

IN THE SUPREME COURT OF THE STATE OF NEVADA

Nos. 83598, 84971, and 85358

IN RE PARAMETRIC SOUND CORPORATION
SHAREHOLDERS' LITIGATION.

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Elizabeth A. Brown
Clerk of Supreme Court

PAMTP, LLC,

Appellant,

v.

KENNETH F. POTASHNER; VTB HOLDINGS, INC.;
STRIPE GROUP, LLC; SG VTB HOLDINGS, LLC;
JUERGEN STARK; and KENNETH FOX,

Respondents.

Consolidated Appeals from Final Judgment and Fees and Costs Awards
Eighth Judicial District Court Case No. A-13-686890-B

APPELLANT'S APPENDIX – VOLUME 13 OF 24

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INDEX TO JOINT APPENDIX

(Chronological)

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
3/7/18	Amended Class Action and Derivative Complaint	1	AA 0001- AA 0078
3/27/18	Order Denying Defendants' Motions to Dismiss the Amended Class Action and Derivative Complaint	1	AA 0079- AA 0090
11/15/19	Stipulation of Settlement	1	AA 0091- AA 0174
5/19/20	Final Judgment and Order of Dismissal With Prejudice	1	AA 0175- AA 0203
5/20/20	PAMTP LLC's Complaint	2	AA 0204- AA 0270
8/20/20	Order Denying Defendants' Motions to Dismiss Plaintiff's Complaint	2	AA 0271- AA 0280
9/3/20	Director Defendants' Answer to Complaint	2	AA 0281- AA 0317
9/3/20	Answer to Plaintiff PAMTP LLC's Complaint	2	AA 0318- AA 0360
5/18/21	Order Granting Plaintiff's Motion Against Defendants Kenneth Potashner, Juergen Stark, and VTB Holdings, inc. Setting Evidentiary Hearing Re Spoliation Sanctions	2	AA 0361- AA 0368
6/23/21	Transcript of Evidentiary Hearing re: Spoliation Sanctions (6/18/21)	3-4	AA 0369- AA 0696
7/15/21	Findings of Fact, Conclusions of Law and Order Imposing Spoliation Sanctions	5	AA 0697- AA 0707
8/3/21	Order Denying Motion for Summary Judgment of Specially Appearing Defendants Stripes Group, LLC, SG VTB Holdings. LLC Juergen Stark, Kenneth Fox	5	AA 0708- AA 0725

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
8/3/21	Order Denying Defendants' Motion in Limine to Exclude Plaintiff's Damages	5	AA 0726- AA 0742
8/3/21	Order Denying the Director Defendants' Motion for Summary Judgment	5	AA 0743- AA 0760
8/3/21	Order Denying Defendants' Motion in Limine to Exclude All Reference, Evidence, and Testimony Regarding Post Merger Conduct	5	AA 0761- AA 0778
8/3/21	Order Denying Defendants' Motion in Limine to Exclude the Opinions, Testimony, and Reports of J.T. Atkins	5	AA 0779- AA 0795
8/3/21	Order Denying Defendants' Motion in Limine to Exclude Evidence Related to Alleged Fraud by the Non- Director Defendants	5	AA 0796- AA 0813
8/3/21	Order Denying Motion for Summary Judgment of Defendant VTB Holdings, Inc. and Specially Appearing Defendants Stripes Group, LLC SG VTB Holdings, LLC Juergen Stark, and Kenneth Fox	5	AA 0814- AA 0831
8/3/21	Order Granting in Part Defendants' Motion in Limine to Exclude Evidence and Testimony Related to Irrelevant or Undisclosed Measures of Damages	5	AA 0832- AA 0838
8/23/21	Order Granting Certain Director Defendants' Motion for Determination of Good Faith Settlement	5	AA 0839- AA 0844
8/24/21	Plaintiff PAMTP LLC's Memorandum of Law Regarding NRS 78.200 and NRS 78.211	5	AA 0845- AA 0850
8/24/21	Defendants' Motion for Judgment on Partial Findings Pursuant to NRCP 52(c) Regarding Lack of Control or Expropriation	5	AA 0851- AA 0865
8/24/21	Defendants' Motion for Judgment on Standing Pursuant to NRCP 52(c)	5	AA 0866- AA 0876

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
8/24/21	Defendants' Motion for Judgment for Lack of Evidence on <i>Gentile</i> Damages Pursuant to NRCP 52(c)	5	AA 0877- AA 0886
8/24/21	Specially Appearing Defendants Juergen Stark's and Kenneth Fox's Motion for Judgment Under the Statute of Limitations Pursuant to NRCP 52(c)	5	AA 0887- AA 0896
8/25/21	Non-Director Defendants' Trial Brief Re: Section 14(A)	5	AA 0897- AA 0904
8/25/21	Opposition to Plaintiff PAMTP LLC's Memorandum of Law Regarding NRS 78.200 and NRS 78.211	5	AA 0905- AA 0914
8/26/21	Transcript of Proceedings Bench Trial – Day 1 (8/16/21)	6-7	AA 0915- AA 1231
	Trial Exhibit 244	7-8	AA 1232- AA 1573
	Trial Exhibit 376	9	AA 1574- AA 1575
8/26/21	Transcript of Proceedings (8/17/21) Bench Trial – Day 2, Vol. 1	9	AA 1576- AA 1719
8/26/21	Transcript of Proceedings (8/17/21) Bench Trial – Day 2, Vol. 2	10	AA 1720- AA 1888
8/26/21	Transcript of Proceedings (8/18/21) Bench Trial – Day 3, Vol. 1	11	AA 1889- AA 2018
	Trial Exhibit 5	11	AA 2019- AA 2022
	Trial Exhibit 6	11	AA 2023- AA 2029
	Trial Exhibit 26	11	AA 2030
	Trial Exhibit 38	11	AA 2031
	Trial Exhibit 95	11	AA 2032

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
	Trial Exhibit 106	11	AA 2033
	Trial Exhibit 108	11	AA 2034- AA 2037
	Trial Exhibit 109	11	AA 2038- AA 2041
	Trial Exhibit 111	11	AA 2042- AA 2043
	Trial Exhibit 137	11	AA 2044- AA 2047
	Trial Exhibit 142	11	AA 2048
	Trial Exhibit 152	11	AA 2049- AA 2050
	Trial Exhibit 194	11	AA 2051- AA 2092
	Trial Exhibit 277	11	AA 2093- AA 2095
	Trial Exhibit 296	11	AA 2096- AA 2097
8/26/21	Transcript of Proceedings (8/18/21) Bench Trial – Day 3, Vol. 2	12	AA 2098- AA 2238
	Trial Exhibit 78	12	AA 2239- AA 2240
	Trial Exhibit 82	12	AA 2241- AA 2243
	Trial Exhibit 83	12	AA 2244
	Trial Exhibit 87	12	AA 2245- AA 2246
	Trial Exhibit 88	12	AA 2247- AA 2248
	Trial Exhibit 89	12	AA 2249
	Trial Exhibit 90	12	AA 2250-

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
			AA 2251
	Trial Exhibit 94	12	AA 2252
	Trial Exhibit 98	12	AA 2253- AA 2254
	Trial Exhibit 99	12	AA 2255- AA 2256
	Trial Exhibit 113	12	AA 2257- AA 2260
	Trial Exhibit 132	12	AA 2261
	Trial Exhibit 171	12	AA 2262
	Trial Exhibit 293	12	AA 2263- AA 2264
	Trial Exhibit 346	12	AA 2265- AA 2267
8/26/21	Transcript of Proceedings (8/19/21) Bench Trial – Day 4, Vol. 1	13	AA 2268- AA 2387
	Trial Exhibit 775	13	AA 2388
	Trial Exhibit 776	13	AA 2389- AA 2390
	Trial Exhibit 781	13	AA 2391- AA 2394
	Trial Exhibit 785	13	AA 2395- AA 2411
	Trial Exhibit 789	13	AA 2412- AA 2413
	Trial Exhibit 821	13	AA 2414
	Trial Exhibit 837	13	AA 2415- AA 2416

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
8/26/21	Transcript of Proceedings (8/19/21) Bench Trial – Day 4, Vol. 2	14	AA 2417- AA 2597
	Trial Exhibit 265	14	AA 2598- AA 2599
	Trial Exhibit 345	14	AA 2600- AA 2602
8/26/21	Transcript of Proceedings (8/20/21) Bench Trial – Day 5	15	AA 2603- AA 2800
	Trial Exhibit 17	15	AA 2801- AA 2803
	Trial Exhibit 58	15	AA 2804- AA 2805
	Trial Exhibit 60	15	AA 2806- AA 2807
	Trial Exhibit 116	15	AA 2808
	Trial Exhibit 120	15	AA 2809- AA 2816
	Trial Exhibit 305	15	AA 2817
	Trial Exhibit 1052	16	AA 2818- AA 2862
8/26/21	Transcript of Proceedings (8/23/21) Bench Trial – Day 6, Vol. 1	16	AA 2863- AA 2984
	Trial Exhibit 84	16	AA 2985- AA 3045
	Trial Exhibit 110	17	AA 3046
	Trial Exhibit 143	17	AA 3047- AA 3048
	Trial Exhibit 160	17	AA 3049
	Trial Exhibit 166	17	AA 3050- AA 3058

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
	Trial Exhibit 170	17	AA 3059- AA 3060
	Trial Exhibit 172	17	AA 3061- AA 3064
	Trial Exhibit 267	17	AA 3065- AA 3069
	Trial Exhibit 271	17	AA 3070
	Trial Exhibit 330	17	AA 3071- AA 3073
	Trial Exhibit 338	17	AA 3074- AA 3076
	Trial Exhibit 339	17	AA 3077- AA 3084
	Trial Exhibit 364	17	AA 3085- AA 3087
	Trial Exhibit 425	17	AA 3088- AA 3106
8/26/21	Transcript of Proceedings (8/23/21) Bench Trial – Day 6, Vol. 2	17	AA 3107- AA 3282
8/26/21	Transcript of Proceedings (8/24/21) Bench Trial – Day 7, Vol. 1	18	AA 3283- AA 3410
	Trial Exhibit 428	18	AA 3411- AA 3415
	Trial Exhibit 464	18	AA 3416- AA 3422
	Trial Exhibit 909	18	AA 3423- AA 3433
8/26/21	Transcript of Proceedings (8/24/21) Bench Trial – Day 7, Vol. 2	19	AA 3434- AA 3579
	Trial Exhibit 413	19	AA 3580- AA 3600

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
8/26/21	Transcript of Proceedings (8/25/21) Bench Trial – Day 8	20	AA 3601- AA 3703
9/2/21	Notice of Submission of Proposed Order Granting Defendants' Motion for Judgment Pursuant to NRCP 52(c), Findings of Fact and Conclusions of Law, and Judgment Thereon	20	AA 3704- AA 3735
9/3/21	Notice of Submission of Plaintiff's Objections to Defendants' Proposed Order Granting Defendants' Motion for Judgment Pursuant to NRCP 52(c), Findings of Fact and Conclusions of Law, and Judgment Thereon	20	AA 3736- AA 3771
9/3/21	Order Granting Motion for Judgment Pursuant to NRCP 52(c)	20	AA 3772- AA 3795
9/8/21	Notice of Entry of Order Granting Defendants Motion for Judgment Pursuant to NRCP 52(c), Findings of Fact and Conclusions of Law, and Judgment Thereon	20	AA 3796- AA 3822
9/22/21	Non-Director Defendants' Memorandum of Costs	20	AA 3823- AA 3831
9/22/21	Defendant Kenneth Potashner's Verified Memorandum of Costs	21	AA 3832- AA 3872
9/29/21	Defendants' Motion for Attorneys' Fees	21	AA 3873- AA 3901
9/30/21	Plaintiff PAMTP LLC's Notice of Appeal	21	AA 3902- AA 3929
10/7/21	Motion to Retax Defendant Kenneth Potashner's Verified Memorandum of Costs	21	AA 3930- AA 3945
10/7/21	Motion to Retax Non-Director Defendants' Memorandum of Costs	21	AA 3946- AA 3964
10/13/21	Plaintiff PAMTP LLC's Opposition to Motion for Attorneys' Fees	21	AA 3965- AA 4046

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
10/21/21	Non-Director Defendants' Opposition to Plaintiff's Motion to Retax Costs	21	AA 4047-AA 4069
10/21/21	Opposition to Plaintiff's Motion to Retax Defendant Kenneth Potashner's Verified Memorandum of Costs	22	AA 4070-AA 4131
10/28/21	Reply in Support of Defendants' Motion for Attorneys' Fees	22	AA 4132-AA 4159
11/9/21	PAMTP, LLC's Reply in Support of Motion to Retax Non-Director Defendants' Memorandum of Costs	22	AA 4160-AA 4170
11/9/21	PAMTP, LLC's Reply in Support of Motion to Retax Defendant Kenneth Potashner's Verified Memorandum of Costs	22	AA 4171-AA 4178
12/16/21	Plaintiff PAMTP LLC's Supplemental Brief in Opposition to Motion for Attorneys' Fees	22	AA 4179-AA 4189
12/16/21	Supplemental Brief in Support of Defendants' Motion for Attorneys' Fees	22	AA 4190-AA 4204
12/22/21	Transcript of Hearing re: Defendants' Motion for Attorneys' Fees (12/2/21)	23	AA 4205-AA 4311
1/13/22	Transcript of Hearing re: Plaintiff's Motions to Retax (11/16/21)	23	AA 4312-AA 4369
6/7/22	Order Denying Defendants' Motion for Attorneys' Fees	23	AA 4370-AA 4386
6/15/22	Notice of Entry of Order Denying Defendants' Motion for Attorneys' Fees	23	AA 4387-AA 4407
6/30/22	Notice of Appeal	23	AA 4408-AA 4414
8/29/22	Order re: PAMTP LLC'S Motions to Re-Tax Costs	23	AA 4415-AA 4439
9/2/22	Notice of Entry of Order re: PAMTP, LLC's Motions to Re-Tax Costs	24	AA 4440-AA 4466
9/14/22	Plaintiff PAMTP LLC's Case Appeal Statement	24	AA 4467-AA 4526

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
9/16/22	Amended Judgment	24	AA 4527- AA 4536
10/19/22	Order Granting Plaintiff's Motion to Stay Execution of Amended Judgment on Order Shortening Time	24	AA 4537- AA 4547
12/12/22	Order Granting Defendants' Motion to Amend Judgment	24	AA 4548- AA 4562
12/18/22	Second Amended Judgment	24	AA 4563- AA 4571

INDEX TO JOINT APPENDIX

(Alphabetical)

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
3/7/18	Amended Class Action and Derivative Complaint	1	AA 0001- AA 0078
9/16/22	Amended Judgment	24	AA 4527- AA 4536
9/3/20	Answer to Plaintiff PAMTP LLC's Complaint	2	AA 0318- AA 0360
9/22/21	Defendant Kenneth Potashner's Verified Memorandum of Costs	21	AA 3832- AA 3872
9/29/21	Defendants' Motion for Attorneys' Fees	21	AA 3873- AA 3901
8/24/21	Defendants' Motion for Judgment for Lack of Evidence on <i>Gentile</i> Damages Pursuant to NRCP 52(c)	5	AA 0877- AA 0886
8/24/21	Defendants' Motion for Judgment on Partial Findings Pursuant to NRCP 52(c) Regarding Lack of Control or Expropriation	5	AA 0851- AA 0865
8/24/21	Defendants' Motion for Judgment on Standing Pursuant to NRCP 52(c)	5	AA 0866- AA 0876
9/3/20	Director Defendants' Answer to Complaint	2	AA 0281- AA 0317
5/19/20	Final Judgment and Order of Dismissal With Prejudice	1	AA 0175- AA 0203
7/15/21	Findings of Fact, Conclusions of Law and Order Imposing Spoliation Sanctions	5	AA 0697- AA 0707
10/7/21	Motion to Retax Defendant Kenneth Potashner's Verified Memorandum of Costs	21	AA 3930- AA 3945
10/7/21	Motion to Retax Non-Director Defendants' Memorandum of Costs	21	AA 3946- AA 3964

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
9/22/21	Non-Director Defendants' Memorandum of Costs	20	AA 3823-AA 3831
10/21/21	Non-Director Defendants' Opposition to Plaintiff's Motion to Retax Costs	21	AA 4047-AA 4069
8/25/21	Non-Director Defendants' Trial Brief Re: Section 14(A)	5	AA 0897-AA 0904
6/30/22	Notice of Appeal	23	AA 4408-AA 4414
6/15/22	Notice of Entry of Order Denying Defendants' Motion for Attorneys' Fees	23	AA 4387-AA 4407
9/8/21	Notice of Entry of Order Granting Defendants Motion for Judgment Pursuant to NRCP 52(c), Findings of Fact and Conclusions of Law, and Judgment Thereon	20	AA 3796-AA 3822
9/2/22	Notice of Entry of Order re: PAMTP, LLC's Motions to Re-Tax Costs	24	AA 4440-AA 4466
9/3/21	Notice of Submission of Plaintiff's Objections to Defendants' Proposed Order Granting Defendants' Motion for Judgment Pursuant to NRCP 52(c), Findings of Fact and Conclusions of Law, and Judgment Thereon	20	AA 3736-AA 3771
9/2/21	Notice of Submission of Proposed Order Granting Defendants' Motion for Judgment Pursuant to NRCP 52(c), Findings of Fact and Conclusions of Law, and Judgment Thereon	20	AA 3704-AA 3735
8/25/21	Opposition to Plaintiff PAMTP LLC's Memorandum of Law Regarding NRS 78.200 and NRS 78.211	5	AA 0905-AA 0914
10/21/21	Opposition to Plaintiff's Motion to Retax Defendant Kenneth Potashner's Verified Memorandum of Costs	22	AA 4070-AA 4131
6/7/22	Order Denying Defendants' Motion for Attorneys' Fees	23	AA 4370-AA 4386

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
8/20/20	Order Denying Defendants' Motions to Dismiss Plaintiff's Complaint	2	AA 0271-AA 0280
3/27/18	Order Denying Defendants' Motions to Dismiss the Amended Class Action and Derivative Complaint	1	AA 0079-AA 0090
8/3/21	Order Denying Defendants' Motion in Limine to Exclude All Reference, Evidence, and Testimony Regarding Post Merger Conduct	5	AA 0761-AA 0778
8/3/21	Order Denying Defendants' Motion in Limine to Exclude Evidence Related to Alleged Fraud by the Non- Director Defendants	5	AA 0796-AA 0813
8/3/21	Order Denying Defendants' Motion in Limine to Exclude Plaintiff's Damages	5	AA 0726-AA 0742
8/3/21	Order Denying Defendants' Motion in Limine to Exclude the Opinions, Testimony, and Reports of J.T. Atkins	5	AA 0779-AA 0795
8/3/21	Order Denying Motion for Summary Judgment of Defendant VTB Holdings, Inc. and Specially Appearing Defendants Stripes Group, LLC SG VTB Holdings, LLC Juergen Stark, and Kenneth Fox	5	AA 0814-AA 0831
8/3/21	Order Denying Motion for Summary Judgment of Specially Appearing Defendants Stripes Group, LLC, SG VTB Holdings. LLC Juergen Stark, Kenneth Fox	5	AA 0708-AA 0725
8/3/21	Order Denying the Director Defendants' Motion for Summary Judgment	5	AA 0743-AA 0760
8/23/21	Order Granting Certain Director Defendants' Motion for Determination of Good Faith Settlement	5	AA 0839-AA 0844

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
12/12/22	Order Granting Defendants' Motion to Amend Judgment	24	AA 4548- AA 4562
8/3/21	Order Granting in Part Defendants' Motion in Limine to Exclude Evidence and Testimony Related to Irrelevant or Undisclosed Measures of Damages	5	AA 0832- AA 0838
9/3/21	Order Granting Motion for Judgment Pursuant to NRCP 52(c)	20	AA 3772- AA 3795
5/18/21	Order Granting Plaintiff's Motion Against Defendants Kenneth Potashner, Juergen Stark, and VTB Holdings, inc. Setting Evidentiary Hearing Re Spoilation Sanctions	2	AA 0361- AA 0368
10/19/22	Order Granting Plaintiff's Motion to Stay Execution of Amended Judgment on Order Shortening Time	24	AA 4537- AA 4547
8/29/22	Order re: PAMTP LLC'S Motions to Re-Tax Costs	23	AA 4415- AA 4439
5/20/20	PAMTP LLC's Complaint	2	AA 0204- AA 0270
11/9/21	PAMTP, LLC's Reply in Support of Motion to Retax Defendant Kenneth Potashner's Verified Memorandum of Costs	22	AA 4171- AA 4178
11/9/21	PAMTP, LLC's Reply in Support of Motion to Retax Non-Director Defendants' Memorandum of Costs	22	AA 4160- AA 4170
9/14/22	Plaintiff PAMTP LLC's Case Appeal Statement	24	AA 4467- AA 4526
8/24/21	Plaintiff PAMTP LLC's Memorandum of Law Regarding NRS 78.200 and NRS 78.211	5	AA 0845- AA 0850
9/30/21	Plaintiff PAMTP LLC's Notice of Appeal	21	AA 3902- AA 3929
10/13/21	Plaintiff PAMTP LLC's Opposition to Motion for Attorneys' Fees	21	AA 3965- AA 4046

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
12/16/21	Plaintiff PAMTP LLC's Supplemental Brief in Opposition to Motion for Attorneys' Fees	22	AA 4179- AA 4189
10/28/21	Reply in Support of Defendants' Motion for Attorneys' Fees	22	AA 4132- AA 4159
12/18/22	Second Amended Judgment	24	AA 4563- AA 4571
8/24/21	Specially Appearing Defendants Juergen Stark's and Kenneth Fox's Motion for Judgment Under the Statute of Limitations Pursuant to NRCF 52(c)	5	AA 0887- AA 0896
11/15/19	Stipulation of Settlement	1	AA 0091- AA 0174
12/16/21	Supplemental Brief in Support of Defendants' Motion for Attorneys' Fees	22	AA 4190- AA 4204
6/23/21	Transcript of Evidentiary Hearing re: Spoliation Sanctions (6/18/21)	3-4	AA 0369- AA 0696
12/22/21	Transcript of Hearing re: Defendants' Motion for Attorneys' Fees (12/2/21)	23	AA 4205- AA 4311
1/13/22	Transcript of Hearing re: Plaintiff's Motions to Retax (11/16/21)	23	AA 4312- AA 4369
8/26/21	Transcript of Proceedings Bench Trial – Day 1 (8/16/21)	6-7	AA 0915- AA 1231
8/26/21	Transcript of Proceedings (8/17/21) Bench Trial – Day 2, Vol. 1	9	AA 1576- AA 1719
8/26/21	Transcript of Proceedings (8/17/21) Bench Trial – Day 2, Vol. 2	10	AA 1720- AA 1888
8/26/21	Transcript of Proceedings (8/18/21) Bench Trial – Day 3, Vol. 1	11	AA 1889- AA 2018
8/26/21	Transcript of Proceedings (8/18/21) Bench Trial – Day 3, Vol. 2	12	AA 2098- AA 2238

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
8/26/21	Transcript of Proceedings (8/19/21) Bench Trial – Day 4, Vol. 1	13	AA 2268- AA 2387
8/26/21	Transcript of Proceedings (8/19/21) Bench Trial – Day 4, Vol. 2	14	AA 2417- AA 2597
8/26/21	Transcript of Proceedings (8/20/21) Bench Trial – Day 5	15	AA 2603- AA 2800
8/26/21	Transcript of Proceedings (8/23/21) Bench Trial – Day 6, Vol. 1	16	AA 2863- AA 2984
8/26/21	Transcript of Proceedings (8/23/21) Bench Trial – Day 6, Vol. 2	17	AA 3107- AA 3282
8/26/21	Transcript of Proceedings (8/24/21) Bench Trial – Day 7, Vol. 1	18	AA 3283- AA 3410
8/26/21	Transcript of Proceedings (8/24/21) Bench Trial – Day 7, Vol. 2	19	AA 3434- AA 3579
8/26/21	Transcript of Proceedings (8/25/21) Bench Trial – Day 8	20	AA 3601- AA 3703
	Trial Exhibit 5	11	AA 2019- AA 2022
	Trial Exhibit 6	11	AA 2023- AA 2029
	Trial Exhibit 17	15	AA 2801- AA 2803
	Trial Exhibit 26	11	AA 2030
	Trial Exhibit 38	11	AA 2031
	Trial Exhibit 58	15	AA 2804- AA 2805
	Trial Exhibit 60	15	AA 2806- AA 2807
	Trial Exhibit 78	12	AA 2239- AA 2240

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
	Trial Exhibit 82	12	AA 2241- AA 2243
	Trial Exhibit 83	12	AA 2244
	Trial Exhibit 84	16	AA 2985- AA 3045
	Trial Exhibit 87	12	AA 2245- AA 2246
	Trial Exhibit 88	12	AA 2247- AA 2248
	Trial Exhibit 89	12	AA 2249
	Trial Exhibit 90	12	AA 2250- AA 2251
	Trial Exhibit 94	12	AA 2252
	Trial Exhibit 95	11	AA 2032
	Trial Exhibit 98	12	AA 2253- AA 2254
	Trial Exhibit 99	12	AA 2255- AA 2256
	Trial Exhibit 106	11	AA 2033
	Trial Exhibit 108	11	AA 2034- AA 2037
	Trial Exhibit 109	11	AA 2038- AA 2041
	Trial Exhibit 110	17	AA 3046
	Trial Exhibit 111	11	AA 2042- AA 2043
	Trial Exhibit 113	12	AA 2257- AA 2260
	Trial Exhibit 116	15	AA 2808

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
	Trial Exhibit 120	15	AA 2809- AA 2816
	Trial Exhibit 132	12	AA 2261
	Trial Exhibit 137	11	AA 2044- AA 2047
	Trial Exhibit 142	11	AA 2048
	Trial Exhibit 143	17	AA 3047- AA 3048
	Trial Exhibit 152	11	AA 2049- AA 2050
	Trial Exhibit 160	17	AA 3049
	Trial Exhibit 166	17	AA 3050- AA 3058
	Trial Exhibit 170	17	AA 3059- AA 3060
	Trial Exhibit 171	12	AA 2262
	Trial Exhibit 172	17	AA 3061- AA 3064
	Trial Exhibit 194	11	AA 2051- AA 2092
	Trial Exhibit 244	7-8	AA 1232- AA 1573
	Trial Exhibit 265	14	AA 2598- AA 2599
	Trial Exhibit 267	17	AA 3065- AA 3069
	Trial Exhibit 271	17	AA 3070
	Trial Exhibit 277	11	AA 2093- AA 2095
	Trial Exhibit 293	12	AA 2263- AA 2264

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
	Trial Exhibit 296	11	AA 2096- AA 2097
	Trial Exhibit 305	15	AA 2817
	Trial Exhibit 330	17	AA 3071- AA 3073
	Trial Exhibit 338	17	AA 3074- AA 3076
	Trial Exhibit 339	17	AA 3077- AA 3084
	Trial Exhibit 345	14	AA 2600- AA 2602
	Trial Exhibit 346	12	AA 2265- AA 2267
	Trial Exhibit 364	17	AA 3085- AA 3087
	Trial Exhibit 376	9	AA 1574- AA 1575
	Trial Exhibit 413	19	AA 3580- AA 3600
	Trial Exhibit 425	17	AA 3088- AA 3106
	Trial Exhibit 428	18	AA 3411- AA 3415
	Trial Exhibit 464	18	AA 3416- AA 3422
	Trial Exhibit 775	13	AA 2388
	Trial Exhibit 776	13	AA 2389- AA 2390
	Trial Exhibit 781	13	AA 2391- AA 2394
	Trial Exhibit 785	13	AA 2395- AA 2411

<u>Date</u>	<u>Document Description</u>	<u>Vol.</u>	<u>Pages</u>
	Trial Exhibit 789	13	AA 2412- AA 2413
	Trial Exhibit 821	13	AA 2414
	Trial Exhibit 837	13	AA 2415- AA 2416
	Trial Exhibit 909	18	AA 3423- AA 3433
	Trial Exhibit 1052	16	AA 2818- AA 2862

AFFIRMATION

Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Respectfully submitted this 12th day of January, 2023.

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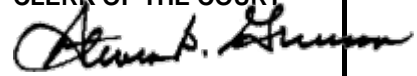
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of McDonald Carano LLP, and on January 12, 2023, a true and correct copy of the foregoing was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system.

/s/ CaraMia Gerard
An Employee of McDonald Carano LLP



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

IN RE PARAMETRIC SOUND)
CORPORATION SHAREHOLDERS')
LITIGATION)

CASE NO. A-13-686890-B
DEPT NO. XI

This Document Relates to:)

ALL ACTIONS)

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

THURSDAY, AUGUST 19, 2021

BENCH TRIAL - DAY 4 - VOLUME I

APPEARANCES:

FOR PAMPT LLC:

GEORGE F. OGILVIE, III, ESQ.
ADAM M. APTON, ESQ.

FOR KENNETH POTASHNER,
NORRIS, PUTTERMAN,
KAPLAN, & WOLFE:

J. STEPHEN PEEK, ESQ.
ROBERT J. CASSITY, ESQ.
JOHN P. STIGI, III, ESQ.
ALEJANDRO E. MORENO, ESQ.

FOR VTB HOLDINGS, STRIPES
GROUP, SG VTB HOLDINGS,
KENNETH FOX & JUERGEN STARK:

RICHARD C. GORDON, ESQ.
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I N D E X
W I T N E S S E S

WITNESSES FOR THE PLAINTIFF:

KENNETH POTASHNER

Cross-Examination by Mr. Stigi	7
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E X H I B I T S

EXHIBITS ADMITTED:

10	12
10	33
DX10	44
29	44
31	44
38-39	44
56	44
72	44
83	44
145	44
151	44
155	44
277	44
279	44
301	44
376	44
DX504	44

506	44
517-518	44
530-531	44
533	44
539	44
541	44
544	44
550	44
554	44
557	44
564	44
570	44
572	44
577	44
583	44
595-596	44
616	44
622	44
624-625	44
630-631	44
635	44
653	44
656	44
678	44
688	44

690	44
698-699	44
702	44
717	44
721-722	44
727	44
731	44
740	44
754	44
756-757	44
768	44
773-778	44
781	44
784-785	44
789	44
792-794	44
797	44
803	44
807	44
810	44
821	44
826	44
832	44
837	44
857	44

859	44
864	44
869	44
881	44
912	44
916	44
921	44
925-926	44
931	44
942	44
1057	44
1062-1065	44
1067-1070	44

1 **LAS VEGAS, CLARK COUNTY, NEVADA, AUGUST 19, 2021, 9:03 A.M.**

2 *** * * * ***

3 THE COURT: Good morning, sir. Raise your right
4 hand, please.

5 **KENNETH POTASHNER**

6 [having been called as a witness and being first duly sworn,
7 testified as follows:]

8 THE CLERK: Please state your name for the record.

9 THE WITNESS: Kenneth Potashner.

10 THE COURT: Mr. Potashner, as I said yesterday, you
11 need a break anytime, you let me know. You need to stand up,
12 let me know, incident report just feel free to do it. And if
13 you don't understand us, let us know.

14 THE WITNESS: Thank you.

15 THE COURT: All right. Ready for your cross/direct?

16 MR. STIGI: Yes, Your Honor.

17 THE COURT: Okay.

18 MR. STIGI: Before we get started, may I approach and
19 provide the witness with the defendant exhibits?

20 THE COURT: You may.

21 MR. STIGI: He can keep both binders up there.

22 THE COURT: You may.

23 MR. STIGI: All right.

24 / / /

25 / / /

1 CROSS-EXAMINATION

2 BY MR. STIGI:

3 Q Good morning, Mr. Potashner.

4 A Good morning.

5 Q This is I think now the third day of -- not the --
6 the second day of testimony at the trial, plus the prior
7 evidentiary hearing. And I don't think there's been a proper
8 introduction to the judge.

9 Mr. Potashner, would you be kind enough to share with
10 the Court, briefly, your educational background and, again, a
11 brief synopsis of your professional background.

12 A Sure. So educationally, engineering path. So BSEE
13 at Lafayette College in Pennsylvania, master's, MSEE, SMU in
14 Dallas, and then executive MBA program at Yale, and -- I'm
15 sorry, Columbia -- and MNA in Geneva, Switzerland.

16 Professional career, ran engineering organizations
17 for Texas Instruments, ran European engineering for digital
18 equipment; was part of a team that ran a company called Quantum
19 Corporation in Silicon Valley that became the leader in disc
20 drives; ran a company called Power Peripherals Disc Drive
21 Company; became CEO of a company called Maxwell Labs, which
22 I -- we turned into a technology company, Maxwell Technologies.
23 It was a top performing company.

24 Went back to Silicon Valley, did the very, very first
25 MP3 player called the Rio. I thought I was starting a tech

1 company, instead, I was being sued by 4D recording companies
2 that didn't want digital music to happen, but we prevailed and
3 we all enjoy digital music today.

4 Went from that to focusing on, predominantly, board
5 of directors work. So I've been on, as we mentioned yesterday,
6 six to 10 what's called public company boards. I've been on --
7 I invest in helping startups happen. So often, I take the
8 board role with private companies that I'm supporting. And
9 every now and then, I roll my sleeves up on some of these
10 smaller companies, as I did in Parametric and get that deeper
11 involved.

12 Q And do you have Plaintiff's Exhibit 244 in front of
13 you? It's the proxy statement.

14 And, by the way, with the mask, if you can't hear me,
15 I'll try to speak as loudly as possible through it.

16 THE COURT: Outside voices.

17 MR. STIGI: Yes. I left the KN95 at home, figuring
18 this would be a little easier, but --

19 THE WITNESS: I'm sorry, what number?

20 MR. STIGI: Sorry. 244.

21 THE WITNESS: Yeah, I don't have a 244 in the new
22 binder.

23 MR. STIGI: No, no. It's in the Plaintiff binder.
24 Sorry. Exactly. Yeah, we'll be going back and forth with
25 binders, unfortunately.

1 THE COURT: And, sir, you're welcome to spread them
2 out on this little bar in front of you or on the table in back
3 of you, if that's easier for you.

4 THE WITNESS: Thank you.

5 THE COURT: But when you speak, you've got to be near
6 the mic.

7 THE WITNESS: Thank you.

8 BY MR. STIGI:

9 Q And if you could turn to page 244-158.

10 A Uh-huh.

11 Q So the 158th page of Exhibit 244.

12 A Okay.

13 Q Do you see on 244-158 your name and the -- a summary
14 biography?

15 A Yes.

16 Q If you just quickly read it and just confirm for the
17 Court that that's a true and accurate summary of your
18 background as of the date of the proxy.

19 A Correct.

20 Q Great. And the part that refers to Newport
21 Corporation where you served as chair, like I said, since 2007,
22 what's the current status of your work, if any, at Newport
23 Corporation?

24 A Yes. We successful transaction selling the company
25 approximately two and a half years ago, I believe it would be,

1 to an East Coast-based semiconductor company.

2 Q And so you know --

3 A So I no longer have a relationship.

4 Q Was there any litigation involved in Newport?

5 A Yes. There was a shareholder suit that was
6 dismissed.

7 Q Was there a statement or --

8 A There was a -- I'm not sure whether there was a
9 summary judgment or not, but there was -- it was settled one
10 way or another.

11 Q Okay. The biography also refers to, I believe,
12 SONICblue, is that in there?

13 A Yes.

14 Q And you were asked about SONICblue yesterday. I just
15 want to make sure that the record is clear: When were you at
16 SONICblue?

17 A Yeah, so S3 -- we renamed the company SONICblue.

18 Q Okay. And just the time periods.

19 A It has from November 1998 through August 2002.

20 Q So you left in 2002 from SONICblue?

21 A Correct.

22 Q Okay. And, again, just because there were some
23 questions I want to clarify.

24 Is that where you met Mr. Wolfe, Andy Wolfe?

25 A Correct.

1 Q Had he been at SONICblue or S3 before you got there?

2 A Yes.

3 Q And was he there after you left?

4 A Yes.

5 Q So his tenure at SONICblue, both before and after,
6 exceeded yours?

7 A That's correct.

8 Q Okay. And, again, that ended in 2002, 19 years ago?

9 A Correct.

10 Q And about, what, 11, 12 years before Parametric?

11 A Correct.

12 Q Okay. I think you spoke yesterday -- You can put
13 that down for now. Keep it, we'll come back to that one later.
14 I think you spoke yesterday about how you got involved in
15 Parametric. I don't want to rehash that.

16 But I think you made reference to when you arrived at
17 Parametric. Do you recall about when that was?

18 A Yeah, I -- not exactly, but I think it likely would
19 have been a couple years before the Turtle Beach transaction.

20 Q Did you execute an employment agreement with
21 Parametric?

22 A I did.

23 Q And how -- timing-wise, how long before, if at all,
24 the execution, the employment agreement, did you start?

25 A I would put an employment agreement in place

1 commensurate with me stating employment there.

2 Q All right. Well, then, let's take a look there. If
3 you -- if I could ask you now to go to the other binder, DX504.
4 If I could ask you just to look and identify it for the record,
5 please.

6 A I have it.

7 Q Okay. Please take as much time to review it. After
8 you have, if you could tell me whether you recognize it?

9 A Yes. This would be my employment agreement.

10 MR. STIGI: Move to admit.

11 THE COURT: Any objection?

12 MR. APTON: No objection, Your Honor.

13 THE COURT: Be admitted.

14 (Exhibit Number(s) 504 admitted.)

15 BY MR. STIGI:

16 Q So as you look at the employment agreement, does it
17 refresh your recollection of the time you started at
18 Parametric?

19 A Yes.

20 Q And so after reviewing Exhibit 504, what is your best
21 recollection of when you started at Parametric?

22 A It appears April of 2012.

23 Q Okay. And do you recall when Parametric itself was
24 founded?

25 A Parametric -- my understanding would -- is that was

1 founded three or four years prior to my joining it.

2 Q Okay. I'd like to go through what -- before I get to
3 that, do you recall who was on the board of directors of
4 Parametric when you arrived?

5 A Yes. I believe it was Woody, it would have been Jim
6 Barnes -- I'm sorry, not Jim Barnes. It would have been Woody,
7 Bob Kaplan, Seth Putterman, Jimmy (indiscernible), is my
8 recollection.

9 Q And then when you joined the company, did you join
10 the board, as well?

11 A I did.

12 Q So it went from four to five?

13 A Correct.

14 Q Okay. And when you joined the company in April of
15 2012, did you have an understanding of who the shareholders
16 were? Not the public shareholders, obviously, but in the
17 inside shareholders, who they were?

18 A I did.

19 Q And who were they?

20 A Predominantly the board, and Woody and Jim Barnes.

21 Q So about Woody, you mean Mr. Norris, Woody Norris?

22 A Mr. Norris, yeah. Yeah, the predominant
23 shareholders, the majority shareholders would have been Woody
24 Norris and Jim Barnes.

25 Q Okay. To the extent you need to refer to the

1 employment agreement, please feel free. But let me just say --
2 some questions. What position were you offered when you joined
3 Parametric?

4 A I took on the role of the executive chairman.

5 Q Is that similar or different from what one would know
6 or think of as a chief executive officer, a CEO?

7 A Yeah. It would be CEO, plus board involvement, board
8 leadership.

9 Q Okay. So you'd be both -- my words, both. But CEO
10 and chairman of the board?

11 A Correct.

12 Q Okay. The employment agreement, did it cover both
13 chairman and CEO functions or just one or -- can you explain
14 that?

15 A It was one role, but the compensation attributes were
16 CEO.

17 Q Okay. So let's go through some of the items in your
18 employment agreement. First, I'd like to draw your attention
19 to Section 1.4. This is just the first page of DX504.

20 A Okay.

21 Q What is Section 1.4 of your employment agreement?

22 A A change of control provision.

23 Q So it's a definition of the concept of change of
24 control; is that right?

25 A Correct.

1 Q Okay. And you have an understanding of why there
2 would be a definition of a change in control in an employment
3 agreement?

4 A Yes. It usually does a couple of things. One thing
5 it does -- so it typically is tied to -- in a change of control
6 defined as a new company achieving 50 percent or greater
7 ownership. Certain things could happen relative to salaries,
8 stock options, things of that nature. And, usually, it's done
9 for two reasons. One reason is you don't want a CEO to not
10 pursue a transaction because he feels he's going to lose next
11 year's pay or lose his stock options, things of that nature.
12 So it's actually a shareholder aligned motivation to help CEOs
13 make decisions based on the shareholders, not to protect their
14 own personal interest.

15 And, secondly, it usually is a protective mechanism
16 for the CEO in the context of -- and as happened in this
17 transaction, that Juergen would be the CEO of the new company.
18 So the CEO would typically lose his CEO role. And it provides
19 some compensation for that, some -- either stock option
20 consideration or continuing salary consideration for some time.

21 Q You -- I think you had sort of keyed on an important
22 point. You made reference to the Turtle Beach deal as an
23 example of a change in control; is that right?

24 A Correct.

25 Q In Section 1.4, in the definition of change in

1 control in the employment agreement, is there anything in there
2 that I -- that in any way limits the change in control to a
3 particular acquirer?

4 A No.

5 Q So any acquirer, using that example, that would
6 trigger a change of control, would, in fact, trigger all the
7 later benefits, which we'll talk about in a second --

8 A That's fair.

9 Q -- from a change in control; is that right?

10 A That's correct.

11 Q Okay. Let's go ahead to Section 2.0 and, in
12 particular, 2.1. Section 2.0, what -- could you just identify
13 what the title of that section is?

14 A Under the Capacities and Duties, 2.1 is Title.

15 Q Okay. So is this section describing in general terms
16 what the role is that you're being employed for?

17 A It does.

18 Q Okay. And do you see that in this contract -- well,
19 let me take it back.

20 Do you see the word employee is referenced a lot?

21 A Yes.

22 Q All right. It is -- is that you? Are you the
23 employee under these -- under this agreement?

24 A Yes.

25 Q Okay. So it indicates, does it not, that the

1 employee shall report directly to the board of directors?

2 A Correct.

3 Q Is that the case, did you, under this agreement,
4 report directly to the board of directors?

5 A Yes.

6 Q The next sentence indicates,

7 "The employee will at all times abide by
8 the company's written personnel policies
9 applicable to similarly situated employees of
10 the company, as in effect, from time to time,
11 and previously provided to employee, and will
12 faithfully, industriously, and in the best
13 interests -- excuse me -- in the best of the
14 employee's ability, experience, and talents,
15 perform all of the duties that may be required
16 of and from employee pursuant to the terms
17 hereof."

18 Did I read that accurately?

19 A You did.

20 Q Is that true? Is that, in fact, what you agreed to
21 do?

22 A Yes.

23 Q So what -- in looking at both 2.1 and the concept of
24 changing control in 1.4, we've heard a lot about this word,
25 control. Under this agreement, you were authorized by the

1 board of directors to undertake the job of a CEO, right?

