

Exhibit 35

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UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

LEMOND CYCLING, INC.,

Plaintiff,

v.

Case No. 08-1010

TREK BICYCLE CORPORATION,

Defendant/Third-Party Plaintiff

v.

GREG LEMOND,

Third-Party Defendant,

Defendant.

Deposition of AARON MOCK

May 12, 2009

9:30 a.m.

at

Gass Weber & Mullins, LLC

309 North Water Street

Milwaukee, Wisconsin

Reported by David J. Sikora, RPR, RMR, CRR

1 products during his racing career. He had a great
2 legacy of trying new things, to go faster. It was a
3 great time in cycling, to be honest. And so that's
4 the reference, I think, that's being made here.

5 Q Sure. And that's consistent then with the next
6 sentence, that said, Greg was the first to use
7 clipless pedals, cycling eyewear and aero bars, all
8 standard-issue cycling gear now.

9 A Yes.

10 Q At a time when innovation often finished second to
11 traditions. Is that consistent with your prior
12 testimony?

13 A Yes.

14 Q And Greg remains steadfast in his opinion on frame
15 geometry, proper ergo dynamics, and the feel of the
16 bike. Do you see that?

17 A I see that.

18 Q Is this notion of frame geometry something that was
19 specific to Greg LeMond brand in terms of his
20 quality and reputation?

21 A I think that the way we positioned it within Trek
22 bicycles, yes. It was specific to Greg LeMond's
23 brand. The reality of that is that frame geometry,
24 as Greg could attest to, probably has been something
25 that has been developed over the years of Pro

1 Peloton riding, and there are other products in the
2 marketplace that reflect similar geometries. We
3 basically leveraged that Pro Peloton geometry, and
4 Greg's view of that, in this context.

5 Q What do you mean by Pro Peloton geometry?

6 A Greg was a pro racer. Greg had ideas about how a
7 rider should be on top of a bike. And in many cases
8 are very traditional, from the standpoint of a rider
9 looks like this on a bike. They do this to get
10 power, and those types of things. And we had
11 conversations about some of those things. But they
12 aren't very distant from what another pro would tell
13 you. And so Pro Peloton simply means someone that's
14 racing at the highest level. It may not be someone
15 that's a pro. It could be a very high amateur. But
16 it's commonly understood advantages in racing:

17 Q You made a reference to the idea that this frame
18 geometry maybe was used elsewhere.

19 A Uh-hm.

20 Q Tell me where and when.

21 A I don't know that there's -- frame geometry is very
22 complicated. Frame geometry is made up from
23 everything of how the rider interfaces with the
24 bike -- so you literally measured from the seat tube
25 to the head tube.

1 going, what's happening at retail. In the generic
2 sense, and also in specific sense, when it comes to
3 models, or a specific model. And there have been
4 times when those conversations have been less
5 productive based on the discussion of a dealer's
6 time being spent talking to consumers about comments
7 made by Greg rather than the product on the showroom
8 floor. Again, I'm not the sales guy, so I can't
9 tell you how that directly affects sales. But as a
10 former bike shop employee, and knowing what those
11 dealers have talked to me about, that's a
12 distraction. Especially on a day when, you know,
13 they need to move product. Or want to basically be
14 selling the product, and talking about the product.

15 Q Do you know of any -- I think you answered this, but
16 just to be clear -- do you know of any guidance or
17 support that Trek gave dealers in terms of helping
18 them productively deal with that issue?

19 A I do not.

20 MS. RAHNE: Mark this.

21 (Exhibit Number 182 was marked for
22 identification)

23 MS. RAHNE: You can take a look at that, and
24 decide whether you want Greg to step out.

25 Q Do you know roughly the years when these

1 distractions occurred?

