

Exhibit B

Volume 2

Pages 173 - 413

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE JAMES DONATO

IN RE CAPACITORS ANTITRUST)	No. C 14-3264 JD
LITIGATION)	
_____)	
IN RE CAPACITORS ANTITRUST)	No. MD 17-2801 JD
LITIGATION (No. III))	San Francisco, California
)	Tuesday
)	November 30, 2020
_____)	9:00 a.m.

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

APPEARANCES:

For Direct Purchaser Plaintiffs: JOSEPH SAVERI LAW FIRM, INC.
601 California Street
Suite 1000
San Francisco, California 94108

BY: JOSEPH R. SAVERI, ESQ.
STEVEN NOEL WILLIAMS, ESQ.
CHRISTOPHER K.L. YOUNG, ESQ.
ANUPAMA K. REDDY, ESQ.

LEVIN FISHBEIN SEDRAN AND BERMAN
510 Walnut Street
Suite 500
Philadelphia, Pennsylvania 19106.

BY: AUSTIN B. COHEN, ESQ.

(APPEARANCES CONTINUED ON FOLLOWING PAGE)

Reported By: Debra L. Pas, CSR 11916, CRR, RMR, RPR
Official Reporter - US District Court
Computerized Transcription By Eclipse

1 Mr. Eugene Krzywinski to the stand, please.

2 EUGENE KRZYWINSKI,

3 called as a witness for the Plaintiffs, having been duly sworn,
4 testified as follows:

5 **THE WITNESS:** I so affirm.

6 **THE CLERK:** Please be seated.

7 Please state your name for the Court and spell your last
8 name.

9 **THE WITNESS:** Eugene Krzywinski; E-U-G-E-N-E,
10 K-R-Z-Y-W-I-N-S-K-I.

11 **THE CLERK:** Thank you.

12 **MR. SAVERI:** May I proceed, Your Honor?

13 **THE COURT:** Please.

14 DIRECT EXAMINATION

15 **BY MR. SAVERI:**

16 **Q.** Good morning, Mr. Krzywinski.

17 Is your company a party to this case?

18 **A.** Yes, it is.

19 **Q.** And what kind of party is it?

20 **A.** We are one of the plaintiffs.

21 **Q.** And what is the name of the company? What is the name of
22 your company?

23 **A.** eIQ Energy, Incorporated.

24 **Q.** And what is your current position at eIQ?

25 **A.** I am the CEO of eIQ.

1 Q. Sir, where do you live?

2 A. San Jose, California.

3 Q. And where is eIQ incorporated?

4 A. We're incorporated in California.

5 Q. And where is eIQ located?

6 A. We're located in Santa Clara, California.

7 Q. Does eIQ have offices other than in Santa Clara?

8 A. No. Santa Clara is the only office.

9 Q. Sir, I'd like to get a little background about you and
10 your company. Let me start with you.

11 A. Sure.

12 Q. How old are you, sir?

13 A. 66, going on 67.

14 Q. And, sir, where were you born?

15 A. I was born in New York.

16 Q. And where did you grow up?

17 A. I grew up in Ireland.

18 Q. And did you graduate from college?

19 A. Yes, I did.

20 Q. What college?

21 A. Rutgers College of Engineering in New Jersey.

22 Q. Did you receive a degree from Rutgers?

23 A. Yes, I did. Bachelor's of Science of Electrical
24 Engineering.

25 Q. Are you an electrical engineer?

1 A. Yes, I am.

2 Q. Do you belong to engineering trade associations?

3 A. Yes, I do. I belong to IEEE, Institute for Electrical
4 Engineers.

5 Q. When did you begin working for eIQ?

6 A. I was one of the founders of the company in 2007.

7 Q. And in 2007 when the company was founded, what was your
8 role?

9 A. I was CEO at that time.

10 Q. Since then, since 2007, you've held other positions at the
11 company?

12 A. Yes. I was the chief technical officer, the CTO.

13 Q. And when did you -- when did your position change from CEO
14 to CTO?

15 A. 2008 we changed. We brought in a CEO.

16 Q. And today, sir, what is your position at eIQ?

17 A. I'm currently the CEO.

18 Q. So let me ask you a little bit about eIQ. What industry
19 is eIQ in?

20 A. We're in power electronics for the renewable energy space.

21 Q. Does that include solar?

22 A. Yes, it does.

23 Q. And could you tell the jury what the business was of eIQ
24 in 2007?

25 A. In 2007 we manufactured a power electronics device for the

1 solar industry for solar, solar panels.

2 **Q.** And during that period, did eIQ manufacture its
3 products?

4 **A.** We had our products manufactured by a contract
5 manufacturer. So we designed the products, and then we
6 would -- we would have a contract manufacturer manufacture them
7 for us.

8 **Q.** And during approximately what time did eIQ use contract
9 manufacturers to manufacture its products?

10 **A.** From 2008 onwards.

11 **Q.** And what products did eIQ make during that period?

12 **A.** The product that we made was called a vBoost. And for
13 anyone familiar with Christmas tree lights, if one goes out,
14 then the whole string goes out.

15 The product that we made essentially bypassed that and
16 allowed if a panel went -- a solar panel became defective, we
17 only lost that panel. The rest of the panels remained
18 operating.

19 **MR. SAVERI:** Your Honor, may I approach the witness,
20 please?

21 **THE COURT:** Yes.

22 (Whereupon an item was tendered to the witness.)

23 **BY MR. SAVERI**

24 **Q.** Now, Mr. Krzywinski, do you recognize what I just handed
25 to you?

1 **A.** Yes. This is our product, the vBoost.

2 **Q.** And today what does eIQ do?

3 **A.** We continue today to have this product -- or the next
4 version of this product manufactured, but we are also an
5 engineering design firm, and we also developed what's called
6 microgrids for the renewable energy space.

7 **Q.** How many employees does eIQ have today?

8 **A.** We currently have four employees and one contractor.

9 **Q.** Is that the most employees that eIQ has had?

10 **A.** No. Up until 2012, we had approximately 35 people.

11 **Q.** And why have the numbers changed?

12 **A.** In 2012 there was a downturn essentially in the solar
13 industry, and our two main sources of funding were no longer
14 able to keep funding the company.

15 **Q.** And today does -- how does eIQ make its money?

16 **A.** We make our money by selling the vBoost product today, as
17 well as doing design work for other companies, utilities, so
18 forth, with microgrids.

19 **Q.** And does eIQ license its technology?

20 **A.** We also license our technology to companies that want to
21 build similar systems.

22 **Q.** And does the vBoost, which you have in front of you,
23 include capacitors?

24 **A.** Yes, it does.

25 **Q.** And what type of capacitors are used in the vBoost?

1 **A.** We use primarily ceramic, as well as thin film.

2 **Q.** So, sir, would you take the cover off the product and, if
3 you could, could you hold it up and show the jury where in that
4 product you can see or find the capacitor?

5 And if it's easier for you to get down --

6 **MR. SAVERI:** Your Honor, may he?

7 **THE COURT:** Well, don't go any farther than just
8 right in front of the witness stand.

9 **BY MR. SAVERI**

10 **Q.** Or just hold it up.