2 A Correct.

3 Q That's different from, though, control of a company;
4 that would be implied by 1.4; isn't that right?

5 A Correct.

6 Q All right. So I want to just make sure we have an
7 understanding of the difference between control, as it -- we
8 use in the 2 -- excuse me, 1.4, and what I would call
9 authority, the kind of authority that a CEO has. So I just
10 want to be clear on those two concepts. All right. Let's keep
11 going.

12 So just to finish up, 2.1, which both indicates that
13 you're reporting to the board of directors and must abide by
14 the policies of the company, would you say that that puts some
15 guardrails or boundaries around the scope of what you would do
16 within the authority as a CEO?

17 A Yeah, absolutely. No key strategic decisions were
18 made without the board involvement.

19 Q And in terms of reporting to the board, what does
20 that mean to you in terms of your -- the ability to be hired,
21 fired, and controlled in any way by the board?

22 A Yeah, it means that I would take proposals for
23 operating results, potential strategic dialogues were
24 happening, having clearly any acquisition discussions, all of
25 those were shared and approved by the board for me to move

1 forward on them.

2 Q Now, if we keep going to the next page, Sections 3.2
3 and 3.3, take a look at those. You mentioned earlier when we
4 were talking about change of control, that, you know, the
5 compensation structure should be done in a way that would not
6 dis-incentivize a CEO from pursuing an acquisition that -- or a
7 merger that might otherwise be for the shareholders to keep his
8 job. Is that reflected in, in particular, 3.3?

9 MR. APTON: Your Honor, objection. Leading.

10 THE COURT: Overruled.

11 THE WITNESS: Yeah. Yes, a CEO being released as
12 part of a merger clearly would fall into the discharge without
13 cause category.

14 BY MR. STIGI:

15 Q Right. And so -- and by the way, what would happen
16 in terms of a severance payment, if any, if there was a
17 discharge without cause, for example, in the case of a merger?

18 A Yeah, typically, all severance provisions are enabled
19 in that situation.

20 Q And, again, the point of that is what?

21 A Yeah, the point of that is, again, it's without
22 cause, so the CEO has done nothing negative and his salary and
23 bonus tuns and stock options could be ceasing, so there's
24 provisions to protect the CEO in that event.

25 And, often, you know, there's what's called

1 single-trigger and double-trigger, right? So sometimes what
2 has to happen is not only does the company need to be acquired,
3 but the CEO needs to be released. And in that case -- and both
4 of those happened in this case. And I don't recall whether
5 this is a single-trigger or double-trigger, but regardless, all
6 the aspects that would have triggered the severance package
7 were -- occurred in this acquisition.

8 Q It -- this acquisition, meaning the Turtle Beach
9 deal?

10 A Correct.

11 Q And by the way, just, again, to be clear, the date of
12 the employment was April 3rd, 2012, right?

13 A Correct. Yes. Well before the merger dialogues
14 commenced.

15 Q But it's -- that was going to be my next question.
16 How long before the first even hint of Turtle Beach was the
17 employment agreement executed?

18 A Yeah, well over a year. Approaching two years.

19 Q Well, let's just -- one of the things yesterday, we
20 had a -- I think because the -- we kept bouncing around with
21 e-mails on different dates, we kind of lost the timeline here.
22 I'd like to, today, make sure we get the timeline in place.

23 A Well, this -- again, this was put in place April of
24 2012.

25 Q Right.

1 A And I don't recall the first initial dialogue with
2 Juergen.

3 Q Well, in 2013?

4 A Yeah, clearly in 2013. So that's -- was my surmise
5 of at least a year.

6 Q Okay. Anyway, the record will show in the proxy, so
7 it certainly has the timeline in it. So -- but I will say
8 this, it's really important, Mr. Potashner, review the
9 documents clearly, and refer whatever you need to make sure
10 that you give your best testimony today.

11 THE COURT: So, sir, what counsel just told you is
12 this is not a memory test. And if you feel that you need to
13 look at something to answer a question, you are welcome to do
14 so.

15 THE WITNESS: Understood. Thank you.

16 THE COURT: All right.

17 BY MR. STIGI:

18 Q Section 4. Let's keep moving through this and we can
19 move onto -- what's Section 4 of your employment agreement?

20 A Compensation and benefits.

21 Q Okay. And that -- it's -- thing speaks for itself in
22 terms of what they are. But I will ask, though, here, the
23 salary, Section 4.1, what's the salary listed?

24 A \$350,000.

25 Q And was it permanent or was it subject to change in

1 any way?

2 A Clearly, the board had the capacity to change the
3 salary.

4 Q How frequently or no?

5 A So I don't recall the term of the contract, but
6 usually it's a yearly review for both salary adjustment and for
7 conus considerations.

8 Q Well, here's a great illustration of what the judge
9 just instructed. If you would read --

10 THE COURT: I didn't instruct. I said the same thing
11 I say to all witnesses --

12 MR. STIGI: Right.

13 THE COURT: -- where it's not being clear to them
14 they get to look at documents if they want to.

15 BY MR. STIGI:

16 Q Please read Section 4.1 and --

17 A Yeah. It says September 30th. So this is a contract
18 drawn up in April 3rd with a review period of -- the -- after
19 the fiscal year ended September 30th.

20 Q And -- thank you. And it -- Section 4.1 also
21 indicates that increases would need to be approved by the board
22 of directors and the compensation committee, if any; is that
23 right?

24 A That's correct.

25 Q Okay. By the way, just -- and to the best of your

1 recollection, but we can look at documents if necessary. Did
2 you salary increase, your annual salary ever increase beyond
3 \$350,000?

4 A I don't recall.

5 Q Okay. We'll look at the documents later if
6 necessary. Section 4.2 also -- the (indiscernible) indicates
7 that there's a bonus plan; do you see that?

8 A I do.

9 Q Okay. And, again, please read 4.2 to refresh your
10 recollection or, you know, to discuss as necessary. What were
11 the -- or who set the criteria for whether you would or would
12 not get a bonus?

13 A The board. I believe there were defined performance
14 criteria tied to the bonus plan.

15 Q And, again, who -- so the board would set the plan,
16 the board would determine what -- and would the board also be
17 the entity that would determine whether your performance met
18 the plan?

19 A That's correct.

20 Q And is that set forth in writing in Section 4.2? If
21 necessary, read the whole paragraph, please. If necessary,
22 read the last sentence just.

23 A Yeah. So the -- 4.2 defines the amount of the bonus
24 as 60 percent and defines that the board of directors will
25 determine the parameters and the payoff.

1 Q Okay. And does Section 4.2 indicate that the
2 determination of the board of directors shall be, and I quote,
3 "In its sole discretion"?

4 A That's correct.

5 Q Okay. Did you receive any bonus for 2012, the year
6 ended September 2012?

7 A I don't recall that.

8 Q Okay. Let's go to Section 4.3. Okay. What is
9 Section 4.3?

10 A 4.3 addresses stock options.

11 Q So the title is what of 4.3?

12 A Incentive Compensation.

13 Q Okay. What does it mean to be incentive
14 compensation? Incentive for what? I guess that's the
15 question.

16 A So, usually, two considerations. One is for
17 achieving predefined performance parameters, and the other is
18 usually a time-based element.

19 Q So I think we just went through the bonus plan.

20 A Right.

21 Q Right? Which has set criteria for performance, and
22 you'd be paid more if you hit those targets, right?

23 A Correct.

24 Q That's an incentive, right?

25 A Correct.

1 Q The bonus --

2 A That's correct.

3 Q -- would be incentive for you to achieve the plans --
4 those targets, correct?

5 A That's correct.

6 Q Okay. But in terms of options, you identified this
7 as the option part as it's connected to incentive compensation.
8 I want to make sure that the record's crystal clear as to what
9 that means. Okay. So how do stock options provide an
10 incentive to you in doing your job?

11 A Right. So the stock option is granted with a strike
12 price reflective of today's value of the company. And the way
13 that a CEO makes them worth something is he does -- takes
14 actions to increase the value of that company, to -- you know,
15 so the only way the option is of value is the value of the
16 company has gone up, which is, of course, the benefit of all
17 shareholders. And there's an incentive in the sense that
18 you've now made these stock options worth something, but they
19 have a time vesting nature to them as well, so now it also
20 becomes a retention vehicle.

21 If I walk away from Parametric with unvested options
22 that are in the money, because the company's gone up in value,
23 that's a tough thing to do. So it creates a retention vehicle,
24 it incents the CEO to stay in the job and the CEO's always
25 motivated to drive the value of that option up by increasing

1 the company's valuation.

2 Q And just so we're clear, because these are stock
3 options, when you talk about value of the company and within
4 the company value, do you mean a stock price in particular?

5 A Yeah. The stock options can, you know, once vested,
6 once earned, can be converted into stock equity of the company
7 by paying the exercise price and, you know, so in theory,
8 ideally, you've been given a stock option at \$4.50, and if you
9 do all these great things and the company's worth \$10 and
10 you -- and upon vesting of these options, giving the company
11 \$4.50 to turn my option into a share of the company, that I can
12 then trade on the public markets of \$10, would be the theory.

13 Q So we're really clear, the incentive compensation in
14 terms of stock options incentivizes you to help increase the
15 stock price and the worth of the company?

16 A Exactly.

17 Q Is this an unusual provision in an employment
18 agreement in your experience?

19 A I never had -- having run several companies, I've
20 never been associated with a company that didn't have this. So
21 this -- I would say, if you look at public companies, you know,
22 this is absolutely traditional in public companies.

23 Q Again, coming back to changing control, if you look
24 down at 4.3(iii), do you see that?

25 A Yes.

1 Q And what does that say?

2 A It says, "Unvested options vest on a change of
3 control."

4 Q And again, just in case it wasn't clear earlier, why
5 does that provision exist?

6 A Yeah, to repeat, so two key things, right, that -- an
7 example I gave, if I had options at \$4.50 and I've done good
8 things and the company's now worth \$10, but it's going to take
9 three years to earn those options through time vesting, the
10 last thing you want to do is create a disincentive for the CEO
11 to sell his company to Turtle Beach because I'm going to lose
12 three years of unvested stock options that are in the money,
13 right? So it's actually a protective mechanism for the
14 shareholders to assure the CEO isn't acting on his own behest
15 instead of the shareholder behest.

16 And then, secondly, again, from the CEO perspective
17 is, hey, I've done some great work, I doubled the value of the
18 company. And, gee, there's a transaction that's going to
19 happen, I'm going to lose my unvested stock options because of
20 this transaction. So that wouldn't be fair to the CEO, either.

21 Q So in other words, you don't want the CEO to turn
22 down a good deal for the shareholders in order to keep your
23 salary and job?

24 A That's correct.

25 Q Okay. The -- 4.3 refers to options. Is there

1 anything in your employment agreement, in 4.3 or elsewhere,
2 where there were -- there was actually a grant of shares that's
3 the same from options?

4 A No. I have no awareness of a share grant.

5 Q Okay. So in April of 2012, you start work at
6 Parametric as it's executive chairman, equivalent to CEO as
7 well as chairman of the board. You've got your employment
8 agreement in place, salary, options. Can you give us a picture
9 of what the company looked like when you landed there, when you
10 get (indiscernible)?

11 A Yes. So the origin of my involvement with Parametric
12 is I was a judge at a competition in San Diego, which was best
13 technology in San Diego. And 20 young people strolled up with
14 their inventions and I got to see them all. And then this
15 elderly gentleman strolled up with his, and he thought he had
16 an hour to put it together and he had a 10-minute window. And
17 so I didn't get to really -- I heard him say that he can shoot
18 sound like a laser. And it was -- he didn't win the
19 competition because he couldn't demonstrate anything at that
20 competition.

21 But it was interesting enough that I asked him if I
22 could come visit him at his lab. And he, in his garage, did
23 demonstrate the technology. And I liked it. And I began
24 talking with him and told him I thought there was potential for
25 this. And at the end of several meetings and me bringing in

1 some experts to also witness the technology, I proposed to him
2 that I lead his company. And we negotiated a deal for me to
3 begin working with his company.

4 Q Okay. So thanks for that. I'm now saying, okay,
5 it's October -- excuse me, August -- excuse me, April 4th,
6 2012.

7 A Correct.

8 Q What does the company look like when you land there?

9 A Two guys, two elderly guys, a garage full of plaques
10 of patents that -- you know, he was very capable inventor
11 invented a lot of stuff, and one part-time employee and one son
12 that was helping do odd jobs. It was a stereotypical garage
13 operation. No, you know, no revenue stream, per se. Very
14 little cash. Pink sheet listing, I did put in place. Company
15 was worth I think less than \$100,000 was its market value.

16 Q Okay. And so without getting into too much detail,
17 but I'd just like you to describe April 4th, 2012, through the
18 end of the year of 2012. And if it's helpful to you in just
19 describing the growth in that period of time, through the end
20 of 2012, I don't know if it's helpful, if you were to look at
21 PX1, which were the board minutes from December 13th, 2012,
22 sort of the end of 2012, that may help cabin that time period
23 for you. And I don't want to belabor it, but I just want to
24 get a good picture of what the company's --

25 A Yeah. So the --

1 Q -- was looking like during that 2012 period.

2 A Yeah. So I set off immediately upon joining the
3 company to bring in some talent. So I recruited a handful of
4 people that would be capable of business deals, financing,
5 manufacturing expert. Began building an investment dec in
6 terms of why I thought this company had good promise.
7 Orchestrated a financing activity that gave the company some
8 operating cash to begin moving forward on putting the pieces in
9 place to facilitate the licenses dialogues. So it was a --
10 begin adding talent, begin creating some financial resources.

11 We began going under NDA with a couple large names.
12 And whereas most companies do press releases on, hey, we've got
13 a deal, I was doing press releases on, hey, we got an NDA.
14 And -- but it was received well and it set the stage for us to
15 go raise capital, the stock -- the value of the company began
16 rising. We became a NASDAQ traded company through that
17 process. So it -- we had decent momentum on what the potential
18 of this company could be.

19 But, clearly, you know, a very big gap between what
20 it -- the potential of what it could be versus turning it into
21 a cash-generating multi-licensed, you know, revenue-producing,
22 so we got -- we didn't get it to that phase, but we clearly did
23 a good job articulating the potential of the company.

24 Q Okay. Just so we're clear, the -- your work at
25 Parametric during this time, that was your full-time job; is

1 that right?

2 A That's correct.

3 Q All right. And, again, for the record, you mentioned
4 NDAs. Let's be clear what that is. What is an NDA?

5 A Nondisclosure agreement. So we would go to
6 companies, not only give them a demonstration of here's how
7 we're able to beam sound like laser, but we would also need to
8 tell them how we do it, and the how-to, giving somebody the
9 recipe, is always a risk. So putting them under legal
10 constraints to -- that would protect the IP, was an important
11 aspect of -- having them not share information was an important
12 aspect.

13 Q Okay. So when you'd issue a press release that says
14 we're under NDA with whatever company, what was that intended
15 to convey to the market?

16 A Yeah, that -- it was intended to convey that Sony, as
17 an example, is interested -- must have an interest in this
18 technology. All right. They're going to commit resources to
19 assessing this technology. There must be potential here.

20 Q And at the same time, the company being a publicly
21 traded company, albeit maybe on the pink sheets, although
22 eventually moving to NASDAQ, has to make public filings of its
23 existing financial condition; was it doing that?

24 A Yes.

25 Q And I can direct you to SEC filings, I'm sure, at or

1 maybe a little after this time period. But just generally, was
2 the company making any money in 2012?

3 A No. This was a money-losing startup, you know, the
4 image of many money-losing startups.

5 Q So I think the -- some of the testimony earlier today
6 compared -- or earlier in the week compared it to, you know,
7 some of the big names we knew that started up, like a Tesla, or
8 any number of startups; was that what this company was at the
9 time?

10 A I was reminded by Your Honor to -- Tesla's in the --
11 is not a Nevada situation. So let's not use that example.

12 Q All right.

13 A But, yeah, we clearly were spending money on
14 resources. We were spending -- on people resources. Clearly,
15 we were spending money on materials to try to build prototypes.
16 So the spending clearly was well in advance of revenue
17 opportunities, and that is what necessitated the financings
18 that we did. And, you know, so we had -- our use of funds was
19 to push the company forward, but it was clearly not to achieve
20 near-term profitability.

21 Q I think earlier this week, we heard testimony, I'm
22 not -- I can't remember exactly, I think it was from
23 Mr. Weisbord, that anyone with a kindergarten education should
24 be able to take this technology and make it a success. You
25 guys hire any first-graders at the time?

1 A No.

2 Q No. This is hard, right?

3 A Yes, this is hard.

4 Q Okay. Where did you get -- where did the company get
5 the money to start hiring people and be able to pay for NDAs
6 and issue press releases and, frankly, pay you?

7 A We went out and did a road show and got investors,
8 institutional investors to go ahead and take positions in the
9 company.

10 Q Now, did you make -- or did the company makes
11 presentations to investors?

12 A Yes.

13 Q Let me ask you to turn to Tab 10. So this would be
14 in PX10.

15 THE COURT: And I show 10 is still a proposed
16 exhibit. Any objection to 10?

17 MR. APTON: This is Plaintiff's 10? No, Your Honor.

18 THE COURT: So it's okay if I admit it?

19 MR. STIGI: Absolutely. I was going to identify it
20 first and then ask.

21 THE COURT: 10 is admitted.

22 (Exhibit Number(s) 10 admitted.)

23 THE COURT: Skip a step.

24 MR. STIGI: Thank you, Your Honor.

25 / / /

1 BY MR. STIGI:

2 Q So I know I've been focusing on 2012, just -- well,
3 let me rephrase.

4 What is Exhibit 10?

5 A Exhibit 10 is a presentation I would have made to
6 potential investors.

7 Q Okay. And what's the date listed on the front page?

8 A March 2013.

9 Q Okay. So I'm a little after the period of time we've
10 been talking about, but I'm still trying to get into this time
11 period.

12 And were you involved in the creation of the
13 presentation?

14 A I was.

15 Q Okay. I'm not going to go page by page through this.
16 But if we can -- let me rephrase that.

17 I would like to go quickly to page 50 of this.

18 THE COURT: You can handle it however you want. You
19 have a certain amount of time. You can use that however you
20 want.

21 MR. STIGI: And I'm going to try to be as efficient
22 as possible.

23 BY MR. STIGI:

24 Q So Mr. Potashner, page 003, 10-003, as you look
25 through, just quickly on each page, just generally what are you

1 trying to describe here?

2 A Yeah. So I'm initially describing what the
3 technology is and what we can do with it. So 10-003 is --
4 tells us that listeners can immerse themselves in 3D sound.
5 I'm announcing it's a new way to deliver sound.

6 Q Okay. And do you say anything here about the money
7 you're making about Parametric?

8 A No. We were not making money.

9 Q Okay. Now, next page. Well, if you're an -- a
10 potential investor, wouldn't a potential investor be interested
11 in that?

12 A A potential investor wants to be able to buy
13 something early stage, perhaps at a good price, with the fact
14 that as the company executes its plan that downstream it's
15 going to create revenues and profits and the shareholder -- the
16 stock value is going to go up, and that'll benefit them.

17 So, yeah, investors were well aware this was early
18 stage.

19 Q Okay. So as we're going through, let's jump to --
20 but please, take your time looking through the whole thing.

21 Page 005, you see the company timeline; correct? Is
22 that accurate, to the best of your recollection?

23 A It is.

24 Q As of March, obviously 2013?

25 A Correct.

1 Q Okay. And as we go through the presentation, page by
2 page -- page 6, why is HyperSound destructive; page 7, strong
3 IP portfolio; page 8, limited competition; page 9, large
4 addressable markets.

5 Do you see all of that?

6 A Yes.

7 Q Okay. Nothing there about the money you're making or
8 not making, just yet, is there?

9 A No.

10 Q And again, is that because investors knew that
11 already?

12 A Well, we weren't making money and we didn't in any
13 way represent that we were. So it's a -- it was understood.

14 Q Okay. Anyway, let's keep going to -- you've got a
15 page on product licensing on 12; digital signage and retail
16 markets on 13. Let's stop at 13.

17 We've heard some testimony already about digital
18 signage.

19 Could you describe what that was, and how did the
20 technology use that -- was using digital signing?

21 A Yeah. So an example would be you could put a display
22 in a pharmacy and the display would effectively talk to you.
23 And -- but it wouldn't shoot the sound through the entirety of
24 the store and bother everybody. So those -- an individual
25 positioned in front of a display in a Rite Aid could hear the

1 information that the display is conveying without creating
2 sound through the whole store.

3 Q And so this was a technology that was -- I think you
4 were indicating -- disruptive and pioneering in 2013; is that
5 right?

6 A That's correct.

7 Q If you go to a supermarket today, does that actually
8 occur, do you know?

9 A I'm not aware.

10 Q The -- page 13 has some logos of a couple companies
11 there. Ingram Micro, Four Winds Interactive, Fujitsu, and
12 Build a Bear.

13 Did Parametric have agreements with any or all of
14 those companies that were revenue generating at that time?

15 A No.

16 Q Why did you put the -- those logos on the page?

17 A Yeah. These were discussions -- there was a pilot,
18 as indicated, with Build-a-Bear. Yeah. So -- so -- oh, and to
19 be clear, channel partners are companies that were positioned
20 to carry our products, if there were customers.

21 So we were establishing dialogues that as this thing
22 evolves and as there's customers, these players could be in
23 line to support those customers.

24 But I'm not aware of any transactions that occurred
25 with Ingram, Four Winds, or Fujitsu, to any customers.

1 Q Okay. Keep going. We see a couple of pages on
2 health care.

3 Do you see that?

4 A Yes.

5 Q What was the status in March of 2013 of
6 (indiscernible) in the healthcare area?

7 A Yeah. In 2013, it -- you know, the concept was
8 conceived that, gee, this could be a replacement for hearing
9 aids or could serve as a niche for hearing aids that aren't all
10 that effective. So we began securing doctors to test the
11 theory and also hired a consultant to help us understand what
12 the FDA process might look like, to move through.

13 Q What do you mean by the FDA process?

14 A Yeah. We assumed that it would be an FDA -- that it
15 would require FDA approval for the device, and so we would need
16 to navigate through that whole process.

17 Q It looks like you have 14, 15, and 16 on health care.
18 I'll come back to that when it dovetails with the dreaded HHI
19 in a moment.

20 You've got 17, you're (indiscernible) to the board,
21 which goes to 18 and 19.

22 And then finally on 20, we see financial information.
23 Do you see that?

24 A Yes.

25 Q Followed by a summary and then a bunch of

1 contingencies.

2 Do you see that?

3 A Correct.

4 Q Okay. If I could ask you to just take a look at
5 DX564, maybe in the other binder.

6 A Oh, go to the other binder.

7 Q Yeah.

8 MR. STIGI: And let me just say, I did my best to try
9 to correlate between Defense Exhibits and plaintiff exhibits,
10 and apologize in advance.

11 THE COURT: You tried to de-duplicate for me, did
12 you?

13 MR. STIGI: I tried my darnedest.

14 THE COURT: Yeah.

15 MR. STIGI: And I will listen to anyone in the
16 audience who -- if they know I should be using the other one to
17 let me know. And I'm again doing my best.

18 THE WITNESS: So I show 564 in the binder that we
19 were just on.

20 MR. STIGI: Okay. Okay, great. And what is it?

21 THE WITNESS: Okay. It's a -- it's a filing. It's a
22 10Q filing.

23 BY MR. STIGI:

24 Q 10Q for the quarter ending March 31st, 2013?

25 A That's correct.

1 THE COURT: Any objection to 564?

2 MR. APTON: Your Honor, I think this is one of the
3 ones we stipulated to. We stipulated to a number of exhibits,
4 Your Honor.

5 THE COURT: You did?

6 MR. APTON: We did. Plaintiffs did.

7 THE COURT: When?

8 MR. APTON: This morning.

9 THE COURT: What are they?

10 MR. APTON: Well, Your Honor, we reviewed defendant's
11 disclosure list that we got last night. I stayed up late. I
12 reviewed them. And we sent them an e-mail this morning saying
13 that we stipulated to them, except for two or three.

14 THE COURT: So what are they?

15 MR. APTON: All the ones -- which are the ones that
16 we haven't stipulated to?

17 THE COURT: No. What are the ones that are
18 stipulated to? So I can check them off the list.

19 MR. APTON: Oh, John, do you have your list?

20 THE COURT: Who has the list?

21 MR. HESS: Yeah. The list came in while I was
22 driving here. So I --

23 THE COURT: Mr. Hess, it sounds like -- You can stand
24 up while we do this procedural matter.

25 Because the exhibit list is so small, I'm going to

1 put --

2 MR. HESS: Your Honor, can I --

3 THE COURT: Read them.

4 MR. HESS: I forgot what I do -- do you want me to
5 read them? Okay.

6 THE COURT: Did you cross off the two or three that
7 are not stipulated to?

8 MR. HESS: Well, I'll read them -- but I mean, so you
9 can tell me if I --

10 THE COURT: No, no. The ones that aren't stipulated
11 to, did you take them off the list?

12 MR. APTON: It should be in --

13 MR. HESS: So except for 584 and 1054.

14 THE COURT: Okay. So don't read 584 and 1054.

15 MR. HESS: Yes, I got it.

16 THE COURT: So read me the numbers that are
17 stipulated to. And read slowly enough so Val can keep up.

18 MR. HESS: DX10, 29, 31, 38, 39, 56, 72, 83, 80 --
19 105, pardon me, 145, 151, 155, 277, 279, 301, 376, DX-504, 506,
20 517, 518, 530, 531, 533, 539, 541, 544, 550, 554, 557, 564,
21 570, 572, 577, 583, 595, 596, 616, 622, 624, 625, 630, 631,
22 635, 653, 656, 678, 688, 690, 698, 699, 702, 717, 721, 722,
23 727, 731, 740, 754, 756, 757, 768, 773, 774, 775, 776, 777,
24 778, 781, 784, 785, 789, 792, 793, 794, 797, 803, 807, 810,
25 821, 826, 832, 837, 857, 859, 864, 869, 881, 912, 916, 921,

1 925, 926, 942, 1037.

2 MR. APTON: And, Josh, 1057 --

3 MR. HESS: 1057, not 1054.

4 THE COURT: You were on 1037. Should it be --

5 MR. HESS: 1057, sorry. So it was 942 --

6 THE COURT: Hold on.

7 Mr. Apton.

8 MR. APTON: I believe Mr. Hess said 1037 in error.

9 He meant 1057.

10 MR. HESS: Oh, I'm sorry if I did. No. That --
11 okay. So --

12 THE COURT: Did you mean 1057?

13 MR. HESS: I meant 1057, 1057.

14 THE COURT: Lovely.

15 MR. HESS: Yeah.

16 THE COURT: So Val will cross out 1037 and write down
17 1057.

18 Thank you, Mr. Apton.

19 Keep going.

20 MR. HESS: 1062, 1063, 1064, 1065, 1067, 1068, 1069,
21 and 1070.

22 And I don't remember if we got a stipulation on 931.

23 MR. APTON: Is that the one this morning?

24 MR. HESS: Yeah.

25 MR. APTON: Not yet.

1 MR. HESS: Okay. That's it.

2 THE COURT: Mr. Apton, was 931 included?

3 Hold on. Mr. Apton, was 931 included?

4 MR. APTON: If I could just have one moment, I could
5 check real quick because we got 931 this morning.

6 THE COURT: Okay. Hold on a minute. And then I'm
7 going to ask you another question after you answer that one.

8 MR. APTON: Yeah. I'll stipulate to 931, sure. Yes.

9 THE COURT: Does the list that was read by Mr. Hess
10 accurately reflect the stipulations that you've entered into to
11 the exhibits?

12 MR. APTON: Well, his list also has exhibits from
13 plaintiff's exhibits. And then we also -- well, I should
14 clarify. There is no stipulation, because we stipulated to
15 them, so there was our gesture. But we didn't get anything
16 back from them. Just --

17 And the other thing is we also stipulated to their
18 exhibits for the next three witnesses as well.

19 THE COURT: Okay.

20 MR. APTON: So --

21 THE COURT: So the list that Mr. Hess read, plus 931,
22 was that an accurate representation of the exhibits which have
23 been stipulated, whether they are defendant's exhibits or
24 plaintiff's exhibits?

25 MR. APTON: I'm sorry. I'm having trouble answering

1 this question. The --

2 THE COURT: Okay. Was there anything on the list he
3 read that you don't stipulate to?

4 MR. APTON: No. I agree.

5 THE COURT: Great. Those will be admitted.

6 (Stipulated Exhibits admitted.)

7 MR. APTON: Thank you.

8 THE COURT: That does not prevent you from entering
9 into further stipulations related to additional exhibits or, of
10 course, offering any exhibits you think are appropriate.

11 And I want to compliment on working together. Let's
12 keep going now.

13 MR. STIGI: I hate to do this, Your Honor. I'm
14 sorry.

15 THE COURT: What?

16 MR. STIGI: I know Your Honor indicated you did not
17 want duplicate exhibits on PX -- the same one, PX and DX.

18 THE COURT: Yeah.

19 MR. STIGI: Has that been checked on this, because I
20 thought I heard a stipulation to --

21 THE COURT: I saw a nod that said the de-duplication
22 occurred.

23 MR. STIGI: Did it? I just want to be sure, because
24 I saw -- and let me just -- only because I'm -- I saw and heard
25 one. PX1 is in, and I heard the stipulation on DX506, which I

1 thought are the same document.

2 If I'm wrong, I apologize. I just figured let's do
3 this now.

4 THE COURT: I am trying to avoid de-duplication.

5 MR. STIGI: Right. Exactly.

6 THE COURT: It is not the same as when we used to use
7 paper and it's a space issue. It's just an old habit that dies
8 hard.

9 MR. STIGI: It -- this is for the benefit of the --

10 THE COURT: I know.

11 MR. STIGI: -- (indiscernible) to not have duplicate
12 exhibits.

13 THE COURT: 506, you believe is a duplicate of 1?

14 MR. STIGI: I think so, according to my notes.

15 THE COURT: Hold on. I'm reading. From the
16 description, they appear to be the same. But I don't know if
17 the documents are, in fact, the same.

18 MR. HESS: And, Your Honor, the defendant proxy 916,
19 which was just on our list, has already been admitted 244.

20 THE COURT: So --

21 MR. STIGI: And that's what I heard as well, so I
22 think --

23 THE COURT: So 506 and 916 are duplicates?

24 MR. HESS: Yes.

25 FEMALE SPEAKER: 916, Your Honor, is the definitive

1 proxy that we had wanted to enter in, but that was denied
2 because it was first admitted --

3 THE COURT: Right. Because it --

4 FEMALE SPEAKER: -- as 244.

5 THE COURT: Okay.

6 MR. STIGI: Yeah.

7 THE COURT: Okay.

8 MR. STIGI: So --

9 THE COURT: All right. Keep going.

10 MR. STIGI: All right. We'll sort that out later, I
11 guess.

12 Anyway, thank you, Your Honor.

13 BY MR. STIGI:

14 Q We're at -- I think, what, at 564, which has been
15 admitted. It's the 10Q from March 31st.

16 If I could just ask you, and so we get it into the
17 record, page 6 of 35, on DX564.

18 A Yes.

19 Q Do you see that? What is on that page?

20 A This is the financial statements -- unaudited
21 financial statements.

22 Q All right. That -- the particular page I asked you
23 to look at, 6 of 35, what is that?

24 A I show that as our -- as the consolidated statement
25 of operations.

1 Q Okay. And on the consolidated statement of
2 operations, does it list total revenues?

3 A It does.

4 Q And what were the total revenues for the three and
5 six months ended March 31st, 2013?

6 A 152 -- I'm sorry -- total revenues, \$155,384.

7 Q And that's for -- I'm sorry -- the three months ended
8 March 31st, 2013; correct?

9 A That's correct.

10 Q And for the six months ended March 31st, 2013?

11 A 264,058.

12 Q Okay. And if you would go to the next page, page 7
13 of 35.

14 A Okay.

15 Q What is on page 7 of 35?

16 A This is the cash flows.

17 Q Okay. And could you read to the -- to the Court the
18 line item net loss for the six months ended March 31st, 2013?

19 A The net loss was \$3.2 million.

20 Q Right. So the company was bringing in revenues of
21 \$264,000 with a net loss of 3.2 million; right?

22 A That's correct.

23 Q And that's as of March 31st, 2013. And that's just
24 for six months?

25 A That's correct.

1 Q Okay. So coming back in the investment presentation,
2 there were some slides about (indiscernible) health and you
3 talked a little bit about that. I figured this is a good time
4 to bring up HHI.

5 When was HHI formed, and what was it?

6 A Yeah. So I don't recall the exact date when HHI was
7 formed, but I could tell you what it was.

8 Q Okay. What was HHI?

9 A Yeah. So as we began exploring use cases for the
10 technology, one of the possibilities was you could focus sounds
11 in such a way that it vibrates the eardrum and could create a
12 means for people with hearing impairments to hear better at
13 frequencies that hearing aids usually have difficulty with.

14 So we wanted to test that theory. So we began
15 building experiments and things of that nature and pulling in
16 doctors in the space, audiologists, to get their thoughts. So
17 we began making investments in terms of, Is there a possible
18 product line here?

19 Q Okay. More specifically, HHI -- first of all --

20 A Yeah.

21 Q -- we already have it on the record what that stands
22 for.

23 A Yeah. Hypersonic Health.

24 Q Okay.

25 A Right. So deploying the technology for health

1 application.

2 Q Was HHI a company?

3 A No.

4 Q What was it?

5 A Yeah. So it was going to be -- it was established to
6 become an operating unit of Parametric, so fully owned
7 operating unit of Parametric Sound.

8 Q What was -- was it ever capitalized with capital?

9 A No.

10 Q Did it have its own board of directors?

11 A I don't recall whether we went to -- I know we had
12 discussions on that. I'm not sure whether we entered into
13 that.

14 Q Did it issue shares of stock?

15 A Yes.

16 Q And who owned --

17 A Well, it -- we issued options of stock for a handful
18 of internal characters and doctors.

19 Q Were there shares of stock, independent and separate?

20 A All the shares of the company would have been owned
21 by Parametric Sound.

22 Q So just so we're clear, would have been or was? I
23 just want to make sure we understand --

24 A I believe we established the entity. And I believe
25 that all the shares of that entity were owned by Parametric

1 Sound.

2 Q Okay. It was a wholly-owned subsidiary; is that
3 right?

4 A That's correct.

5 Q Of Parametric Sound?

6 A That's correct.

7 Q Okay. So the only stockholder of HHI was the
8 company, Parametric Sound Corporation?

9 A That's correct.

10 Q Okay. Did Parametric keep records of revenue that
11 might be associated to the -- just the health part of the
12 business, the operating unit, as you called it?

13 A Yeah. There was no revenues.

14 Q There was no revenue associated with the health
15 piece?

16 A That's correct.

17 Q Were there any costs associated with the health
18 piece?

19 A Yes.

20 Q And were those -- the records of those kept
21 separately?

22 A They would have -- we would have had operated plans,
23 but I don't believe we did any division reporting.

24 Q And who paid those costs?

25 A Parametric.

1 Q So Parametric paid the costs, but there were no
2 revenues associated with it?

3 A That's correct.

4 Q Okay. And again, we're -- this is in the early 2013
5 time period.

6 Well, you know what? Let's just get a document. Why
7 not?

8 MR. STIGI: 541, is that on the list?

9 THE COURT: I'm relying on Val at this point.

10 MR. STIGI: Thank you. Thank you.

11 THE COURT: The list was too long, which is a good
12 thing.

13 MR. STIGI: I'm sorry.

14 THE COURT: I'm not complaining. I just am now
15 shifting responsibility to Val.

16 MR. STIGI: Got it.

17 BY MR. STIGI:

18 Q Yeah. Take a look at 541 as long as you need.

19 A Okay.

20 Q And what's on -- what's reflected in DX541?

21 A Yeah. So we're -- I'm discussing -- or this is a
22 discussion with Jim Barnes in terms of what the expenses should
23 be for that business in the upcoming year.

24 Q And again, just while we're here, who is Jim Barnes?

25 A CFO of Parametric Sound.

1 Q And was he a stockholder of the company as well?

2 A He was.

3 Q And he's not been sued to your knowledge in this or
4 any other -- in this case or class action?

5 A I don't believe so.

6 Q Your e-mail at the top, could you read that? The
7 first sentence of your e-mail.

8 A The HHI assumption should be zero revenue and zero
9 cost until we successfully finance it.

10 Q Okay. And when, if ever, was HHI successfully
11 financed?

12 A We never went out for capital to finance it.

13 Q So never?

14 A Never.

15 Q Okay. You heard some -- you were asked some
16 questions in some e-mails about HHI being worth \$1 billion at
17 about this time. We've heard your testimony.

18 I just want to be clear, you did not -- did you think
19 that HHI, which was soon to be zero revenue and zero cost until
20 you successfully financed it, was at that time worth a billion
21 dollars?

22 A No.

23 Q You mentioned options -- when options were granted by
24 the board, with respect to HHI, for you, Mr. Todd, and the
25 other doctors --

1 A Correct.

2 Q -- mentioned there was a consultant brought in to
3 assess the value?

4 A That's correct.

5 Q Yeah. Could you describe what the process was in
6 regard to that?

7 A Yeah. We had -- our general counsel identified a
8 resource who does this for a living, that looks at businesses
9 and defines a value to them -- to this. And he did a study of
10 market, a pretty detailed study, and concluded that this entity
11 was -- all of its potential is worth \$1 million today.

12 Q 1 million with an M?

13 A 1 million.

14 Q Okay. And what was the purpose of ascribing that
15 valuation?

16 A Yeah. We wanted to have a third-party, unrelated to
17 the company, determine the number that we could use for
18 establishing the strike price for stock options.

19 Q Okay. And did it relate in any way to what the
20 expense would have to be for those options to be sent that were
21 granted?

22 A It related -- it was all available data. It related
23 -- was based on his calculations in terms of how he values
24 companies.

25 Q Okay. By the way, do you recall what the cash burden

1 rate was for Parametric at the time? Parametric, since we know
2 it was paying all the cost of HHI.

3 A Yeah. I think it was on the previous piece. But we
4 were burning through cash significantly in that we were adding
5 resources and making investments to look to move the company
6 forward.

7 Q Okay.

8 A And I'll also add, giving doctors equity in a
9 potential future business was a cost-saving mechanism.
10 Otherwise, we would've had to use cash to pay the doctors.

11 So having them be paid with equity for a division
12 that has downstream potential was -- you know, it was a
13 cost-saving mechanism.

14 Q I want you to go to 550, please, 5-5-0.

15 MR. STIGI: Is that on the list?

16 THE WITNESS: Okay.

17 BY MR. STIGI:

18 Q In the bottom part of the first page of 550, it's an
19 e-mail from Jesse Bromberg to you. Do you see that? From the
20 first page -- middle of the first page down.

21 A Yes.

22 Q Okay. Who is Jesse Bromberg?

23 A Jesse Bromberg is a Morgan Stanley employee.

24 Q What is Jesse Bromberg e-mail or forwarding to you,
25 it appears --

1 A Yeah.

2 Q -- on the e-mail?

3 A Yeah. He's forwarding to me a newswire.

4 Q And what is the newswire saying?

5 A It's effectively saying that Parametric Sound has
6 hired an investment banker to help them explore strategic
7 alternatives.

8 Q How does -- and I'm sorry. And who is issuing this
9 notice, for lack of a better word, in the newswire?

10 A Saabira Chaudhuri individual.

11 Q Can you tell from the e-mail address who Saabira
12 Chaudhuri is?

13 A Yeah. It looks like his e-mail address implies he's
14 associated with Dow Jones, which is an online news service.

15 Q So a news reporter -- business news reporter
16 probably; right?

17 A Correct.

18 Q Okay. And how does -- I don't know if Saabira
19 Chaudhuri is male or female, so we'll say Chaudhuri --

20 THE COURT: The reporter.

21 BY MR. STIGI:

22 Q The reporter.

23 A Right.

24 Q I want to be respectful.

25 A Right.

1 Q Reporter Chaudhuri -- I'll go with that. How does
2 Reporter Chaudhuri describe Parametric?

3 A A struggling audio technology firm.

4 Q And why do you think that -- well, withdrawn. Excuse
5 me.

6 Starting with the bottom sentence of the first page
7 where it says last month. Do you see that?

8 A Yes.

9 Q Okay. Could you read that sentence into the record,
10 please?

11 A Last month Parametric, which has reported a
12 consistent string of losses, said its first-quarter loss more
13 than doubled as input costs and operating expenses surged.

14 Q All right. Yet, this -- the Reporter Chaudhuri also
15 reports, further up, that the stock has more than doubled so
16 far this year. Do you see that?

17 A Correct.

18 Q Do you have any sense of why the cost more than
19 doubled in a year, despite reporting a certain string of losses
20 and a double first-quarter loss?

21 A Yes. Shareholders were enthused by the progress the
22 company was making in terms of potential -- its potential;
23 right -- that they were not reacting negatively to the losses,
24 because they understood the losses were commensurate with
25 building -- you know, building capability with the company.

1 Q And presumably the market, you know, as you described
2 it, having, you know, looking at the progress being made you're
3 looking at the product.

4 Where was the product at this point in terms of
5 testing, in terms of its ability to do safely what the company
6 was hoping it could do?

7 A Yeah. So we did not make the transition from a
8 research lab, you know, prototyping capability into something
9 that could manufacture products in high volume. It's a very
10 different skill set. So we were relying less on that and more
11 on we'll get some big names to license this technology and
12 create revenue streams on that front. So that was the
13 playbook.

14 Q Okay. Did the technology still have bugs in it?

15 A Yes.

16 Q What kind of bugs?

17 A Repeatability. Effectively to be able to get the
18 same performance, you know, each time we go on, so there were
19 repeatability related issues.

20 Q All right. I'm going to try to stick with the
21 timeline here, so I'll come back to some of this.

22 When you sought out investors, did you guys do demos?

23 A We did.

24 Q And did you get feedback from those demos?

25 A Yeah. People -- when we would demonstrate the

1 technology to a user, they thought it was compelling.

2 But we had, you know, the guy had to sit right here
3 in this spot, and, you know, we made sure that it was going to
4 be a good experience. So we had the ability to, you know, to
5 do good demos. We had the ability to -- I mean, the technology
6 to create potential, but that's a long way from we can build a
7 million of these things at low cost and market them and support
8 major customers.

9 Q Okay. But you were out there trying to get
10 investors --

11 A Absolutely.

12 Q -- at this time; right?

13 A Yes.

14 Q Okay. Let's just 570 -- ask you to look at 5-7-0.

15 A Okay. Okay.

16 Q So what is being described in, especially in the
17 bottom half of 570, the e-mail on April 5, 2013, address to
18 (indiscernible)?

19 A Yeah. This is feedback on some of the investor
20 groups that I demonstrated the technology to.

21 Q Okay. So you -- JG Capital and UTA Capital and
22 Embree Asset Management -- are those the three there?

23 A Correct.

24 Q Were those the only three investors you guys were
25 marketing to at the time?

1 A No.

2 Q How many?

3 A It was continuous.

4 Q And what feedback -- sorry to use the --

5 A Uh-huh.

6 Q -- mix the audio metaphor here. But what kind of
7 feedback were you getting from investors?

8 A Yeah. I mean, the predominant one was one I
9 mentioned before, which was, hey, we like this, but your early.
10 All right. Come back once you've signed up a couple licensing
11 deals. Come back once you've got product distribution deals.