2 A I would be guessing.

3 Q Two thousand four one of them?

4 A Yes.

5 MR. WEBER: Yeah, I would.

6 MS. RAHNE: Greg, we got an attorneys eyes
7 only document.

8 MR. LE MOND: Should I go out?

9 MS. RAHNE: Yeah.

10 (Short pause)

11 MR. WEBER: I don't know if we put it on the
12 record, Mr. LeMond has been attending the deposition
13 today.

14 MS. RAHNE: Thank you, Ralph, I should have
15 done that at the beginning.

16 Q I'm going to hand you what's been marked as Exhibit
17 182. If you wouldn't mind spending just a couple of
18 minutes flipping through it.

19 (Short pause)

20 A Okay.

21 Q Okay. Mr. Mock, have you ever seen a document like
22 Exhibit 182 before?

23 A I have.

24 Q And can you tell us, for the record, what it is?

25 A This is the notes of town halls that would have been

1 done. And a town hall would be a meeting in a given
2 city, location, wherever. They would basically
3 bring in customers to review opportunities for the
4 company. And by opportunities, I mean the good, the
5 bad, the ugly. Usually opportunities come in all
6 different --

7 Q Sorts.

8 A Sorts.

9 Q It's life, right?

10 A It's life.

11 Q Everything's going to come in.

12 A You got it.

13 Q So who would attend these? I mean customers. Who
14 else?

15 A Customers. There would have generally been a
16 representative from different departments. Whether
17 it's sales, forecasting, marketing, product.

18 Q Well attended?

19 A Yes. Generally well attended.

20 Q Now, this appears to be a collection of them from
21 2004 time period, would you agree? I'm going to
22 trust your judgment on this, because I think you're
23 probably more familiar with how these were
24 generated. Looks like there's a 2003 one as well.

25 A Yeah. I mean it's a -- the time span here is from

1 November of '03 to November of 2004. So a full
2 year's worth of discussion.

3 Q Okay. Would one of the distractions that you
4 referenced have also been in 2001?

5 A Not that I remember.

6 Q You don't recall there being any concern or
7 distractions in 2001 related to comments by Mr.
8 LeMond?

9 A Not specifically to me.

10 Q Generally?

11 A Yes. Generally.

12 Q Generally.

13 A Yeah.

14 Q And in 2004, do you recall, generally, when any
15 comments would have been made by Mr. LeMond that
16 caused what you referred to as a distraction?

17 A I don't remember the exact timing of the comments,
18 but I remember dealers are very cognizant. They're
19 good at what they do. They're very informed. And,
20 you know, when things come up that aren't directly
21 related to them being successful in their business,
22 it usually becomes an issue. And they'll vocalize
23 that. And, you know, that's something that I think
24 could have taken place at any time after comments
25 were made.

1 Q So they follow cycling.

2 A Sure. Most dealers, yeah.

3 Q You've had a chance to review Exhibit 182? Correct?

4 A Most of it, yes.

5 Q And I'll allow you to take as much time as you want,
6 if you want to spend more time. But I've been
7 through it in great detail. And you've mentioned
8 that this is sort of where the good, the bad, and
9 the ugly come out.

10 A Uh-hm.

11 Q Can you point to one instance in here where there's
12 a reference to concern about comments made by Greg
13 LeMond?

14 A Let's see. I'll focus on the 2004 portion, because
15 the 2003 portion wouldn't --

16 Q Sure.

17 (Short pause)

18 A I do not.

19 Q Take a look at a couple of them. I have some
20 questions about what they mean.

21 A Okay.

22 Q If you look at Trek 011793.

23 A 00179 --

24 Q It's on the third page.

25 A Okay.

1 longer ignore his results and the face of cycling
2 changed forever, do you see that?

3 A I do.

4 Q Do you have any experience, based on your work at
5 Trek, related to a claim like this in Trek marketing
6 materials? To validate whether it's consistent with
7 what was believed of Greg in 1996, or inconsistent?

8 A I would say that it's consistent.

9 Q Just one more item on this page. If you look at the
10 second column, it says, the real genius of Greg was
11 also in what he didn't change. And I think that
12 references back to your earlier testimony.

13 A To my point. Yes.

14 Q Okay. So you do know actually back to 1996. You've
15 absorbed a lot. If it worked, he didn't fix it.
16 Traditional European road race geometries, reliable
17 European components and classical styling. Do you
18 see that?

