

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CECIL SCOTT, ET AL	*	
	*	
	*	
VS.	*	CIVIL ACTION
	*	NO. B-84-1103-CA
	*	
MONSANTO COMPANY	*	

August 27, 1987
Volume V

BEFORE THE HONORABLE JOE J. FISHER
UNITED STATES DISTRICT JUDGE, AND A JURY

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Mr. William Papageorge, Corporate
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MORNING SESSION

(9:30 a.m. Thursday, August 27, 1987)

THE COURT: Please be seated. Good morning, ladies and gentlemen.

All right. Let's conclude this deposition.

MR. LACEY: Thank you, Your Honor.

MR. HALL: Your Honor, before we get started on that, yesterday when I finished cross-examining Dr. Teitelbaum, I told the Court I was going to offer some exhibits into evidence. And just for the record, that's Exhibit 3123 through 3128. I'll offer those at this time.

THE COURT: All right, sir.

MR. LACEY: Beginning at Page 50, line 24.

(Reading from video deposition)

Q Let me show you a document, Document 32424 through 32464, entitled "Monsanto Chemical Company Salesmen's Manual, Aroclor." Have you seen that document before?

1 (End of reading)

2
3 MR. LACEY: Your Honor, I would like to
4 provide an excerpt of that to the Court and
5 to the jury for their assistance.

6 THE COURT: Is the public address
7 system on? If you'll speak into that, sir.

8 MR. LACEY: I'll do that, Your Honor.

9 Let me repeat the question so it will
10 be clear for the record.

11
12 (Reading from video deposition)

13 Q Let me show you a document, Document 32424
14 through 32464, entitled "Monsanto Chemical
15 Company Salesmen's Manual, Aroclor." Have you
16 seen that document before?

17 A Well, this gives information about what the
18 different Aroclors are. That's what this does.
19 I've certainly seen -- I may have written this.

20 Q Well, this -- did you see the date that this
21 was written? It's right there on the front?

22 A 1944.

23 Q Did you write this?

24 A In 1944?

25 (End of reading)

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MR. LACEY: Going to Page 55, line 15.

(Reading from video deposition)

Q Let me ask you to take a look, if you could,
at the page that is numbered down at the bottom,
32428.

(End of reading)

MR. MUSSLEWHITE: What page are you on?

I'm sorry.

MR. LACEY: Page 55, line 15.

(Reading from video deposition)

A 428?

Q Yes, 428.

A 428, uh-huh. Now, what do you want to know?

Q Now, that's where this section discussing
toxicity of these compounds starts, is it not?

A Yeah.

Q And it talks specifically about the toxicity
of Aroclors, correct?

A I read it. Right.

(End of reading)

MR. LACEY: Page 59, line 7.

(Reading from video deposition)

Q Would you look at Page 32430.

A 430. Okay.

Q See about the middle of the page where it starts a section called "Recommendations for Industrial Practice"?

A Right.

MR. LACEY: And then Monsanto's offer, which I'll read.

(Reading from video deposition)

Q Here it lays out for the salesman in this Salesmen's Manual what would be considered good practice where Aroclors are being handled, doesn't it?

A Let me read it.

Q Surely.

A Where it says, quote, "unless there is a very good reason for using the hot method," end quote.

Q Yeah. And continuing right on all the way over through middle of the next page.

1 A Quote, "The cold or solvent method of
2 impregnation with chlorinated naphthalenes," end
3 quote -- well, we -- we didn't make chlorinated
4 naphthalenes. Monsanto didn't have chlorinated
5 naphthalenes.

6 Q That's not what's --

7 A Why is it saying this?

8 Q What are these three words on top of that
9 very -- the top of the very page?

10 A Up here?

11 Q Yeah.

12 A It says, quote, Monsanto Chemical Company,
13 end quote.

14 Q That's a Monsanto document, isn't it?

15 A Well, I'm telling you Monsanto didn't have
16 chlorinated naphthalenes.

17 Q Well, maybe they did back in 1944?

18 A No, they didn't, David.

19 Q I see. You know that.

20 A I guarantee it.

21 Q I see. Okay.

22 (End of reading)

23

24 MR. LACEY: And then beginning with the
25 plaintiffs' offer again.

1
2 (Reading from video deposition)

3 Q Well, why don't you go ahead and review that
4 entire section that talks about Recommendations
5 for Industrial Practice?

