EXHIBIT 3

CITED PORTIONS FROM THE TRANSCRIPT OF THE DEPOSITION OF JOHN ROESLER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
Civil Action No. 04 C 2249

BEST VACUUM, INC.,

Plaintiff,

-V-

IAN DESIGN, INC.,

Defendants.

DEPOSITION OF: JOHN ROESLER
SEPTEMBER 8, 2005

Deposition of JOHN ROESLER, taken in the above-entitled matter before LORI JONES, a Certified Shorthand Reporter (License No. 30XI00161900) and Notary Public of the State of New Jersey, taken at the law offices of NEWARK AIRPORT HILTON, 1170 Spring Street, Newark, New Jersey, on September 8, 2005, commencing at 12:15 p.m., pursuant to notice.

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I N D E X

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JOHN ROESLER,
92 Orchard Court, Toms River, New Jersey, having been first duly sworn according to law, is examined and testifies as follows:

EXAMINATION

BY MR. ADLER:

Q. This is the deposition of John Roesler in the matter of Best Vacuum vs. Ian Design, Docket No. 04 C 2249, United States District Court Northern District of Illinois for the Eastern Division. The witness has been sworn. In the room today are Mr. Charles Mudd, attorney for the Defendant; Mr. John Roesler representing the Defendant, Ian Design; the court reporter and myself, David Adler, attorney for the Plaintiff, Best Vacuum.

Mr. Roesler, could you please state your name and spell it for the record?

A. John Roesler, R-o-e-s-l-e-r.

Q. Mr. Roesler, you understand that I am the attorney representing Best Vacuum. This is a deposition which I will ask you questions and you will answer them truthfully unless your attorney tells you clearly and directly otherwise. Although no judge is present, this

Q. Were you involved in any activities on campus?

MR. MUDD: Objection to relevance and --

MR. ADLER: I'll rephrase the question.

BY MR. ADLER:

Q. Were you involved in any activities involving marketing or business or things of that nature while you were in college?

A. I was studying to be a painter, which is kind of a contradiction.

Q. Turning to the business itself, could you please state the assets of the company, the business known as Ian Design, Inc.?

A. Probably an estimate would be an inventory worth about -- retail about $15,000 and a checking account with probably three to $5,000.

Q. No savings account?

A. No.

Q. No retirement account?

A. No.

Q. The inventory consists of?

A. Dyson vacuum cleaners.

A. What business am I in?
Q. Yes.
A. I'm in the retail sales business.
Q. Mr. Roesler, after incorporating Ian Design, Inc., when did you start selling vacuums?
A. As soon as I made a -- as soon as I got permission from Dyson to sell their vacuums. I incorporated with --
Q. Mr. Roesler, I understand that you registered the domain named BestVacuumCleaner.com November 6, 2003, do you know about when you started selling vacuums through that web site?
A. I think it was in January I believe.
Q. Mr. Roesler, why did you choose the name BestVacuumCleaner.com?
A. I was forced to. I had originally had two names one of which I was going to use which incorporated Dyson, they all of a sudden came out with a paper or a decision that would not allow the use of Dyson in a URL or web site so I was in the process of trying to get one up and I applied for and got that name in an hour

because I needed to have one quickly.

Q. So when Dyson instructed you to change your domain name because they objected to use of the name Dyson in the domain name, you complied?

A. That's correct.

MR. MUDD: Objection to the extent that it assumes facts in evidence. I don't think that he testified that he actually obtained the Dyson domain name.

THE WITNESS: Yeah, I had.

BY MR. ADLER:

Q. Just to make sure we're clear, you had registered the domain name that had Dyson in the name?

A. I had actually two domain names that incorporated Dyson.

Q. And I don't believe you answered the question. You had registered two domain names with Dyson in the name. After you received notice from Dyson not to use those names, you complied?

A. Complied with?

Q. You didn't use those names?

A. Yes, and I went out and looked for

and decided on another name which was descriptive of what I was going to do, I chose Best Choice Vacuums.