19 A Yes.

20 Q Is that consistent with what you think of as
21 something associated with the LeMond brand?

22 A It is. It would go back to our conversation on
23 geometries.

24 Q Right. Great. Okay. I'm going to jump ahead a
25 decade. Keep us all awake here.

1 A I do.

2 Q Did that impact what you did with the LeMond line?

3 A No, it didn't.

4 Q And why not?

5 A Making more carbon product in this context meant
6 making more carbon product in the Waterloo facility.
7 So it was basically a reaction to just capacity
8 planning.

9 Q What's made in the Waterloo facility?

10 A So we make Trek road frames. Not all road Trek
11 frames, but many of the carbon frames for Trek are
12 made in Waterloo, and I believe that's what number
13 one is pointing to. Capacity issue probably on the
14 Trek product side.

15 Q Then item two for the goals, says simplify the Trek
16 road line and complement it with LeMond. Do you see
17 that?

18 A I do.

19 Q Do you recall, from a project manager perspective,
20 this being a goal for the line you managed, that you
21 would be complementing the Trek road line?

22 A It's always something -- this exact goal is not --
23 this is actually -- this goal actually reflects --
24 this is a future state to when my work would have
25 occurred. In other words, this came out after my

1 work had already been done. So any time, you know,
2 when you look at your distribution channel, it's
3 part of what a product manager would do, a dealer,
4 you're looking at the dealer, and what that dealer
5 carries, and how they carry it. Well, most dealers
6 want to have two really competent successful road
7 lines on their floor. And so the goal with LeMond,
8 since most of our distribution channel carried both,
9 was to make sure that we had a LeMond product that
10 was competitive with the Trek product. So the
11 dealer was offering their customer a choice. And
12 that's what I read into number two.

13 Q So you don't understand this to be that this LeMond
14 bike is complementing the Trek road line. You
15 didn't feel like -- you don't feel like, reading
16 this, that you were creating a product that was a
17 complement to the Trek line.

18 A So I don't read this to mean that there were any
19 compromises made to the LeMond line based on what
20 the Trek product line is. I read this to mean that
21 LeMond is there to make dealers successful alongside
22 of Trek within that business structure.

23 Q You can turn a few more pages to --

24 A Okay.

25 Q -- Trek 004318.

1 A Okay.

2 Q Do you see that?

3 A Yes.

4 Q There's a Trek and LeMond platform.

5 A Yes.

6 Q Is this consistent with what you're talking about in
7 terms of there being a Trek road bike, and a
8 parallel LeMond road bike for dealers to carry?

9 A Yeah. When I look at this, and I look at the
10 platforms laid out next to each other, it's simply
11 showing each level of frame platform, and it's kind
12 of showing its counterpart based on price ranges, is
13 really what it's looking at there. And it's -- to
14 me, it's simply showing the dealer that, hey, you
15 have, on the Trek side you have a Madone, on the
16 LeMond side you have this ti carbon Tete de Course.
17 You know, you have this really nice other piece to
18 sell that customer coming in the door. You have
19 this option or that option. And the nice thing
20 about this is it shows, you know, for basically each
21 Trek platform, there's a complementary LeMond.

22 Q And how -- I asked you before, but now we've got
23 actually a nice parallel set in front of us.

24 A Sure.

25 Q How is one to distinguish, as a consumer, between

1 these two lines?

2 A Yeah. As a consumer, you know, sitting in this
3 room, we understand that Trek and LeMond are under
4 one umbrella. As a consumer walking in to a
5 dealership, and looking at the product line up on
6 the floor, when you look at a LeMond, and when you
7 look at a Trek, especially in this context, they're
8 significantly different visually. If you had no
9 idea, if there weren't details at least on the high
10 end stuff, you would still know that they were
11 different platforms. You wouldn't have guessed that
12 they came from one company, because they were very
13 unique. Spine technology is very unique. As you
14 get down further, it gets a little more generic as
15 you get down to aluminum platforms. But then,
16 again, when you look at the products sitting next to
17 each other on the floor, whether it's
18 specifications, in other words, the parts that are
19 on there, the handlebars, the drive train, or paint
20 and graphics, you know, all of those things play a
21 role in differentiating a product for the consumer
22 and for the dealer.

