -- anyway, I think we went over the amount
4 of things that we sold individually, and it wasn't
5 even by much.

6 Q. Let's actually break this down a little
7 bit. First, with regard to the July 2005 agreement,
8 is there any aspect in which you contend that
9 BabaSlings Limited did not -- did not honor its
10 obligations to you personally?

11 A. Well, I mean, I suppose -- well, in that
12 sense --

13 Q. Appreciating that this was a stressful
14 time, as you indicated before. But I mean, for the
15 agreement specifically, is there any aspect in which
16 you contend that BabaSlings Limited did not honor
17 its obligations to you under that agreement?

18 A. Well, I feel that the agreement itself
19 didn't honor me, actually. The agreement itself did
20 not honor me.

21 Q. Well, apart from the fact that you maintain
22 that the agreement itself did not honor you, is

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1 there any aspect in which you maintain that the
2 terms of the agreement were not followed?

3 A. Well, I'm not really sure. It's really
4 hard to answer this question really, because, as I
5 said, I just feel like the actual contract just had
6 me pinned basically.

7 And, you know, that's basically -- and I do
8 feel I signed that under duress. It wasn't
9 obviously physical duress. I feel I was definitely
10 in a distressed place and not in the right frame of
11 mind and I didn't have proper legal representation.

12 Q. Okay. With that qualification, do you have
13 any -- just the best of your recollection and
14 understanding here today, is there any aspect in
15 which you contend that agreement was not followed as
16 written?

17 A. I'm really not sure. Sorry.

18 Q. For the subsequent agreement in which
19 you -- in which you withdrew as a director, is there
20 any aspect of that agreement in which you contend
21 that the obligations to you were not honored?

22 A. Well, I feel -- I really feel like,

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1 basically I feel like they ganged up on me really.
2 I mean, once they got all of the name and all the
3 intellectual property and everything, the patent,
4 the trademark, everything, you know, once they got
5 it all, I feel like they being, you know, of one
6 mind and being the majority shareholder, they sent
7 me quite a nasty letter saying, you know, Either you
8 resign or we're going to remove you as a director.

9 I was completely shocked. I feel like in
10 that sense, yes, they did not honor me. I feel
11 like -- I feel like they were trying to cover
12 themselves. And Heath is like, You haven't been
13 doing your job. I mean, I had completely given them
14 everything. They would not have a product today if
15 it was not for me. They would not have a product.
16 So yeah, I feel like -- sorry, I go off on tangents.
17 But yeah, I feel like they kind of banded together
18 to remove me as a director. So that's why I
19 resigned.

20 Q. Okay. If I could distinguish for a moment
21 between honoring you as a person, as an individual,
22 and honoring the terms of that agreement in which

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1 you withdrew as a director, is there any aspect of
2 that agreement that you contend was not followed?

3 A. I mean, sorry, again, I believe the
4 agreement was -- it wasn't a savory agreement. You
5 know, I should never have signed that agreement to
6 start with. I mean, if I had been in my right mind
7 and if I had had proper legal counsel and if I
8 hadn't been alone in a foreign country and feeling
9 under duress, then I would never have signed that
10 agreement. So I'm sorry to not answer your
11 question, but I feel like the agreement in itself
12 was wrong.

13 Q. Okay. And I think I understand what you
14 are saying, but just so we can clarify, so apart
15 from the fact that you maintain, if I understand
16 correctly, that you disagree with the agreement
17 itself, is there any aspect of the agreement that
18 you contend was not followed, again, referring
19 specifically to the agreement in which you withdrew
20 as a director?

21 A. Well, I would have to think about it. I'm
22 not really sure what to tell you, to tell you the

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1 truth. It's a complicated situation.

2 I feel like they lied to me and I feel like
3 they breached their -- yeah, I do. I feel like they
4 breached -- even if it wasn't written in the actual
5 contract or what have you, I feel like they have
6 actually breached their agreement.

7 They said they were going to put the
8 patent, for example, into my name, which they
9 didn't. They said they were going to trademark the
10 name to my name, but they didn't. So I mean, yeah,
11 I feel like they have breached --

12 Q. I mean, for those two issues, are you aware
13 of any contractual agreement in which BabaSlings
14 Limited or Mr. Lucas or Mr. O'Connor agreed to put
15 patents or trademarks, to register them in your
16 name?

17 A. I'm sorry, but I would have to look at the
18 contract again, because it's not in my head. So I
19 can't really answer this question correctly for
20 sure.

21 Q. All right.

22 A. Sorry.

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1 Q. Would you like to take a brief break? I'm
2 happy to continue, but --

3 A. No, I'm all right. I'll just have a glass
4 of water.

5 Q. No problem. Take your time.

6 A. Yeah, I'm okay to continue.

7 Q. Was it your understanding that following
8 the -- following your withdrawal as a director under
9 that agreement, that -- well, let me first ask you,
10 what was your understanding of the general terms of
11 separation under that agreement? If I can just get
12 your overarching understanding.

13 A. Well, my understanding, and since some of
14 this is actually verbal agreements, which Daniel has
15 since denied, that my understanding was that they
16 were going to just pay me in Europe. So I don't
17 know what's actually written on the contract.