12 So it was typically -- it was usually not a -- they
13 were not interested. It was predominantly a come back later
14 once you can insure the company.

15 Q And I know I said I'd stick to the timeline. There
16 is one here I'd like to -- it's slightly out of the timeline,
17 but I think it sort of fits with this -- 797.

18 A Okay.

19 Q What -- well, let's start at the bottom e-mail.
20 First of all, what's the subject of the e-mail?

21 A Qualcomm.

22 Q Yeah. Do you have any recollection as to why this
23 e-mail what have involved Qualcomm in any way?

24 A Yeah. We had a discussion with a Qualcomm contact
25 that asked if we could provide a unit for his son. And we

1 complied. And it turned out to be not the best decision
2 because the technology wasn't ready yet.

3 Q Well, what happened?

4 A Yeah. We lacked the foresight to realize that dogs
5 with ultrasensitive ears might not get the same experience as a
6 human. So it just wasn't in our radar to have that thought.
7 And as he played it for his kid, the dog started yelping. So
8 that was not (indiscernible).

9 Q Did the company do any research into how many people
10 have dogs, to maybe know whether that was an important market
11 share?

12 A No. This was -- we were nowhere -- we were talking
13 about the potential of technology.

14 Q Okay.

15 A This was not us saying we're ready for consumer
16 sales.

17 Q Okay.

18 A As a matter of fact, we put energy to saying no one
19 sells this product anywhere. It's not ready. But we did make
20 a mistake here, and let someone take one home, and fool around
21 with it, and it wasn't ready.

22 Q Okay. And what did you say at the top of the e-mail?
23 Do you see that?

24 A We are not selling to consumers for a host of
25 reasons. Very risky.

1 Q And would not and very risky are in capital letters;
2 right?

3 A That's correct.

4 Q Okay. So it's fair to say that technology, while
5 impressive in the lab, was not ready for prime time?

6 A That's correct.

7 Q All right. Okay. We've now gone through roughly
8 March or early part of 2013. I'd like to start talking to you
9 a little bit about the timeline for the Turtle Beach deal.

10 MR. STIGI: If a midmorning break is appropriate,
11 this would be a good starting point.

12 THE COURT: Sir, do you need a break?

13 THE WITNESS: I would prefer a break, if that's okay.

14 THE COURT: All right. Then we will take a break.

15 MR. STIGI: Thank you, Your Honor.

16 THE COURT: Ten minutes or so.

17 (Proceedings recessed at 10:25 a.m., until 10:33 a.m.)

18 THE COURT: You're up. Go.

19 MR. STIGI: Thank you, Your Honor.

20 BY MR. STIGI:

21 Q Just one quick follow-up. Remember Exhibit 10, the
22 Investor Presentation, March 2013? Remember we talked about
23 that earlier?

24 A Yes.

25 Q Okay. Do you recall whether Parametric got any

1 investments from that presentation?

2 A I don't recall.

3 Q Either way, or you don't recall any?

4 A I don't recall if we got any investments from that
5 presentation. We likely did not.

6 Q Okay. All right. 517. We'll start talking about
7 Turtle Beach.

8 THE COURT: Was that admitted?

9 THE CLERK: Yes.

10 THE COURT: Okay.

11 BY MR. STIGI:

12 Q What's Exhibit 517?

13 A Okay.

14 Q Tell me, was this the first time you had ever heard
15 of Turtle Beach?

16 A I knew the brand.

17 Q And do you have any recollection of why Steve --
18 well, let me -- Who is Stephen Thesing?

19 A Stephen Thesing was vice-president of business
20 development, so his job was to look for potential partners for
21 the company.

22 Q And when you say partners, that's a fairly general
23 word. What does that mean in this context?

24 A Yeah. So in that context it would mean somebody that
25 might be willing to make an investment in the company for

1 certain preferential rights or to get a specific product or
2 potentially a license deal, so it was fairly broad. Who can we
3 partner with to get resources, be it people or dollars, to
4 progress the technology.

5 Q So at this point when you say partner, it's not in
6 the legal sense of a partnership, it's something broader than
7 that, potential opportunities to do business together?

8 A That's correct.

9 Q Okay. And what was -- and you said Mr. Thesing's job
10 was to do business development. What was Mr. Thesing
11 communicating to you in this email, 517?

12 A He was communicating that Turtle Beach could be a
13 good candidate to utilize our technology in some form or
14 fashion, that they're the leader in their segments and that
15 they -- they're the market share leader, north of 50 percent
16 market share. So they would be -- and we had thought that
17 gaming could be an application for the technology, so he was
18 identifying here's the ideal company to have a discussion with.

19 Q Did you ever learn that any of the numbers that
20 Mr. Thesing was communicating to you about Turtle Beach were
21 not accurate at that time in, say, market share?

22 A No.

23 Q Have you ever -- I mean, we've had a lot of numbers
24 in this case about Turtle Beach's market share. Have you ever
25 come to learn that any of those numbers at any time in terms of

1 Turtle Beach's market share in gaming were inaccurate?

2 A No.

3 Q If you'd go to 518. What's Exhibit 518?

4 A I'm reading it. One second.

5 Q Go ahead.

6 THE COURT: So given the number of exhibits you
7 admitted earlier, I'll just ask Val to tell you if it's not
8 admitted. How's that?

9 MR. STIGI: Perfect. Thank you.

10 THE COURT: Given the number you've agreed to admit,
11 I think we're at the point that if it's not admitted we'll just
12 go that way. Okay?

13 THE CLERK: Sounds good.

14 THE WITNESS: Okay.

15 BY MR. STIGI:

16 Q All right. So after 517, when you hear from
17 Mr. Thesing about this potential opportunity to partner, what
18 happened next and how does it relate to Exhibit 518?

19 A Yeah. So we reached out through relationships we had
20 to get a meeting to discuss how we thought the technology could
21 be relevant to Turtle Beach and it did lead to discussions.

22 Q And did you have a meeting?

23 A We did.

24 Q With whom?

25 A I don't recall exactly who we met. I know at some

1 point, obviously, I met Juergen.

2 Q Was that the first time you met him?

3 A What I don't recall is whether there were -- somebody
4 on my staff might have had discussions prior to me meeting
5 Juergen, but it would have been in the construct of this
6 discussion that was my first dialogue with Juergen.

7 Q Okay. And what came out of that meeting? I mean, to
8 the extent it's reflected in 518, or to the best of your
9 recollection?

10 A Yeah. It looked like there was a good fit. The
11 technology -- today the headsets were effectively tethered to
12 the workstations, to the computers, and the concept of, gee,
13 you could have speakers that let kids move around the room and
14 could track them, cutting the wire, so to speak, seemed like a
15 very attractive proposition. So we kind of -- Juergen and his
16 team saw a good use case for the technology. We saw these guys
17 as the market share leader in a key application set. So both
18 sides got very interested.

19 Q By the way, the top email here is from you to a Steve
20 Miller. Who is Steve Miller?

21 A Needham. Yeah. So it appears that there were
22 banking intermediaries. MDB Capital, which is referenced, was
23 a group working with me on the financing and Needham is a
24 banking entity as well.

25 Q Can you describe the purpose of the bankers'

1 involvement at this point with this start-up conversations with
2 the company?

3 A Yeah. MDB put some of their clients into acquiring
4 the stock, so they had a personal interest to assist us with
5 establishing relationships that could make the company more
6 valuable, so that would have been their relationship.

7 Q Okay. And that's with both Needham and MDB?

8 A Yeah. I, quite frankly, don't recall who had the
9 Needham relationship, but I do recall that Parametric had the
10 MDB relationship.

11 Q And then just the top email from you to Mr. Miller.
12 You ask a question at the end. Do you see that?

13 A Yes.

14 Q And what are you asking here?

15 A Yeah. So I saw multiple possibilities that the two
16 companies could get closer together and I give three choices
17 there. One is, hey, we could license this technology to Turtle
18 Beach for their application. Two, they may want to take a
19 stake in this company; you know, give them what we can do
20 together. Or, three, they could have an interest in acquiring
21 us if the terms were correct.

22 Q From your perspective at this point, were all three
23 on the table?

24 A Correct.

25 Q You weren't going immediately to acquisition because

1 my options will vest?

2 A No.

3 Q And I'll get the severance payment?

4 A This is the earliest discussion, so there's no
5 contemplation other than let's -- you know, let's start walking
6 before we consider running.

7 Q Okay. And did you -- and this is February 2013, did
8 you at that time say to yourself, let's just focus on Turtle
9 Beach and do nothing else?

10 A Absolutely not, because what we just hit a little
11 while ago is me announcing that I'd got bankers out to look at
12 different possibilities and this predated that.

13 Q Well, let me ask you to turn to 572.

14 A Okay.

15 Q Did there come a time you had a conversation with the
16 biggest competitor to Turtle Beach?

17 A Yes.

18 Q And who was that?

19 A SteelSeries.

20 Q Is that reflected in this email?

21 A It is.

22 Q And what's the date of the email?

23 A March 12th, 2013.

24 Q Approximately three weeks after your meeting with --
25 or the prior emails regarding Turtle Beach?

1 A That's correct.

2 Q Why would you meet with a competitor of Turtle Beach
3 after talking to Turtle Beach first?

4 A Because it enabled me to be able to say, Juergen,
5 Turtle Beach, you're my first choice, but be aware I'm also
6 talking to one of your competitors. But you're first in line,
7 you've got a head start. If you can get -- progress the
8 relationship to your satisfaction, that's my first choice as
9 well. But assume if you don't move forward with me that your
10 competitor might. So it creates a tension that not only, gee,
11 do I need this, but what's the consequence of my competitor
12 ending up with this? So --

13 Q So -- oh, I'm sorry.

14 A I was going to say it's something that I would do
15 often in negotiations that is if you don't want this, it might
16 end up in your competitor's hands.

17 Q So, again, I think we've got to give the timeline
18 here. This is March of 2013. Were you in discussions with
19 Juergen about a definitive agreement in March of 2013?

20 A No.

21 Q So, again, putting yourself back in March of 2013,
22 the reason for meeting with a competitor of Turtle Beach before
23 your negotiations would be what?

24 A Yeah. This was most likely -- it would have most
25 likely been along the lines of the anticipated outcome is going

1 to be a licensing arrangement. And if Turtle Beach --

2 Q I'm sorry. Anticipated outcome of what?

3 A The discussions with either Turtle Beach or with
4 their competitor.

5 Q Okay. So at this point you're looking at these as
6 potential licensing opportunities?

7 A That's correct.

8 Q Okay. And the ability to use one to negotiate
9 against the other, whatever the case may be, in terms of
10 whatever the business negotiation?

11 A That's correct.

12 Q Okay. So, I think you mentioned earlier from the
13 press release the point in time when Parametric was talking
14 about strategic alternatives. Do you recall that?

15 A Correct.

16 Q Okay. And did Parametric engage an investment banker
17 to assist it in looking at strategic alternatives?

18 A We did. Houlihan Lokey.

19 Q Okay. And can I ask you to turn to 544.

20 A Okay.

21 Q What's 544?

22 A It would be the engagement letter, the term sheets by
23 which we would be enlisting Houlihan Lokey.

24 Q Okay. And for the record, page 8 of 10 has a
25 signature line for you. Did you eventually sign Exhibit 544?

1 A I did.

2 Q Okay. How did it come for you to -- or for
3 Parametric, excuse me, to engage Houlihan Lokey for this
4 process?

5 A Why did we choose them?

6 Q Yes.

7 A Is that what you're asking?

8 Q That's a much clear question than the one I asked.

9 A Yeah. I talked to Morgan Stanley, where I had
10 relationships through the transactions of other companies that
11 I did, and they deemed that a Parametric deal would be too
12 small for them, but they have a relationship with a banking
13 entity, Houlihan Lokey, that they thought would be perfect for
14 this consideration, so they pointed me to Houlihan Lokey.

15 Q Had you ever worked with Houlihan Lokey before?

16 A I knew of them, but I had not worked with them prior.

17 Q And what did you know of them before this time?

18 A Just a very solid reputation for small tech company
19 transactions.

20 Q And did you negotiate the terms of the engagement
21 with Houlihan?

22 A There was some -- yeah, the terms are consistent with
23 what engagements look like. There was some back and forth on
24 some of the up-front expenses and I believe we did get some
25 reduction in terms of fees through some negotiations.

1 Q To the benefit of Parametric?

2 A To the benefit of Parametric.

3 Q And -- well, let's just, again, for the record, what
4 does a Houlihan Lokey do when it's in this -- in a situation
5 where it's assisting a client in a strategic transaction? What
6 does it do?

7 A Yeah. So they'll put together a document that
8 describes the company in detail, the plan for the company, the
9 potential for the company. So they'll put together a very
10 comprehensive marketing document. They'll go out, identify
11 potential investors, acquirers. They will support
12 negotiations. So it's kind of a turn key from we're going to
13 do everything, starting with understanding the company, all the
14 way through all the steps necessary with facilitating a
15 transaction.

16 Q And you mentioned some negotiations on up-front
17 costs. Do you recall what the fee structure was for Houlihan
18 Lokey in this engagement?

19 A Yeah. These things are heavily success oriented, so
20 the significant part of their payout is getting a percent of
21 the deal, a percent of the transaction cost. There almost
22 always is some up-front fee. And we did -- I believe we
23 negotiated both of those. I think we negotiated the up-front
24 fee down. I don't recall by how much. And I know there was
25 some negotiation of what percent they would get on a successful

1 transaction.

2 Q Well, I'll call your attention to page 2 of 10,
3 section 2 or paragraph 2 of the engagement letter, Fees and
4 Expenses. Do you see that?

5 A Yes.

6 Q Okay. And to the best of your recollection, does
7 that accurately set forth the fee structure for Houlihan Lokey
8 in this engagement?

9 A It does.

10 Q And from your perspective, was the fee structure
11 established in a way that would incentivize Houlihan Lokey in
12 its work for the strategic transaction to get to a transaction
13 that created the most value for the Parametric stockholders?

14 A Yes. The fact that --

15 Q How? Yeah. How?

16 A Yeah. The fact that the major part of their economic
17 consideration is only yielded on a successful transaction and
18 the amount they get is tied to the value of that transaction
19 aligns them with our shareholder interest.

20 Q Okay. And so going forward, just generally, how
21 often did you have conversations or meetings with Houlihan
22 Lokey personnel through this strategic transaction process?

23 A Extensive. A lot of work in the early stage building
24 the documents that they would be able to -- having them
25 understand the company, building the documents that reflected

1 the company. They would then go off and come back with here's
2 a list of prospective candidates, partners, acquirers;
3 discussions on each of them in terms of whether there's a fit
4 or not a good fit. And then they did their work in terms of
5 trying to progress discussions.

6 Q Do you recall whether or at what -- withdraw. Do you
7 recall whether Houlihan Lokey was informed of your prior
8 communications or meetings with Turtle Beach?

9 A Yes. They would have been absolutely informed.

10 Q Okay. And do you recall whether Turtle Beach --
11 excuse me, Houlihan Lokey was involved in considering, you
12 know, the extent to which a Turtle Beach transaction would be
13 an acceptable transaction --

14 A Yeah.

15 Q -- strategic transaction for Parametric?

16 A Yeah, for the same reasons it was an obvious partner
17 for me, it was apparent to them as well. So they clearly saw
18 them as somebody that should be on the list.

19 Q You said the list. What list are you talking about?

20 A They created a list of here's companies that we
21 should market this, market Parametric to. So they created a
22 pretty extensive list. And then the list began narrowing as
23 either we thought that it might not be a fit or as they reached
24 out and the company said we don't have an interest, things of
25 that nature.

1 Q I'm not going to go through that in great detail, but
2 do you recall whether there is a summary description of the
3 process you described in the proxy statement?

4 A I'm not aware.

5 Q Okay. Well, you know what, we might as well do that.
6 Let's go to 244.

7 A 244?

8 Q That's right.

9 A Is that in the other binder?

10 Q Oh, yeah. The numbers under 500 are in one binder;
11 500-50,000 are in the other.

12 A Okay.

13 Q So, yes, if you can turn to page 244-056.

14 A Okay.

15 Q Do you see the section entitled, "Background of the
16 Merger"?

17 A Yes.

18 Q Okay. Do you recall being involved in the drafting
19 of this section, the section of the proxy called "Background of
20 the Merger"?

21 A I would have reviewed the proxy extensively and would
22 have made edits, so I would participate in that context.

23 Q Okay. And you look, for example, to the third
24 paragraph down under "Background of the Merger" there's a
25 reference to Houlihan Lokey.

1 A Yes.

2 Q Okay. And so in looking at the section of your
3 "Background of the Merger," you see there's a reference to the
4 work Houlihan Lokey did as part of the process. In that
5 paragraph and in the following paragraph --

6 A Correct.

7 Q -- the paragraph starting March 27, 2013?

8 A Yes.

9 Q And as you keep going there's additional references
10 to Houlihan Lokey on the next page and the page after?

11 A Yes.

12 Q Okay. So is it fair to say that this section of the
13 merger summarizes the process by which, among other things,
14 Houlihan Lokey did its work to assist the company in analyzing
15 potential strategic transactions?

16 A Correct.

17 Q Okay. Let's go back to 544. Not back, let's go
18 to -- excuse me, 554. Exhibit 554.

19 MR. PEEK: 554 or 544? Sorry.

20 MR. STIGI: Five, five, four.

21 THE WITNESS: Okay.

22 BY MR. STIGI:

23 Q Okay. So, have you read 554?

24 A I have.

25 Q Okay. I think this may have come up yesterday and

1 forgive me if I've now duplicated an exhibit. Hopefully
2 somebody, if I do, would have mentioned it, but my fault for
3 not double checking. We'll fix it later if we have to. But
4 I'm not going to ask you, obviously, about the delaying
5 announcements. We dealt with that yesterday and I'm not going
6 to rehash that. But what I would like to focus on is the
7 various options that are described in Mr. Stark's email. Do
8 you see that?

9 A Yes.

10 Q Okay. And just -- I don't need you to read the email
11 out loud, but if you could just quickly summarize the different
12 options that were being put on the table as of March 29th,
13 2013.

14 A Yeah. So, at this point the full spectrum of
15 possibilities were on the table, everything from limited
16 license for certain applications to full license, to acquiring
17 the company and giving the license back to the company to run
18 its HHI. Aspirations to full acquisition of the company. So
19 it was kind of Juergen saying, hey, there's a wide range of
20 possibilities here that we're open to explore.

21 Q And in your email in response to those options, you
22 say in one place, "I did notice that reverse merger wasn't an
23 outlined option, so I will assume that you have concluded the
24 timing is not appropriate for that choice."

25 Do you see that?

1 A Correct.

2 Q What import, if any, did that conclusion you reached
3 have in the work you were doing?

4 A You know, at that point when I didn't see reverse
5 merger, which meant acquisition of Parametric in whole, so at
6 this time it kind of narrowed me to think that this is likely a
7 licensing arrangement.

8 Q By the way, would a licensing arrangement have
9 triggered the change of control or just --

10 A No.

11 Q Okay. So when you noticed that he had concluded and
12 you told him from your perspective that the reverse merger
13 wasn't -- wasn't an option, why didn't you just leave it there
14 and say goodbye?

15 A Because I saw substantial value to the company in
16 executing a licensing arrangement with Turtle Beach.

17 Q Even though that wouldn't have triggered the change
18 of control?

19 A Correct.

20 Q Okay. And why is that?

21 A Because it would have enhanced the value of
22 Parametric to have been listed that we just did a licensing
23 deal with Turtle Beach. It would make our value increase.

24 Q And that would have increased the stock price, in
25 your view?

1 A It would have increased the stock price and leaves a
2 shareholder with options. It would have increased my option
3 potential.

4 Q Okay. Although, to be fair, Mr. Stark then responds,
5 saying, "Actually, nothing is off the table."

6 Do you see that?

7 A That's right.

8 Q And in your mind at that point did you say, great,
9 let's just do reverse merger, I don't want to talk anything
10 else?

11 A No. I would have said -- obviously it wasn't in his
12 initial thinking, so he must not be thinking reverse merger or
13 acquisition. If the guy gives you a list of considerations and
14 you say, hey, you left one out and he says, oh, yeah, I'll put
15 that back in, but that's an unlikelihood.

16 Q Okay. So this is -- let's just go back to that, the
17 date here. We are still in March of 2013. I want to try to
18 stick close to the timeline. So, okay, now you know nothing is
19 off the table. Maybe a reverse merger is back in.

20 A Uh-huh.

21 Q Did you then just say, great, we'll just -- I'll
22 abandon any further discussions with other investors, for
23 example?

24 A No.

25 Q Can I ask you to turn to 584.

1 A Okay.

2 THE COURT: So this one is not admitted.

3 MR. STIGI: Oh, okay then.

4 THE COURT: At least yet.

5 BY MR. STIGI:

6 Q What is 584? Do you recognize 584?

7 A I do.

8 Q And what is Exhibit 584?

9 A Yeah. This is a summary of some target financing
10 options that were pursued with feedback from those -- those
11 entities.

12 Q And do you recall whether you ever saw this e-mail at
13 the time?

14 A I would have seen this e-mail.

15 MR. STIGI: Move to admit.

16 THE WITNESS: I'm sorry?

17 MR. APTON: Objection, Your Honor.

18 MR. STIGI: Move to admit.

19 MR. APTON: Objection, Your Honor.

20 THE COURT: I know. A basis?

21 MR. APTON: Oh, because he hasn't established that
22 it's reliable or that he even received it.

23 THE COURT: Okay. Can you keep laying some more
24 foundation?

25 MR. STIGI: Okay.

1 BY MR. STIGI:

2 Q Do you recall having a conversation with anyone at
3 Houlihan Lokey regarding the investor feedback that's described
4 in Exhibit 584?

5 A Yes.

6 Q And what do you recall them telling you?

7 A They would report frequently to me in terms of who
8 they're talking to, what the status of those discussions are.
9 Certain ones were dead on arrival that they got no interest,
10 others required me to provide more information or talk to them.
11 So this would be representative of an update in terms of
12 targets that Houlihan Lokey's talking to relative to financing
13 alternatives.

14 Q Okay. Do you recall Horizon Technology as a
15 potential investor?

16 A I don't.

17 Q Do you recall Heights Capital as a potential
18 investor?

19 A I do.

20 Q And what do you recall about Heights Capital?

21 A I recall that there was feedback from Heights and
22 others that putting a PIPE into the equation could be
23 detrimental to the stock.

24 Q And why was that?

25 A It would involve selling -- it would involve raising

1 capital by selling discounted stock.

2 Q And explain how that affects the company or its
3 capital, sir.

4 A Yeah. So if you're a shareholder in something that's
5 trading at \$15 a share, and then, the next day, you get an
6 announcement that the company just raised money by selling --
7 doing a private deal at \$13 a share, it's an indication --
8 could be perceived as an indication that the company thinks the
9 company's really worth \$13, not 15. And you could create a,
10 and often do create a sell-off in the stock, that -- that why
11 is the company selling its stock below the price it's currently
12 trading at.

13 Q You mentioned PIPE. I think it's probably a good
14 idea to just put on the record. What is a PIPE transaction?
15 That's an acronym; right?

16 A Yeah. So think of it as a private transaction. That
17 the company's selling stock, not on the stock market, but to
18 individual -- an individual entity or an individual company,
19 usually at a discount.

20 Q Well, that was going to be my next question. It's
21 usually at a discount. Why is that?

22 A Because the company needs the capital, so willing to
23 take a discount to get that capital.

24 Q Okay. And explain why that could put stress on the
25 stock price already. Is there anything else you can recall

1 about Heights Capital and what it might have been offering at
2 the time?

3 A No, I just -- I just know that -- that the whole
4 concept of raising a PIPE, or doing a private transaction is
5 going to be -- going to be difficult. It's going to have
6 consequences.

7 Q And do you recall Hercules?

8 A I recall them by name, but I don't recall the
9 specifics.

10 Q And it's not admitted, but in reviewing DX-584, does
11 that refresh your recollection of Hercules?

12 A Yes.

13 Q And what is your refreshed recollection about
14 Hercules?

15 A Yeah. My recollection is that the amount of -- the
16 cost of this deal and all these deals was -- was extremely
17 expensive when it was all said and done.

18 Q And again, why does that stick in your head and --

19 MR. STIGI: Withdrawn.

20 BY MR. STIGI:

21 Q What does it mean to be expensive in this context?

22 A Yeah. Meaning the cost of the amount of the equity
23 we would have needed to provide to raise the money, plus the
24 consequence of our current shareholder base potentially losing
25 confidence in us, that, gee, the company must be in trouble if

1 they're willing to take money on exorbitant terms; right? It
2 just created -- there's multiple consequences with that.

3 Q Okay. And then, finally, do you recall JGB Capital?

4 A I do.

5 Q And what do you recall of JGB Capital?

6 A Yeah. A different instrument, but also very
7 expensive.

8 Q Do you recall the nature of that instrument?

9 A The nature of it?

10 Q Yeah.

11 A Yeah. A convertible debt instrument. So they would
12 provide cash to the company, they receive a debt obligation
13 from the company that they can have the right to convert into
14 equity at some predefined price, and when you add that all up,
15 again, it could have been very dilutive to the company.

16 Q And that's because the JGB Capital, in this instance,
17 could take all that stock and dump it the next day?

18 A That's correct.

19 Q And that would put pressure and force the stock price
20 down?

21 A That's correct. Plus, it would have been discounted
22 in some capacity as well.

23 Q Right. And theoretically, JGB Capital, now with more
24 shares, would have to dump more to make up for the fact that
25 the stock price has gone down under that circumstance; right?

1 A Correct. And there were also some features that, if
2 you couldn't make payments, that you have to give them more
3 stock. So there were all kinds of -- I think the term is
4 death-spiral warrants, or death-spiral convert, something like
5 that, but there -- yeah, these were all expensive options.

6 Q So death, d-e-a-t-h, spiral, right?

7 A Correct.

8 Q Okay. And during this time, again, we're in -- we're
9 in April of 2013, you were relying on Houlihan Lokey to be part
10 of the process to sort through different investment
11 opportunities and strategic alternatives; is that right?

12 A That's correct.

13 Q Okay.

14 MR. STIGI: Your Honor, I would move to admit again,
15 although I assume there will be an objection. And I think we
16 have enough testimony here, if it's not admitted, we'll --

17 THE COURT: Any additional objections?

18 MR. APTON: No. Same objections, Your Honor.

19 THE COURT: Hold on a second. The objection's
20 sustained. I do not have any evidence that the witness
21 actually received this e-mail, so.

22 MR. STIGI: And we'll --

23 THE COURT: But you've used it to refresh his
24 recollection, so.

25 MR. STIGI: So, oh, and we'll see if the --

1 double-check the transcript of the Houlihan Lokey deposition
2 and see if it -- if we can do it that -- all right. Let's move
3 on.

4 BY MR. STIGI:

5 Q So, again, now we are in April of 2013. It appears
6 contacts and back-and-forth with Juergen Stark is -- is moving
7 along. Obviously, talking to other investors. Were -- or
8 excuse me, talking to potential financial investors. Were you
9 still also talking to other companies for different types of
10 deals, not just financial investors?

11 A Yes. We continued to aggressively look to promote
12 licensing discussions, relationship discussions.

13 Q All right. Can you turn to PX-31?

14 A 631, did you say?

15 Q 31. Just 31.

16 A Oh. Okay.

17 Q All right. You're at 31?

18 A Yes.

19 Q And I believe that's in evidence, so we don't have to
20 worry about that.

21 What's -- what does PX-31 reflect? And if you can
22 start at the bottom and move up.

23 It's sort of back and forth about a company. Which
24 company?

25 A Yeah. It's Amazon, which was -- their use case was

1 they wanted to -- they thought the technology could be relevant
2 if implemented in their warehouses to be able to target
3 employees to facilitate their jobs. And so we had, you know,
4 good discussions verifying that that is a possible use case.

5 Q And I'll particularly look at your e-mail, Friday,
6 April 12th, 2013, 1:59 P.M., roughly in the middle of the page.

7 A Yes.

8 Q You see that?

9 A Yes.

10 Q And what do you say there?

11 A "Just had a quick chat with him. He declared Amazon
12 is interested in buying the company."

13 Q And who's, him?

14 A Him would be Alex Ceballos, who was their VP, I
15 believe -- or director of worldwide corporate development.

16 Q At what company?

17 A At Amazon.

18 Q Okay. What's the next sentence after the one you
19 just read?

20 A "Mark" -- who was Houlihan Lokey. Houlihan Lokey,
21 "Mark, please call him ASAP to figure out where this fits in
22 our process."

23 Q And what did Houlihan Lokey write back?

24 A "On it."

25 Q Okay. And then Houlihan Lokey has a follow-up later

1 that -- well, time zone's at issue, it looked like, so it's
2 later that day but a earlier time.

3 A He said, "They are familiar with our technology and
4 believe it will be highly relevant to future products Amazon is
5 planning on launching."

6 Q Okay. So you had a quick chat with Amazon and
7 forwarded it to Houlihan Lokey, whose job it was to explore
8 very strategic alternatives, and you told them to do it ASAP?

9 A Correct.

10 Q Okay. So at this point, albeit we're still in April,
11 you weren't completely sold and determined just to do a deal
12 with Turtle Beach; right?

13 A Absolutely.

14 Q Okay. All right. Though things with Turtle Beach
15 were progressing; is that fair?

16 A Correct.

17 Q And again, I want to stay in the time frame. We were
18 just at April 12th.

19 Go to Exhibit 1067 if you would.

20 A Okay. I'm at -- I'm there.

21 Q All right. So now we're at April 19th. What is
22 Exhibit 1067?

23 A So at this point, Turtle Beach has concluded that
24 they do want to combine the companies, and presented me,
25 Parametric, with an non-binding term sheet.

1 Q So like I said, we're -- a week -- a week after that
2 Amazon reach-out, Turtle Beach sends you a term sheet. Did you
3 expect a term sheet at that point? Had you been given a
4 heads-up?

5 A I don't know whether I would have expected it or not,
6 but it would have -- the discussions evolved fairly quickly
7 with them, so it wouldn't have been out of line.

8 Q Okay. And do you see the ratio in Item 1, 80.88
9 versus 19.12? Do you see that?

10 A I do.

11 Q Okay. Was that the final ratio?

12 A No.

13 Q Did it move around from time to time?

14 A It did.

15 Q Through negotiations?

16 A Correct.

17 Q And when you were negotiating, were you pushing in
18 one direction or the other?

19 A Yeah. I would have been looking to maximize the
20 Parametric ownership.

21 Q Why?

22 A Because our shareholders would end up owning more of
23 the company -- the combined company.

24 Q And someone with options would end up doing better as
25 well; right?

1 A Correct.

2 MR. APTON: Objection, Your Honor.

3 THE COURT: Overruled.

4 BY MR. STIGI:

5 Q A few other points. Item 5. If you go down, you'll
6 see a proposal of a customary No-Shop provision? Do you see
7 that?

8 A I do.

9 Q And you see a proposal of an exclusive perpetual
10 license -- breakup license for gaming audio and PC audio at a
11 6 percent royalty rate, et cetera? Do you see that?

12 A I do.

13 Q Do you recall whether the final terms ultimately
14 agreed to in the Definitive Agreement with Turtle Beach
15 contained a No-Shop provision?

16 A They did not. We negotiated that out of the -- out
17 of the deal.

18 Q And whose benefit --

19 A To the --

20 Q -- was that?

21 A To the benefit of the Parametric shareholders.

22 Q And why is negotiating out a No-Shop, to the benefit
23 of the Parametric shareholders?

24 A It gave me the ability to go try to find bidders at a
25 higher price or --

1 Q Again --

2 A -- for reliable opportunities.

3 Q And why would you do that?

4 A Because my job is to get the maximum value for the
5 entity.

6 Q And because that would benefit whom?

7 A The shareholders.

8 Q And what about option holders?

9 A It's -- that's -- option holders would be aligned
10 with the shareholders.

11 Q Okay. And do you see the breakup license reference
12 also in Paragraph 5? Do you recall whether the terms of the
13 breakup license in the actual definitive agreement remain the
14 same or different from these terms?

15 A Yeah. I believe they -- they were reduced as well.

16 Q And by reduced, you mean?

17 A More favorable to Parametric's --

18 Q Okay.

19 A -- desires.

20 Q And you spoke yesterday, I'm not going to get back
21 into it, about the collateral benefits of -- of circulating.

22 Now, did there come a time that Turtle Beach made a
23 presentation to the full board about its proposal?

24 A Yes.

25 Q And if you'll look at the next exhibit, 595.

1 MR. STIGI: Which may also be 262. I'm just looking
2 here, and I don't want to duplicate, so if --

3 THE COURT: We're not sure.

4 MR. STIGI: -- 262's already in, then --

5 THE COURT: Keep going.

6 MR. STIGI: All right.

7 THE WITNESS: I have 595.

8 MR. STIGI: Okay. Again, apologize if it --

9 THE COURT: It's okay.

10 MR. STIGI: -- creates issues.

11 BY MR. STIGI:

12 Q What is 595?

13 A 595 is a presentation outlining the strategic
14 benefits of putting the two companies together.

15 Q And to whom was the presentation being made?

16 A It's being made to the Parametric board.

17 Q Okay. Now, you know that plaintiffs have alleged
18 that you were somehow in control over the Parametric board;
19 right?

20 A Correct.

21 Q If you were in control over the Parametric board, why
22 would Turtle Beach need to make a presentation to the
23 Parametric board?

24 A They wouldn't.

25 Q Why not?

1 A Again, I was one vote, and as we've seen through a
2 lot of the testimony yesterday, this was not a board that I was
3 controlling in any form or fashion. But yeah, this is a
4 presentation to the full Parametric board for consideration.

5 Q Okay. And by the way, prior to this presentation, do
6 you recall what information you had relayed to the Parametric
7 board about Turtle Beach?

8 A Yes. I -- my style was to be pretty communication --
9 communicative. So I would, with great frequency, be either in
10 full board or individual recounts, keeping the -- keeping
11 everyone abreast.

12 Q Okay.

13 A This is -- this is a very small company, so it's --
14 you know, everyone knew what was going on.

15 Q All right. And whether it's through informal or
16 formal communication?

17 A Correct.

18 Q So I'm not going to go through the board minutes.
19 The board minutes reflect the, you know, more formal
20 communications here, but we do have here a presentation being
21 made to the board of directors regarding the proposed
22 transaction. Who made the presentation?

23 A Yeah. You know, so I don't know the -- I know
24 Juergen had met with the board, so -- but I don't recall the
25 exact dynamics on this presentation on this day. But Juergen

1 did have access to the board.

2 Q Okay. And just to be clear, this was Turtle Beach's
3 pitch?

4 A That's correct.

5 Q Okay. Do you recall, after the pitch, conversations
6 -- immediately after, conversation you had with the other
7 directors about the pitch?

8 A Yeah. I -- from day one, everyone shook their head,
9 yes, this makes sense, you know, relative to the Turtle Beach
10 possibilities, everything from licensing to merger, that there
11 was an intuitiveness to that transaction for everybody from day
12 one.

13 Q So assuming this is day one --

14 A Okay.

15 Q -- for the sake of argument, from the -- from the
16 pitch, through entry into the definitive agreement, do you
17 recall at any time any of the directors, other directors
18 telling you, I don't like this deal?

19 A Yeah. There was, you know -- you know, healthy,
20 natural, how do we get more, you know, how do we get our
21 percent to be more? You know, so there was good -- good, you
22 know, normal discussion in terms of how do we maximize the
23 deal. But there was never, to my recollection, any pushback on
24 this is a bad deal, or this is the wrong -- the wrong guy for
25 us to go partner with.

1 Q Okay. Go to the -- 1068.

2 A Okay.

3 Q What is 1068?

4 A 1068 appears to be -- I guess I'll call this updated
5 status on negotiations on key -- key deal points.

6 Q Okay. Is it -- it looks like it's just later in the
7 day from the prior exhibit that we looked at, 595.

8 A Okay.

9 Q Does that -- does that look like that to you?

10 A I would need to go back. What was the previous one?

11 Q 595.

12 A Uh-huh. 5:00 p.m. Correct.

13 Q Okay. And Mr. Stark's e-mail to you in 1068 has four
14 bullet points. In particular, let's look at the first one, the
15 78/22 split now. What do you recall of the -- of that new
16 split?

17 A Yeah. I recall the exchange rate, the split had a
18 lot of movement on it through the whole process.

19 Q Okay. Assuming --

20 A And it was tied to, gee, Parametric, it looks like
21 your numbers are going to be challenging to get, therefore, you
22 know, we're going to need to cut back some -- some of your
23 equity. So different considerations had that number being
24 volatile.

25 Q What did you hear, if anything, from the Turtle Beach

1 side when you were having negotiations on the split in terms
2 of, as a negotiator, the sense of how far you could push that?

3 A So they were doing the same as I was doing; right?
4 That they were motivated to end up with as much control, as
5 much ownership of the new company, the combined company as they
6 could. Juergen had an interesting playbook, which is, hey, I'm
7 being pressured by Stripes, by VTB, so it's -- so it's, you
8 know, I've got instructions from above that this deal has to
9 happen at this exchange rate, which made it a little difficult
10 because I couldn't -- not negotiating only with Juergen, but
11 I'm negotiating with his superiors in a sense. I'm doing the
12 same thing the other way; right? So we're both trying to
13 maximize our position on getting the best possible outcome.

14 Q And for each side's own interests?

15 A Correct.

16 Q And you know what, let me just make some -- or ask
17 you a question just a little out of order.

18 Did you ever have any equity interest in Turtle Beach
19 before the merger (indiscernible)?

20 A No.

21 Q Did you have any personal relationship, preexisting
22 personal relationship with anyone at Turtle Beach?

23 A No.

24 Q Any close relative of yours work at Turtle Beach?

25 A No.

1 Q Do you know whether any of the other board members
2 had any similar relationships or equity interest in Turtle
3 Beach?

4 A I'm aware of none.

5 Q Okay. So let's keep marching through. 1069.

6 A Okay.

7 Q What is 1069?

8 A 1069 is an e-mail from one of the Turtle Beach
9 employees to Juergen identifying a possible issue with -- with
10 the Parametric product and it was then forwarded from Juergen
11 to myself.

12 Q Okay. What -- what was the issue that was being
13 described?

14 A Yeah. It's -- it appeared that somebody or
15 somebodies using the product felt car sick, or felt that their
16 ears were clogged, so they had a negative experience in using
17 the product, the technology.

18 Q Okay. It was a person, not a dog this time?

19 A That's correct.

20 Q And what did you -- what did you do with the e-mail?

21 A We had significant discussions internally. You know,
22 this was a big deal, of course. Tried to replicate the issue
23 in-house at Parametric, put people on a plane to Turtle Beach
24 to go run a more comprehensive study, tried to -- made analysis
25 to see whether this was a bad unit or whether it's something

1 systemic with -- with the technology. So this was -- this was
2 a full-court press. This could -- this could blow up this deal
3 if, you know, if there's a real issue with this product or
4 technology, that, you know, this deal's going to go away. So
5 this issue, you know, was a all-hands-on-deck issue.

6 Q And I'd just indicate that the e-mail from Mr.
7 Picunko indicates at the bottom that the Parametric
8 representative inspected the equipment and reported it was set
9 up properly. Do you see that?

10 A Correct.

11 Q Okay. So in terms -- well, is this -- did this demo
12 happen because Turtle Beach asked for a demo?

13 A Correct.

14 Q And were you -- were you surprised that they would
15 ask for a demo of the technology?

16 A No.

17 Q And with this demo occurring as it did, did that help
18 or hurt your position -- excuse me, help or hurt Parametric's
19 position in the merger negotiation?

20 A It hurt us.

21 Q And how if, in any way, did you -- did Parametric get
22 over this problem?

23 A Yeah, we -- as I mentioned, we put people on a plane
24 with more product, outlined a very comprehensive set of
25 experiments with criteria that -- that we need to demonstrate X

1 number of hours with no negative implications, and this and
2 that. So we came up with a plan between Turtle Beach and
3 Parametric that agreed we're going to run this set of
4 experiments, and if we achieve these results with these
5 experiments, we're going to go ahead and mutually say that the
6 technology's fine, this was an aberration.

7 Q And --

8 A And we did that. We executed the experiments, hit
9 the criteria and moved beyond this.

10 Q Did -- did -- was it a problem with the equipment, or
11 was it something else?

12 A We believe it was a problem with that unit.

13 Q Okay. Nonetheless, it could not have been a positive
14 development for Parametric for this --

15 A Correct.

16 Q -- problem to have occurred? Will you turn to 630?

17 A Okay.

18 Q This is from May 24th, 2013; right?

19 A Correct.

20 Q And what's being discussed back and forth with Mr.
21 Barnes in this e-mail?

22 A Yeah, this was a discussion on whether -- whether
23 this deal was falling apart and what potential actions we could
24 take.

25 Q And by this deal, you mean what?

1 A The merger discussions, that Juergen -- it outlines
2 Juergen didn't have full support from his key decision-makers.
3 I don't believe Ken Fox was on board -- or, no, he wasn't on
4 board. He thought that Turtle Beach is paying too much for the
5 company. You know, the health issue that we had. And then,
6 also, difficulty in getting final audited numbers from Turtle
7 Beach. So the risk -- there were risk elements that were
8 appearing here that moved the deal to the margins.

9 Q And Mr. Barnes indicates he was agnostic on the deal.
10 If it happens, fine. If not, fine. And then what do you say
11 in response?

12 A I told him I'm also agnostic on the deal as well, and
13 reflected that John Todd thought the deal still made sense, and
14 we should be -- have flexibility in terms of exchange rates,
15 but -- but, you know, so a varied set of opinions on whether we
16 move this forward or not. And I declared I was on the fence.

17 Q Yeah, and you indicate you were not inclined to give
18 better terms than 80/20?

19 A That's correct.

20 Q By the way, what was the final term?

21 A I believe it was in the vicinity of 80/20.

22 Q Within point-0 something of that?

23 A Correct.

24 Q Okay. And you mentioned yesterday that, you know,
25 when you're sending e-mail -- you were sending e-mails to

1 Juergen Stark in the context of the negotiations, you might
2 have been bluffing, or puffing, or negotiating?

3 A Correct.

4 Q And you -- you indicated, but with an internal e-
5 mail, that would reflect what was actually going on in your
6 head on what your intent was in -- in the negotiations; is that
7 right?

8 A That's correct.

9 Q And this is an internal e-mail; correct?

10 A Correct.

11 Q And so is it safe to say that when you said you were
12 agnostic on this deal in May of 2013 and not wanting to give
13 better terms, that you meant it?

14 A Yeah. I had internal push from, actually, my
15 right-hand guy saying that, hey, take less terms and get this
16 deal done. And I drew a line in the sand and said, I'm not
17 getting this deal done unless I can get these terms.