11 **A.** Okay. So that green canister-looking thing in there,
12 barrel-looking thing, is the capacitor that we use for this
13 particular product.

14 **Q.** Great. Thank you.

15 Back in 2009 when the company was manufacturing the
16 vBoost, did the company buy -- did eIQ purchase capacitors?

17 **A.** Yes, we did.

18 **Q.** And does eIQ purchase capacitors today?

19 **A.** We don't purchase capacitors for manufacturing today. Our
20 contract manufacturers now buy the -- all the components for
21 our product.

22 **Q.** And when eIQ was manufacturing the vBoost product, were
23 you the CEO or the CTO?

24 **A.** I was the CTO.

25 **Q.** When you were the CTO, what were your duties?

1 **A.** My duties were to oversee the engineering department, all
2 the technical aspects of the company, as well as interface with
3 marketing and sales and working with customers to continue to
4 develop the product.

5 **Q.** Were you responsible for purchasing capacitors for eIQ?

6 **A.** I was responsible for authorizing the purchase of all the
7 components on this.

8 **Q.** Okay. And were you involved in the design of the vBoost?

9 **A.** Yes, I was.

10 **Q.** Now, were you involved in choosing which capacitors to use
11 in the vBoost product?

12 **A.** My team would work on a design and develop a number of
13 possible products to be purchased. I would then be responsible
14 for authorizing the -- those products.

15 **Q.** How did eIQ go about specifying the capacitors used in
16 the vBoost product?

17 **A.** So our design team would come up with a design and then
18 try and find the best fit components that were available on the
19 market to meet the needs of that design.

20 **Q.** And when eIQ specified a capacitor, did they specify
21 products from different capacitor manufacturers?

22 **A.** Yes. Yes. We would try and find different manufacturers.

23 **Q.** Can you recall about how many manufacturers were
24 specified -- how many manufacturers' capacitors were specified?

25 **A.** Well, for -- we ended up with two, but we would have

1 searched the -- essentially the -- what was available in terms
2 of performance characteristics; size, functionality,
3 availability and, of course, price.

4 **Q.** So why did eIQ specify more than one manufacturer's
5 capacitors?

6 **A.** Well, maintaining the supply chain is extremely important
7 to us. And we would develop at least two sources for as many
8 products as we could so that if one source was unavailable, we
9 had a second source that could take its place.

10 **Q.** And before you brought or sold the vBoost to market, what
11 was the next step in the process?

12 **A.** Typically after design and testing, we would go through
13 what's called UL certification.

14 **Q.** And what does "UL" stands for?

15 **A.** "UL" stands for Underwriters Lab.

16 **Q.** And what did Underwriters Lab do with respect to the
17 vBoost product?

18 **A.** So Underwriters Labs sets up a series of standards for
19 safe operating, everything from your light switch to your
20 sockets to other components in your house. So they are the
21 standards by which safety is determined.

22 And they would take both our bill of materials, which
23 states out all the components and the manufacturers of those,
24 as well as taking the unit itself and test it, and then they
25 would either approve it, certify it, or have us make changes.

1 Q. Was UL certification important to eIQ?

2 A. Yeah. Without -- without UL certification, it's basically
3 almost impossible to sell a product like this because the
4 local -- the local inspectors would look for this when a solar
5 installation is being performed, and this was their way of
6 knowing that a product was safe to go on someone's roof.

7 Q. And how would your customers know that the vBoost product
8 had been submitted to UL and met their certification standards?

9 A. So all the products that have UL certification will have a
10 stamp or some designation on their label that says "UL." So if
11 you -- if you see your light switch, you will see a "UL"
12 designator, for instance, on it.

13 Q. And if you look at the vBoost which I've handed to you, is
14 there a place where the customer could identify or see the UL
15 certification?

16 A. Yes, there is. On the label itself there is a UL
17 certification. There is a part number, as well as the
18 designation that it conforms to the applicable UL standard.

19 Q. And could you read the -- yeah, I was going to ask you.
20 Do you --

21 A. I can in a moment.

22 Q. I share your pain.

23 This was tested at ETL, which is a nationally recognized
24 test lab allowed to test to UL standards. And it says (as
25 read):

1 "Conforms to UL Standard 1741 and certified to CAN
2 CSA Standard C2.2."

3 **Q.** Thank you.

4 Now, you said you listed up to two manufacturers' product
5 for the vBoost; correct?

6 **A.** Correct.

7 **Q.** What is -- what if, for example, a third manufacturer made
8 an interchangeable capacitor? Could you use that?

9 **A.** After certification, we would not try and use that, no.

10 **Q.** Why not?

11 **A.** It's a costly and time-consuming effort to go through UL
12 certification, so we would not -- if we already had two
13 manufacturers, it was not financially prudent for us to go and
14 put a third one in or one that wasn't certified for us.

15 **Q.** What is a bill of materials?

16 **A.** A bill of materials lists out all of the particular
17 components that go into that product. It lists out all the
18 primary manufacturers as well as the alternate manufacturers of
19 components within that.

20 **Q.** And did -- in order to get UL certification, did eIQ
21 submit that bill of materials to UL?

22 **A.** Yeah. That was a key part. So that if we ever made a
23 change, we would have to go back and certify it.

24 **Q.** Would you have had to resubmit the bill of materials?

25 **A.** We would have to resubmit the bill of materials, correct.

1 Q. Now, sir, you testified that the vBoost includes film
2 capacitors?

3 A. Yes.

4 Q. And how many capacitors -- how many film capacitors are in
5 each vBoost?

6 A. There's typically one, but the design that we made, the
7 footprint that we made could take up to two different types.

8 Q. And was the film capacitor in the vBoost a critical
9 component with respect to the vBoost?

10 A. Yes. It's an essential part of the operation of the
11 vBoost.

12 Q. Would you describe the film capacitor contained in the
13 vBoost as expensive?

14 A. Yeah. It was one of the more expensive components in
15 the -- on the bill of materials.

16 Q. Do you recall approximately how much you paid for --

17 A. We paid --

18 Q. -- the film capacitor in the vBoost?

19 A. Yeah. We paid \$2.90 for the capacitor.

20 Q. And does that make it one of the most expensive components
21 in the device?

22 A. Yes, it did. Yeah.

23 Q. Could you have used a ceramic capacitor in the vBoost?

24 A. No, we could not.

25 Q. Why not?

1 **A.** Ceramic capacitors are typically used for electrical noise
2 filtering, and they tend to be smaller.

3 And so the difference between a ceramic and the film
4 capacitor is the film capacitor is used for storage. So as
5 we're moving energy from one side of the converter to the
6 other -- you know, think of the capacitor as a -- as a
7 container and we're filling it up on one side with buckets of
8 water, but we've got a steady stream coming out the other side.
9 So it's a storage mechanism for energy.

10 **Q.** And could you have used the ceramic capacitor for that?

11 **A.** No. You know, the ceramic capacitor would not have the
12 same storage characteristics, so it was not usable.

13 **Q.** During the time that eIQ was manufacturing the vBoost,
14 from which companies did eIQ purchase film capacitors?