18 But this is what my understanding is. They
19 were going to be trading in Europe and that after a
20 certain period of time they would -- Heath said they
21 would use the name for a certain period of time and
22 then they would -- until they thought up another

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1 name, which I think is why you need to get things in
2 writing. I mean, this is what was verbally said.
3 And you know, that I was not to go -- I was not to
4 be selling over a certain quantity into Europe.
5 And, yeah, so that's kind of what -- the gist of
6 what I believed.

7 And as far as I'm concerned, they were
8 going to be trading in Europe and that was it.
9 That's what I have in my head, that they were just
10 going to be trading in Europe.

11 Q. After executing that agreement in which you
12 retired as a director of BabaSlings Limited, did you
13 continue to sell in Europe?

14 A. We sold a few items. Like, it wasn't a
15 large quantity. It was just off our website. We
16 didn't do any wholesale. It may have been our
17 wholesale plants in Europe. You know -- but, no, we
18 didn't sell large -- we sold a little bit over what
19 we were supposed to, and so they never paid the
20 5,000 pounds.

21 But the thing was, what actually was quite
22 upsetting, I think we put like 12,000 pounds or

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1 something each into starting the company there or
2 some quantity of money, and that was like a business
3 loan. So instead of them actually paying me back,
4 they said, Well, if you are not coming to Europe
5 over this time period, then we'll pay you back the
6 money.

7 But I have never seen any money. So I was
8 completely out of pocket. I lost my business name.
9 I lost my product. I suddenly have this ferocious
10 competitor on my hands. In every way they give me
11 ire on so many levels, you know.

12 Q. Did you work with legal counsel in
13 connection with that separation agreement from
14 Babaslings Limited in which you retired as a
15 director?

16 A. Well, I can remember seeing someone --
17 anyway -- really I put so much money into, you know,
18 going over and to meet them. I have been meeting
19 them in Europe and India and the 12,000 pounds or
20 however much it was. So I didn't really have much
21 money to just go blowing on -- I wish I had. But I
22 didn't have a whole bunch of money to get a whole

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1 bunch of legal advice.

2 So I didn't really. My answer to that
3 question is I didn't have full legal representation.
4 It was just a matter of, like, finances at that
5 time. I just didn't have the finances because I put
6 so much into setting things up in Europe.

7 Q. To clarify, when you say you did not have
8 full legal representation, did you have any legal
9 representation at all? Do you recall if you
10 consulted with counsel?

11 A. Yeah, I think I had a -- sorry.

12 Q. Go ahead. That was my question.

13 A. I had like one or two meetings with this
14 lawyer in Brisbane. And, you know, I'm quite upset
15 with him that he even let me sign that contract. I
16 shouldn't have signed the first one and then I
17 definitely shouldn't have signed the next contract.

18 So in both cases it was such a stressful
19 time that I feel that I was under duress and signed
20 both contracts, and it's been one mistake of the
21 business. You know, it's been the worse thing to
22 have ever done, to sign either contract.

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1 Q. With regard to that second contract, do you
2 recall if you participated in the drafting in any
3 way?

4 A. Sorry?

5 Q. With regard to that second contract in
6 which you withdrew or rather retired as a director,
7 do you recall if you participated in the drafting of
8 that agreement at all?

9 A. Yes. Well, yes, I did. Of to the patent
10 of the actual sling or the drafting of the contract?
11 I'm sorry.

12 Q. Sorry. With regard to the agreement that
13 you referred to before in which you withdrew as a
14 director from BabaSlings Limited.

15 A. Okay. Yeah, I think so. I can't really
16 remember. I can't really remember.

17 Q. Do you recall BabaSlings Limited, after you
18 withdrew as a director, contending that you had
19 breached the terms of that agreement?

20 A. Yes, they did.

21 Q. And that was referring, I think you alluded
22 to it before, with regard to selling more than the

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1 contractually permitted amount in the E.U.?

2 A. Like a few items more than what -- it was
3 some ridiculous amount, though, that he said I was
4 not -- I mean, for him to have the right to sell
5 into Europe, though, he should have been paying me
6 money. That's actually the bottom line.

7 I have never seen any money for it. So for
8 him to say that I have breached the contract by
9 selling, like, 30 slings over a two-year period into
10 Europe rather than 24, it was such a minute -- you
11 know, it was really neither here nor there. It
12 wasn't like I was selling hundreds of thousands of
13 slings in Europe. I'm talking we went over by maybe
14 ten slings in a two-year period.

15 So that's how I breached that agreement.
16 So then he never paid me the money that was due to
17 me and he never paid me the money that I put into
18 the company as a loan. So, yeah, that's how I
19 breached the agreement, and I never got money.

20 But I mean, it's so ridiculous,
21 5,000 pounds? That is like nothing for full trading
22 rights to the E.U. He should have been paying me

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1 more like a million dollars. I don't know, but it
2 would have been like a lot of money. Not
3 5,000 pounds. So, yeah.

4 Q. Do you recall if during that first two
5 years after that agreement as to whether you had
6 distributors in the E.U.?

7 A. I didn't. I have given them all to Daniel.
8 And I wasn't -- no, I wasn't selling on a wholesale
9 level. It was like the odd sling that people would
10 buy off the website to Europe.

11 Q. Do you recall reaching an agreement with
12 what I'll call the remainder of BabaSlings Limited,
13 that is Mr. Lucas and Mr. O'Connor, that -- as to
14 how each of you would display the BabaSlings mark,
15 the BabaSlings brand?