Q. Focusing --

A. Actually at the time it was Best Vacuum Cleaners, and I think I had also Best Vac which I chose not to use.

Q. Did you do anything to investigate the availability of the name BestVacuumCleaner.com other than trying to register it?

A. Other than the information which was provided by the registering agency, you know, when you did a search to see what was available, no.

Q. Did you do a general internet search for availability of the name Best Vacuum Cleaner?

A. Yes, that was part of it. In other words, you can't register one until you know it's available.

Q. Let me be more specific. Did you search using a typical search engine, search the web for availability of the name Best Vacuum Cleaner?

A. No.

Q. Did you investigate the trademark office to find out whether anybody had registered the name?

A. No.

Q. So if I understand you correctly, you really did nothing other than try and register the domain?

A. That's correct. I was under the impression that was all I needed to do. The name was available.

Q. So you never checked the internet for the name Best Vacuum?

A. No, I did not.

Q. Why did you choose BestVacuumCleaner.com and not BestVacuum.com?

A. Because that's the name I ended up choosing. Why did I name my son Baron as opposed to Martha, you know, it appealed to me at the time.

Q. Mr. Roesler, going back to your web design marketing class, did you ever discuss the impact of the domain name on web design?

MR. MUDD: Objection to the extent that it's vague and ambiguous as to what you

want but go ahead and answer.

THE WITNESS: I'm sure that in the course of that, of a couple of classes, it would have been mentioned in terms of and in depth discussion as to, you know, we discussed the, you know, brand names, we discussed availability, there were some discussions surrounding names and URLs.

BY MR. ADLER:

Q. Was there any discussion as to the length of the name, the length of a particular domain name?

A. Not that I recall.

Q. In your opinion is there any advantage to having a shorter domain name than a longer domain name?

A. For my purposes, no.

MR. ADLER: Could you mark this as Exhibit 1, please?

(Exhibit 1, printout of the About Us page of BestVacuumCleaner.com, was marked for identification.)

BY MR. ADLER:

Q. Mr. Roesler, do you recognize that?

A. Yeah.

Q. Could you please describe it?
A. It's a description that I presented on the web indicating who and what we were.
Q. Do you recall approximately when in time this was put up on the web?
A. This would have been -- I am not sure which particular permeation this is. I would assume that this is based on what I'm looking at here, this was when the web site was through Stores Online and this could have been any time between December and probably August of 2003 I guess, 2004.
Q. Would it be fair to say this was one of the earlier pages of your web site?
A. Yes, it was.
Q. Could you please read the first paragraph there at the top of the page?
A. "BestVacuumCleaner.com is wholly owned and operated by Ian Design. Ian Design is a sales and marketing organization originally founded in 1987, which specializes in the promotion of those" -- let me know when you want me to stop. "Those consumer items, identified by Ian Design, has providing superior performance, and which demonstrate the potential for both

substantial and sustained market growth."

Q. That's fine, thank you. You said that or you read that Ian Design was first begun in 1987?

A. Yes, it was.

Q. So you did business under that name before incorporating as Ian Design, Inc.?

A. I did business under the name of Ian Design Group which was a sole proprietorship.

Q. What was the nature of that business?

A. We were a marketing organization and what I used to do was to provide sales officers and market homes for large home builders, track home builders.

MR. MUDD: Just to clarify, you are going to give me copies of the exhibits?

MR. ADLER: Yes, I will get you copies of all the exhibits before the end of the deposition.

BY MR. ADLER:

Q. Mr. Roesler, if BestVacuumCleaner.com was a good name, why didn't you try and register BestVacuum.com?

MR. MUDD: Objection; asked and answered previously but go ahead and answer.

THE WITNESS: I don't have an answer for that. I don't remember what I was thinking at the time, all I remember was that I was looking for an available URL and I was in a hurry and best, you know, Best Vacuum Cleaner was available.