18 Q So you weren't on a rush to do a deal in May of 2013
19 with Turtle Beach to trigger the option vesting, et cetera?

20 A No.

21 MR. APTON: Objection, leading.

22 THE COURT: Overruled.

23 THE WITNESS: I was on the verge of pulling the plug
24 on the deal. And quite frankly, if Turtle Beach didn't move
25 back to an 80/20 exchange rate, I would have walked away. And

1 I've recommended that to the board as well. I took that
2 position with the board.

3 BY MR. STIGI:

4 Q Maybe I'll go to the -- 151. One more quickly.

5 A Okay.

6 Q So this is a day -- a day after the e-mail we just
7 looked at. And it appears Amazon's still in the mix; right?

8 A Correct.

9 Q And why was Amazon still in the mix?

10 A Because I still was playing the strategy of I'm going
11 to advance as many balls forward a possible and get the best
12 deal.

13 Q And that was both for the purpose of the negotiations
14 with Mr. Stark, and actually to get a deal potentially with
15 Amazon?

16 A Correct.

17 Q Okay. Go to 631.

18 A John, I just want to correct one thing on the last
19 exhibit. So I believe I'm forwarding to Turtle Beach the fact
20 that I'm talking to Amazon, on that last exhibit.

21 Q Uh-huh.

22 A Right? So -- so I'm making it very clear to -- to
23 Juergen that, hey, there's another -- another interested party.

24 Q Okay.

25 A Okay. Go ahead. What was the next one?

1 Q 631.

2 A Uh-huh. Okay.

3 Q So the bottom e-mail is -- appears to be from Mr.
4 Todd.

5 A Right.

6 Q And what is he expressing in his e-mail, let's see,
7 from May 27th? Again, we're still in this time period in late
8 May.

9 A Yeah.

10 Q What's he expressing to you?

11 A Yeah. So I would have communicated to John that I'm
12 not flexible on reducing the price to get the deal done. I
13 would have been -- John would have assumed this deal's not
14 going to happen because of the underpinnings. And John begins
15 developing a, here's what we need to go forward to run this
16 company on a go-forward basis, this deal's not happening. And
17 he outlines what our next steps need to be in progressing the
18 company.

19 Q Well, assuming you -- you said what needs to get
20 done, if -- if you look at his e-mail, he lists a whole bunch
21 of items, numbers and then --

22 A Correct.

23 Q -- bullet points here, and used the words "need"
24 about, what, a dozen times?

25 A Correct.

1 Q These were -- these were not "maybes." These were
2 needs of the company that at least he saw in order for the
3 company to -- to keep moving forward; right?

4 A Correct.

5 Q And were those needs easily accomplished?

6 A No. None of this is easy. And we had a whole bunch
7 of needs list, you know, the year before this; right? So, I
8 mean, progressing a company from a garage shop to a \$100
9 million entity is -- there's always difficult needs to be done.

10 Q Right.

11 A But yeah, these were -- these are significant,
12 though.

13 Q And knowing we're about to go on the lunch break, my
14 last question is, when you're thinking of one deal over
15 another --

16 MR. STIGI: Excuse me, withdrawn.

17 BY MR. STIGI:

18 Q When you're considering the merits of a -- of a deal
19 like the one with Turtle Beach, is it in a vacuum, or are you
20 thinking of alternatives?

21 A Yes.

22 MR. APTON: Objection, leading.

23 THE COURT: Overruled.

24 THE WITNESS: Okay. So you can see in the second e-
25 mail on the page, the one above the one you just referenced,

1 that this day, a meeting -- or that day, a meeting with both
2 Hewlett-Packard and Qualcomm; right? So I am progressing all
3 balls forward in any possible way, be it license, be it merger.
4 Nothing's off the table. I'm not -- I'm not sitting here
5 betting on Turtle Beach.

6 BY MR. STIGI:

7 Q Thank you.

8 A As a matter of fact, just the opposite. I'm feeling
9 in my mind with John that we're moving away from Turtle Beach.

10 Q Right.

11 THE COURT: Is this an appropriate place to break for
12 lunch?

13 MR. STIGI: Yes, it is. Thank you, Your Honor.

14 THE COURT: See you guys at 1:00 o'clock.

15 I thought you said two hours. Two hours and
16 40 minutes so far.

17 MR. STIGI: My -- I've learned everything from
18 Mr. Peek on how to --

19 THE COURT: Oh, have you, indeed.

20 MR. STIGI: He is my Obi-Wan Kenobi.

21 THE COURT: He's your mentor, huh?

22 MR. STIGI: Absolutely. I'm trying, Your Honor.

23 (Proceedings recessed at 11:47 a.m., until 12:58 p.m.)

24 / / /

25 / / /

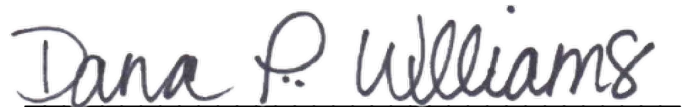
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I DO HEREBY CERTIFY THAT I HAVE TRULY AND CORRECTLY TRANSCRIBED
THE AUDIO/VIDEO PROCEEDINGS IN THE ABOVE-ENTITLED CASE TO THE
BEST OF MY ABILITY.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL
SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

DANA L. WILLIAMS
LAS VEGAS, NEVADA 89183

A handwritten signature in dark ink, reading "Dana L. Williams", is written over a horizontal line.

DANA L. WILLIAMS, TRANSCRIBER

08/19/2021

DATE

BY MR. STIGI: [26] 7/2 9/8 12/15 19/14 21/17 22/15 34/1 34/23 39/23 46/13 51/17 54/17 55/21 61/20 62/11 64/15 75/22 79/5 80/1 82/20 85/4 89/4 91/11 101/3 103/17 104/6 FEMALE SPEAKER: [2] 45/25 46/4 MR. APTON: [28] 12/12 19/9 33/17 40/2 40/6 40/8 40/10 40/15 40/19 41/12 42/2 42/8 42/23 42/25 43/4 43/8 43/12 43/20 43/25 44/4 44/7 79/17 79/19 79/21 84/18 89/2 100/21 103/22 MR. HESS: [17] 40/21 41/2 41/4 41/8 41/13 41/15 41/18 42/3 42/5 42/10 42/13 42/15 42/20 42/24 43/1 45/18 45/24 MR. PEEK: [1] 75/19 MR. STIGI: [56] 6/16 6/18 6/21 6/23 8/17 8/20 8/23 12/10 22/12 33/19 33/24 34/21 39/8 39/13 39/15 39/20 44/13 44/16 44/19 44/23 45/5 45/9 45/11 45/14 45/21 46/6 46/8 46/10 51/8 51/10 51/13 51/16 54/15 61/10 61/15 61/19 64/9 75/20 79/3 79/15 79/18 79/25 82/19 84/14 84/22 84/25 91/1 91/4 91/6 91/8 91/10 103/16 104/13 104/17 104/20 104/22 THE CLERK: [3] 6/8 62/9 64/13 THE COURT: [92] 6/3 6/10 6/15 6/17 6/20 6/22 8/16 9/1 9/5 12/11 12/13 19/10 21/11 21/16 22/10 22/13 33/15 33/18 33/21 33/23 34/18 39/11 39/14 40/1 40/5 40/7 40/9 40/14 40/17 40/20 40/23 41/3 41/6 41/10 41/14 41/16 42/4 42/6 42/12 42/14 42/16 43/2 43/6 43/9 43/19 43/21 44/2 44/5 44/8 44/15 44/18 44/21 45/4 45/6 45/10 45/13 45/15 45/20 45/23 46/3 46/5 46/7 46/9 51/9 51/11 51/14 55/20 61/12 61/14 61/16 61/18 62/8 62/10 64/6 64/10 79/2 79/4 79/20 79/23 84/17	84/19 84/23 89/3 91/3 91/5 91/9 100/22 103/23 104/11 104/14 104/19 104/21 THE WITNESS: [18] 6/9 6/14 8/19 8/21 9/4 9/7 19/11 21/15 39/18 39/21 54/16 61/13 64/14 75/21 79/16 91/7 100/23 103/24 \$ \$1 [2] 52/16 53/11 \$10 [3] 26/9 26/12 27/8 \$100 [1] 103/8 \$100,000 [1] 29/15 \$13 [2] 81/7 81/9 \$15 [1] 81/5 \$155,384 [1] 47/6 \$264,000 [1] 47/21 \$3.2 [1] 47/19 \$350,000 [2] 21/24 23/3 \$4.50 [3] 26/8 26/11 27/7 0 003 [3] 34/24 34/24 35/3 005 [1] 35/21 056 [1] 74/13 08/19/2021 [1] 105/18 1 1.4 [6] 14/19 14/21 15/25 17/24 18/4 18/8 10 [12] 8/6 33/13 33/15 33/16 33/17 33/21 33/22 34/4 34/5 61/21 69/24 72/2 10-003 [2] 34/24 35/3 10-minute [1] 28/16 1037 [4] 42/1 42/4 42/8 42/16 105 [1] 41/19 1054 [3] 41/13 41/14 42/3 1057 [8] 42/2 42/3 42/5 42/9 42/12 42/13 42/13 42/17 1062 [1] 42/20 1063 [1] 42/20 1064 [1] 42/20 1065 [1] 42/20 1067 [3] 42/20 87/19 87/22 1068 [5] 42/20 94/1 94/3 94/4 94/13 1069 [4] 42/20 96/5 96/7 96/8 1070 [1] 42/21 10:25 [1] 61/17 10:33 [1] 61/17 10Q [3] 39/22 39/24 46/15 11 [1] 11/10 11:47 [1] 104/23 12 [2] 11/10 36/15 12:58 [1] 104/23	12th [3] 67/23 86/6 87/18 13 [3] 36/16 36/16 37/10 13th [1] 29/21 14 [1] 38/17 145 [1] 41/19 15 [2] 38/17 81/9 151 [2] 41/19 101/4 152 [1] 47/6 155 [1] 41/19 158 [2] 9/9 9/13 158th [1] 9/11 16 [1] 38/17 17 [1] 38/20 18 [1] 38/21 19 [4] 1/12 6/1 11/8 38/21 19.12 [1] 88/9 1998 [1] 10/19 19th [1] 87/21 1:00 [1] 104/14 1:59 [1] 86/6 2 2.0 [2] 16/11 16/12 2.1 [4] 16/12 16/14 17/23 18/12 20 [5] 28/13 38/22 99/18 99/21 100/25 2002 [3] 10/19 10/20 11/8 2007 [1] 9/21 2012 [16] 12/22 13/15 20/12 20/24 24/5 24/6 28/5 29/6 29/17 29/18 29/20 29/21 29/22 30/1 32/2 34/2 2013 [31] 21/3 21/4 34/8 35/24 37/4 38/5 38/7 39/24 47/5 47/8 47/10 47/18 47/23 51/4 58/17 61/8 61/22 67/7 67/23 68/18 68/19 68/21 75/7 76/13 78/17 84/9 85/5 86/6 98/18 100/12 100/18 2021 [3] 1/12 6/1 105/18 22 [1] 94/15 244 [8] 8/12 8/20 8/21 9/11 45/19 46/4 74/6 74/7 244-056 [1] 74/13 244-158 [2] 9/9 9/13 24th [1] 98/18 262 [1] 91/1 262's [1] 91/4 264,058 [1] 47/11 27 [1] 75/7 277 [1] 41/19 279 [1] 41/19 27th [1] 102/7 29 [1] 41/18 29th [1] 76/12 3 3.2 [2] 19/2 47/21 3.3 [2] 19/3 19/8	301 [1] 41/19 30th [2] 22/17 22/19 31 [6] 41/18 85/13 85/15 85/15 85/17 85/21 31st [7] 39/24 46/15 47/5 47/8 47/10 47/18 47/23 35 [4] 46/17 46/23 47/13 47/15 376 [1] 41/19 38 [1] 41/18 39 [1] 41/18 3D [1] 35/4 3rd [2] 20/12 22/18 4 4.1 [3] 21/23 22/16 22/20 4.2 [5] 23/6 23/9 23/20 23/23 24/1 4.3 [7] 24/8 24/9 24/10 24/11 26/24 27/25 28/1 40 minutes [1] 104/16 4D [1] 8/1 4th [2] 29/5 29/17 5 5-5-0 [1] 54/14 5-7-0 [1] 58/14 50 [3] 15/6 34/17 63/15 50,000 [1] 74/11 500 [1] 74/10 500-50,000 [1] 74/11 504 [3] 12/14 12/20 41/19 506 [3] 41/19 45/13 45/23 517 [5] 41/20 62/6 62/12 63/11 64/16 518 [5] 41/20 64/3 64/3 64/18 65/8 530 [1] 41/20 531 [1] 41/20 533 [1] 41/20 539 [1] 41/20 541 [3] 41/20 51/8 51/18 544 [6] 41/20 69/19 69/21 69/25 75/17 75/19 550 [3] 41/20 54/14 54/18 554 [5] 41/20 75/18 75/18 75/19 75/23 557 [1] 41/20 56 [1] 41/18 564 [4] 39/18 40/1 41/20 46/14 570 [3] 41/21 58/14 58/17 572 [2] 41/21 67/13 577 [1] 41/21 583 [1] 41/21 584 [8] 41/13 41/14 78/25 79/6 79/6 79/8 80/4 82/10 595 [7] 41/21 90/25 91/7 91/12 91/13 94/7	94/11 596 [1] 41/21 5:00 [1] 94/12
				6 60 [1] 23/24 616 [1] 41/21 622 [1] 41/21 624 [1] 41/21 625 [1] 41/21 630 [2] 41/21 98/16 631 [4] 41/21 85/14 101/17 102/1 635 [1] 41/22 653 [1] 41/22 656 [1] 41/22 678 [1] 41/22 688 [1] 41/22 690 [1] 41/22 698 [1] 41/22 699 [1] 41/22

7
702 [1] 41/22
717 [1] 41/22
72 [1] 41/18
721 [1] 41/22
722 [1] 41/22
727 [1] 41/23
731 [1] 41/23
740 [1] 41/23
754 [1] 41/23
756 [1] 41/23
757 [1] 41/23
768 [1] 41/23
773 [1] 41/23
774 [1] 41/23
775 [1] 41/23
776 [1] 41/23
777 [1] 41/23
778 [1] 41/24
78/22 [1] 94/15
781 [1] 41/24
784 [1] 41/24
785 [1] 41/24
789 [1] 41/24
792 [1] 41/24
793 [1] 41/24
794 [1] 41/24
797 [2] 41/24 59/17

8
80 [1] 41/18
80.88 [1] 88/8
80/20 [3] 99/18 99/21
100/25
803 [1] 41/24
807 [1] 41/24
810 [1] 41/24
821 [1] 41/25
826 [1] 41/25
83 [1] 41/18
832 [1] 41/25
837 [1] 41/25
857 [1] 41/25
859 [1] 41/25
864 [1] 41/25
869 [1] 41/25
881 [1] 41/25

8	76/18 77/5 78/13	Aid [1] 36/25	answering [1] 43/25	103/11 103/19
89183 [1] 105/12	acronym [1] 81/15	aids [3] 38/9 38/9	anticipated [2] 68/25	area [1] 38/6
9	acting [1] 27/14	48/13	69/2	aren't [2] 38/9 41/10
912 [1] 41/25	action [1] 52/4	albeit [2] 31/21 87/10	any [52] 9/22 10/4	argument [1] 93/15
916 [4] 41/25 45/18	actions [3] 1/8 25/14	ALEJANDRO [1] 1/19	12/11 16/2 16/5 18/21	around [5] 18/15 20/20
45/23 45/25	98/23	Alex [1] 86/14	18/24 19/16 22/1 22/22	60/20 65/13 88/13
921 [1] 41/25	activity [1] 30/7	aligned [2] 15/12 90/9	24/5 32/2 32/8 32/25	arrangement [4] 69/1
925 [1] 42/1	actual [1] 90/13	aligns [1] 72/19	33/16 36/12 37/13	77/7 77/8 77/16
926 [1] 42/1	actually [9] 15/12	all [62] 1/8 6/15 6/23	37/24 37/25 40/1 44/10	arrival [1] 80/9
931 [6] 42/22 43/2 43/3	27/13 28/2 37/7 78/5	8/3 11/23 12/2 16/6	50/17 50/23 52/4 53/19	arrived [2] 11/16 13/4
43/5 43/8 43/21	84/21 100/5 100/14	16/22 17/7 17/15 18/6	56/18 59/22 59/23 60/9	articulating [1] 30/23
942 [2] 42/1 42/5	101/14	18/10 18/24 19/18 20/5	61/25 62/3 62/4 62/17	as [90] 6/6 6/7 6/10 8/5
9:03 A.M [1] 6/1	ADAM [1] 1/16	21/16 22/11 25/16 26/9	63/19 63/25 63/25 77/2	8/10 8/15 8/15 9/18
A	add [2] 54/8 83/14	28/14 31/3 31/18 32/12	78/22 84/17 84/20 92/3	9/21 12/7 12/16 13/10
a.m [4] 6/1 61/17 61/17	adding [2] 30/10 54/4	36/5 37/13 38/9 40/15	93/17 93/17 93/23	14/6 15/6 15/16 15/22
104/23	additional [3] 44/9	46/9 46/10 46/22 48/19	95/18 95/21 95/24 96/1	17/10 18/7 18/16 19/11
abandon [1] 78/22	75/9 84/17	49/20 49/25 53/11	96/2 97/21 104/3	23/10 23/24 25/7 25/7
aberration [1] 98/6	address [3] 55/11	53/22 54/2 56/14 57/20	105/10	25/8 25/19 28/6 28/6
abide [2] 17/7 18/13	55/13 58/17	59/10 59/20 61/7 61/14	anyone [4] 32/23 39/15	28/7 31/16 34/21 34/22
ability [8] 17/14 18/20	addressable [1] 36/4	62/6 64/16 66/22 71/13	80/2 95/22	34/24 35/14 35/19
57/5 58/4 58/5 69/8	addresses [1] 24/10	71/14 82/16 82/17	anything [9] 16/1 28/1	35/24 36/1 37/18 37/21
89/24 105/5	adjustment [1] 22/6	83/14 83/17 84/3 84/5	28/19 35/6 43/15 44/2	37/22 38/9 43/18 45/6
able [8] 31/7 32/24	admit [6] 12/10 33/18	85/2 85/13 85/17 87/14	78/9 81/25 94/25	45/21 46/4 46/24 46/24
33/5 35/12 57/17 68/4	64/10 79/15 79/18	87/21 91/6 92/15 97/5	anytime [1] 6/11	47/23 48/9 50/12 51/18
72/24 86/2	84/14	104/2	Anyway [3] 21/6 36/14	51/18 52/1 56/13 57/1
about [41] 10/14 11/10	admitted [17] 2/8	all-hands-on-deck [1]	46/12	59/22 60/5 60/7 60/18
11/14 11/17 13/21 16/7	12/13 12/14 33/21	97/5	anywhere [1] 60/19	65/17 65/24 68/8 69/5
17/24 19/4 26/3 34/10	33/22 44/5 44/6 45/19	alleged [1] 91/17	apart [1] 98/23	73/17 73/18 73/22
35/6 35/7 36/7 36/17	46/2 46/15 62/8 64/7	almost [1] 71/21	apologize [3] 39/10	73/23 74/5 75/4 75/9
48/2 48/3 52/16 52/17	64/8 64/11 79/2 82/10	along [2] 68/25 85/7	45/2 91/8	76/12 80/14 80/17 81/8
60/13 61/9 61/22 62/6	84/16	already [6] 36/11 36/17	apparent [1] 73/17	81/16 83/22 88/24
63/20 63/24 64/17	advance [3] 32/16	45/19 48/21 81/25 91/4	appear [1] 45/16	90/15 92/1 95/2 95/3
68/19 69/14 73/19 76/4	39/10 101/11	also [21] 10/11 22/20	APPEARANCES [1]	95/4 95/4 95/5 97/17
80/20 82/1 82/13 85/20	affects [1] 81/2	23/6 23/16 25/19 29/1	1/14	97/23 99/12 101/1
85/23 90/8 90/21 90/23	AFFIRM [1] 105/9	31/7 38/11 43/12 43/13	appeared [1] 96/14	101/11 104/8
92/7 93/7 102/24	AFFIRMATION [1]	43/17 54/8 56/14 68/5	appearing [1] 99/8	ASAP [2] 86/21 87/8
103/13	105/7	83/6 84/1 85/9 90/12	appears [7] 12/22	ascribing [1] 53/14
above [3] 95/8 103/25	after [17] 11/3 11/5	91/1 99/6 99/12	54/25 65/21 85/5 94/4	ask [17] 12/3 12/4
105/4	12/7 12/20 22/18 32/1	alternatives [7] 55/7	101/7 102/3	21/22 33/13 33/20 39/4
ABOVE-ENTITLED [1]	34/9 43/7 64/16 67/24	69/14 69/17 80/13	applicable [1] 17/9	43/7 46/16 58/14 64/7
105/4	68/3 75/10 86/18 88/1	84/11 87/8 103/20	application [4] 49/1	66/12 67/13 69/19 76/4
abreast [1] 92/11	93/5 93/6 101/6	although [3] 31/21	63/17 65/17 66/18	78/25 95/16 97/15
absolutely [8] 18/17	again [30] 7/10 10/22	78/4 84/15	applications [1] 76/16	asked [7] 10/14 28/21
26/22 33/19 58/11	11/8 19/20 19/21 20/11	always [4] 25/24 31/9	approach [1] 6/18	46/22 52/15 59/25 70/8
67/10 73/9 87/13	20/23 23/9 23/15 26/23	71/22 103/9	Approaching [1] 20/18	97/12
104/22	27/4 27/16 31/3 36/10	am [3] 45/4 51/14	appropriate [4] 44/10	asking [2] 66/14 70/7
acceptable [1] 73/13	39/17 51/4 51/24 68/17	104/2	61/10 76/24 104/11	aspect [2] 31/11 31/12
access [1] 93/1	68/21 71/3 82/18 83/15	Amazon [9] 85/25	approval [1] 38/15	aspects [1] 20/6
accomplished [1]	84/8 84/14 85/5 87/17	86/11 86/17 87/4 87/6	approved [2] 18/25	Aspirations [1] 76/18
103/5	90/1 91/8 92/1 102/7	88/2 101/9 101/15	22/21	assess [1] 53/3
according [1] 45/14	against [1] 69/9	101/20	approximately [2] 9/25	assessing [1] 31/19
accurate [4] 9/17 35/22	aggressively [1] 85/11	Amazon's [1] 101/7	67/24	Asset [1] 58/22
43/22 63/21	agnostic [3] 99/9 99/12	among [1] 75/13	April [15] 12/22 13/14	assist [3] 66/4 69/17
accurately [3] 17/18	100/12	amount [5] 23/23	20/12 20/23 22/18 28/5	75/14
43/10 72/7	ago [3] 9/25 11/8 67/11	34/19 72/18 82/15	29/5 29/17 58/17 84/9	assisting [1] 71/5
achieve [3] 25/3 32/19	agree [1] 44/4	82/22	85/5 86/6 87/10 87/18	associated [6] 26/20
98/4	agreed [4] 17/20 64/10	analysis [1] 96/24	87/21	50/11 50/14 50/17 51/2
achieving [2] 15/6	89/14 98/3	analyzing [1] 75/14	APTON [5] 1/16 42/7	55/14
24/17	agreement [24] 11/20	Andy [1] 10/24	42/18 43/2 43/3	assume [3] 68/9 76/23
acquired [1] 20/2	11/24 11/25 12/9 12/16	announcement [1]	are [38] 16/22 19/18	84/15
acquirer [2] 16/3 16/5	14/1 14/12 14/18 14/21	81/6	21/13 21/22 25/22 26/2	assumed [2] 38/14
acquirers [2] 71/11	15/3 16/1 16/23 17/3	announcements [1]	27/12 34/25 37/19 40/9	102/13
73/2	17/25 20/17 21/19	76/5	40/14 40/15 40/17	assuming [3] 93/13
acquiring [3] 66/3	26/18 28/1 28/8 31/5	announcing [2] 35/5	40/17 41/7 41/16 43/23	94/19 102/19
66/20 76/16	68/19 89/14 90/13	67/11	44/10 45/1 45/17 45/23	assumption [1] 52/8
acquisition [8] 18/24	93/16	annual [1] 23/2	58/22 60/24 61/1 66/14	assure [1] 27/14
19/6 20/7 20/8 66/25	agreements [1] 37/13	another [5] 10/10 43/7	70/22 71/19 73/19	at [118]
	ahead [5] 16/11 33/8	101/23 101/23 103/15	74/10 74/11 76/7 78/17	attention [2] 14/18
	64/5 98/5 101/25	answer [2] 21/13 43/7	80/8 85/5 87/3 94/21	72/2

A attractive [1] 65/15 attributes [1] 14/15 audience [1] 39/16 audio [5] 56/3 59/6 89/10 89/10 105/4 AUDIO/VIDEO [1] 105/4 audiologists [1] 48/16 audited [1] 99/6 AUGUST [4] 1/12 6/1 10/19 29/5 AUGUST 19 [1] 6/1 authority [3] 18/9 18/9 18/16 authorized [1] 17/25 available [1] 53/22 avoid [1] 45/4 aware [6] 35/17 37/9 37/24 68/5 74/4 96/4 awareness [1] 28/4 away [4] 25/21 97/4 100/25 104/9	Beach's [3] 63/24 64/1 93/2 beam [1] 31/7 Bear [2] 37/12 37/18 became [3] 7/19 7/21 30/16 because [34] 10/22 15/10 20/20 25/22 26/2 27/11 27/19 28/19 36/10 40/25 43/5 43/14 44/19 44/23 44/24 46/2 46/3 56/24 60/2 66/25 67/10 68/4 77/15 77/21 79/21 81/22 83/16 88/22 90/4 90/6 95/10 97/12 101/10 102/14 become [1] 49/6 becomes [1] 25/20 been [34] 6/6 7/7 8/5 8/6 11/1 11/19 13/5 13/6 13/23 26/8 26/20 34/2 34/10 43/23 44/19 45/19 46/14 49/20 49/22 52/3 65/5 66/6 68/25 73/9 77/22 82/1 83/15 83/21 88/3 88/7 88/19 98/13 100/2 102/13 before [17] 1/11 6/18 11/1 11/5 11/10 11/19 11/23 13/2 20/13 20/16 59/9 67/6 68/22 70/15 70/17 95/19 103/7 began [9] 28/23 30/5 30/11 30/15 38/10 48/9 48/14 48/17 73/22 begin [4] 29/3 30/8 30/10 30/10 begins [1] 102/14 behest [2] 27/14 27/15 being [18] 6/6 8/1 16/16 19/11 22/13 31/20 52/16 57/2 58/16 74/18 76/12 91/15 91/16 92/20 94/23 95/7 96/12 98/20 belabor [1] 29/23 believe [20] 9/25 10/11 13/5 23/13 42/8 45/13 49/24 49/24 50/23 52/5 70/24 71/22 85/19 86/15 87/4 90/15 98/12 99/3 99/21 101/19 below [1] 81/11 BENCH [1] 1/13 benefit [9] 25/16 35/16 45/9 71/1 71/2 89/18 89/21 89/22 90/6 benefits [4] 16/7 21/20 90/21 91/14 best [15] 12/20 17/12 17/13 21/10 22/25 28/12 35/22 39/8 39/17 60/1 65/8 72/6 95/13 101/11 105/5 better [5] 48/12 55/9 88/24 99/18 100/13 betting [1] 104/5 between [4] 18/7 30/19	39/9 98/2 beyond [2] 23/2 98/9 bidders [1] 89/24 big [4] 30/19 32/7 57/11 96/22 biggest [1] 67/16 billion [2] 52/16 52/20 binder [8] 8/22 8/23 12/3 39/5 39/6 39/18 74/9 74/10 binders [2] 6/21 8/25 binding [1] 87/25 biography [2] 9/14 10/11 bit [2] 48/3 61/9 blow [1] 97/2 bluffing [1] 100/2 board [48] 8/4 8/8 13/3 13/10 13/20 14/7 14/7 14/10 17/1 17/4 18/1 18/13 18/18 18/19 18/21 18/25 22/2 22/21 23/13 23/15 23/16 23/16 23/24 24/2 28/7 29/21 38/20 49/10 52/24 90/23 91/16 91/18 91/21 91/23 92/2 92/4 92/7 92/10 92/18 92/19 92/21 92/24 93/1 96/1 99/3 99/4 101/1 101/2 boards [1] 8/6 Bob [1] 13/7 bonus [8] 19/23 23/7 23/12 23/14 23/23 24/5 24/19 25/1 both [15] 6/21 11/5 14/9 14/9 14/12 17/23 18/12 20/3 22/6 65/17 66/7 71/23 95/12 101/13 104/1 bother [1] 36/24 bottom [7] 54/18 56/6 58/17 59/19 85/22 97/7 102/3 bouncing [1] 20/20 boundaries [1] 18/15 brand [1] 62/16 break [7] 6/11 61/10 61/12 61/13 61/14 103/13 104/11 breakup [3] 89/10 90/11 90/13 brief [1] 7/11 briefly [1] 7/10 bring [2] 30/3 48/4 bringing [2] 28/25 47/20 broad [1] 63/2 broader [1] 63/6 Bromberg [4] 54/19 54/22 54/23 54/24 brought [1] 53/2 BSEE [1] 7/12 bugs [2] 57/14 57/16 build [4] 32/15 37/12 37/18 58/6 building [6] 30/5 48/15 56/25 56/25 72/23	72/25 bullet [2] 94/14 102/23 bunch [3] 38/25 102/20 103/6 burden [1] 53/25 burning [1] 54/4 business [9] 30/4 50/12 51/23 54/9 55/15 62/19 63/7 63/10 69/10 businesses [1] 53/8 but [82] 8/2 8/18 9/5 10/9 11/16 11/18 13/16 14/1 14/9 14/15 20/3 20/5 20/15 21/7 21/22 22/5 23/1 25/6 25/18 27/8 28/21 29/17 29/23 30/14 30/19 30/22 31/7 32/1 32/13 32/19 34/10 34/16 35/20 36/23 37/24 41/8 43/15 45/16 46/1 48/7 50/23 51/1 54/3 58/2 58/6 58/9 59/6 59/9 59/17 60/19 65/5 66/9 68/5 68/6 68/9 68/11 70/12 70/16 74/1 76/2 76/3 76/6 76/11 78/15 81/17 82/8 82/10 83/6 84/5 84/23 87/2 88/6 92/3 92/20 92/24 92/25 93/23 95/10 99/15 99/15 100/4 103/11 buy [1] 35/12 buying [1] 86/12	capitalized [1] 49/8 car [1] 96/15 care [2] 38/2 38/17 career [1] 7/16 carry [1] 37/20 case [13] 1/5 17/3 19/17 20/3 20/4 27/4 52/4 63/24 65/16 69/9 85/25 86/4 105/4 cases [1] 48/9 cash [8] 29/14 30/8 30/21 47/16 53/25 54/4 54/10 83/12 cash-generating [1] 30/21 CASSITY [1] 1/18 category [1] 19/13 cause [3] 19/13 19/17 19/22 ceasing [1] 19/23 Ceballos [1] 86/14 CEO [27] 7/21 14/6 14/7 14/9 14/13 14/16 15/9 15/16 15/17 15/18 15/18 18/1 18/9 18/16 19/6 19/11 19/22 19/24 20/3 25/13 25/24 27/10 27/14 27/16 27/20 27/21 28/6 CEO's [1] 25/24 CEOs [1] 15/12 certain [6] 15/7 34/19 56/19 63/1 76/16 80/9 certainly [1] 21/7 CERTIFICATION [1] 105/1 CERTIFY [1] 105/3 cetera [2] 89/11 100/19 CFO [1] 51/25 chair [1] 9/21 chairman [5] 14/4 14/10 14/13 28/6 28/7 challenging [1] 94/21 change [15] 14/22 14/23 15/2 15/5 15/23 15/25 16/2 16/6 16/9 19/4 21/25 22/2 27/2 77/9 77/17 changing [2] 17/24 26/23 channel [1] 37/19 characters [1] 49/18 chat [2] 86/11 87/6 Chaudhuri [7] 55/10 55/12 55/19 55/19 56/1 56/2 56/14 check [3] 40/18 43/5 85/1 checked [1] 44/19 checking [1] 76/3 chief [1] 14/6 choice [3] 68/5 68/8 76/24 choices [1] 66/16 choose [1] 70/5 circulating [1] 90/21 circumstance [1] 83/25 clarify [2] 10/23 43/14
B back [30] 7/24 8/24 9/2 11/13 16/19 26/23 38/18 43/16 48/1 57/21 59/10 59/11 59/13 68/21 70/23 73/1 75/17 75/17 76/17 78/15 78/16 78/19 85/6 85/23 86/23 90/20 94/10 94/22 98/20 100/25 background [7] 7/10 7/11 9/18 74/15 74/19 74/24 75/3 bad [2] 93/24 96/25 balls [2] 101/11 104/3 banker [2] 55/6 69/16 bankers [1] 67/11 bankers' [1] 65/25 banking [3] 65/22 65/24 70/12 bar [1] 9/2 Barnes [8] 13/6 13/6 13/20 13/24 51/22 51/24 98/21 99/9 base [1] 82/24 based [4] 10/1 15/13 24/18 53/23 basis [2] 79/20 102/16 be [116] Beach [52] 11/19 15/22 20/8 20/16 27/11 61/9 62/7 62/15 63/12 63/20 64/21 66/18 67/9 67/16 67/25 68/2 68/3 68/5 68/22 69/1 69/3 73/8 73/10 73/12 77/16 77/23 87/12 87/14 87/23 88/2 89/14 90/22 91/22 92/7 93/9 94/25 95/18 95/22 95/24 96/3 96/8 96/23 97/12 98/2 99/4 99/7 100/19 100/24 101/19 103/19 104/5 104/9	back [30] 7/24 8/24 9/2 11/13 16/19 26/23 38/18 43/16 48/1 57/21 59/10 59/11 59/13 68/21 70/23 73/1 75/17 75/17 76/17 78/15 78/16 78/19 85/6 85/23 86/23 90/20 94/10 94/22 98/20 100/25 background [7] 7/10 7/11 9/18 74/15 74/19 74/24 75/3 bad [2] 93/24 96/25 balls [2] 101/11 104/3 banker [2] 55/6 69/16 bankers [1] 67/11 bankers' [1] 65/25 banking [3] 65/22 65/24 70/12 bar [1] 9/2 Barnes [8] 13/6 13/6 13/20 13/24 51/22 51/24 98/21 99/9 base [1] 82/24 based [4] 10/1 15/13 24/18 53/23 basis [2] 79/20 102/16 be [116] Beach [52] 11/19 15/22 20/8 20/16 27/11 61/9 62/7 62/15 63/12 63/20 64/21 66/18 67/9 67/16 67/25 68/2 68/3 68/5 68/22 69/1 69/3 73/8 73/10 73/12 77/16 77/23 87/12 87/14 87/23 88/2 89/14 90/22 91/22 92/7 93/9 94/25 95/18 95/22 95/24 96/3 96/8 96/23 97/12 98/2 99/4 99/7 100/19 100/24 101/19 103/19 104/5 104/9	both [15] 6/21 11/5 14/9 14/9 14/12 17/23 18/12 20/3 22/6 65/17 66/7 71/23 95/12 101/13 104/1 bother [1] 36/24 bottom [7] 54/18 56/6 58/17 59/19 85/22 97/7 102/3 bouncing [1] 20/20 boundaries [1] 18/15 brand [1] 62/16 break [7] 6/11 61/10 61/12 61/13 61/14 103/13 104/11 breakup [3] 89/10 90/11 90/13 brief [1] 7/11 briefly [1] 7/10 bring [2] 30/3 48/4 bringing [2] 28/25 47/20 broad [1] 63/2 broader [1] 63/6 Bromberg [4] 54/19 54/22 54/23 54/24 brought [1] 53/2 BSEE [1] 7/12 bugs [2] 57/14 57/16 build [4] 32/15 37/12 37/18 58/6 building [6] 30/5 48/15 56/25 56/25 72/23	C cabin [1] 29/22 calculations [1] 53/23 call [4] 18/8 72/2 86/21 94/4 called [9] 6/6 7/18 7/20 7/21 7/25 8/6 19/25 50/12 74/19 came [3] 40/21 65/7 98/2 can [39] 6/21 11/12 14/13 21/18 23/1 26/5 26/6 26/11 28/8 28/17 31/25 34/16 34/18 34/19 35/3 35/4 40/18 40/23 41/2 41/9 41/17 55/11 58/6 59/14 63/2 65/25 66/19 68/7 69/19 74/13 78/25 79/23 81/25 83/13 85/2 85/13 85/21 100/17 103/24 can't [2] 8/14 32/22 candidate [1] 63/13 candidates [1] 73/2 capability [2] 56/25 57/8 capable [2] 29/10 30/4 Capacities [1] 16/14 capacity [2] 22/2 83/22 capital [18] 30/15 49/8 52/12 58/21 58/21 61/1 65/22 80/17 80/20 81/1 81/3 81/22 81/23 82/1 83/3 83/5 83/16 83/23	capitalized [1] 49/8 car [1] 96/15 care [2] 38/2 38/17 career [1] 7/16 carry [1] 37/20 case [13] 1/5 17/3 19/17 20/3 20/4 27/4 52/4 63/24 65/16 69/9 85/25 86/4 105/4 cases [1] 48/9 cash [8] 29/14 30/8 30/21 47/16 53/25 54/4 54/10 83/12 cash-generating [1] 30/21 CASSITY [1] 1/18 category [1] 19/13 cause [3] 19/13 19/17 19/22 ceasing [1] 19/23 Ceballos [1] 86/14 CEO [27] 7/21 14/6 14/7 14/9 14/13 14/16 15/9 15/16 15/17 15/18 15/18 18/1 18/9 18/16 19/6 19/11 19/22 19/24 20/3 25/13 25/24 27/10 27/14 27/16 27/20 27/21 28/6 CEO's [1] 25/24 CEOs [1] 15/12 certain [6] 15/7 34/19 56/19 63/1 76/16 80/9 certainly [1] 21/7 CERTIFICATION [1] 105/1 CERTIFY [1] 105/3 cetera [2] 89/11 100/19 CFO [1] 51/25 chair [1] 9/21 chairman [5] 14/4 14/10 14/13 28/6 28/7 challenging [1] 94/21 change [15] 14/22 14/23 15/2 15/5 15/23 15/25 16/2 16/6 16/9 19/4 21/25 22/2 27/2 77/9 77/17 changing [2] 17/24 26/23 channel [1] 37/19 characters [1] 49/18 chat [2] 86/11 87/6 Chaudhuri [7] 55/10 55/12 55/19 55/19 56/1 56/2 56/14 check [3] 40/18 43/5 85/1 checked [1] 44/19 checking [1] 76/3 chief [1] 14/6 choice [3] 68/5 68/8 76/24 choices [1] 66/16 choose [1] 70/5 circulating [1] 90/21 circumstance [1] 83/25 clarify [2] 10/23 43/14 AA 2375