16 A. You mean like the logo?

17 Q. That's right.

18 A. Yeah, that was always a point of
19 contention. It was basically that I had like the
20 original logo was the mother with the baby in a
21 sling and, you know, it's all kind of mushy and,
22 like, warm.

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1 And then they wanted to -- yeah, so I never
2 liked the brand that they had, which was the moon,
3 which you would know with the baby all by itself in
4 the sling. I never liked it. I liked having
5 something, you know, the parent.

6 Q. I guess let's break it out. Was it your
7 understanding that BabaSlings Limited would, after
8 your withdrawal as a director, was it your
9 understanding that BabaSlings Limited would continue
10 to use BabaSlings except that they could not have a
11 space between the words "baba" and "slings"? Do you
12 recall that?

13 A. I can remember -- like, I can remember, as
14 I said, that Heath said they were going to use it
15 like maybe in the context and the way that you are
16 saying, that they would use it without a space or
17 what have you. But it was only going to be for a
18 period of time.

19 And you know, that's not written in the
20 contract. So this is, lesson number three or
21 whatever. I have had a few good life lessons in
22 this process to get things down on paper. Because

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1 that's what he verbally said, that they were going
2 to change the name after a certain period of time.

3 So, yeah, but obviously it's not working.
4 I mean, here we are. It's still going on. We can't
5 have two names, like, that are basically -- it's the
6 same name. We can't do it. They need to change the
7 name or pay for it or do something.

8 And to be going to the States, it's just a
9 big no-no. And we've had prior use. We have been
10 selling there since 2002. That's two years before
11 Daniel and Heath even saw a Baba Sling. So we've
12 got prior use to the territory and we've already
13 tried to trademark the name. And it's only that
14 there was -- that they've got the baby sling
15 trademark, which was registered back in the '80s, I
16 think.

17 And they said that the one -- they are
18 saying that the trademark was too descriptive of the
19 product. But it's not descriptive of the product.
20 It's an actual baby sling. It's, like, very
21 descriptive. So that got through. Anyway, sorry
22 I'm going off on a tangent again.

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1 MR. BORGHESE: Shanti, this is Mark
2 Borghese again. If you could just listen to the
3 question and answer it, I think we'll be able to get
4 through this just a little bit quicker.

5 THE WITNESS: Okay. Sorry.

6 BY MR. COLEMAN:

7 Q. Do you recall whether you continued to use
8 the quarter moon logo after withdrawing as a
9 director from BabaSlings Limited?

10 A. Yeah, I used it for a little while and then
11 we changed it to our current logo. I think it
12 was -- I think it was like 2000 -- well, it was
13 around about the time that the second contract was
14 signed. So it was around about that time. This is
15 just from memory. But, yeah, sorry, but I couldn't
16 stand that logo. So I wanted to move away from it
17 as soon as possible. So, yeah.

18 Q. I think you may have alluded to this
19 previously, but do you recall filing U.S. trademark
20 applications in 2009 for Baba Slings?

21 A. Yes.

22 Q. And do you recall abandoning those

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1 trademark applications?

2 A. No, we didn't abandon them. No, we never
3 abandoned them. As I said, it had been -- they
4 refused it because they said that it was too
5 generic, that it was actually descriptive of what
6 the product was. But it's not descriptive because
7 it's Baba Slings. It's a brand name of a baby sling
8 product.

9 And it was -- they said it was some -- the
10 baby sling, like from William Sears. Somehow that
11 was totally -- I mean, I suppose back in the '80s or
12 whenever it was trademarked, it was quite like maybe
13 people just had never heard of baby slings before.

14 But somehow that got through because baby
15 slings is actually what the product is. So I don't
16 know how that trademark got in, actually, but it
17 did. So that was the issue at hand. I never
18 abandoned it, yeah.

19 Q. But ultimately there was two trademark
20 applications which you filed in 2009, which ended up
21 not pursuing after that original determination by
22 the U.S. Patent and Trademark Office?

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1 A. Well, I think -- I can't remember the full
2 details of what happened, but I just know that
3 that's been -- that it was too generic. But I don't
4 know how -- yeah, a brand of baby slings, Baba
5 Slings.

6 Q. When is the last time that you sold a
7 product or you sold one of the baby slings in the
8 United States under the Baba Slings name?

9 A. Probably about two days ago or a day ago.
10 A day ago or something. I have been sending lots of
11 slings there, yeah.