6 A Who wrote this?

7 Q Well, Mr. Benignus, I'd hoped that you could
8 tell me that. Somebody at Monsanto did, didn't
9 they?

10 A I don't know. Yeah, I've read this page.

11 (End of reading)

12
13 MR. LACEY: We'll stop the offer right
14 there and go ahead and go over to Page 62,
15 line 3.

16
17 (Reading from video deposition)

18 Q Now, here in this salesmen's manual that
19 Monsanto put out in 1944, they've got a section
20 for on Recommendations for Industrial Practice,
21 correct?

22 A Yeah. I just read it.

23 Q Yeah?

24 A About in -- in -- talking about each fellow
25 should have two lockers or something like this.

1 Q Yeah. And -- and let's just go over that.
2 What do they recommend? Two lockers for each
3 worker exposed to chlorinated waxes: one for
4 working and one for street clothes, correct?

5 A Uh-huh.

6 Q "All work clothes above the underwear should
7 be provided and laundered at least twice a week
8 by the management," correct?

9 A Yes.

10 Q "The workers should change to clean
11 underwear at the end of each shift before getting
12 into street clothes," correct?

13 A Yes. It's in there.

14 Q "Supervised cleaning: At noon the workers
15 should remove outer clothing and scrub hands and
16 face under supervision. At the end of the shift,
17 they should be required to take a supervised
18 shower before entering" -- "before changing back
19 into street clothes," correct?

20 A That's what it says. You're reading it.

21 Q Next number. "Protective skin creams or
22 protective clothing should be provided by the
23 management at the discretion of the foreman,
24 nurse, medical or plant superintendent," correct?

25 A Well, I read it. I wouldn't -- I wouldn't

1 agree with some of that.

2 Q I see.

3 A I agree that --

4 Q You don't agree that these steps are
5 necessary as precautions?

6 A No, I'm not saying that.

7 Q I see.

8 A I -- I don't like personally -- the -- using
9 skin cream.

10 Q I see. Okay. But that's not the --

11 A I'm not trying to be confusing here.

12 Q Yeah.

13 A I read it with you, what it says.

14 Q "All departments handling chlorinated
15 synthetic waxes should be thoroughly cleaned
16 according to a pre-arranged schedule. This
17 should include the removal of all deposits, wax
18 and carry-off from machines, floors, and
19 surrounding objects. Workers doing the cleaning
20 should be provided with protective clothing and
21 supplied air or organic vapor masks where exhaust
22 ventilation is inadequate or impossible,"
23 correct?

24 A That's what it says..

25 Q It goes on to say these foreman should make

1 it their duty to check up on workers in their
2 department and instruct them in safe practice.
3 Is that what it says?

4 A That's what it says.

5 (End of reading)

6
7 MR. LACEY: Going on down to line 25.

8
9 (Reading from video deposition)

10 Q Well, the document is a Monsanto document.
11 And go back to the front of the document. What
12 does it talk about?

13 A David, I know --

14 Q Aroclor, doesn't it?

15 A Yes. I read this. And what it does say,
16 quote, "Salesmen's Manual." But --

17 (End of reading)

18
19 MR. LACEY: After the deposition was
20 concluded, the witness changed his answer to
21 say, "But there were no salesmen in 1944.
22 During the war years, PCBs were 100 percent
23 allocated by the government's war effort."

24 Then going to Page 69, line 21.

25

1 (Reading from video deposition)

2 Q This -- this Salesmen's Manual covers just
3 about everything you can ever think of about
4 PCBs, doesn't it?

5 (End of reading)

6

7 MR. MUSSLEWHITE: I'm sorry. Which
8 line?

9 MR. LACEY: Line 21 is where the
10 question begins.

11 MR. MUSSLEWHITE: Okay.

12

13 (Reading from video deposition)

14 A I think the title of that thing is a bit out
15 of gear --

16 Q I see.

17 A -- "Salesmen's Manual."

18 Q I see. Well, it's just --

19 A This tells --

20 Q A good reference book?

21 A It -- it is. This -- this tells me some
22 things that I can put into order here going
23 through -- I've never seen this.

24 (End of reading)

25

1 MR. LACEY: Stopping right there and
2 going to line 24.

3
4 (Reading from video deposition)

5 Q This is a very good comprehensive treatise
6 on the subject matter of PCBs, isn't it?

7 A Yes.

8 Q The treatment here is considerably more
9 thorough than the treatment you find in those
10 application bulletins like P-115, isn't it?

