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

Proceeding	91226465
Party	Defendant Burma Super Star, Inc.
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1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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4 CARL'S JR. RESTAURANTS LLC,

5 Opposer,

6 vs.

Opposition No.  
91226465

7 BURMA SUPER STAR, INC.,

8 Applicant.

9 \_\_\_\_\_/

10

11

12

TESTIMONY OF: DESMOND TAN

13

REPRESENTING: BURMA SUPER STAR, INC.

14

TAKEN ON: FRIDAY, SEPTEMBER 7, 2018

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\*\*\*CONFIDENTIAL\*\*\*

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REPORTED BY: HOLLY THUMAN, CSR No. 6834, RMR, CRR

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(LA-191244)

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2 Testimony of DESMOND TAN, taken by the Opposer, at  
3 KNOBBE MARTENS OLSON & BEAR LLP, 333 Bush Street, 21st  
4 Floor, San Francisco, California 94104, commencing at  
5 9:04 A.M., on FRIDAY, SEPTEMBER 7, 2018, before me,  
6 HOLLY THUMAN, CSR, RMR, CRR.

7 --o0o--

8 APPEARANCES

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21 ALSO PRESENT:

22 NGHIA TRAN  
23  
24  
25

1 SAN FRANCISCO, CALIFORNIA; FRIDAY, SEPTEMBER 7, 2018

2 9:04 A.M.

3 --o0o--

4 DESMOND TAN,

5

6 called as a witness, who, having been first duly sworn,  
7 was examined and testified as follows:

8 ---o0o---

9 CROSS-EXAMINATION BY MR. FRIEDLAND

10 BY MR. FRIEDLAND:

11 Q. All right. Thank you again for showing up  
12 early. That's terrific, so we can start on time.

13 Could you please state your name for the  
14 record?

15 A. Desmond Tan.

16 Q. Okay. And are you currently employed?

17 A. Yes.

18 Q. Who's your employer?

19 A. Burma Inc.

20 Q. Burma Inc.?

21 A. Right.

22 Q. Have you ever been deposed before?

23 A. Yes.

24 Q. How many times?

25 A. Twice.

1 Q. In what types of cases?

2 A. Handicap, and the tooth chip, I guess what you  
3 call it. Someone sued us for -- I would -- I wouldn't  
4 know how to describe it. They sued us for fractured  
5 tooth or teeth.

6 Q. Okay.

7 A. So ...

8 Q. And then another one was they sued for  
9 alleging not sufficient handicap access to the  
10 restaurant?

11 A. Correct.

12 Q. Have you ever testified at trial before?

13 A. No.

14 Q. Have you ever been convicted of a felony?

15 A. No.

16 Q. Are you comfortable that you understand the  
17 ground rules of how you'll be deposed today? Asking  
18 questions, giving answers under oath, all those things?

19 A. Yes.

20 Q. So you don't have any questions about the  
21 process?

22 A. No.

23 Q. Is there any reason why you're not able to  
24 given your best testimony today? For example,  
25 medication, terrible night's sleep, anything else that

1 would cause you to have difficulty understanding  
2 questions or recalling answers?

3 A. I didn't get enough sleep, but I should be  
4 okay.

5 Q. Okay. But you don't think it's going to  
6 interfere with your ability to --

7 A. We'll see.

8 Q. Okay. If at some point during the deposition  
9 today you feel like -- you feel hazy and you're having  
10 difficulties concentrating and you need to take a  
11 break, just let us know.

12 A. Okay.

13 Q. Okay? How many Burma Superstar restaurants  
14 are there?

15 A. Three.

16 Q. Three? And where are they located?

17 A. San Francisco, Alameda, Oakland.

18 Q. So they're all in the Bay Area?

19 A. Yes.

20 Q. Are there -- there aren't any other locations?

21 A. No.

22 Q. Okay. Are there any -- are there any related  
23 restaurants that don't operate under the Burma  
24 Superstar name?

25 MR. MAUCH: You mean, Mike, restaurants owned



1 by Mr. Tan or one of his entities?

2 BY MR. FRIEDLAND:

3 Q. Yes.

4 A. Yes.

5 Q. What restaurants are those?

6 A. Burma Love.

7 Q. Okay.

8 A. Well, we're opening a Burma Club. I'm not  
9 sure if that constitute one of the restaurant we're  
10 opening.

11 Q. So that restaurant is going to be named Burma  
12 Club?

13 A. Correct.

14 Q. So Burma Love, where is that located?

15 A. Valencia Street.

16 Q. And that's here in San Francisco?

17 A. Correct.

18 Q. If that chair is bothering you --

19 A. It wakes me up, so it's fine.

20 Q. If it's bugging you -- honestly, this is --  
21 this is the third chair I tried before I tried --

22 (Discussion off the record.)

23 BY MR. FRIEDLAND:

24 Q. So Burma Love is here in San Francisco, you  
25 said?

1 A. Correct.

2 Q. And then Burma Club is going to be opening at  
3 some point in the future?

4 A. In 2 months.

5 Q. In 2 months. That's in San Francisco also?

6 A. Yes.

7 Q. Okay. Is there a restaurant called B Star?

8 A. Yes.

9 Q. Is that restaurant owned by you?

10 A. My wife -- my ex-wife and I owned  
11 Burma Superstar restaurants in Alameda, Oakland,  
12 San Francisco; B Star; and Eats.

13 So we went through an asset separation, came  
14 to a settlement in 2017. March. and she has possession  
15 of B Star, Eats, and Burma Superstar San Francisco,  
16 along with -- you know, and I took the Burma Superstar  
17 Alameda, Oakland, and rights to the trademark  
18 Burma Superstar.

19 Q. So the Burma -- so the Burma Superstar  
20 restaurant that's currently operating in San Francisco,  
21 that's not owned by you. Is that correct?

22 A. Right.

23 Q. That's owned by your ex-wife?

24 A. Correct.

25 Q. There's an entity called East-West Holdings.

1 Is that correct?

2 A. Correct. That's one that I established.

3 Q. East-West Holding? Is that a corporation or  
4 an LLC or some other --

5 A. Corporation.

6 Q. Who owns East-West Holdings?

7 A. I did. Currently Joycelyn Lee, my ex-wife.

8 Q. So she's the owner of East-West Holdings right  
9 now?

10 A. Yes.

11 Q. Would that be effective -- would that be  
12 effective March of 2017?

13 A. Correct.

14 Q. Is that pursuant to the separation of assets  
15 agreement?

16 A. Correct.

17 Q. Okay. Did you found the Burma Superstar  
18 restaurant, or was it existing when you became  
19 involved?

20 A. Mr. Taik Wu founded the -- his family founded  
21 the restaurant in 1992. I purchased it in 2001.

22 Q. When you say you purchased it in 2001, did you  
23 purchase it personally, or did you purchase it through  
24 a corporation?

25 A. Under East-West Holdings.

1 Q. At the time were you the sole owner of  
2 East-West Holdings?

3 A. Not on paper, but I assigned my office manager  
4 to be a -- to own -- it was an S corp, so I was at --  
5 so -- it's an S corp.

6 Q. Okay.

7 A. Can an individual own an S corp, a  
8 corporation?

9 Q. So I'm not a corporate lawyer. I think an  
10 individual or a group of individuals can be  
11 shareholders in an S corporation.

12 A. Then I am assuming they have the title, right,  
13 in the corporation?

14 Q. There would usually be officers --

15 A. Okay.

16 Q. -- directors --

17 A. Say I was the owner, right, but not on paper.

18 Q. Okay. So who -- who was --

19 A. Director was Carl Velasco.

20 Q. That was your office manager?

21 A. Correct.

22 Q. So was he the sole shareholder then?

23 A. Correct.

24 Q. Why was he -- why was he listed as the -- as  
25 the sole shareholder if you were the owner?

1           A. I was in dispute with the Internal Revenue  
2 Service, and I didn't want this business to be mingled  
3 with the pending situation that I was having with the  
4 IRS.

5           Q. Okay. And that's long since resolved now?

6           A. Yeah.

7           Q. Okay. So East-West Holdings, then, bought the  
8 Burma Superstar restaurant from Taik Wu, you said, in  
9 2001?

10          A. 2001.

11          Q. Okay. Were there any -- was the purchase of  
12 that restaurant -- was it documented, was there is  
13 agreement, a written agreement?

14          A. So long ago. I -- I am sure we went -- we  
15 must have gone through some sort of, you know, escrow.  
16 Yeah, it -- you -- I mean, we went through whatever  
17 process that you had to go through to purchase a  
18 restaurant.

19          Q. Do you have any -- do you recall signing any  
20 agreement, written agreements?

21          A. I am certain.

22          Q. Okay.

23          A. I think. You know, I -- I don't recall,  
24 actually. I don't recall on that one. It's so long  
25 ago.

1 Q. Do you think you have any of those documents  
2 still?

3 A. I can try to look for it.

4 Q. Okay. You just don't know one way or the  
5 other?

6 A. So long ago. And we've moved offices a couple  
7 of times since then. Paperwork could have been lost.

8 Q. But you haven't looked for it recently?

9 A. There was no need to.

10 Q. Okay. Do you recall if there was any  
11 assignment of the Burma Superstar trademark from  
12 Taik Wu to East-West Holdings?

13 A. I think through -- through the transaction --  
14 I am assuming that's automatic -- when we purchased the  
15 superstar, Burma Superstar restaurant.

16 Q. Do you remember if there were any specific  
17 provisions in any agreement assigning the trademark?

18 A. So the way the -- when you purchase something,  
19 just like a house, a commercial building, a business,  
20 you go through an escrow. I am certain I went through  
21 an escrow, but I don't know where the paperwork is at.

22 So through an escrow, I am assuming there is  
23 an assignment.

24 MR. MAUCH: Let's not make any assumptions,  
25 Desmond. Testify to what you actually recall.

1 THE WITNESS: I don't recall.

2 MR. MAUCH: Okay.

3 BY MR. FRIEDLAND:

4 Q. You just don't remember one way or the other?

5 A. I don't recall.

6 Q. Okay. And you don't remember -- you don't  
7 remember if there were any documents setting forth  
8 terms of an assignment from Mr. Wu to East-West  
9 regarding the trademark?

10 A. I don't recall.

11 Q. You said that currently East-West Holdings,  
12 that's 100 percent owned by Ms. Lee. Is that  
13 Joycelyn's last name?

14 A. Currently?

15 Q. Is that correct?

16 A. East-West Holding? I'm sorry. Can you repeat  
17 the question?

18 Q. Yes. I think you testified, but I might have  
19 that wrong.

20 So Joycelyn Lee is the current owner of  
21 East-West Holdings. Is that correct?

22 A. Yes.

23 Q. Does she own 100 percent of that company?

24 A. I don't know.

25 Q. Okay. Do you have any --

1 A. Actually, yes. She owns hundred percent.

2 Q. Okay. Do you have any ongoing business  
3 relationships with Ms. Lee?

4 A. We support the restaurant through HR services.  
5 We helped source products, the -- we helped them source  
6 products. The best products for the best price. We  
7 provide them the right to sell beer that's exclusive to  
8 us called Burma Ale. I continue to send my staff to  
9 the restaurant for quality control checks.

10 It's important that Burma Superstar Clement  
11 continues to be successful so that our overall business  
12 is successful.

13 Q. So you said that -- just make sure that I got  
14 this right.

15 You said you provide HR services. You mean  
16 like --

17 A. Consulting, on need-to basis.

18 Q. And by HR, you mean human resources?

19 A. Correct.

20 Q. So what do you mean by consulting?

21 A. Employee handbook, hiring/firing policies.  
22 I -- you know, forms. The documentation forms. I  
23 think Nghia, my HR manager, would be better good to  
24 answer that.

25 Q. And then you said that you assist in sourcing



1 products.

2 A. Correct.

3 Q. Is there any particular -- is there an  
4 agreement that you have that governs your --

5 A. No.

6 Q. Nothing in writing?

7 A. Nothing in writing.

8 Q. Okay. An oral agreement or a handshake or  
9 anything like that?

10 A. Oral.

11 Q. What's the oral agreement?

12 A. That we'll continue to give them the  
13 Burma Ale, which cannot be purchased anywhere else  
14 unless through us, and -- and the -- the fermented tea  
15 leaf that we're still discussing about providing to  
16 them that cannot be purchased from anywhere except  
17 through us.

18 Those are two key products that are important  
19 to our restaurants.

20 Q. So when you refer to sourcing of products, you  
21 meant those two products: the beer and the fermented  
22 tea leaves?

23 A. For now.

24 Q. When you say "for now," that's what you --  
25 those are the two products that you provide?

1 A. Correct.

2 Q. Okay. In the past, were there different  
3 products? Is that what you mean?

4 A. In the future there will be more products.

5 Q. Oh, in the future there will be more. Okay.  
6 But that's being negotiated now?

7 A. We will continue to have new products. We're  
8 experimenting with them.

9 Q. What types of new products?

10 A. Tea-related. Fermented tea-related. Strictly  
11 Burmese food products-related.

12 Q. So other than what you just outlined -- HR  
13 services, the sourcing of products, sending staff for  
14 quality control -- are there any other types of  
15 business relationships that you have with Ms. Lee?

16 A. I sent my staff to go eat at the restaurant to  
17 make sure that the tastes are in line with my  
18 expectations with regards to all Burmese food.

19 Q. Okay. And any other business relationships?  
20 Any other contracts or agreements other than what  
21 you've described?

22 A. Yeah. In 2000, March 2017, we came to a  
23 settlement with -- along with the asset separation.  
24 One of the agreement was that we will license a  
25 Burma Superstar trademark for her to use in

1 San Francisco.

2 Q. Okay. Other than that, anything else?

3 A. I can't think of it right now, but I will  
4 bring it up if I remember.

5 Q. Prior to -- you said that -- so Ms. Lee is  
6 currently the owner of East-West Holdings, that  
7 corporation.

8 Prior to her obtaining ownership, were you the  
9 hundred percent owner, or did you own it jointly with  
10 her, or what was the ownership history?

11 A. I was the hundred percent owner.

12 Q. You said that on paper Mr --

13 A. Carl Velasco.

14 Q. -- Velasco, okay, had been on paper the owner.

15 When did he stop being on paper the owner? Or  
16 did he ever?

17 A. I don't recall. That was when he relocated to  
18 the Philippines. I can't recall the year. It could  
19 be -- I don't recall.

20 Q. Could have been 10 years ago?

21 A. Approximately.

22 Q. Did you have -- is there any documentation  
23 that reflects him transferring ownership to you?

24 A. I don't recall. To Joycelyn; not to me.

25 Q. Okay. So he would have transferred to

1 Joycelyn in 2017?

2 A. Not 2017. Earlier. But I don't recall the  
3 year.

4 Q. When did she become the owner?

5 A. I don't recall that year.

6 Q. Okay. But before --

7 A. But probably in the late 2000s. Again, I  
8 don't recall the exact year. Could be 2007, -8, -9.  
9 I'm not sure. But it's not 2017.

10 Q. Why was it transferred from -- why was  
11 East-West Holdings transferred to Joycelyn in the late  
12 2000s?

13 A. Carl Velasco was moving to Philippines for  
14 family reasons, and Joycelyn and I was romantically  
15 involved, and she was instrumental in -- in creating  
16 Burma Superstar and bringing Burma Superstar to where  
17 it's at, and she wanted to be more involved. And so I  
18 just put her name on the -- I terminated Carl Velasco's  
19 name because he was relocating and put her name  
20 instead.

21 Q. So -- and at that -- when you say "put her  
22 name," so that made her the sole owner of  
23 East-West Holdings?

24 A. On paper.

25 Q. Okay. And when you say on paper she was the

1 owner, what did that mean?

2 A. I am assuming when you say "owner" -- again,  
3 it's an S corp. I think she -- she has shareholders, I  
4 am assuming. She was the director, yes. The sole  
5 director.

6 Q. So she was the director. Okay. Who was the  
7 shareholder?

8 A. She was.

9 Q. She was the shareholder too. Okay.

10 And are you implying that in that time period,  
11 you were the actual owner still, or --

12 A. Correct.

13 Q. When it was -- when paper ownership was  
14 transferred from Mr. Velasco to Ms. Lee in 2009, why  
15 didn't you just -- why didn't you -- why didn't you  
16 list yourself as owner in 2009? Was it still the IRS  
17 issue or something else?

18 A. It was resolved. I wasn't thinking much. I  
19 was more interested in business development, and it  
20 didn't matter. But we were going to get married, so it  
21 was just a -- I would just -- it was just maybe one of  
22 the things that I should have done but I didn't put my  
23 name.