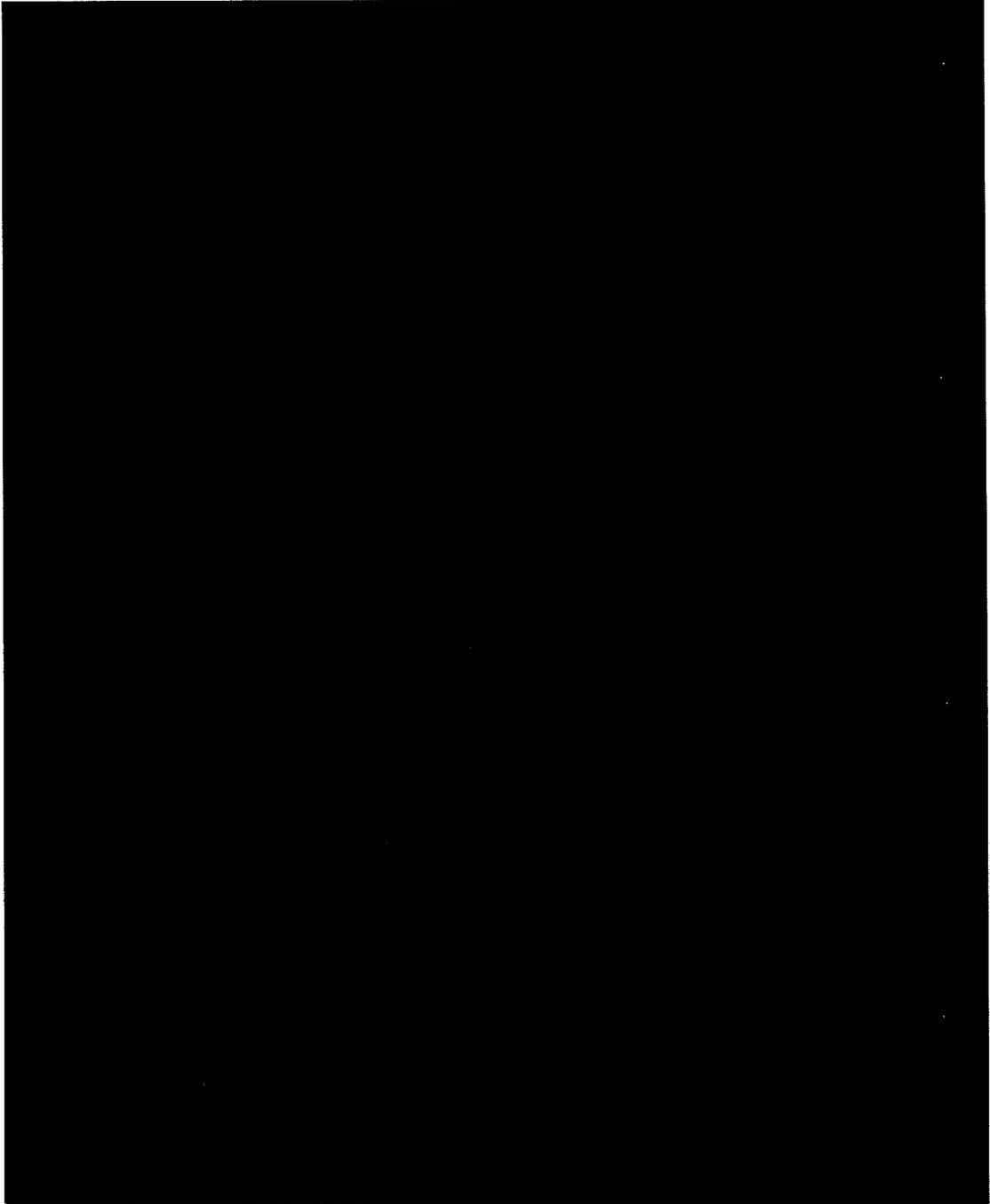
12 Q. And I don't want to repeat all the ground
13 that we covered before, but if I recall correctly,
14 you indicated that you don't have any current
15 distributors. So are these Internet sales?

16 A. Mostly Internet sales. At the moment, we
17 have someone who is waiting to jump right on it as
18 soon as this is all cleared up. He wants to be our
19 distributor. So we're already in the process of
20 drafting contracts and getting ready as soon as this
21 is finished, he wants to jump right on it. So,
22 yeah, we're just waiting to clear this out of the