15 **A.** So we purchased capacitors during the design from two
16 companies, Chemi-Con and EPCOS.

17 **Q.** Now, you were here yesterday for the opening; correct?

18 **A.** Yes.

19 **Q.** Now, you heard references to companies that are referred
20 to as both NCC and UCC? Did you hear that?

21 **A.** Yes, I did.

22 **Q.** From your perspective, are NCC and UCC both part of the
23 same company?

24 **A.** They were synonymous to us. We referred to them as
25 Chemi-Con. They were the Chemi-Con caps, so that's...

1 Q. Did you buy from NCC or from UCC, the U.S. subsidiary of
2 NCC?

3 A. So our purchase orders and our payments were to UCC in
4 Los Angeles, but our shipments were from both companies -- or
5 from both entities.

6 Q. Sir, do you have that binder in front of you?

7 A. Yes, I do.

8 Q. Would you turn to Tab 7, please, sir?

9 (Witness complied.)

10 A. Okay.

11 Q. Sir, does, that exhibit have a Trial Exhibit on it?

12 A. Excuse me?

13 Q. I've handed you what's been marked as 16003; is that
14 correct?

15 A. This says 006.

16 (Brief pause.)

17 Q. Do you recognize that document?

18 **THE COURT:** Is it three or six that you'd like?

19 **BY MR. SAVERI**

20 Q. Would you turn to Tab 5, sir?

21 (Witness complied.)

22 A. Yes.

23 Q. Is that Exhibit -- is that -- is that Trial Exhibit 16003?

24 A. Yes, it is.

25 Q. Okay. Thank you. Sorry about that.

1 Do you recognize that, sir?

2 **A.** Yes.

3 **THE COURT:** Sorry. My Tab 5 is not -- are you
4 looking for Exhibit -- do you want me to look at 03? Is that
5 the one you want?

6 **MR. SAVERI:** Yeah. It should be 1600 --

7 **THE COURT:** That's Tab 7 in my book, but that's fine.
8 I've got 16003. Is that the right one?

9 **MR. SAVERI:** Yes, that's correct.

10 **THE COURT:** Okay. All right.

11 **MR. SAVERI:** It should -- it may be Tab 5, but --

12 **THE COURT:** Oh, you want this to be Tab 5? Okay.

13 All right. Go ahead.

14 **BY MR. SAVERI**

15 **Q.** Sir, do you have 16003 in front of you?

16 **A.** Yes, I do.

17 **Q.** Do you recognize it?

18 **A.** Yes, I do.

19 **Q.** And could you tell me what it is?

20 **A.** This is an invoice and a packing list for a capacitor
21 purchase and delivery.

22 **Q.** And did you receive it on or about the date that's
23 indicated on the document?

24 **A.** Yes, we did.

25 **MR. SAVERI:** I'd like to move 16003 into evidence,

1 Your Honor.

2 **MS. KAISER:** No objection.

3 **THE COURT:** Okay. It's admitted.

4 (Trial Exhibit 16003 received in evidence)

5 **BY MR. SAVERI**

6 **Q.** And, sir, what is this?

7 **A.** Excuse me?

8 **Q.** What is this?

9 **A.** This is an invoice and the packing list.

10 **Q.** And was this invoice for capacitors?

11 **A.** Yeah. This is for capacitors, for the Chemi-Con
12 capacitors.

13 **Q.** When were the capacitors shipped to you?

14 **A.** These were shipped on or about November 20th, 2009.

15 **Q.** And how many purchases -- or how many capacitors were a
16 part of this purchase?

17 **A.** A total of 4700.

18 (Brief pause.)

19 **THE COURT:** An unusual blue color, yes. Every screen
20 looks like this.

21 Oh, that's good. Can you make it bigger? All right.

22 (Document displayed.)

23 **MR. SAVERI:** I think this is the best we can do.

24 **THE COURT:** Are you all able to see that on the jury?

25 (Jury panel nodding affirmatively.)

1 **THE COURT:** Okay, looks good.

2 **MR. SAVERI:** Sorry about that. Yeah, you can't move
3 it or it's going to color shift.

4 **BY MR. SAVERI**

5 **Q.** And, I'm sorry. I didn't know if I got an answer to the
6 last question. How many capacitors were part of this purchase?

7 **A.** This is 4700 pieces.

8 **MR. SAVERI:** Thank you. You can put that down.

9 (Document removed from display.)

10 **BY MR. SAVERI**

11 **Q.** Mr. Krzywinski, would you turn to Tab 6, please?

12 (Witness complied.)

13 **A.** Yes.

14 **Q.** And do you recognize this document?

15 **A.** Yes.

16 **Q.** What is it?

17 **A.** It's a shipping label.

18 **Q.** Shipping label for what, sir?

19 **A.** Sorry. Shipping label from Nippon Chemi-Con for
20 capacitors.

21 **Q.** And did you receive it on or about the date that's
22 indicated there?

23 **A.** Yes, we did.

24 **MR. SAVERI:** And I'd like to move 16005 into
25 evidence.

1 **MS. KAISER:** No objection, Your Honor.

2 **THE COURT:** All right. This one's 05?

3 **MR. SAVERI:** 16005.

4 **THE COURT:** Okay. My Tab 6 is 02.

5 **MR. SAVERI:** I believe it's Tab 8, Your Honor.

6 **THE COURT:** Tab 8?

7 Okay. Yes, 05.

8 Okay. No objection. It's admitted.

9 (Trial Exhibit 16005 received in evidence)

10 (Document displayed.)

11 **BY MR. SAVERI**

12 **Q.** How can you be -- is this FedEx invoice for the same
13 shipment as the previous invoice?

14 **A.** I believe so, yes.

15 **Q.** And how can you be sure?

16 **A.** The -- first of all, it says -- it says "To: eIQ Energy"
17 on the same date that we were expecting them.

18 **Q.** And as indicated in this invoice, who did you receive --
19 who did eIQ receive the capacitors from?

20 **A.** These were shipped from Nippon Chemi-Con in Japan.

21 **MR. SAVERI:** Thank you. You can put that down.

22 (Document removed from display.)

23 **BY MR. SAVERI**

24 **Q.** Would you turn to Tab 4 in your binder, Mr. Krzywinski?

25 **MR. SAVERI:** Your Honor, I believe it's in Tab 9 of

1 yours for some reason.

2 **BY MR. SAVERI**

3 **Q.** Do you have Exhibit --

4 **THE COURT:** Do I have the right binder here?

5 Do you want me to use a different one? I'm just using
6 what you gave me, but I want to make sure I have the same set
7 as the --

8 **MR. SAVERI:** I know and I don't --

9 **THE COURT:** It's fine if it is all in here.

10 **MR. SAVERI:** It is all in there.

11 **THE COURT:** Okay. So I'm Tab 9. 06? The Trial
12 Exhibit ends in 06?

13 **BY MR. SAVERI**

14 **Q.** Let me start again. Mr. Krzywinski, do you have
15 Exhibit 16002 in front of you?

16 **A.** Yes, I do.

17 **MR. SAVERI:** And, Your Honor, I believe it's Tab 6 in
18 your binder.