BY MR. ADLER:

Q. You also registered the domain name BestChoiceVacuums.com; is that correct?

A. Yes, at some later date, yes.

Q. Is there any particular reason you chose this domain name?

A. Is there any particular -- I received a letter from yourself indicating that there was a conflict and that Best Choice or Best Vacuum was an entity and we were selling the similar type of thing. I was aware -- I had become aware of their existence originally when I was looking for Dyson vacuums, which is what my concern was, Best Vacuum was not a representative or was not selling Dyson vacuums. At any rate I chose Best Choice Vacuum because I agreed to your requirement or your request to

abandon Best Choice Vacuums -- BestVacuumCleaners.com and at that point I chose Best Choice Vacuums.

Q. You said that you were searching for Dyson, could you be more specific? Were you searching for retailers selling the Dyson?

A. I was searching for online retailers.

Q. And during that search you came across Best Vacuum?

A. No, I didn't. Ultimately I didn't but not when I was originally looking for to make arrangements with Dyson.

Q. Do you recall the first time you became aware of Best Vacuum?

A. Yeah, somebody called me up and said that they had erroneously purchased a vacuum from or had purchased a vacuum from me and they had not.

Q. So you received a phone call from somebody who was confused as to whether you were Best Vacuum?

A. Yes.

MR. ADLER: Can you mark that as Exhibit 2, please?

(Exhibit 2, letter dated 2-15-04, was marked for identification.)

BY MR. ADLER:

Q. Mr. Roesler, do you recognize that?

A. Yes.

Q. Can you please tell us what it is?

A. It's a letter whereas I mentioned earlier I agreed to abandon the use of BestVacuumCleaner.com.

Q. Can you read the second and third sentence, please?

A. Second sentence, "I will accede to your demand to cease doing business, now and in the future, as BestVacuumCleaner.com. I concede your client's prior claim, and decline to argue the differences in our trade names."

Q. Thank you. So when you first learned of Best Vacuum, you conceded that Best Vacuum had the right, a prior right to use the name?

MR. MUDD: Objection, mischaracterization. I believe he said he first learned of Best Vacuum when a consumer contacted him and you're referencing the letter. He responded to you.

MR. ADLER: I'll rephrase the question.

BY MR. ADLER:

Q. When I wrote to you indicating my client's concern about confusion between his name Best Vacuum and your use of the name BestVacuumCleaner.com, you conceded that my client had a prior right to the trade name; is that correct?

A. The basis of the representations that you made in your letter that he had, in fact, a trade name, which as I understand it was not the case in terms of a federally registered trade name which I assumed or your letter seemed to indicate you had. So under those auspices, yes, I assumed you had a prior right to that name. On the other hand, I would not have -- I was already --

Q. That's all.

MR. MUDD: He can answer the question. Go ahead and finish speaking.

THE WITNESS: I had also received -- I had a couple of situations where somebody had erroneously -- I had spoken to had erroneously purchased at Best Vacuum and

determined that it was -- I determined what the client -- that it was Best Vacuum, they cancelled their order at Best Vacuum and purchased it from me, which was their original intent. I also got a couple of complaints about the lack of timely response so. . .

BY MR. ADLER:

Q. Thank you. It's not relevant.

MR. MUDD: He's answering your question.

THE WITNESS: At that point I conceded -- I concluded that I did not want to be associated or presumed or give the appearance of being associated with Best Vacuum, and I was considering at the time that I received your letter changing the name of the site and if you read the letter on further, you will determine that I also was of the opinion and still am that the name of the site had no relevance to the success of the site.

BY MR. ADLER:

Q. So it's your testimony today that you have actually spoken with several customers who have confused you with Best Vacuum?

A. Two that -- yes, I spoke to two

customers who confused me with Best Vacuum, couple of customers who confused Best Vacuum with me and probably a dozen or so customers who confused me with other online retailers who sold Dyson vacuum who had entirely dissimilar names. So the closeness of the name didn't appear to have any relevance whatsoever.

Q. That's your opinion, correct?

A. That is my opinion.

Q. Mr. Roesler, after receiving my letter asking you to cease using the name BestChoiceVacuums.com, did you try contacting me or my client in any way?

A. Yes, I wrote you that letter.

MR. MUDD: Objection. I want to clarify are you talking about the letter that you originally sent regarding Best Vacuum Cleaner or are you talking about a subsequent letter regarding Best Choice Vacuums?