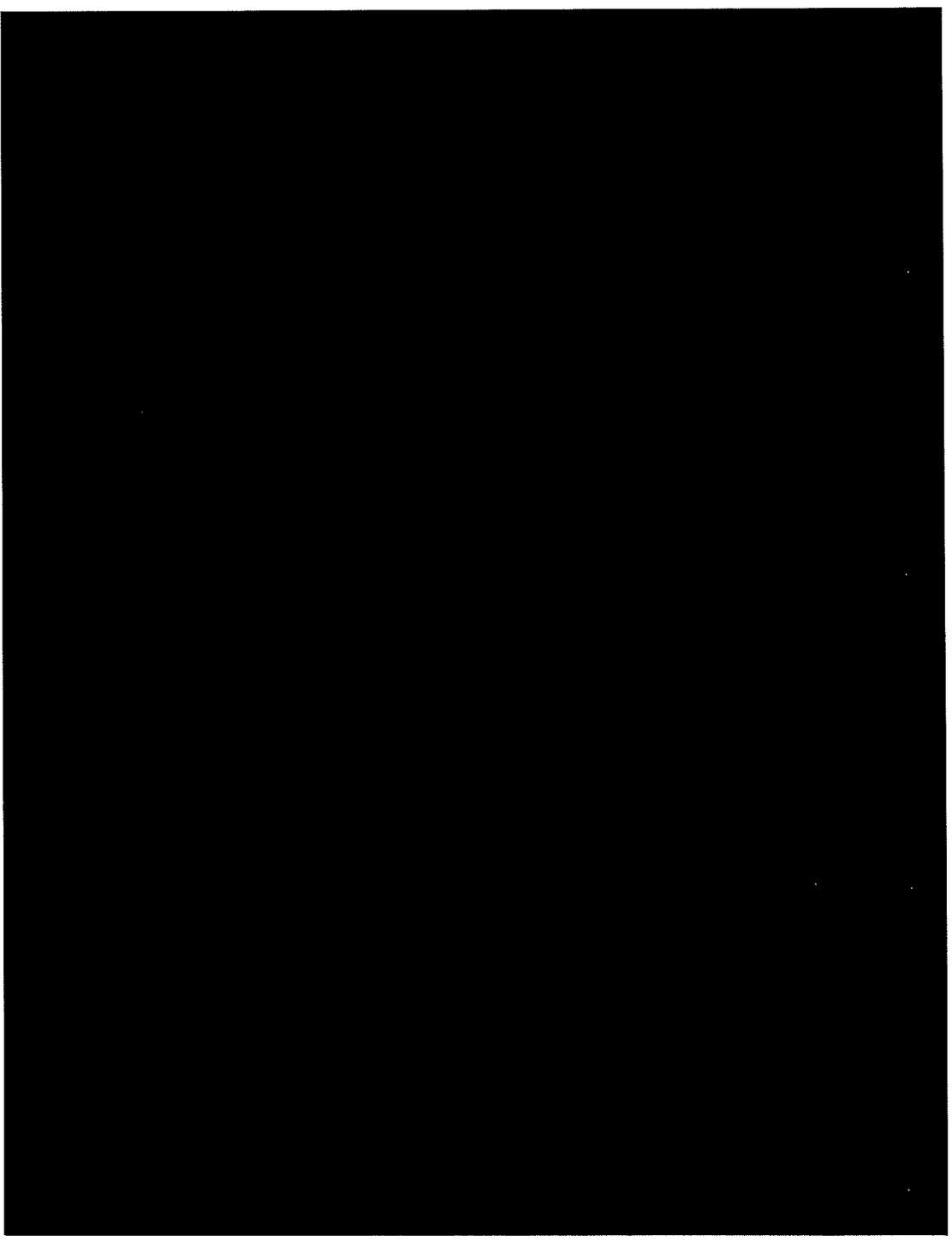
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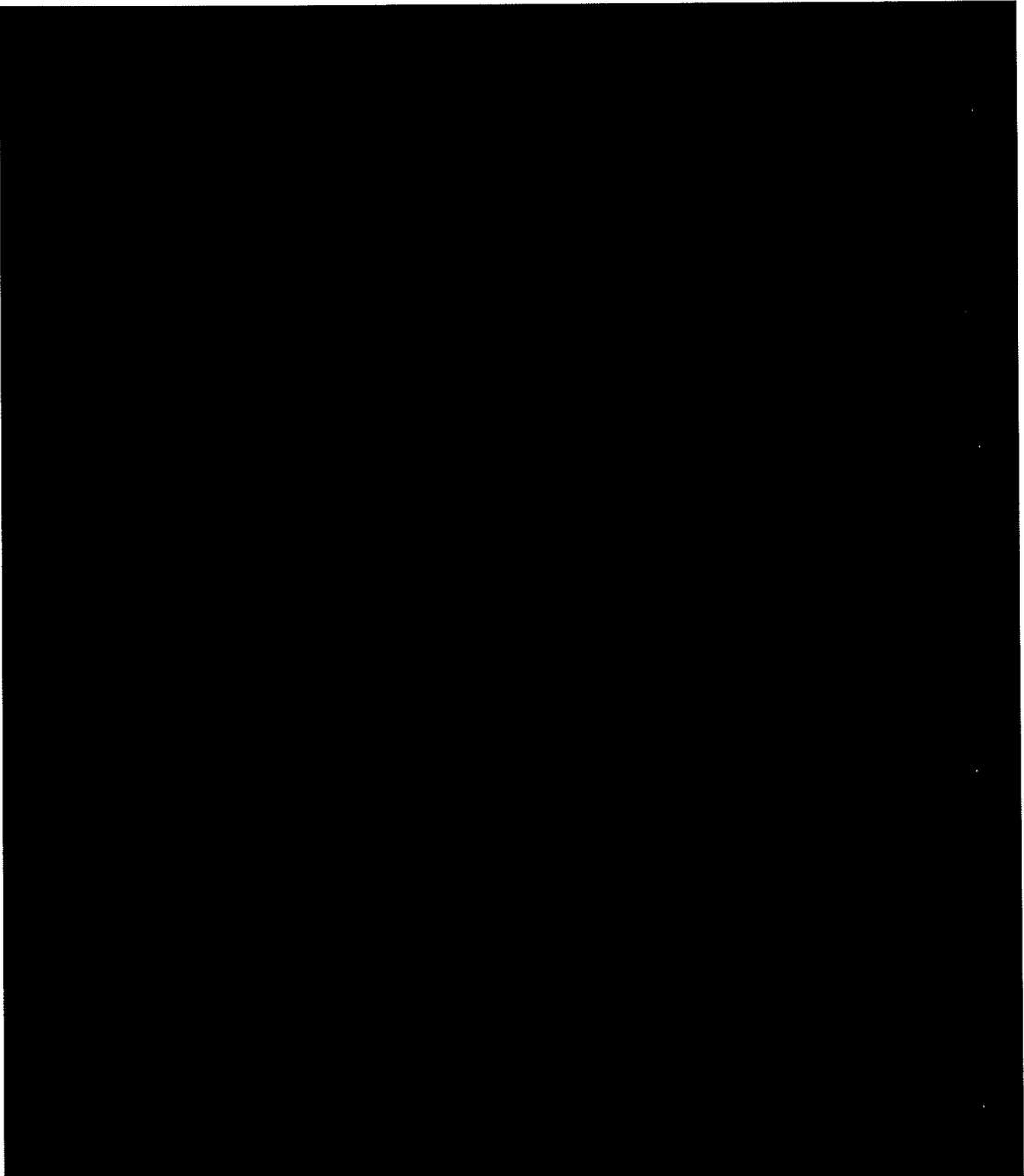