19 **THE COURT:** I have the -- did you say Tab 4 to the
20 witness?

21 **MR. SAVERI:** I did.

22 **THE COURT:** All right. I've been handed another
23 binder that someone prepared, and I do have it at Tab 4. So go
24 ahead.

25 **BY MR. SAVERI**

1 Q. Okay. Sir, do you recognize this exhibit?

2 A. Yes.

3 Q. And what is it?

4 A. This is also a packing slip.

5 Q. And is this a packing slip for film capacitors?

6 A. Yes, it is.

7 Q. And did you receive it on or about the date that's
8 indicated?

9 A. Yes.

10 MR. SAVERI: Your Honor, I'd like to move
11 Exhibit 16002 into evidence.

12 MS. KAISER: No objection, Your Honor.

13 THE COURT: Okay. That is admitted.

14 (Trial Exhibit 16002 received in evidence)

15 BY MR. SAVERI

16 Q. And who shipped these capacitors to you?

17 A. These were shipped by United Chemi-Con in Brea,
18 California.

19 Q. And when were they shipped to you?

20 A. Shipped date shows 11/4/09.

21 Q. And were the film capacitors in this shipment the same
22 type as the film capacitors that were shipped to you about
23 three weeks earlier by NCC in Japan?

24 A. Yes, they are.

25 Q. And how do you know that?

1 **A.** The part number, as well as our purchase number is on
2 there, which is 1182, which called for those -- that capacitor
3 type.

4 **Q.** So some of the capacitors you ordered were shipped to you
5 from Nippon Chemi-Con in Japan and others were shipped to you
6 from UCC in Brea, California?

7 **A.** That's correct.

8 **Q.** Now, how did eIQ pay for these capacitors?

9 **A.** We paid United Chemi-Con.

10 **Q.** And did you send them a check?

11 **A.** Check, yes.

12 **Q.** Now, in connection with your purchases from the Chemi-Con
13 organizations, did you work with salespeople from the company?

14 **A.** Yes, we did.

15 **Q.** And did they work for NCC or UCC?

16 **A.** We refer to them as from Chemi-Con. The business card
17 that we had showed both names -- or both company names on
18 there. So for us, it was synonymous whether it was Nippon or
19 United Chemi-Con.

20 **Q.** Sir, would you look at Tab 1 of your binder?

21 (Witness complied.)

22 **Q.** This would be Trial Exhibit 1?

23 **A.** Yes.

24 **Q.** And what is that?

25 **A.** That's the business card that I had received from one of

1 the salespeople.

2 Q. One of which salespeople?

3 A. Sorry. Kanji Ohta from the Chemi-Con Group.

4 MR. SAVERI: Your Honor, I'd like to move for the
5 admission of Trial Exhibit 1 please.

6 MS. KAISER: No objection, Your Honor.

7 THE COURT: All right. It's admitted.

8 (Trial Exhibit 1 received in evidence)

9 (Document displayed)

10 BY MR. SAVERI

11 Q. So with respect to the side that's -- how many sides does
12 that business card have?

13 A. I'm sorry. Could you repeat that?

14 Q. How many sides does the business card have?

15 A. Two.

16 Q. And the side that you're being shown right now, what
17 does -- what company does it indicate Mr. Ohta worked for?

18 A. The title on the card is for Nippon Chemi-Con Group, but
19 then below his name is United Chemi-Con, Inc.

20 Q. And where is the address of United Chemi-Con, Inc.?

21 A. That's showing as Santa Clara, California.

22 Q. Now, if you were to flip the card over in real life -- let
23 me show you the other side.

24 A. Yes.

25 (Document displayed.)

1 Q. What does it say?

2 A. Again, the title is for Nippon Chemi-Con Group and under
3 USA it shows United Chemi-Con, Inc.

4 Q. So looking at this card, can you tell me if Mr. Kanji
5 Ohta, the salesperson you dealt with, worked for NCC or UCC?

6 A. In our opinion, it was the same company, so we didn't
7 differentiate.

8 MR. SAVERI: Thank you. You can put that down.

9 (Document removed from display)

10 BY MR. SAVERI:

11 Q. Mr. Krzywinski, did you listen to the opening statements
12 yesterday?

13 A. Yes, I did.

14 Q. And did you hear UCC's counsel say that UCC only sold
15 small aluminum capacitors and large can capacitors?

16 A. Yes.

17 Q. Do you agree with that?

18 A. No.

19 Q. Why not?

20 A. Because we bought them from -- we bought the film
21 capacitors from them.

22 Q. And yesterday did you hear UCC's counsel talk about three
23 long-term employees? I believe Mr. Steven Watlock, Brian
24 Patel, and Larry Magoncia. Do you recall that?

25 A. I recall their names, yes.

1 Q. Do you know who they are?

2 A. No.

3 Q. Have you ever met them?

4 A. No.

5 Q. Have you ever received a phone call from them?

6 A. No.

7 Q. UCC's counsel also spoke about another employee, a
8 Mr. Derrick Fitzpatrick. Do you recall that?

9 A. I recall it, yes. From yesterday, yes.

10 Q. Do you know Mr. Fitzpatrick?

11 A. No, I do not.

12 Q. Did you ever speak with Mr. Fitzpatrick?

13 A. No, I did not.

14 Q. Did you ever exchange emails with Mr. Fitzpatrick?

15 A. Not to my knowledge, no.

16 Q. Have you ever spoken to him on the telephone?

17 A. No.

18 Q. So in your years of dealing with NCC or UCC, who are the
19 people that you dealt with?

20 A. So two people, Mr. Kanji Ohta and Mr. Koji Nigata.

21 Q. And who is Mr. Koji Nigata?

22 A. I believe he was one of the -- either the sales or
23 applications engineers that would have been associated with
24 Chemi-Con.

25 Q. And where were those gentlemen located?

1 **A.** I don't know where their exact office is. It was -- it
2 was in California.

3 **Q.** Were there any film capacitors, substitute film
4 capacitors, that you could have used according to your UL
5 certification?

6 **A.** Were there any film capacitors that we had looked at?

7 **Q.** Yes.

8 **A.** Yea. We looked at several but, again, the two that we had
9 chosen were the right size, because I think, as you can see
10 from -- from the box here, we didn't have an awful lot of room
11 for larger capacitors or for even larger components. So when
12 we do the design, the design was so the capacitor would fit not
13 just performance-wise, but also size-wise and footprint-wise.

14 **Q.** When you say "footprint," what do you mean?

15 **A.** So when the boards -- when the printed circuit boards are
16 made, they have holes for the components to be put into and
17 space for them to be soldered onto that board. So the
18 footprint would have to be, you know, for that particular
19 capacitor or capacitors.

20 **Q.** Now, were the -- you mentioned EPCOS?

21 **A.** Yes.

22 **Q.** Now, were the NCC and EPCOS film capacitors standard
23 products?

24 **A.** Yes, they were.

25 **Q.** And could you explain what a standard film capacitor is?

1 A. Well, a standard product is a product that is readily
2 available to the open market. It's something that there's
3 either a catalog or there's a -- there is readily available
4 from either distributors or from the manufacturer to the
5 open -- to the general public or to the designers at large.