C	69/4	72/21 93/5	create [7] 27/10 35/15 48/11 57/12 58/6 81/9 81/10	December [1] 29/21
CLARK [2] 1/2 6/1	competitor's [1] 68/16	convert [2] 83/13 84/4	48/11 57/12 58/6 81/9 81/10	decent [1] 30/17
class [1] 52/4	competitors [1] 68/6	converted [1] 26/6	created [4] 72/13 73/20 73/21 83/2	decision [2] 60/1 99/2
clear [16] 10/15 18/10 20/11 22/13 25/8 26/2 26/13 27/4 30/24 31/4 37/19 49/22 52/18 70/8 93/2 101/22	complaining [1] 51/14	convertible [1] 83/11	creates [3] 25/23 68/10 91/10	decision-makers [1] 99/2
clearly [12] 18/24 19/12 21/4 21/9 22/2 30/19 30/22 32/13 32/14 32/16 32/19 73/17	completely [1] 87/11	convey [2] 31/15 31/16	creating [2] 30/10 37/1	decisions [2] 15/13 18/17
client [1] 71/5	complied [1] 60/1	conveying [1] 37/1	creation [1] 34/12	deck [1] 97/5
clients [1] 66/3	compliment [1] 44/11	corporate [1] 86/15	criteria [5] 23/11 23/14 24/21 97/25 98/9	declared [2] 86/11 99/16
clogged [1] 96/16	comprehensive [3] 71/10 96/24 97/24	CORPORATION [5] 1/5 7/19 9/21 9/23 50/8	cross [5] 2/5 6/15 7/1 41/6 42/16	deemed [1] 70/11
close [2] 78/18 95/24	computers [1] 65/12	correct [90] 9/19 10/21 10/25 11/7 11/9 11/11 13/13 14/11 14/25 15/24 16/10 17/2 18/2 18/5 20/10 20/13 22/24 23/19 24/4 24/23 24/25 25/2 25/4 25/5 27/24 29/7 31/2 35/21 35/25 37/6 39/3 39/25 47/8 47/9 47/22 47/25 50/4 50/6 50/9 50/16 51/3 53/1 53/4 55/17 56/17 58/23 61/3 61/6 63/8 66/21 66/24 68/1 69/7 69/11 69/15 75/6 75/16 77/1 77/19 83/18 83/21 84/1 84/7 84/12 87/9 87/16 88/16 89/1 91/20 92/17 93/4 94/12 95/15 96/19 97/10 97/13 98/15 98/19 99/19 99/23 100/3 100/8 100/9 100/10 101/8 101/16 101/18 102/22 102/25 103/4	Cross-Examination [2] 2/5 7/1	deeper [1] 8/10
closer [1] 66/16	conceived [1] 38/8	could [54] 9/9 12/3 12/4 12/8 15/7 16/12 19/23 28/22 30/18 30/20 36/19 36/21 36/25 37/22 38/8 38/9 39/4 43/4 43/4 46/16 47/17 48/7 48/10 48/11 52/6 53/5 53/17 56/9 57/6 57/9 59/25 63/12 63/17 64/20 65/13 65/14 66/5 66/16 66/17 66/20 76/11 80/22 81/8 81/9 81/24 83/15 83/17 86/1 95/2 95/6 97/2 97/2 98/13 98/23	currently [1] 81/11	defendant [2] 6/19 45/18
Coast [1] 10/1	confidence [1] 82/25	couldn't [3] 28/19 84/2 95/10	customary [1] 89/6	defendant's [2] 40/10 43/23
Coast-based [1] 10/1	confirm [1] 9/16	counsel [2] 21/11 53/7	customers [5] 37/20 37/22 37/23 37/25 58/8	Defense [1] 39/9
collateral [1] 90/21	connected [1] 25/7	COUNTY [2] 1/2 6/1	cut [1] 94/22	defined [2] 15/6 23/13
College [1] 7/13	consequence [2] 68/11 82/24	couple [6] 11/19 15/4 30/11 37/10 38/1 59/10	cutting [1] 65/14	defines [3] 23/23 23/24 53/9
Columbia [1] 7/15	consequences [2] 82/6 83/2	course [3] 25/16 44/10 96/22	D	definition [3] 14/23 15/2 15/25
combine [1] 87/24	consider [1] 67/6	court [7] 1/2 1/11 1/24 7/10 9/17 47/17 97/2	d-e-a-t-h [1] 84/6	definitive [5] 45/25 68/19 89/14 90/13 93/16
combined [2] 88/23 95/5	consideration [5] 15/20 15/20 70/14 72/17 92/4	cover [1] 14/12	Dallas [1] 7/14	delaying [1] 76/4
come [13] 11/13 28/22 38/18 57/21 59/10 59/11 59/13 63/25 67/15 70/2 73/1 75/25 90/22	considerations [4] 22/7 24/16 78/13 94/23		DANA [2] 105/12 105/16	deliver [1] 35/5
coming [2] 26/23 48/1	considering [2] 73/11 103/18		darnedest [1] 39/13	demo [4] 97/11 97/12 97/15 97/17
commenced [1] 20/14	consistent [2] 56/12 70/22		data [1] 53/22	demonstrate [4] 28/19 28/23 57/25 97/25
commensurate [2] 12/1 56/24	consolidated [2] 46/24 47/1		date [7] 9/18 20/11 34/7 48/6 67/22 78/17 105/19	demonstrated [1] 58/20
commit [1] 31/18	constraints [1] 31/10		dates [1] 20/21	demonstration [1] 31/6
committee [1] 22/22	construct [1] 65/5		DAVID [1] 1/21	demos [3] 57/22 57/24 58/5
communicated [1] 102/11	consultant [2] 38/11 53/2		day [15] 1/13 7/5 7/6 81/5 83/17 87/2 92/25 93/8 93/11 93/13 94/7 101/6 101/6 104/1 104/1	denied [1] 46/1
communicating [3] 63/11 63/12 63/20	consumer [1] 60/15		de [3] 39/11 44/21 45/4	deploying [1] 48/25
communication [2] 92/8 92/16	consumers [1] 60/24		de-duplicate [1] 39/11	deposition [1] 85/1
communications [2] 73/8 92/20	contact [1] 59/24		de-duplication [2] 44/21 45/4	DEPT [1] 1/6
communicative [1] 92/9	contacts [1] 85/6		dead [1] 80/9	describe [6] 29/17 35/1 36/19 53/5 56/2 65/25
companies [18] 8/1 8/8 8/10 26/19 26/21 26/22 30/12 31/6 37/10 37/14 37/19 53/24 66/16 70/10 73/20 85/9 87/24 91/14	CONTAIN [1] 105/9		deal [37] 15/22 20/9 27/22 29/2 30/13 61/9 63/2 70/11 71/21 77/23 81/7 82/16 87/11 89/17 93/18 93/23 93/24 94/5 95/8 96/22 97/2 98/23 98/25 99/8 99/9 99/12 99/13 100/12 100/16 100/17 100/18 100/24 101/12 101/14 102/12 103/14 103/18	described [6] 57/1 58/16 74/3 76/7 80/3 96/13
company [110]	contained [1] 89/15		deal's [3] 97/4 102/13 102/16	describes [1] 71/8
company's [8] 17/8 25/22 26/1 26/9 27/8 29/24 81/9 81/17	contemplation [1] 67/5		deals [5] 30/4 59/11 59/11 82/16 85/10	describing [3] 16/15 29/19 35/2
compared [2] 32/6 32/6	context [6] 15/16 62/23 62/24 74/22 82/21 100/1		dealt [1] 76/5	description [2] 45/16 74/2
compelling [1] 58/1	contingencies [1] 39/1		death [3] 84/4 84/4 84/6	desires [1] 90/19
compensation [9] 14/15 15/19 19/5 21/20 22/22 24/12 24/14 25/7 26/13	continued [1] 85/11		death-spiral [2] 84/4 84/4	despite [1] 56/19
competition [4] 28/12 28/19 28/20 36/3	continuing [1] 15/20		debt [2] 83/11 83/12	destructive [1] 36/2
competitor [6] 67/16 68/2 68/10 68/11 68/22	continuous [1] 59/3		dec [1] 30/5	destructive [1] 36/2
	contract [3] 16/18 22/5 22/17			detail [3] 29/16 71/8 74/1
	control [21] 14/22 14/24 15/2 15/5 15/23 16/1 16/2 16/6 16/9 17/24 17/25 18/3 18/7 19/4 26/23 27/3 77/9 77/18 91/18 91/21 95/4			detailed [1] 53/10
	controlled [1] 18/21			determination [1] 24/2
	controlling [1] 92/3			determine [4] 23/16 23/17 23/25 53/17
	conus [1] 22/7			determined [1] 87/11
	conversation [3] 67/15 80/2 93/6			detrimental [1] 80/23
	conversations [3] 66/1			developing [1] 102/15

D	64/20	dovetails [1] 38/18	education [1] 32/23	equation [1] 80/22
did [103] 7/24 8/10	discussed [1] 98/20	Dow [1] 55/14	educational [1] 7/10	equipment [3] 7/18
11/20 11/22 11/24 13/9	discussing [1] 51/21	down [10] 11/13 26/24	educationally [1] 7/12	97/8 98/10
13/11 13/15 13/18	discussion [7] 51/22	27/22 42/16 54/20	effect [1] 17/10	equity [8] 26/6 54/8
14/12 17/3 17/18 17/19	59/24 63/18 65/6 67/4	71/24 74/24 83/20	effective [1] 38/10	54/11 82/22 83/14
23/1 24/5 28/22 29/14	93/22 98/22	83/25 89/5	effectively [4] 36/22	94/23 95/18 96/2
30/22 32/18 33/4 33/4	discussions [17] 18/24	downstream [2] 35/14	55/5 57/17 65/11	equivalent [1] 28/6
33/7 33/10 33/10 36/19	37/17 49/12 64/21 65/4	54/12	efficient [1] 34/21	error [1] 42/8
37/13 37/16 39/8 39/11	68/18 69/3 73/3 73/5	dozen [1] 102/24	either [6] 15/19 27/20	especially [1] 58/16
40/5 40/6 40/6 41/6	78/22 80/8 85/12 85/12	drafting [1] 74/18	62/3 69/3 73/23 92/9	ESQ [9] 1/15 1/16 1/17
41/11 42/10 42/12	86/4 88/6 96/21 99/1	draw [1] 14/18	elderly [2] 28/15 29/9	1/18 1/18 1/19 1/20
44/16 44/23 49/10	disincentive [1] 27/10	drawn [1] 22/18	element [1] 24/18	1/21 1/21
49/14 50/10 50/23	dismissed [1] 10/6	dreaded [1] 38/18	elements [1] 99/7	established [4] 49/5
52/18 52/18 53/9 53/19	display [4] 36/21 36/22	drew [1] 100/16	ELIZABETH [1] 1/11	49/24 72/11 79/21
57/7 57/14 57/22 57/23	36/25 37/1	drive [2] 7/20 25/25	else [4] 67/9 78/10	establishing [3] 37/21
57/24 60/9 60/19 60/22	disruptive [1] 37/4	drives [1] 7/20	81/25 98/11	53/18 66/5
62/5 63/19 64/21 64/22	distribution [1] 59/11	driving [1] 40/22	elsewhere [1] 28/1	et [2] 89/11 100/19
64/23 67/7 67/7 67/15	DISTRICT [2] 1/2 1/11	duly [1] 6/6	email [8] 63/11 65/19	European [1] 7/17
69/16 69/18 69/25 70/1	division [2] 50/23	dump [2] 83/17 83/24	66/11 67/20 67/22 76/7	even [3] 20/16 77/17
70/2 70/5 70/11 70/17	54/11	duplicate [5] 39/11	76/10 76/21	79/22
70/20 70/24 71/22	do [125]	44/17 45/11 45/13 91/2	emails [1] 67/25	event [1] 19/24
72/21 73/4 75/4 75/14	doctors [6] 38/10	44/17 45/11 45/13 91/2	Embree [1] 58/22	eventually [2] 31/22
76/22 77/2 77/22 78/8	48/16 49/18 52/25 54/8	54/10	employed [1] 16/16	69/25
78/21 85/14 86/23 88/2	54/10	document [5] 1/7 45/1	employee [8] 16/20	ever [10] 23/2 49/8
88/13 88/14 89/16	51/6 71/7 71/10	documents [7] 21/9	16/23 17/1 17/7 17/11	52/10 62/14 63/19
90/22 93/1 94/25 95/18	22/14 23/1 23/5 45/17	22/14 23/1 23/5 45/17	17/16 29/11 54/23	63/23 63/24 70/15
95/21 96/20 96/20	72/24 72/25	72/24 72/25	employee's [1] 17/14	79/12 95/18
97/11 97/17 97/17	does [35] 12/16 15/4	15/5 16/17 16/25 18/19	employees [3] 17/9	every [1] 8/9
97/21 97/21 98/8 98/10	15/5 16/17 16/25 18/19	20/2 24/1 24/13 25/13	86/3 96/9	everybody [2] 36/24
98/10	20/2 24/1 24/13 25/13	27/1 27/5 29/8 37/7	employment [18]	93/11
didn't [12] 8/2 22/10	27/1 27/5 29/8 37/7	43/9 44/8 47/2 47/3	11/20 11/24 11/25 12/1	everyone [3] 92/11
26/20 28/17 28/18	53/8 55/8 55/18 56/1	62/23 64/18 71/4 71/6	12/9 12/16 14/1 14/12	92/14 93/8
30/22 36/12 43/15 77/4	72/6 72/9 82/10 82/18	72/6 72/9 82/10 82/18	14/18 14/21 15/2 16/1	everything [4] 71/13
77/13 99/2 100/24	82/21 85/21 94/9 94/9	82/21 85/21 94/9 94/9	20/12 20/17 21/19	76/15 93/10 104/17
Diego [2] 28/12 28/13	105/9	105/9	26/17 28/1 28/7	evidence [2] 84/20
dies [1] 45/7	dog [2] 60/7 96/18	dog [2] 60/7 96/18	enabled [2] 19/18 68/4	85/19
difference [1] 18/7	dogs [2] 60/4 60/10	dogs [2] 60/4 60/10	end [9] 28/25 29/18	evidentiary [1] 7/7
different [11] 14/5 18/3	doing [11] 25/10 30/13	doing [11] 25/10 30/13	29/19 29/22 66/12	evolved [1] 88/6
20/21 57/10 67/12	31/23 39/17 77/3 81/7	31/23 39/17 77/3 81/7	68/16 88/22 88/24 95/4	evolves [1] 37/22
76/11 83/6 84/10 85/9	82/4 88/24 95/3 95/3	82/4 88/24 95/3 95/3	ended [7] 11/8 22/19	exact [2] 48/6 92/25
90/14 94/23	95/11	95/11	24/6 47/5 47/7 47/10	exactly [6] 8/24 11/18
difficult [3] 82/5 95/9	dollars [2] 52/21 63/3	dollars [2] 52/21 63/3	47/18	26/16 32/22 45/5 64/25
103/9	don't [43] 6/13 7/7 8/21	don't [43] 6/13 7/7 8/21	ending [2] 39/24 68/12	Examination [2] 2/5
difficulty [2] 48/13	11/15 15/9 20/4 21/1	11/15 15/9 20/4 21/1	energy [1] 60/18	7/1
99/6	22/5 23/4 24/7 27/21	22/5 23/4 24/7 27/21	engage [2] 69/16 70/3	example [9] 15/23 16/5
digital [6] 7/17 8/2 8/3	29/20 29/23 41/14	29/20 29/23 41/14	engagement [5] 69/22	19/17 27/7 31/17 32/11
36/15 36/17 36/20	42/22 44/3 45/16 48/6	42/22 44/3 45/16 48/6	70/20 71/18 72/3 72/8	36/21 74/23 78/23
dilutive [1] 83/15	49/11 50/23 52/5 55/18	49/11 50/23 52/5 55/18	engagements [1]	exceeded [1] 11/6
direct [2] 6/15 31/25	62/2 62/3 62/4 64/25	62/2 62/3 62/4 64/25	70/23	except [2] 40/13 41/13
direction [1] 88/18	65/3 66/8 68/9 68/15	65/3 66/8 68/9 68/15	engineering [3] 7/12	exchange [4] 94/17
directly [2] 17/1 17/4	71/24 73/24 76/10 78/9	71/24 73/24 76/10 78/9	7/16 7/17	95/9 99/14 100/25
director [1] 86/15	80/16 82/8 85/19 88/5	80/16 82/8 85/19 88/5	enhanced [1] 77/21	exclusive [1] 89/9
directors [14] 8/5 13/3	91/2 92/23 92/24 93/18	91/2 92/23 92/24 93/18	enjoy [1] 8/3	excuse [11] 17/13 18/8
17/1 17/4 18/1 18/13	99/3	99/3	enlisting [1] 69/23	29/5 29/5 56/4 70/3
22/22 23/24 24/2 49/10	done [11] 15/8 19/5	done [11] 15/8 19/5	enough [4] 7/9 28/21	73/11 75/18 85/8 97/18
92/21 93/7 93/17 93/17	19/22 27/7 27/17 82/17	19/22 27/7 27/17 82/17	41/17 84/16	103/16
dis [1] 19/6	100/16 100/17 102/12	100/16 100/17 102/12	enter [1] 46/1	execute [1] 11/20
dis-incentivize [1] 19/6	102/20 103/9	102/20 103/9	entered [2] 43/10	executed [2] 20/17
disc [2] 7/19 7/20	double [5] 20/1 20/5	double [5] 20/1 20/5	49/12	98/8
discharge [2] 19/12	56/20 76/3 85/1	56/20 76/3 85/1	entering [1] 44/8	executes [1] 35/14
19/17	double-check [1] 85/1	double-check [1] 85/1	enthused [1] 56/21	executing [1] 77/16
disclosure [1] 40/11	double-trigger [2] 20/1	double-trigger [2] 20/1	entirety [1] 36/23	execution [1] 11/24
discount [3] 81/19	20/5	20/5	entities [1] 79/11	executive [4] 7/14 14/4
81/21 81/23	doubled [4] 27/17	doubled [4] 27/17	entitled [2] 74/15 105/4	14/6 28/6
discounted [2] 81/1	56/13 56/15 56/19	56/13 56/15 56/19	entity [10] 23/17 49/24	exercise [1] 26/7
83/21			49/25 53/10 65/24	exhibit [24] 8/12 9/11
discretion [1] 24/3			70/13 81/18 90/5 103/9	12/14 12/20 33/16
discuss [2] 23/10			105/10	33/22 34/4 34/5 40/25
			entry [1] 93/16	61/21 62/12 64/3 64/18

E exhibit... [11] 69/25 75/18 76/1 79/8 80/4 87/19 87/22 90/25 94/7 101/19 101/20 exhibits [18] 2/8 6/19 39/9 39/9 40/3 43/11 43/12 43/13 43/18 43/22 43/23 43/24 44/6 44/9 44/10 44/17 45/12 64/6 exist [1] 27/5 existing [1] 31/23 exorbitant [1] 83/1 expect [1] 88/3 expected [1] 88/5 expense [1] 53/20 expenses [4] 51/22 56/13 70/24 72/4 expensive [4] 82/17 82/21 83/7 84/5 experience [5] 17/14 26/18 58/4 60/5 96/16 experiments [5] 48/15 97/25 98/4 98/5 98/8 expert [1] 30/5 experts [1] 29/1 explain [3] 14/13 81/2 81/24 explore [3] 55/6 76/20 87/7 exploring [1] 48/9 expressing [2] 102/6 102/10 extensive [2] 72/23 73/22 extensively [1] 74/21 extent [3] 13/25 65/8 73/12 extremely [1] 82/16	58/19 59/4 59/7 79/10 80/3 80/21 feel [3] 6/12 14/1 21/12 feeling [1] 104/8 feels [1] 15/10 fees [2] 70/25 72/3 felt [2] 96/15 96/15 female [1] 55/19 fence [1] 99/16 few [1] 89/5 figure [1] 86/21 figured [2] 45/2 48/3 figuring [1] 8/17 filing [2] 39/21 39/22 filings [2] 31/22 31/25 final [4] 88/11 89/13 99/6 99/20 finally [2] 38/22 83/3 finance [2] 52/9 52/12 financed [2] 52/11 52/20 financial [7] 30/10 31/23 38/22 46/20 46/21 85/8 85/10 financing [5] 30/4 30/7 65/23 79/9 80/12 financings [1] 32/17 find [1] 89/24 fine [3] 98/6 99/10 99/10 finish [1] 18/12 fired [1] 18/21 firm [1] 56/3 first [26] 6/6 7/24 14/18 14/19 20/16 21/1 32/25 33/20 46/2 48/19 52/7 54/18 54/20 54/20 56/6 56/12 56/20 59/20 62/14 65/2 65/6 68/3 68/5 68/6 68/8 94/14 first-graders [1] 32/25 first-quarter [2] 56/12 56/20 fiscal [1] 22/19 fit [4] 65/10 73/3 73/4 73/23 fits [2] 59/17 86/21 five [3] 13/12 75/20 75/20 fix [1] 76/3 flexibility [1] 99/14 flexible [1] 102/12 flows [1] 47/16 focus [3] 48/10 67/8 76/6 focusing [2] 8/4 34/2 follow [2] 61/21 86/25 follow-up [2] 61/21 86/25 Followed [1] 38/25 following [1] 75/5 follows [1] 6/7 fool [1] 60/20 force [1] 83/19 foresight [1] 60/4 forgive [1] 76/1 forgot [1] 41/4 form [2] 63/13 92/3 formal [2] 92/16 92/19	formed [2] 48/5 48/7 forth [7] 8/24 23/20 70/23 72/7 85/6 85/23 98/20 forward [12] 19/1 30/8 32/19 54/6 68/9 72/20 99/16 101/11 102/15 102/16 103/3 104/3 forwarded [2] 87/7 96/10 forwarding [3] 54/24 55/3 101/19 foundation [1] 79/24 founded [2] 12/24 13/1 four [6] 13/1 13/12 37/11 37/25 75/20 94/13 FOX [2] 1/21 99/3 frame [1] 87/17 frankly [3] 33/6 66/8 100/24 free [2] 6/12 14/1 frequencies [1] 48/13 frequency [1] 92/9 frequently [2] 22/4 80/7 Friday [1] 86/5 front [9] 8/12 9/2 34/7 36/25 57/12 70/24 71/16 71/22 71/23 Fujitsu [2] 37/11 37/25 full [10] 29/9 30/25 76/14 76/16 76/18 90/23 92/4 92/10 97/2 99/2 full-court [1] 97/2 full-time [1] 30/25 fully [1] 49/6 functions [1] 14/13 funds [1] 32/18 further [3] 44/9 56/15 78/22 future [2] 54/9 87/4	43/15 46/16 48/16 51/6 57/11 57/17 57/24 58/9 60/5 63/1 63/3 64/20 66/16 67/3 68/7 70/24 71/25 72/12 72/18 81/5 81/23 90/4 90/20 93/20 93/20 94/21 97/21 100/15 100/17 101/11 101/14 102/12 102/19 getting [6] 29/16 59/7 71/20 95/13 99/6 100/17 give [9] 21/10 28/8 31/6 66/16 66/19 68/17 84/2 99/17 100/12 given [4] 26/8 64/6 64/10 88/3 gives [1] 78/13 giving [4] 26/10 31/8 54/8 76/17 go [45] 12/3 13/2 14/17 16/11 24/8 30/15 31/5 33/8 34/15 34/17 35/16 36/1 37/7 39/6 47/12 54/14 56/1 57/18 61/18 64/3 64/5 64/12 71/10 73/1 74/1 74/6 75/17 75/17 78/16 87/19 89/5 89/24 92/18 93/25 94/1 94/10 96/24 97/4 98/5 101/4 101/17 101/25 102/15 102/16 103/13 go-forward [1] 102/16 goes [1] 38/21 going [52] 8/24 15/10 18/11 19/2 20/15 27/8 27/11 27/18 27/19 30/11 31/18 33/19 34/15 34/21 35/15 35/16 35/19 36/14 38/1 40/25 42/19 43/7 44/12 46/9 49/5 57/20 58/3 66/25 68/14 68/25 71/12 72/20 74/1 75/9 76/4 76/5 81/20 82/5 82/5 82/5 90/20 91/5 92/14 92/18 94/21 94/22 97/4 98/3 98/5 100/5 101/10 102/14 gone [4] 25/16 25/22 61/7 83/25 GONZALEZ [1] 1/11 good [23] 6/3 7/3 7/4 27/7 27/22 29/24 30/6 30/23 35/13 48/3 51/11 58/4 58/5 61/11 63/13 64/13 65/10 65/16 73/4 81/13 86/4 93/21 93/21 goodbye [1] 77/14 GORDON [1] 1/20 got [25] 9/5 11/1 11/14 28/7 28/14 30/12 30/13 30/22 33/7 36/14 38/20 40/11 41/15 42/22 43/5 51/16 59/11 61/25 62/4 65/18 67/11 68/7 68/17 80/9 95/8 graders [1] 32/25 grant [2] 28/2 28/4	granted [3] 25/11 52/23 53/21 great [10] 9/20 22/8 26/9 27/17 39/20 44/5 74/1 78/8 78/21 92/9 greater [1] 15/6 group [2] 1/21 65/23 groups [1] 58/20 growth [1] 29/19 guardrails [1] 18/15 guess [3] 24/14 46/11 94/4 guy [4] 58/2 78/13 93/24 100/15 guys [7] 29/9 29/9 32/25 57/22 58/24 65/16 104/14
F facilitate [2] 30/9 86/3 facilitating [1] 71/14 fact [10] 16/6 17/20 35/13 45/17 60/18 72/14 72/16 83/24 101/19 104/8 fair [6] 16/8 27/20 61/4 75/12 78/4 87/15 fairly [3] 62/22 63/2 88/6 faithfully [1] 17/12 fall [1] 19/12 falling [1] 98/23 familiar [1] 87/3 far [3] 56/16 95/2 104/16 fashion [2] 63/14 92/3 fault [1] 76/2 favorable [1] 90/17 FDA [4] 38/12 38/13 38/14 38/15 features [1] 84/1 February [1] 67/7 fee [5] 71/17 71/22 71/24 72/7 72/10 feedback [7] 57/24	first-quarter [2] 56/12 56/20 fiscal [1] 22/19 fit [4] 65/10 73/3 73/4 73/23 fits [2] 59/17 86/21 five [3] 13/12 75/20 75/20 fix [1] 76/3 flexibility [1] 99/14 flexible [1] 102/12 flows [1] 47/16 focus [3] 48/10 67/8 76/6 focusing [2] 8/4 34/2 follow [2] 61/21 86/25 follow-up [2] 61/21 86/25 Followed [1] 38/25 following [1] 75/5 follows [1] 6/7 fool [1] 60/20 force [1] 83/19 foresight [1] 60/4 forgive [1] 76/1 forgot [1] 41/4 form [2] 63/13 92/3 formal [2] 92/16 92/19	G gaming [3] 63/17 64/1 89/10 gap [1] 30/19 garage [4] 28/22 29/9 29/12 103/8 gave [3] 27/7 30/7 89/24 gee [6] 27/18 38/8 65/12 68/10 82/25 94/20 general [3] 16/15 53/7 62/22 generally [3] 32/1 34/25 72/20 generating [2] 30/21 37/14 Geneva [1] 7/15 gentleman [1] 28/15 GEORGE [1] 1/15 gesture [1] 43/15 get [46] 6/18 8/10 13/2 20/22 22/14 23/12 28/10 28/17 29/24 30/22 33/4 33/4 34/10	gaming [3] 63/17 64/1 89/10 gap [1] 30/19 garage [4] 28/22 29/9 29/12 103/8 gave [3] 27/7 30/7 89/24 gee [6] 27/18 38/8 65/12 68/10 82/25 94/20 general [3] 16/15 53/7 62/22 generally [3] 32/1 34/25 72/20 generating [2] 30/21 37/14 Geneva [1] 7/15 gentleman [1] 28/15 GEORGE [1] 1/15 gesture [1] 43/15 get [46] 6/18 8/10 13/2 20/22 22/14 23/12 28/10 28/17 29/24 30/22 33/4 33/4 34/10	habit [1] 45/7 had [50] 11/1 15/21 20/20 22/2 26/19 27/7 28/15 28/16 30/6 30/17 32/18 46/1 49/11 50/22 53/7 54/10 58/2 58/2 58/4 58/5 59/24 62/14 63/16 63/23 64/19 65/4 66/4 66/8 66/9 67/15 70/9 70/15 70/16 77/11 86/3 86/11 87/6 88/3 92/6 92/24 93/6 94/17 94/23 95/6 96/2 96/16 96/21 99/5 100/14 103/6 half [2] 9/25 58/17 hand [2] 6/4 100/15 handful [2] 30/3 49/17 handle [1] 34/18 hands [2] 68/16 97/5 happen [9] 8/2 8/7 15/7 19/15 20/2 27/19 95/9 97/12 102/14 happened [4] 15/16 20/4 60/3 64/18 happening [2] 18/24 102/16 happens [1] 99/10 hard [3] 33/2 33/3 45/8 has [24] 10/19 18/9 19/22 20/2 21/7 24/21 25/16 31/22 37/10 40/20 43/12 44/19 45/19 46/14 54/12 55/5 56/11 56/15 69/24 83/25 86/25 87/23 94/13 95/8 hasn't [1] 79/21 hate [1] 44/13 have [105] 8/12 8/21 10/3 11/19 12/6 12/8 13/5 13/6 13/15 13/23 15/1 18/6 20/6 25/19 26/20 28/4 31/17 34/5 34/19 37/13 38/17 40/19 43/4 43/22 45/11 48/13 48/21 49/10 49/20 49/22 50/22 50/22 53/16 53/20 56/18 57/14 59/22

<p>H</p> <p>have... [68] 59/23 60/6 60/10 62/17 63/18 63/23 63/24 64/22 65/4 65/5 65/13 66/6 66/20 68/24 70/12 72/21 73/9 73/24 74/21 74/22 75/23 75/24 75/25 76/2 76/3 76/23 77/3 77/8 77/17 77/21 77/22 77/24 78/1 78/2 78/11 79/14 82/1 82/5 82/23 83/13 83/15 83/21 83/24 84/2 84/16 84/20 85/19 88/5 88/6 88/7 88/19 91/7 91/17 92/20 93/1 95/18 95/21 98/13 98/16 99/2 99/14 100/2 100/25 102/11 102/13 102/13 104/19 105/3</p> <p>haven't [1] 40/16</p> <p>having [10] 6/6 18/24 26/19 31/11 43/25 54/11 57/2 72/24 80/2 95/1</p> <p>HAWKINS [1] 1/24</p> <p>he [38] 6/21 11/1 11/3 15/10 25/13 28/15 28/15 28/16 28/17 28/18 28/19 28/22 29/10 42/9 44/2 52/1 52/2 53/9 53/23 60/7 63/12 63/17 77/11 78/12 78/14 79/21 79/22 86/11 87/3 99/3 99/4 99/9 102/6 102/10 102/17 102/20 103/2 104/20</p> <p>he's [5] 15/10 52/3 55/3 55/13 104/21</p> <p>head [4] 68/7 82/18 93/8 100/6</p> <p>heads [1] 88/4</p> <p>heads-up [1] 88/4</p> <p>headsets [1] 65/11</p> <p>health [9] 38/2 38/17 48/2 48/23 48/25 50/11 50/14 50/17 99/5</p> <p>healthcare [1] 38/6</p> <p>healthy [1] 93/19</p> <p>hear [5] 8/14 36/25 48/12 64/16 94/25</p> <p>heard [11] 17/24 28/17 32/21 36/17 44/20 44/24 44/25 45/21 52/15 52/17 62/14</p> <p>hearing [5] 7/7 38/8 38/9 48/12 48/13</p> <p>heavily [1] 71/19</p> <p>Heights [4] 80/17 80/20 80/21 82/1</p> <p>help [7] 15/12 26/14 29/22 38/11 55/6 97/17 97/18</p> <p>helpful [2] 29/18 29/20</p> <p>helping [2] 8/7 29/12</p> <p>Hercules [3] 82/7 82/11 82/14</p>	<p>here [25] 20/21 21/22 31/19 35/1 35/6 40/22 48/18 51/24 57/21 58/2 59/6 59/16 60/20 65/19 66/14 68/18 76/20 78/17 84/16 91/2 92/20 92/20 99/8 102/23 104/4</p> <p>here's [6] 22/8 31/6 63/18 73/1 73/20 102/15</p> <p>HEREBY [1] 105/3</p> <p>hereof [1] 17/17</p> <p>HESS [5] 1/21 40/23 42/8 43/9 43/21</p> <p>Hewlett [1] 104/2</p> <p>Hewlett-Packard [1] 104/2</p> <p>hey [10] 27/17 30/12 30/13 59/9 66/17 76/19 78/14 95/6 100/15 101/23</p> <p>HHI [15] 38/18 48/4 48/5 48/6 48/8 48/19 49/2 50/7 52/8 52/10 52/16 52/19 52/24 54/2 76/18</p> <p>high [1] 57/9</p> <p>higher [1] 89/25</p> <p>highly [1] 87/4</p> <p>him [13] 28/17 28/21 28/22 28/24 28/24 29/1 65/2 77/12 86/11 86/13 86/14 86/21 99/12</p> <p>hint [1] 20/16</p> <p>hire [1] 32/25</p> <p>hired [3] 18/20 38/11 55/6</p> <p>hiring [1] 33/5</p> <p>his [25] 11/5 15/11 15/18 19/7 19/22 27/11 27/14 28/15 28/22 28/22 29/2 29/3 43/12 53/23 55/13 59/25 60/7 62/20 65/15 78/11 84/23 95/11 99/2 102/6 102/20</p> <p>hit [3] 24/22 67/10 98/8</p> <p>Hold [5] 42/6 43/3 43/6 45/15 84/19</p> <p>holders [2] 90/8 90/9</p> <p>HOLDINGS [2] 1/20 1/21</p> <p>home [2] 8/17 60/20</p> <p>Honor [24] 6/16 12/12 19/9 32/10 33/17 33/24 40/2 40/4 40/10 41/2 44/13 44/16 45/18 45/25 46/12 61/15 61/19 79/17 79/19 84/14 84/18 89/2 104/13 104/22</p> <p>HONORABLE [1] 1/11</p> <p>Hopefully [1] 76/1</p> <p>hoping [1] 57/6</p> <p>Horizon [1] 80/14</p> <p>host [1] 60/24</p> <p>Houlihan [27] 69/18 69/23 70/3 70/13 70/14</p>	<p>70/15 70/21 71/4 71/17 72/7 72/11 72/21 73/7 73/11 74/25 75/4 75/10 75/14 80/3 80/12 84/9 85/1 86/20 86/20 86/23 86/25 87/7</p> <p>hour [1] 28/16</p> <p>hours [3] 98/1 104/15 104/15</p> <p>house [1] 96/23</p> <p>how [30] 11/14 11/23 11/23 20/16 22/4 25/9 31/6 31/8 31/8 36/19 53/23 55/8 55/18 56/1 59/2 60/9 64/18 64/20 70/2 71/24 72/15 72/15 72/20 81/2 93/20 93/20 93/22 95/2 97/21 104/18</p> <p>How's [1] 64/8</p> <p>how-to [1] 31/8</p> <p>however [2] 34/18 34/19</p> <p>huh [7] 9/10 59/5 78/20 94/12 101/21 102/2 104/21</p> <p>human [1] 60/6</p> <p>hurt [3] 97/18 97/18 97/20</p> <p>Hypersonic [1] 48/23</p> <p>HyperSound [1] 36/2</p> <p>I</p> <p>I'd [9] 13/2 14/18 20/22 29/17 59/15 59/16 61/8 67/11 97/6</p> <p>I'll [15] 8/15 38/18 41/8 43/8 54/8 56/1 57/21 64/7 67/3 72/2 78/14 78/21 86/5 94/4 101/4</p> <p>I'm [66] 7/14 8/8 8/19 10/8 13/6 27/11 27/19 29/4 31/25 32/21 34/9 34/10 34/15 34/21 35/2 35/5 37/9 37/24 39/17 40/25 42/10 43/6 43/25 43/25 44/13 44/24 45/2 45/15 47/6 47/7 49/12 51/9 51/13 51/14 51/21 55/8 57/20 64/4 68/5 68/13 69/2 74/1 74/4 76/4 76/5 79/16 87/20 87/20 90/20 91/1 92/18 95/6 95/11 95/11 96/4 99/12 100/16 101/10 101/19 101/20 101/22 102/11 104/4 104/4 104/8 104/22</p> <p>I've [10] 8/5 8/6 26/19 27/7 27/17 34/2 76/1 95/8 101/1 104/17</p> <p>idea [1] 81/14</p> <p>ideal [1] 63/18</p> <p>ideally [1] 26/8</p> <p>IDENTIFICATION [1] 105/10</p> <p>identified [2] 25/6 53/7</p> <p>identify [4] 12/4 16/12 33/19 71/10</p>	<p>identifying [2] 63/18 96/9</p> <p>if [93] 6/12 8/14 9/3 9/9 9/16 9/22 11/23 12/2 12/3 12/4 12/8 19/2 19/16 19/16 21/12 22/9 22/14 22/22 23/1 23/5 23/20 23/21 24/22 25/21 26/8 26/21 26/23 27/7 28/21 29/18 29/20 29/20 33/18 34/16 35/9 37/7 37/20 39/4 39/16 41/9 42/10 42/22 43/4 45/2 45/16 46/16 47/12 52/10 55/18 59/25 61/10 61/13 62/4 64/3 64/7 64/11 66/21 68/7 68/9 68/15 69/1 74/13 76/1 76/2 76/3 76/11 77/2 78/13 81/4 82/25 84/1 84/16 84/25 85/2 85/2 85/21 86/2 87/19 89/5 90/25 91/2 91/8 91/21 94/25 97/3 97/3 97/21 98/4 99/10 99/10 100/24 102/20 102/20</p> <p>iii [3] 1/15 1/18 26/24</p> <p>illustration [1] 22/8</p> <p>image [1] 32/4</p> <p>immediately [3] 30/2 66/25 93/6</p> <p>immerse [1] 35/4</p> <p>impairments [1] 48/12</p> <p>implemented [1] 86/2</p> <p>implications [1] 98/1</p> <p>implied [1] 18/4</p> <p>implies [1] 55/13</p> <p>import [1] 77/2</p> <p>important [5] 15/21 21/8 31/10 31/11 60/10</p> <p>impressive [1] 61/5</p> <p>in [299]</p> <p>in-house [1] 96/23</p> <p>inaccurate [1] 64/1</p> <p>INC [1] 1/25</p> <p>incentive [9] 24/12 24/13 24/14 24/24 25/3 25/7 25/10 25/17 26/13</p> <p>incentivize [2] 19/6 72/11</p> <p>incentivizes [1] 26/14</p> <p>incents [1] 25/24</p> <p>incident [1] 6/12</p> <p>inclined [1] 99/17</p> <p>included [2] 43/2 43/3</p> <p>increase [5] 23/2 23/2 25/14 26/14 77/23</p> <p>increased [3] 77/24 78/1 78/2</p> <p>increases [1] 22/21</p> <p>increasing [1] 25/25</p> <p>indeed [1] 104/19</p> <p>independent [1] 49/19</p> <p>indicate [3] 24/1 97/6 99/17</p> <p>indicated [3] 37/18 44/16 100/4</p> <p>indicates [7] 16/25 17/6 18/12 22/21 23/6</p>	<p>97/7 99/9</p> <p>indicating [1] 37/4</p> <p>indication [2] 81/7 81/8</p> <p>indiscernible [10] 13/7 23/6 28/10 38/6 38/20 45/11 48/2 58/18 60/8 95/19</p> <p>individual [6] 36/24 55/10 81/18 81/18 81/18 92/10</p> <p>industriously [1] 17/12</p> <p>informal [1] 92/15</p> <p>information [5] 31/11 37/1 38/22 80/10 92/6</p> <p>informed [2] 73/7 73/9</p> <p>Ingram [2] 37/11 37/25</p> <p>initial [2] 21/1 78/12</p> <p>initially [1] 35/2</p> <p>input [1] 56/13</p> <p>inside [1] 13/17</p> <p>inspected [1] 97/8</p> <p>instance [1] 83/16</p> <p>instead [2] 8/1 27/15</p> <p>institutional [1] 33/8</p> <p>instruct [1] 22/10</p> <p>instructed [1] 22/9</p> <p>instructions [1] 95/8</p> <p>instrument [3] 83/6 83/8 83/11</p> <p>Instruments [1] 7/17</p> <p>insure [1] 59/14</p> <p>intended [2] 31/14 31/16</p> <p>intent [1] 100/6</p> <p>Interactive [1] 37/11</p> <p>interest [9] 15/14 31/17 66/4 66/20 72/19 73/24 80/9 95/18 96/2</p> <p>interested [6] 31/17 35/10 59/13 65/18 86/12 101/23</p> <p>interesting [2] 28/21 95/6</p> <p>interests [2] 17/13 95/14</p> <p>intermediaries [1] 65/22</p> <p>internal [4] 49/18 100/4 100/9 100/14</p> <p>internally [1] 96/21</p> <p>into [19] 7/22 19/12 26/6 26/11 29/16 30/20 34/10 43/10 44/9 46/16 49/12 56/9 57/8 60/9 66/3 80/22 83/13 90/21 93/16</p> <p>introduction [1] 7/8</p> <p>intuitiveness [1] 93/11</p> <p>invented [1] 29/11</p> <p>inventions [1] 28/14</p> <p>inventor [1] 29/10</p> <p>invest [1] 8/7</p> <p>investment [6] 30/5 48/1 55/6 62/25 69/16 84/10</p> <p>investments [4] 48/17 54/5 62/1 62/4</p> <p>investor [8] 35/10</p> <p>AA 2379</p>
---	---	--	---	---