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Q. Okay. Do you currently sell in the E.U.?

A. Yes.

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1 Q. Do you have active distributors in the
2 E.U.?

3 A. At this stage we don't.

4 Q. Is Baba Slings planning to attend the ABC
5 trade show in Las Vegas this month?

6 A. I would dearly love to be there.
7 Unfortunately, I can't attend, though.

8 Q. Will there be anyone on behalf of the
9 company attending?

10 A. Well, at this stage, I mean, there is
11 somebody who is interested in Baba Slings who will
12 be there, but he's not a distributor at this stage.
13 So, yeah, he's -- yeah.

14 Q. And who is that?

15 A. So this is confidential. I don't want --

16 MR. BORGHESE: Can I just clarify, Brian,
17 are you asking about people from her company? Who
18 are you asking about?

19 MR. COLEMAN: I was asking if there's
20 anyone on behalf of Baba Slings who would be present
21 at the ABC trade show.

22 THE WITNESS: So at this stage the answer

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1 is no.

2 BY MR. COLEMAN:

3 Q. But you made reference to a distributor?

4 A. He is not -- see, that's it. He's not a
5 distributor as of yet but he is interested in being
6 one.

7 Q. So this was referring to a potential
8 distributor who will be at the trade show but does
9 not currently represent Baba Slings? Do I have that
10 accurate?

11 A. Yes.

12 Q. We're talking over each other a little bit.
13 So let me back up and just ask it again. So you
14 referred to a potential distributor. Is this a
15 potential distributor who will be at the ABC trade
16 show but who is not your distributor yet?

17 A. Yes, that's correct.

18 Q. Will your son be at the ABC trade show?

19 A. No.

20 Q. May I suggest that we take a brief break.
21 We have been going a little while and it will give
22 me a chance to sort of organize my notes. And let

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1 me just pause here. What time is it there on your
2 end?

3 A. I think it's quarter to 11:00.

4 Q. Quarter to 11:00? Okay. I have quarter to
5 9:00 here. Why don't we take a break. I'll circle
6 back and I'll be able to give you -- hopefully give
7 everybody a sense as to how much more material I
8 anticipate that we'll have to go through. I don't
9 expect it will be that much but it will give me a
10 moment to go through my notes and we'll go from
11 there.

12 A. Thank you.

13 (A recess was taken.)

14 BY MR. COLEMAN:

15 Q. All right. We talked a little bit about
16 advertising and promotion. Is there any other
17 advertising or promotion that you are currently
18 doing specific to the United States that you haven't
19 already -- that you haven't already identified in
20 this deposition?

21 A. Well, at the moment we are really kind of
22 waiting for this all to kind of blow over and get

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1 the trademark and get, you know, our distributor in
2 place and then we're really going to hit it. So at
3 this stage, I think we pretty much covered most of
4 the advertising that we're doing. Yeah, we're
5 really wanting to just get a distributor in place
6 and get the trademark.

7 Q. We discussed -- you alluded to before your
8 understanding or belief that there had been -- that
9 there had been confusion in the marketplace as
10 between the Baba Slings mark or brand that you use
11 and the logo that's used by BabaSlings Limited.

12 And according to my notes, you had
13 mentioned one instance with an e-mail that had
14 recently been received from a customer or a
15 potential customer, and also I believe you alluded
16 to some communications with a prospective
17 distributor.

18 Let me pause there. Am I recapitulating
19 that accurately?

20 A. Yeah. I mean, she was more like a
21 wholesaler, like she was buying to sell it at the
22 shop. So she wasn't a distributor as in bent on

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1 selling wholesale, but a retailer, yeah.

2 Q. Who was that?

3 A. Elephant Ears in Michigan.

4 Q. That's right. You did mention that before.

5 Are there any other instances of what you believed
6 was consumer confusion specific to the U.S.
7 marketplace?

8 A. There's been so many situations. Like
9 there's been so many e-mails that people have
10 written to us over the years.

11 Q. But sitting here today, are there any that
12 you can identify specifically, that you can identify
13 with particularity apart from those first two?

14 A. I mean, that's just off the top of my head.

15 Q. Just the best of your recollection.

16 A. I'm sorry, I can't remember -- I think I'm
17 starting to wilt a bit, actually. I haven't had
18 breakfast yet. So but I can't really remember. But
19 there's been so many cases of people e-mailing or
20 people confused and -- okay.

21 Another one on YouTube where this woman who
22 met us at the 2011 baby show and she lives in New

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1 York and she is African-American and, you know, she
2 is going around and reviewing products, she saw our
3 product, did a little rave about us, and I actually
4 gave her a sample sling.

