

1/16/03

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

1/17/03
Rose
Bill
Steve
File

IN RE: ALL SIMMONS ASBESTOS
LITIGATION,

Plaintiffs,

v.

HONEYWELL INTERNATIONAL, INC.,
et al.

Defendants.

DEFENDANT HONEYWELL INTERNATIONAL, INC. f/k/a ALLIED
SIGNAL, INC., as successor in interest to BENDIX CORPORATION'S
ANSWERS TO PLAINTIFFS' INTERROGATORIES

INTRODUCTORY STATEMENT

On April 1, 1985, The Bendix Corporation was merged into Allied Corporation and ceased to exist as a legal entity. On September 30, 1987, Allied Corporation was merged into AlliedSignal Inc. and ceased to exist as a legal entity. On December 4, 1999, AlliedSignal, Inc. merged with Honeywell, Inc. and Honeywell, Inc. ceased to exist as a legal entity. On December 4, 1999, AlliedSignal, Inc. changed its name to Honeywell International, Inc. ("Honeywell").

The Bendix Corporation was incorporated in the State of Delaware and maintained its principal place of business in the State of Michigan. Allied Corporation was incorporated in the State of New York and maintained its principal place of business in the State of New Jersey. AlliedSignal Inc. was incorporated in the State of Delaware and maintained its principal place of business in the State of New Jersey. Honeywell is incorporated in Delaware and maintains its principal place of business in New Jersey.

SCF-ALLF-10903

- (f) Describe the nature of any action to eliminate or minimize inhalation of asbestos dust or asbestos fibers undertaken as a result of said study;
- (g) Identify any and all documents referring to, relating to or reflecting said study or the results thereof; and
- (h) Identify any and all persons receiving a copy of any document referring to, relating to or reflecting the results or conclusions of said study.

ANSWER: Honeywell incorporates by reference its objections and responses to Interrogatory No. 61.

INTERROGATORY NO. 63: Did Defendant, any related company, or any predecessor at any time, give to persons, who would be applying and/or removing any of the products listed in response to Interrogatory Nos. 19 and 42, any instructions or guidelines concerning precautions, warnings, procedures, and/or methods to use, in order to safely apply or remove such products? If so, describe such instructions, state to whom they were given, state the dates they were given, and describe the manner in which they were given.

ANSWER: Asbestos-containing friction products manufactured by Honeywell contain processed chrysotile asbestos fibers that are encapsulated or locked into the product itself. Together with various friction modifiers and fillers, the asbestos fibers are bound together with a resin binder system and then baked at a temperature in excess of 350 degrees. Exposure to or the proper use of Honeywell's friction products does not pose a health hazard. Although Honeywell does not believe that there is any health hazard associated with the proper use of its friction products, since 1973, a warning label has been placed on all cartons and boxes of asbestos-containing friction products shipped to customers. In June 1973 Bendix issued General Bulletin G-73-6 to all rebuilders regarding steps necessary to comply with the OSHA regulations, including a statement that "[c]aution labels or lettering should be affixed to any carton or box that may have its contents reground" in conformity with the OSHA language. In

1977 The Bendix Corporation first mailed to its distributors and rebuilder customers copies of the Friction materials Standards Institute's Brake Lining and Clutch Facing Automotive Data Book which contained a section entitled "Recommended Procedures For Reducing Asbestos Dust During Brake Servicing." Since 1977 subsequent editions of the FMSI Data Book (also containing a section entitled "Recommended Procedures for Reducing Asbestos Dust During Brake Servicing") have been distributed to customers by The Bendix Corporation and its successors (Allied Corporation's Automotive Sector and AlliedSignal Inc.'s Automotive Sector). In March, 1979 The Bendix Corporation, by means of a general bulletin, mailed to its distributors and rebuilder customers a Friction Materials Standards Institute publication (dated October, 1978) entitled "Friction Materials Work Practices Guide." During 1984 and 1985 Allied Corporation's Automotive Sector mailed "Product Fact Sheets" to all customers. Beginning July 30, 1986, Allied Corporation's Automotive Sector distributed a Material Safety Data Sheet to all customers. Beginning March 1, 1988 AlliedSignal Inc.'s Automotive Sector distributed a Material Safety Data Sheet to all customers.

Certain OE manufacturers required that bulk shipments of friction materials sent to them in containers or on pallets contain specific warnings, which contained at a minimum, the information suggested by the OSHA language.

Honeywell and its predecessors have taken these steps, and complied with OSHA warning regulations, even though it has never been determined that exposure to friction products results in an exposure to asbestos fibers equal to or

in excess of OSHA exposure limits for asbestos fibers. From October, 1973 to August, 1986 the warning label read as follows:

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS MAY CAUSE
SERIOUS BODILY HARM

From September, 1986 until the present the warning label reads as follows:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

After Honeywell discontinued the manufacture and sale of asbestos-containing friction products, it continued to label its non-asbestos containing friction materials with cautions concerning dust exposure.

INTERROGATORY NO. 64: Did Defendant, any predecessor or any related company, at any time, place any warning signs or labels on the containers in which any of the products listed in response to Interrogatory Nos. 19 and 42 were packaged?