6 Q. Were the capacitors available online?

7 A. That was -- that was sometime ago.

8 Q. You said that they were -- you recall they were available
9 in a catalog. Could you tell us how you used the catalog to
10 locate the film capacitors for your product?

11 A. So, again, the design team would have -- would have looked
12 at what was needed from a design point of view and searched for
13 corresponding components that would fit that need.

14 Q. And did the catalog list the type of capacitor?

15 A. It would list the type of capacitor.

16 Q. And --

17 A. And value and so forth.

18 Q. How about price? Did the catalog list the price?

19 A. No.

20 Q. And how would you check the price of the capacitors?

21 A. That's where we would call in the sales engineer or the
22 salesperson, and we would issue what's called a request for
23 quote where we would ask them to quote the price on that
24 component.

25 Q. Now, yesterday did you hear the opening statement by

1 Mr. Finzi, another one of the Chemi-Con lawyers?

2 A. Yes.

3 Q. Now, did you hear him say that a capacitor is like a
4 custom-made suit? He said that the customer tells the
5 capacitor what they need, the type of capacitor, the space they
6 need to fit in, the values they need, and then the manufacturer
7 designs the capacitor for the customer. Do you recall that?

8 A. Yes, I do.

9 Q. And in your experience, is that accurate?

10 A. For all of the products that we have ever developed, no,
11 that's not the case.

12 Q. So from your perspective, could you describe that process?

13 A. The process that we would purchase a capacitor?

14 Q. Yes.

15 A. So, again, from a design point of view and performance
16 point of view, we would look for which capacitor was closest
17 fit to that form and function, and we would then design that in
18 and we would, again, ask for a quote from the manufacturer.

19 Q. Now, you said you used standard capacitor products;
20 correct?

21 A. Yes.

22 Q. And why did eIQ specify standard capacitor products?

23 A. It was our policy, well, first of all, as a company and as
24 a start-up, that we only use products that were -- that had a
25 history on the market; that had a known reliability set of

1 numbers with it, as well as -- as well as a history. So it was
2 something that was already in the market and proven.

3 **Q.** Did availability in the supply chain enter into your
4 considerations?

5 **A.** Yes. Yes, it does.

6 **Q.** And how?

7 **A.** Again, by trying to find multiple manufacturers that would
8 fit that same form and function so that we have -- we had
9 the -- the option of purchasing from different sources.

10 **Q.** Now, you mentioned a few minutes ago that you tried to --
11 or you investigated whether you could purchase capacitors from
12 EPCOS.

13 **A.** Yes, we did.

14 **Q.** And did you try to buy film capacitors from EPCOS?

15 **A.** Yes, we did. We asked them as part of the business to --
16 we would give them an RFQ, which is a request for quote, and
17 they did not respond.

18 **Q.** Now, after you didn't get a response from EPCOS, could you
19 have tried to buy from another capacitor -- or another
20 manufacturer of film capacitors?

21 **A.** No, because, unfortunately, we had already gone through
22 the UL certification based on small units that we had received
23 prior to that. So our design was already frozen at that point.

24 **Q.** And I asked you about prices a minute ago. Did you
25 negotiate the prices you paid the NCC Group for the capacitors?

1 A. No.

2 Q. Why not?

3 A. Because the typical flow would be that we would request a
4 quote. We would send in an RFQ to a manufacturer through
5 either their representative or through the company itself, and
6 we would ask for a quotation on price, and that was the price
7 that we were given.

8 Q. So they provided the price?

9 A. They provided the price.

10 Q. And you took the price?

11 A. And we took the price, yeah.

12 Q. In terms of dollars, approximately how much did eIQ
13 spend on film capacitors -- on the film capacitors it bought
14 from NCC, UCC?

15 A. Approximately 33,000.

16 Q. Now, Mr. Krzywinski, I'd like to ask you just about a
17 final area. Who made the decision at eIQ back in 2014 to
18 file this -- to file the lawsuit that began the capacitors
19 litigation?

20 A. So at that time Mr. Michael Lam was the CEO of eIQ and
21 he, through -- through lawyers, had -- had heard about the
22 particular lawsuit. And then Michael Lam and I conferred and
23 said that we would join.

24 Q. In the course of this lawsuit, have the plaintiffs engaged
25 experts or statisticians to help them -- to help you and the

1 other members of the class estimate the damages?

2 **A.** Yeah. Yeah. We've relied on both our legal team and
3 their experts, you know, for any -- for any damages or such.

4 **Q.** Do you have an understanding of what the damages are in
5 this case?

6 **A.** From what I've seen just that's been presented here, yes.

7 **Q.** And what is your understanding?

8 **A.** For -- what we were told is typically between 6 and
9 7 percent.

10 **Q.** Now, would you consider eIQ paying an extra 6 or
11 7 percent for film capacitors to be significant?

12 **A.** Paying anything higher than what we should be paying is
13 significant. Again, we were a start-up. We were struggling to
14 compete against other -- other competitors.

15 So pricing is extremely important to us. It determines
16 margin and profitability, as well as whether or not we can sell
17 the product.

18 **Q.** Can you tell the jury why you filed this lawsuit?

19 **A.** From a start-up point of view -- and I've done a number of
20 start-ups, but from a start-up point of view, it's -- we think
21 that we're -- that we're playing on a level playing field and
22 that everyone within the market is operating in a legal --
23 legal manner.

24 You know, to find out that we're not playing in a legal
25 manner is disconcerting to us, and we just -- you know, we just

1 wanted to participate and say that this is wrong and here is
2 why we think it's wrong.

3 Q. Thank you very much.

4 THE COURT: Pass the witness?

5 MR. SAVERI: Yes. Pass the witness.

6 THE COURT: Okay.

7 CROSS-EXAMINATION

8 BY MS. KAISER

9 Q. Good morning, Mr. Krzywinski. I'm Mary Kaiser and I
10 represent Matsuo.

11 A. Good morning.

12 Q. eIQ is a private corporation; correct?

13 A. Yes, it is.

14 Q. And you're one of the two major shareholders?

15 A. Yes, I am.

16 Q. You've been eIQ's CEO since 2016; is that correct?

17 A. That's correct.

18 Q. And prior to that, you served as its chief technology
19 officer; correct?

20 A. That's correct.

21 Q. And in each role you have been involved in the day-to-day
22 purchase of products for eIQ; right?

23 A. Yes.

24 Q. And capacitors are a component of the products that eIQ
25 manufactures; right?

1 A. Excuse me? Say again, please.

2 Q. Capacitors are a component of the products that eIQ
3 manufactures; correct?

4 A. Yes, that's correct.

5 Q. One of the products that you were responsible for
6 purchasing was capacitors; correct?

7 A. Yes. I wasn't personally responsible for the purchase of
8 them, but I would have authorized that purchase.

9 Q. Okay. And you are aware that there are different types of
10 capacitors; right?

11 A. Yes.

12 Q. Those include aluminum, tantalum, film and ceramic;
13 correct?

14 A. Correct, yes.

15 Q. eIQ only uses film or ceramic capacitors in its
16 products; correct?

17 A. That's correct.

18 Q. And ceramic capacitors cost pennies or a tenth of a penny;
19 is that right?

20 A. Yes.

21 Q. Film capacitors cost up to about \$3 per capacitor; is that
22 right?

23 A. Yes.

24 Q. And you warrant your products for 20 to 25 years; is that
25 right?

1 A. That's correct.

2 Q. eIQ uses film capacitors because they have a long
3 lifespan; right?

4 A. Yes.

5 Q. And you don't use electrolytic aluminum and tantalum
6 capacitors in your products because of their limited lifespan;
7 right?