<p>I</p> <p>investor... [7] 35/10 35/12 58/19 61/22 80/3 80/15 80/18</p> <p>investors [15] 33/7 33/8 33/11 34/6 35/17 36/10 57/22 58/10 58/24 59/7 71/11 78/22 85/7 85/8 85/10</p> <p>involve [2] 80/25 80/25</p> <p>involved [7] 8/11 10/4 11/14 34/12 59/23 73/11 74/18</p> <p>involvement [4] 14/7 18/18 28/11 66/1</p> <p>IP [2] 31/10 36/3</p> <p>is [196]</p> <p>isn't [2] 18/4 27/14</p> <p>issue [12] 31/13 33/6 45/7 49/14 87/1 96/9 96/12 96/22 97/3 97/5 97/5 99/5</p> <p>issued [1] 49/17</p> <p>issues [2] 57/19 91/10</p> <p>issuing [1] 55/8</p> <p>it [229]</p> <p>it's [64] 8/13 8/23 14/23 15/8 15/12 19/21 20/15 21/8 21/21 22/6 22/13 25/7 27/8 27/13 28/6 29/5 29/18 29/20 33/18 35/5 35/14 36/13 39/21 39/21 39/21 45/7 45/7 46/15 54/18 55/5 57/9 59/16 60/19 61/4 63/5 63/6 64/7 64/11 65/8 68/14 71/4 71/5 71/12 79/22 81/7 81/11 81/13 81/20 82/5 82/10 84/16 85/23 85/25 87/1 90/9 91/9 91/16 92/13 92/15 94/6 95/7 95/7 96/14 96/25</p> <p>item [3] 47/18 88/8 89/5</p> <p>items [2] 14/17 102/21</p> <p>its [15] 24/3 29/15 31/22 35/14 49/10 53/11 56/12 56/22 57/5 72/12 75/14 76/18 81/2 81/11 90/23</p> <p>itself [2] 12/23 21/21</p>	<p>jobs [2] 29/12 86/3</p> <p>JOHN [8] 1/18 40/19 99/13 101/18 102/11 102/13 102/14 104/9</p> <p>join [1] 13/9</p> <p>joined [3] 13/9 13/14 14/2</p> <p>joining [2] 13/1 30/2</p> <p>Jones [1] 55/14</p> <p>Josh [1] 42/2</p> <p>JOSHUA [1] 1/21</p> <p>judge [4] 1/11 7/8 22/8 28/12</p> <p>judgment [1] 10/9</p> <p>JUERGEN [21] 1/21 15/17 21/2 65/1 65/5 65/6 65/15 68/4 68/19 76/19 85/6 92/24 92/25 95/6 95/10 96/9 96/10 99/1 99/2 100/1 101/23</p> <p>jump [1] 35/19</p> <p>just [92] 6/12 9/16 9/16 10/14 10/18 10/22 12/4 14/1 14/13 14/19 16/12 18/6 18/9 18/12 20/11 20/19 21/11 22/9 22/25 23/22 24/19 26/2 27/4 29/17 29/18 29/23 30/24 32/1 34/2 34/25 34/25 36/8 39/4 39/8 39/19 43/4 43/16 44/23 44/24 45/2 45/7 45/19 46/16 47/23 49/22 49/23 50/11 51/6 51/14 51/24 52/18 58/14 60/6 61/21 64/7 64/11 66/11 67/8 67/10 70/18 71/3 72/20 76/10 76/11 77/9 77/13 77/22 78/9 78/16 78/21 78/21 81/6 81/14 82/3 82/3 83/2 85/10 85/15 86/11 86/19 87/11 87/18 91/1 93/2 94/6 95/16 95/17 97/6 101/6 101/18 103/25 104/8</p>	<p>57/16 59/6 65/15 71/12 76/19 77/6</p> <p>kindergarten [1] 32/23</p> <p>kinds [1] 84/3</p> <p>KN95 [1] 8/17</p> <p>knew [5] 32/7 36/10 62/16 70/16 92/14</p> <p>know [80] 6/11 6/12 6/13 10/2 14/5 19/4 19/25 23/10 25/14 26/5 26/7 26/21 29/10 29/13 29/20 30/19 30/21 32/3 32/6 32/18 34/2 37/8 38/7 39/16 39/17 44/16 45/10 45/16 49/11 51/6 54/1 54/12 55/18 56/25 57/1 57/2 57/8 57/18 58/2 58/3 58/4 59/15 60/10 64/25 66/19 67/5 70/17 71/24 73/12 74/5 77/4 78/18 79/20 82/3 86/3 88/5 91/17 92/14 92/19 92/23 92/23 92/23 93/9 93/19 93/19 93/20 93/21 93/22 94/22 95/8 95/16 96/1 96/21 97/3 97/4 97/5 99/5 99/15 99/24 103/7</p> <p>knowing [1] 103/13</p> <p>knowledge [1] 52/3</p> <p>KOTLER [1] 1/21</p>	<p>let [16] 6/11 6/12 6/13 14/1 16/19 33/13 34/3 34/16 39/8 39/17 44/24 60/20 62/18 65/13 67/13 95/16</p> <p>let's [30] 12/2 14/17 16/11 18/10 20/19 21/18 24/8 31/4 32/11 35/19 36/14 36/16 44/11 45/2 51/6 58/14 59/19 67/5 67/5 67/8 71/3 74/6 75/17 75/17 78/9 78/16 85/2 94/14 96/5 102/6</p> <p>letter [2] 69/22 72/3</p> <p>letters [1] 61/1</p> <p>license [11] 57/11 63/2 66/17 76/16 76/16 76/17 89/10 89/10 90/11 90/13 104/3</p> <p>licensed [1] 30/21</p> <p>licenses [1] 30/9</p> <p>licensing [10] 36/15 59/10 69/1 69/6 77/7 77/8 77/16 77/22 85/12 93/10</p> <p>like [31] 9/21 13/2 14/18 20/22 28/9 28/18 29/8 29/17 30/1 31/7 32/7 34/17 38/12 38/17 40/23 55/13 59/9 59/16 61/8 65/10 65/14 70/23 76/6 84/4 87/1 88/1 93/18 94/6 94/9 94/20 103/19</p> <p>liked [1] 28/23</p> <p>likely [5] 11/18 62/5 68/24 68/25 77/6</p> <p>limited [2] 36/3 76/15</p> <p>limits [1] 16/2</p> <p>line [7] 37/23 47/18 48/18 68/6 69/25 88/7 100/16</p> <p>lines [1] 68/25</p> <p>list [25] 40/11 40/18 40/19 40/20 40/21 40/25 41/11 43/9 43/12 43/21 44/2 45/19 47/2 51/8 51/11 54/15 73/2 73/18 73/19 73/19 73/20 73/22 73/22 78/13 103/7</p> <p>listed [3] 21/23 34/7 77/22</p> <p>listen [1] 39/15</p> <p>listeners [1] 35/4</p> <p>listing [1] 29/14</p> <p>lists [1] 102/20</p> <p>litigation [2] 1/5 10/4</p> <p>little [10] 8/18 9/2 29/14 32/1 34/9 48/3 61/9 67/10 95/9 95/17</p> <p>living [1] 53/8</p> <p>LLC [1] 1/15</p> <p>logos [2] 37/10 37/16</p> <p>Lokey [25] 69/18 69/23 70/3 70/13 70/14 70/15 71/4 71/18 72/7 72/11 72/22 73/7 73/11 74/25</p>	<p>75/4 75/10 75/14 80/3 84/9 85/1 86/20 86/20 86/23 86/25 87/7</p> <p>Lokey's [1] 80/12</p> <p>long [5] 11/23 20/16 51/11 51/18 58/6</p> <p>longer [1] 10/3</p> <p>look [29] 12/2 12/4 12/16 19/3 21/13 22/14 23/1 23/5 26/21 26/23 29/8 29/20 34/24 38/12 39/4 46/23 51/18 54/5 58/14 62/20 67/11 70/23 74/23 85/11 86/5 90/25 94/9 94/14 102/20</p> <p>looked [5] 28/9 65/10 87/1 94/7 101/7</p> <p>looking [10] 17/23 30/1 35/20 57/2 57/3 69/5 69/17 75/2 88/19 91/1</p> <p>looks [5] 38/17 53/8 55/13 94/6 94/20</p> <p>lose [5] 15/10 15/11 15/18 27/11 27/19</p> <p>losing [3] 32/3 32/4 82/24</p> <p>loss [5] 47/18 47/19 47/21 56/12 56/20</p> <p>losses [4] 56/12 56/19 56/23 56/24</p> <p>lost [1] 20/21</p> <p>lot [7] 16/20 17/24 29/11 63/23 72/23 92/2 94/18</p> <p>loud [1] 76/11</p> <p>loudly [1] 8/15</p> <p>Lovely [1] 42/14</p> <p>low [1] 58/7</p> <p>lunch [2] 103/13 104/12</p>
<p>J</p> <p>JD [1] 1/25</p> <p>Jesse [4] 54/19 54/22 54/23 54/24</p> <p>JG [1] 58/21</p> <p>JGB [4] 83/3 83/5 83/16 83/23</p> <p>JILL [1] 1/24</p> <p>Jim [6] 13/5 13/6 13/20 13/24 51/22 51/24</p> <p>Jimmy [1] 13/7</p> <p>job [11] 18/1 19/8 25/10 25/24 27/23 30/23 30/25 62/20 63/9 87/7 90/4</p>	<p>K</p> <p>KAPLAN [2] 1/18 13/7</p> <p>keep [19] 6/21 11/13 18/10 19/2 19/7 21/18 27/22 36/14 38/1 41/17 42/19 44/12 46/9 50/10 75/9 79/23 91/5 96/5 103/3</p> <p>keeping [2] 92/10 92/10</p> <p>Ken [1] 99/3</p> <p>KENNETH [4] 1/17 1/21 6/5 6/9</p> <p>Kenobi [1] 104/20</p> <p>kept [2] 20/20 50/20</p> <p>key [7] 18/17 27/6 65/17 71/12 94/5 94/5 99/2</p> <p>keyed [1] 15/21</p> <p>kid [1] 60/7</p> <p>kids [1] 65/13</p> <p>kind [9] 7/9 18/9 20/21</p>	<p>L</p> <p>lab [3] 28/22 57/8 61/5</p> <p>Labs [1] 7/21</p> <p>lack [1] 55/9</p> <p>lacked [1] 60/4</p> <p>Lafayette [1] 7/13</p> <p>land [1] 29/8</p> <p>landed [1] 28/9</p> <p>large [2] 30/11 36/3</p> <p>LAS [2] 6/1 105/12</p> <p>laser [2] 28/18 31/7</p> <p>last [8] 23/22 27/10 40/11 56/7 56/11 101/18 101/20 103/14</p> <p>late [2] 40/11 102/7</p> <p>later [9] 11/13 16/7 23/5 46/10 59/13 76/3 86/25 87/2 94/6</p> <p>launching [1] 87/5</p> <p>laying [1] 79/23</p> <p>lead [2] 29/2 64/21</p> <p>leader [4] 7/19 63/14 63/15 65/17</p> <p>leadership [1] 14/8</p> <p>leading [3] 19/9 100/21 103/22</p> <p>learn [2] 63/19 63/25</p> <p>learned [1] 104/17</p> <p>least [3] 21/5 79/4 103/2</p> <p>leave [1] 77/13</p> <p>leaves [1] 78/1</p> <p>left [4] 8/17 10/20 11/3 78/14</p> <p>legal [2] 31/9 63/6</p> <p>less [3] 29/15 57/10 100/15</p>	<p>AA 2380</p>	

M	42/12 58/5 59/8 62/23 62/24 63/23 65/7 82/21 90/16 98/25 103/8 meaning [2] 20/8 82/22 means [3] 18/22 25/9 48/12 meant [4] 42/9 42/13 77/5 100/13 mechanism [4] 15/15 27/13 54/9 54/13 meet [1] 68/2 meeting [8] 64/20 64/22 65/4 65/7 67/24 68/22 104/1 104/1 meetings [3] 28/25 72/21 73/8 members [1] 96/1 memory [1] 21/12 mentioned [12] 8/5 19/3 31/3 52/23 53/2 59/9 69/12 71/16 76/2 81/13 97/23 99/24 mentor [1] 104/21 merger [20] 19/7 19/12 19/17 20/13 74/16 74/20 74/24 75/3 75/13 76/22 77/5 77/12 78/9 78/12 78/19 93/10 95/19 97/19 99/1 104/3 merits [1] 103/18 met [6] 10/24 23/17 64/25 65/1 65/2 92/24 metaphor [1] 59/6 mic [1] 9/6 Micro [1] 37/11 middle [2] 54/20 86/6 midmorning [1] 61/10 might [12] 19/7 38/12 50/11 60/5 62/25 65/4 68/10 68/15 73/23 74/5 82/1 100/1 Miller [3] 65/20 65/20 66/11 million [7] 47/19 47/21 53/11 53/12 53/13 58/7 103/9 mind [2] 78/8 104/9 minute [2] 28/16 43/6 minutes [5] 29/21 61/16 92/18 92/19 104/16 mistake [1] 60/20 mix [3] 59/6 101/7 101/9 MNA [1] 7/15 moment [2] 38/19 43/4 momentum [1] 30/17 money [15] 25/22 27/12 32/2 32/3 32/4 32/13 32/15 33/5 35/6 35/8 36/7 36/12 81/6 82/23 83/1 money-losing [2] 32/3 32/4 month [2] 56/7 56/11 months [5] 47/5 47/7 47/10 47/18 47/24 more [20] 24/22 48/19 56/12 56/15 56/18	57/10 66/5 79/23 80/10 83/23 83/24 84/2 88/22 90/17 92/19 93/20 93/21 96/24 97/24 101/4 MORENO [1] 1/19 Morgan [2] 54/23 70/9 morning [7] 6/3 7/3 7/4 40/8 40/12 42/23 43/5 most [4] 30/12 68/24 68/24 72/13 motivated [2] 25/25 95/4 motivation [1] 15/12 move [15] 12/10 18/25 21/19 38/12 54/5 65/13 68/9 79/15 79/18 84/14 85/2 85/22 88/13 99/16 100/24 moved [2] 98/9 99/8 movement [1] 94/18 moving [6] 21/18 30/8 31/22 85/6 103/3 104/9 MP3 [1] 7/25 Mr [29] 2/5 6/10 7/3 7/9 10/24 13/21 13/22 21/8 34/24 40/23 42/7 42/8 42/18 43/2 43/3 43/9 43/21 52/24 63/9 63/10 66/11 76/7 78/4 94/13 97/6 98/20 99/9 101/14 102/3 Mr. [4] 32/23 63/20 64/17 104/18 Mr. Peek [1] 104/18 Mr. Thesing [2] 63/20 64/17 Mr. Weisbord [1] 32/23 MSEE [1] 7/13 much [7] 12/7 29/16 70/8 71/24 95/4 95/5 99/4 multi [1] 30/21 multi-licensed [1] 30/21 multiple [2] 66/15 83/2 music [2] 8/2 8/3 must [5] 18/13 31/17 31/19 78/12 82/25 mutually [1] 98/5 my [34] 8/9 12/9 12/25 13/1 13/7 14/9 20/15 21/4 26/11 27/19 28/11 39/8 39/13 39/17 45/14 65/4 65/6 67/1 68/5 68/8 68/11 76/2 78/2 81/20 82/15 90/4 92/8 93/23 100/14 103/13 104/9 104/17 104/20 105/5 myself [1] 96/11	31/22 natural [1] 93/20 nature [7] 15/8 15/11 25/19 48/15 73/25 83/8 83/9 navigate [1] 38/16 NDA [4] 30/11 30/13 31/4 31/14 NDA's [2] 31/4 33/5 near [2] 9/5 32/20 near-term [1] 32/20 necessary [6] 23/1 23/6 23/10 23/21 23/21 71/14 necessitated [1] 32/17 need [20] 6/11 6/11 13/25 20/2 21/9 21/12 22/21 31/7 38/15 51/18 61/12 68/11 76/10 91/22 94/10 94/22 97/25 102/15 102/17 102/23 needed [1] 82/23 Needham [4] 65/21 65/23 66/7 66/9 needs [7] 20/3 81/22 102/19 103/2 103/5 103/7 103/9 negative [3] 19/22 96/16 98/1 negatively [1] 56/23 negotiate [2] 69/8 70/20 negotiated [4] 29/2 71/23 71/23 89/16 negotiating [5] 88/17 89/22 95/10 95/11 100/2 negotiation [3] 69/10 71/25 97/19 negotiations [11] 68/15 68/23 70/25 71/12 71/16 88/15 94/5 95/1 100/1 100/6 101/13 negotiator [1] 95/2 net [3] 47/18 47/19 47/21 NEVADA [4] 1/2 6/1 32/11 105/12 never [6] 26/19 26/20 52/12 52/13 52/14 93/23 new [6] 8/21 15/6 15/17 35/5 94/15 95/5 Newport [3] 9/20 9/22 10/4 news [3] 55/14 55/15 55/15 newswire [3] 55/3 55/4 55/9 next [16] 15/10 17/6 19/2 20/15 35/9 43/18 47/12 64/18 75/10 81/5 81/20 83/17 86/18 90/25 101/25 102/17 niche [1] 38/9 night [1] 40/11 no [58] 1/5 1/6 8/23	8/23 10/3 12/12 16/4 18/17 22/4 28/4 28/4 29/13 29/13 32/3 33/1 33/2 33/17 35/8 36/9 37/15 40/17 41/10 41/10 42/10 43/14 44/4 49/3 49/9 50/13 50/14 51/1 52/22 59/1 60/12 60/18 63/22 64/2 67/2 67/4 68/20 77/10 78/11 78/24 80/9 82/3 84/18 88/12 89/6 89/15 89/22 95/20 95/23 95/25 97/16 98/1 99/3 100/20 103/6 No-Shop [3] 89/6 89/15 89/22 nod [1] 44/21 non [1] 87/25 non-binding [1] 87/25 Nondisclosure [1] 31/5 none [2] 96/4 103/6 Nonetheless [1] 98/13 normal [1] 93/22 NORRIS [5] 1/18 13/21 13/21 13/22 13/24 north [1] 63/15 not [96] 7/5 10/8 10/9 11/18 13/6 13/16 15/9 15/13 16/25 19/5 20/2 21/12 22/13 23/12 31/6 31/11 32/11 32/11 32/19 32/22 34/15 35/8 36/8 37/9 37/24 41/7 42/3 42/25 44/8 44/16 45/6 45/11 49/12 51/7 51/14 52/3 52/18 56/23 57/7 59/12 59/13 60/1 60/5 60/8 60/15 60/19 60/24 61/1 61/5 62/5 63/5 63/21 64/7 64/11 67/10 68/10 70/16 73/4 73/23 74/1 74/4 75/17 76/3 76/4 76/5 76/24 78/12 79/2 81/9 81/17 82/10 84/16 84/20 85/10 88/5 89/16 90/20 91/3 91/25 92/2 92/18 95/10 96/18 98/13 99/10 99/16 99/17 100/12 100/16 102/12 102/13 102/16 103/1 104/4 104/4 105/9 notes [1] 45/14 nothing [5] 19/22 36/7 67/9 78/5 78/18 Nothing's [1] 104/4 notice [2] 55/9 76/22 noticed [1] 77/11 November [1] 10/19 now [23] 7/5 8/9 11/13 12/3 19/2 25/18 25/19 27/8 29/4 33/10 35/9 44/12 45/3 51/14 61/7 76/1 78/18 83/23 85/5 87/21 90/22 91/17 94/15 nowhere [1] 60/12 AA 2381
----------	--	--	---	---

N number [11] 8/19 12/14 32/8 33/22 40/3 53/17 64/6 64/10 94/23 98/1 105/10 numbers [8] 41/16 63/19 63/23 63/25 74/10 94/21 99/6 102/21	31/6 44/24 50/7 58/24 68/10 72/17 95/10 onto [1] 21/19 open [1] 76/20 operated [1] 50/22 operating [6] 18/23 30/8 49/6 49/7 50/12 56/13 operation [1] 29/13 operations [2] 46/25 47/2	others [2] 80/10 80/22 otherwise [2] 19/7 54/10 our [17] 32/18 37/20 43/15 45/19 46/24 53/7 60/6 63/13 72/19 77/23 82/24 86/22 87/3 88/22 93/20 95/13 102/17 out [23] 9/2 33/7 42/16 46/10 52/12 57/22 58/9 59/16 60/1 64/19 65/7 67/11 71/10 73/24 76/11 78/14 86/21 88/2 88/7 89/16 89/16 89/22 95/17 outcome [3] 68/25 69/2 95/13 outlined [2] 76/23 97/24 outlines [2] 99/1 102/17 outlining [1] 91/13 Outside [1] 8/16 over [5] 20/18 91/18 91/21 97/22 103/14 Overruled [4] 19/10 89/3 100/22 103/23 own [4] 15/14 27/14 49/10 95/14 owned [5] 49/6 49/16 49/20 49/25 50/2 ownership [3] 15/7 88/20 95/5 owning [1] 88/22	54/1 54/1 55/5 56/2 56/11 61/25 66/9 69/13 69/16 70/3 70/11 71/1 71/2 72/13 73/15 73/21 77/5 77/22 87/25 88/20 89/21 89/23 91/16 91/18 91/21 91/23 92/4 92/6 94/20 96/10 96/23 97/7 97/21 98/3 98/14 Parametric's [2] 90/17 97/18 pardon [1] 41/19 part [12] 7/18 9/20 19/12 25/7 29/11 50/11 54/18 61/8 71/20 72/16 75/4 84/9 part-time [1] 29/11 participate [1] 74/22 particular [6] 16/3 16/12 19/8 26/4 46/22 94/14 particularly [1] 86/5 partner [5] 63/3 63/5 64/17 73/16 93/25 partners [4] 37/19 62/20 62/22 73/2 partnership [1] 63/6 party [2] 53/16 101/23 patents [1] 29/10 path [1] 7/12 pay [4] 15/11 33/5 33/6 54/10 paying [3] 26/7 54/2 99/4	perspective [4] 27/16 66/22 72/10 77/12 pharmacy [1] 36/22 phase [1] 30/22 picture [2] 28/8 29/24 Picunko [1] 97/7 piece [3] 50/15 50/18 54/3 pieces [1] 30/8 pilot [1] 37/17 pink [2] 29/14 31/21 pioneering [1] 37/4 PIPE [4] 80/22 81/13 81/14 82/4 pitch [4] 93/3 93/5 93/7 93/16 place [8] 11/25 20/22 20/23 28/8 29/14 30/9 76/22 104/11 plaintiff [3] 2/3 8/23 39/9 plaintiff's [4] 8/12 33/17 43/13 43/24 plaintiffs [2] 40/6 91/17 plan [8] 23/7 23/14 23/15 23/18 24/19 35/14 71/8 98/2 plane [2] 96/23 97/23 planning [1] 87/5 plans [2] 25/3 50/22 plaques [1] 29/9 playbook [2] 57/13 95/6
O o'clock [1] 104/14 Obi [1] 104/20 Obi-Wan [1] 104/20 objection [11] 12/11 12/12 19/9 33/16 40/1 79/17 79/19 84/15 89/2 100/21 103/22 objection's [1] 84/19 objections [2] 84/17 84/18 obligation [1] 83/12 obvious [1] 73/16 obviously [6] 13/16 35/24 65/1 76/4 78/11 85/7 occur [1] 37/8 occurred [4] 20/7 37/24 44/22 98/16 occurring [1] 97/17 October [1] 29/5 odd [1] 29/12 off [9] 30/2 40/18 41/6 41/11 73/1 78/5 78/19 81/10 104/4 offered [1] 14/2 offering [2] 44/10 82/1 officer [1] 14/6 often [5] 8/7 19/25 68/15 72/21 81/10 OGILVIE [1] 1/15 oh [12] 37/18 39/6 40/19 42/10 68/13 74/10 78/14 79/3 79/21 84/25 85/16 104/19 okay [188] old [1] 45/7 on [124] once [5] 26/5 26/6 59/10 59/11 59/14 one [50] 10/9 11/13 14/5 14/13 14/15 15/4 15/9 20/19 24/16 29/11 29/11 39/16 40/2 42/23 43/4 43/7 44/17 44/25 48/10 59/8 59/8 59/16 60/18 60/20 61/21 64/4 66/17 68/6 69/8 70/8 74/10 76/22 78/14 79/2 86/18 88/18 92/1 93/8 93/12 93/13 94/10 94/14 96/8 101/4 101/18 101/25 103/14 103/19 103/25 103/25 ones [6] 40/3 40/15 40/15 40/17 41/10 80/9 online [1] 55/14 only [9] 20/2 25/15	opinions [1] 99/15 opportunities [5] 32/17 63/7 69/6 84/11 90/2 opportunity [1] 64/17 opposite [1] 104/8 option [13] 15/19 25/7 25/11 25/15 25/25 26/8 26/11 76/23 77/13 78/2 90/8 90/9 100/19 options [33] 15/8 15/11 19/23 24/10 25/6 25/9 25/18 25/21 26/3 26/5 26/10 26/14 27/2 27/7 27/9 27/12 27/19 27/25 28/3 28/8 49/17 52/23 52/23 53/18 53/20 67/1 76/7 76/12 76/21 78/2 79/10 84/5 88/24 or [94] 9/2 10/7 10/9 10/10 11/1 13/1 14/5 14/6 14/13 14/13 15/6 15/11 15/20 18/15 19/6 20/5 21/25 22/4 23/10 23/11 23/11 28/1 31/25 32/6 32/7 33/10 36/7 37/13 37/25 38/9 40/13 41/6 43/23 44/9 49/22 51/21 52/3 52/4 54/24 55/19 61/8 61/16 62/3 63/1 63/1 63/3 63/13 65/8 66/20 67/25 69/3 70/2 72/3 72/21 73/4 73/6 73/8 73/23 75/19 77/9 78/12 79/22 80/10 81/2 81/18 82/4 84/4 85/7 86/15 88/5 88/18 89/25 90/14 92/3 92/10 92/15 93/24 95/16 96/2 96/14 96/15 96/25 97/3 97/18 97/18 98/10 99/3 99/16 100/2 100/2 103/19 104/1 105/10 105/10 Orchestrated [1] 30/7 order [3] 27/22 95/17 103/2 organizations [1] 7/16 oriented [1] 71/19 origin [1] 28/11 other [24] 12/3 24/17 27/21 39/5 39/6 39/16 43/17 52/4 52/25 67/5 69/9 70/10 74/9 74/11 75/13 78/22 85/7 85/9 88/18 89/5 93/6 93/17 95/12 96/1	P p.m [3] 86/6 94/12 104/23 package [1] 20/6 Packard [1] 104/2 page [38] 9/9 9/11 14/19 19/2 34/7 34/15 34/15 34/17 34/24 34/25 35/9 35/21 36/1 36/2 36/2 36/2 36/3 36/3 36/15 37/10 37/16 46/17 46/19 46/22 47/12 47/12 47/15 54/18 54/20 54/20 56/6 69/24 72/2 74/13 75/10 75/10 86/6 103/25 pages [1] 38/1 paid [4] 24/22 50/24 51/1 54/11 PAMPT [1] 1/15 paper [1] 45/7 paragraph [7] 23/21 72/3 74/24 75/5 75/5 75/7 90/12 parameters [2] 23/25 24/17 PARAMETRIC [63] 1/4 8/10 11/10 11/15 11/17 11/21 12/18 12/21 12/23 12/25 13/4 14/3 25/21 28/6 28/11 30/25 35/7 37/13 49/6 49/7 49/21 49/25 50/5 50/8 50/10 50/25 51/1 51/25	54/1 54/1 55/5 56/2 56/11 61/25 66/9 69/13 69/16 70/3 70/11 71/1 71/2 72/13 73/15 73/21 77/5 77/22 87/25 88/20 89/21 89/23 91/16 91/18 91/21 91/23 92/4 92/6 94/20 96/10 96/23 97/7 97/21 98/3 98/14 Parametric's [2] 90/17 97/18 pardon [1] 41/19 part [12] 7/18 9/20 19/12 25/7 29/11 50/11 54/18 61/8 71/20 72/16 75/4 84/9 part-time [1] 29/11 participate [1] 74/22 particular [6] 16/3 16/12 19/8 26/4 46/22 94/14 particularly [1] 86/5 partner [5] 63/3 63/5 64/17 73/16 93/25 partners [4] 37/19 62/20 62/22 73/2 partnership [1] 63/6 party [2] 53/16 101/23 patents [1] 29/10 path [1] 7/12 pay [4] 15/11 33/5 33/6 54/10 paying [3] 26/7 54/2 99/4 payment [2] 19/16 67/3 payments [1] 84/2 payoff [1] 23/25 payout [1] 71/20 PC [1] 89/10 PEEK [2] 1/17 104/18 Pennsylvania [1] 7/13 people [10] 28/13 30/4 32/14 33/5 48/12 57/25 60/9 63/3 96/23 97/23 per [1] 29/13 perceived [1] 81/8 percent [8] 15/6 23/24 63/15 71/20 71/21 71/25 89/11 93/21 perfect [2] 64/9 70/13 perform [1] 17/15 performance [5] 23/13 23/17 24/17 24/21 57/18 performing [1] 7/23 perhaps [1] 35/13 period [9] 22/18 29/19 29/22 30/1 32/1 34/9 34/11 51/5 102/7 periods [1] 10/18 Peripherals [1] 7/20 permanent [1] 21/25 perpetual [1] 89/9 person [2] 96/18 105/10 personal [4] 15/14 66/4 95/21 95/22 personnel [2] 17/8 72/22	perspective [4] 27/16 66/22 72/10 77/12 pharmacy [1] 36/22 phase [1] 30/22 picture [2] 28/8 29/24 Picunko [1] 97/7 piece [3] 50/15 50/18 54/3 pieces [1] 30/8 pilot [1] 37/17 pink [2] 29/14 31/21 pioneering [1] 37/4 PIPE [4] 80/22 81/13 81/14 82/4 pitch [4] 93/3 93/5 93/7 93/16 place [8] 11/25 20/22 20/23 28/8 29/14 30/9 76/22 104/11 plaintiff [3] 2/3 8/23 39/9 plaintiff's [4] 8/12 33/17 43/13 43/24 plaintiffs [2] 40/6 91/17 plan [8] 23/7 23/14 23/15 23/18 24/19 35/14 71/8 98/2 plane [2] 96/23 97/23 planning [1] 87/5 plans [2] 25/3 50/22 plaques [1] 29/9 playbook [2] 57/13 95/6 played [1] 60/7 player [1] 7/25 players [1] 37/22 playing [1] 101/10 please [12] 6/4 6/8 12/5 12/7 14/1 22/16 23/9 23/21 35/20 54/14 56/10 86/21 plug [1] 100/23 plus [5] 7/6 14/7 43/21 82/23 83/21 point [20] 15/22 19/20 19/21 51/9 57/4 61/11 63/5 64/11 65/1 66/1 66/22 69/5 69/13 76/14 77/4 78/8 87/10 87/23 88/3 99/22 point-0 [1] 99/22 pointed [1] 70/14 points [4] 89/5 94/5 94/14 102/23 policies [2] 17/8 18/14 portfolio [1] 36/3 position [5] 14/2 95/13 97/18 97/19 101/2 positioned [2] 36/25 37/19 positions [1] 33/8 positive [1] 98/13 possibilities [6] 48/10 66/15 67/12 76/15 76/20 93/10 possible [8] 8/15 34/22 48/17 86/4 95/13 96/9 101/11 104/3 AA 2382

<p>P</p> <p>POTASHNER [8] 1/17 6/5 6/9 6/10 7/3 7/9 21/8 34/24</p> <p>potential [29] 18/23 28/24 30/17 30/20 30/23 31/19 34/6 35/10 35/10 35/12 53/11 54/9 54/12 56/22 56/22 58/6 60/13 62/20 63/7 64/17 69/6 71/9 71/11 75/15 78/3 80/15 80/17 85/8 98/23</p> <p>potentially [3] 63/2 82/24 101/14</p> <p>Power [1] 7/20</p> <p>predated [1] 67/12</p> <p>predefined [2] 24/17 83/14</p> <p>predominant [2] 13/22 59/8</p> <p>predominantly [3] 8/4 13/20 59/13</p> <p>preexisting [1] 95/21</p> <p>prefer [1] 61/13</p> <p>preferential [1] 63/1</p> <p>presentation [16] 34/5 34/13 36/1 48/1 61/22 62/1 62/5 90/23 91/13 91/15 91/22 92/4 92/5 92/20 92/22 92/25</p> <p>presentations [1] 33/11</p> <p>presented [1] 87/24</p> <p>president [1] 62/19</p> <p>press [6] 30/12 30/13 31/13 33/6 69/13 97/2</p> <p>pressure [1] 83/19</p> <p>pressured [1] 95/7</p> <p>presumably [1] 57/1</p> <p>pretty [3] 53/10 73/22 92/8</p> <p>prevailed [1] 8/2</p> <p>prevent [1] 44/8</p> <p>previous [2] 54/3 94/10</p> <p>previously [1] 17/11</p> <p>price [15] 25/12 26/4 26/7 26/15 35/13 53/18 77/24 78/1 81/11 81/25 83/14 83/19 83/25 89/25 102/12</p> <p>prime [1] 61/5</p> <p>prior [8] 7/6 13/1 65/4 67/25 70/16 73/7 92/5 94/7</p> <p>private [4] 8/8 81/7 81/16 82/4</p> <p>probably [2] 55/16 81/13</p> <p>problem [4] 97/22 98/10 98/12 98/16</p> <p>procedural [1] 40/24</p> <p>PROCEEDINGS [4] 1/8 61/17 104/23 105/4</p> <p>process [13] 30/17 38/12 38/13 38/16 53/5 70/4 72/22 74/3 75/4</p>	<p>75/13 84/10 86/22 94/18</p> <p>producing [1] 30/21</p> <p>product [12] 36/15 48/18 57/3 57/4 59/11 60/19 63/1 96/10 96/15 96/17 97/3 97/24</p> <p>products [3] 37/20 57/9 87/4</p> <p>professional [2] 7/11 7/16</p> <p>profitability [1] 32/20</p> <p>profits [1] 35/15</p> <p>program [1] 7/14</p> <p>progress [5] 56/21 57/2 63/4 68/7 73/5</p> <p>progressing [4] 87/15 102/17 103/8 104/2</p> <p>promise [1] 30/6</p> <p>promote [1] 85/11</p> <p>proper [1] 7/7</p> <p>properly [1] 97/9</p> <p>proposal [3] 89/6 89/9 90/23</p> <p>proposals [1] 18/22</p> <p>proposed [3] 29/1 33/15 92/21</p> <p>proposition [1] 65/15</p> <p>prospective [1] 73/2</p> <p>protect [3] 15/13 19/24 31/10</p> <p>protective [2] 15/15 27/13</p> <p>prototypes [1] 32/15</p> <p>prototyping [1] 57/8</p> <p>provide [6] 6/19 25/9 59/25 80/10 82/23 83/12</p> <p>provided [1] 17/11</p> <p>provides [1] 15/18</p> <p>provision [5] 14/22 26/17 27/5 89/6 89/15</p> <p>provisions [2] 19/18 19/24</p> <p>proxy [8] 8/13 9/18 21/6 45/18 46/1 74/3 74/19 74/21</p> <p>public [6] 8/6 13/16 26/12 26/21 26/22 31/22</p> <p>publicly [1] 31/20</p> <p>puffing [1] 100/2</p> <p>pulling [2] 48/15 100/23</p> <p>purpose [3] 53/14 65/25 101/13</p> <p>pursuant [1] 17/16</p> <p>pursue [1] 15/10</p> <p>pursued [1] 79/10</p> <p>pursuing [1] 19/6</p> <p>push [3] 32/19 95/2 100/14</p> <p>pushback [1] 93/23</p> <p>pushing [1] 88/17</p> <p>put [19] 11/12 11/25 20/23 28/16 29/14 36/21 37/16 41/1 60/18 66/3 71/7 71/9 76/12 78/14 81/14 81/24</p>	<p>83/19 96/23 97/23</p> <p>puts [1] 18/14</p> <p>PUTTERMAN [2] 1/18 13/7</p> <p>putting [5] 30/8 31/9 68/21 80/22 91/14</p> <p>PX [4] 44/17 44/17 85/13 85/21</p> <p>PX-31 [2] 85/13 85/21</p> <p>PX1 [2] 29/21 44/25</p> <p>PX10 [1] 33/14</p> <p>Q</p> <p>Qualcomm [4] 59/21 59/23 59/24 104/2</p> <p>Quantum [1] 7/18</p> <p>quarter [3] 39/24 56/12 56/20</p> <p>question [10] 20/15 21/13 24/15 43/7 44/1 66/12 70/8 81/20 95/17 103/14</p> <p>questions [3] 10/23 14/2 52/16</p> <p>quick [4] 43/5 61/21 86/11 87/6</p> <p>quickly [6] 9/16 34/17 34/25 76/11 88/6 101/4</p> <p>quite [2] 66/8 100/24</p> <p>quote [1] 24/2</p> <p>R</p> <p>radar [1] 60/6</p> <p>raise [3] 6/3 30/15 82/23</p> <p>raised [1] 81/6</p> <p>raising [2] 80/25 82/4</p> <p>ran [4] 7/16 7/17 7/18 7/20</p> <p>range [1] 76/19</p> <p>rate [5] 54/1 89/11 94/17 95/9 100/25</p> <p>rates [1] 99/14</p> <p>ratio [2] 88/8 88/11</p> <p>RE [1] 1/4</p> <p>reach [1] 88/2</p> <p>reach-out [1] 88/2</p> <p>reached [3] 64/19 73/23 77/2</p> <p>reacting [1] 56/23</p> <p>read [22] 9/16 17/18 22/9 22/16 23/9 23/21 23/22 41/3 41/5 41/8 41/14 41/16 41/17 43/9 43/21 44/3 47/17 52/6 56/9 75/23 76/10 86/19</p> <p>reading [2] 45/15 64/4</p> <p>ready [6] 6/15 60/2 60/15 60/19 60/21 61/5</p> <p>real [2] 43/5 97/3</p> <p>realize [1] 60/4</p> <p>really [4] 21/8 26/13 28/17 81/9</p> <p>reason [2] 15/9 68/22</p> <p>reasons [3] 15/9 60/25 73/16</p> <p>recall [49] 11/17 12/23 13/3 20/4 21/1 22/5 23/4 24/7 48/6 49/11</p>	<p>53/25 61/25 62/2 62/3 62/4 64/25 65/3 66/8 66/9 69/14 71/17 71/24 73/6 73/7 73/10 74/2 74/18 79/12 80/2 80/6 80/14 80/17 80/20 80/21 81/25 82/7 82/8 82/8 83/3 83/5 83/8 89/13 90/12 92/6 92/24 93/5 93/17 94/15 94/17</p> <p>receive [2] 24/5 83/12</p> <p>received [3] 30/14 79/22 84/21</p> <p>recessed [2] 61/17 104/23</p> <p>recipe [1] 31/9</p> <p>recognize [2] 12/8 79/6</p> <p>recollection [15] 12/17 12/21 13/8 23/1 23/10 35/22 59/22 62/17 65/9 72/6 82/11 82/13 82/15 84/24 93/23</p> <p>recommended [1] 101/1</p> <p>record [11] 6/8 10/15 12/4 21/6 31/3 46/17 48/21 56/9 69/24 71/3 81/14</p> <p>record's [1] 25/8</p> <p>RECORDED [1] 1/24</p> <p>RECORDER [1] 1/24</p> <p>recording [1] 8/1</p> <p>records [2] 50/10 50/20</p> <p>recounts [1] 92/10</p> <p>recruited [1] 30/3</p> <p>reduced [2] 90/15 90/16</p> <p>reducing [1] 102/12</p> <p>reduction [1] 70/25</p> <p>refer [2] 13/25 21/9</p> <p>reference [5] 11/16 15/22 74/25 75/3 90/11</p> <p>referenced [3] 16/20 65/22 103/25</p> <p>references [1] 75/9</p> <p>refers [3] 9/20 10/11 27/25</p> <p>reflect [4] 43/10 85/21 92/19 100/5</p> <p>reflected [6] 19/8 51/20 65/8 67/20 72/25 99/13</p> <p>reflective [1] 25/12</p> <p>refresh [4] 12/17 23/9 82/11 84/23</p> <p>refreshed [1] 82/13</p> <p>regard [1] 53/6</p> <p>regarding [3] 67/25 80/3 92/21</p> <p>regardless [1] 20/5</p> <p>rehash [2] 11/15 76/6</p> <p>relate [2] 53/19 64/18</p> <p>related [4] 44/9 53/22 53/22 57/19</p> <p>Relates [1] 1/7</p> <p>relationship [9] 10/3 66/6 66/9 66/10 68/8 70/12 85/12 95/21</p>	<p>95/22</p> <p>relationships [4] 64/19 66/5 70/10 96/2</p> <p>relative [4] 15/7 80/12 93/9 95/24</p> <p>relayed [1] 92/6</p> <p>release [2] 31/13 69/13</p> <p>released [2] 19/11 20/3</p> <p>releases [3] 30/12 30/13 33/6</p> <p>relevant [3] 64/21 86/1 87/4</p> <p>reliable [2] 79/22 90/2</p> <p>relying [3] 51/9 57/10 84/9</p> <p>remain [1] 90/13</p> <p>remember [4] 32/22 42/22 61/21 61/22</p> <p>reminded [1] 32/10</p> <p>renamed [1] 10/17</p> <p>repeat [1] 27/6</p> <p>repeatability [2] 57/17 57/19</p> <p>rephrase [2] 34/3 34/16</p> <p>replacement [1] 38/8</p> <p>replicate [1] 96/22</p> <p>report [4] 6/12 17/1 17/4 80/7</p> <p>reported [2] 56/11 97/8</p> <p>reporter [7] 55/15 55/15 55/20 55/22 56/1 56/2 56/14</p> <p>reporting [5] 1/25 18/13 18/19 50/23 56/19</p> <p>reports [1] 56/15</p> <p>represent [1] 36/13</p> <p>representation [1] 43/22</p> <p>representative [2] 80/11 97/8</p> <p>reputation [1] 70/18</p> <p>require [1] 38/15</p> <p>required [2] 17/15 80/10</p> <p>research [2] 57/8 60/9</p> <p>resource [1] 53/8</p> <p>resources [6] 30/10 31/18 32/14 32/14 54/5 63/3</p> <p>respect [1] 52/24</p> <p>respectful [1] 55/24</p> <p>responds [1] 78/4</p> <p>response [2] 76/21 99/11</p> <p>responsibility [1] 51/15</p> <p>results [2] 18/23 98/4</p> <p>retail [1] 36/15</p> <p>retention [2] 25/20 25/23</p> <p>revenue [9] 29/13 30/21 32/16 37/14 50/10 50/14 52/8 52/19 57/12</p> <p>revenue-producing [1] 30/21</p> <p>revenues [7] 35/15</p> <p>AA 2383</p>
--	--	--	--	--