24 Q. Okay. Was Ms. Lee involved at all in the  
25 purchase of the restaurant from Mr. Wu?

1 A. Sorry. I --

2 Q. Sorry about that.

3 A. I heard it. No, she was not.

4 Q. So you bought it yourself, and then Ms. Lee  
5 came into the picture later?

6 A. Correct.

7 Q. How long did you have the restaurant before  
8 Ms. Lee got involved?

9 A. She was working there as a part-time, and  
10 always from the start.

11 Q. Oh, okay.

12 A. She was working. She was working as a  
13 part-time.

14 Q. When you first bought in 2001?

15 A. Right.

16 Q. When did she come to have a role in the  
17 management of the restaurant, or the development of the  
18 restaurant?

19 A. She was always involved. But as a full-time,  
20 about maybe 2 years later.

21 Q. Like 2003?

22 A. Approximately.

23 Q. At some point did she come to have an  
24 ownership interest in the restaurant?

25 I'm sorry. I know now she owns the restaurant

1 full out. But prior to her becoming the official owner  
2 of the restaurant in 2017, did she have any other  
3 ownership interest in the restaurant prior to that?

4 A. We discussed about it orally. But not on  
5 paper.

6 Q. So what did you discuss orally?

7 A. Talked about her being a part owner, profit  
8 sharing.

9 Q. When was that?

10 A. Pretty -- maybe not long after 2003, the  
11 assumed -- the approximate date.

12 Q. So starting in 2003, you considered her to be  
13 a part owner of the restaurant?

14 A. Right.

15 Q. What -- how much?

16 A. I don't recall.

17 Q. Was the idea it was like a 50/50 deal, or  
18 something different than that?

19 A. Maybe a little bit less.

20 Q. Okay. Like 40/60 a little bit less?

21 A. With Joycelyn, I'm not sure. But -- I don't  
22 recall. We had an oral conversation. We had a  
23 conversation, talked about profit-sharing partners,  
24 partnership. But as you can see, I guess those oral  
25 agreements that I have with people are pretty much

1 binding.

2 She get a hundred percent of it. So --

3 Q. I saw that.

4 Were there ever any other co-owners or  
5 partners in the restaurant, or just you and Ms. Lee?

6 A. Correct.

7 Q. Was -- throughout that period, did  
8 East-West Holdings -- was the Burma Superstar  
9 restaurant -- was that owned by East-West Holdings?

10 A. Sorry. One more time.

11 Q. What was East-West Holdings' relationship with  
12 the restaurant? Was it ever the owner of the  
13 restaurant?

14 A. East-West Holdings, correct, bought  
15 Burma Superstar restaurant.

16 Q. And then on paper, East-West Holdings  
17 continued to own the restaurant?

18 A. Burma Superstar.

19 Q. They did, okay.

20 A. Burma Superstar.

21 Q. And then you and Ms. Lee owned  
22 East-West Holdings, which owned the restaurant.

23 A. Correct.

24 Q. Okay.

25 A. But -- you know what? Let me take that back.



1           You asked me -- we had an oral agreement, oral  
2 discussion, but there was never an agreement. The  
3 ownership came about officially when we got married.

4           Q. When was that?

5           A. 2011.

6           Q. Okay.

7           A. No, sorry. Two thousand -- pretty -- we were  
8 together for a long time, and the -- when did we get  
9 married? Shame on me. That's why we got a divorce.  
10 I -- you know what? I will give you the date later. I  
11 don't have the date. I don't even have the year. I  
12 just know that it's January 18th as the -- those are  
13 the dates I need to remember.

14           But we were together for so many years that  
15 the year -- yeah. I don't -- you could write down  
16 January 18th. But I don't recall the year.

17           Q. Okay. Some -- it was in the 2000 -- before  
18 2010, probably?

19           A. Of course, yeah.

20           Q. Okay.

21           A. Probably -- probably, yeah. Yeah.

22           Q. So you think that prior to January 18th --

23           A. Okay. So my daughter was born in 2012.  
24 November 6, 2012. We were married 7 years. So you  
25 could -- 2012, you know, minus 7, two thousand, you

1 know, whatever --

2 Q. 2005?

3 A. Yeah.

4 Q. Okay. So prior to January 18th, 2005, you  
5 think she didn't have an ownership in either  
6 East-West Holdings or in the Burma Superstar  
7 restaurant?

8 A. We had a discussion, and I don't come -- I  
9 don't talk about these conversations lightly. And we  
10 kind of had an oral agreement understanding, and she  
11 understood that if we discuss about it, you know, it's  
12 binding.

13 Q. Okay. And then as of January 18, 2005, when  
14 you got married, then it became official?

15 A. Correct. Under the California law. You know,  
16 I don't know what the laws are.

17 Do you know what the laws are? If you get  
18 married, you get half?

19 Q. I don't have expertise in that type of law --

20 A. I don't either. But whatever the marriage law  
21 is. I don't know.

22 MR. MAUCH: But remember, Desmond, he's not  
23 asking about marriage laws.

24 THE WITNESS: I understand.

25 MR. MAUCH: He's asking about your

1 understanding of the ownership. I don't want you to  
2 conflate the two.

3 THE WITNESS: Right.

4 BY MR. FRIEDLAND:

5 Q. Okay. So just to make the record clear, then,  
6 sometime prior to 2005, you have an oral conversation  
7 with Ms. Lee about the ownership?

8 A. Yes.

9 Q. And in that conversation, it was discussed  
10 that she would have an interest in either  
11 East-West Holdings or the restaurant that would be  
12 some -- around 50 percent, but something less than,  
13 that probably?

14 A. Yes.

15 Q. Okay. And that was never -- and that  
16 agreement was never documented; it was never written  
17 down.

18 A. Yes. Yes, sir.

19 Q. So I happen to be looking at an article, and I  
20 can go ahead and mark it so it won't be a secret what  
21 I'm looking at.

22 (Deposition Exhibit 100 was marked for  
23 identification.)

24 THE WITNESS: Can I take a break?

25 MR. FRIEDLAND: Yeah, absolutely.

1 (Recess from 9:35 A.M. to 9:40 A.M.)

2 BY MR. FRIEDLAND:

3 Q. So I've handed you a document that we've  
4 marked as Exhibit 100. So I've handed you an exhibit  
5 that we've marked as Exhibit 100. And I'd like you to  
6 turn your attention to page -- let's see. The lower  
7 right-hand corner, it has page number that says 5/13.

8 Are you on that page?

9 A. Right.

10 Q. And a little bit down on the page, just below  
11 the photograph, it says that Burma Superstar's current  
12 owners are Joycelyn Lee and Desmond -- I can't  
13 pronounce that name. I'm sorry?

14 A. Htunlin?

15 Q. Htunlin? And so I wanted to ask you, is this  
16 Desmond Htunlin -- is that you?

17 A. Yes.

18 Q. But -- remember I told you there was a Rangoon  
19 Ruby -- no, Rangoon Superstar that opened, and the  
20 owner's name just happened to be Htunlin?

21 MR. MAUCH: So explain to him, why doesn't it  
22 say "Tan"?

23 THE WITNESS: Well, the media writes whatever  
24 they write without correct information. I don't know.  
25 So -- but that's -- I never used that name, Htunlin.

1 BY MR. FRIEDLAND:

2 Q. Oh, that's what I was going to ask. Was that  
3 a name that you sometimes use or --

4 A. No. Somehow it came up. But that's my middle  
5 name.

6 Q. Oh, your middle name --

7 MR. MAUCH: Explain to him -- you have a  
8 connection to that name which he doesn't understand.  
9 Could you explain that, Desmond?

10 THE WITNESS: Oh, you're talking about --  
11 okay.

12 MR. MAUCH: He doesn't understand that Htunlin  
13 is your Burmese --

14 THE WITNESS: Htunlin is my Burmese name. Tan  
15 is my last name. So Burmese name or middle name.

16 BY MR. FRIEDLAND:

17 Q. Oh, okay. So Desmond is your American name.

18 A. Correct.

19 Q. Okay. And the San Francisco Chronicle just  
20 got it wrong in calling you Desmond Htunlin instead of  
21 Desmond Tan?

22 A. I think the media -- they get a lot of things  
23 wrong.

24 Q. I've heard that.

25 A. Yeah.

1 Q. Okay. I mostly just wanted to show you that  
2 article just to see if that Desmond Htunlin was you or  
3 someone else.

4 A. There's a restaurant called Rangoon Superstar,  
5 and the owner's name is Htunlin. They tried to always  
6 confuse the public about the affiliation with  
7 Burma Superstar and our similar name. You should go  
8 after them.

9 Q. Are they using the name "Superstar" also?

10 A. Rangoon Superstar.

11 Q. Okay. Rangoon Superstar?

12 A. I'm giving you a lead.

13 Q. Okay. I'm writing it down.

14 A. Oh, there's a taco truck that we --  
15 (Reporter requested clarification.)

16 MR. MAUCH: She's going to write down  
17 everything you say.

18 THE WITNESS: I apologize.

19 MR. MAUCH: She has to.

20 MR. FRIEDLAND: We'll make this 101.

21 (Deposition Exhibit 101 was marked for  
22 identification.)

23 BY MR. FRIEDLAND:

24 Q. So I've just handed you a document that we've  
25 marked as Exhibit 101. I don't know if you've seen

1 this before, but it's a -- a web article that appears  
2 to have been in a publication called The Bold Italic.

3 Have you ever seen this before?

4 A. No.

5 Q. So it's a -- you'll see it's an article that  
6 on the second page refers to the Burma Superstar  
7 restaurant.

8 Does it look like we're on the same page?

9 A. Yes.

10 Q. So starting on the first full paragraph on  
11 that second page, which is marked page 2 of 4, it says,  
12 "Burma Superstar's first owner, Taik Wu, and his family  
13 had dreamed of creating a successful and popular  
14 Burmese restaurant."

15 Do you see that?

16 A. Uh-huh.

17 Q. Okay. And the second sentence there, it says  
18 that -- again, they call you Desmond Htunlin. But  
19 that's you, Desmond Tan?

20 A. Nobody ever interviewed me for the article.

21 Q. Okay. So I was going to ask you if some of  
22 the statements in the article -- if you understand them  
23 to be accurate. If you don't, that's fine.

24 It said that you and your wife, Joycelyn,  
25 purchased the restaurant in '99. Is that correct or

1 not correct?

2 A. Not correct.

3 Q. Okay. You testified previously you purchased  
4 it in 2001 --

5 A. Correct.

6 Q. -- and not with Ms. Lee?

7 A. Right.

8 MR. FRIEDLAND: Okay. This will be 102, then.  
9 (Deposition Exhibit 102 was marked for  
10 identification.)

11 BY MR. FRIEDLAND:

12 Q. So I just handed you a document that we've  
13 marked as Exhibit 102. It appears also to be a web  
14 page from some publication, "7x7." I don't know if  
15 you've ever seen this before.

16 A. I -- I don't recall. But there are a lot of  
17 articles about Burma Superstar.

18 Q. Yeah. I understand.

19 A. I don't necessarily pay attention to the  
20 articles.

21 Q. So this one looks -- appears to have been  
22 published on May 2nd of 2017, based on -- based on the  
23 article itself. If you look down on the first -- or  
24 the second paragraph of the article, on the page that's  
25 numbered 1 of 6, that refers to you by name, and by



1 your correct name. It says Desmond Tan.

2 The second line, it says -- well, reading that  
3 first sentence, it says, "These exotic entrees were  
4 made popular by Desmond Tan, whose Burma Superstar  
5 earned a cultish following after he and his partner  
6 Joycelyn Lee took over the business in 2000."

7 So again, that statement is incorrect?

8 A. Are you -- can you -- which specific one is  
9 not correct? Are you referring to the date?

10 Q. Yeah. So are the dates correct?

11 A. It says 2000, but we took over in 2001.

12 Q. Okay. And then is it correct that you and  
13 Ms. Lee took over the business in 2001?

14 A. Not correct.

15 Q. Okay. On the -- looking at page -- starting  
16 at page 2 of this web page, it looks like there's -- it  
17 looks like it's an interview of you?

18 A. Which page? I'm sorry.

19 Q. Page 2, so the second page of Exhibit 102.

20 A. Okay.

21 Q. But there's text in bold followed by a  
22 paragraph in regular typeface.

23 Do you see that?

24 A. Okay.

25 Q. So it says, "7x7: In the intro to your

1     cookbook, you talk a little bit about growing up in  
2     Burma. What was childhood like there?"

3             Do you see that?

4             A. Yeah.

5             Q. And then in regular text it says "Desmond  
6     Tan," and then there's a sentence that follows, or a  
7     paragraph that follows.

8             Do you see that?

9             A. Right.

10            Q. Is this a transcript of an interview that you  
11     had with the publication?

12            MR. MAUCH: Wait for the question.

13            THE WITNESS: So one more time?

14     BY MR. FRIEDLAND:

15            Q. So I was asking, is this an actual interview  
16     that you gave to this publication, 7x7?

17            A. They twisted the words.

18            Q. So did they interview you?

19            A. They interviewed me, but those are not the  
20     things that I said.

21            Q. Okay. So let's look at page 3. So next page  
22     in. And you'll see the second question in, it says,  
23     "Eating at Burma Superstar can be an educational  
24     experience. You're kind of an ambassador for Burmese  
25     culture."

1 Do you see that?

2 A. Yes.

3 Q. And then afterwards, it says, "When we started  
4 the restaurant, literally no one knew Burma -- they'd  
5 ask where it was."

6 Do you see that?

7 A. Yes.

8 Q. Do you recall saying that?

9 A. When -- from my experience, they asked a good  
10 question; you give an answer. And when you read it on  
11 publications, there are a lot of addendums,  
12 modifications, subtractions. I see some that I  
13 recognize, some that I don't.

14 Q. So this particular answer, do you recognize  
15 that?

16 You say, "When we" -- or it says, "When we  
17 started the restaurant, literally no one knew Burma --  
18 they'd ask where it was." Are those your words?

19 A. When we say "we," that means the whole  
20 restaurant: All the staff, the cook, the waiter,  
21 everybody.

22 MR. MAUCH: That's not his question, Desmond.  
23 The question is, did you say those exact words? Do you  
24 recall saying those exact words?

25 THE WITNESS: You know, there was an

1 interview. I don't recall. Like I said, there were  
2 modifications, subtractions, additions. Some I  
3 recognize; some I don't.

4 BY MR. FRIEDLAND:

5 Q. What I'd like you to do is just -- could you  
6 read through the paragraph, the paragraph that starts  
7 with the phrase, "When we started the restaurant"?

8 A. You want me to read it?

9 Q. You don't need to read it out loud. You can  
10 read it silently if you like.

11 A. Okay. (Examining document.)

12 I recognize those.

13 Q. Okay. And the statements that are set forth  
14 in that paragraph, those are accurate?

15 A. I'm not sure verbatim.

16 Q. But do you agree with the -- but do you agree  
17 with the statements?

18 A. Sure.

19 Q. Okay. And so just -- the paragraph, just so  
20 the record is clear we're referring to, it says (as  
21 read):

22 When we started the restaurants, literally  
23 no one knew Burma -- they'd ask where it was.  
24 They'd ask what Burmese food was like, and  
25 we'd tell them the country borders three areas

1 (India, Thailand, and China) where they have  
2 really fantastic cuisines. So we have a lot  
3 of influence from those places. But at the  
4 same time, there are a lot of flavors and  
5 dishes unique to Burma. We began to realize  
6 that, while a lot of these people had never  
7 been to Burma, they would keep coming back to  
8 the restaurant and were getting educated about  
9 Burma through food."

10 It that's the paragraph that you're referring  
11 to?

12 A. Right.

13 Q. And the statements that I just read that were  
14 shown in the paragraph, those are accurate to your  
15 recollection?

16 A. Yes.

17 Q. Okay. Who's -- I'm not going to pronounce  
18 this right, but Bagan or Bagan Inc.?

19 A. Bagan.

20 Q. B-A-G-A-N?

21 A. Bagan.

22 Q. Bagan. Who's that?

23 A. Bagan is a restaurant that I started in  
24 Alameda in 2007.

25 Q. So that's the name of the restaurant, is

1 Bagan?

2 A. Bagan is the corporation. Burma Superstar  
3 dba.

4 Q. Oh, okay. So the Alameda restaurant, the  
5 Alameda Burma Superstar is owned by Bagan?

6 A. Correct.

7 Q. Why does -- why is the Alameda restaurant  
8 owned by Bagan? Why did you create Bagan?

9 A. I just wanted a different identity.

10 Q. Who owns Bagan?

11 A. I do.

12 Q. Have you always been the -- are you the sole  
13 owner of Bagan?

14 A. Yes.

15 Q. Have you always been?

16 A. Yes.

17 Q. Ms. Lee never had any ownership in Bagan?

18 A. No.

19 Q. Okay. So you said that Bagan Inc. operates a  
20 restaurant under the Burma Superstar name -- Superstar  
21 name. Is that correct?