11 A In many respects it is, yes.

12 Q Including the respects about toxicity and
13 safe handling, isn't that true?

14 A On that, also, yes.

15 (End of reading)

16
17 MR. LACEY: And then after the
18 deposition, the witness changed his answer
19 to add, "But the safe handling directories
20 are for chlorinated naphthalenes --
21 vapors -- Halowax -- not made by Monsanto.
22 These directives were not used for Monsanto
23 PCBs."

24 Next question.

25

1 (Reading from video deposition)

2 Q And you don't ever recall from the time that
3 you were involved with sales matters on PCBs
4 seeing a document like this that Monsanto put out
5 anytime after 1944, do you?

6 A I never saw this.

7 (End of reading)

8
9 MR. LACEY: And then after the
10 deposition, the witness changed his answer
11 to add, "Not preparatory to this deposition.
12 And there was no document like this after
13 1944."

14 Then going to Page 75, line 14.

15
16 (Reading from video deposition)

17 Q Let me show you and exhibit, a three-page
18 exhibit that was marked as Deposition Exhibit No.
19 6 in Mr. Papageorge's deposition. I want to
20 direct your attention to the third page of that,
21 which was marked as Exhibit 6-A in his
22 deposition, which is a letter dated February 2nd,
23 1972, from a Mr. R.T. Richards.

24 A Yeah.

25 (End of reading)

MR. LACEY: Going to Page 77, line 5.

(Reading from video deposition)

Q He did not realize when he wrote that letter
in 1972 that Aroclors contained PCBs.

A Well --

(End of reading)

MR. LACEY: Then Mr. Crawford entered
an objection: "Now, don't speculate about
something that you don't know anything
about."

The question continues:

(Reading from video deposition)

Q Well, it's obvious, isn't it, from the
letter?

A It's obvious.

Q Okay.

A There's no speculation. David, this -- at
that point in time, PCB, as you know, was a newly
coined word.

Q I see.

A Well --

1 Q He should certainly have known that Aroclors
2 contain polychlorinated biphenyl, shouldn't he?
3 That's not --

4 A Depending on what he did. Maybe he was the
5 accountant or something. I don't know, David.

6 Q Why don't you look over -- right over there
7 it's got his title up there. What does it say?

8 A Quote, "Public Relations and Personnel,
9 Health Division." I would have to --

10 Q Well, what's his specific title? Manager?

11 A Dr. Richard, Manager, Industrial Hygiene and
12 Toxicity.

13 (End of reading)

14

15 MR. LACEY: Mr. Crawford says, "Don't
16 speculate about something somebody else" --

17

18 (Reading from video deposition)

19 A Well, I don't think that's speculation.

20 (End of reading)

21

22 MR. LACEY: Then going to Page 90, line

23 2.

24

25 (Reading from video deposition)

1 Q You were involved, were you not, in
2 Monsanto's policy to defend Aroclor?

3 A What?

4 Q You were involved, were you not, in
5 Monsanto's efforts and policies to defined
6 Aroclor, were you not?

7 A I don't understand.

8 Q Let me show you a document dated December
9 9th, 1968, written by Dr. Richard to Ralph Munch,
10 you and Mr. Bryant, Mr. Heber, Mr. Sullivan, Mr.
11 Thompson, Mr. Wiest -- Document 39204-205. You
12 received that document, did you not?

13 A Yes. I was on the list here.

14 Q And that document dealt with an effort by
15 Monsanto to defend Aroclor and try to keep it in
16 use, did it not?

17 A Well, this is by Bill Richard, the Director
18 of -- of Research -- outlining a program.

19 (End of reading)

20

21 MR. LACEY: Going to Page 93, line 23.

22

23 (Reading from video deposition)

24 Q Well, let me show you here a document dated
25 September 9th, 1969, Document 30840 through 30487

5 1 (sic), also written by Mr. Richard to Mr. Wheeler
2 with copies to various people and I want to
3 direct your attention in particular to the fifth
4 page of this document, 30844, and to the sixth
5 page of the document, 30845, where it lists
6 certain portions of the plan to defend Aroclor
7 and gives the name of the people responsible for
8 it out at the side. Do you see that?

9 A Yeah.

10 Q Your name shows out there --

11 A Yeah.

12 Q -- as responsible for the actions.

13 A My name and Bryant. Bryant was in my area.
14 He was associated with me.

15 This is 1969. I may have been in Australia,
16 for all I know. But it came to Benignus/Bryant.
17 Now, what is it that -- oh, capacitor fluids.

18 (End of reading)

19
20 MR. LACEY: Now, going to Page 95, line
21 16.