ANSWER: Defendant objects to this interrogatory as vague and ambiguous concerning the term, "containers." Without waiving these objections, Defendant incorporates its objections and response to Interrogatory No. 27. Moreover, since 1973, a warning label has been placed on all cartons and boxes of asbestos-containing friction products shipped to customers. AlliedSignal and its predecessors have complied with OSHA warning regulations even though it has never been determined that exposure to friction products results in an exposure to asbestos

fibers equal to or in excess of OSHA exposure limits for asbestos fibers. From October, 1973 to August, 1986 the warning label read as follows:

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS MAY CAUSE
SERIOUS BODILY HARM

From September, 1986 until the present the warning label reads as follows:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

After Honeywell discontinued the manufacture and sale of asbestos-containing friction products, it continued to label its non-asbestos containing friction materials with cautions concerning dust exposure.

INTERROGATORY NO. 65: If your answer to Interrogatory No. 64 is "Yes," identify each and every product upon which such a warning was placed, and with respect to each such product identified:

- (a) State the date on which any order directing that a warning be placed on said product first issued;
- (b) Identify any and all persons participating in the decision to issue that order;
- (c) State the first date on which such warning was actually placed on said product;
- (d) State the first date on which such product accompanied by such warning was first sold, distributed or installed;
- (e) State the exact wording of this first warning;
- (f) State the exact location and size of this first warning as it appeared on said product;
- (g) Identify any and all persons who participated in any phase of the drafting or design of said first warning, including, but not limited to, those who performed

the actual drafting and design work, those who reviewed the work, those who edited the work and those who approved the warning;

- (h) State why you placed such warning on said product, including, but not limited to, whether you placed such warning on said product because you received a directive, command, suggestion, legal opinion, or any type of communication (written or otherwise) from any person, firm, corporation, governmental agency, committee, association, attorney or institute; and
- (i) Identify any and all documents referring to, relating to or reflecting, said warning, its drafting, and/or the decision to place the warning on said product, including, but not limited to, any communication as described in subpart (h) of this Interrogatory.

ANSWER: Honeywell objects to Interrogatory No. 65 on the grounds that it is overly broad, unduly burdensome and seeks information which is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, Honeywell incorporates by reference its objections and response to Interrogatory Nos. 63 and 64.

INTERROGATORY NO. 66: With respect to each product identified in response to Interrogatory No. 65 as having been accompanied by a warning, state whether, subsequent to the first warning described above, any different warning was ever placed upon said product. Any alteration, change or modification in the language, wording, capitalization, punctuation, style of type or printing, size, color, or location on the package or container, of the warning constitutes a different warning.

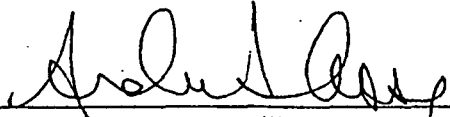
ANSWER: Honeywell incorporates by reference its objections and response to Interrogatory No. 64.

INTERROGATORY NO. 67: With respect to each different warning which accompanied each product identified in response to Interrogatory No. 65:

- (a) State the date on which any order directing that such different warning be placed on said product first issued;
- (b) Identify any and all persons participating in the decision to issue that order;
- (c) State the first date on which such different warning was actually placed on said product;

Respectfully submitted,

POLSINELLI SHALTON & WELTE
A PROFESSIONAL CORPORATION

By: 

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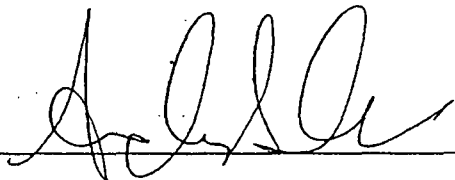
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ATTORNEYS FOR DEFENDANTS
HONEYWELL INTERNATIONAL, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing pleading was served by hand delivery this 16th day of January, 2003, to:

Randall A. Bono, Esq.
William Kohlburn, Esq.
The Simmons Firm L.L.C.
301 Evans Avenue, Suite 300
Wood River, IL 62095
ATTORNEYS FOR PLAINTIFFS



VERIFICATION

STATE OF *Michigan*
COUNTY OF *Oakland*

Edward R. Koss, known to me to be the person whose name is subscribed below, and being duly sworn by me, upon oath stated that he is duly qualified to verify the foregoing statements of fact contained in Defendant's Answers to Plaintiffs' Interrogatories, that he has read the foregoing Answers, and that in such capacity and under oath stated that the referenced statements are true and correct based on (a) the personal knowledge of the Deponent, (b) review of business records (records generated and/or kept as part of the regular practice of the regularly conducted business activity made at or near the time by or from information transmitted by a person with knowledge) or (c) information assembled by persons with knowledge of said facts.

Edward R. Koss
NAME

SUBSCRIBED AND SWORN TO BEFORE ME on this the 6 day of
January, 2003.

(S E A L)

My Commission Expires:

Mary Elizabeth Couch
Notary Public, State of MARY ELIZABETH COUCH
Notary Public, Livingston County, MI
My Commission Expires Jun 2, 2004

Printed or Typed Name of Notary *Acting in Oakland*
County