22 A. Correct.

23 Q. Does Bagan have any type of a license to use  
24 that name?

25 A. I assigned the rights to Bagan to use the

1 Burma Superstar name. Nonexclusive.

2 Q. When did you do that?

3 A. 2007.

4 Q. How did you do that?

5 A. Oral, nonexclusive.

6 Q. Who are the parties to that oral agreement?

7 A. Me.

8 Q. You individually?

9 A. Right.

10 Q. And then the other party was Bagan Inc.?

11 A. Correct.

12 Q. What were the terms of the oral assignment?

13 A. I --

14 MR. MAUCH: Objection. I think it misstates  
15 his prior testimony.

16 Was it an assignment where you transferred  
17 ownership, Desmond, or did you give them a license?

18 THE WITNESS: I gave them a license. So I --

19 MR. FRIEDLAND: The license. Okay. I'm  
20 pretty sure he had said "assignments." I didn't mean  
21 to --

22 MR. MAUCH: I understand.

23 BY MR. FRIEDLAND:

24 Q. So what were the terms of it? You said  
25 nonexclusive was one of the terms.

1 A. Nonexclusive.

2 Q. Were there any others?

3 A. What are the difference between assignment --  
4 and what was the other one?

5 Q. License?

6 A. Can you clarify "license" and "assignment"?

7 MR. MAUCH: So the assignment is when it  
8 transfers the actual ownership of the trademark or the  
9 piece of intellectual property.

10 THE WITNESS: License.

11 MR. MAUCH: A license says, I continue to own  
12 it, or my business continues to own it, but we're going  
13 to grant you the right to use it.

14 THE WITNESS: Sorry. License. If I said  
15 "assign," it was a mistake.

16 BY MR. FRIEDLAND:

17 Q. Okay. So any other terms besides  
18 nonexclusive?

19 A. No monetary exchange involved, because I was  
20 the sole owner that was in the deed.

21 Q. Okay. That's it?

22 A. Right.

23 Q. You said started in 2007.

24 A. Right.

25 Q. Is it still in force today?



1 A. Yes.

2 Q. Has there ever been any type of a written  
3 contract or agreement created to formalize that  
4 license?

5 A. No.

6 Q. Okay. And you said the Bagan Inc. -- it does  
7 actually own that restaurant in Alameda. Is that  
8 correct?

9 A. Bagan Inc., I myself do.

10 Q. Who -- wait. Does Bagan own the restaurant or  
11 do you own restaurant?

12 A. I own Bagan.

13 Q. You own Bagan --

14 A. Bagan --

15 Q. And Bagan owns the restaurant?

16 A. Bagan owns the restaurant, dba  
17 Burma Superstar.

18 Q. And I think you said there are no other owners  
19 of Bagan. Is that correct?

20 A. Correct.

21 Q. Are there any other officers or directors of  
22 Bagan, or just you?

23 A. There could be maybe Jenny, our -- actually,  
24 director, no.

25 MR. MAUCH: Don't guess, Desmond.

1 THE WITNESS: No.

2 MR. MAUCH: If you know, answer; if you don't  
3 know, say "I don't know."

4 THE WITNESS: I don't know.

5 BY MR. FRIEDLAND:

6 Q. Okay.

7 A. I have to see the article of incorporation,  
8 but I don't recall. I don't know.

9 Q. Who's Jenny?

10 A. She was our accountant, but I'm not sure who  
11 helped us incorporate the paper. But I don't know if  
12 it's an attorney, accountant. I'm not sure.

13 Q. Okay. What duties do you have as the owner of  
14 Bagan Inc.?

15 A. One more time?

16 Q. Do you have any particular duties as the owner  
17 of Bagan Inc.?

18 A. Yeah, I -- I do all the day-to-day -- I do  
19 managerial, the growth, business development,  
20 everything. I mean, I don't wait tables anymore.

21 Q. Did East-West Holdings ever own the trademark  
22 Burma Superstar?

23 A. Yes. It went from Taik Wu to  
24 East-West Holdings in 2001, to me and to  
25 Burma Super Star, Inc.

1 Q. When did it go from -- from East-West Holdings  
2 to you personally?

3 A. East-West Holdings to me -- well, I always  
4 owned East-West Holdings. And later, 2014, towards the  
5 end of 2014, the -- the registration or trademark  
6 expired, and because of our marital issues, divorce and  
7 so forth, it just overlaps. And the attorney who was  
8 supposed to be -- I think his name is Mr. Day, who I  
9 think registered the name, I think relocated somewhere,  
10 and I was never notified of the expiration.

11 We found out about the expiration in early  
12 2015. We tried to reregister, and -- but as far as I  
13 know, I'm not sure what the legalities are, but -- or  
14 the dates are. I always owned it. East-West Holdings,  
15 myself. But in 2017, I assigned it to  
16 Burma Super Star, Inc.

17 Q. Okay. So I just want to make sure -- I just  
18 want to make sure that I understand --

19 A. I'm not -- I can't recall the dates.

20 Q. Okay. I get that.

21 A. Right.

22 Q. Okay. So -- but the name Burma Superstar,  
23 that started with Taik Wu. Right?

24 A. Right.

25 Q. And then 2001, it was assigned to

1 East-West Holdings. Right?

2 A. Correct.

3 Q. And then at some point, East-West Holdings  
4 assigned it to you personally. Is that correct?

5 A. Right from the -- right.

6 Q. When was the --

7 A. I don't recall the dates.

8 Q. Do you recall which decade that was, or just a  
9 general time span when that happened?

10 A. Like -- can I see my notes?

11 MR. MAUCH: What do you mean by your notes?  
12 You mean the declaration? What do you mean by the  
13 notes?

14 THE WITNESS: I don't recall the dates. I  
15 mean, there are a lot of things that happened. I'm  
16 assuming about --

17 MR. MAUCH: Don't assume. If you know the  
18 answer, you need to tell him the answer. If you don't,  
19 just tell him you don't know.

20 THE WITNESS: I don't know the dates.

21 BY MR. FRIEDLAND:

22 Q. Okay. Not even a general time frame, like  
23 before 2005, after --

24 A. I always -- as far as I know, I always owned  
25 it. I mean, I don't separate myself from -- didn't

1 separate myself from East-West Holding.

2 Q. Okay. Do you -- so if you don't remember  
3 the -- okay.

4 So do you think that there was a time when it  
5 was -- when the name was transferred from East-West  
6 Holdings to you personally?

7 A. 2014, '15?

8 Q. You think -- yeah, I'm not trying to press you  
9 if you don't remember when it happened. I'm just  
10 asking, do you think it ever did happen that the name  
11 was transferred from East-West Holdings to you  
12 personally?

13 A. 2015.

14 Q. You think it happened in 2015. Okay. And why  
15 was the -- why was the trademark transferred from  
16 East-West Holdings to you personally?

17 A. Because I wanted the ownership of the  
18 trademark.

19 Q. You wanted to have it personally in your name?

20 A. Yes.

21 Q. Why?

22 A. I was -- maybe I did things incorrectly in the  
23 past because of my lack of business experience, and I  
24 wanted to do things correctly, and I wanted to  
25 consolidate the businesses properly, and I started

1 talking to different -- different people with more  
2 business experiences. And I understood at that point  
3 that it was important to have the -- the trademark and  
4 registrations in order.

5 Q. And then to be owned by you personally, and  
6 not by a corporation.

7 A. By me, then I transferred it to  
8 Burma Super Star, Inc.

9 Q. Okay. Was there any documentation reflecting  
10 the transfer from East-West Holdings to you personally?  
11 By that I mean, was there a written agreement --

12 A. I don't recall.

13 Q. Okay. Do you know what the -- were there any  
14 terms under which it was transferred, whether or not  
15 they were in writing?

16 A. I don't recall.

17 Q. Was there any consideration that was paid, any  
18 money that was transferred or assets that were  
19 transferred?

20 A. I don't recall receiving anything.

21 Q. Or paying anything?

22 A. Correct.

23 Q. Okay. So -- and then you said in  
24 approximately 2017 you transferred the trademark to  
25 Burma Super Star, Inc. Is that correct?

1 MR. MAUCH: I'm sorry. Can you restate the  
2 question? I missed the date.

3 MR. FRIEDLAND: No problem.

4 Q. Did I hear correctly that you transferred the  
5 trademark from yourself personally to  
6 Burma Super Star, Inc. in approximately 2017?

7 MR. MAUCH: I think that misstates his  
8 testimony. Objection.

9 But go ahead and answer, Desmond.

10 THE WITNESS: I don't recall the dates, but it  
11 could be earlier. It could be 2015.

12 BY MR. FRIEDLAND:

13 Q. Okay. So at some point did you transfer the  
14 trademark from yourself personally to the corporation  
15 Burma Super Star, Inc.?

16 A. Yes.

17 Q. Okay. And you said you don't recall exactly  
18 when that was.

19 A. 2015.

20 Q. It was 2015. Okay.

21 A. Right.

22 Q. And why did you transfer the trademark from  
23 yourself personally to the corporation  
24 Burma Super Star, Inc. at that time?

25 A. I wanted to be more organized and get the --

1 the trademarks in order and consolidate the businesses.

2 Q. Okay. Was there any written documentation,  
3 agreement, anything like that reflecting the transfer  
4 of the trademark from yourself personally to that  
5 corporation, Burma Super Star, Inc.?

6 A. I don't recall. I don't do the paperwork. I  
7 usually hire somebody, but I don't recall.

8 Q. Do you recall if there were any -- any other  
9 terms of the assignment from yourself to the  
10 corporation?

11 A. I don't recall. If you want, you could talk  
12 to my attorney who did the paperwork.

13 Q. Okay. But sitting here today, you don't  
14 recall if there are any terms?

15 A. Right.

16 Q. Do you recall if you received any money or  
17 payment or anything like that for the transfer?

18 A. No. I mean, it wasn't necessary. I owned it.  
19 Right?

20 Q. Going back to -- so -- so right now,  
21 currently, the Burma Superstar trademark is owned by  
22 Burma Super Star, Inc. Is that correct?

23 A. Correct.

24 Q. Yeah, I couldn't figure out how to work those  
25 chairs.



1 A. It's okay.

2 Q. All right.

3 A. Make me -- yeah.

4 Q. So --

5 MR. MAUCH: Keeps you on your toes.

6 THE WITNESS: Yes.

7 BY MR. FRIEDLAND:

8 Q. So Burma Super Star, Inc. is the current owner  
9 of the Burma Superstar trademark. Is that correct?

10 A. Correct.

11 Q. Okay. And does -- has Burma Super Star, Inc.  
12 granted any licenses to anyone to use that trademark?

13 A. Yes. To all the businesses plus -- yeah, to  
14 all the Alameda, Oakland, San Francisco restaurants.

15 Q. When were those licenses granted?

16 A. 2017.

17 Q. All right. Are those licenses reflected in  
18 any type of a writing?

19 A. No. But to Joycelyn there was a settled  
20 agreement that states that she can use it for  
21 Burma Superstar without a fee. I think you probably  
22 have that in one of your exhibits.

23 Q. Okay. That's an agreement between  
24 Burma Super Star, Inc. and --

25 A. Joycelyn.

1 Q. -- and Joycelyn Lee?

2 A. Right.

3 Q. Okay. Are there any other terms of the  
4 license between Burma Super Star, Inc. and Joycelyn  
5 Lee?

6 A. I don't recall. But if we have more, it will  
7 be in the exhibit.

8 Q. Okay. Does -- when East-West Holdings was the  
9 owner of the trademark, did East-West Holdings do  
10 any -- so East-West Holdings had some licensees as  
11 well. Right?

12 A. It's a confusing question, because I own  
13 East-West Holding; and so therefore, East-West Holding  
14 owns the trademark, the licensing. Are you referring  
15 to specific restaurant, business, year?

16 Q. Yeah. So in the time period -- so what I was  
17 going to ask was in the time period in which East-West  
18 Holdings owned the trademark, had a grant -- did it  
19 grant any licenses to anyone to use --

20 A. East-West Holding and I granted license to  
21 Burma Superstar Alameda, 2007; Burma Superstar Oakland,  
22 2008.

23 Q. Did East-West Holdings take any steps to  
24 review how the Burma Superstar trademark was being used  
25 by any of those restaurants or --

1           A. I mean, I -- I was very much involved with all  
2 the restaurants. So I see what's going on. What do  
3 you mean when you say --

4           Q. So at the time --

5           A. -- how they use it? I don't understand.

6           Q. So at the time that East-West Holdings was the  
7 owner of the trademark --

8           A. Right.

9           Q. -- were you involved in the operation of every  
10 restaurant that was using that trademark?

11          A. Of course.

12          Q. Other than the settlement agreement with  
13 Ms. Lee, are there any written agreements relating to  
14 the trademark Burma Superstar?

15          A. Not written, but -- not written to our product  
16 businesses: Mya Foods, Burma Love Food Company.

17          Q. So do you have written agreements with them?

18          A. No.

19          Q. None with them. Okay. So all of them are  
20 oral?

21          A. Nonexclusive.

22          Q. And the only term you recall is oral,  
23 nonexclusive?

24          A. Didn't have a need to, because I own the  
25 businesses.

1 Q. The Oakland restaurant, who owns the Oakland  
2 restaurant?

3 A. I do.

4 Q. Do you own it directly, or do you own it  
5 through a corporation?

6 A. Burma Superstar Oakland, I think.

7 Q. Do you recall why it's a separate corporation  
8 that owns the Oakland location?

9 A. For liability purposes, to -- so that separate  
10 liabilities for separate restaurants.

11 Q. In case somebody chips their tooth?

12 A. Or, like, come in and can't squeeze into a  
13 place and sit down.

14 Q. Oh, was that what the handicapped one was?

15 A. You know, that's --

16 Q. The chairs were too small?

17 A. No. You know, like, they didn't have --

18 Q. We -- sorry. We can talk about that during  
19 the break.

20 MR. MAUCH: Exactly.

21 THE WITNESS: They sued us for -- you know,  
22 it's all bogus, but we could go on and on and on about  
23 that.

24 BY MR. FRIEDLAND:

25 Q. No, we shouldn't do that with the court

1 reporter around.

2 MR. MAUCH: We should not.

3 THE WITNESS: And tooth chipping is just  
4 another -- you don't want to -- we could talk about  
5 slip-and-fall too, if you want.

6 BY MR. FRIEDLAND:

7 Q. Later at a break.

8 A. Sure.

9 Q. So the Oakland restaurant, that's also one  
10 that you've always been involved with?

11 A. Correct.

12 Q. And you continue to be involved in that one?

13 A. Yes.

14 Q. East-West Holdings -- so that's the company  
15 that's now owned by Ms. Lee. Correct?

16 A. (Witness nods head.)

17 Q. What did East-West Holdings own?

18 So, I guess, East-West Holdings owned the  
19 San Francisco Burma Superstar restaurant. Does it  
20 still, do you know?

21 A. As far as I know, that's the only business  
22 when I set it up. But the -- I'm not sure if there was  
23 any more purchases in recent years. But as far as I  
24 know, it was just Burma Superstar San Francisco.

25 Q. And so as long as you were involved, it only

1 operated the one business: just the Burma Superstar  
2 restaurant in San Francisco. Is that correct?

3 A. Correct.

4 Q. Okay. And throughout your involvement, the  
5 Burma Superstar restaurant in San Francisco was the --  
6 had always been owned by East-West Holdings. Is that  
7 correct?

8 A. Correct.

9 Q. So it was never owned by you or a different  
10 corporation?

11 A. Well, I owned East-West Holding.

12 Q. But the restaurant itself was always owned by  
13 East-West Holdings?

14 A. Correct.

15 Q. And the Oakland restaurant, as long as it's  
16 existed, was it -- has it always been owned by  
17 Burma Superstar Oakland, or was it ever owned by  
18 another entity?

19 A. I think so. Because I -- you know, going back  
20 to liabilities, we opened different restaurants under  
21 different names. Sometimes I don't recall. But I do  
22 believe that it's Burma Superstar Oakland that owns  
23 Burma Superstar Oakland.

24 Q. Okay. But you don't remember it ever being  
25 owned by you personally or a different corporation?

1           A. Or again, I own Burma Superstar Oakland, so  
2 Burma Superstar Oakland owns Burma Superstar restaurant  
3 in Oakland.