22
23 (Reading from video deposition)

24 Q You all had a role to play in this program
25 to defend Aroclors, didn't you?

1 A Well, we were named here, yes, under this
2 section. I don't know what it says we were
3 supposed to do.

4 (End of reading)

5
6 MR. LACEY: Going to Page 96, line 7.

7
8 (Reading from video deposition)

9 Q Dr. Richard had this all laid out with who
10 was supposed to do what, and made specific
11 assignments of each job, didn't he?

12 A Yes.

13 Q And --

14 A That's what it is.

15 Q And you were on the list of people who were
16 assigned jobs to do?

17 A Yes.

18 (End of reading)

19
20 MR. LACEY: Go to Page 112, line 18.

21
22 (Reading from video deposition)

23 Q Let me show you another document dated
24 February 2nd, 1970, called "The Transformer
25 Askarel Fluid Market," written by Donald R.

1 Pogue, Document 27924 through 28017. Do you see
2 that document?

3 A I heard of this.

4 Q Who was Mr. Pogue?

5 A He was a man in -- what in the world was he?
6 What's the date on this thing? '70. He was --
7 I'm trying to do my best here.

8 I know -- I know Don Pogue. He was in a
9 group around there, and he did a survey or -- or
10 did something here, and put this together.

11 Q Mr. Pogue was a Monsanto employee?

12 A Yes, he was.

13 (End of reading)
14

15 MR. LACEY: Going to Page 115, line 21.
16

17 (Reading from video deposition)

18 Q On Page 27934, Mr. Pogue says, "Our most
19 significant problem is the utilities' reluctance
20 to expose personnel and customers to Askarel
21 fumes and irritation. This has resulted from
22 several widely publicized explosions and from
23 frequent bothersome transformer leaks."

24 And do you agree with what Mr. Pogue had to
25 say there?

1 A There were not frequent exposures.

2 (End of reading)

3

4 MR. LACEY: That was corrected by the
5 witness to say there were not frequent
6 explosions.

7 Going to Page 116, line 24.

8

9 (Reading from video deposition)

10 Q Mr. Pogue indicates at Page 27935, "We must
11 address ourselves to frequent utility technical
12 service visits to neutralize emotions on
13 Askarel's toxicity and handling."

14 Do you agree that that was a necessary
15 program of Monsanto?

16 A It had not been. This is his point of view.

17 Q Do you agree with it?

18 A I would -- I -- I don't disagree with this.
19 What's the date on this thing?

20 Q February, 1970.

21 A 1970?

22 Q 1970.

23 A Well, I don't disagree with that. I did
24 that myself, David.

25 (End of reading)

MR. LACEY: Going to Page 119, line 22.

(Reading from video deposition)

Q Mr. Pogue indicates at Page 27959 that the market share -- and he's talking about transformer uses for Askarel transformers -- he says that "our market share of 20 percent does not appear stable."

He goes on to say, "Contacts with utilities indicate that during recent years because of larger multi-story buildings, inside basement network vaults and upper floor networks are becoming increasingly popular. Unfortunately, dry types or upper floor service are preferred (weight and Askarel's installation cost), and often oil is used inside because utilities feel Askarel must be vaulted anyway (fear of explosion and fumes.)"

Do you agree with those concerns he had about Monsanto's market for PCB transformers?

A In a way, I agree. But there's more to it, this story, than that.

If one wishes to handle this subject, you must also concede that a dry-type transformer

1 will blow and create a lot of fumes and problems.

2 I don't disagree with what he says. What he
3 says is not a complete assessment --

4 Q I see.

5 A -- is what I'm saying, David.

6 (End of reading)

7

8 MR. LACEY: Going to Page 121, line 24.

9

10 (Reading from video deposition)

11 Q Some utilities did everything in their power
12 to avoid using PCBs transformers --

13 (End of reading)

14

15 MR. LACEY: I'm sorry. I should delete
16 that. I'll delete that whole section.

17 Come to Monsanto's offer on Page 126.

18

19

20 (Reading from video deposition)

21 Q Did you learn about the Japanese problems
22 with PCBs -- and I'm talking particularly now
23 about the Yusho incident -- when you went to
24 Japan?

25 (End of reading)

1
2 MR. MUSSLEWHITE: What line did you
3 say?

4 MR. LACEY: 16.

5
6 (Reading from video deposition)

7 Q Did you learn about the Japanese problems
8 with PCBs -- and I'm talking particularly now
9 about the Usho incident -- when you went to
10 Japan?