MR. ADLER: I'm talking about my first letter.

MR. MUDD: And that was with Best Vacuum Cleaner?

MR. ADLER: Dot com.

THE WITNESS: And that was my

response so I did, in fact, respond.
BY MR. ADLER:
Q. And you did change your name to BestChoiceVacuums.com at that time, correct?
A. Within a reasonable time frame.
Q. Shortly thereafter?
A. Shortly thereafter. In other words, the logistics to make that change.
Q. Do you recall how long you have been doing business under the name BestVacuumCleaner.com?
A. A matter of a couple months.
Q. Was the business successful?
A. Yes, it was.
Q. Do you recall, and you can give an estimate, about how many customers you had in that time?
MR. MUDD: What time?
MR. ADLER: The time frame between switching the name or, I'm sorry, the time between starting the business and changing the name.
THE WITNESS: My conclusion was when I switched the name, I did not notice a decrease in business. I don't remember

BY MR. ADLER:

Q. Mr. Roesler, I'd like to turn now to your marketing efforts for the web sites located at BestChoiceVacuums.com and BestVacuumCleaners.com. Are you still using the domain name BestVacuumCleaner.com?

A. No.

Q. No?

A. No.

Q. If that domain name is typed into a web browser, what would happen to the best of your knowledge?

A. I don't know what would happen, presumably if you typed it in -- I honestly don't know. At one point it would have taken you to the current site but it no longer does, that much I know. I don't know what would appear.

Q. Could you please explain what steps you plan to take to market your business located at BestChoiceVacuums.com?

MR. MUDD: Objection -- strike that. Can you rephrase the question or can you repeat the question?

MR. ADLER: Certainly.

vacuum, Dyson vacuum cleaner, the various models, DC14, DC15, DC07, DC07, low reach, full gear, the various models which there are four basic models. Dyson vacuum cleaner, everything was related specifically to Dyson.

Q. Did you ever purchase the key word Best Vacuum?

A. No, don't think so.

Q. You don't think so or you never did?

A. To the best of my knowledge I never did.

Q. Other than Yahoo and Google, are there any other search engines that you purchased paper click advertising on?

A. I used an article insider which was they produced articles, you know, that were about related items and they had a link that would take two to, you know, to my site as being representative of an expert in that particular field. They had a system that did, in fact, generate key words as a matter of fact much to my dismay because of all of a sudden I began to receive billing for key words that I had neither chosen nor wanted so when I say to the best of

my knowledge, that may have been one once but it was not one that I elected to use.

Q. Do you still currently employ paper click advertising to promote your web site?

A. Yes, but to a much less degree.

Q. Why is that?

A. Because pushing my rankings up and the relevant search.

Q. Could you be more specific, please?

A. There were two types of search engine results, one is the relevance of the content on the page and the other was buying a position. The former, the actual relevance is what I'm trying to get a better rating on in the search engines.

Q. Can you explain how the relevance is affected based on your understanding of how the searches work?

MR. MUDD: Objection; vague and ambiguous. What do you mean by how the relevance is affected?

MR. ADLER: I'll rephrase the question.

THE WITNESS: I can take a stab at answering the question.

BY MR. ADLER:

Q. Let me rephrase the question. What would you do to improve the relevance rankings in search engine results?

A. I hired a firm who specialized in it.

Q. You said earlier that you are currently engaged in trying to increase the relevance, correct?

A. Yes.

Q. Have you had any discussions with the firm as to what can be done to improve the relevance?

A. I've had nothing but discussed with them what can be done and some things have been done and some things have not.

Q. Can you explain what has been done?

MR. MUDD: Objection, again, to the extent it calls for disclosure of any confidential or trade secret marketing information but go ahead and answer.

THE WITNESS: They do what they call optimizing a page, which means they choose meta tags which reflect the content of the page and the number of them and how they are arranged

and how the content is arranged on the page is arrived at through a system that I would not profess to understand or be knowledgeable in.

BY MR. ADLER:

Q. Would it be fair to say that the content is there to appeal to a specific consumer audience?

MR. MUDD: Content where, please?

