

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CALLAWAY GOLF COMPANY,)	
)	C. A. No. 06-91 (SLR)
Plaintiff,)	
)	
v.)	
)	
ACUSHNET COMPANY,)	
)	
Defendant.)	
)	

JOINT PROPOSED VOIR DIRE

Thomas L. Halkowski (#4099)
222 Delaware Avenue
P.O. Box 1114
Wilmington, DE 19899-1114
Tel: (302) 652-5070
Fax: (302) 652-0607

Richard L. Horwitz
David E. Moore
Potter Anderson & Corroon LLP
Hercules Plaza
1313 North Market Street, 6th Floor
P.O. Box 951
Wilmington, DE 19899

Frank E. Scherkenbach
225 Franklin Street
Boston, MA 02110-2804
Tel: (617) 542-5070
Fax: (617) 542-8906

Henry C. Bunsow
Joseph P. Lavelle
Brian A. Rosenthal
Howrey LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004

Roger A. Denning
12390 El Camino Real
San Diego, CA 92130
Tel: (858) 678-5070
Fax: (858) 678-5099

Attorneys for Defendants
ACUSHNET COMPANY

Attorneys for Plaintiffs
CALLAWAY GOLF COMPANY

DATED: February 26, 2010

Pursuant to D. Del. L.R. 47.1(a), the parties jointly propose the following voir dire to the jury panel. The parties reserve their right to modify this proposed voir dire, including to reflect subsequent developments in the case. The parties understand that, as during the first trial, under the Court's policy of "Jury Selection by Struck Juror Method," those panel members who respond affirmatively to any of the questions identified in the following voir dire will be called (one by one), upon the conclusion of the voir dire, to a sidebar conference with the Court and counsel, so that counsel may then be given the opportunity to ask further questions of the responding panel members. The parties proposed voir dire are as follows:

PROPOSED VOIR DIRE

Good morning, ladies and gentlemen. I am Judge Robinson, and I will be presiding over the trial for which a jury is about to be drawn in the case captioned *Callaway Golf Co. v. Acushnet Co.* Briefly stated, this is an action arising under the patent laws of the United States involving golf ball patents.

The trial may last up to 5 days. I time my trials, so the attorneys have to complete their trial presentations within these limits. However, jury deliberations may require you to be present longer than the scheduled 5 days. Our trial days will run approximately from 9:30 a.m. to 4:30 p.m.

In light of this brief summary, I will now ask you certain questions, the purpose of which is to: (1) enable the court to determine whether or not any prospective juror should be excused for cause; and (2) enable counsel for the parties to exercise their individual judgment with respect to peremptory challenges, that is, challenges for which no reason need be given by counsel. If any of you answer any question "yes," please stand up and, upon being recognized by the court, state your juror number. When I have concluded asking all the questions, we will

call you individually to the bench to speak with you about your affirmative response or responses.

HAVE CLERK ADMINISTER THE OATH TO THE PANEL

1. You have been given a list of companies and organizations.
 - a. Have you, a family member or close friend, ever worked for any of these companies or organizations?
 - b. Do you or any member of your households now own, or have you or any such member ever owned, any stocks or bonds in any of those companies or organizations?
 - c. Have you, any family member, or anyone close to you had any dealings with, or relied financially in any way on, any of the companies or organizations?
 - d. Have you, any family member, or anyone close to you had any experience with the products of any of those companies or otherwise have any strong feelings, positive or negative, toward any of those companies or organizations?
2. You have been given a list of the attorneys and law firms involved in this litigation. Are you related to, or personally acquainted with, any of those attorneys, or have you ever been represented by any of those attorneys or other attorneys or members of their law firms?
3. You have been given a list of the individuals who might appear as witnesses in this case. Are you familiar with the names any of those individuals?