<p>R</p> <p>revenues... [6] 47/2 47/4 47/6 47/20 50/13 51/2</p> <p>reverse [6] 76/22 77/4 77/12 78/9 78/12 78/19</p> <p>review [4] 12/7 21/8 22/6 22/18</p> <p>reviewed [3] 40/10 40/12 74/21</p> <p>reviewing [2] 12/20 82/10</p> <p>RICHARD [1] 1/20</p> <p>right [87] 6/3 6/15 6/23 12/2 14/24 15/23 16/9 16/22 18/1 18/4 18/6 18/10 19/15 20/1 20/12 20/25 21/16 22/12 22/23 24/20 24/21 24/22 24/24 25/11 27/6 27/13 31/1 31/3 31/18 32/12 33/2 37/5 45/5 46/3 46/9 46/10 46/22 47/20 47/21 48/25 50/3 55/16 55/23 55/25 56/14 56/23 57/20 58/2 58/12 59/10 61/2 61/7 61/14 62/6 64/16 74/8 78/7 81/15 83/1 83/13 83/23 83/25 84/6 84/11 85/2 85/13 85/17 87/12 87/14 87/21 88/25 91/6 91/19 92/15 95/3 95/12 98/18 100/7 100/15 101/7 101/22 102/5 103/3 103/7 103/10 104/2 104/10</p> <p>right-hand [1] 100/15</p> <p>rights [1] 63/1</p> <p>Rio [1] 7/25</p> <p>rising [1] 30/16</p> <p>risk [3] 31/9 99/7 99/7</p> <p>risky [2] 60/25 61/1</p> <p>Rite [1] 36/25</p> <p>road [1] 33/7</p> <p>ROBERT [1] 1/18</p> <p>role [5] 8/8 14/4 14/15 15/18 16/16</p> <p>roll [1] 8/9</p> <p>room [1] 65/13</p> <p>roughly [2] 61/7 86/6</p> <p>royalty [1] 89/11</p> <p>run [5] 26/19 76/17 96/24 98/3 102/15</p> <p>running [1] 67/6</p> <p>rush [1] 100/18</p>	<p>104/15</p> <p>sake [1] 93/15</p> <p>salaries [1] 15/7</p> <p>salary [10] 15/20 19/22 21/23 21/23 22/3 22/6 23/2 23/2 27/23 28/8</p> <p>sales [1] 60/16</p> <p>same [15] 22/10 28/3 31/20 44/17 45/1 45/6 45/16 45/17 57/18 60/5 73/16 84/18 90/14 95/3 95/12</p> <p>San [2] 28/12 28/13</p> <p>sand [1] 100/16</p> <p>satisfaction [1] 68/8</p> <p>saving [2] 54/9 54/13</p> <p>saw [10] 44/21 44/24 44/24 65/16 65/16 66/15 73/17 77/15 79/12 103/2</p> <p>say [29] 14/1 18/14 21/7 22/11 26/21 27/1 28/17 35/6 39/8 55/19 60/22 61/4 62/22 63/5 63/21 67/8 68/4 68/14 75/12 76/22 77/14 78/8 78/14 78/21 85/14 86/10 98/5 99/10 100/11</p> <p>saying [9] 29/4 40/12 55/4 55/5 60/15 60/18 76/19 78/5 100/15</p> <p>says [5] 22/17 27/2 31/13 56/7 78/14</p> <p>scope [1] 18/15</p> <p>se [1] 29/13</p> <p>SEC [1] 31/25</p> <p>second [5] 7/6 16/7 64/4 84/19 103/24</p> <p>secondly [2] 15/15 27/16</p> <p>section [23] 14/19 14/21 15/25 16/11 16/12 16/13 16/15 21/18 21/19 21/23 22/16 22/20 23/6 23/20 24/1 24/8 24/9 72/3 74/15 74/19 74/19 75/2 75/12</p> <p>Sections [1] 19/2</p> <p>securing [1] 38/10</p> <p>SECURITY [1] 105/10</p> <p>see [41] 9/13 16/18 16/20 23/7 26/24 28/14 35/21 36/5 38/1 38/3 38/22 38/23 39/2 46/19 54/19 56/7 56/16 60/23 66/12 72/4 74/15 75/3 76/8 76/25 77/4 78/6 84/25 85/2 86/8 88/8 88/9 89/6 89/6 89/9 89/11 90/11 96/25 97/9 102/6 103/24 104/14</p> <p>seemed [1] 65/14</p> <p>seen [2] 79/14 92/1</p> <p>segments [1] 63/14</p> <p>sell [2] 27/11 81/10</p> <p>sell-off [1] 81/10</p> <p>selling [7] 9/24 60/24</p>	<p>80/25 81/1 81/6 81/11 81/17</p> <p>sells [1] 60/19</p> <p>semiconductor [1] 10/1</p> <p>sending [2] 99/25 99/25</p> <p>sends [1] 88/2</p> <p>sense [7] 25/17 56/18 63/6 93/9 95/2 95/11 99/13</p> <p>sent [2] 40/12 53/20</p> <p>sentence [6] 17/6 23/22 52/7 56/6 56/9 86/18</p> <p>separate [1] 49/19</p> <p>separately [1] 50/21</p> <p>September [3] 22/17 22/19 24/6</p> <p>serve [1] 38/9</p> <p>served [1] 9/21</p> <p>service [1] 55/14</p> <p>set [13] 23/11 23/15 23/20 24/21 30/2 30/14 57/10 65/17 72/7 97/8 97/24 98/3 99/15</p> <p>Seth [1] 13/7</p> <p>settled [1] 10/9</p> <p>several [2] 26/19 28/25</p> <p>severance [4] 19/16 19/18 20/6 67/3</p> <p>SG [1] 1/21</p> <p>shall [2] 17/1 24/2</p> <p>share [13] 7/9 26/11 28/4 31/11 60/11 63/15 63/16 63/21 63/24 64/1 65/17 81/5 81/7</p> <p>shared [1] 18/25</p> <p>shareholder [8] 10/5 15/12 27/15 35/15 72/19 78/2 81/4 82/24</p> <p>shareholders [16] 13/15 13/16 13/17 13/23 13/23 15/13 19/7 25/17 27/14 27/22 56/21 88/22 89/21 89/23 90/7 90/10</p> <p>SHAREHOLDERS' [1] 1/5</p> <p>shares [6] 28/2 49/14 49/19 49/20 49/25 83/24</p> <p>sheet [4] 29/14 87/25 88/2 88/3</p> <p>sheets [2] 31/21 69/22</p> <p>shifting [1] 51/15</p> <p>shook [1] 93/8</p> <p>shoot [2] 28/17 36/23</p> <p>shop [4] 89/6 89/15 89/22 103/8</p> <p>should [11] 19/5 32/23 39/16 41/12 42/4 43/13 51/22 52/8 73/18 73/21 99/14</p> <p>show [5] 21/6 33/7 33/15 39/18 46/24</p> <p>sick [1] 96/15</p> <p>side [1] 95/1</p> <p>side's [1] 95/14</p>	<p>sides [1] 65/18</p> <p>sign [1] 69/25</p> <p>signage [2] 36/15 36/18</p> <p>signature [1] 69/25</p> <p>signed [1] 59/10</p> <p>significant [3] 71/20 96/21 103/11</p> <p>significantly [1] 54/4</p> <p>signing [1] 36/20</p> <p>Silicon [2] 7/19 7/24</p> <p>similar [2] 14/5 96/2</p> <p>similarly [1] 17/9</p> <p>since [2] 9/21 54/1</p> <p>single [2] 20/1 20/5</p> <p>single-trigger [2] 20/1 20/5</p> <p>sir [5] 6/3 9/1 21/11 61/12 81/3</p> <p>sit [1] 58/2</p> <p>sitting [1] 104/4</p> <p>situated [1] 17/9</p> <p>situation [3] 19/19 32/11 71/4</p> <p>six [5] 8/6 47/5 47/10 47/18 47/24</p> <p>skill [1] 57/10</p> <p>Skip [1] 33/23</p> <p>sleeves [1] 8/9</p> <p>slides [1] 48/2</p> <p>slightly [1] 59/16</p> <p>slowly [1] 41/17</p> <p>small [4] 40/25 70/12 70/18 92/13</p> <p>smaller [1] 8/10</p> <p>SMU [1] 7/13</p> <p>so [248]</p> <p>SOCIAL [1] 105/9</p> <p>sold [1] 87/11</p> <p>sole [1] 24/3</p> <p>solid [1] 70/18</p> <p>some [43] 8/9 10/22 14/2 14/17 15/19 15/19 15/20 18/14 27/17 29/1 30/3 30/7 30/10 32/5 32/7 36/17 37/10 48/2 52/15 52/15 52/16 57/11 57/21 58/19 63/13 64/25 66/3 70/22 70/23 70/24 70/24 70/25 71/16 71/22 71/25 79/9 79/23 83/14 83/22 84/1 94/22 94/22 95/16</p> <p>somebodies [1] 96/15</p> <p>somebody [6] 31/8 62/24 65/3 73/18 76/2 96/14</p> <p>somehow [1] 91/18</p> <p>someone [2] 60/20 88/24</p> <p>something [12] 21/13 25/13 25/18 35/13 57/8 63/6 68/14 81/4 84/4 96/25 98/11 99/22</p> <p>sometimes [1] 20/1</p> <p>son [2] 29/11 59/25</p> <p>SONICblue [7] 10/12 10/14 10/16 10/17</p>	<p>10/20 11/1 11/5</p> <p>Sony [1] 31/16</p> <p>soon [1] 52/19</p> <p>sorry [18] 7/15 8/19 8/20 8/24 13/6 42/5 42/10 43/25 44/14 47/6 47/7 51/13 55/8 59/4 68/13 69/2 75/19 79/16</p> <p>sort [6] 15/21 29/22 46/10 59/17 84/10 85/23</p> <p>sought [1] 57/22</p> <p>sound [14] 1/4 28/18 31/7 35/4 35/5 36/23 37/2 49/7 49/21 50/1 50/5 50/8 51/25 55/5</p> <p>sounds [3] 40/23 48/10 64/13</p> <p>space [2] 45/7 48/16</p> <p>speak [3] 8/15 9/5 65/14</p> <p>speakers [1] 65/13</p> <p>speaks [1] 21/21</p> <p>specific [1] 63/1</p> <p>specifically [1] 48/19</p> <p>specifics [1] 82/9</p> <p>spectrum [1] 76/14</p> <p>spending [4] 32/13 32/14 32/15 32/16</p> <p>spiral [3] 84/4 84/4 84/6</p> <p>split [4] 94/15 94/16 94/17 95/1</p> <p>spoke [3] 11/12 11/14 90/20</p> <p>spot [1] 58/3</p> <p>spread [1] 9/1</p> <p>staff [1] 65/4</p> <p>stage [4] 30/14 35/13 35/18 72/23</p> <p>stake [1] 66/19</p> <p>stand [2] 6/11 40/23</p> <p>stands [1] 48/21</p> <p>Stanley [2] 54/23 70/9</p> <p>STARK [5] 1/21 78/4 85/6 100/1 101/14</p> <p>Stark's [2] 76/7 94/13</p> <p>start [10] 11/24 28/5 33/5 59/19 61/8 62/6 66/1 67/5 68/7 85/22</p> <p>start-up [1] 66/1</p> <p>started [5] 6/18 12/17 12/21 32/7 60/7</p> <p>starting [5] 7/25 56/6 61/11 71/13 75/7</p> <p>startup [1] 32/3</p> <p>startups [3] 8/7 32/4 32/8</p> <p>state [1] 6/8</p> <p>statement [5] 8/13 10/7 46/24 47/1 74/3</p> <p>statements [2] 46/20 46/21</p> <p>stating [1] 12/1</p> <p>status [4] 9/22 38/5 80/8 94/5</p> <p>stay [2] 25/24 87/17</p> <p>stayed [1] 40/11</p> <p>SteelSeries [1] 67/19</p> <p>AA 2384</p>
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<p>S</p> <p>step [1] 33/23</p> <p>STEPHEN [3] 1/17 62/18 62/19</p> <p>steps [2] 71/14 102/17</p> <p>stereotypical [1] 29/12</p> <p>Steve [3] 62/17 65/19 65/20</p> <p>stick [4] 57/20 59/15 78/18 82/18</p> <p>STIGI [2] 1/18 2/5</p> <p>still [11] 33/15 34/10 57/14 78/17 85/9 87/10 99/13 101/7 101/9 101/10 102/7</p> <p>stipulate [2] 43/8 44/3</p> <p>stipulated [12] 40/3 40/3 40/13 40/16 40/18 41/7 41/10 41/17 43/14 43/17 43/23 44/6</p> <p>stipulation [4] 42/22 43/14 44/20 44/25</p> <p>stipulations [2] 43/10 44/9</p> <p>stock [38] 15/8 15/11 15/19 19/23 24/10 25/9 25/11 25/18 26/2 26/4 26/5 26/6 26/8 26/14 26/15 27/12 27/19 30/15 35/16 49/14 49/17 49/19 53/18 56/15 66/4 77/24 78/1 80/23 81/1 81/10 81/11 81/17 81/17 81/25 83/17 83/19 83/25 84/3</p> <p>stockholder [2] 50/7 52/1</p> <p>stockholders [1] 72/13</p> <p>stop [1] 36/16</p> <p>store [2] 36/24 37/2</p> <p>strategic [13] 18/17 18/23 55/6 69/14 69/17 71/5 72/12 72/22 73/15 75/15 84/11 87/8 91/13</p> <p>strategy [1] 101/10</p> <p>stream [1] 29/13</p> <p>streams [1] 57/12</p> <p>stress [1] 81/24</p> <p>strike [2] 25/11 53/18</p> <p>string [2] 56/12 56/19</p> <p>STRIPES [2] 1/20 95/7</p> <p>strolled [2] 28/13 28/15</p> <p>strong [1] 36/2</p> <p>structure [4] 19/5 71/17 72/7 72/10</p> <p>struggling [1] 56/3</p> <p>study [3] 53/9 53/10 96/24</p> <p>stuff [1] 29/11</p> <p>style [1] 92/8</p> <p>subject [2] 21/25 59/20</p> <p>subsidiary [1] 50/2</p> <p>substantial [1] 77/15</p> <p>success [2] 32/24 71/19</p> <p>successful [3] 9/24 71/25 72/17</p>	<p>successfully [3] 52/9 52/10 52/20</p> <p>such [1] 48/11</p> <p>sued [2] 8/1 52/3</p> <p>suit [1] 10/5</p> <p>summarize [1] 76/11</p> <p>summarizes [1] 75/13</p> <p>summary [6] 9/13 9/17 10/9 38/25 74/2 79/9</p> <p>superiors [1] 95/11</p> <p>supermarket [1] 37/7</p> <p>support [4] 37/23 58/7 71/11 99/2</p> <p>supporting [1] 8/8</p> <p>sure [14] 7/12 10/8 10/15 18/6 20/22 21/9 25/8 31/25 43/8 44/23 49/12 49/23 58/3 91/3</p> <p>surged [1] 56/13</p> <p>surmise [1] 21/4</p> <p>surprised [1] 97/14</p> <p>sustained [1] 84/20</p> <p>Switzerland [1] 7/15</p> <p>sworn [1] 6/6</p> <p>synopsis [1] 7/11</p> <p>systemic [1] 97/1</p> <hr/> <p>T</p> <p>Tab [1] 33/13</p> <p>table [7] 9/2 66/23 76/12 76/15 78/5 78/19 104/4</p> <p>take [21] 8/7 12/2 12/7 16/19 18/22 19/3 27/8 32/24 33/8 35/20 39/4 41/11 51/18 60/20 61/14 66/18 81/23 83/1 83/17 98/24 100/15</p> <p>takes [1] 25/13</p> <p>talent [2] 30/3 30/10</p> <p>talents [1] 17/14</p> <p>talk [5] 16/7 26/3 36/22 78/9 80/10</p> <p>talked [3] 48/3 61/22 70/9</p> <p>talking [16] 19/4 28/24 34/10 60/12 61/8 62/6 68/3 68/6 69/13 73/19 80/8 80/12 85/7 85/8 85/9 101/20</p> <p>tan [1] 29/15</p> <p>target [2] 79/9 86/2</p> <p>targets [3] 24/22 25/4 80/12</p> <p>TAX [1] 105/10</p> <p>team [2] 7/18 65/16</p> <p>tech [2] 7/25 70/18</p> <p>Technologies [1] 7/22</p> <p>technology [35] 7/22 28/13 28/23 29/1 31/18 31/19 32/24 35/3 36/20 37/3 48/10 48/25 56/3 57/11 57/14 58/1 58/5 58/20 60/2 60/13 61/4 63/4 63/13 63/17 64/20 65/11 65/16 66/17 80/14 86/1 87/3 96/17 97/1 97/4 97/15</p> <p>technology's [1] 98/6</p>	<p>tell [7] 12/8 31/8 41/9 48/7 55/11 62/14 64/7</p> <p>telling [2] 80/6 93/18</p> <p>tells [1] 35/4</p> <p>Ten [1] 61/16</p> <p>tension [1] 68/10</p> <p>tenure [1] 11/5</p> <p>term [8] 22/5 32/20 69/22 84/3 87/25 88/2 88/3 99/20</p> <p>terms [37] 16/15 17/16 18/19 18/20 19/16 21/22 25/6 26/14 30/6 48/17 51/22 53/23 56/22 57/4 57/5 63/25 66/21 69/9 70/20 70/22 70/25 73/3 73/4 80/7 80/11 83/1 89/13 90/12 90/14 93/22 95/1 97/11 99/14 99/18 100/13 100/15 100/17</p> <p>Tesla [1] 32/7</p> <p>Tesla's [1] 32/10</p> <p>test [3] 21/12 38/10 48/14</p> <p>testified [1] 6/7</p> <p>testimony [8] 7/6 21/10 32/5 32/21 36/17 52/17 84/16 92/2</p> <p>testing [1] 57/5</p> <p>tethered [1] 65/11</p> <p>Texas [1] 7/17</p> <p>than [7] 56/13 56/15 56/18 63/6 67/5 70/8 99/18</p> <p>thank [16] 6/14 9/4 9/7 21/15 22/20 33/24 42/18 44/7 46/12 51/10 51/10 61/15 61/19 64/9 104/7 104/13</p> <p>thanks [1] 29/4</p> <p>that [426]</p> <p>that'll [1] 35/16</p> <p>that's [63] 9/3 9/17 11/7 16/8 16/10 18/3 21/4 22/24 23/19 24/4 24/14 24/24 25/2 25/5 25/23 27/18 27/24 28/2 31/2 37/6 39/25 43/1 45/21 47/7 47/9 47/22 47/23 47/23 47/25 50/4 50/6 50/9 50/16 51/3 53/4 58/6 61/3 61/6 61/13 62/22 63/8 66/7 68/1 68/8 69/7 69/11 70/8 74/8 78/7 78/15 80/3 81/4 81/15 83/16 83/18 83/21 84/12 85/19 90/9 93/4 96/19 99/19 100/8</p> <p>their [18] 15/13 28/14 43/17 48/16 63/14 66/3 66/6 66/18 69/4 71/20 72/16 73/4 85/25 86/2 86/3 86/14 93/8 96/15</p> <p>them [43] 9/1 19/1 22/13 25/13 25/19 28/14 31/6 31/8 31/9 31/11 35/16 40/12</p>	<p>40/12 40/13 40/18 41/3 41/5 41/8 41/11 43/15 43/16 53/9 54/11 55/6 58/7 65/14 66/19 70/5 70/12 70/16 70/16 70/17 72/19 72/24 73/3 73/17 73/18 80/6 80/10 82/8 84/2 87/8 88/7</p> <p>themselves [1] 35/4</p> <p>then [28] 7/14 8/9 12/2 13/9 26/12 27/16 28/14 33/20 38/22 38/25 43/6 43/13 61/14 66/11 73/1 73/4 73/22 78/4 78/21 79/3 81/5 83/3 86/25 91/4 96/10 99/5 99/10 102/21</p> <p>theoretically [1] 83/23</p> <p>theory [4] 26/7 26/12 38/11 48/14</p> <p>there [70] 6/21 10/4 10/5 10/7 10/8 10/8 10/9 10/12 10/22 11/1 11/3 12/1 12/2 15/1 16/1 16/1 19/16 23/13 27/25 28/2 28/2 28/9 28/24 29/8 31/19 36/7 36/8 37/11 37/17 37/20 43/14 43/15 44/2 48/2 48/17 49/19 50/13 50/14 50/17 51/1 53/2 57/18 58/9 58/22 59/15 65/3 65/10 65/21 66/17 67/15 70/22 70/23 71/21 71/24 74/2 77/13 80/21 81/25 84/1 84/3 84/5 84/15 86/10 87/20 90/22 93/10 93/19 93/21 93/23 99/7</p> <p>there's [17] 7/7 19/23 19/25 23/7 25/17 27/18 37/22 67/4 73/3 74/24 75/3 75/9 76/19 83/2 97/3 101/23 103/9</p> <p>therefore [1] 94/21</p> <p>these [23] 8/9 16/23 25/18 26/2 26/9 26/10 37/17 37/22 58/7 65/16 69/5 71/19 82/16 84/5 90/14 98/4 98/4 100/17 103/1 103/1 103/1 103/11 103/11</p> <p>Thesing [5] 62/18 62/19 63/10 63/20 64/17</p> <p>Thesing's [1] 63/9</p> <p>they [54] 13/17 13/19 21/22 22/14 22/14 25/18 39/16 40/9 40/14 43/23 45/16 50/22 56/23 56/24 58/1 59/12 63/15 63/16 66/4 66/18 66/20 70/11 70/12 70/13 70/14 71/11 71/25 72/18 72/24 73/1 73/4 73/9 73/17 73/20 73/21 73/23 80/7 80/9 83/11 83/12 83/13 86/1 86/1 87/3 87/24 89/16</p>	<p>90/15 90/15 91/24 95/3 95/4 95/5 96/16 97/14</p> <p>they'll [3] 71/7 71/9 71/10</p> <p>they're [5] 31/18 63/14 63/15 80/8 83/1</p> <p>thing [11] 15/4 21/21 22/10 25/23 27/10 35/20 37/21 43/17 51/12 95/12 101/18</p> <p>things [14] 15/4 15/7 15/8 15/11 20/19 26/9 27/6 27/8 48/15 58/7 71/19 73/24 75/13 87/14</p> <p>think [34] 7/5 7/7 11/12 11/14 11/16 11/18 14/6 15/21 20/20 24/19 29/15 32/5 32/21 32/22 37/3 40/2 44/10 45/14 45/22 46/14 52/18 54/3 56/4 59/17 64/11 68/17 69/12 71/23 75/25 77/6 81/13 81/16 84/3 84/15</p> <p>thinking [4] 78/12 78/12 103/14 103/20</p> <p>thinks [1] 81/8</p> <p>third [3] 7/5 53/16 74/23</p> <p>third-party [1] 53/16</p> <p>this [197]</p> <p>those [26] 18/10 18/25 19/3 20/4 24/22 25/4 27/9 36/24 37/14 37/16 37/23 44/5 50/20 50/20 50/24 53/20 57/24 58/22 58/24 63/25 71/23 76/21 79/10 79/10 80/8 103/5</p> <p>though [5] 18/3 21/22 77/17 87/14 103/12</p> <p>thought [16] 7/25 28/15 28/24 30/6 44/20 45/1 58/1 60/6 63/16 64/20 70/13 73/23 86/1 99/4 99/13 104/15</p> <p>thoughts [1] 48/16</p> <p>three [14] 13/1 27/9 27/12 40/13 41/6 43/18 47/4 47/7 58/22 58/24 66/16 66/20 66/22 67/24</p> <p>through [35] 8/15 10/19 13/2 14/17 21/18 24/19 27/9 29/17 29/19 30/16 34/15 34/25 35/19 35/20 36/1 36/23 37/2 38/12 38/16 54/4 61/7 64/19 70/10 70/25 71/14 72/22 74/1 84/10 88/15 92/1 92/15 92/18 93/16 94/18 96/5</p> <p>THURSDAY [1] 1/12</p> <p>tied [4] 15/5 23/14 72/18 94/20</p> <p>time [53] 10/18 12/7 12/17 15/20 17/10 17/10 24/18 25/19 27/9 29/11 29/19 29/22</p> <p>AA 2385</p>
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T	20/1 20/1 20/5 20/5 100/19 triggered [3] 20/6 77/9 77/17 trouble [2] 43/25 82/25 true [2] 9/17 17/20 TRULY [1] 105/3 try [7] 8/15 32/15 34/21 39/8 57/20 78/17 89/24 trying [7] 34/10 35/1 45/4 58/9 73/5 95/12 104/22 tuns [1] 19/23 turn [11] 9/9 26/11 27/21 33/13 67/13 69/19 71/12 74/13 78/25 85/13 98/16 turned [2] 7/22 60/1 turning [1] 30/20 Turtle [55] 11/19 15/22 20/8 20/16 27/11 61/9 62/7 62/15 63/12 63/20 63/24 64/1 64/21 66/17 67/8 67/16 67/25 68/2 68/3 68/5 68/22 69/1 69/3 73/8 73/10 73/12 77/16 77/23 87/12 87/14 87/23 88/2 89/14 90/22 91/22 92/7 93/2 93/9 94/25 95/18 95/22 95/24 96/2 96/8 96/23 97/12 98/2 99/4 99/6 100/19 100/24 101/19 103/19 104/5 104/9 two [15] 9/25 15/9 18/10 20/18 24/16 27/6 29/9 29/9 40/13 41/6 66/15 66/18 91/14 104/15 104/15 types [1] 85/9 typically [4] 15/5 15/18 19/18 59/12	unless [1] 100/17 unlikelihood [1] 78/15 unrelated [1] 53/16 until [4] 52/9 52/19 61/17 104/23 unusual [1] 26/17 unvested [4] 25/21 27/2 27/12 27/19 up [39] 6/11 6/21 8/9 18/12 22/18 25/16 25/22 25/25 28/13 28/15 32/7 35/16 40/11 40/24 41/17 48/4 56/15 59/10 61/18 61/21 66/1 68/12 68/16 70/24 71/16 71/22 71/23 75/25 83/14 83/24 85/22 86/25 88/4 88/22 88/24 95/4 97/2 97/9 98/2 up-front [4] 70/24 71/16 71/22 71/23 upcoming [1] 51/23 update [1] 80/11 updated [1] 94/4 upon [2] 26/10 30/2 us [12] 6/13 6/13 28/8 30/14 35/4 38/11 60/15 66/4 66/21 82/25 93/25 97/20 use [14] 18/8 32/11 32/18 34/19 36/20 45/6 48/9 53/17 54/10 59/4 65/16 69/8 85/25 86/4 used [3] 45/6 84/23 102/23 user [1] 58/1 using [5] 16/5 36/20 39/16 96/15 96/16 usually [10] 15/4 15/8 15/15 22/6 24/16 24/18 48/13 59/12 81/19 81/21 UTA [1] 58/21 utilize [1] 63/13	29/10 29/13 30/19 57/9 60/25 61/1 65/15 65/18 70/18 71/9 83/6 83/15 87/8 92/13 97/24 101/22 vest [2] 27/2 67/1 vested [1] 26/5 vesting [4] 25/19 26/10 27/9 100/19 vibrates [1] 48/11 vice [1] 62/19 vice-president [1] 62/19 vicinity [1] 99/21 VIDEO [1] 105/4 view [1] 77/25 visit [1] 28/22 voices [1] 8/16 volatile [1] 94/24 volume [2] 1/13 57/9 vote [1] 92/1 VP [1] 86/14 VTB [3] 1/20 1/21 95/7	94/22 95/12 98/3 98/5 102/7 103/13 104/9 we've [9] 17/24 30/12 34/9 36/17 52/17 61/7 63/23 68/17 92/1 week [4] 32/6 32/21 88/1 88/1 weeks [1] 67/24 Weisbord [1] 32/23 welcome [2] 9/1 21/13 well [47] 12/2 13/10 16/18 20/13 20/18 20/19 20/23 21/3 22/8 25/19 28/7 30/14 32/16 34/2 35/9 35/17 36/12 40/10 41/8 43/12 43/13 43/18 45/21 49/17 51/6 52/1 56/4 59/19 60/3 62/18 65/24 67/13 68/9 71/3 72/2 73/17 74/5 74/5 81/20 83/22 87/1 88/25 90/15 97/11 99/12 101/1 102/19 went [7] 7/24 8/4 13/12 24/19 33/7 49/11 52/12 were [100] 10/14 10/15 10/22 13/16 13/17 13/19 14/2 14/15 17/25 18/17 18/23 18/25 19/4 20/7 23/10 23/13 28/2 29/20 29/21 32/13 32/14 32/15 34/12 35/8 35/17 36/13 37/4 37/14 37/17 37/19 37/20 37/21 39/19 42/4 47/4 48/2 49/19 49/25 50/17 50/20 51/1 52/15 52/23 53/20 54/4 54/4 56/21 56/23 56/24 57/10 57/18 58/9 58/24 58/24 59/7 59/13 60/12 60/12 63/20 64/1 65/3 65/11 65/21 66/21 66/22 68/18 76/12 76/15 77/3 79/10 80/9 84/1 84/3 84/5 84/9 85/7 85/8 87/15 87/17 88/17 88/17 90/15 91/18 91/21 95/1 95/3 95/4 96/16 97/14 97/14 99/7 99/7 99/17 99/25 100/11 103/1 103/1 103/1 103/5 103/11 weren't [4] 36/12 66/25 87/11 100/18 what [147] what's [18] 8/6 9/22 19/25 21/19 21/23 34/7 51/20 51/20 59/20 62/12 64/3 67/22 68/11 69/21 85/21 86/18 98/20 102/10 whatever [4] 21/9 31/14 69/9 69/10 when [40] 9/5 10/15 11/16 11/17 12/21 12/23 13/4 13/9 13/14 14/2 19/3 26/3 28/9 28/9 29/8 31/13 38/18
AA 2386				

<p>W</p> <p>when... [23] 40/7 45/6 48/5 48/6 52/10 52/23 57/22 57/25 62/22 63/5 64/16 69/13 71/4 77/4 77/11 82/17 83/14 88/17 95/1 99/25 100/11 103/14 103/18</p> <p>where [11] 9/21 10/24 22/13 28/2 33/4 33/4 56/7 57/4 70/9 71/5 86/21</p> <p>whereas [1] 30/12</p> <p>whether [27] 10/8 12/8 20/4 23/11 23/17 43/23 49/11 49/12 60/10 61/25 65/3 73/3 73/6 73/7 73/10 74/2 79/12 88/5 89/13 90/12 92/15 96/1 96/25 96/25 98/22 98/22 99/15</p> <p>which [28] 7/21 16/7 18/12 24/21 25/16 28/12 29/21 38/21 40/15 43/22 44/25 45/19 46/14 51/11 52/19 55/14 56/11 59/9 65/22 69/23 73/12 75/13 77/5 85/23 85/25 91/1 95/6 95/9</p> <p>while [5] 40/21 40/24 51/24 61/4 67/11</p> <p>who [25] 13/3 13/15 13/17 13/19 23/11 23/15 39/16 40/20 49/16 50/24 51/24 53/8 54/22 55/8 55/11 62/18 63/2 64/25 65/20 66/8 67/18 80/7 86/14 86/20 92/22</p> <p>who's [1] 86/13</p> <p>whole [9] 23/21 35/20 37/2 38/16 77/5 82/3 94/18 102/20 103/6</p> <p>wholly [1] 50/2</p> <p>wholly-owned [1] 50/2</p> <p>whom [3] 64/24 90/6 91/15</p> <p>whose [2] 87/7 89/18</p> <p>why [25] 15/1 27/4 30/6 36/2 37/16 51/6 56/4 56/18 59/22 62/17 68/2 70/5 77/13 77/20 80/24 81/10 81/21 81/24 82/18 88/21 89/22 90/3 91/21 91/25 101/9</p> <p>wide [1] 76/19</p> <p>will [16] 17/7 17/11 21/6 21/7 21/22 23/24 39/15 42/16 44/5 61/14 67/1 71/11 76/23 84/15 87/4 98/16</p> <p>WILLIAMS [2] 105/12 105/16</p> <p>willing [3] 62/25 81/22 83/1</p> <p>win [1] 28/18</p>	<p>window [1] 28/16</p> <p>Winds [2] 37/11 37/25</p> <p>wire [1] 65/14</p> <p>wise [1] 11/23</p> <p>withdraw [1] 73/6</p> <p>withdrawn [3] 56/4 82/19 103/16</p> <p>within [3] 18/16 26/3 99/22</p> <p>without [6] 18/18 19/12 19/17 19/21 29/16 37/1</p> <p>witness [4] 6/6 6/19 29/1 84/20</p> <p>witnesses [3] 2/3 22/11 43/18</p> <p>WOLFE [3] 1/18 10/24 10/24</p> <p>Woody [6] 13/5 13/6 13/20 13/21 13/21 13/23</p> <p>word [4] 16/20 17/24 55/9 62/23</p> <p>words [3] 14/9 27/21 102/23</p> <p>work [12] 8/5 9/22 27/17 28/5 30/24 72/12 72/23 73/4 75/4 75/14 77/3 95/24</p> <p>worked [2] 70/15 70/16</p> <p>working [3] 29/3 44/11 65/23</p> <p>workstations [1] 65/12</p> <p>worldwide [1] 86/15</p> <p>worry [1] 85/20</p> <p>worth [10] 25/13 25/18 26/9 26/15 27/8 29/15 52/16 52/20 53/11 81/9</p> <p>would [119]</p> <p>would've [1] 54/10</p> <p>wouldn't [6] 27/20 35/10 36/23 77/17 88/7 91/24</p> <p>write [2] 42/16 86/23</p> <p>writing [1] 23/20</p> <p>written [1] 17/8</p> <p>wrong [3] 45/2 93/24 93/24</p> <hr/> <p>X</p> <hr/> <p>XI [1] 1/6</p> <hr/> <p>Y</p> <hr/> <p>Yale [1] 7/14</p> <p>yeah [103] 8/21 8/24 10/17 11/18 13/22 13/22 14/7 18/17 18/22 19/11 19/18 19/21 20/18 21/4 22/17 23/23 26/5 27/6 29/25 30/2 31/16 32/13 35/2 35/17 36/21 37/17 37/18 38/7 38/14 39/7 39/14 40/21 42/15 42/24 43/8 44/18 46/6 48/6 48/9 48/20 48/23 49/5 50/13 51/18 51/21 53/5 53/7 53/16 54/3 55/1 55/3 55/13 57/7 57/25 58/19 59/8</p>	<p>59/22 59/24 60/4 62/24 64/19 65/10 65/21 66/3 66/8 66/15 68/24 70/9 70/22 71/7 71/19 72/15 72/16 73/14 73/16 74/10 76/14 78/14 79/9 81/4 81/16 82/15 82/22 83/6 83/10 83/11 84/5 85/25 88/19 90/15 92/3 92/23 93/8 93/19 94/17 96/14 97/23 98/22 99/17 100/14 102/9 102/11 103/11</p> <p>year [9] 20/18 21/5 22/19 24/5 29/18 51/23 56/16 56/19 103/7</p> <p>year's [1] 15/11</p> <p>yearly [1] 22/6</p> <p>years [8] 9/25 11/8 11/10 11/19 13/1 20/18 27/9 27/12</p> <p>yelping [1] 60/7</p> <p>yes [62] 6/16 8/17 9/15 9/24 10/5 10/13 11/2 11/4 12/9 12/19 13/5 15/4 16/21 16/24 17/5 17/22 19/11 20/13 26/25 28/11 31/24 33/3 33/12 36/6 38/4 38/24 41/15 43/8 45/24 46/18 49/15 50/19 54/21 56/8 56/21 57/15 58/13 61/24 62/9 66/13 67/17 70/6 72/5 72/14 73/9 74/13 74/17 75/1 75/8 75/11 76/9 80/5 82/12 85/11 85/18 86/7 86/9 90/24 92/8 93/9 103/21 104/13</p> <p>yesterday [11] 6/10 8/5 10/14 11/12 11/14 20/19 75/25 76/5 90/20 92/2 99/24</p> <p>yet [5] 36/8 42/25 56/14 60/2 79/4</p> <p>yielded [1] 72/17</p> <p>you [448]</p> <p>you'd [4] 14/9 24/22 31/13 64/3</p> <p>you'll [2] 89/5 90/25</p> <p>you're [18] 9/1 16/16 18/13 35/7 35/9 36/7 38/20 57/2 61/18 68/5 68/6 69/5 70/7 81/4 85/17 99/25 103/14 103/18</p> <p>you've [12] 9/5 25/18 26/8 28/7 36/14 38/20 43/10 59/10 59/11 64/10 68/7 84/23</p> <p>young [1] 28/13</p> <p>your [86] 6/3 6/8 6/15 6/16 7/10 7/11 9/13 9/17 9/22 12/12 12/17 12/20 14/17 14/18 14/21 18/20 19/9 21/10 21/19 22/25 23/2 23/9 23/17 25/10 26/18 27/22 28/1 28/7 30/24</p>	<p>30/25 32/10 33/17 33/24 35/20 35/22 40/2 40/4 40/10 40/19 41/2 44/13 44/16 45/18 45/25 46/12 52/3 52/6 52/7 52/17 59/9 61/15 61/19 65/8 66/22 67/24 68/6 68/8 68/9 68/16 68/23 72/2 72/6 72/10 73/7 75/2 76/21 77/12 77/25 78/8 79/17 79/19 82/11 82/13 82/18 84/14 84/18 86/5 89/2 94/21 94/22 97/18 100/5 100/6 104/13 104/21 104/22</p> <p>yours [2] 11/6 95/24</p> <p>yourself [2] 67/8 68/21</p> <hr/> <p>Z</p> <hr/> <p>zero [4] 52/8 52/8 52/19 52/19</p> <p>zone's [1] 87/1</p>
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Message

From: ken potashner [ken.potashner@gmail.com]
Sent: 8/7/2013 1:50:24 PM
To: Juergen Stark [juergen.stark@turtlebeach.com]; Karen Kenworthy [Karen@stripesgroup.com]; Ron Doornink [rdoornink@aol.com]
Subject: new thought based on our discussion

Since you are reluctant to do base case for 2013 I would suggest:

- 2012 actuals
- directional commentary in 2013
- highly bullish directionality on 2014.- you got to get the investors excited about this deal

also if 2011 was numbers show could growth from 11 -12 you can consider them in as well...

PS I have a CEO at Newport who is laways ultraconservative on investor calls..always afraid of missing the numbers. We trade at a 30% multiple discount to rest of industry as a result. It is why I hired JPM over there to look at options.

In re Parametric Sound
Corp.

DX-775

No. A-13-686890-B

Page 1 of 1
AA 2388

To: Juergen Stark[juergen.stark@turtlebeach.com]
From: Ken
Sent: Thur 8/8/2013 8:38:39 PM
Subject: Re: Final script for earnings call

I am not hedging and saying we will likely do the deal with TB but might do a deal with other interested parties..I am all in on getting our deal done. You should give the best possible spin on getting shareholders behind this...

Anyway do what you want....

Sent from my iPad

On Aug 8, 2013, at 1:34 PM, Juergen Stark <juergen.stark@turtlebeach.com> wrote:

what's the difference!? we want to leave a bit in there in case there are adjustments from auditors. our UK business is not US GAAP. that's a 22% margin and is probably better relative to the 2013 guidance than making it higher.

On Thu, Aug 8, 2013 at 9:32 PM, Ken <ken.potashner@gmail.com> wrote:

Drop the hedge .. Your hedges are killing me. Say 48 and say subject to adjustments

Sent from my iPad

On Aug 8, 2013, at 1:31 PM, Juergen Stark <juergen.stark@turtlebeach.com> wrote:

actual is \$48 but we hedged a little given it is not fully GAAP and used "approximate" language.

On Thu, Aug 8, 2013 at 9:27 PM, Ken <ken.potashner@gmail.com> wrote:

I meant 2012.

Sent from my iPad

On Aug 8, 2013, at 1:22 PM, Juergen Stark <juergen.stark@turtlebeach.com> wrote:

i assume you are kidding..48? no base case is 40.

On Thu, Aug 8, 2013 at 9:18 PM, <ken.potashner@gmail.com> wrote:

I thought your edit was going to be 48m

Sent from my iPhone

On Aug 8, 2013, at 1:14 PM, Juergen Stark <juergen.stark@turtlebeach.com> wrote:

Attached.

--

Juergen Stark
CEO



Turtle Beach, Inc.

juergen.stark@turtlebeach.com
100 Summit Lake Drive, Suite 100
Valhalla, NY 10595
+1 914-358-8807
www.turtlebeach.com



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In re Parametric Sound
Corp.

DX-776

No. A-13-686890-B

--

Juergen Stark
CEO



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Valhalla, NY 10595
[+1 914-3 58-8807](tel:+19143588807)
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--

Juergen Stark
CEO



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[+1 914-3 58-8807](tel:+19143588807)
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--

Juergen Stark
CEO



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Message

From: ken.potashner@gmail.com [ken.potashner@gmail.com]
Sent: 8/8/2013 5:51:11 PM
To: Dufilho, Mark [MDufilho@HL.com]
Subject: Re: Comps

I don't like it either but he won't move off it. Feel free to send your thoughts directly to him

I like 12 actuals , 13 considerations , 14 considerations

Good luck I haven't been able to move him

Sent from my iPhone

On Aug 8, 2013, at 10:04 AM, "Dufilho, Mark" <MDufilho@HL.com> wrote:

Ken:
Are you rethinking disclosure strategy relative to our discussion last night?
The concept of a range still gives me concern....

Mark Dufilho
Director
Consumer, Food & Retail Group

HOULIHAN LOKEY
214.220.8477 Direct
214.682.2522 Mobile
MDufilho@HL.com

From: ken.potashner@gmail.com [mailto:ken.potashner@gmail.com]
Sent: Thursday, August 08, 2013 10:46 AM
To: Hoverman, Daniel; Dufilho, Mark
Subject: Fwd: Comps

Sent from my iPhone

Begin forwarded message:

From: Tracy Neumann <tracyneumann@pacbell.net>
Date: August 8, 2013, 8:37:45 AM PDT
To: ken potashner <ken.potashner@gmail.com>
Subject: Re: Comps

Juergen made you take out better than peers in the release. Jim and I kept trying to keep it in. Remember?

Tracy

On Aug 8, 2013, at 6:36 AM, ken potashner <ken.potashner@gmail.com> wrote:



----- Forwarded message -----

From: **Dufilho, Mark** <MDufilho@hl.com>

Date: Thu, Aug 8, 2013 at 6:30 AM

Subject: Comps

To: "Hoverman, Daniel" <DHoverman@hl.com>, ken potashner
<ken.potashner@gmail.com>

Cc: "Greenway, Adam" <AGreenway@hl.com>

Resending....

Mark Dufilho

Houlihan Lokey

Office: 214.220.8477

Mobile: 214.682.2522

On Aug 6, 2013, at 9:16 PM, "Dufilho, Mark"

<MDufilho@HL.com> wrote:

SKUL and Logitech are the wrong comps to have anyone focus on, as both are struggling and have subpar margins. Dan should weigh in with how specific you can be, but Plantronics is the best comp to point to. Their business is focused on audio and communication solutions with a heavy focus on IP differentiation - very similar technology to VTB. They are primarily B2B, but have a (small) consumer business as well - relevant given our combined focus on B2C and B2B. Most importantly, they are the only comp with EBITDA margins in the same zip code (20%). AND they trade at 2x sales, and 10x EBITDA. They are identified as a comp in CH analysis.

Mark Dufilho

Houlihan Lokey

Office: 214.220.8477

Mobile: 214.682.2522

On Aug 6, 2013, at 7:43 PM, "Hoverman, Daniel"

<DHoverman@hl.com> wrote:

People are looking at SKUL and assuming margins are the same – this is exactly the risk we flagged on the con call over the weekend... and luckily we put the “margins better than peers” in the press release for exactly this reason. I think you’re well within the

context to discuss who you consider are peers, and guide people to a correspondingly better margin. Use the page from the CH fairness opinion as the guideposts, since that was the backup for the comment in the press release.

Daniel S. Hoverman
Director

HOULIHAN LOKEY
212.497.4180 Direct
212.497.4100 Main
917.671.7107 Mobile
DHoverman@HL.com

From: ken potashner
[mailto:ken.potashner@gmail.com]
Sent: Tuesday, August 06, 2013 8:41 PM
To: Dufilho, Mark; Hoverman, Daniel
Subject: Fwd: URGENT

ideas?

----- Forwarded message -----

-

From: **ken potashner**
<ken.potashner@gmail.com>
Date: Tue, Aug 6, 2013 at 4:22 PM
Subject: URGENT
To: john hentrich
<jhentrich@sheppardmullin.com>

The deal is being aggressively attacked by investors due to the lack of clarity on profitability of TB. stock at 14. Everyone assuming very poor profit picture. I need to say more then we have said. Let me know how to push the limits. I am willing to take some risks.

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

**Proxy Statement Pursuant to Section 14(a) of the Securities
Exchange Act of 1934 (Amendment No. ____)**

Filed by the Registrant ☐ T
Filed by a Party other than the Registrant ☐ £
Check the appropriate box:

- ☐ £ Preliminary Proxy Statement
☐ £ Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(a)(2))
☐ £ Definitive Proxy Statement
☐ £ Definitive Additional Materials
☐ T Soliciting Material Pursuant to §240.14a-12

Parametric Sound Corporation
(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- ☐ T No fee required
☐ £ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

- (1) Title of each class of securities to which transaction applies: _____
(2) Aggregate number of securities to which transaction applies: _____
(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined): _____
(4) Proposed maximum aggregate value of transaction: _____
(5) Total fee paid: _____

- ☐ Fee paid previously with preliminary materials.
☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

- (1) Amount previously paid: _____
(2) Form, Schedule or Registration Statement No.: _____
(3) Filing Party: _____
(4) Date Filed: _____
-

In re Parametric Sound
Corp.

DX-785

No. A-13-686890-B

**Subject Company: Parametric Sound Corporation
Commission File No.: 000-54020**

On August 8, 2013, Parametric Sound Corporation ("Parametric") held a conference call pertaining to its financial results for its third quarter ended June 30, 2013 and along with Juergen Stark, CEO of Turtle Beach provided additional business and financial information with respect to Turtle Beach and the recently announced Agreement and Plan of Merger ("Merger Agreement") dated August 5, 2013, by and among Parametric, Turtle Beach and Paris Acquisition Corp., a wholly-owned subsidiary of Parametric, and related matters.

Below is a transcript of the call:

**August 8, 2013
5:00 p.m. ET**

Operator: Good day, ladies and gentlemen, and welcome to the Parametric Sound Reports Third Quarter 2013 Results conference call. At this time, all participants are in a listen-only mode. Later, we will conduct a question and answer session and instructions will follow at that time.

If anyone should require assistance during the conference, please press star then zero on your touchtone telephone. As a reminder, this conference call is being recorded. I would now like to turn the conference over to Steven Hooser, Investor Relations representative. You may begin.

Steven Hooser: Thank you, (LaToya). Good afternoon and welcome to Parametric Sound's conference call to discuss financial results for the third quarter of fiscal 2013.

Before we get started, we will be referring to today's press release announcing third quarter results, which can be downloaded from the Investor Relations page of our Web site, parametricsound.com.

In addition to our discussion of third quarter results, Juergen Stark, CEO of Turtle Beach, will join the call to provide additional business and financial information with respect to Turtle Beach and discuss the recently announced merger.

There will be further communications in the days and weeks ahead about the proposed merger. We also intend to file with the SEC a proxy statement and other relevant materials regarding the proposed transaction. Shareholders of Parametric Sound are urged to read all relevant documents filed with the SEC, including the proxy statements, as it will contain important information about the proposed transaction.

I must point out that during today's call we will be making projections and other forward-looking statements, which are based on our current beliefs and expectations. Please be aware that these statements are subject to certain risks and uncertainties. We advise you to consult Parametric Sound's filings with the SEC for additional information.

In addition, this communication may be deemed to be a solicitation in respect of the proposed merger of Parametric Sound and Turtle Beach. The directors and executive officers of Parametric Sound and Turtle Beach may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction.

I will now turn the call over to Mr. Ken Potashner for some additional remarks.

Kenneth Potashner: Thanks, Steve. I'd like to welcome everybody to our third quarter earnings conference call.