MR. ADLER: On the web page.

THE WITNESS: I'm not sure that I could actually answer that question. I'm not sure that I know who the audience is other than I am looking to provide as much information about my product and put it in a -- make that information as accessible as possible on the site.

BY MR. ADLER:

Q. Mr. Roesler, you stated earlier that Ian Design through BestChoiceVacuums.com is seeking to promote, for lack of a better word, highly valuable consumer products.

A. Yes, Dyson vacuum is the only one that I have found at this point and the only product I even own, however, I have asked for suggestions and I am constantly on the look out

for a similar product of similar value with the same potential.

Q. Would you describe Dyson vacuum as the best vacuum?

A. I own two, and I believe that it is certainly if not the best vacuum, certainly the best vacuum that I have used.

Q. Would it be fair to say that you are trying to sell your vacuum cleaners to consumers looking for the best vacuum?

A. Yeah, I think that that would be one characterization, sometimes it's even better to sell something to a consumer who wants to have what everybody else has and is talking about.

Q. Mr. Roesler, with regard to internet marketing and search engine marketing, can you tell me what you know about key word selection and key word placement on a web page?

A. Key word placement on a web page I don't really, again, that whole concept of matching meta tags to key word placement is not something that I really pretend to have any real knowledge about. In terms of choosing a key word, the best of my knowledge you try to be as

name can also be a brand name?

A. Possible.

Q. Mr. Roesler, are you aware that Best Vacuum, the Plaintiff in this case, also sells Dyson brand vacuum cleaners?

A. I am now, yeah.

Q. Were you aware before today?

A. Yes.

Q. Do you think that somebody looking for a Dyson brand vacuum cleaner would be able to distinguish between Best Choice Vacuum and Best Vacuum?

A. I certainly think they would, yes.

Q. Do you think that a person searching for a Dyson vacuum cleaner would be able to distinguish between the names Best Choice Vacuum and Best Vacuum?

A. Do I think that they would distinguish, yes, I can distinguish between your name and mine. I'm sure they can distinguish between two different names.

Q. Would you agree Best Choice Vacuum and Best Vacuum sound similar?

A. I don't really think that they actually sound similar and if I thought so, I

would not have changed -- I would not have forfeited Best Vacuum Cleaner to go to Best Choice Vacuum if I didn't think that there was a world of difference.

Q. So you don't think Best Choice Vacuum and Best Vacuum --

MR. MUDD: Objection.

MR. ADLER: -- sound similar in any way?

THE WITNESS: No, I didn't say similar in any way but are they similar only, yeah. There are two words which exist in both, do they sound similar to me, no, I don't think they sound similar.

BY MR. ADLER:

Q. Do you think it's possible that a consumer unfamiliar with your firm and unfamiliar with the Plaintiff might be unable to distinguish between the two names?

A. It's been my experience that people have confused me with Factory Direct which sounds nothing like it. They have confused me with any number of other people who sold Dyson vacuums, have called me up and asked me if they made a purchase, this and so time because it's

been my experience that consumers don't pay a lot of attention and many fail to write down or to mark in favorite or to make any sort of permanent record of who they dealt with and I think that that is people who actually made a purchase and I think that people who actually look at sites are even less specific.

Q. You mentioned Factory Direct, do you know why someone might confuse a business named Factory Direct with your business?

A. I just told you why. Because people don't make a record, they are not sure and they are just looking for everybody that they can find who sold Dyson vacuums on the hope of discovering who they actually bought from.

Q. Mr. Roesler, have you done anything to register your web site with any particular other web sites on the internet such as search engines or directories?

MR. MUDD: Objection to the extent that he's already answered that question in talking about search engines and paper click things before. Is there a distinguishing factor in that question?

MR. ADLER: Yes.

C E R T I F I C A T E

I, LORI JONES, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to the action; and that I am neither a relative nor employee of such attorney or counsel; and that I am not financially interested in the action.

LORI JONES, CSR

LICENSE NO. 30XI00161900

Dated: September 26, 2005