

ZASTROW EXHIBIT 1

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Case No. 08-CV-1010 (RHK-JSM)

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LEMOND CYCLING, INC.,
Plaintiff,

- against -

TREK BICYCLE CORPORATION,
Defendant and
Third-party Plaintiff,

- against -

GREG LEMON, D,
Third-party Defendant.

-----x

February 18, 2009
9:02 a.m.

DEPOSITION of SIDNEY D. BLUMING,
taken by the Defendant, pursuant to
Notice, held at the offices of Bluming &
Franco, 140 East 45th Street, New York,
New York, before Debbie Zaromatidis, a
Shorthand Reporter and Notary Public of
the State of New York.

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2 Q. You went to Brooklyn Law School?

3 A. That's correct.

4 Q. Graduated in 1968?

5 A. That's correct.

6 Q. And since 1968, what has been
7 your line of work?

8 A. I have always been in private
9 practice with various law firms.

10 Q. Okay. And has licensing been a
11 particular concentration of yours?

12 A. Yes, it has.

13 Q. Okay. Tell us a little bit
14 about your practice in the area of
15 licensing?

16 A. Since the early '70s, I have
17 been involved in various aspects of
18 licensing, really all aspects of licensing
19 representing manufacturers, designers,
20 athletes, personalities, retailers,
21 licensing representatives. I have -- I
22 have been speaking on licensing at various
23 trade associations and licensing groups.
24 I have written some work on licensing and
25 business periodicals in business. I have

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2 been an expert witness in licensing
3 matters. It is a significant component of
4 our practice. I have a general commercial
5 business practice. I am involved in
6 arbitration, and I sit as an arbitrator
7 with the American Arbitration Association
8 primarily in intellectual property
9 matters.

10 Q. Okay.

11 A. And as I said a general
12 commercial practice by and large.

13 Q. How would you describe licensing
14 to a layperson?

15 A. Probably the simplest way to
16 describe it is that it is renting one's
17 name and image to another for use in
18 connection with a product or service that
19 entity has an experience -- has an
20 expertise in producing and so on.

21 Q. And in the context of renting
22 one's name and likeness to somebody else,
23 that, as I think you have written,
24 is -- becomes a shared enterprise, right?

25 A. I think that a good licensing

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2 Q. Yes. Item number 5, product
3 development refers to "bilateral agreement
4 on appropriate product."

5 Do you see that?

6 A. Yes.

7 Q. Do you have an understanding why
8 there would be a bilateral agreement being
9 discussed for product development?

10 MS. RAHNE: I object to the
11 form, foundation.

12 A. Again, you are asking me for
13 speculation. I think there is rationale
14 to it. I think from Trek's point of view
15 they didn't want to produce 12 wheeler
16 bikes, and from Greg's point of view he
17 didn't want bikes that looked like bubble
18 gum machines. I think each had an
19 interest in the product representing what
20 could be done and what should be done.

21 Q. Okay. So when we talk about
22 bilateral approval product development, do
23 you see that as an issue that makes sense
24 for the licensor, Mr. Lemond, to be
25 concerned about?

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2 Dick Burke at Trek to you dated May 8,
3 1995.

4 (Document handed to witness.)

5 Q. This is a seven-page fax
6 including the cover sheet for those of us
7 old enough to remember faxes as opposed to
8 E mails.

9 A. They weren't even started.

10 Q. Even before faxes.

11 MS. RAHNE: I remember faxes.

12 Q. Take a minute to look at that.

13 (Pause.)

14 A. Okay. Well, I -- I see that the
15 fax is addressed to me. I don't know if
16 it is gratuitous to say, but Mr. Burke was
17 the consummate gentleman and a delight to
18 deal with and I was sorry hear about his
19 passing. He was a lovely man, and all the
20 discussions were at an enormously gracious
21 level and courteous level.

22 Q. Was Mr. Dick Burke your primary
23 point of contact on the Trek side of the
24 deal?

25 A. He was the primary business

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2 which we have talked about and this
3 current draft says, "Trek determines
4 channels of distribution so long as they
5 are consistent with Greg's image and
6 reputation and that of approved products
7 sold in better stores." Right?

8 A. That is the same.

9 Q. And your highlight is "agreed if
10 Trek is satisfied with parenthetical
11 insert, which is frequently used in such
12 cases. " That refers to the -- to what
13 parenthetical insert?

14 A. The one you read about Greg will
15 not withhold consent to frustrate Trek's
16 exploits.

17 Q. You explain "It allows
18 personality the needed protections of his
19 or her image, et cetera, and insures
20 licensee that there wouldn't be arbitrary
21 or vengeful sabotaging of the agreement"?

22 A. I think I explained to Dick that
23 is what I used in the Elizabeth Taylor
24 deal.

25 Q. Number 9, promotion and

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2 A. So it carried its way over into
3 this iteration.

4 Q. Yes, and we saw in one version
5 the specific percentage was not included?

6 A. In the deal point memo.

7 Q. Right. But now in this version
8 of the agreement it is, right?

9 A. You know, it is -- it is in
10 everyone's best interests to have a
11 tangible guideline, Trek's as well. I
12 mean Trek wouldn't want us to say it would
13 be 10 percent. That wouldn't have been
14 reasonable. So 3 percent is almost as
15 much a limit as it is a minimum.

16 Q. Okay.

17 (Exhibit 127 marked for
18 identification.)

19 (Document handed to witness.)

20 Q. Exhibit 127 is an August 14
21 letter from you to Mr. Siefkes again.

22 A. No wonder the rain forests are
23 in trouble.

24 MS. RAHNE: You guys produce
25 it, and we reuse it. We are all culpable