4           MR. MAUCH: When he asks about your ownership,  
5 he's asking about your direct ownership.

6           THE WITNESS: Okay.

7 BY MR. FRIEDLAND:

8           Q. Yes. The distinction I was trying to draw  
9 is -- so I understand that you own the corporation and  
10 the corporation owns the restaurant.

11          A. That's correct.

12          Q. Okay. So I was wondering if at any time did  
13 you own it directly, as opposed to --

14          A. No.

15          Q. -- owning it through the corporation?

16          A. I never owned it directly.

17          Q. Okay. And was there ever any other  
18 corporation that owned that restaurant, or was it  
19 always just the same one?

20          A. Always the same one. In fact, you should  
21 come. We have a 10-year anniversary soon. So -- I  
22 didn't realize it was 10 years old. So we should have  
23 a party.

24          Q. I've heard terrific things about it.

25          A. Thank you.

1 Q. How about the Alameda restaurant? Who owns  
2 the Alameda restaurant?

3 A. I own Bagan. Bagan owns Burma Superstar in  
4 Alameda.

5 Q. Okay. Has it always -- has the Alameda  
6 restaurant always been owned by Bagan?

7 A. Yes.

8 Q. And you've always been the sole owner of  
9 Bagan?

10 A. Yes. We should hire you to go after a  
11 restaurant called "Pagan" that opened --

12 MR. MAUCH: Okay. Just answer the questions,  
13 Desmond.

14 BY MR. FRIEDLAND:

15 Q. And so then the license that was -- so the --  
16 I think you testified before that East-West Holdings  
17 had given a license to Bagan to use the trademark  
18 Burma Superstar. Is that correct?

19 A. Yes.

20 Q. That license -- and that was a nonexclusive  
21 license?

22 A. Nonexclusive, oral, in 2007.

23 Q. Was that license to Bagan ever transferred to  
24 you or to any other entity?

25 A. Sorry. That license?



1 Q. The license of the trademark to Bagan, was  
2 that -- did Bagan ever transfer that license to you or  
3 to anybody else?

4 A. East-West Holding to Bagan; Bagan to me. I  
5 don't think there was a transferable rights that I  
6 recall.

7 Q. Okay. And East-West Holdings granted a  
8 license to Burma Superstar Oakland, Inc.?

9 A. 2008.

10 Q. That's correct? Okay. And did  
11 Burma Superstar Oakland, Inc. ever transfer its rights  
12 under the license to any other entity or to yourself?

13 A. No.

14 MR. FRIEDLAND: All right. Take a quick --  
15 we've been going about an hour and a half. We'll take  
16 a quick break. Give you a quick break, too.

17 (Recess from 10:24 A.M. to 10:38 A.M.)

18 MR. FRIEDLAND: All right. Let's go back on  
19 the record.

20 Q. So you -- when we were off the record, you  
21 were -- you referred to Mya Foods, or -- I'm sorry, Mya  
22 Foods.

23 So does Mya Foods have a license to use the  
24 name Burma Superstar as well?

25 A. Yes.

1 Q. And who granted the license to Mya Foods?

2 MR. MAUCH: Who originally granted it, or who  
3 holds it now?

4 BY MR. FRIEDLAND:

5 Q. Who originally granted the license to Mya  
6 Foods?

7 A. I do.

8 Q. You did. You personally --

9 A. Yes. Same nonexclusive oral.

10 Q. When was that?

11 A. I think about 2014.

12 Q. When was Mya Foods founded?

13 A. Maybe somewhere around there. I don't recall.  
14 2013, '14.

15 Q. And you said the license is also oral?

16 A. Correct.

17 Q. All right. Are there any other terms of that  
18 license?

19 A. No.

20 Q. So Mya Foods doesn't have to pay any money to  
21 use that?

22 A. No.

23 Q. Do any of the licensees have to pay any money  
24 to use the name Burma Superstar?

25 A. No.

1 Q. At any time in the past have any of the  
2 licensees had to pay any money to use the word -- the  
3 phrase "Burma Superstar"?

4 A. No.

5 Q. Why was Mya Foods Corporation founded?

6 A. To import/export tea leaves from Burma.

7 Q. And then Mya Foods Corporation, does it have  
8 any -- does it supply those tea leaves to anybody in  
9 particular?

10 A. Burma Love Foods Company.

11 Q. Does it have any other customers?

12 A. No.

13 Q. How does Mya Foods Corporation use the  
14 trademark Burma Superstar?

15 A. In the beginning, Mya, Mya Foods, was the  
16 company that was packaging the grab-and-go for  
17 Burma Superstar food products. And then later, we  
18 decided that it's better to just have Mya Foods as an  
19 import/export company and to have a different name,  
20 Burma Love Food Company, as the company that produce  
21 grab-and-go and the fermented tea products.

22 It's not used much now, Mya Foods. Mya Foods  
23 doesn't use -- necessarily use Burma Superstar much, if  
24 any.

25 Q. So -- at one point, Mya Foods prepared

1 packaged -- packaged foods with the Burma Superstar  
2 trademark on it?

3 A. Yes.

4 Q. Okay. And those -- and the packaged foods it  
5 made were fermented tea leaves?

6 A. Fermented tea leaf salad products.

7 Q. So ready made salads in a package?

8 A. Right.

9 Q. Okay. Anything else, or just that?

10 A. Lotus chips.

11 Q. Okay. And both of those products had the  
12 Burma Superstar label on them?

13 A. Correct.

14 Q. What are Lotus chips?

15 A. Lotus roots, fried Lotus chips. Basically,  
16 think of potato chips, but made with Lotus roots. And  
17 it's very good.

18 Q. And no other food product. Just those two?

19 A. For Mya Foods?

20 Q. Yes.

21 A. No.

22 Q. And those products now are being sold by  
23 Burma Love. Is that correct?

24 A. Correct.

25 Q. And is Burma Love selling them using the name

1 Burma Superstar?

2 A. Burma Superstar and Burma Love, both.

3 Q. They use both names?

4 A. Correct.

5 Q. On all the food products, or does it have both  
6 names on the same package?

7 A. Right now, we've been thinking about how to  
8 best brand the products. So we have and are using both  
9 brands. But we may just choose to use one or both.

10 Q. And the food products that are being sold  
11 under the name Burma Superstar, are they still just the  
12 read-to-eat salads and the lotus chips, or is there  
13 something else in addition?

14 A. Grab-and-go, tea leaf salad, and tea leaf  
15 salad kits, in the bottle. Bottle.

16 Q. What was the last word you said?

17 A. The tea leaf salad kit, I call it, for lack of  
18 a better word. So the kit comes with a bottle of  
19 fermented tea leaf with crunchies. So you buy it, and  
20 all you do is add lettuce and tomato. That's one.

21 The other one is lotus chips.

22 Q. Okay. So just those three products, then?

23 A. For now.

24 Q. As Burma Love ever had a written trademark  
25 license?

1 A. Not written.

2 Q. Okay. Just the same oral that you've  
3 discussed before?

4 A. Nonexclusive, correct.

5 Q. Who granted the license to Burma Love?

6 A. I did.

7 Q. You did personally?

8 Sorry, I didn't hear your answer. That was  
9 you personally who granted it, or it was somebody else?

10 A. I'm thinking about when Burma Love was  
11 created.

12 I transferred the rights to  
13 Burma Super Star, Inc. in 2015; and depending on  
14 Burma Love, when Burma Love Foods Company was created  
15 is either myself or Burma Super Star, Inc. So if it --  
16 if Burma Super Star, Inc. was created before 2015, it  
17 will be me. If it was after 2015 or around, it would  
18 be Burma Super Star, Inc.

19 Q. Did you ever -- after the trademark was  
20 transferred from you personally to  
21 Burma Super Star, Inc., did you give new licenses to  
22 any companies or --

23 MR. MAUCH: Can you repeat or restate the  
24 question?

25 MR. FRIEDLAND: Yeah. That was a poorly

1 phrased question.

2 Q. So after -- did Burma Super Star, Inc. ever  
3 grant any licenses to any of the -- any of the  
4 restaurants or corporations that previously had  
5 licenses given by you personally?

6 MR. MAUCH: Objection. Vague and ambiguous.

7 If you understand the question, you're still  
8 obligated to answer it, Desmond.

9 THE WITNESS: Well, 2017, I -- you know,  
10 Joycelyn settlement? Is that considered as a new  
11 assignment or a license? I mean, the exhibit that you  
12 have, you know, when we came to the asset separation,  
13 kind of, settlement with Joycelyn?

14 BY MR. FRIEDLAND:

15 Q. Okay. So that would be one, maybe?

16 A. That was existing, but, I guess -- or is it  
17 new? I'm not sure.

18 Q. So what I was wondering is, you said that in  
19 around 2015, you transferred -- up through 2015, you  
20 personally owned the trademark Burma Superstar.

21 Correct? Right?

22 A. Right.

23 Q. And then around 2015, you transferred that  
24 trademark from your personal ownership to  
25 Burma Super Star, Inc. Correct?

1 A. Correct.

2 Q. And so what I was wondering is, after you made  
3 that transfer, did Burma Super Star, Inc. go back and  
4 relicense any of the restaurants or --

5 A. No.

6 Q. Okay. For the packaged foods, the grab-and-go  
7 stuff, did they require any type of FDA approval or  
8 anything like that to sell the prepared foods?

9 A. We went through all the testing requirements  
10 by labs to provide nutritional information, pH, safety,  
11 all those things.

12 Q. And who did that? Which corporation did that?

13 A. There are labs. I'm not sure which one we  
14 used.

15 Q. Oh, I'm sorry. Which -- was that Mya Foods  
16 that did that, or --

17 A. Mya Foods did --

18 MR. MAUCH: Let him finish the question, and  
19 then --

20 BY MR. FRIEDLAND:

21 Q. So it was Mya Foods that hired the labs to do  
22 the testing for the labeling?

23 A. Both. Mya Foods, as was Burma Love Food  
24 Company.

25 Q. They both did that?



1 A. Right.

2 Q. The packaged foods, where are they sold?

3 A. Bi-Rite, Gus, Rainbow --

4 Q. When you say Rainbow --

5 A. Bi-Rite, B-I-R-I-T-E. Rainbow Groceries.

6 Berkeley Bowl. Other natural-food grocery stores.

7 Whole Foods. I don't recall anything, but they will be  
8 natural grocery stores.

9 Q. The retailers that sell -- that sell the  
10 prepared foods, where are they located?

11 A. They're all in San Francisco, Berkeley,  
12 Oakland.

13 Q. Anywhere else?

14 A. Not that I recall.

15 Q. And I apologize if I've asked this of you  
16 before, but I probably did.

17 When you assigned the Burma Superstar mark to  
18 Burma Super Star, Inc., was that assignment in writing?

19 MR. MAUCH: Asked and answered, but go ahead  
20 and answer it again.

21 THE WITNESS: Asked and answered?

22 MR. MAUCH: It just means he's already asked  
23 and you've already answered, but you can go ahead and  
24 answer him again.

25 THE WITNESS: Right. Did you -- can you

1 repeat that question?

2 BY MR. FRIEDLAND:

3 Q. No. So when you assigned the Burma Superstar  
4 trademark from yourself to Burma Super Star, Inc., was  
5 that assignment reflected in a writing?

6 A. No.

7 Q. Were there any terms of that assignment?

8 A. No. Again, I guess I owned both the  
9 businesses. Didn't need to.

10 Q. Okay. So no money changed hands?

11 A. No.

12 Q. And then so Burma Superstar restaurant in  
13 San Francisco. Burma Super Star, Inc. never owned  
14 that?

15 A. One more time.

16 MR. MAUCH: Yeah.

17 MR. FRIEDLAND: Sorry. Bad question.

18 Q. Did Burma Super Star, Inc. ever owned the  
19 San Francisco restaurant?

20 A. No.

21 Q. Did Burma Super Star, Inc. ever own the  
22 Burma Superstar restaurant in Oakland?

23 A. We gave them license to operate.

24 Q. But Burma Super Star, Inc. never actually  
25 owned the restaurant itself?

1 A. No.

2 Q. Okay. How about the Alameda restaurant? Did  
3 Burma Super Star, Inc. ever own the Alameda restaurant?

4 A. No.

5 Q. Was there more than one East-West Holdings, or  
6 was it just the one corporation?

7 A. Just one.

8 Q. So the one that exists today is the same one  
9 that purchased the restaurant back in 2001?

10 A. Yes.

11 Q. Have any of the licenses to use the  
12 Burma Superstar mark ever been terminated?

13 A. At the end of 2014. Yes.

14 Q. What -- which license was terminated?

15 A. The Burma Superstar -- Burma Superstar.

16 MR. MAUCH: He's asking about the license. I  
17 think you're answering about the registration.

18 THE WITNESS: Oh, I'm sorry. Repeat the  
19 question, please?

20 BY MR. FRIEDLAND:

21 Q. Yeah. So when we -- we've talked earlier  
22 today, you've mentioned to me a number of -- a number  
23 of entities that have received a license to use the  
24 mark Burma Superstar.

25 A. Right.

1 Q. And a bunch of restaurants: Mya Foods,  
2 Burma Love, et cetera.

3 A. Right.

4 Q. Has anyone ever been licensed to use the name  
5 Burma Superstar and had that license terminated --

6 A. No.

7 Q. -- at any point?

8 A. No.

9 Q. So anyone who's ever been granted a license  
10 still has one.

11 A. Right.

12 Q. Okay. Does Burma Super Star, Inc. have the  
13 right to terminate licenses?

14 A. Yes.

15 Q. What licenses does it have the right to  
16 terminate?

17 MR. MAUCH: I'll object it calls for a legal  
18 opinion, but you can go ahead and answer, Desmond.

19 THE WITNESS: Can you repeat the question  
20 again?

21 BY MR. FRIEDLAND:

22 Q. Yeah. Do you know if Burma Super Star, Inc.  
23 has the ability to terminate any of the licenses to use  
24 the term Burma Superstar?

25 MR. MAUCH: And same objection.

1 THE WITNESS: Since I own the restaurant, I --  
2 I can terminate it, but not written.

3 BY MR. FRIEDLAND:

4 Q. Okay. So the -- you can terminate it as to  
5 the restaurants that you own.

6 A. Right.

7 Q. Okay. Can you terminate -- can you terminate  
8 the license to East-West Holdings or the license to  
9 Ms. Lee?

10 MR. MAUCH: Objection. Calls for legal  
11 opinion.

12 But you can go ahead and answer, Desmond.

13 THE WITNESS: Same answer. I can.

14 BY MR. FRIEDLAND:

15 Q. You can? Under what -- under what  
16 circumstances can you terminate the license to  
17 East-West Holdings or Ms. Lee?

18 MR. MAUCH: Objection. Calls for a legal  
19 opinion.

20 THE WITNESS: I think I need legal advice on  
21 that.

22 BY MR. FRIEDLAND:

23 Q. But sitting -- go ahead.

24 MR. MAUCH: You're still obligated to answer,  
25 Desmond. And if the answer is you don't know, that can

1 be your answer. But --

2 THE WITNESS: I don't know.

3 BY MR. FRIEDLAND:

4 Q. Okay. Are there any obligations that  
5 East-West Holdings has as to how it uses the trademark?

6 A. Yes. They need to uphold the quality and  
7 standards and -- uphold the quality and standards.

8 Q. What do you mean, standards?

9 A. Customer service, quality of food, clean  
10 environment, educate people about Burmese food,  
11 customers, when they come in. Burmese culture.

12 Q. Are the terms of the license with East-West  
13 Holdings, are those in writing?

14 A. No.

15 Q. Okay. Is it just an oral agreement?

16 A. Again, you should reflect back on the exhibit  
17 that you have. The -- the agreements, the settlement  
18 terms with Joycelyn on your exhibit. I'm not sure, you  
19 know, where that is.

20 Q. So the -- whatever terms they are are the ones  
21 that are set forth in the exhibit?

22 A. I don't know.

23 Q. Okay. We can take a look at it in a  
24 few minutes.

25 A. Right.

1 MR. FRIEDLAND: So I apologize. I can make  
2 more copies if it would be useful, but for some reason  
3 I don't have extra copies of Mr. Tan's declaration  
4 here.

5 MR. MAUCH: That's fine. I've got one here.

6 MR. FRIEDLAND: Okay. So I have -- I'm  
7 referring to the declaration of Desmond Tan --

8 Q. I'm sorry, I apologize. Is it Tan or Tan?

9 A. Tan.

10 Q. Tan, okay. Every -- I pronounce my last name  
11 different than the way my kids do, so it's okay.

12 A. Well, if you're in China, it would be  
13 pronounced differently. But in U.S. you know, I am not  
14 finicky about that.

15 Q. I'm the same way. I say "Friedland"; my kids  
16 say "Friedlund." It doesn't make any difference to me  
17 either.

18 So I'm referring to the declaration of Desmond  
19 Tan that was filed in this proceeding that was dated  
20 July 18th, 2018.

21 So in paragraph 6 of your declaration, you  
22 stated: "At all relevant times, regardless of the  
23 particular entity that formerly owned the restaurants,  
24 business, and/or Burma Superstar mark, I remained  
25 directly involved in the restaurant business and the

1 use of the Burma Superstar mark in order to ensure the  
2 requisite quality over the various entities used as  
3 licensees of the Burma Superstar mark."

4 Do you recall that paragraph?

5 A. Yes.

6 Q. And so you used the phrase in that paragraph,  
7 "requisite quality control." What did you mean by  
8 that, "requisite quality control"?

9 A. The food tastes consistent; the ingredients  
10 are fresh; and the environment is clean, friendly,  
11 hospitable; and that people are educated about Burmese  
12 food, Burmese culture, through the restaurant when they  
13 come in.

14 And in return, you know, the education can be  
15 seen as entertainment, so we refer to it as  
16 "edutainment." So all those things.

17 Q. What steps do you take to ensure that that  
18 requisite quality control is being enforced or that  
19 it's meeting those standards?

20 A. We visit the restaurants, and we are aware  
21 of -- we provide -- we source key items that make  
22 Burma Superstar successful, which is fermented  
23 tea leaf. We're in discussion about the -- we're  
24 currently discussing about volume, pricing, and so  
25 forth. We provide the beer that you cannot get



1 anywhere else called Burma Ale. And I cowrote a book  
2 called "Burma Superstar" to ensure that we are the  
3 authority in -- on Burmese food.

4 And I think the book, the sourcing, the -- the  
5 regular visits, I think, you know, play important  
6 roles.

7 Q. So the -- you said the regular visits. How  
8 often do you visit each restaurant?

9 A. Once every -- Burma Superstar -- different  
10 people go there.

11 Q. Okay.

12 A. And --

13 Q. So how often are visits made?

14 A. Probably about once every 6 weeks.

15 Q. So every restaurant you send somebody to about  
16 every 6 weeks?

17 A. No. Only to Burma Superstar San Francisco.  
18 The other ones I visit at least three -- two to three  
19 times a week.

20 Q. And the San Francisco location you visit once  
21 every 6 -- or I'm sorry. You send somebody to visit  
22 once every 6 weeks?

23 A. Correct.

24 Q. Same person each time, or different people?

25 A. Different people. Nghia's been there.

1 Q. And what -- the people who are sent there, are  
2 they sent with a specific checklist of things to look  
3 at or --

4 A. They're experienced. No specific. They're --  
5 no. They're all experienced -- they all work at the  
6 restaurants.

7 Q. So when -- how often -- how long has that been  
8 going on for, the once every 6 weeks?

9 A. About the last year or so.

10 Q. So that would be since the -- since the  
11 separation?

12 A. A little after that.

13 Q. Okay. When the people go and visit that  
14 restaurant, have they identified any areas that --  
15 where standards aren't being properly met?

16 A. No.

17 Q. If they did identify areas where standards  
18 aren't being properly met, is there something that  
19 they're supposed to do?

20 A. It's always been pretty excellent.

21 Q. Okay. But if there was something that wasn't  
22 being met, do they bring it to Ms. Lee's attention  
23 or --

24 A. I --

25 MR. MAUCH: Objection. Incomplete

1 hypothetical.

2 You can answer the question.

3 MR. FRIEDLAND: Let me -- I'll rephrase it so  
4 it's not.

5 Q. Do they have any instructions as to what to do  
6 if they find any standards aren't being met?

7 A. So if standards are not met, I would -- there  
8 are managers that I communicate with that I still have  
9 relationship with at Burma Superstar that I talk to,  
10 not necessarily to Joycelyn.

11 Q. So if they -- if you -- if someone brings to  
12 your attention that there are problem areas where  
13 standards aren't being met, you would raise that with  
14 the managers?

15 A. Right. But, you know, I -- so far, the  
16 experiences are really good. I haven't seen anything  
17 that's, you know, alarming. Like I said, you know, the  
18 service is always pretty excellent, friendly; the food  
19 is consistent. The people, you know, who's been  
20 working there since I opened the restaurant are still  
21 there.

22 So it's pretty consistent, you know. It's  
23 unheard of. They've been there for about 18, 20 years.  
24 The restaurant is not a big restaurant. It's double  
25 the -- double the size of maybe this room for the front

1 of the house, so it's easy, and -- you know, to  
2 control, monitor, provide good service.

3 Q. What's -- there's a company called Beehive.  
4 What's Beehive?

5 A. Beehive owns B Star.

6 Q. Okay. And is that -- who owns Beehive?

7 A. Joycelyn.

8 Q. So she owns that 100 percent?

9 A. Well, I owned everything before, but it's  
10 under her name.

11 Q. But she owns it now?

12 A. Correct.

13 Q. Was there one point where -- so you owned it a  
14 hundred percent, and then she -- now she owns it a  
15 hundred percent?

16 A. I own it a hundred percent. Not on paper.

17 Q. Who owns it on paper?

18 A. Joycelyn.

19 Q. Oh, so she -- on paper, she had always been  
20 the owner.

21 A. Right.

22 Q. Okay. But now you've transferred actual  
23 ownership --

24 A. Right.

25 Q. -- to her? Okay.

1 And that was part of the separation?

2 A. (Witness nods head.)

3 MR. MAUCH: You need to answer audibly.

4 THE WITNESS: Yes.

5 (Deposition Exhibit 103 was marked for  
6 identification.)

7 BY MR. FRIEDLAND:

8 Q. So we've handed you a document that we've  
9 marked as Exhibit 103.

10 Do you recognize this document, or this  
11 portion of a document?

12 A. What do you want me to read?

13 Q. I'm just asking you first if this page is  
14 familiar to you at all.

15 MR. MAUCH: And Mike, just for the record,  
16 this is represented as being a portion of a document  
17 produced?

18 MR. FRIEDLAND: Yeah. I think it's just  
19 the -- it's just -- we just pulled the first page from  
20 a document that -- I think that's the only production  
21 numbers at the bottom.

22 MR. MAUCH: Correct.

23 BY MR. FRIEDLAND:

24 Q. But is this familiar to you? It says a draft  
25 of a settlement agreement and mutual release of all

1 claims?

2 A. You know, my eyesight is not very good. I --  
3 so it takes me a little bit longer to read it. So  
4 you're talking about the first paragraph here.

5 Q. You know, I'm just asking, first of all, if --

6 A. Okay, so.

7 Q. -- the page itself looks familiar to you, if  
8 you've seen it.

9 A. Yes.

10 Q. And so do you recognize -- without having read  
11 it in its entirety, do you recognize this as being a  
12 page from a draft of a settlement agreement that was  
13 being negotiated on your behalf?

14 A. Is this something that you took from the  
15 settlement agreement and that you typed it verbatim?

16 Q. No. It's something that your attorneys --  
17 it's something your attorneys produced to us. We --

18 A. Okay.

19 Q. -- wouldn't type it.

20 A. Yes.

21 Q. At the bottom -- okay.

22 MR. MAUCH: Do you understand what the  
23 question is? Let's go --

24 THE WITNESS: Okay.

25 MR. MAUCH: -- one step at a time here,

1 Desmond. Do you know what the question is that's being  
2 asked of you?

3 THE WITNESS: Can you repeat the question?

4 BY MR. FRIEDLAND:

5 Q. Yes. So I'm wondering if you recognize this  
6 as being a portion of a draft of a settlement agreement  
7 that was being negotiated on your behalf.

8 A. Yes.

9 Q. Okay. And the second paragraph from the  
10 bottom refers to Beehive. And it says, "Whereas,  
11 Beehive" -- can you see where I am?

12 A. Right.

13 Q. "Whereas, Beehive, a limited liability company  
14 which is 95 percent owned by Lee and 5 percent owned by  
15 Tan, owns and operates a restaurant named 'B Star'  
16 located at 127 Clement Street in San Francisco,  
17 California."

18 Do you see that?

19 A. Can you point that out? Where is it?

20 MR. MAUCH: Second-to-the-last paragraph.

21 THE WITNESS: Oh, second-to-last. Yes.

22 BY MR. FRIEDLAND:

23 Q. Okay. And so it says that Beehive is  
24 95 percent owned by Lee and 5 percent owned by Tan?

25 A. Right.

1 Q. Was -- is that correct? At one point, was  
2 that restaurant -- I'm sorry -- that corporation owned  
3 95 by you -- I'm sorry. 95 percent by Lee and  
4 5 percent by you?

5 A. I don't know why that's -- yeah. Yes. But  
6 again, on paper.

7 Q. But in reality, at this point -- at this time  
8 you think it was a hundred percent owned by you?

9 A. Yes.

10 Q. As of March 25th, 2017?

11 MR. MAUCH: April 25.

12 BY MR. FRIEDLAND:

13 Q. April, sorry.

14 A. April two thousand -- yes.

15 Q. So in the top paragraph there's another entity  
16 that I wanted to ask you about.

17 There are two "Mya" corporations. One is  
18 Mya -- I never know how to pronounce this --

19 A. Myanmar.

20 Q. Mya Myanmar, Inc.; and Mya Foods -- and Mya  
21 Foods Corporation.

22 Previously, you were testifying about -- about  
23 a Mya entity. Were you referring to Mya Myanmar, Inc.  
24 or Mya Foods Corporation?

25 A. Again, we register a number of companies. Mya



1 Myanmar owns Burma Love. Mya Myanmar owns Burma Love.  
2 Burma Love is the dba. Burma Love is a restaurant.  
3 Mya Foods is the import/export, the company that  
4 imported tea leaves.

5 Q. So the company that -- so you'd said that the  
6 packaged foods were originally being made by Mya Foods.  
7 So that would be Mya Foods Corporation, a Delaware  
8 corporation?

9 A. Correct.

10 Q. And then the -- and then the packaged foods  
11 were sold by Burma Love.

12 A. Initially by Mya Foods; later, Burma Love.

13 Q. Burma Love?

14 A. The food company.

15 Q. And so that -- when you're referring to  
16 Burma Love, that would be the dba of Mya Myanmar --  
17 sorry --

18 A. Correct.

19 Q. And so -- in which the same -- the same entity  
20 that owns the Burma Love restaurant on Valencia Street.

21 A. Mya Myanmar, right.

22 Q. Did -- do you still have -- do you have any  
23 ownership interest in Beehive Cafe, LLC?

24 A. No.

25 Q. That's something that Ms. Lee owns now?

1 A. Correct.

2 Q. Did Ms. -- to your understanding, did Ms. Lee  
3 ever assert that she owned the Burma Superstar  
4 trademark either in whole or in part?

5 A. I'm not aware of it.

6 Q. That she had any personal ownership in it?

7 A. Not aware of it.

8 Q. Okay. Did she ever assert that East-West  
9 Holdings had any ownership interest in the  
10 Burma Superstar trademark?

11 A. I'm not aware of the fact that she knows or  
12 she doesn't know.

13 Q. Okay.

14 MR. MAUCH: His question is -- make sure you  
15 listen to his question.

16 THE WITNESS: Can you repeat that, please?

17 BY MR. FRIEDLAND:

18 Q. Yes. So what I was asking was, do you recall  
19 whether Ms. Lee ever claimed that East-West Holdings  
20 had an ownership interest in the Burma Superstar  
21 trademark?

22 A. One more time. Can you rephrase it, or repeat  
23 it again?

24 Q. Yeah. I'm going to try to rephrase it,  
25 because the question is confusing the way I said it.



1 we previously referred to that you're testifying about  
2 that you filed in this action.

3 I'd like to turn your attention right now to  
4 the page in that exhibit that's marked at the bottom  
5 with the numbers BURMA000308. It's the last couple  
6 pages in this document. This is a couple of  
7 handwritten pages.

8 Do you see that?

9 A. Yes.

10 Q. Okay. And previously we referred to a  
11 settlement agreement between you and Ms. Lee.

12 Do you recall that?

13 A. Yes.

14 Q. Is this the settlement agreement you're  
15 referring to?

16 A. Right.

17 Q. Okay. Was there ever any other settlement  
18 agreement between you and Ms. Lee, or is this the only  
19 one?

20 A. This is the only one.

21 Q. Okay. And so you've talked about a license of  
22 the Burma Superstar trademark that was given to allow  
23 Ms. Lee to operate the restaurant in San Francisco.

24 Do you recall that?

25 A. Right.

1 Q. Okay. And is this the only writing that  
2 reflects that license?

3 A. I believe so.

4 Q. Okay. And so this agreement is between you  
5 personally and Ms. Lee personally. Is that correct?

6 A. Yes.

7 Q. Okay. And so the license being granted here  
8 is between -- that's between you and Ms. Lee. Is that  
9 correct?

10 MR. MAUCH: Objection. Calls for a legal  
11 opinion.

12 THE WITNESS: I think "I" meaning  
13 Burma Super Star, Inc., and maybe it just a -- maybe  
14 the pronouns are used for the convenience of the  
15 attorneys. "Desmond" I think refers to  
16 Burma Super Star, Inc. "Joycelyn" refers to East-West  
17 Holding.

18 BY MR. FRIEDLAND:

19 Q. Okay. And so the agreement -- so the bottom,  
20 it says -- on the last page, the signatories to it,  
21 that's you -- it says Desmond Tan. That's your  
22 signature. Correct?

23 A. Correct.

24 Q. And then just next to it, that signature above  
25 the words "Joycelyn Lee," that's Ms. Lee's signature?

1 A. Yes.

2 Q. And so the agreement -- just to understand  
3 your testimony, you're saying the agreement is  
4 actually -- when it says Desmond Tan, it actually means  
5 Burma Superstar Inc.? Is that what you're saying?

6 MR. MAUCH: Objection. Misstates his prior  
7 testimony.

8 You can answer.

9 THE WITNESS: Yes.

10 BY MR. FRIEDLAND:

11 Q. Okay. At any point did you -- look at  
12 paragraph -- paragraph 3 of the settlement terms.  
13 Paragraph 3 says, "Desmond gets the other restaurants,  
14 and Burma Superstar trademark."

15 Do you see that?

16 A. Yes.

17 Q. Did Ms. Lee ever have any ownership in the  
18 Burma Superstar trademark?

19 A. She might have think that -- thought or think  
20 that she did. I'm not certain.

21 Q. You're not certain whether she thought she  
22 did, or you're not certain whether or not she did?

23 A. I'm not certain that -- well, she did file for  
24 an application thinking that she did. We contested.

25 Q. Okay.

1           A. I always believed that it is rightfully mine  
2 and ours. So I -- they withdraw. I think that was  
3 somewhere around 2014, '15.

4           Q. So at one point, it was her contention that  
5 she owned the trademark?

6           A. She applied for an application, but we  
7 contested. She withdraw.

8           Q. Okay.

9           A. Maybe she thought she did, but after our --  
10 you know, our -- after we contested, she withdraw.

11          Q. Why did she withdraw?

12          A. I don't know. Maybe she felt that she didn't  
13 own it.

14          Q. She never told you?

15          A. I'm sorry?

16          Q. She never said one way or the other why she  
17 withdrew it?

18          A. I didn't hear back.

19          Q. Why is this -- why is the agreement set forth  
20 that you get the Burma Superstar trademark?

21          A. Because it was always rightfully mine. She  
22 didn't contest that. And there was a settlement that  
23 she was happy with. Settlement to make.

24          Q. And then paragraph 4, that's the only writing  
25 that provides her with a license to use the

1 Burma Superstar mark. Is that correct?

2 A. Correct.

3 Q. Now, it says that her license is irrevocable.

4 Do you see that?

5 A. Yes.

6 Q. What does that mean?

7 MR. MAUCH: Objection. Calls for a legal  
8 opinion.

9 BY MR. FRIEDLAND:

10 Q. Do you have an understanding as to what that  
11 term meant in the agreement that you signed?

12 A. Can you rephrase or repeat the question?

13 Q. Sure. So when you signed this agreement that  
14 includes the phrase -- that includes the sentence  
15 "Joycelyn gets an irrevocable license to use the  
16 Burma Superstar mark for the three SF restaurants" --

17 A. Four -- wait.

18 Q. So the sentence says, "Joycelyn gets an  
19 irrevocable license to use the Burma Superstar mark for  
20 the three SF restaurants which is exclusive to her and  
21 SF."

22 What was your understanding of the phrase  
23 "irrevocable license"?

24 A. "Irrevocable" -- it's a little bit vague here.  
25 My understanding is that the -- she can use the



1 Burma Superstar trademark without paying a fee to us.  
2 She can open additional Burma Superstar restaurants in  
3 San Francisco, and that I won't be opening a  
4 Burma Superstar restaurant in San Francisco.

5 But "irrevocable" is -- seemed to be very  
6 vague here.

7 Q. So did you have an understanding that  
8 "irrevocable" means that you can't -- you can't take  
9 the license away from her?

10 A. Yes.

11 Q. Okay. Is there any -- previously you  
12 testified that there was something about quality  
13 control standards.

14 Is there anything in this particular agreement  
15 that says anything about requiring particular quality  
16 control?

17 A. I'm not very concerned about that. If  
18 anything, Joycelyn can operate the restaurant better  
19 than I can. So her standards, quality, are just as  
20 high as mine, if not higher. And she knows the food  
21 well, and she has good relationships with her managers,  
22 her staff, which is evident by the employees who have  
23 been there for a long time and worked for  
24 Burma Superstar company for a long time.

25 And we monitor social media; we monitor Yelp.

1 And you could look at it yourself. There -- they  
2 continue to do really well with customers based on what  
3 the customers are saying.

4 Q. There's nothing in this agreement that says  
5 that if the quality control standards fall down, you  
6 can't -- you can't revoke the license at that point,  
7 can you?

8 MR. MAUCH: Objection. Calls for a legal  
9 opinion.

10 THE WITNESS: I -- I don't know.

11 BY MR. FRIEDLAND:

12 Q. Okay. Do you have the right to -- if she  
13 wants to start selling different types of food, do you  
14 have the right to veto that?

15 MR. MAUCH: Objection. Calls for a legal  
16 opinion.

17 BY MR. FRIEDLAND:

18 Q. If she starts selling pizza, could you tell --

19 A. I will tell you that we would never sell  
20 burger, fries, or sandwiches in our life. That's not  
21 our business.

22 Q. But you can't stop her from doing it, can you?

23 MR. MAUCH: Objection. Calls for a legal  
24 opinion.

25 THE WITNESS: I can tell you she will never

1 sell burger, fries, or sandwiches in her life.

2 BY MR. FRIEDLAND:

3 Q. Can she sell the restaurant to somebody else?

4 A. No.

5 Q. She can't?

6 A. She cannot.

7 Q. Why can't she?

8 A. She can --

9 MR. MAUCH: Object. Objection. Calls for a  
10 legal opinion.

11 Now you can answer.

12 THE WITNESS: She can -- she can. Orally, we  
13 have the first right of refusal, and she can -- she can  
14 sell it only without the name Burma Superstar. And  
15 even then, we have the first right of refusal.

16 BY MR. FRIEDLAND:

17 Q. When did you reach that oral agreement?

18 A. I don't recall.

19 Q. Was that around the time of 2017, or was that  
20 before then or after then?

21 A. I don't recall. Probably after.

22 Q. This -- this handwritten settlement agreement  
23 that we were looking at, was that to settle a  
24 particular lawsuit? Was there a lawsuit pending  
25 between the two of you at the time?

1 A. No. That's the separation.

2 Q. So this was before -- there was a lawsuit  
3 afterwards?

4 A. No.

5 Q. No?

6 A. Not that I'm aware of.

7 Q. No lawsuit between you and --

8 A. What kind of lawsuits are you referring to?

9 Q. Did you have -- did you ever --

10 A. I mean, we always have lawsuits.

11 MR. MAUCH: No, no, no.

12 BY MR. FRIEDLAND:

13 Q. Between you and Ms. Lee.

14 A. No.

15 Q. There were never any?

16 A. (No audible response.)

17 Q. Ms. Lee didn't sue you?

18 A. She sued me for -- after our marital  
19 situation, there were different lawsuits from her, and  
20 at some point I stopped reading them. I always refer  
21 them to my attorneys.

22 MR. MAUCH: That's his question, though,  
23 Desmond: Was there a divorce -- was there a divorce  
24 dispute that was between you and Joycelyn?

25 THE WITNESS: Yeah. I mean, that's -- you

1 know, of course.

2 MR. MAUCH: You can't say "of course." That's  
3 his question: Was there some kind of divorce proceeding  
4 going on?

5 THE WITNESS: As a lawsuit. Okay. Yes. But  
6 that was settled.

7 BY MR. FRIEDLAND:

8 Q. So the only -- the only litigation between --  
9 between you and Ms. Lee was just -- was just  
10 divorce/dissolution-related proceedings. Is that  
11 correct?

12 A. There -- there was a restraining order. Is  
13 that a lawsuit? I'm not sure.

14 Q. It could be part of one, I guess.

15 A. Well, she accused me of child abuse to get the  
16 restraining order, which proved to be very false. And  
17 we went to trial for that one.

18 (Deposition Exhibit 105 was marked for  
19 identification.)

20 BY MR. FRIEDLAND:

21 Q. So I've handed you a document that we've  
22 marked as Exhibit 105. As you can see from the title  
23 of it, it says "Declaration of Desmond Tan in Support  
24 of Motion to Enforce Settlement Agreement."

25 Do you see that?

1 A. Okay. Yes.

2 Q. And that appears to have been filed in a  
3 lawsuit titled "Joycelyn Lee vs. Desmond Tan" that was  
4 pending in the Superior Court of the State of  
5 California, County of San Francisco.

6 Do you see that?

7 A. Yes.

8 Q. And it looks like it was filed in -- on  
9 August 14th of 2017.

10 On the last page of this exhibit there's a  
11 signature block that says "Desmond Tan," and there's a  
12 signature above it.

13 Do you see that?

14 A. Yes.

15 Q. Is that your signature?

16 A. Yes.

17 Q. Okay. And do you recall having reviewed and  
18 signed this declaration?

19 A. Yes.

20 Q. Sitting here now, are you -- are you aware of  
21 any statements contained within this declaration that  
22 you believe were -- are inaccurate?

23 A. I -- I mean, you want me to read the whole  
24 thing now?

25 Q. Why don't you take a look at paragraph 6. And

1 take a look at paragraph 6 and tell me if you think  
2 that any of the statements contained there are  
3 inaccurate in any way. And we can go sentence by  
4 sentence to make it clearer.

5 Do you see in paragraph 6 it starts off by  
6 saying that -- by referring to a meeting involving  
7 Robert Matz, and it says:

8 "At one point in the meeting, I remember  
9 Robert Matz coming into our conference room and  
10 conveying a request from Joycelyn that the trademark  
11 license that I agreed to for the San Francisco  
12 restaurants be assignable, so that she could later sell  
13 those restaurants."

14 Do you see that sentence?

15 A. Yes.

16 Q. Is that correct? Does that sentence  
17 accurately reflect your recollection?

18 A. I think "assignable" is incorrect. "License"  
19 probably would be more correct.

20 MR. MAUCH: No, the -- read -- do you  
21 understand the sentence?

22 THE WITNESS: Yeah, I do.

23 BY MR. FRIEDLAND:

24 Q. Well, let me just -- what I'm just asking you  
25 is if -- is if sitting here now you still think that

1 this accurately reflects your recollection of the  
2 event: that Matz came into your conference room,  
3 conveyed information from Joycelyn that the trademark  
4 license that I agreed to for the San Francisco  
5 restaurants be assignable so that she could later sell  
6 those restaurants.

7 Do you remember him asking you that?

8 A. Yes.

9 Q. Next sentence says, "Before I could say no, my  
10 attorney James Lee very strongly stated that we would  
11 not agree to such a term."

12 Is that right, as you recall it?

13 A. Yes.

14 Q. Next sentence: "We made sure that it's  
15 important to me that we keep control of the  
16 Burma Superstar trademark, that we keep it 'in the  
17 family.'"

18 Is that also accurate?

19 A. Yes.

20 Q. "My intent, as I explained, was to give  
21 Joycelyn the existing SF restaurant operations --  
22 namely Burma Superstar SF, B Star, and Eats."

23 Also accurate?

24 A. Yes.

25 Q. Next sentence: "Only one of the three SF



1 restaurants that we put in the settlement agreement was  
2 actually named Burma Superstar." Correct?

3 A. Yes.

4 Q. "We agreed to the exclusive license so that  
5 Joycelyn could continue to operate the one existing  
6 San Francisco Burma Superstar Restaurant without my  
7 ability to license the name to a competing restaurant  
8 and/or opening a Burma Superstar restaurant in  
9 San Francisco myself." Correct?

10 A. Correct.

11 Q. "This was to give Joycelyn a continued benefit  
12 of the Burma Superstar name for the existing  
13 restaurant."

14 Also correct?

15 A. Correct.

16 Q. Okay. On page 1 of that same declaration,  
17 which is Exhibit 105, all the way at the bottom there's  
18 a sentence that says "At the time of our separation,"  
19 it's in numbered paragraph 3.

20 "At the time of our separation, Joycelyn  
21 decided she would take the three San Francisco  
22 restaurants that we owned."

23 Do you see that?

24 A. Right.

25 Q. And is that statement accurate, that you --

1 that you owned the three San Francisco restaurants  
2 together with Joycelyn, with Ms. Lee?

3 A. Can you repeat that?

4 Q. Yeah. So is that statement accurate, that at  
5 the time of the separation, you and Ms. Lee together  
6 owned the three San Francisco restaurants?

7 A. Yes.

8 (Deposition Exhibit 106 was marked for  
9 identification.)

10 BY MR. FRIEDLAND:

11 Q. So I've handed you a document that we've  
12 marked as Exhibit 106. And I'd like you to look  
13 specifically at the second page of that exhibit. It's  
14 marked as BURMA000271.

15 Do you see that page?

16 A. Yes.

17 Q. If you go toward the top of the page, there's  
18 numbers on the left-hand side. One of the numbers is  
19 4. And there's a sentence there that says -- or part  
20 of -- there's a sentence that starts with: "For  
21 example, although the parties have agreed Plaintiff  
22 Joycelyn Lee would, in consideration of the transfer of  
23 her rights in the Burma Superstar mark, receive an  
24 exclusive and irrevocable license."

25 Do you see that phrase?

1 A. Right.

2 Q. Is that correct, that Joycelyn Lee transferred  
3 her rights in the Burma Superstar mark?

4 A. I'm not --

5 MR. MAUCH: Objection. Vague and ambiguous.  
6 You can answer the question.

7 THE WITNESS: I'm not aware that she ever  
8 owned the trademark.

9 BY MR. FRIEDLAND:

10 Q. So you disagree with the statement, then, that  
11 the parties agreed that Joycelyn Lee would transfer her  
12 rights in the Burma Superstar mark?

13 A. Yes.

14 Q. So if you look at the next page, which is page  
15 number 274, toward the middle of the page, or the top  
16 middle of the page -- it's around line 6. The  
17 paragraph starts with the phrase "In his motion." If  
18 you go down three or four lines, there's the phrase  
19 that says, "There is no trademark license yet between  
20 the parties."

21 Do you see that?

22 A. Can you -- which line, please?

23 Q. Starting on line 6 --

24 A. Line 6.

25 Q. Toward the end, it's the -- I can start with

1 the full sentence, but it starts on line 3, if you  
2 like.

3 A. Yeah. Start at line 3, please.

4 Q. So around -- so line 3, the first full  
5 paragraph, says:

6 "In his motion, based on false declarations of  
7 alleged parole evidence, Mr. Tan now seeks to use the  
8 absence of a provision regarding assignability in a  
9 handwritten settlement agreement to prove Plaintiff  
10 Joycelyn Lee ought not to be allowed to sell the  
11 restaurants she got under the agreement even though she  
12 has no present intent to do so and even though there is  
13 no trademark license yet between the parties."

14 Do you see that sentence?

15 A. Yes.

16 Q. So I want you to look at the -- focus on the  
17 last phrase of that sentence that says "even though  
18 there is no trademark license yet between the parties."

19 Do you see that?

20 A. Yes.

21 Q. Is that an accurate statement, that there was  
22 a -- that at the time this was written, there was no  
23 trademark license between -- between you or  
24 Burma Super Star, Inc. on the one hand and Joycelyn and  
25 East-West on the other?

1           A. It's not accurate. She never had it; I always  
2 did. That was my understanding.

3           Q. You always had ownership of the trademark?

4           A. Right.

5           Q. Did she have a license to use the trademark?

6           A. She had -- what date is this are you referring  
7 to?

8           Q. This document is dated August 28th, 2017.

9           A. Is this based on -- after the settlement  
10 terms?

11          Q. This was filed after the handwritten --

12          A. The settlement terms.

13          Q. Yes. This was probably after the handwritten  
14 settlement.

15          A. I guess there are different interpretations.  
16 I don't know.

17          Q. Okay. So you don't know whether -- so the --  
18 the sentence that says here that there is no trademark  
19 license yet between the parties, you don't know if  
20 that's accurate or not?

21          A. I don't believe that's -- it's not accurate.  
22 As far as I know, she never had it; I did. But --  
23 Burma Super Star, Inc. did.

24          Q. So you think that at the time this was  
25 written, Burma Super Star, Inc. owned the trademark?

1 A. Yes.

2 Q. And Ms. Lee did not have a license to use it  
3 at that time?

4 A. 2018, Burma Superstar --

5 Q. 2017.

6 A. In April. Burma Super Star, Inc. licensed it  
7 based on the settlement agreement that they can use it.  
8 And this came later, and I think this is still pending.

9 Q. So you think it's just wrong?

10 A. I'm sorry?

11 Q. You think the statement is just wrong?

12 A. Yes.

13 Q. Okay. So then if you look down on line 11, it  
14 says again -- on that same page, it says "there is no  
15 trademark license between the parties."

16 And that's also an incorrect statement?

17 A. Yes.

18 Q. And then down on page -- on line 19, it says  
19 "This confirms there is/was no trademark license."

20 Also an incorrect statement?

21 A. Incorrect.

22 Q. Okay.

23 (Deposition Exhibit 107 was marked for  
24 identification.)

25

1 BY MR. FRIEDLAND:

2 Q. So I've handed you a document that we've  
3 marked as Exhibit 107. Do you recognize 107 as being  
4 portions of a declaration that you signed?

5 MR. MAUCH: And I'm just going to object.  
6 This document, like a lot of the documents we've seen  
7 in the prior exhibit, it's only a portion of a  
8 document, and this one doesn't even include the  
9 signature page. So it is rather confusing. But -- you  
10 know, there's pages not in order, and missing pages,  
11 and no signature page.

12 You can answer the question.

13 THE WITNESS: Can you -- yes.

14 BY MR. FRIEDLAND:

15 Q. Okay. You recognize this as a portion of --  
16 and I apologize that the full document's not there.

17 So I'd like you to take a look at paragraph 2  
18 on the first page of Exhibit 107. Paragraph 2 says:  
19 "Joycelyn Lee (Lee) and I separated in August 2013."

20 That's accurate?

21 A. Yes.

22 Q. The next sentence says: "At that time, we,  
23 through various entities, owned and operated five  
24 restaurants: three in San Francisco (the original  
25 Burma Superstar, B Star and Eats) and two in the East

1 Bay (Burma Superstar Alameda and Oakland)."

2 Do you see that?

3 A. Yes.

4 Q. And that statement is accurate?

5 Are you not sure if it's accurate? Is there  
6 part of it that's troubling you?

7 A. Not she owned it. I'm not sure if she owned  
8 it, but through marital -- marital laws, maybe she did;  
9 maybe she didn't. I'm -- you know, I'm not clear about  
10 what the asset separations are based on marriage.

11 Q. So you're just not sure -- you're just not  
12 sure if it was accurate --

13 A. Correct.

14 Q. -- that -- that the two of you together owned  
15 the five restaurants?

16 A. As far as I know, I owned the restaurants.

17 Q. Okay. But -- okay. At the time that you  
18 signed this declaration, did you believe that this was  
19 accurate?

20 A. No.

21 Q. You did not?

22 A. No.

23 Q. Okay. Why did you sign it if you didn't -- if  
24 you weren't sure it was accurate?

25 A. Where is the signature? I'm sorry.



1 Q. Yeah, it's not on the --

2 A. Yeah.

3 Q. Yeah, I'm sorry, too.

4 Do you recall signing this?

5 A. I don't recall it.

6 Q. Okay. Do you recall submitting a declaration  
7 in -- in connection with Ms. Lee's lawsuit against you?

8 A. Can you repeat that, please?

9 Q. Do you recall signing a declaration in  
10 connection with Ms. Lee's lawsuit against you?

11 A. Which lawsuit?

12 Q. The one that's listed here. The Joycelyn Lee  
13 versus Desmond Tan and Does 1 through 20?

14 A. Joycelyn Lee is very difficult to deal with,  
15 and she will sue me for anything. Maybe this is one of  
16 many. And I don't know. I don't recall. But if I  
17 have my signature in there, you know, that would --

18 Q. Okay.

19 A. -- help.

20 Q. So I'd like you to turn your attention to  
21 page 352. 352, specifically paragraph 8. The second  
22 page of the declaration.

23 Do you see paragraph 8?

24 A. Yes.

25 Q. Okay. And here you wrote, "I have a clear

1 recollection of negotiations relating to the  
2 Burma Superstar trademark."

3 Do you recall that?

4 A. Yes.

5 Q. Okay. And then you wrote, "It was important  
6 that I (or rather a corporation owned and controlled by  
7 me) controlled the Burma Superstar trademark in order  
8 to protect it."

9 Do you recall writing that?

10 A. Yes.

11 Q. And next one you say, "In addition, I saw  
12 value in this trademark going forward and the  
13 additional 700,000 I agreed to pay to Joycelyn Lee was  
14 in large part a payment for my sole ownership of the  
15 trademark."

16 Do you see that?

17 A. Yes.

18 Q. And that's also an accurate statement?

19 A. Yes.

20 Q. I thought you -- I think you previously  
21 testified that Joycelyn Lee had no ownership in the  
22 trademark. Is that right?

23 A. This was a global settlement, not necessarily  
24 for trademark. You know, all the assets. We had been  
25 divorced for -- separated for a number of years, and

1 this was in there not just for the trademark, but for  
2 all the assets.

3 Q. So for all the assets, including sole  
4 ownership of the trademark.

5 A. And maybe the verbiage was used loosely.

6 Yeah. It was a global settlement. It wasn't  
7 just the trademark.

8 Q. Okay. But it was part -- in large part, it  
9 was the trademark?

10 A. No.

11 Q. No? But part of it was the trademark?

12 A. I don't recall, but I -- I'm seeing this, but  
13 when I say global settlement, I thought it just  
14 includes everything.

15 Q. Okay. But the declaration says "in large part  
16 a payment for my sole ownership of the trademark." You  
17 see that; right?

18 A. What line?

19 Q. Line 21 and 22.

20 A. Well, that was to have a -- not because she  
21 owned it, but I just didn't want to have any more  
22 dispute, and to have a global settlement.

23 (Deposition Exhibit 108 was marked for  
24 identification.)

25

1 BY MR. FRIEDLAND:

2 Q. So I've just handed you a document that we've  
3 marked as Exhibit 108. And you'll see it says at the  
4 top "Final Execution Version," and below that, it says  
5 "Trademark Assignment."

6 Do you see that?

7 A. Yes.

8 Q. Do you know if a version of this document was  
9 ever actually signed?

10 A. Okay.

11 Q. Do you remember one way or the other?

12 A. You know, I don't do the day-to-day, the  
13 nitty-gritty details. If anybody would know, it would  
14 be my attorney.

15 Q. Okay. Are you familiar with -- are you  
16 familiar with this document at all? Have you ever seen  
17 it before?

18 A. This is drafted by who?

19 Q. I don't know. Somebody's lawyer.

20 MR. MAUCH: The question is whether you  
21 recognize this document. And if you don't, you don't.

22 THE WITNESS: I don't recall.

23 BY MR. FRIEDLAND:

24 Q. Okay. So at the top, it says, "This Trademark  
25 Assignment is made and entered into effective as of

1 October 5, 2017, by and among Joycelyn Lee and  
2 East-West Holdings," and, it says East-West, together  
3 with Lee, is the assignor, on the one hand; and Desmond  
4 Tan, an individual, and Burma Super Star, Inc., who are  
5 referred to as the assignee.

6 Do you see that?

7 A. Yes.

8 Q. So it refers to Joycelyn and East-West as the  
9 assignor and Desmond Tan and Burma Super Star, Inc. as  
10 the assignee.

11 And then if you go down to paragraph E, it  
12 says: Assignor is willing to assign, convey and  
13 transfer to assignee, and assignor is willing to accept  
14 any and all right, title, and interest in and to each  
15 trademark, trademark application, and registration  
16 listed in Exhibit A.

17 Do you see that?

18 A. Yes.

19 Q. So does that -- does that mean to you that  
20 Joycelyn Lee and East-West Holdings were assigning to  
21 you and Burma Superstar rights in some trademarks?

22 A. I don't see how they could assign to me if  
23 they never owned it.

24 Q. So on the last page of this Exhibit 108 are a  
25 list of the trademarks: B Star, Burma Love, and

1 Burma Superstar.

2 A. Okay.

3 Q. Do you see that? So those are the trademarks  
4 that are the subject of this assignment agreement.

5 So would the purpose of this assignment  
6 agreement was for Ms. Lee and East Coast -- East-West  
7 Holdings to assign those trademarks to you and to  
8 Burma Super Star, Inc.?

9 MR. MAUCH: Objection. Misstates the  
10 document.

11 THE WITNESS: I repeat: I don't see how she  
12 can assign it to me if she never owned it.

13 BY MR. FRIEDLAND:

14 Q. Okay. And do you know who prepared this  
15 document?

16 A. No, I don't.

17 Q. And you're not sure if you've ever seen it  
18 before?

19 A. I'm not sure.

20 Q. And the back has a signature block for you to  
21 have signed. Do you recall if you ever signed it?

22 A. I don't see my signature there.

23 Q. And you don't recall if you ever signed a  
24 different version of this?

25 A. No. This is not something I would accept.

1 I apologize. I need to take a break again.

2 (Recess from 12:11 P.M. 12:51 P.M.)

3 MR. FRIEDLAND: Ready to go back on the  
4 record.

5 Q. So I'd like to ask you to take a look at a  
6 document I'll mark 109.

7 (Deposition Exhibit 109 was marked for  
8 identification.)

9 BY MR. FRIEDLAND:

10 Q. So we've handed you a document that we've  
11 marked as Exhibit 109. And this document is portions  
12 of a memorandum of points and authorities in support of  
13 a motion to enforce a settlement agreement.

14 Do you see that? The title of the document is  
15 on the first page.

16 A. Yes.

17 Q. And this document was filed on your behalf.  
18 Do you see that? It says at the top.

19 A. Yes.

20 Q. "Attorney for Defendant Desmond Tan."

21 And I'd like you to take a look at page 1 of  
22 this document, which has been marked as BURMA000282.

23 Are you with me on page 1?

24 A. Yes.

25 Q. Okay. And then if you look down at the third

1 full paragraph, starting around line 20, about halfway  
2 through that line, it says, "Tan remains the owner of  
3 the trademark globally."

4 Do you see that?

5 A. Yes.

6 Q. Does that indicate to you that, according to  
7 this document, you were the owner of the trademark  
8 globally?

9 A. Yes.

10 Q. And then in -- on the next page, which is  
11 page 3, or also alternatively marked as  
12 page BURMA000284, it says "C. Terms of the 3/24/2017  
13 Agreement."

14 Do you see that?

15 A. Yes.

16 Q. And there are some bullet points. One, two,  
17 three, fourth bullet point, it says, "Tan retains  
18 ownership of the Burma Superstar trademark."

19 Do you see that?

20 A. Yes.

21 Q. And that's described in the terms of the  
22 March 24, 2017, agreement?

23 A. Yes.

24 Q. Okay. And then the next one, the next bullet  
25 point says, "Lee receives an irrevocable license from



1 Tan to use the Burma Superstar trademark for the three  
2 San Francisco restaurants."

3 Do you see that?

4 A. Yes.

5 Q. And those are all accurate statements?

6 A. Yes.

7 MR. FRIEDLAND: We'll mark the next document.  
8 That will be 110.

9 (Deposition Exhibit 110 was marked for  
10 identification.)

11 BY MR. FRIEDLAND:

12 Q. So the document we have marked as Exhibit 110  
13 which is in front of you now is entitled "Reply  
14 Memorandum in Support of Motion to Enforce Settlement  
15 Agreement."

16 Do you see that?

17 A. Yes.

18 Q. Okay. And this is also a document that was  
19 filed on your behalf by your attorneys?

20 A. Yes.

21 Q. Okay. If you look at the third page of that  
22 document, which is -- it's page 2, also numbered  
23 BURMA000302 -- are you there with me on that page?

24 A. Yes.

25 Q. Okay. So if you go to the first full

1 paragraph on that page, the paragraph starts, it says,  
2 "Lee's partial performance."

3 Do you see that paragraph?

4 A. Right. Yes.

5 Q. Yes, okay. And then a few lines down is a  
6 sentence that says, "She withdraw her opposition in the  
7 pending trademark proceeding because she was facing  
8 deadlines in that action as well."

9 Do you see that?

10 A. Yes.

11 Q. Next sentence says, "Lee took these actions to  
12 avoid running up her legal bills further."

13 Do you see that?

14 A. Yes.

15 Q. What -- the first sentence there where it says  
16 "She withdraw her opposition in the pending trademark  
17 proceeding," do you know what that's referring to?

18 A. Yes.

19 Q. What was it referring to?

20 A. The application that she submitted maybe  
21 sometime in 2014, '15 for the trademark.

22 Q. For the trademark Burma Superstar?

23 A. Right.

24 Q. And you said that she withdraw it because she  
25 was facing deadlines and to avoid running up legal

1 fees. Is that right?

2 A. That's both sides, yes.

3 Q. Okay. And that's accurate?

4 A. Yes.

5 Q. Okay. The -- and I'm sorry, I'm probably --  
6 I'm almost positive I asked you this question, but it's  
7 probably a slightly different way.

8 So currently, Ms. Lee has -- has a license to  
9 use Burma Superstar in connection with restaurants in  
10 San Francisco. Is that right?

11 A. Yes.

12 Q. And when it says Ms. Lee, just to be clear, is  
13 it Ms. Lee that has that license or is it East-West  
14 Holdings that has the license?

15 A. Currently?

16 Q. Yeah.

17 A. Burma Super Star, Inc.

18 Q. I'm sorry. Which one -- for the restaurants  
19 in San Francisco that Ms. Lee operates, who has the  
20 license to use it?

21 Is it Ms. Lee that has the license, or is it  
22 East-West Holdings that has the license?

23 A. I'm not clear.

24 Q. You're just not sure --

25 A. Not sure.

1 Q. One or the other?

2 A. Right.

3 Q. And that license -- that license either to  
4 Ms. Lee or to East-West Holdings, when did that begin?

5 MR. MAUCH: And to be clear, you're asking  
6 about the original license provided to East-West  
7 Holdings?

8 MR. FRIEDLAND: The one that permits -- well,  
9 specifically that permits Ms. Lee to do it.

10 MR. MAUCH: Objection as vague and ambiguous,  
11 then.

12 THE WITNESS: To my understanding, East-West  
13 Holding was given the license to operate prior to the  
14 settlement in 2017, and the license was again given to  
15 Ms. Lee I think formally on the settlement agreement in  
16 2017. So I'm not sure if they are the same.

17 BY MR. FRIEDLAND:

18 Q. Okay. And that's still -- and whatever the  
19 license is, that license is still ongoing now?

20 A. Yes.

21 Q. Okay. And there's no termination date for  
22 that license?

23 A. No.

24 Q. Does Burma Super Star, Inc. review any of the  
25 advertising that Ms. Lee's entities do in connection

1 with their Burma Superstar restaurant?

2 A. We've never advertised. I am not sure if  
3 she's done it. If she did, I haven't seen it.

4 Q. Okay. But you just don't know -- you don't  
5 know one way or the other if she advertises?

6 A. In the 20 years -- close to 20 years that I've  
7 operated, I've never done it. So after 2012, '13, '14,  
8 I'm not sure if she did or not. But I've never seen  
9 any Burma Superstar advertisements.

10 Q. All right. And by advertisements, you're  
11 referring to, like, newspaper, magazine, television --

12 A. Well, is that what you're referring to?

13 Q. Yeah.

14 A. No. Yeah, that's right.

15 Q. None of that.

16 A. No.

17 Q. How about on the Internet? Any Internet  
18 advertising?

19 A. Not that I'm aware of.

20 Q. Okay. If she does any Internet advertising or  
21 any type of advertising, is she obligated to inform you  
22 of that so you can review it?

23 A. If she does. But I've never seen it.

24 Q. So you think she does have an obligation?

25 A. She --

1 Q. If she did decide to do it --

2 A. Right.

3 Q. -- she would have to show you first?

4 A. We don't have a written agreement, but I --  
5 you know, I don't know.

6 Q. Okay. How about Internet stuff? Like  
7 website.

8 A. You could do a search, you know, on the  
9 advertisements. We've never done it.

10 Q. Oh, sorry. I meant like the web page. Does  
11 her restaurant have a web page?

12 A. We're in the process of consolidating, you  
13 know, all the websites to one Burma Superstar -- you  
14 know, Burma Inc., future Superstars, you know,  
15 Burma Love.

16 Q. So currently, the web page -- if I go in and  
17 try to pull up the web page --

18 A. It will be Burma Superstar itself. That will  
19 take you to Burma Superstar Clement. But what we're  
20 trying to do is consolidate under the term agreements  
21 for that to be clickable, go to "Burma Inc." and click  
22 to each individual restaurant.

23 Q. So the website that now refers to the  
24 Burma Superstar restaurant in San Francisco, who  
25 controls that website?

1 A. At the moment, Joycelyn.

2 Q. Okay. How long has that been the case?

3 A. Since 2001, I guess.

4 Q. So she's --

5 A. No, I -- the restaurant's been controlling it.

6 But we're not very active with the website.

7 Q. Okay. Do you have any control over the  
8 contents of the website currently?

9 A. No.

10 Q. Okay. Do you review the website?

11 A. I look at it. The menu, the hours.

12 Q. How --

13 A. Reviews.

14 Q. How often do you look at it?

15 A. Probably once every 3, 4 weeks.

16 Q. For what purpose do you look at it?

17 A. Just to see what's going on. Menu changes.

18 Price changes. See if there's anything unusual.

19 Q. Have you ever -- have you seen anything  
20 unusual?

21 A. No.

22 Q. In addition to the website, is there -- does  
23 Ms. Lee's restaurant have any, like, social media  
24 sites, like Instagram --

25 A. Twitter, Instagram, just pictures.

1 Q. And that's controlled by her as well?

2 A. Right.

3 Q. And you don't have any control over what she  
4 posts on those either?

5 A. For now.

6 Q. Okay. So you said that you -- that you have  
7 supplied the fermented tea leaves and the beer to  
8 Ms. Lee. Correct?

9 A. Correct.

10 Q. Or to -- to Ms. Lee's restaurant.

11 Has that been the case continuously, or have  
12 you --

13 A. Not continuously. We're -- we were doing it,  
14 and we had some manufacturing issues at one point, and  
15 we -- we -- we didn't have enough. And but we've  
16 aligned all the raw material and manufacturers.  
17 They're all aligned at the moment, so we are having a  
18 conversation again now.

19 Q. So has there been -- has there been a time  
20 when Ms. Lee's restaurant was obtaining its tea leaves  
21 from an alternative supplier?

22 A. Sorry. What period of time?

23 Q. Was there a time when she was getting her tea  
24 leaves from someone else?

25 A. Yes.



1 Q. Where did she get it from?

2 A. There were plenty of sources. I don't know  
3 where she'd get it from.

4 Q. Did -- so you didn't investigate who the  
5 source was?

6 A. No. But I think, you know, ultimately, our  
7 product is a better product, because, you know, I know  
8 what goes in it. You know, I know the leaves are  
9 organic; you know, I know the ingredients are natural  
10 ingredients.

11 And that's not to say the competition is good  
12 or bad, but, you know, I didn't make those, so I don't  
13 know. I will feel more comfortable that all our  
14 restaurants use the ones that we produce, including the  
15 one on Clement Street.

16 Q. When did you stop supplying the tea leaves to  
17 restaurants?

18 A. I don't recall the date.

19 Q. Was it recently?

20 A. Oh, several months ago, I think.

21 (Deposition Exhibit 111 was marked for  
22 identification.)

23 BY MR. FRIEDLAND:

24 Q. So I've handed you a document that's been  
25 marked as Exhibit 111, and you can see it's an email

1 string. I know that you're not copied on it, so I'm  
2 not positive that you've seen it before, but I'd like  
3 you to take a look at it and see if it's familiar to  
4 you.

5 A. (Examining document.)

6 Q. Have you seen this email exchange before?

7 A. I'm trying to finish the last paragraph.

8 Q. Go right ahead.

9 A. Just one second.

10 Q. I apologize for rushing you.

11 A. No problem.

12 I didn't see the email, but the assertions are  
13 incorrect.

14 Q. They're incorrect?

15 A. Well, it's not cutting off to do harm to her  
16 business. It's like I had said earlier. We were  
17 having a manufacturing issues.