11 A No. I was before that.

12 Q I see. Did you keep up with the situation
13 in Japan after that occurred as part of your
14 world interest?

15 A No, I did not.

16 Q I see. You don't know anything about when
17 Japan decided to ban the use of PCBs?

18 A Yes, I do.

19 Q Okay. Well, I'm sorry. That's what I was
20 leading to. Well, when -- when did the Japanese
21 decide to ban the use of PCBs?

22 A Let me think a bit.

23 I think -- and this is by memory -- I think
24 it would probably have been sometime in 1968.
25 It's in that period, as best I can remember.

1 Q Okay. And they stopped at that point using
2 PCBs for any application --

3 A Yes.

4 Q -- did they not?

5 A Yes.

6 Q Did they have any substantial problems with
7 their electric system that you recall?

8 A None that I know of.

9 Q Okay.

10 A No.

11 May I make a comment on the last thing,
12 David?

13 Q Well, what would you like to comment on?

14 A I would like to tell you something you
15 probably don't know.

16 Their electric system was much different
17 than ours. At this point of time, David, the
18 Japanese were just coming around to sort of
19 adopting our way of using capacitors is what I'm
20 driving at. They had an altogether different
21 arrangement. The systems weren't similar in terms
22 of what we're talking about.

23 (End of reading)

24

25 MR. LACEY: That concludes the offers

1 from the deposition of Mr. Benignus, Your
2 Honor.

3 THE COURT: All right. Who do you have
4 next?

5 MS. OLESON: Your Honor, just for a
6 minute, when Volume I of Benignus'
7 deposition was read, only the defendants
8 designated excerpts, I believe, were read
9 into the record.

10 Beginning with Volumes II and III, both
11 plaintiffs and defendants excerpts were
12 read. We do have about a 15 to 20 minute
13 offer from Volume I of Paul Benignus'
14 deposition which has not been read in yet.

15 THE COURT: That hasn't been offered?

16 MS. OLESEN: No, it has not.

17 THE COURT: All right. You may make
18 the offer. Will you supply the answers, Mr.
19 Hunt?

20 MR. HUNT: I will do my best, Your
21 Honor.

22 THE COURT: All right. You made
23 proceed.

24 MS. OLESEN: Beginning at Page 45, line
25 19.

(WHEREUPON THE FOLLOWING PORTIONS OF THE
VIDEO DEPOSITION WERE READ TO THE JURY.)

(Reading from video deposition)

Q Well, what do you use one of these
capacitors for --

A All right.

Q -- that you've just shown us?

A Now, the uses for the capacitors -- and this
is an important aspect of PCB use. PCB
dielectric replaced mineral oil because, as we
discussed, the dielectric constant. Before the
advent of PCBs, G.E., who were -- it was
Steinmetz that introduced capacitors to General
Electric. The great Steinmetz predicted a great
future for this.

They had in those days mineral oil. Mineral
oil will oxidize. When mineral oil oxidizes, it
sludges, forms acidic materials that get to be
relatively conducting.

And when we say "develop a high power
factor," this means a high loss tangent or
dissipation factor. The means heat generation.
We already discussed what a capacitor is and, I

1 believe, to release --

2 I'll sit --

3 Q That's okay. Point out what you're going to
4 show us.

5 A -- release heat through the wall of this
6 can. Now, if we generate heat in this thing
7 beyond its ability to transfer that out, we've
8 got a bomb. That thing is going to overheat.
9 It's going to consume itself. Things are going
10 to decompose, generate gases. And, indeed, the
11 early capacitors with mineral oil were almost as
12 much bombs as anything else. Plus, mineral oil
13 burns.

14 And at the high temperature where these
15 things would generate enough to consume
16 themselves, those things are hot. And that
17 mineral oil, when that let's go, you've got quite
18 a fire on your hand.

19 Now, this leads us to two things. We talked
20 about economics, small size. We will now, with
21 G.E. -- I'm saying what G.E. found. We're going
22 into what belongs to G.E. This is their
23 material. We merely make it.

24 Q Okay. Let me stop you there for a second.
25 One thing I want to find out before we get into

1 that is: What do capacitors do? How do you use
2 them?

3 A Well, excuse me. Let me finish. It's very
4 short.

5 Q Why was PCB of interest?
6 (End of reading)

7

8 THE COURT: Mr. Hunt.

9 MR. HUNT: Sir.

10 THE COURT: Let's void the effort of
11 selling it, the testimony. Just read it.
12 Let's move along.

13 MR. HUNT: I beg pardon, Your Honor.

14 THE COURT: All right. You're using
15 hand movements and things like that.

16 MR. HUNT: Thank you, Your Honor.

17

18 (Reading from video deposition)

19 A Why was PCB of interest? Frank Clark, who
20 discovered this at G.E., he found, number one,
21 "Look, mister, it doesn't burn."