5 I saw her a year or two later in India.
6 And she's like, Oh, I'm in India; I'm picking up my
7 adopted baby and I have got a Baba Sling on and,
8 look, here is Baba Slings here.

9 And then she showed the shelves. It was in
10 India though. And it was actually Daniel's place.
11 It was not our Baba Slings. And she's actually put
12 that on YouTube.

13 So that's another instance, and she's from
14 New York. That's quite confusing. She loves our
15 Baba Slings, but then she had seen their one even
16 though it was in India.

17 Q. So this was an instance in India?

18 A. Yeah, like, so we first met her at the
19 Kentucky trade show in 2011 and she filmed us and
20 she put it up on YouTube. And then, yeah, so that
21 was just another. There's been so many times that
22 it's happened.

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1 Q. But are there any -- appreciating that you
2 may not be able to remember everything, are there
3 any others instances that you can recall sitting
4 here today?

5 A. I mean, there's been so many. Yeah, a
6 potential distributor, I mean, this is, you know, in
7 Taiwan, a potential distributor there and he's said
8 there's this other company and they are selling them
9 for U.S. such and such amount and what can you tell
10 me -- because they are interested in distributing in
11 Taiwan.

12 And every single person that has been a
13 potential distributor in some country, they have
14 done their market research and they find Daniel.
15 It's happened so many times. There was another one
16 just the other day. There's so many of it.

17 Q. That last instance was in Taiwan?

18 A. Yeah, that he was like -- he was, you know,
19 obviously doing a Google search and he saw them in
20 U.S. dollars and he must have seen the company
21 that's selling them. And is it Dubie (phonetic) --
22 anyway. I don't know who they are. Yeah.

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1 Q. Are there -- anything else specific to the
2 U.S. that you can recall sitting here today?

3 A. Yes. Like my distributors in Vegas who
4 were awesome and they were going to distribute from
5 us and for us and went to the show, and then Daniel
6 suddenly trademarking the name. So of course they
7 pulled out. So, yeah, that was another one which
8 has been really annoying.

9 Q. Who was that?

10 A. Premier Image in Las Vegas. They put a
11 really good order in years ago.

12 Q. I just want to make sure I heard it. Is it
13 Premier -- forgive my different accent.

14 A. Premier Image and -- in Las Vegas. Yeah,
15 they were going to --

16 Q. Now --

17 A. And then suddenly Daniel trademarking the
18 name in the States. So of course they pulled out.

19 Q. So just to be clear, was that an instance
20 where they were confused between the two of you or
21 is that an instance where there is a -- where they
22 were -- or was there something else at play in that

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1 instance?

2 A. They were confused, absolutely. They were
3 like, Well, we can't proceed with being your
4 distributor until, you know, this is all sorted out.

5 So it's very confusing to everyone that we
6 ever come into contact with. Even like the carrier
7 person who now wants to distribute and he's not
8 moving ahead until the trademark is sorted out. So,
9 yeah, there's been lots of times.

10 Q. And when one refers to confusion,
11 there's -- that's a word which can have many
12 meanings. Just to be clear as to the specific sort
13 of instance that I'm referring to and referring
14 specifically to Premier Image, was there ever an
15 occasion, anything that they said which led you to
16 believe that they believed that your products were
17 sponsored by BabaSlings Limited or, alternatively,
18 that BabaSlings Limited products were sponsored by
19 your company or affiliated with your company?

20 A. Well, I suppose as a distributor, I mean,
21 obviously I have had to explain the situation to
22 them that, yeah, initially they were very confused

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1 about what's going on. Nobody knows. When there
2 are two products that are identical of the same name
3 but yet one is made in Bali and one is made in
4 India, that's a whole bunch of confusion there for
5 everyone. The actual end retail customer and the
6 wholesaler and it's even confusing to me. Like what
7 do I tell people? Sorry, they ripped me off.

8 But, yeah, that's pretty much they copied
9 Baba Slings. You know, what do you say to people?
10 It's very confusing. Still confusing. Until it's
11 sorted out, it's still going to create so much
12 confusion in the marketplace.

13 Q. For what reason did you -- we spoke before
14 about the agreement following your withdrawal as a
15 director from BabaSlings Limited in which there was
16 an agreement that your display of Baba Slings would
17 have a space between the "baba" and "slings."
18 Whereas, BabaSlings Limited would not have a space
19 between "baba" and "slings."

20 For what reason did you agree to that at
21 that time?

22 MR. BORGHESE: I'm just going to object. I

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1 think that misstates the prior testimony.

2 But go ahead and answer, Shanti.

3 BY MR. COLEMAN:

4 Q. In your answer, if you could indicate your
5 best recollection of what that agreement was.

6 A. So I think my brain is drying up. Can you
7 just please say that again?

8 Q. Sure. It's my fault. I made it
9 unnecessarily long.

10 Do you recall an agreement with BabaSlings
11 Limited at the time of your withdrawal in which it
12 was agreed that they would display their version of
13 BabaSlings without a space and you would display
14 your version of Baba Slings with a space between the
15 "baba" and "slings" components?

16 A. Yes. And what I can remember adding on to
17 that was they were only going to use it for a little
18 bit of time after -- until they worked out another
19 name that they were going to re-brand with.