8 A. That's correct, yes.

9 Q. In your products you cannot use aluminum electrolytic
10 capacitors; right?

11 A. We decided -- we decided not to use them, again, for the
12 longevity; that they're a much lower lifespan. So could they
13 have been used? Yes, but we would not have used them.

14 Q. And you would not have used tantalum electrolytic
15 capacitors either; right?

16 A. No, no.

17 Q. In your products aluminum, tantalum and film capacitors
18 are not interchangeable; right?

19 A. I'm not sure what you mean by "interchangeable." The form
20 and function between an electrolytic and a film capacitor could
21 be interchangeable depending on the design, but not from a
22 longevity point of view.

23 Q. And so in the vBoost that your company manufactured, the
24 aluminum or tantalum capacitors are not interchangeable for the
25 film capacitor in that product; correct?

1 **A.** In our design and our philosophy, yes, that's correct.

2 **Q.** Between 2002 and 2013, eIQ only purchased film
3 capacitors from one defendant, United Chemi-Con; correct?

4 **A.** Correct.

5 **Q.** And you purchased capacitors from United Chemi-Con for
6 only one year; is that correct?

7 **A.** Approximately, yes.

8 **Q.** There are 22 defendants being sued by the plaintiff class;
9 correct?

10 **A.** Yes.

11 **Q.** And plaintiffs allege an overarching scheme to fix the
12 prices of aluminum, tantalum and film capacitors involving 22
13 defendants; correct?

14 **A.** From what I've seen on this, yes.

15 **Q.** Except for United Chemi-Con, eIQ did not purchase any
16 film capacitors from any other of the 22 defendants in this
17 case; right?

18 **A.** That's correct.

19 **Q.** Between 2002 and 2013, eIQ did not purchase any
20 electrolytic capacitors from any of the defendants; correct?

21 **A.** That's correct.

22 **Q.** eIQ purchased zero aluminum capacitors from any of the
23 defendants; right?

24 **A.** To the best of my knowledge, correct. Yes.

25 **Q.** And eIQ purchased zero tantalum capacitors from any of

1 the defendants?

2 **A.** That's correct.

3 **Q.** Between 2002 and 2013, you were not aware of eIQ
4 purchasing any capacitors from any of the defendant
5 manufacturers based in Japan; correct?

6 **A.** Not directly.

7 **Q.** And eIQ did not purchase any customized capacitors; is
8 that right?

9 **A.** That's correct.

10 **Q.** There are other film capacitor manufacturers that are not
11 sued as defendants in this case; right?

12 **A.** Yes.

13 **Q.** One of those companies is EPCOS?

14 **A.** Yes.

15 **Q.** And, for example, you considered purchasing film
16 capacitors from EPCOS?

17 **A.** Yes, we did.

18 **Q.** And that's because EPCOS made the type of film capacitors
19 that were interchangeable with the UCC film capacitors; is that
20 right?

21 **A.** They were interchangeable and they were size -- size
22 appropriate for us.

23 **Q.** Another source for capacitors was to buy them from
24 distributors; is that right?

25 **A.** Yes.

1 Q. Distributors buy capacitors from the capacitor
2 manufacturers; correct?

3 A. Yes.

4 Q. And then they sell them to customers like you; correct?

5 MR. SAVERI: Objection, Your Honor. MIL 5.

6 THE COURT: One second.

7 (Brief pause.)

8 THE COURT: Number 5, Mr. Saveri? DPP's Number 5?

9 MR. YOUNG: Yes, sir, Your Honor.

10 MR. SAVERI: Yes.

11 (Brief pause.)

12 THE COURT: That's fine, but not too much more on
13 that.

14 Go ahead. Overruled.

15 BY MS. KAISER

16 Q. eIQ purchased capacitors from distributors; correct?

17 A. From distributors?

18 Q. Yes.

19 A. Sometimes, yes.

20 Q. And you actually preferred buying capacitors from
21 distributors?

22 A. That -- that is our preference.

23 Q. Because you can negotiate lower prices with distributors;
24 correct?

25 A. Well, typically with a distributor, the reason that we

1 would go with a distributor is that they would be able to
2 fulfill the complete bill of materials and not just a single
3 component. So we wouldn't necessarily negotiate on a
4 per-component basis, but on a complete bill-of-materials basis.

5 **Q.** So you could negotiate lower prices because you were
6 purchasing multiple components and you could negotiate on that,
7 that group of components; correct?

8 **A.** We could -- we could buy the complete bill of materials,
9 yes.

10 **Q.** And you shopped around for different prices when you
11 purchased capacitors; is that right?

12 **A.** Primarily we would -- our first --

13 **MR. SAVERI:** Objection, Your Honor. MIL 5.

14 **THE COURT:** Overruled. You need to finish this line
15 of questioning and move on after this one.

16 **A.** I'm sorry. Could you repeat the question?

17 **BY MS. KAISER**

18 **Q.** Yes. The question was: You shopped around for different
19 prices when you purchased capacitors; correct?

20 **A.** We shopped around for, again, form, function and
21 performance first, and then would issue RFQs and just purchase.
22 We would not necessarily go out and compare one against the
23 other on price-wise.

24 **Q.** But amongst the capacitors that met the other requirements
25 that you mentioned for form and function, you would consider

1 price as a factor when purchasing them; correct?

2 **A.** We didn't --

3 **MR. SAVERI:** Objection.

4 **THE COURT:** Sustained. Next question. No more on
5 that, please.

6 **MS. KAISER:** Yes, Your Honor.

7 **BY MS. KAISER**

8 **Q.** You typically used one film capacitor in each DC-to-DC
9 converter that eIQ manufactured; correct?

10 **A.** Absolutely, yes.

11 **Q.** And you testified on your direct examination that the film
12 capacitor is one of the single-most expensive components used
13 to manufacture the vBoost?

14 **A.** Yes.

15 **Q.** You testified that you paid \$2.90 for the film capacitor
16 used in the vBoost; is that correct?

17 **A.** Yes.

18 **Q.** And eIQ sold its DC-to-DC converters at a price of
19 approximately \$299; correct?

20 **A.** That was our --

21 **MR. SAVERI:** MIL 2.

22 **THE COURT:** Overruled.

23 **A.** That was the manufacturing suggested retail price, which
24 is -- which is the starting price for a -- you know, for a
25 component.

1 Again, we were a business-to-business sale, not general
2 public.

3 **BY MS. KAISER**

4 **Q.** And just to clarify, Mr. Krzywinski. I may have
5 misspoken. You testified you paid \$2.90 for the film
6 capacitor; correct?