4. Do you have any personal knowledge of this case, or have you read or heard it discussed, or have an opinion regarding it?
5. Have you ever been a plaintiff, a defendant, or a witness in a civil lawsuit?
6. Have you ever served as a juror in a civil lawsuit?
7. You have been given a list of subject areas. Have you, a close friend, or a family member ever been educated, employed, trained, or had any experience in any of the listed areas?
8. Do you have any knowledge about or experience with patents, including applying for a patent?
9. Have you ever worked for a company that had patented products or processes?
10. Have you ever been involved in the development of a new product or process?
11. Have you, any member of your immediate family, or anyone close to you ever had any dealings with the United States Patent and Trademark Office?
12. Do you have any strong opinions about a patent granting exclusive rights to the inventors or their employer?
13. **[CALLAWAY PROPOSED QUESTION]** Do you believe it would be wrong for someone to profit from his invention or discovery?¹
14. Have you, any member of your immediate family, or anyone close to you ever worked for a golf equipment manufacturer, or been employed in the golf industry, such as golf courses or retail stores selling golf equipment?
15. Have you ever used products relating to the sport of golf that you know to be made by Callaway Golf Company or Acushnet Company, including, but not

¹ Callaway Golf notes that this question was asked during the first voir dire, and respectfully requests that it be asked again. (*See* D.I. 377, Question 13). Acushnet objects to this question.

limited to, golf products sold under the brand names Titleist, Cobra, FootJoy, Callaway, Top-Flite, Spalding, CTU 30, Ben Hogan, Strata, Tour Ace or Pro V1?

16. Do you work for, or belong to the U.S. Golf Association (called the “USGA”)?

17. Does anyone play golf, consider yourself to be a golfer, have immediate family members who play golf, or regularly watch or attend golfing events?

a. If yes, follow up question at the bench would include:

i. How often do you golf or view golf?

ii. Are you a member of any golf club?

iii. Do you maintain a golf handicap? If yes, what is that handicap?

iv. Is there any particular brands or product models of golf equipment, including golf balls, that own or you like to use? If yes, which brand(s) or particular product models do you own or use?

18. Do you have any special disability or problem that would make it difficult or impossible for you to serve as a member of the jury in this case?

19. Do you know of any other matter which you believe should be called to the Court’s attention as having some bearing upon your qualifications or ability to sit as a juror, or which you think may prevent you from rendering a fair, unbiased and impartial verdict based solely upon the evidence and my instructions as to the law?

**REFERENCED LISTS
(TO BE PROVIDED TO JURY MEMBERS)**

LIST OF COMPANIES

Callaway Golf Co.
Spalding Sports Worldwide, Inc.
Top-Flite Golf Co.

Acushnet Co.
Fortune Brands, Inc.

LIST OF ATTORNEYS AND THEIR LAW FIRMS

FISH & RICHARDSON, P.C.

Thomas L. Halkowski
Frank E. Scherkenbach
Roger A. Denning
Chad Shear
Craig Compton
Michael Amon
Jonathan Lamberson
Christopher Hadley

POTTER ANDERSON & CORROON, LLP

Richard L. Horwitz
David E. Moore

HOWREY LLP

Henry C. Bunsow
Joseph P. Lavelle
Brian A. Rosenthal
Clinton H. Brannon
Alesha Dominique
Farah Anthony

LIST OF WITNESSES

To be based on Ex. Nos. 7 & 9 of the Pretrial Order, containing the lists of witnesses from Callaway Golf Co. and Acushnet Co., respectively.

LIST OF SUBJECT AREAS

Golf Ball Design or Manufacturing
Chemical Engineering
Polyurethanes
Ionomers
Mechanical Engineering

FISH & RICHARDSON P.C.

POTTER ANDERSON & CORROON LLP

By: /s/ Thomas L. Halkowski

Thomas L. Halkowski (#4099)
222 Delaware Avenue, 17th Floor
P.O. Box 1114
Wilmington, DE 19899-1114
Tel: (302) 652-5070
Fax: (302) 652-0607
halkowski@fr.com

*Attorneys for Plaintiff
Callaway Golf Company*

By: /s/ Richard L. Horwitz

Richard L. Horwitz (#2246)
David E. Moore (#3983)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
rhorwitz@potteranderson.com
dmoore@potteranderson.com

*Attorneys for Defendant
Acushnet Company*