20 So, yeah, I wasn't even happy with that.
21 It's not enough, and I said that to them. It's too
22 similar. So, yeah.

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1 Q. Is it your contention that there was a
2 separate oral agreement that it would -- that this
3 would be a time-limited agreement?

4 A. Yeah, that's what I believed. Well, that's
5 what they told me. That's what they told me, that
6 it was going to be for a certain amount of time.
7 So, yeah.

8 Q. But you don't recall that provision being
9 in the agreement that you signed?

10 A. Yeah, for some reason I don't think it was
11 in there. I can't recall it. Yeah, I can't recall.
12 But that's what was orally said.

13 Q. When was the company Baba Slings PTY LTD,
14 do you recall what year that was formed?

15 A. I can't really recall it.

16 Q. That's okay. I'm just asking for your best
17 recollection.

18 A. Yeah, maybe -- I can't really remember.
19 I'm sorry.

20 Q. That's all right.

21 MR. COLEMAN: I don't believe I have
22 anything further. Mark, did you have any questions

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1 you wanted to ask?

2 MR. BORGHESE: No, I don't have any
3 questions.

4 MR. COLEMAN: I'm all finished. Mark, did
5 you want to read and sign?

6 MR. BORGHESE: Yeah, that's fine. Just
7 send it to me and I'll get it to her and have her
8 sign it. I assume like a facsimile signature.

9 MR. COLEMAN: Yeah, that will be fine.

10 (Reading and signature not waived.)

11 (Whereupon, the proceedings at 9:15 p.m.,
12 Eastern Standard Time, were concluded.)

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1 DISTRICT OF COLUMBIA, to wit:

2 I, Deborah Wehr, before whom the foregoing
3 deposition was taken, do hereby certify that the
4 within-named witness personally appeared before me
5 at the time and place herein set out, and after
6 having been duly sworn by me, according to law, was
7 examined by counsel.

8 I further certify that the examination was
9 recorded stenographically by me and this transcript
10 is a true record of the proceedings.

11 I further certify that I am not of counsel
12 to any party, nor an employee of counsel, nor
13 related to any party, nor in any way interested in
14 the outcome of this action.

15 As witness my hand and notarial seal this
16 24th day of October, 2013.

17

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Deborah Wehr

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Deborah Wehr

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Notary Public

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MY COMMISSION EXPIRES: 2/14/16

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

SHANTI MCIVOR

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this _____ day of _____, 2013, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

M.A.R. REPORTING GROUP

1 WITNESS: SHANTI MCIVOR

2 DATE: THURSDAY, OCTOBER 10, 2013

3 CASE: BABA SLINGS PTY LTD v. BABASLINGS LIMITED

4

5 Please note any errors and the corrections thereof
 6 on this errata sheet. Do not write on the
 7 transcript. The Rules require a reason for any
 8 change or correction. It may be general, such as
 9 "To correct stenographic error," or "To clarify the
 10 record," or "To conform with the facts."

11 PAGE LINE CORRECTION REASON FOR CHANGE

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me.

Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.



SHANTI MCIVOR

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this 20th day of February, 2014, and executed the above certificate in my presence.

NOTARY PUBLIC IN AND FOR

MY COMMISSION EXPIRES:

M.A.R. REPORTING GROUP

1 WITNESS: SHANTI MCIVOR

2 DATE: THURSDAY, OCTOBER 10, 2013

3 CASE: BABA SLINGS PTY LTD v. BABASLINGS LIMITED

4

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11 PAGE LINE CORRECTION REASON FOR CHANGE

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13 **Please see attached.**

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page 63, line 12 ~~Bratton~~ **Brighton**
page 65 line 14 in my **name**
page 65 line 5 ~~he's~~ **Heath has**
page 65 line 10 everywhere without **having the rights to**
page 65 line 14 in my **name**
page 66 line 20 if he ~~wants to~~ gets the Trademark in the U.S
page 68 line 2 he has no **right**
page 68 line 4 **as** the Owner of the Trademarks in many countries
page 68 line 8 he has **NOT** got my Blessing to move
page 69 line 20 the name came from **many countries**
page 70 line 1 in Russia it's ~~like~~ Grandmother
page 70 line 6 baba for baby, ~~goo, goo, goo,~~ ba, ba, ba,
page 70 line 10 everyone ~~has~~ **and in** the family
page 71 line 8 ~~the~~ **Vipassana** Meditation"
page 73 line 8 ~~Emami~~ Eumundi Markets
page 73 line 10 ~~Emami~~ Eumundi Markets
page 79 line 1 under **Emotional duress**
page 79 line 6 you haven't **got a Patent**
page 79 line 10 ~~was under~~—I just thought that will be distributed understood that they would be
distributers
page 79 line 14 **girls** in Japan
page 79 line 19 purchase the ~~stuff~~ **Stock**
page 81 line 7 going to **put into my name**
page 81 line 16 how to tweak the **Design**
page 82 line 9 he went **behind my back**
page 83 line 15 going to **right it**
page 88 line 3 Daniel needs to Pay for **what he has Taken**
page 98 line 6 I had to get **out**
page 105 line 16 pay me ~~in~~ for Europe
page 118 line 10 at ~~Mohali~~ Bali