7 **A.** Yes.

8 **Q.** So the cost of the film capacitor was roughly 1 percent of
9 the MSRP price of the vBoost; is that right?

10 **A.** Of the MSRP price, correct.

11 **Q.** Between 2002 and 2013, eIQ did not purchase any aluminum
12 or tantalum capacitors; correct?

13 **A.** Correct.

14 **Q.** You testified on your direct examination that eIQ spent
15 a total of approximately \$33,000 on film capacitors during the
16 alleged conspiracy period; correct?

17 **A.** Correct.

18 **Q.** And you testified also that you understand that your
19 damages from the alleged conspiracy in this case were between 6
20 and 7 percent; is that right?

21 **A.** That's correct, yeah.

22 **Q.** And 6 percent of \$33,000 is approximately \$2,000; correct?

23 **A.** Approximately.

24 **Q.** You were familiar with trade associations; correct?

25 **A.** Yes.

1 Q. A trade association is an organization of people or
2 companies in a particular business or industry; is that right?

3 A. Yes.

4 Q. And eIQ is a member of a solar industry trade
5 association called SEPA; is that right?

6 A. We were at that time, yes.

7 Q. And the SEPA trade association puts on trade shows;
8 correct?

9 A. Yes, it does.

10 Q. And SEPA provides networking opportunities for the
11 industry, for the solar industry; is that right?

12 A. Yes, they do.

13 Q. And you personally have attended trade association events
14 on behalf of eIQ; correct?

15 A. Yes, I have.

16 Q. Some of the other attendees at these events were eIQ's
17 competitors; right?

18 A. Yes.

19 Q. And you had meetings with your competitors at trade
20 association events; correct?

21 A. Say again, please.

22 Q. You had meetings with your competitors at trade
23 association events; correct?

24 A. It depends on what you define by "meetings." If it was
25 casual meetings in the hall, yes. If it was a specific meeting

1 with a competitor, no. We would have been present at the same
2 conference presentations, but we did not have meetings with our
3 competitors.

4 **Q.** You recall that you gave a deposition in this case;
5 correct?

6 **A.** Yes.

7 **Q.** And you recall that you testified under oath during that
8 deposition?

9 **A.** Yes.

10 **MS. KAISER:** Your Honor, may I approach the witness?

11 **THE COURT:** Yes. Is this the transcript?

12 **MS. KAISER:** Yes, Your Honor. I have a copy for you
13 as well.

14 **THE COURT:** Oh. I think I actually have one.

15 **MS. KAISER:** Okay.

16 **THE COURT:** What page are we looking at?

17 **MS. KAISER:** This is on Page 40, Lines 2 through 5,
18 Your Honor.

19 **THE COURT:** Okay. Before you go up, just one second.

20 (Brief pause.)

21 **THE COURT:** Okay. Go ahead.

22 **BY MS. KAISER**

23 **Q.** Do you recall being asked the following question and
24 giving the following --

25 **THE COURT:** Do you have the transcript?

1 **THE WITNESS:** No, I don't.

2 **THE COURT:** You need to hand the witness --

3 **MS. KAISER:** I'm sorry.

4 **THE COURT:** Yeah.

5 (Whereupon binder was tendered to the witness.)

6 **THE COURT:** It's Page 40, Line 2.

7 **THE WITNESS:** I'm sorry. Page 20?

8 **MS. KAISER:** Page 40, Lines 2 through 5.

9 **BY MS. KAISER**

10 **Q.** Do you recall being asked the following question and
11 giving the following answer in your deposition, Mr. Krzywinski?

12 (As read):

13 **"QUESTION:** Did you ever have any meetings with your
14 competitors at those trade shows?

15 **"ANSWER:** Yes."

16 **A.** Again, I didn't define at the time what that meeting was.
17 Generally we would see our competitors at a trade conference.

18 And the word "meeting" is very general. And in this
19 particular instance, I just took it to mean did we meet -- did
20 we happen to meet our competitors? Did we happen to meet other
21 people at these trade shows. There were no specific meetings
22 with our competitors.

23 **Q.** You testified truthfully at your deposition; correct,
24 Mr. Krzywinski?

25 **A.** Yes.

1 Q. Thank you.

2 You have no personal knowledge that the conspiracy you're
3 alleging in this case existed; correct?

4 A. Correct.

5 Q. And you're relying on your lawyers for your allegation
6 that 22 defendants agreed to an overarching scheme to fix
7 prices for aluminum, tantalum and film capacitors for 12 years;
8 right?

9 A. Yes.

10 Q. eIQ took no steps to uncover the alleged conspiracy
11 prior to filing the Complaint in this case; right?

12 A. That's correct.

13 Q. So of the 22 defendants in this case, eIQ only purchased
14 from one, United Chemi-Con; correct?

15 A. From the Chemi-Con Group, yes.

16 Q. And of the three types of capacitors in this case, eIQ
17 only purchased film capacitors from UCC; correct?

18 A. Correct.

19 Q. And eIQ only purchased film capacitors from UCC in 2009;
20 correct?

21 A. That time frame, yes.

22 Q. Thank you, Mr. Krzywinski.

23 MS. KAISER: No further questions, Your Honor. I
24 believe Ms. Berse has several questions.

25 THE COURT: Okay.

1 **MR. SAVERI:** I just have a --

2 **THE COURT:** Oh, one more defendant.

3 **MR. SAVERI:** Oh, I'm sorry, Ms. Berse.

4 **THE COURT:** That's fine.

5 Okay. Go ahead, Ms. Berse.

6 **CROSS-EXAMINATION**

7 **BY MS. BERSE**

8 **Q.** Good morning, Mr. Krzywinski.

9 **A.** Good morning.

10 **Q.** I'd like to ask you just a few questions about your
11 purchases of capacitors from United Chemi-Con. If we can start
12 by taking a look at Exhibit 16005 that you looked at during
13 your direct.

14 **MS. BERSE:** And if I could just have that put up?

15 (Document displayed.)

16 **BY MS. BERSE:**

17 **Q.** I'm sorry. I'm not sure what tab it is in your binder,
18 but it's 16005.

19 **A.** That's okay. I'll find it.

20 (Witness examines document.)

21 **A.** Yes.

22 **Q.** And if you take a look in sort of the center of the page
23 above where it says "INTL Priority," do you see a reference to
24 aluminum capacitors?

25 **A.** Yes, I do.

1 Q. And underneath that it says "Aluminum Electrolytic
2 Capacitors"?

3 A. Yes.

4 Q. Did, in fact, eIQ buy aluminum electrolytic capacitors
5 from United Chemi-Con?

6 A. No.

7 Q. Do you believe this to be a mistake?

8 A. Yes.

9 Q. Notwithstanding what's in this document, it's your
10 testimony that eIQ only purchased film and ceramic capacitors
11 from United Chemi-Con; is that right?

12 A. That's correct.

13 Q. And those ceramic capacitors that you purchased from
14 United Chemi-Con, you understand those are not part of this
15 case; is that right?