23 Q If you turn a few more pages to Trek 004319.

24 A Okay. Got it.

25 Q And it looks like these are some talking points for

1 people when you're trying to sell a Madone. Am I
2 saying that right? Madone?

3 A Yeah.

4 Q Things to say every time you sell a Madone, do you
5 see that?

6 A I do.

7 Q I'm interested in number one, the first bullet
8 point, the Madone was designed for -- with and for
9 Lance Armstrong, do you see that?

10 A I do.

11 Q Is that one of the selling points, to your
12 knowledge, for Trek for the Madone bike?

13 A You know, the marketing guys could answer that for
14 you. But I'm sure that they used that, yeah.

15 Q If you can skip down to the last bullet point, I'm
16 interested in that. There is no better road bike
17 available from anyone. Do you see that?

18 A Yeah.

19 Q Is that a statement that you agree with, as a
20 product manager?

21 A No.

22 Q Why do you disagree with that?

23 A I think that we had extremely competitive product in
24 the LeMond line. And if you were to evaluate it
25 against LeMond literature, you would see similar

1 statements going the other way. You know, we
2 were -- you're fighting for the brand. You know.
3 Simply because this is a Trek piece, I would never
4 expect the Trek guys not to say that they have the
5 best bike in the world. Just like I would expect
6 them never to ask me to not say that I thought that
7 I had the best LeMond piece out there.

8 Q Why don't you flip to what -- the description of the
9 LeMond spine at Trek 004324.

10 A Okay.

11 Q Trek U book is more than I can handle. And this
12 page relates to the LeMond spine line. Do you see
13 that?

14 A I do.

15 Q And it says, things to remember when selling a
16 LeMond spine bike.

17 A Yeah.

18 Q See that?

19 A Yeah.

20 Q Do you see any claims here comparable to the claims
21 Trek makes for the Madone, about there being no
22 better road bike available from anybody? Is there a
23 comparable statement in support of the LeMond spine
24 bike?

25 A Not on this page.

1 Q Okay. If you want to flip through it, and if you
2 can see it on any other page, I would love to know
3 where it is. And you can take all the time you
4 want.

5 A That's okay. I think that if you looked through the
6 catalogs, we presented the catalogs, that we could
7 find equally significant representations of the
8 LeMond line.

9 Q But this is the booklet that's used with dealers,
10 correct?

11 A In 2005-2006. Yeah. And a new one's done every
12 year.

13 Q Jump to the Fisher road bike.

14 A Okay.

15 Q My memory of your testimony is that the Fisher road
16 bike was developed in approximately five months.

17 A Yes.

18 Q Did you sleep?

19 A Yeah, I got a little sleep.

20 Q We've requested, but we haven't received any of the
21 development docs yet. And nobody's withholding
22 them. They're just not due to us yet.

23 A Okay.

24 Q So I'm working from a very basic level. I don't
25 know very much of anything.

1 over something.

2 A Okay.

3 Q You're reading my mind.

4 A Sorry.

5 Q Was the conversation you had with Greg about some
6 concern he had that his product line had not been
7 discussed in John Burke's presentation?

8 A It was that his brand hadn't been mentioned. Is my
9 understanding of it.

10 Q Did you do any follow-up with that to confirm or
11 disconfirm whether that was true?

12 A Yes.

13 Q And what did you find out?

14 A That was accurate. Yes.

15 Q Was there any -- did you, either from Mr. LeMond, or
16 any other discussions, was there any -- let me back
17 up. Did you have a discussion with Mr. LeMond about
18 anything in Mr. Burke's presentation about the life
19 span of product lines?

20 A Not that I recollect.

21 Q Take a look at --

22 MS. RAHNE: Mark that one.

23 (Exhibit Number 189 was marked for
24 identification)

25 MS. RAHNE: