

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NO. 1:12-CV-00479

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TURKCELL ILETISIM HIZMETLERI, A.S.
Turkcell Plaza Mesrutiyet Caddesi No. 7134430
Tepibasi, Istanbul, Turkey

EAST ASIAN CONSORTIUM, B.V.
Rokin 55, 1012 KK, Amsterdam, the Netherlands,

Plaintiffs,

v.

MTN, LTD.,
Private Bag 9955, Cresta 2118
South Africa,

MTN, INTERNATIONAL (MAURITIUS) LTD.,

Defendants.

_____x

Videotaped Deposition of Christian Kilowan

Monday, April 30, 2012

9:01 a.m.

VOLUME I

Reported by: Randi J. Garcia

Ref: 7271

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1 A Yeah.

2 Q And was MTN, at the time, promising to
3 facilitate these arms sales?

4 A No. We were not promising to facilitate
5 the arm sales. We were promising to get them in
6 front of the right people for these arm sales.
7 And if there are any bottlenecks, we would talk to
8 the minister, for example. And the minister would
9 talk to his people in the Arms Procurement Program
10 in South Africa.

11 Q Were you personally having these
12 discussions with the Iranians?

13 A Yes. On the Iranian side I had these
14 discussions myself, which I reported back to
15 Irene.

16 Q And who were you talking to?

17 A I was talking Dr. Mahmoudzadeh mainly.
18 M-A-H-M-O-U-D-Z-A-D-E-H.

19 Q Was there anyone else you were talking
20 to?

21 A Not really. On those issues it was me
22 and Mr. Mahmoudzadeh.

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1 Q Did you keep MTN corporate advised of
2 your discussions?

3 A Of course.

4 MR. FARBER: Why don't we pause here to
5 take a break for 10 minutes.

6 THE VIDEOGRAPHER: This is the end of
7 Tape 1 of the videotaped deposition of
8 Christian Kilowan. We're off the record at
9 11:06.

10 (Thereupon, a brief recess was taken.)

11 THE VIDEOGRAPHER: Here begins Tape 2 in
12 the videotape deposition of Chris Kilowan.
13 We are on the record at 11:16.

14 BY MR. FARBER:

15 Q Mr. Kilowan, let me show you exhibit --
16 what I will mark as Exhibit 5.

17 (Thereupon, Exhibit Number 5 was marked for
18 identification purposes.)

19 Q I will state for the record, it is Bates
20 stamped CK491 through 492.

21 Mr. Kilowan, do you recognize Exhibit
22 Number 5?

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1 A I do, yes.

2 Q Please describe what it is.

3 A It is a update that I compiled in 2005.

4 Q And do you recognize this as a true and
5 correct copy of a document that was kept in your
6 custody?

7 A That is correct.

8 Q Was it kept by you when you were
9 employed by MTN?

10 A That is correct.

11 Q Was it kept in the regular course of
12 MTN's business?

13 A That is correct.

14 Q Did you create this document at the time
15 in 2005?

16 A I did, yes.

17 Q I would like to focus you on paragraph
18 four of the exhibit, if you could read that to
19 yourself.

20 You mentioned that you were -- there
21 were some discussions about funding of the local
22 partners' shares, if they were to leave Turkcell

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1 to MTN. Could you expand upon what you mean by
2 that?

3 A At what point?

4 Q Starting in 2000- -- starting in 2004
5 and then, sort of, how it progressed.

6 A In 2004 the position was that the local
7 partners owned 30 percent, Sairan, Bonyad owned
8 30 percent of the license. Turkcell owned the
9 other 70 percent of the license.

10 In terms of the agreements, the local
11 partners had to come up with their 30 percent of
12 the funding, which is for the license, license
13 fee, and the capitalization of the company. So in
14 total it is about 450 million euros. So they
15 would have to come up with their 30 percent.

16 In our discussions we realized that they
17 would not be in a position to come up -- despite
18 all of their posturing, they would not be in a
19 position to come up with their 30 percent. So we
20 were saying we will help you. And by that we
21 meant that we would give you a loan to pay for
22 your part of the financial obligations. And, of

25 (Pages 94 to 97)

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<p>1 point we started discussing with the 2 ambassador in Iran, Ambassador Saloojee; 3 Irene started discussing with Terror Lekota 4 and with the Minister of Foreign Affairs 5 about the possibility of Terror Lekota going 6 to Iran. 7 When he comes to Iran, what is it that he 8 would offer, be able to offer them at an 9 official South African government to Iranian 10 government level. Irene was responsible for 11 those discussions in South Africa. Ambassador 12 Saloojee and myself, we were in Iran at that 13 time. 14 So we were communicating backwards and 15 forwards on when he would be able to come, you 16 know, what would he be able to do, et cetera, 17 et cetera, et cetera. So we started the 18 process of preparing for his visit to Iran. 19 During that process, July, early August, 20 Irene came to Iran. And we had a meeting with 21 Ambassador Saloojee. She then -- they then had 22 a private meeting where I was not present.</p>	<p>1 with Iran in terms of which certain items they 2 will discuss, which items can be sold to Iran and 3 that will pass through the National Convention of 4 Arms Committee of South Africa. 5 Q Did you have an understanding -- 6 MR. COLEMAN: Excuse me. I just want to 7 put an objection on the record to the 8 question on line seven and line nine, "what 9 was the fish?" Object to form and move to 10 strike. 11 BY MR. FARBER: 12 Q Did you have an understanding of why 13 Ambassador Saloojee was talking to you about 14 defense sales or defense agreements between the 15 two governments? 16 A I mean, that was the nature of the 17 relationship between us. We discussed these 18 things openly, and it was something that was in 19 constant discussion between MTN and him -- Irene 20 in particular, him, me after all of these 21 indications earlier in the year. So we were all 22 on the same page what it is that the Iranians</p>
Page 103	Page 105
<p>1 They had the meeting and then she said to me -- 2 after that meeting she said that Terror is 3 coming to Iran. 4 Q Terror being? 5 A Terror Lekota, the Minister of Defense, 6 is coming to Iran. I asked her when. She said it 7 will be sometime in August. He has to see when he 8 would be able to come. And Ambassador Saloojee 9 would be doing the formal invitation, getting it 10 from the defense in Iran and channeling it through 11 normal channels back to Victoria, and so on. 12 I think one week or two weeks later, 13 when I had dinner -- I had regularly dinner at 14 Ambassador Saloojee's house. We were discussing 15 this. He said that Irene had told him that they 16 can give the fish to Iran. 17 Q What was the fish? 18 A Well, his understanding of the fish was 19 that Terror would come, the Minister of Defense, 20 with our Minister of Defense would come to Iran, 21 and he would agree that South Africa will enter 22 into some form of defense cooperation agreement</p>	<p>1 wanted from us. 2 So for me it wasn't strange, because by 3 then we had a relationship. We were both in the 4 struggle together, albeit in different countries, 5 but that comradeship was there. We were all on 6 the same page and we were all focusing on the same 7 thing. 8 Q When you say "we," who is the we? 9 A MTN, and Ambassador Saloojee and myself, 10 Irene, we were all in the same -- on the same page 11 on this. 12 Q Did you communicate to anyone on the 13 Iranian's side that Defense Minister Lekota would 14 be taking the trip? 15 A Yes. I spoke to Dr. Mahmoudzadeh, but I 16 said this will -- the formal processes will be 17 done by the ambassador. But I didn't say to him, 18 yes, we will -- also, I went with Irene to Dr. 19 Mahmoudzadeh. Irene also confirmed this to him. 20 Q Why was MTN telling someone who worked 21 for the Defense Ministry that -- the Iranian 22 Defense Ministry, that someone from the South</p>

<p style="text-align: right;">Page 106</p> <p>1 Africa Defense Ministry was coming to visit?</p> <p>2 A We wanted to show them that we could</p> <p>3 deliver.</p> <p>4 Q Deliver on --</p> <p>5 A On defense cooperation. We can deliver</p> <p>6 our Minister of Defense.</p> <p>7 Q Did you -- who invited -- did anyone</p> <p>8 from MTN talk to Defense Minister of South Africa</p> <p>9 Lekota about this trip?</p> <p>10 A Irene spoke to him.</p> <p>11 Q And did she tell you about her</p> <p>12 conversations?</p> <p>13 A Yes.</p> <p>14 Q What did she tell you?</p> <p>15 A She said that, you know, it was tough</p> <p>16 because this guy doesn't want to go to Iran, and</p> <p>17 --</p> <p>18 Q This guy being --</p> <p>19 A Minister Lekota. And she had to put</p> <p>20 some pressure on him, begged him and said "my</p> <p>21 brother, you know, we want you to come to me</p> <p>22 because we can show that we can deliver on these</p>	<p style="text-align: right;">Page 108</p> <p>1 would run smoothly.</p> <p>2 Q Did anyone from MTN accompany the</p> <p>3 Defense Minister Lekota?</p> <p>4 A Irene and Phuthma Nhelko accompanied.</p> <p>5 Q Do you know whether they were in the</p> <p>6 meetings that Minister Lekota had with the</p> <p>7 Iranians?</p> <p>8 A As far as it was reported to me, yes.</p> <p>9 Q Did you find that unusual?</p> <p>10 A No, not in a context of what we had been</p> <p>11 doing all along.</p> <p>12 Q Did Irene ever tell you what she</p> <p>13 expected from the Iranians in return for arranging</p> <p>14 the visit of Mr. Lekota?</p> <p>15 A An entry into the second license.</p> <p>16 Q Do you know whether MTN paid for any</p> <p>17 portion of Minister Lekota's trip?</p> <p>18 A I don't know because I don't know what</p> <p>19 financial arrangements were made.</p> <p>20 Q Were there any dinners or other events</p> <p>21 between MTN and Minister Lekota in Iran during the</p> <p>22 trip?</p>
<p style="text-align: right;">Page 107</p> <p>1 things." So in the end, I don't know what it is</p> <p>2 that she promised him or why he went, but he went</p> <p>3 to Iran.</p> <p>4 Q Did Irene tell you that she promised</p> <p>5 something to Minister Lekota?</p> <p>6 A No. She didn't say anything to me about</p> <p>7 it.</p> <p>8 Q Do you know when Minister Lekota</p> <p>9 actually visited?</p> <p>10 A I think it was August 2004.</p> <p>11 Q Did you work on his agenda?</p> <p>12 A No.</p> <p>13 Q Who arranged his agenda and meeting?</p> <p>14 A The agenda was arranged between Irene</p> <p>15 and Ambassador Saloojee. I wasn't even in the</p> <p>16 country when this visit took place. I wasn't in</p> <p>17 Iran. I was in South Africa.</p> <p>18 Q How do you know Irene arranged his</p> <p>19 agenda with Ambassador Saloojee?</p> <p>20 A Through her office in South Africa and</p> <p>21 through the office in Iran. I was in constant</p> <p>22 touch with both offices to make sure that the trip</p>	<p style="text-align: right;">Page 109</p> <p>1 MR. COLEMAN: Object to form.</p> <p>2 THE WITNESS: Well, the dinners were</p> <p>3 at -- one dinner was at the hotel where</p> <p>4 Minister Lekota stayed. And then there was</p> <p>5 an official dinner at the Ministry of Foreign</p> <p>6 Affairs --</p> <p>7 (Interruption by the court reporter.)</p> <p>8 A -- of defense, Ministry of Defense,</p> <p>9 where Irene and Phuthma and Ambassador Saloojee</p> <p>10 were present with Minister Lekota and Minister</p> <p>11 Shamkani and Mahmoudzadeh.</p> <p>12 Q Who was Minister Shamkani, and can you</p> <p>13 spell Shamkani?</p> <p>14 A Shamkani was the Minister of Defense of</p> <p>15 Iran at that time. His spelling is</p> <p>16 S-H-A-M-K-A-N-I.</p> <p>17 Q What was MTN doing in a meeting between</p> <p>18 the Minister of Defense of South Africa and the</p> <p>19 Minister of Defense of Iran?</p> <p>20 A MTN organized it. MTN arranged it.</p> <p>21 Irene arranged it. So -- and it was specifically</p> <p>22 arranged so as to prove to the Iranians that MTN</p>

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1 A No, not as far as I -- I wasn't there,
2 so I don't know. But nobody reported back to me
3 that there was discussion about the fish.

4 Q Was there any discussion about nuclear
5 issues between Minister Lekota and the Iranian
6 defense minister?

7 A I wasn't there, but there was a press
8 article -- Minister Lekota had a press conference
9 where he specifically referred to Iran's right to
10 peaceful nuclear activities. So from that I
11 deduced that there was some discussions around the
12 nuclear issue also.

13 Q Do you know if MTN ever talked to
14 Minister Lekota before the trip about the nuclear
15 issue?

16 A Yes. Irene spoke to him about that.

17 Q How do you know that?

18 A Because she told me.

19 Q What did she tell you she had talked to
20 Minister Lekota about?

21 A The issue at that stage was the question
22 of Iran having suspended the nuclear program in

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1 2004. Iran was waiting for a proposal from the P5
2 Plus One on the way forward. And so what Irene
3 was discussing was what is the South African's
4 stance on the Iran issue, nuclear issue.

5 And the position at that time was that
6 South Africa supports any peaceful nuclear
7 programs. And that support was important for
8 Iran, because South Africa had this moral high
9 ground around the nuclear issue.

10 Q At that time, August/September 2004, did
11 MTN make any promises to the Iranians that they
12 could deliver the South Africa government on
13 nuclear issues?

14 A No. They could not deliver a vote, but
15 they could deliver access to the South African
16 government. Because up until then it was very
17 difficult for the Iranian nuclear negotiators to
18 get a meeting with President Thabo Mbeki. Because
19 he would not -- because he would -- normally he
20 would say this is the name of Abdul Minty, foreign
21 ministry, et cetera, et cetera.

22 Q Who was Mr. Minty?

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1 A Mr. Minty was the South African
2 ambassador to International Atomic Energy Agency.
3 M-I-N-T-Y.

4 Q That is known as IAEA?

5 A That is correct.

6 (Thereupon, Exhibit Number 6 was marked for
7 identification purposes.)

8 MR. FARBER: For the record, we will
9 mark as Exhibit 6 CK330 through 333.

10 Q Mr. Kilowan, do you recognize the
11 document?

12 A Yes, I do.

13 Q What do you recognize it as?

14 A It is a report that I compiled for
15 submission to Irene Charnley.

16 Q What is the date on the memo?

17 A It's 2004/09/09.

18 Q Is that September 9, 2004?

19 A That is correct, yes.

20 Q Is this a true and correct copy of the
21 document that you prepared?

22 A That is correct.

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1 Q And was it in your custody while you
2 were employed by MTN?

3 A That is correct.

4 Q And did you keep it in the regular
5 course of MTN business?

6 A That is correct.

7 Q I would like to focus you on -- I move
8 the admission of Exhibit 6.

9 Let me focus you on page CK332.

10 A Yeah.

11 Q And in the item, second license, do you
12 see that?

13 A That is correct.

14 Q If you could just read into the record
15 the status.

16 A The complete status?

17 Q Yes.

18 A "All relevant parties received PFN's
19 letters. Meeting arranged for IC and RN on 15
20 September in Tehran. Latest rumors are that the
21 Turkcell process has been stalled once more. Also
22 potential threat to entire second license process.

30 (Pages 114 to 117)

<p style="text-align: right;">Page 290</p> <p>1 the fact there would be technical</p> <p>2 subcommittees constituted, memorandum of</p> <p>3 understanding would be signed around defense</p> <p>4 and agreements and procurement, et cetera.</p> <p>5 BY MR. FARBER:</p> <p>6 Q Were the promises also involving what we</p> <p>7 previously called "the fish?"</p> <p>8 A That is correct.</p> <p>9 Q And did Minister Lekota have anything to</p> <p>10 do with MTN activities in the telecom space?</p> <p>11 A No.</p> <p>12 Q Did anyone from MTN talk to Ambassador</p> <p>13 Saloojee about being a reference for MTN in this</p> <p>14 FIPPA application?</p> <p>15 A I spoke to him.</p> <p>16 Q What did you ask him? What did he say?</p> <p>17 A I asked him whether we could put his</p> <p>18 name on as a reference. He said "yes, fine."</p> <p>19 Q Was there any discussion with Ambassador</p> <p>20 Saloojee?</p> <p>21 A No.</p> <p>22 Q When did MTN actually receive the</p>	<p style="text-align: right;">Page 292</p> <p>1 I then asked Dr. Fardis "what is the</p> <p>2 problem?" Dr. Fardis then showed me a letter in</p> <p>3 Farsi. He said this letter came from the Ministry</p> <p>4 of Foreign Affairs to him. And they said that he</p> <p>5 cannot issue this license to MTN Irancell until</p> <p>6 after the vote at the International Atomic Energy</p> <p>7 Agency. This was in November 2005.</p> <p>8 Q And what did -- when Dr. Fardis</p> <p>9 explained to you what was in this letter, how did</p> <p>10 you respond?</p> <p>11 A I was very upset. I said but, "you</p> <p>12 know, this has nothing to do. We've complied</p> <p>13 fully with all the requirements." There was no</p> <p>14 condition that said we should wait til after the</p> <p>15 IAE meeting.</p> <p>16 I left his office. I called -- first I</p> <p>17 called Ambassador Saloojee, and I said to him he</p> <p>18 needs to talk to the president and he needs to</p> <p>19 talk to Abdul Minty to find out what is going to</p> <p>20 happen at the IAE. He asked me why. Then I</p> <p>21 explained to him what happened -- just transpired</p> <p>22 in Dr. Fardis' office.</p>
<p style="text-align: right;">Page 291</p> <p>1 license from the Iranian ministry?</p> <p>2 A 27th November 2005.</p> <p>3 Q Was there a date earlier that MTN was</p> <p>4 promised the license by the Ministry of</p> <p>5 Communication?</p> <p>6 A 20th of November 2005.</p> <p>7 Q So on November 20, 2005 where were you?</p> <p>8 A I was in Iran, and I went with</p> <p>9 Mr. Dezfoulie to Dr. Fardis' office to go get the</p> <p>10 license.</p> <p>11 Q And did you get the license on</p> <p>12 November 20?</p> <p>13 A No.</p> <p>14 Q What happened?</p> <p>15 A When we got to Dr. Fardis' office he and</p> <p>16 Mr. Dezfoulie was engaged in a discussion in</p> <p>17 Farsi. I could see Mr. Dezfoulie was not very</p> <p>18 happy, so I asked him "what is happening here"?</p> <p>19 Because all I came for was this one page, the</p> <p>20 license. And he said, no, Dr. Fardis told him</p> <p>21 that there is a problem with him issuing the</p> <p>22 license on the date.</p>	<p style="text-align: right;">Page 293</p> <p>1 He said, "okay, I will see what I can</p> <p>2 find out." I then called Irene, and Irene</p> <p>3 exploded. And she was very unhappy.</p> <p>4 So I went back into Dr. Fardis' office.</p> <p>5 I said "look, we are not happy. We object to this</p> <p>6 condition," but he said "look, I can't do</p> <p>7 anything. I have an instruction from the Ministry</p> <p>8 of Foreign Affairs."</p> <p>9 Q Did he explain to you what the Ministry</p> <p>10 of Foreign Affairs was waiting for?</p> <p>11 A Was waiting for the South African vote</p> <p>12 at the IAEA.</p> <p>13 Q And did Dr. Fardis tell you how the</p> <p>14 Ministry of Foreign Affairs wanted South Africa to</p> <p>15 vote at the IAEA?</p> <p>16 A No, he didn't tell me.</p> <p>17 Q Did you have an understanding of what he</p> <p>18 meant when the Iranian said a vote at the IAEA?</p> <p>19 A Yes, I had an understanding.</p> <p>20 Q What was your understanding?</p> <p>21 A My understanding was either we had to</p> <p>22 abstain or we had to vote against -- at that stage</p>

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1 first time and wouldn't be -- It wouldn't be the
2 last time.

3 Q Now, shortly after you submitted that
4 PowerPoint, Mr. Ahmadinejad was sworn in as
5 president, correct?

6 A Yeah. I think it was end of August or
7 beginning of September. I am not sure.

8 Q And shortly after that on August 7th,
9 MICT set a deadline for the Irancell Consortium to
10 complete the licensing process, correct?

11 MR. FARBER: Objection.

12 THE WITNESS: As I can recall, yes.

13 BY MR. COLEMAN:

14 Q So it was -- the deadline was
15 September 4th, correct?

16 A That's correct. Yes.

17 Q And later in August, August 17th, is
18 when the Irancell entity was actually registered,
19 correct?

20 MR. FARBER: Objection.

21 THE WITNESS: I can only go on what I
22 saw later. But I did not have any firsthand

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1 knowledge at that time.

2 BY MR. COLEMAN:

3 Q And then by the end of August -- go back
4 to Exhibit 48, if you would, sir.

5 A 48?

6 Q Yes, please.

7 A Okay.

8 Q By the end of August, August 26th, is
9 when you reported that the Iranian side had signed
10 the license agreement on their own as Irancell?

11 A Yes.

12 Q And that Turkcell had taken the view
13 that it had not signed the agreement and was not
14 necessarily bound by it, correct?

15 A That is what was reported to me, yeah.

16 Q And shortly after that, eight days in
17 fact, the deadline came and went and Turkcell had
18 not completed the process, correct?

19 A That's what I was told by Dr.
20 Mahmoudzadeh.

21 MR. FARBER: Objection.

22 BY MR. COLEMAN:

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1 Q And after that, in effect, Mahmoudzadeh
2 and Mokhber washed their hands of Turkcell and
3 proceeded to negotiate with MTN?

4 A I don't know what they did with their
5 hands.

6 Q They proceeded to negotiate with MTN?

7 A I don't know what they did with their
8 hands. We started negotiations roundabout the
9 15th of September, yes.

10 MR. COLEMAN: Let's take a short break.

11 THE VIDEOGRAPHER: We are off the record
12 at 3:23.

13 (Thereupon, a brief recess was taken.)

14 THE VIDEOGRAPHER: We are back on the
15 record at 3:44.

16 BY MR. COLEMAN:

17 Q Mr. Kilowan, what is your best
18 recollection of when you first arrived in Iran?

19 A In March/April 2004.

20 Q March or April?

21 A Yeah.

22 Q So sometime between March 1st and

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1 April the 30th?

2 A Yeah.

3 Q Can you be any more specific?

4 A Unfortunately, not. I will have to look
5 at my passport of that time, but right now, no.

6 Q Do you have the passport that you used
7 at that time with you?

8 A No.

9 Q You do not. Had you ever been to Iran
10 before that?

11 A No.

12 Q And at that point in time you did not
13 speak any Farsi, did you?

14 A No.

15 Q Do you speak any Farsi now?

16 A Very little.

17 Q Had you made any study of Iranian
18 politics or economics or business before you went
19 to --

20 A Before, no.

21 Q Yeah.

22 Now, in May 2004, MTN was exploring

63 (Pages 554 to 557)

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<p>1 Q Was it your understanding that you would 2 stay on until November 1st? 3 A Until November 1st of -- 4 Q 2007. 5 A No. I had -- I think I had a -- my 6 contract expired, I think, in May or June 2007. 7 And then I was negotiating a new contract to go 8 to Dubai. 9 Q Now, just a little further down in this 10 paragraph it says "during 2006 I wrote two 11 memoranda to Irene in which I clearly and 12 objectively set out my reasons for this 13 conclusion." And the conclusion being that 14 Jyoti was the wrong COO, is that correct? 15 A That is correct. Yes. 16 Q If you look at your recommendations on 17 the last page, you recommended that -- it says 18 "recommendations A)" it says that you're 19 recommending that Jyoti be deployed elsewhere in 20 the group, is that right? 21 A That is correct. Yes. 22 Q Was Jyoti deployed elsewhere in the</p>	<p>1 let me ask you a couple questions about your 2 computers. 3 How many computers did you have prior to 4 November 1st 2007 on which you did MTN related 5 work? 6 A Two. Two computers. 7 Q Were they desk tops or lap tops? 8 A One desk top and one lap top. 9 Q When you left MTN, did you retain 10 possession of both computers? 11 A No. 12 Q Did you retain possession of the lap 13 top? 14 A Yes. 15 Q What happened to the desk top, do you 16 know? 17 A I don't know. 18 Q Do you still retain the same lap top 19 today? 20 A No. 21 Q Did there come a point where you 22 switched lap tops? Do you still have a lap</p>
Page 810	Page 812
<p>1 group in 2007? 2 A No. 3 Q Did you get a response to this 4 memorandum? 5 A From Phuthuma? 6 Q Yes. 7 A No. 8 MR. HARKNESS: Can we mark this, please. 9 (Thereupon, Exhibit Number 66 was marked 10 for identification purposes.) 11 Q This is -- I'm showing you what has been 12 marked as Exhibit 66, which bears the Bates 13 number CK6104 through 6105. 14 Is this a document that you created? 15 A Yes. 16 Q If you look on the front page it says 17 "date created 6/06/2007." 18 A Yes. 19 Q Is this a document that was created on 20 or around June 6, 2007? 21 A Yes. Yes. 22 Q While we are just talking about this,</p>	<p>1 top -- strike that. 2 Do you have a lap top now? 3 A Yes. I have three lap tops now, yes. 4 Q So what did you do with the data on the 5 lap top on which you had MTN related 6 information? 7 A I took it all off and on to a memory 8 stick. 9 Q Did you use a particular program to do 10 that or you just used Windows to transfer -- 11 A I just transferred it. 12 Q And where did you do that transfer? 13 A I think sometime in 2009, if I'm not 14 mistaken. That is when -- yeah, 2009. 15 Q Where did you store the memory stick 16 from 2009 through December 2010? 17 A Where did I store it? I keep it in my 18 lap top in my backpack. 19 Q And there came a point where you 20 provided documents to Turkcell or its lawyers, 21 correct? 22 A Current lawyers, or the lawyers in the</p>

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<p>1 arbitration?</p> <p>2 Q At this point I am going to be -- I</p> <p>3 don't really -- well, let me ask the question a</p> <p>4 different way.</p> <p>5 Did there come a time where you gave the</p> <p>6 documents to lawyers working on behalf of</p> <p>7 Turkcell?</p> <p>8 A Yes.</p> <p>9 Q When was that?</p> <p>10 A That was in the beginning of 2011. It</p> <p>11 might have been February, March 2011.</p> <p>12 Q Did you -- how did you transfer the</p> <p>13 files?</p> <p>14 A I gave them the memory stick and they</p> <p>15 transferred it on to their computers.</p> <p>16 Q Did they give you the memory stick back?</p> <p>17 A Yes.</p> <p>18 Q Do you still have the original of the</p> <p>19 memory stick?</p> <p>20 A Yes.</p> <p>21 Q After that original -- after February or</p> <p>22 March 2011 did you ever give the memory stick</p>	<p>1 you created to anyone other than lawyers for</p> <p>2 Turkcell?</p> <p>3 A No.</p> <p>4 Q And have you provided any of the</p> <p>5 documents on that memory stick to anyone other</p> <p>6 than lawyers for Turkcell?</p> <p>7 A When?</p> <p>8 Q At any point, since December 2010.</p> <p>9 A No, not that I can recall.</p> <p>10 Q Turning to Exhibit --</p> <p>11 A Except -- hang on. I think in 2010, end</p> <p>12 of 2010 or beginning of 2011 I sent the</p> <p>13 authorization that Phuthuma had given to Irene,</p> <p>14 as well as a copy of the Ghorbanoghli agreement,</p> <p>15 I sent that to Shauket Fakie. I think it was</p> <p>16 December 2010 or beginning 2011.</p> <p>17 Q Other than that instance, providing</p> <p>18 documents to Turkcell's lawyers in March and</p> <p>19 then later in the year in 2011, have you</p> <p>20 provided any documents on that memory stick to</p> <p>21 anyone?</p> <p>22 A Well, there are other documents on that</p>
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<p>1 back to lawyers working for Turkcell to copy the</p> <p>2 documents again?</p> <p>3 A Yes. I gave -- at a later stage I gave</p> <p>4 it to some other lawyers.</p> <p>5 Q Which other lawyers?</p> <p>6 A The lawyers Patton Boggs.</p> <p>7 Q When did you do that?</p> <p>8 A I think -- I can't remember. Must have</p> <p>9 been -- could have been around July or</p> <p>10 August 2011. I'm not sure.</p> <p>11 Q And did they give you back the original</p> <p>12 of the memory stick?</p> <p>13 A Yes.</p> <p>14 Q Other than those two instances, has</p> <p>15 anyone copied the memory stick since</p> <p>16 December 2010?</p> <p>17 A Well, I made copies of that memory</p> <p>18 stick, yeah.</p> <p>19 Q Why did you do that?</p> <p>20 A To preserve more than one memory stick</p> <p>21 with the information.</p> <p>22 Q Have you provided the memory sticks that</p>	<p>1 memory stick, not only these documents. It is a</p> <p>2 32 gigabyte -- so I am using it also for other</p> <p>3 things. So but the Turkcell document -- the MTN</p> <p>4 documents, I can't recall that I have given</p> <p>5 anything to anyone else.</p> <p>6 Q Are there any MTN related documents on</p> <p>7 your memory stick that you did not provide to</p> <p>8 Patton Boggs or other lawyers working for</p> <p>9 Turkcell?</p> <p>10 A No. It is a just complete dump of all</p> <p>11 that information.</p> <p>12 Q You gave Turkcell complete access to</p> <p>13 that data stick? You just handed it to them and</p> <p>14 let them copy --</p> <p>15 A No. They were doing it in front of me.</p> <p>16 Yeah.</p> <p>17 Q So you could see the files they were</p> <p>18 selecting?</p> <p>19 A No. I didn't see the files, but they</p> <p>20 put the memory stick and they sent a copy over</p> <p>21 to the lap top -- on to the folder on the desk</p> <p>22 top.</p>

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1 Q How many times, other than the three you
2 told me about, do you have specifically in mind?
3 A Two.
4 Q When was the first one?
5 A The first one was in January or February
6 of this year, when I was contacted by one of the
7 companies I am working with in Dubai and through
8 someone who used to work for them to ask me to
9 take their company name off my web site, because
10 they had been approached by MTN, to ask them
11 whether they are working with me.
12 Q And what is the name of that company?
13 A I can't tell you.
14 Q You can't tell me or you won't tell me?
15 A I won't tell you.
16 Q Now, the --
17 A And immediately after that, I removed
18 the name from my web site.
19 Q Did they indicate who at MTN had
20 approached them?
21 A No.
22 Q The other one, what is the other one?

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1 A No. The other one is my ex-wife, who
2 was called in South Africa, and she was asked by
3 a woman to have coffee with her, and that a
4 Mr. Welsh would call her on the Saturday because
5 they're investigating me.
6 That severely upset my ex-wife, because
7 we have been divorced for more than 11 years
8 now.
9 Q So the first one -- the first instance
10 was someone calling to ask your ex-wife to have
11 coffee?
12 A Yes.
13 Q And you -- so you got someone asking to
14 have coffee. That is number one.
15 Number two, you have someone that you
16 won't identify contacting someone else you won't
17 identify --
18 A Number one is not the -- the one calling
19 my wife. Number one is the company asking me --
20 telling me that they have been approached by
21 MTN, to ask them whether they are doing business
22 with me.

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1 Q Was that the only thing that MTN
2 allegedly did, was ask whether they were doing
3 business with you?
4 A Everyone knows MTN, and MTN's style.
5 Q Okay. That is not my question. Was the
6 only thing reported to you --
7 A Yes. Yes.
8 Q Let me finish, please.
9 Was the only thing reported to you that
10 MTN asked the business whether or not they were
11 doing business with you?
12 A He asked me if I could please take off
13 their name from my web site.
14 Q I understand what he asked you. I am
15 just trying to understand what you're saying.
16 What I understand you're saying is you have --
17 someone contacted you to say that MTN had
18 contacted them --
19 A Yes.
20 Q -- to see if that company did business
21 with you, correct?
22 A That is right. Yes.

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1 Q And the person didn't indicate that MTN
2 had threatened them, correct?
3 A No, they didn't.
4 Q Then the second one was someone called
5 your ex-wife and asked her to have coffee,
6 correct?
7 A To talk about me, after --
8 Q Over coffee?
9 A -- after there was a newspaper article
10 in the Mail & Guardian seen by her, identifying
11 me as the whistleblower.
12 Q And do you consider yourself a
13 whistleblower, sir?
14 A No.
15 Q Have you read the complaint in this
16 case?
17 A Yes.
18 Q Are you the primary source of the
19 information in the complaint?
20 A Yes.
21 Q Do you know of any other sources of
22 information that went into making the complaint?

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1 whistleblower. You know, I need to make sure
2 that" -- because some of my friends in South
3 Africa who are close to the ANC structures and
4 they are close to Irene and Phuthuma, said to me
5 "look, you are in danger."

6 Q Who said that?

7 A Some of my friends.

8 Q Could you give me their names?

9 A No.

10 Q Could you give me one name?

11 A No.

12 Q How many people told you you are
13 physically in danger?

14 A Two.

15 Q Two people. Has anyone from MTN
16 actually threatened you physically?

17 A No.

18 Q Have you had security here at the
19 deposition outside?

20 A Yes. Yes.

21 Q Has anyone, while you have been in --
22 strike that.

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1 non sequitur to me.

2 A Well, I think if it is on record, and
3 anything happens to me after today, it's on
4 record.

5 Q And that is why you wanted to have it
6 earlier?

7 A Yeah.

8 Q And so you came to the United States for
9 the purposes of this deposition?

10 A Not specifically just for this one. I
11 have also, because I had my colleagues
12 contacting me, so I said "I am coming to the
13 U.S. to discuss these things."

14 Q Which colleagues were contacting you?

15 A In HyperOffice.

16 Q Have you met with the HyperOffice people
17 since you have been here?

18 A No, because I have been busy here.

19 Q All right. How frequently do you come
20 to the United States?

21 A Very infrequently. The last time was in
22 2000/2001.

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1 Who in the ANC means to do your harm?
2 Could you identify one person?

3 A No, I can't. As I told you, I was told.

4 Q Did you tell the person -- getting back
5 to how we got the deposition here today -- did
6 you tell the person at Turkcell that you were in
7 physical danger?

8 A I was warned that I am in physical
9 danger, yes.

10 Q And did you tell that to the person at
11 Turkcell?

12 A Yes.

13 Q And the evidence of the physical danger
14 was the telephone calls you got from two people
15 whose names you won't give us, correct?

16 A That is correct.

17 Q And what did the Turkcell person say to
18 you?

19 A He will communicate that and he will
20 come back to me.

21 Q How is doing a deposition earlier going
22 to protect you? Explain that to me. It seems

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1 Q Do you have any plans to come back
2 again?

3 A Yeah.

4 Q When?

5 A Whenever the HyperOffice guy says we
6 need to meet again.

7 Q Would you make yourself available for
8 trial here in this case?

9 A Yes.

10 Q Would you make yourself available for a
11 continued deposition in a month or two?

12 A If I am alive, yes.

13 Q Is there any time limit as to when you
14 can have a deposition?

15 A Subject to my own assessment of the
16 safety to myself and my family, and my trying to
17 run a business, it will be subject to those --
18 to those issues.

19 Q Okay. And when was -- when was the
20 notice of deposition for this deposition served,
21 do you know?

22 MR. FARBER: Objection.

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<p style="text-align: right;">Page 1001</p> <p>1 individuals who worked to assist MTN on Project</p> <p>2 Snooker made during and in furtherance of that</p> <p>3 conspiracy?</p> <p>4 MR. HARKNESS: Objection to form.</p> <p>5 THE WITNESS: That is correct. Yes.</p> <p>6 MR. FARBER: No further questions.</p> <p>7 CROSS-EXAMINATION</p> <p>8 BY MR. HARKNESS:</p> <p>9 Q Two things: Can I ask you to turn to</p> <p>10 Exhibit 83? Can I ask you to please turn to MTN</p> <p>11 169?</p> <p>12 Are you on MTN 169?</p> <p>13 A That is correct.</p> <p>14 Q Are your initials on this page?</p> <p>15 A That is correct.</p> <p>16 Q On the lower right hand corner?</p> <p>17 A That is correct.</p> <p>18 Q Could you please read into the record</p> <p>19 paragraph 6.1.</p> <p>20 A "The seconded employee's duties and</p> <p>21 obligations contained in the seconded employee's</p> <p>22 contract were of the employment with the company</p>	<p style="text-align: right;">Page 1003</p> <p>1 Q And the 2009 information was told to you</p> <p>2 by others or was it from your personal</p> <p>3 knowledge?</p> <p>4 A Told to me by others.</p> <p>5 (Interruption by the court reporter.)</p> <p>6 THE WITNESS: Told to me by others.</p> <p>7 MR. FARBER: Thank you. We will close the</p> <p>8 deposition at this time subject to all parties'</p> <p>9 reservations about the exchange of documents</p> <p>10 and the possibility of continuing the</p> <p>11 testimony.</p> <p>12 MR. HARKNESS: Thank you.</p> <p>13 THE VIDEOGRAPHER: This is the end of Tape</p> <p>14 4 of the videotaped deposition of Christian</p> <p>15 Kilowan. The deposition concludes at 6:12.</p> <p>16</p> <p>17 (Whereupon, at 6:12 p.m., the deposition was</p> <p>18 adjourned.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 1002</p> <p>1 shall apply mutatis mutandis to this agreement."</p> <p>2 Q Thank you. You indicated a few minutes</p> <p>3 ago that your information about monitoring and</p> <p>4 whatnot came from friends of yours.</p> <p>5 A That is correct. Yeah.</p> <p>6 Q Can you please give us the names of</p> <p>7 those friends?</p> <p>8 A No.</p> <p>9 Q Can you name one?</p> <p>10 A No.</p> <p>11 Q Could you give any one -- can you give</p> <p>12 us the name of any of the people you say gave</p> <p>13 you information about the monitoring testimony</p> <p>14 that you have given here today?</p> <p>15 A No.</p> <p>16 FURTHER REDIRECT EXAMINATION</p> <p>17 BY MR. FARBER:</p> <p>18 Q One last follow up to that.</p> <p>19 The information about monitoring you</p> <p>20 testified about in 2007, was that from your</p> <p>21 personal knowledge?</p> <p>22 A Yes.</p>	<p style="text-align: right;">Page 1004</p> <p>1 CERTIFICATE</p> <p>2 DISTRICT OF COLUMBIA</p> <p>3</p> <p>4 I, the undersigned authority,</p> <p>5 hereby certify that the foregoing transcript,</p> <p>6 page 621 through 1004 is a true and correct</p> <p>7 transcription of the deposition of Christian</p> <p>8 Kilowan taken before me at the time and place</p> <p>9 set forth on the title page hereof.</p> <p>10 I further certify that said</p> <p>11 witness was duly sworn by me according to law.</p> <p>12 I further certify that I am not of</p> <p>13 counsel to any of the parties to said cause or</p> <p>14 otherwise interested in the event thereof.</p> <p>15 IN WITNESS WHEREOF I hereunto set</p> <p>16 my hand and affix official seal this 7th day of</p> <p>17 May, 2012.</p> <p>18</p> <p>19</p> <p>20</p> <p>21 RANDI GARCIA, COURT REPORTER, RPR</p> <p>22 NOTARY PUBLIC</p>