18 Q. Looking at it -- the dates that are listed  
19 here, I see one email -- the emails on that first page  
20 of Exhibit 111 look like they were sent November 14th,  
21 2017.

22 Looking at those dates, does that refresh your  
23 recollection as to approximately when shipment of tea  
24 leaves to Joycelyn's restaurants ceased?

25 A. When was the fire in the Napa -- when did that

1 happen?

2 Q. Was that around June or July? I know we're  
3 not supposed to answer questions, but --

4 A. But --

5 Q. It was around the --

6 MR. MAUCH: It was approximately a year ago.

7 THE WITNESS: Okay. So one -- so going back  
8 to what I said earlier, it was manufacturing issues.  
9 Our manufacturer was in the -- probably after June or  
10 July, maybe even August or --

11 BY MR. FRIEDLAND:

12 Q. It might have been August --

13 A. Or September.

14 Q. It wasn't in June.

15 A. So the company that was manufacturing for us  
16 was called Wildbrine, B-R-I-N-E. They are located in  
17 Santa Rosa. They were affected by the fire; and  
18 therefore, the supply.

19 Q. Okay. And so then -- so it was -- but looking  
20 at the dates here, November of 2017, does that sound  
21 like approximately the time frame then? You think it  
22 was a little bit earlier even?

23 A. Probably around -- somewhere around there, or  
24 after. I mean, we stopped supplying to Joycelyn and  
25 Burma Superstar San Francisco? Is that your question?

1 Q. Yeah. I'm -- I was asking if looking at this  
2 email exchange refreshed your recollection as to  
3 approximately when you stopped supplying to Joycelyn  
4 Lee's restaurants.

5 A. It looks like after. Right?

6 Q. Okay.

7 A. From the email.

8 Q. And then in the email from -- I'm having a  
9 hard time reading the chain -- it looks like it was  
10 from Robert Matz. It says that Joycelyn should secure  
11 alternate suppliers for tea leaves and beer as well.

12 But did -- have you stopped supplying her  
13 restaurants with beer, or just with tea leaves?

14 A. No.

15 Q. Just tea leaves?

16 A. We continue with the beer. And like I said,  
17 it was because of manufacturing issues, because of  
18 Wildbrine, because of the fire, and now we are taking  
19 steps to manufacture it ourself. And we're in  
20 discussion to provide the tea leaves again.

21 But the beer we continue to provide.

22 Q. I think you said -- and you're not sure who  
23 the current supplier is the tea leaves.

24 A. No. I'm very sure. We work directly with the  
25 farmers.

1 Q. I'm sorry --

2 A. Oh, for Joycelyn?

3 Q. For Joycelyn.

4 A. I'm not sure. But there are quite a bit of  
5 suppliers.

6 Q. Did you work with Ms. Lee to try to get a new  
7 supplier of tea leaves --

8 A. There is no need.

9 Q. It was just her?

10 A. It's both of our best interest for her to buy  
11 from me and me to sell to her, because it just is  
12 revenue for Burma Love Food Company, and there's  
13 markup. So, you know, I'm not understanding these  
14 arguments here, or claims. So -- and if we were to do  
15 harm, I wouldn't be selling the beer also. To harm the  
16 -- Joycelyn's business, I wouldn't be selling the  
17 business.

18 Q. Okay.

19 A. And I wouldn't -- Nghia wouldn't be consulting  
20 with Joycelyn for HR services.

21 And Mr. Matz is very difficult to work with.

22 Q. Okay. That's Ms. Lee's lawyer?

23 A. Yes.

24 Q. Okay, yeah. They frequently are.

25 A. They are both -- that's okay.

1 Q. We could -- more stuff to talk about when  
2 we're done along with chipped teeth and the Americans  
3 with Disabilities Act.

4 So the -- that new restaurant that you're  
5 opening soon, that's not going to be a Burma Superstar  
6 restaurant. Is that correct?

7 A. Correct.

8 Q. Okay. And that's not in partnership or any  
9 relationship with Ms. Lee. Is that correct?

10 A. Correct.

11 Q. Okay. And there won't be any  
12 Burma Superstar-branded products sold in that  
13 restaurant?

14 A. We don't know yet. We most likely will.

15 Q. Sell Burma Superstar-branded products?

16 A. Yeah. The kits. The tea leaf kits.

17 Q. Okay.

18 A. Yeah. And the books. We sell the book and  
19 the tea leaf kits, I think.

20 Q. Do you --

21 A. We're not certain yet. It's not open yet. So  
22 I should say I don't know.

23 Q. Do you sell the Burma Superstar kits and books  
24 in other restaurants that aren't Burma Superstar  
25 restaurants?

1 A. Burma Love, yes.

2 Q. Burma Love has that?

3 A. Right.

4 Q. Any others?

5 A. No.

6 Q. I'm going to do this one real quick I see if I  
7 use it -- I don't think I do.

8 A. I'm curious. How did you get these emails?

9 MR. MAUCH: We produced them.

10 MR. FRIEDLAND: Yes. Not just to be nice. He  
11 had no choice.

12 MR. MAUCH: It's my obligation.

13 MR. FRIEDLAND: We had to produce a bunch of  
14 stuff too.

15 So I'm going to move for entry of all the  
16 marked exhibits into evidence. And I have no questions  
17 for now, but I will reserve the opportunity for further  
18 cross-examination following your redirect.

19 MR. MAUCH: Okay. That was faster than I  
20 thought, which is good news.

21 MR. FRIEDLAND: Do you want to break?

22 MR. MAUCH: Do you want to give me 5 minutes  
23 just to collect my -- I think it should actually  
24 improve the timing. And I understand your reservation,  
25 further rights to ask.

1 (Recess from 1:16 P.M. to 1:25 P.M.)

2 DIRECT EXAMINATION BY MR. MAUCH

3 BY MR. MAUCH:

4 Q. Okay, Desmond. We're on the record, and I  
5 just wanted to take a few minutes to ask you a couple  
6 questions just to clarify some of your testimony  
7 earlier today, because I think at times there was a  
8 little bit of confusion, and I wanted to make sure the  
9 record is clear about your testimony.

10 If you could turn to what's been marked as  
11 Exhibit 101.

12 A. Okay.

13 Q. And Exhibit 101 is an article from a website  
14 that's apparently called The Bold Italic.

15 Do you see that?

16 A. Yes.

17 Q. And the title of the article is "The  
18 San Francisco-Burma Connection."

19 Do you see that?

20 A. Yes.

21 Q. And the author is someone named Chelsea  
22 Iversen.

23 Do you see that?

24 A. No. I see this, but --

25 Q. Look in the -- on the top of the first page of



1 the article it has the title of the article.

2 Do you see that?

3 A. Yeah, I see it.

4 Q. And then below that is the name of author,  
5 Chelsea Iversen, or Iversen?

6 A. Okay.

7 Q. Have you ever met Chelsea Iversen before?

8 A. No.

9 Q. And do you recall ever seeing this article  
10 ever before?

11 A. No.

12 Q. And if you look on the second page of the  
13 article, there's a second paragraph. It's the one  
14 directly above the photo that shows the Burma Superstar  
15 card.

16 A. Okay.

17 Q. Do you see that?

18 A. Yeah.

19 Q. So this -- the second sentence of that  
20 paragraph says, "It wasn't until Desmond Htunlin and  
21 his wife, Joycelyn Lee, neither of whom had previously  
22 restaurant experience, purchased the struggling  
23 restaurant in 1999 that it really took off."

24 And you testified earlier today that that was  
25 not a correct statement. Correct?

1 A. Correct.

2 Q. First, did you purchase the restaurant in  
3 1999?

4 A. No.

5 Q. And did you purchase the restaurant with  
6 Joycelyn Lee?

7 A. No.

8 Q. Were you even with Joycelyn Lee -- in any kind  
9 of romantic way or otherwise, as a wife or a  
10 girlfriend -- at the time that you purchased the  
11 restaurant?

12 A. No. We were friends. Not romantic  
13 girlfriends, boyfriends.

14 Q. Was she involved in the purchase in any way?

15 A. No.

16 Q. Was she working at the Burma -- the  
17 Burma Superstar restaurant at the time that you  
18 purchased it?

19 A. No.

20 Q. When did she start working?

21 A. When the -- a couple weeks after the purchase.

22 Q. I'd like you now to turn to what's marked as  
23 Exhibit 108. Exhibit 108 is marked -- is entitled  
24 "Trademark Assignment," and then it says in the upper  
25 right-hand corner "Final Execution Version."

1 Do you see that?

2 A. Yes.

3 Q. But if you turn to a few pages back, this  
4 document is not signed. Right?

5 A. Right.

6 Q. And am I correct -- was it your testimony  
7 earlier today that you didn't -- you don't recall  
8 having seen this document before?

9 A. Correct.

10 Q. And the counsel for Carl's Jr. spent some time  
11 showing you a paragraph E on the first page of the  
12 assignment agreement. Do you recall that?

13 A. Yes.

14 Q. And do you recall there being questions about  
15 why you were assigning this -- or pardon me -- why  
16 Joycelyn Lee and East-West Holdings were assigning  
17 rights to certain trademarks to you and  
18 Burma Super Star, Inc.?

19 Do you recall those questions?

20 A. Yes.

21 Q. Now, I'd like you to look up at paragraph A,  
22 right above that. Do you see that paragraph?

23 A. Yes.

24 Q. It says "Assignor asserts ownership rights to  
25 the trademarks and trademark applications and

1 registrations listed in Exhibit A attached hereto."

2 Do you see that?

3 A. Yes.

4 Q. And who's the assignor?

5 A. Some -- East-West Holding?

6 Q. Okay. East-West Holding. Anyone else?

7 A. It says Joycelyn Lee.

8 Q. Okay. So those two people, Joycelyn Lee and  
9 East-West Holdings, are defined as the assignor.  
10 Right?

11 A. Correct.

12 Q. And does that fit with your recollection, your  
13 memory of the events, that Joycelyn and East-West  
14 Holdings were asserting ownership rights to the  
15 trademarks and trademark applications?

16 A. Yes.

17 Q. Now, look at paragraph B of this exhibit. It  
18 says "Tan and BSS Incorporated" -- now, BSS  
19 Incorporated, that's Burma Super Star, Inc.,  
20 Incorporated. Right?

21 A. Yes.

22 Q. -- "deny all of the assignor's allegations  
23 regarding ownership of the trademarks and trademark  
24 applications and registrations listed in Exhibit A and  
25 claim that BSS, Inc. possesses all ownership rights to

1 the trademarks and trademark applications and  
2 registrations listed in Exhibit A."

3 Do you see that?

4 A. Yes.

5 Q. Counsel for Carl's Jr. didn't point you to  
6 that paragraph, did they?

7 A. No.

8 Q. Does that sentence there in paragraph B -- do  
9 you believe that to be true?

10 A. True.

11 Q. Did you ever think, Desmond, that Joycelyn Lee  
12 had actual ownership rights in the Burma Superstar  
13 trademark?

14 A. No.

15 Q. After East-West Holdings assigned the  
16 trademark rights to Burma Superstar to you, and then  
17 you went on, per your testimony, to assign them to  
18 Burma Superstar Incorporated, do you believe that  
19 East-West Holdings ever had ownership rights in the  
20 trademark Burma Superstar?

21 A. No.

22 Q. So to make sure -- so after that assignment  
23 happens, you don't think -- they lose their trademark  
24 rights. Correct?

25 A. Correct.

1 Q. So why did you enter into this settlement  
2 agreement that has Ms. Lee and East-West Holdings  
3 assigning these rights to the Burma Superstar  
4 trademark?

5 A. I think, you know, I wanted peace between us.  
6 I wanted things to be clear, settled, no more legal  
7 battles. So to have a, you know, global settlement  
8 agreeable to both parties be happy with.

9 Q. Did you enter into the agreement because you,  
10 in fact, believed she really did have ownership  
11 interest in the trademark?

12 A. No.

13 Q. One more thing about Exhibit 109 -- pardon me,  
14 108.

15 Do you recall some questions from counsel for  
16 Carl's Jr. regarding the fact that the -- pursuant to  
17 this agreement, this proposed agreement, the trademark  
18 was going to be assigned to both you personally and to  
19 Burma Super Star, Inc.?

20 Do you recall those questions?

21 A. Right.

22 Q. Okay. I'd like you to look at the first  
23 paragraph of the trademark assignment. The last -- it  
24 says that Joycelyn Lee, an individual, and East-West  
25 Holdings, a California corporation, on the one hand,

1 and Desmond Tan, an individual (Tan) and Burma Super  
2 Star Incorporated (BSS Inc. and the assignee) on the  
3 other hand.

4 So this -- do you agree that this trademark  
5 assignment was designating only Burma Super Star, Inc.  
6 as the assignee?

7 MR. FRIEDLAND: Objection. Leading.

8 THE WITNESS: Yes.

9 BY MR. MAUCH:

10 Q. If you look to the signature page of this  
11 agreement. Is the -- is Burma Super Star, Inc. one of  
12 the signatories to this -- or proposed signatories to  
13 this agreement?

14 A. Yes.

15 Q. And what's the -- what's the word right in  
16 front of Burma Super Star, Inc.?

17 A. "Assignee."

18 Q. Are you one of the proposed signatories, you  
19 personally, to this agreement?

20 A. At the bottom.

21 Q. Okay. And is the word "assignee" there in  
22 front of your name?

23 A. No.

24 Q. Let's turn now to Exhibit 109. Do you have  
25 Exhibit 109 in front of you, Desmond?

1 A. Yes.

2 Q. Exhibit 109 is a document entitled "Memorandum  
3 of Points and Authorities in Support of Motion to  
4 Enforce Settlement Agreement."

5 Do you see that?

6 A. Yes.

7 Q. Did you draft this document, Desmond?

8 A. My attorney did.

9 Q. But you didn't draft this. Right?

10 A. No.

11 Q. Do you recall reviewing it before it was  
12 filed?

13 A. Vaguely.

14 Q. Okay. And if you look on the first page in  
15 the "Introduction" section of the memorandum, do you  
16 see that?

17 If you look on the third paragraph? Are you  
18 on the third paragraph of that "Introduction" section?

19 A. Yeah.

20 Q. Okay. And counsel for Carl's Jr. asked you  
21 some questions about the sentence that begins "The  
22 agreement divides."

23 Do you recall those questions?

24 A. I'm not -- can you show me where it is?

25 Q. Sure. So the second sentence of that third



1 paragraph --

2 A. Yes, I see it.

3 Q. -- it says --

4 A. I see it.

5 Q. -- "The agreement divides the existing  
6 Burma Superstar restaurants between Tan and Lee. Lee  
7 is granted a license to use the Burma Superstar  
8 trademark within San Francisco for her three  
9 restaurants, while Tan remains the owner of the  
10 trademark globally."

11 Do you see that?

12 A. Yeah.

13 Q. Do you recall counsel for Carl's Jr. asking  
14 whether you agreed with that sentence; and in  
15 particular, the last clause of that sentence?

16 A. I recall.

17 Q. Okay.

18 A. But I think this should be  
19 Burma Super Star, Inc.

20 Q. What do you mean by that?

21 A. Not Tan. But I own Burma Super Star, Inc. --  
22 I mean, in -- you know, for me, it's the same. But  
23 over here it's stated as Tan.

24 Q. So can you explain what you mean when you say  
25 for you it's the same?



1 CERTIFICATE OF REPORTER

2 I, HOLLY THUMAN, a Certified Shorthand Reporter,  
3 License No. 6834, hereby certify:

4 That, prior to being examined, the witness in the  
5 foregoing proceedings, to wit, DESMOND TAN, was by me  
6 duly sworn to tell the truth, the whole truth, and  
7 nothing but the truth;

8 That said transcript was taken down by me in  
9 shorthand on Friday, September 9, 2018, at 9:04 A.M.,  
10 and before the following adverse parties: Michael K.  
11 Friedland, Attorney at Law, representing Carl's Jr.  
12 Restaurants LLC; and Joseph V. Mauch, Attorney at Law,  
13 representing Burma Super Star, Inc., and was thereafter  
14 reduced to computerized transcription under my  
15 direction and is a true record of the testimony.

16 I certify that I have not been disqualified as  
17 specified under Rule 28 of the Federal Rules of Civil  
18 Procedure.

19 DATED: September 20th, 2018.


20 

21 \_\_\_\_\_  
22 HOLLY THUMAN, CSR  
23  
24  
25

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*Carl's Jr. Restaurants LLC vs. Desmond Tan*  
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 September 7, 2018

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Dated: 10/23/2018


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