16 A. That's correct.

17 Q. And the film capacitors that you purchased from United
18 Chemi-Con, you understand that those are not the subject of any
19 of the guilty pleas that we talked about here yesterday; is
20 that right?

21 A. I'm sorry. I'm not sure I understand the question.

22 Q. Is it your understanding that film capacitors are not part
23 of any of the guilty pleas that are at issue in this case?

24 A. I'm not aware of that, no.

25 Q. You heard, in fact, the stipulation that was read to the

1 jury yesterday about the guilty pleas; right?

2 **A.** Yes.

3 **Q.** Okay. These film capacitors that eIQ bought from United
4 Chemi-Con, they went into the vBoost; is that correct?

5 **A.** Yes.

6 **Q.** And did eIQ ever sell any vBoosts that contained a film
7 capacitor manufactured by anyone other than United Chemi-Con?

8 **A.** Not to my knowledge.

9 **Q.** Never to your knowledge?

10 **A.** Never to my knowledge.

11 **Q.** You testified earlier that eIQ could not use a ceramic
12 capacitor in the vBoost. I just want to clarify. There are,
13 in fact, ceramic capacitors in the vBoost; right?

14 **A.** Yes, there are.

15 **Q.** And you just meant to say that the ceramic capacitors in
16 there were not interchangeable with the film capacitor that's
17 in there; is that correct?

18 **A.** That's correct, yes.

19 **Q.** And, in fact, there are several ceramic capacitors inside
20 the vBoost; right?

21 **A.** There are -- there are many, yeah, ceramic capacitors
22 inside the vBoost.

23 **Q.** Do you know around how many?

24 **A.** I don't know offhand, no.

25 **Q.** You mentioned a couple of United Chemi-Con employees

1 during your testimony. I believe they were Mr. Ohta and
2 Mr. Nigata; is that correct?

3 **A.** That's correct.

4 **Q.** Do you know whether either of these gentlemen are still
5 working for United Chemi-Con?

6 **A.** I understand that they are.

7 **Q.** Do you know who their employer is?

8 **A.** No.

9 **Q.** Do you know who they report to?

10 **A.** No.

11 **Q.** Do you know where the person that they report to, where he
12 sits geographically?

13 **A.** No. I only have their business card.

14 **Q.** You mentioned in your direct testimony that it's your
15 understanding that there is a 6 to 7 percent overcharge on the
16 capacitors that eIQ purchased from United Chemi-Con; is that
17 correct?

18 **A.** That's my understanding, yes.

19 **Q.** And it was your testimony that that number was calculated
20 by the economists that were hired by the counsel for the class
21 plaintiffs; is that right?

22 **A.** Yes.

23 **Q.** And so if that number was incorrectly calculated, would
24 that change your view of the damages that eIQ suffered?

25 **A.** I can't speak to that. That's speculation for me.

1 Q. You have no personal opinion beyond --

2 A. I have no personal --

3 Q. Okay. I just want to make sure the record is clear for
4 the court reporter. I think we were talking over each other.

5 A. I'm sorry. My apologies.

6 Q. You have no personal opinion on what the damages are in
7 this case; is that correct?

8 A. That's correct.

9 Q. Okay. And just last subject. You testified earlier that
10 eIQ also qualified the product with EPCOS film capacitors in
11 addition to the United Chemi-Con film capacitors; is that
12 right?

13 A. That's correct.

14 Q. And you understand that EPCOS is not a defendant in this
15 case; correct?

16 A. Correct.

17 Q. And you testified that, in fact, you tried to purchase
18 film capacitors from EPCOS, but were not able to; is that
19 right?

20 A. That's correct.

21 Q. And so just to be clear, you, meaning eIQ, considered
22 purchasing capacitors from a manufacturer who's not a defendant
23 in this case; is that right?

24 A. That's correct.

25 MS. BERSE: Nothing further, Your Honor.

KRZYWINSKI - REDIRECT / SAVERI

1 **THE COURT:** Okay. Redirect?

2 **REDIRECT EXAMINATION**

3 **BY MR. SAVERI**

4 **Q.** Mr. Krzywinski, let me try to clarify this.

5 The film capacitors you purchased from the Chemi-Con
6 Group, did some of them -- were some of them delivered to you
7 from NCC in Japan?

8 **A.** Yes.

9 **Q.** And some of them were delivered to you from UCC in
10 California?

11 **A.** That's correct.

12 **Q.** And when you paid for them, you wrote UCC a check?

13 **A.** Correct.

14 **Q.** And that check was remitted to UCC in the United States?

15 **A.** Yes, it is. Yes, it was.

16 **Q.** Now, let me ask you to go back to your deposition that I
17 believe Ms. Kaiser asked you to read. It's on Page 40.

18 **A.** Yes.

19 **Q.** Do you have Page 40 at Line 6?

20 **A.** Yes.

21 **Q.** And, again, this is the testimony at your deposition that
22 Ms. Kaiser asked you about?

23 **A.** Yes.

24 **Q.** And you were asked at Line 6 (as read):

25 **"QUESTION:** And what were those meetings about?"

1 Do you see that?

2 A. Yes.

3 Q. Would you read your answer at Line 8 to Line 12.

4 A. "Generally" -- my answer was (as read):

5 **"ANSWER:** Generally personal level meetings, friendly
6 meetings. We tended to shy away from product
7 discussions from a competitive point of view."

8 Q. Then on Line 17 you were asked "Social encounters?" Do
9 you see that?

10 A. Yes.

11 Q. And what was your answer?

12 A. "Social encounters. Thank you."

13 Q. So when you went to trade associations, did you ever
14 discuss with your competitors your prices?

15 A. No.

16 Q. Did you ever discuss with them your future prices?

17 A. No, we did not.

18 Q. Did you ever discuss with them your future quantities?

19 A. No.

20 Q. Did you ever discuss with them your manufacturing
21 capacity?

22 A. No, we didn't. This is a highly competitive field and,
23 you know, staying ahead of the competition is very important.

24 Q. Did you ever discuss with them whether your plant was
25 running at full capacity?

PROCEEDINGS

1 **A.** No.

2 **Q.** Did you ever discuss with them whether because your
3 companies were running at full capacity, it would be a good
4 time to raise prices?

5 **A.** No, we did not.

6 **Q.** Did you ever reach any agreements with your competitors
7 about prices?

8 **A.** No.

9 **Q.** Did you or your competitors ever travel to golf resorts
10 together?

11 **A.** No.

12 **Q.** Did you ever -- did you and your competitors ever go to
13 out-of-the-way places where no one would see you?

14 **A.** No.

15 **Q.** Or arrange meetings at out-of-the-way or shady hotels?

16 **A.** No.

17 **Q.** Thank you very much.

18 **MR. SAVERI:** No further questions.

19 **THE COURT:** Okay. You're excused. Careful on the
20 way down. It's very steep.

21 (Witness excused.)

22 **THE COURT:** All right. Let's take our morning break.
23 We'll come back at 11:05.

24 **THE CLERK:** All rise.

25 (Jury exits the courtroom at 10:50 a.m.)

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Debra L. Pas

Debra L. Pas, CSR 11916, CRR, RMR, RPR

Tuesday, November 30, 2021