The company continues to execute positively on our previously stated operational plans. As everybody knows, we announced our merger intentions with Turtle Beach and I'm very pleased that Juergen Stark, the CEO of Turtle Beach, was able to join us on this call today, as well.

As a start, we'll have Jim Barnes review our financial performance for the quarter.

James Barnes: Thanks, Ken, and good afternoon.

My remarks will focus on our operating results for the third fiscal quarter of 2013, which ended on June 30th, 2013. I will also comment on certain cash flow and balance sheet items and then I'll turn the call back to Ken.

We are very pleased with the progress we have made this year. We continue to make important progress on building our commercial HSS business in the third quarter. Ken will be providing more details about pilots and rollouts. We see momentum building in the commercial sector. We are preparing and managing our supply chain to support that growth.

Our licensing initiative led to the recent announcement regarding our merger agreement with Turtle Beach. We continue to add to our patent portfolio and with the Turtle Beach announcement, we are taking steps to even more aggressively broaden our protection. We are making important innovations in the emitter technology that we believe will prove to be very valuable addition to our patent portfolio.

Third quarter revenue totaled \$212,000, up from \$34,000 recorded during the same quarter last year and up 155,000, sequentially, from the (March) second quarter. Both sequentially and overall, we are seeing commercial sales growth and we expect that to accelerate in future quarters.

Gross profit was \$101,000 for the third quarter of fiscal 2013; positive in comparison to \$16,000 for the same quarter last year. We target commercial gross margins of 40 to 50 percent, but that may vary in future quarters as a result of volume discounts, production efficiencies and other factors as we grow.

Total operating costs were \$2 million for Q3, including \$519,000 of noncash option expense. We also incurred approximately \$300,000 of strategic transaction costs, consisting of legal, accounting and investment bank fees during Q3. We also spent a lot of internal effort, time and costs supporting very intensive merger-related patent, legal, financial and business due diligence.

For Q3 of the prior year, total operating costs were 1.7 million, including 849,000 of noncash option expense. We expended approximately \$50,000 of direct costs on hypersonic (health) development in Q3, plus some additional support costs. If you exclude the strategic transaction costs, our monthly operating costs have remained steady at just over \$300,000 per month this fiscal year to date and we expect our normal operating costs to continue at comparable levels.

In future quarters, we expect cash expenditure levels to be offset in greater part by increasing cash contribution from commercial revenues. We do expect, however, to incur substantial legal, accounting, proxy, filing and other fees and costs associated with the Turtle Beach merger during our Q4 of 2013 and in Q1 of fiscal 2014. We expect the merger to close during our Q1 of 2014 that ends in December 2013.

Future merger costs will vary, depending on the division of work between ourselves and Turtle Beach and other factors; some of those factors outside our control. We are jointly developing plans and budgets for this work and the related costs, but we don't have details at this time.

Our net loss for the third quarter of 2013 was 1.9 million, or 28 cents per share, and included \$519,000 of noncash stock option expenses. During the first three quarters of fiscal 2013, we received cash proceeds of just over \$1 million from the exercise of warrants and options. Our cash position at June 30 was \$3.3 million and has been supplemented by 182,000 of cash from warrant exercises so far in Q4.

We believe our cash resources, along with growing margins from increased sales are sufficient to fund normal operating costs during the next 12 months. We intend to obtain additional resources as a result of the increased costs related to the merger. As we – as we have stated, we may seek a minimum of \$5 million of debt or equity proceeds prior to completion of the merger.

From a financial perspective, while there's a lot of work involved in preparing for the proxy filing and the shareholder meeting, we don't foresee any significant issues in integrating the two companies for future financial reporting purposes.

This concludes the financial discussion. I will now turn the call back to Ken.

Kenneth Potashner: Thank you, Jim.

Although I'm sure everybody wants to discuss the merger first, we're going to do that last and have Juergen add his perspectives at that time; we have significant positive progress to report on our core businesses and I want to make sure that we take the time to get appropriate focus to that.

So Jim reviewed our revenue performance and at this stage, revenue continues to be a direct consequence of the positive progress that we're making on our pilot initiatives. We continue to receive consistently good news on these pilots and one of the substantial opportunities for (ourselves) has been our performance on our McDonald's pilot.

McDonald's channel has now designated us as a premium audio solution for their restaurant installations. As you know, we were in pilot installations in two of their California restaurants, including the highest revenue restaurant west of the Mississippi; their Disneyland property. And those pilots went extremely well. We've got an extremely pleased franchisee.

So we've now been notified that we're being designed into five additional restaurants owned by other franchisees in Southern Californian, and more importantly, the McDonald's channel is actively now presenting us as a solution to an additional 300 restaurants.

In addition to McDonald's, we continue to proceed with planned previously announced installations and growth with Build-A-Bear and we have also now launched additional new pilots in multiple multibillion dollar global consumer electronic company applications. The range of the applications continues to be very broad and, as a simple example, we're now building product to be installed in national museums in Japan and Hong Kong and (a) long, long list of where the technology applies.

On the HHI front – this is our health applications; we continue to also make great progress. At this point, we've completed all testing, data analysis and demonstrated the efficacy and the safety of our solution and the results are extremely good. We now have consultants working on our FDA submission.

We also have completed our first live customer installation and are very – and we have a very happy individual who's hearing his TV for the first time in many, many years; maybe even decades. And we have a happy wife who can sleep in the next room, without having a blaring TV keeping her up at night.

On the I.P. licensing side, we've collaborated with Turtle Beach, relative to their sensitivities on whom they will feel comfortable with us having appropriate licensing discussions and we're in the process, based on their input, of beginning to reinvigorate some of the licensing dialogs that we put on hold as we went into negotiations with Turtle Beach.

I'm currently talking to large companies on everything from geographic access to our I.P. to silicon integration opportunities, straight through to integration with glass opportunities and other materials, for tablet and smart phone applications. Stay tuned on that.

Also, as a footnote for those who have been following the evolution with Turtle Beach; our discussions with them actually started out as a licensing discussion and after the diligence and extensive evolution from there, Turtle Beach concluded that they want to go in much broader than the license and that's what led us to this merger proposal, so obviously their diligence on our I.P. from a licensing perspective must have turned out positive if they're going to make a company – bet the company bet with us, which they are.

And that we think, also, will carry a lot of weight from a diligence view, as we – as we look at other licensing opportunities. And again, we're going to collaborate very closely with Turtle Beach to make sure that there are synergistic approaches to any and all licensing discussions.

Additionally, we continue to drive further improvements in our technology and our new emitter design that I discussed previously is resulting high performance results that we're very pleased with and also low-cost objectives that we set in place for this program. As we further progress with the characterization work here, we will look to integrate this solution into our consumer products.

Now onto the merger; as we stated, we intend to combine our great inventions, our great innovations with a great brand, Turtle Beach, that has global distribution networks, broad technology skills, very substantial financial resources, and the opportunities for us, mutually, to enter into multiple multibillion dollar markets. And this is the excitement for us and we plan on fully leveraging that.

We're going to be able to mutually broaden our product lines, accelerate our activities, all the things that I've talked about on the – on the Parametric side of things; the health business, the commercial business, consumer pursuits, all those get accelerated as a result of the merger proposal.

The resources they have are skills that we desperately need, the distribution path that's in place we will fully take advantage of, and as I mentioned, the financial resources, we can't underestimate what that will do to our acceleration. So we're highly, highly excited by the prospects of this.

I'm going to assume that everyone has taken the time to read the press releases that Juergen and I have put out relative to the deal and that you've all listened to our initial remarks on the previous conference call that we did. We've been fairly limited by regulations on what we can say until we release our proxy, so we're very anxious, Juergen and myself, to get that proxy out so we can tell the full story and get everybody as excited as we are, so you'll all – you all most definitely will have the opportunity to do that.

We'll be on the road and we have what we think is a compelling story to tell and we will tell that story. What we will do today, though, is Juergen is going to give some additional remarks that – for your benefit and then we'll proceed to that and to a Q&A that will have – it will be a fairly limited one and I'll come back when Juergen's done with his comments and talk about what's inbounds and what's out of bounds for the Q.A.

So, at this point, let me hand it off to Juergen Stark, CEO of Turtle Beach future CEO of Parametric Sound.

Juergen Stark: Thanks, Ken. Hi, everybody. It's nice to be on the call with you.

You know we've been asked repeatedly about Turtle Beach margins and there's been speculation about what companies might be a good comparable for us, so we wanted to provide some additional clarity.

As I mentioned on the call earlier this week, Turtle Beach provided gaming headsets which are headphones with a voice transmitter attached for two-way communications. Many of our headsets contain sophisticated audio processing technology to deliver a variety of benefits to the user.

Our customers are gamers who understand tech specs and value the capabilities we put into our products. Because of the innovation and quality of our products, among other things, our products, our markets and our business are very different from companies who provide basic stereo headphones. And we have a very strong market position in the specialized gaming-focused sector of the headphone market.

The proxy statement that Ken was talking about will be filed by Parametric. Will – it'll include a full overview of our business, but to give you a general idea of some of the historical numbers, based on the way we calculate EBITDA, we produced approximately \$46 million of EBITDA in 2012, with an EBITDA margin of roughly 22 percent. These figures are not yet finalized, so they may vary by a few million dollars, but hopefully that gives you some good historical context for our performance.

Looking ahead, it's very important that you understand the gaming industry context for 2013. Both Xbox and PlayStation have announced launches of new consoles during the holidays this year. As a result, the entire gaming sector is going through what we believe to be a normal cycle of contraction prior to these new console releases.

Our business results, in particular, will be very much dependent on, 1, how consumer purchasing behavior for more expensive accessories like headsets plays out heading into the transition, 2, when the new console launches will happen, and 3, what quantity of new consoles will be available and sold weeks – during the weeks between launch and the yearend.

That being said, in the past, there's been a renewed growth of the gaming category after the transition period after new console launches. Industry analysts have stated that they expect that to occur this time as well and we obviously are hopeful that it will and will – that we will benefit from the renewed growth, but naturally, we can't guarantee that that will occur.

With that as background and keeping in mind some of the additional variables I'll go into in a minute, we expect our 2013 revenues to be in the range of 190 to 215 million and our EBITDA to be in the range of 32 to 40 million. In addition to the industry context I just talked through, we are making some specific strategic investments to create a new media headset category for users of Apple devices. There are our iSeries products that we announced at E3. We're also investing to ensure that our staff and infrastructure is scaled and ready for 2014.

In addition, note that the EBITDA numbers I just talked through do not include one-time costs related to the merger with Parametric or any extraordinary costs that could come from the transaction processes and other adjustments. And importantly, they rely, among other things, on successful widespread launch of the new consoles, with sufficient selling weeks to impact this year, as well as availability of some specific components from Microsoft required for sale of our licensed Xbox One headsets this holiday. These specific items, by the way, are outside of our control.

Our outlook is also based on assumptions about sell-through rates for our existing and new products and launch timing of our new products, as well as assumptions about pricing, promotions and inventory management. These uncertainties are driving the wide range around the expectations for revenues and EBITDA I just talked through, but it's important to note that our actual results could fall materially outside of these ranges if the aforementioned assumptions turn out to be inaccurate.

I'm hopeful that this additional color on our performance clearly demonstrates the good business we've build. Again, I will refer you to industry analyst views of the console transition and their projections for the future. As I mentioned in our call earlier – early this week, we are an audio technology company that has leveraged innovation and quality to build a strong franchise in gaming headsets.

Parametric adds a unique new innovation in audio that has a strong fit with our technology development and commercialization capabilities, enables leverage of our supply chain and back office, and can benefit from our strong global retail sales capabilities. That's why we've worked with Ken and the Parametric team over the past months to structure a deal that we hope will be beneficial in the long run to shareholders of both companies.

Thanks and, with that, I will turn it back over to Ken.

Kenneth Potashner: Thanks, Juergen. So – and I'd like to add one commentary point which is around the anticipated performance for the gaming sector for the years 2014 through 2016 and we've also posted a slide in the corporate presentation on our Web site that shows the industry forecasted growth, so I'd like everyone, at their earliest opportunity, to go to our Web site, pull up the growth slide, and it's a dramatic growth slide that's shown there.

The slide shows very robust growth, starting 2014, with the adoption of the new consoles and for this period, we anticipate we're going to benefit greatly from Turtle Beach's market share leadership. We have the lion's share of that opportunity and I'm confident that Juergen and the team are going to absolutely go achieve that. And this, of course, was a very key consideration for us in the transaction.

I'm also glad that Juergen has said that he's going to do what it takes so that he – that his staff and his infrastructure are going to be ready for 2014, because if he can execute that, we're going to ride the growth in that industry and we're going to outperform and in – and the ability that Juergen's demonstrated previously to achieve market share leadership; he should be able to sustain that. So, with that you know we're anticipating everyone's going to benefit dramatically as a result of success.

So we're going to now move to the Q&A (range) – Q&A part of the call. And, again, I want to make the statement that we're going to be very limited on comments that we can say relative to Turtle Beach and to the merger until we issue the proxy, so we're going to not be shy in telling you that's out of bounds; you're going to need to wait until the merger comes out.

The intent is for us, if there's further clarification on anything that Juergen said today or that we've released – previously publicly released; we'll provide clarification, but we're not going to expand the boundaries of what we have disclosed until we do get to our proxy statement.

So, with that, let's open up the Q&A phase.

Operator: Thank you. Ladies and gentlemen, if you have a question, please press star then 1 on your touchtone telephone. If your question has been answered or you wish to remove yourself from the queue, you may press the pound key. Once again, if you have a question, please press star then 1.

Once again, if you have a question, please press star then 1.

And our first question is from (Mark Stafford) of (MLGN). Your line is open.

(Mark Stafford): Hi, Ken. Why is Parametric picking up so much of the cost of this merger, when it seems – when we're only getting 20 percent of the new company?

James Barnes: Well, we have to pay our own legal costs and the costs till we file the proxy at least, so we're – we have a sharing arrangement. They'll be bearing a big portion of the cost, but there is some cost-sharing and part of it is just legally it's partly our cost up – at least until the shareholder vote process.

(Mark Stafford): OK, thanks.

Kenneth Potashner: And that was Jim Barnes, our CFO, our course, commenting.

(Mark Stafford): OK.

Kenneth Potashner: OK.

(Mark Stafford): Thank you.

Operator: Thank you. And the next question is from Michael Fox of Park City Capital. Your line is open.

Michael Fox: Good afternoon, guys. Juergen, could you talk a little bit about just some context around the cycle and how it impacts your margins? And if you don't want to talk specifically about Turtle Beach, if you can give us some context of industry margins of categories that you participate in you know and if you can give us some same context with regard to sales trends in the – in the category through the last cycle and you know it looks like you put some of that on the slide, but just if you can give us some historical context around margin and sales that'd be great.

Juergen Stark: Yes, I would – Michael, I would refer you to the analyst reports that cover the console transition, as I mentioned, instead of me getting into more specifics at this point. You know it's the – it's somewhat logical what happens. Consumers, obviously, in anticipation of the new consoles, they buy less consoles, less games, less accessories, right until the new consoles hit and then the – typically what we've seen is that the buying cycle kind of restarts.

But in general, it's you know there's a lot of very good coverage. And we'll go into a lot more detail, obviously, after the proxy's filed but you ought to be able to get good coverage from some of the industry analyst reports around this.

Michael Fox: And when you – when you think about the cycle, when you know it sounds like the new consoles are coming out for the holidays this year. So in anticipation, would you – would you guys kind of ramp up production ahead of that, so that the – your products are available the same day or how do – how do we think about that?

Juergen Stark: Yes, we have – we've announced that we have two licensed Xbox One headsets. You can read about that on our Web site and so we're working closely with Microsoft and targeting and hopeful, obviously, that they'll – we'll have those available for launch at the same time as the console.

Michael Fox: OK. And then with regard to that, can you talk about price points on those versus previous products and margins on those products versus previous products?

Juergen Stark: Price points are – you can find all that on the Web site.

Michael Fox: And ...

Juergen Stark: And they're you know we have – we have headsets that are – that span multiple price points, from you know from \$50 up to \$300 and the two Microsoft Xbox One licensed headsets are – fall roughly in the middle of the range. I believe one's 99 and one is 159.

Kenneth Potashner: OK. I'd like to let other people get questions in, so let's move onto the next questions – next caller.

Operator: Yes. Once again, ladies and gentlemen, if you have a question, please press star then 1.

The next question is from Louis Basenese of Wall Street Daily. Your line is open.

Louis Basenese: Hey, Ken, Juergen; congratulations on the deal. Appreciate the extra color on the margins. Juergen, could you just give us some clarification? For that 2013 number, how much is going to be spent on CAP EX for that iSeries rollout?

Juergen Stark: Let's wait for the proxy.

Louis Basenese: OK.

Juergen Stark: It's (in) ...

Louis Basenese: Fair enough.

Male: Yes, I think that's right, Juergen.

Kenneth Potashner: OK. Guys, I'm chomping at the bit to say more and I apologize that you know I just can't say more than we've disclosed, other than just providing clarifying comments. I'm hopeful that at least the comments today helps everybody understand our business a little bit better.

Louis Basenese: Ken, quick question for you before moving on to just some of the pilots and stuff; the last call, you said you were excited about a term sheet and that's understanding that there was negotiations that came after that. But in light of where the shares closed today, at about 16 bucks, would you still make that characterization?

Kenneth Potashner: Yes, I mean the – we don't go into a transaction like this saying what's the stock going to look like the next day; right? So we've – both companies have done exhaustive modeling and diligence in terms of what is the company that we can build for tomorrow. What does the combination of this technology with Juergen's you know with Turtle Beach's strengths; where does that leave us, right?

So I think the big mistake would be for anyone to take a look at Turtle Beach or his – or that category and view it as static; right? That the only reason Turtle Beach does this is because of the opportunity to broaden their product line, potentially enter new markets; right? So we're – our bet is that happens and that occurs and we do it with unique advantages.

And then I add to that, acceleration on HHI; I add to it the ability – I mean, if I get all these great commercial demos and pilots going great, but I don't have the financial wherewithal to you know to service the demands I'm making, I really haven't achieved much.

So one of the key questions you you know someone – I'll ask Juergen and I'll answer on behalf of Juergen, although I'll be interested in his comment, is gee, do you shut everything down and turn this into an expanded headset company or do we position ourselves to go very broad with you know with the initiatives that we've laid out? And the answer is – I mean the only way I would have done this deal is to get to (inaudible) you know from the Turtle Beach side that we have – that we go with a broad agenda.

And to create you know the models you can't do is say, OK; who do we think is in this category? What's the read? What's the appropriate multiple? Let's multiply that by 20 percent to get – see what that means to the Parametric shareholders. That math doesn't work. What you need to do is say what markets does this allow the collective company to enter? What's the speed we're going to get into that – into those segments?

Can they line up the financial resources to execute on that? And what company is that going to look like and what's the multiple we're going to prescribe to that company? And that's the basis for how we made this decision. And I can't wait, again, for Juergen and I to get out on the road and build that case. It's an exciting case.

Louis Basenese: Question; in the press release, you talked about some of the customer demonstrations for the emitter technology rolling out into production. Are any – can you provide some more information on that? Are any of these the three co-development projects that we talked about on the last call? Is there something new there?

Kenneth Potashner: Yes. So on those, we have very high profile partners who, in every case, see their work with us as a competitive aspect and absolutely, under NDA, do not allow us to link names with efforts until you know we – there's a formal announcement. So you know so we won't be able to add color until there's color to be added.

Louis Basenese: OK, last question. I'll jump back in the queue if I have anymore. Just about the NDAs and reinvigorating some of those licensing discussions; (out of) how many of the 20 or say that we had before, any potential strategic deal do you think – or how many of them are active? Can you comment on that?

Kenneth Potashner: Yes.

Louis Basenese: Or (you believe that'll) be active.

Kenneth Potashner: So I'll come at it from the perspective of you'll need to visualize what business that Turtle Beach-slash-Parametric are wanting to go attack themselves, from a product perspective; right? And you'll need to effectively carve that out. So if we have this licensing universe of here's all the kinds of companies we're talking to for these broad array of different verticals that we're going to go and support, so you need now to take that universe and begin carving out what markets you believe we may want to penetrate ourselves and what's left are the discussions that we're still going to actively have.

And Turtle Beach; think of it almost in the context of veto capability you know that Turtle Beach will be absolutely influential and are being influential in who we're talking to, but the you know but we're talking to some major guys and you know Juergen and I are excited by who we're talking to.

But we won't announce anything until it's announceable.

Louis Basenese: OK. But is the number you 10, 15 that might still be active? I got to imagine that was part of the discussion.

Kenneth Potashner: (That's) – it's not a meaningful – they're major categories; let me leave it that way. There are still major categories left that are going to be relevant to us from a licensing view.

Louis Basenese: OK. Thanks, gentlemen.

Kenneth Potashner: (OK, next) question.

Operator: Thank you. The next question is from (Joshua Westport) of Westport Holdings. Your line is open.
(Joshua), please (check to see if your line is mute).

Female: You have reached the maximum time permitted for recording your message. If you're satisfied with the message, press 1.

Operator: And one moment while we go to the next question.

Female: To listen to you message ...

Operator: Your next question is from Brian Gerber of Prudent Money. Your line is open.

Brian Gerber: Yes. This is a question for (Jordan). There – I've read some of the – sorry about that. I've read some of the industry research on the different hardware cycles and with the PlayStation and the Xbox. What I'm not clear on is the attach rate of headsets with new product sales to the hardware.

What's the historical experience there? And more importantly, is there anything in this cycle that could make a difference, such as input device that changes or some (catalyst) that would cause me to buy a new headset (rather than use) the old Turtle Beach headset?

Juergen Stark: So what attach rates for headsets, I can cite, I believe an NPD number.

Kenneth Potashner: Juergen, (could you hold) on once second? Juergen, so ...

Juergen Stark: Yes.

Kenneth Potashner: ... whoever asked the question, can you mute your phone? Because we're getting a lot of feedback.

Operator: Would you just like me to close his line off?

Kenneth Potashner: Close his line off and then Juergen will answer the question.

Operator: One second.
OK.

Juergen Stark: OK. So I'm not positive if it's NPD, but their industry shows typical headset attach rate for consoles, I believe is in the – around the 8 to 10 percent range. And then in terms of whether the new console launch will generate a different trend, I think you know that's to be seen.

Operator: All right and the next question is from Steve Wagner of Wagner Financial. Your line is open.

Steve Wagner: Yes, thank you, gentlemen. This may sound like a really dumb question, but Turtle Beach; you guys manufacture headsets and I've been to your Web site. I'm trying to understand where Parametric's technology fits into headset and I will have a couple of follow-up questions, but could you just answer that like I'm a five-year-old?

Juergen Stark: Yes. Yes, no, that's actually – that's quite a good question and glad to answer it. So the – we don't see an immediate application for the you know the hyper sound technology in headsets themselves.

Steve Wagner: OK.

Juergen Stark: It doesn't mean that there won't be some future use, but because of the way the technology works, it takes a few inches for the sound to actually start to manifest itself.

Steve Wagner: Yes.

Juergen Stark: Again you know who knows what happens years down the road, but for the gaming category, there are non-headset applications, like a gaming sound bar.

Steve Wagner: OK.

Juergen Stark: And because of the way the Parametric system works, the hyper sound, you actually get a headset-like experience without needing to wear a headset.

Steve Wagner: Got it.

Juergen Stark: So that's of – that's of interest to us for gaming. But you know again, I'll repeat something that I went through on Monday night; at the heart you know gaming headsets are different than stereo headphones, in that they you know are – many of our more sophisticated headsets have complex audio processing, digital signal processing, multiple wireless radios, et cetera. And the fit with Parametric, from a technology standpoint, is I would guess probably half of the secret sauce behind Parametric is sophisticated, complex audio processing; right up our alley.

Steve Wagner: OK.

Juergen Stark: And so they you know as Ken has mentioned a couple of times, our ability to work together with a lot of commonality in the – kind of the technology that goes into Parametric and the technology that goes into the headsets is something that we think we're going to get very good leverage from.

Steve Wagner: OK. So another quick question then; when will you guys be going on the road? You said you're going to do a road show.

Kenneth Potashner: (Inaudible)

Steve Wagner: (Inaudible)

Kenneth Potashner: (I mean we're get – really) – so post-proxy, (as soon) – I mean, for us, the key event is get the proxy out.

Steve Wagner: OK.

Kenneth Potashner: Full disclosure on everything and we're going to be out immediately thereafter.

Steve Wagner: OK. And when do you expect the proxy will be done?

Kenneth Potashner: Jim, do you want to comment on the proxy (inaudible)?

James Barnes: Our plans are to file the proxy as soon as possible after the 30-day go-shop period, so we don't have a precise date yet, but our plans are to accelerate that and get it out as soon as possible after that (inaudible) period.

Steve Wagner: So approximately a month from now then, perhaps?

James Barnes: Correct.

Steve Wagner: OK and then another ...

Male: I think a month – a month might be a little bit – I think the target is probably you know four to eight weeks from now.

Steve Wagner: OK, four to eight. OK, great.

Male: In that range.

Steve Wagner: Great.

Male: OK.

Steve Wagner: I want to go back to something someone mentioned earlier; the first caller talking about you know why are we Parametric shareholders seemingly kind of stuck with the majority of the costs of this merger; this reverse – I will call it a reverse merger. You know clearly, you folks at Turtle Beach wanted to go public. This is a great way for you to do it. It's – it really does seem that it's unfair, however, just from a layman's perspective or not reading all of the details.

I am really hoping that the proxy material will clear this up. But, Mr. Barnes, I think you mentioned earlier that you know we would be sharing some of it. But the question was asked, though, was why are we – why are we participating in the majority of the costs? Are you – are you – are you saying that we're not participating in the majority of the costs? Tell me exactly what you are saying.

(James Barnes): We haven't looked at the budget completely, but we would expect that Turtle Beach would be sharing a big portion of the cost and ...

Steve Wagner: Yes, but big could be – big is nebulous. I mean what does that mean? The majority or who's going to – who's going to handle the majority of the costs?

(James Barnes): But the bottom line is we all are assuming the merger goes through and all the resources are joined together, so it really wouldn't matter after the closing.

Steve Wagner: OK, fair enough; fair enough.

Male: (Inaudible)

Steve Wagner: And I would say one last thing and I – again, I have been a shareholder with Parametric from day 1 and been, of course, very, very happy and I am one of these guys that you know I looked at the share price the other day and I think it's all air until we have significant revenue, so the fact that we went from 17 to 12 intraday doesn't bother me one bit.

But what does bother me is when you guys – when you folks put out a press release about the reverse merger that was so confusing and so – I don't know what else to say. I know you weren't able – I mean, you're telling us and we have to take you at your word on it that you weren't able to put certain things in there, but it just seems to me – I've been doing this a long, long, long, long time and reading these documents every single day of my life for 30 years; I've never read something that was so – let's just call it interesting, as that press release.

And I would only ask you know number 1, why did – why was it done that way? And then my other question would be, Ken, is this; and I totally respect you and I remember when you came onboard as the CEO of Parametric. I was very excited to hear your foresight, your passion, everything else, and again, this is no disrespect to the folks at Turtle Beach. But was this honestly the best thing that you could have done for us?

Kenneth Potashner: I'm not sure I understand the second question. I mean – I mean the first question; it is what it is. Obviously, everyone intended to do the best job we could do and part of today's call, getting Juergen on this, is to begin adding color as we got feedback from several sources that the picture was incomplete to many people, so we're looking to rectify.

And I said you know and as I have said repeatedly, full clarity comes out as Juergen and I go on the – on the road, post-proxy. Proxy's going to be extraordinarily comprehensive. And obviously, if we didn't think we can build a case that's going to get shareholder support, we wouldn't have gone down this path. So I think you know I feel we've got every card we need to get everybody onboard and get rewarded by the shareholders for successfully implementing that.

So that's the answer to one and I'm not clear on exactly what you're asking on number two. Is Turtle – well let me ask you you know give me a really succinct re-ask of the second part of the question then we'll move on to next call.

All right?

Operator: Once again, ladies and gentlemen, if you have a question, please press star then 1.

The next question is from (John Grimly), private investor. Your line is open.

(John Grimly): Hey, guys; just two quick questions. First, I just want to touch on market share and you know whether that market share should be sustainable as we hit this product refresh or the console refresh and if you can touch on things you're doing to kind of maintain that market share; that'd be helpful as well.

Juergen Stark: I won't comment specifically on market share; forward-looking market share, because obviously there are a lot of things that are not in our control there. I will – I will comment, though, that we have a license deal with Microsoft; this is in news that you can find on our site, so it's public, where we are a – we have two licensed Xbox One headsets. Xbox One is the next Xbox console that's coming out.

And we are one – as far as we know right now, per Microsoft; one of two licensed headset providers for the Xbox One. That, we feel, will be you know put us in a reasonably good position for the transition on the Xbox side.

Male: OK. (Inaudible)

(John Grimly): Yes. And then, just a second question; the health care business, any update on that would be helpful or timing on that or you know how we should be thinking about that as investors, as a value creator over time.

Kenneth Potashner: So I think – (John), I think I gave an update, which is we are – we are not complete, relative to the characterization, testing, to the analysis that we intended to do, the data gathering, the protocol definition, the execution of that protocol. So we've literally checked all the boxes that we set out to check and we've convinced – we – ourselves we have something here. And the next key phase for us is to pursue and FDA submission and we now have (top) consultants onboard, helping us towards that – towards that submission.

And Juergen and I will put a lot of work together, collectively, in terms of where we go from there; what is the market plan, what's the product definition, what's the you know what's the bounds of that business? We think it's an extraordinary opportunity, obviously, and we're going to leverage that.

(John Grimly): And then last, just what's the target for timing of getting sound bars out, or other Parametric product into the consumer end market?

Kenneth Potashner: (So you've) exhausted your – you're on your third of your two questions, (John), so we're going to go on. We're going to make room for one last question from one last caller please.

Operator: Yes and the next person is Michael Fox of Park City Capital. Your line is open.

Michael Fox: Hi, guys. Can you talk a little bit about the synergies that you think you'll have from a product perspective and then, from a branding perspective you know I noticed – I you know I understand that Turtle Beach has a strong brand in its space and you chose to keep the Parametric brand, so are the products that you don't have today, but in the consumer space, how are they going to be branded and just what products are synergies?

Because you talked about you know lots of different possibilities, but there's not necessarily going to be Parametric technology in the headphones, so anything you can talk about with synergies and new products; that would be great. Thanks.

Kenneth Potashner: Juergen, do you want to take that?

Juergen Stark: Yes. I would say synergies on products; I think – I think it's along the lines that we've discussed, strong commonality of technology in the background, but we intend, together, to build a business that has a consumer segment, a commercial segment and a health care segment and have products in all of those, with you know commonality in the engineering and research and development, digital signal processing, supply chain, back office, all of that.

Obviously, we'll be able to apply our global retail distribution into the consumer you know segment and then build on what Parametric has in commercial and on the you know (and) the future health care front.

In terms of branding, I would not you know right now all – we haven't talked about brands; we've just talked about the name of the company going forward. And I would say the decisions on branding, in terms of these different segments and products, is something that we have not decided at this point yet. Obviously, we intend, though, to keep and leverage and protect the very good Turtle Beach brand in the – in the gaming segment.

Michael Fox: OK, thanks.

Operator: Thank you. At this time, I'd like to turn the call back over to Ken for closing remarks.

Kenneth Potashner: All right. So, again, wanted to thank everyone for joining the call today and, again, I challenge everyone to apply a little vision and realize what's possible in putting these two companies together, as opposed to where we've been and that should be the basis for your valuations and I look forward to giving you another update really soon. Thanks again.

Operator: Ladies and gentlemen, this concludes today's program. Thank you for participating. You may now disconnect. Good day.

END

Cautionary Note on Forward-Looking Statements

Certain statements made in this transcript may constitute "forward-looking statements" under the Private Securities Litigation Reform Act of 1995. Forward-looking statements may include, but are not limited to, statements regarding assumptions, projections, expectations, targets, intentions or beliefs about future events including, without limitation, management's expectations of continued revenue growth in 2013 and 2014; and management's expectations regarding progress, customer interest and other developments across its business sectors and statements about the proposed transaction between Parametric and Turtle Beach, the terms, timing, conditions to and anticipated completion of the proposed transaction, the expected ownership of the combined company and the composition of the combined company's management team, the potential benefits of the proposed transaction to the Parametric and Turtle Beach stockholders, Turtle Beach's and the combined company's plans, objectives, expectations and intentions with respect to future operations, technology and products, the anticipated financial position, operating results and growth prospects of Turtle Beach and of the combined company and other statements that are not historical in nature.

Forward-looking statements by their nature address matters that are, to different degrees, uncertain. Uncertainties and risks may cause Parametric's and the combined company's actual results to be materially different than those expressed in or implied by such forward-looking statements. Particular uncertainties and risks include, among others: the failure of the Parametric stockholders to approve the transaction, the failure of NASDAQ to authorize the continued listing of Parametric's shares following the transaction; the risk that Turtle Beach's operating results at closing will be lower than currently anticipated or the failure of either party to meet other conditions to the closing of the transaction; delays in completing the transaction and the risk that the transaction may not be completed at all; the failure to realize the anticipated benefits from the transaction or delay in realization thereof; the businesses of Parametric and Turtle Beach may not be combined successfully, or such combination may take longer, be more difficult, time-consuming or costly to accomplish than expected; operating costs and business disruption during the pendency of and following the transaction, including adverse effects on employee retention and on business relationships with third parties; general business and economic conditions; the combined company's possible need for and ability to obtain additional financing; the difficulty of developing audio products, obtaining any required approvals and achieving market acceptance; the marketing success of Parametric's and the combined company's licensees or sub licensees, if any. More detailed information on these and additional factors that could affect Parametric's actual results are described in Parametric's filings with the Securities and Exchange Commission, including its most recent quarterly report on Form 10-Q.

All forward-looking statements in this transcript speak only as of the date of the conference call and are based on current beliefs and expectations. Parametric undertakes no obligation to update or revise any forward-looking statement, whether as a result of new information, future events or otherwise, except as required by law.

Important Additional Information

This material is not a substitute for the proxy statement that Parametric intends to file as soon as reasonably practicable with the SEC with respect to the Merger Agreement. Investors and security holders are urged to read the proxy statement (including any amendments or supplements) and other documents filed with the SEC carefully in their entirety when they become available because they will contain important information about Parametric, Turtle Beach and the proposed transaction. The definitive proxy statement will be mailed to the stockholders of Parametric.

Investors and security holders will be able to obtain free copies of the proxy statement (when available) and other relevant documents filed with the SEC by Parametric at the SEC's web site at www.sec.gov. Free copies of the proxy statement (when available) and other documents filed with the SEC also can be obtained by directing a request to Parametric, Attention: Investor Relations, telephone: (888) 477-2150. In addition, investors and security holders may access copies of the documents filed with the SEC by Parametric on Parametric's website at www.parametricsound.com.

Parametric and its directors and executive officers and other persons may be deemed to be participants in the solicitation of proxies in respect of the proposed transaction described in this release. Information regarding Parametric's directors and executive officers is available in Parametric's annual report on Form 10-K for the year ended September 30, 2012, which was filed with the SEC on November 28, 2012 and Parametric's definitive proxy statement for its 2013 annual meeting of stockholders, which was filed with the SEC on January 10, 2013. If and to the extent that any of the Parametric participants will receive any additional benefits in connection with the proposed transaction that are unknown as of the date of this release, the details of those benefits will be described in the definitive proxy statement relating to the proposed transaction. Investors and stockholders can obtain more detailed information regarding the direct and indirect interests of Parametric's directors and executive officers in the proposed transaction by reading the definitive proxy statement when it becomes available.

From: Juergen Stark <juergen.stark@turtlebeach.com>
To: ken potashner <ken.potashner@gmail.com>
CC: john todd <john1228@earthlink.net>; Sara Weiss <sara.weiss@turtlebeach.com>
Sent: 8/9/2013 6:26:05 AM
Subject: Re: Range

ok, let me know.

On Thu, Aug 8, 2013 at 1:24 PM, ken potashner <ken.potashner@gmail.com> wrote:
Lets plan on the tues night dinner. I will check on other availabilty and set up logisitics.

On Thu, Aug 8, 2013 at 1:05 AM, Juergen Stark <juergen.stark@turtlebeach.com> wrote:
Yes, let's get together. Either Monday or Tuesday evening...your choice. Maybe we grab dinner...could include Woody, Jim, and John if you like. Your call.

On Wed, Aug 7, 2013 at 10:11 PM, ken potashner <ken.potashner@gmail.com> wrote:
Your goal should be simple. You need to help me to get shareholder vote. Unfortunately I screwed up and should have done a better job iin assessing the shareholder reaction to our stuff. At my gut level I knew there would be negative reaction or bad assumptions in the absense of profit numbers. I did push a variety of approaches (very profitable,above industry norm,etc etc) and I caved in. My bad...

The reality is you want to play conservative and its not a free play. i am simply hooping you dont pay it safe to the point of us losing the shareholder vote or inviting in embolden one of the other companies that expressed interest in us. I like our deal. I dont want to be an operating unit of Amazon.... You and I are totally aligned. I know the stock price doesnt matter now for your or mine personal liquidity. It will btw matter in that it will be our currency in retiring debt but that is a different discussion.

I look forward to your comments on the call and your involvement in the QA. Total call will about an hour.

Also I am around this weekend for a get together if you like also mon morning and tues evening. I am hosting Newport BOD at my house mon aft/tues. I head to Hawaii at wed and like you will be fully accessible.

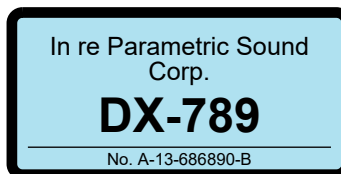
Last thought..My smoking hot wife and I are both alpha and almost killed each other the first year and then we settled in to 10 great years and are looking forward to the next 20.

goodnight
Ken

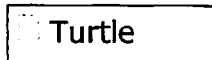
On Wed, Aug 7, 2013 at 1:00 PM, Juergen Stark <juergen.stark@turtlebeach.com> wrote:

Note, transaction costs which could be more than \$3m are not in the ebitda numbers

--



Juergen Stark
CEO



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Juergen Stark
CEO



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From: ken potashner <ken.potashner@gmail.com>
To: juergen.stark@turtlebeach.com <juergen.stark@turtlebeach.com>; Juergen Stark
<juergen.stark@turtlebeach.com>
Sent: 9/23/2013 5:58:40 PM
Subject: Re: schedule slips

also ..my intention was to never design/build products..plan was to license. The intent was for us to design protos and rely on partners (SIIG and others) to get us viable production units. Anyway lets been collaborating to assure we hit 2014 targets.

On Mon, Sep 23, 2013 at 11:02 AM, Juergen Stark <juergen.stark@turtlebeach.com> wrote:
10/22 with some risk of delay to that as you know. I will not accept a few weeks here or there as justification for this. It's complete BS. I'm on a flight and will call when done. But I will give you my very blunt view. You have zero capability in place to commercialize a product. A couple mediocre engineers led by JT who doesn't have an ounce of engineering leadership experience. With all the good talk, my sense is not much has happened in months and months on this. With all of the effort to save money and given that you now have a very good sales leader in place, I frankly do not understand why you would continue paying John. But that's your business. In any case, there is no possible way the current team or structure will result in a viable consumer product. None. Let's get an engineering leader and team in place and the capability to actually create a real product. Otherwise, we are completely screwed for 2014 delivery. I will help find right people and even allocate some VTB help if needed.

On Monday, September 23, 2013, ken potashner wrote:

We are getting insight to additional schedule slips from your team.. Pls talk to your team and confirm whether we are on schedule or indeed facing additional slips.

thanks
Ken

--

Juergen Stark
CEO

 Turtle Beach

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In re Parametric Sound
Corp.

DX-821

No. A-13-686890-B

Page 1 of 1
AA 2414

Message

From: ken potashner [ken.potashner@gmail.com]
Sent: 10/11/2013 5:17:02 PM
To: James Barnes [jbarnes@parametricsound.com]
Subject: Re: Your availability

In re Parametric Sound Corp.

DX-837

No. A-13-686890-B

we missed by 100k ..they will miss by 20M

On Thu, Oct 10, 2013 at 8:04 PM, James Barnes <jbarnes@parametricsound.com> wrote:

The merger agreement obviously doesn't provide for that --- negotiation would have to be about adjustments needed to get shareholder vote.

The fairness opinion (info not in proxy) had \$218M in 2013 and \$40.6 EBITDA but did not use that period in valuation much. More out period F2016.

They will miss Q4 Calendar and we materially missed Q3 Fiscal in the data in the fairness opinion backup

From: Ken Potashner <ken.potashner@gmail.com>
Date: Thursday, October 10, 2013 7:43 PM
To: James Barnes <jbarnes@parametricsound.com>
Subject: Re: Your availability

Not looking to get out of deal... The economics of 80/20 are questionable if they are not going to perform to the low end of their projections

Sent from my iPad

On Oct 10, 2013, at 7:34 PM, James Barnes <jbarnes@parametricsound.com> wrote:

This has been the comments on Xbox and Microsoft. See attached.

Getting out of the agreement with us getting the \$ 1 million fee is difficult. A material adverse effect is:

"VTBH Material Adverse Effect" means any change, state of facts, circumstance, event or effect that, individually or in the aggregate, is materially adverse to (A) the financial condition, properties, assets, liabilities, obligations (whether accrued, absolute, contingent or otherwise), businesses or results of operations of VTBH and the VTBH Subsidiaries, taken as a whole, and/or (B) the ability of VTBH to perform its obligations under this Agreement; provided, however, that any change, state of facts, circumstance, event or effect that arising from or related to: (i) conditions generally affecting the United States economy or generally affecting one or more industries in which VTBH and its Subsidiaries operate; (ii) national or international political or social conditions, including terrorism or the engagement by the United States in hostilities or acts of war; (iii) financial, banking or securities markets (including any disruption thereof and any decline in the price of any security or any market index); (iv) changes in GAAP or other accounting requirements; (v) changes in any Laws, rules, regulations, orders, or other binding directives issued by any Governmental Entity; (vi) the public announcement, pendency or completion of the transactions contemplated by this Agreement; or (vii) any failure, in and of itself, by VTBH to meet any internal or disseminated projections, forecasts or revenue or earnings predictions for any period (it being understood that the facts and circumstances giving rise or contributing to such failure may be taken into account in determining whether there has been a VTBH Material Adverse Effect) shall not be taken into account in determining whether a

"VTBH Material Adverse Effect" has occurred or would reasonably be expected to occur with respect to VTBH.

On 10/10/13 5:43 PM, "Ken" <ken.potashner@gmail.com> wrote:

I will call in 15.. My guess is the financing will get blown up once I fill you in..

Sent from my iPad

On Oct 10, 2013, at 5:24 PM, James Barnes <jbarnes@parametricsound.com> wrote:

At office, or on cell. Got long download from DH on financing TCW meet, etc.

On 10/10/13 5:17 PM, "Ken" <ken.potashner@gmail.com> wrote:

The major issue concern I alluded to has been verified and you and I need to talk tonight .

What is your availability.

<XBox-MicrosoftComments.docx>