22 And the only ad I've ever seen on PCB
23 dielectric is a blowtorch into a pan. It doesn't
24 burn.

25 The other thing is it doesn't oxidize. It's

1 a stronger dielectric than mineral oil. And
2 that's the story.

3 Now, to answer your question, "What are they
4 used for," fluorescent lights, you have. All
5 fluorescent lights, indoor and outdoor, the
6 ballast operates with, till it's demise, PCB
7 capacitors. They're about this high, about so
8 thick, and about maybe so wide. They're small.

9 They are encased in a ballast -- called
10 "ballast" -- with a transformer. The capacitor
11 is encased in a sealing material in there,
12 plastic tar.

13 Now, you ask, "What does it do?"

14 Q Right.

15 A We already said this is an electric sponge.
16 When you start, push that button there to start
17 these lights, unless you have the benefit of this
18 sponge to release momentarily additional power
19 needed to energize this thing, these tubes, they
20 don't do it.

21 (End of reading)

22
23 MS. OLESEN: Okay. And stopping there
24 and continuing on at Page 49, line 17.

25

1 (Reading from video deposition)

2 Q Now, one use is -- a major use, you see, one
3 is this ballast, lighting ballast. The other --
4 another major use is motor operation, like air
5 conditioners. Now, air conditioning got to be
6 very prevalent. And if everybody -- if many
7 people turned on air conditioning and you didn't
8 have a capacitor, you'd blow up the power company
9 and everything would go down.

10 By law, these things need to have a
11 capacitor; and the Aroclor, PCB, was the most
12 efficient. It replaced mineral oil long ago, and
13 there was nothing that competed with it.

14 The other prime use, number three, is that
15 you had said about the power lines -- if you look
16 up on power poles, you will see banks of power
17 line capacitors. These are doing the same thing
18 we already talked about. They are making what
19 the utility can produce more effective for the
20 operation of motors, lights, and -- and this
21 is -- they increase, enhance the utilization; and
22 therefore it's an economic measure. The utility
23 doesn't have to build as much generation.

24 You know, it sounds sort of nebulous when
25 we're talking here; but you spread this across

1 the whole country, it's a whopping big thing.
2 This is why the use of PCB, for which there are
3 no replacement or substitute, was quite a
4 critical thing.

5 (End of reading)

6
7 MR. OLESEN: Stopping there.

8 MR. LACEY: Your Honor, the answer was
9 misread. It was for which there was no
10 substitute, not for which there are no
11 substitutes.

12 THE COURT: All right.

13 MS. OLESEN: Continuing at Page 53,
14 line 12.

15
16
17 (Reading from video deposition)

18 Q Can you explain for us, generally, what a
19 "transformer" is?

20 A Well, in the area of PCB transformers, I
21 will call those "distribution-type transformers,"
22 rather than "power transformers."

23 Q What's the difference between a power --

24 A A power transformer -- when the utility
25 generates electricity, it has to pump this

1 through the utility lines. And that is the
2 purpose of the transformer, to build up this
3 voltage so there are lower line losses.

4 Now, I'm not talking about those kind of
5 transformers when we talk about PCB transformers.
6 Those kind of transformers will be invariably
7 insulated with mineral oil, not PCB.

8 Q Is there any particular reason for that?

9 A Yes. The reason is cost. That's one of the
10 reasons. And the other reason is -- is that a
11 utility power transformer isn't located in a
12 confined building. It's outdoors. And if there
13 is a fire, it's not -- well, it's unfortunate.
14 It's not a great risk. They're not in the middle
15 of a building in a populated area. So, that is
16 the reason mineral oil is used.

17 Q Is it a lower cost? When you said "cost,"
18 is mineral oil a lower cost?

19 A Oh, yes, considerably lower cost than --
20 than PCB. Maybe PCBs cost eight times as much as
21 mineral oil, just to give you a ballpark figure.

22 Q What about these -- what you call
23 "distribution transformers"?

24 A Yes. Now, in distribution transformers the
25 application for which this would be in factories,

1 steel mills, flour mills, automotive
2 manufacturing places, mining operations, things
3 like that. Another use we already touched on was
4 in these military installations where resistance
5 from fire and approximation to water was a
6 factor. Now, another application for PCB
7 transformers was in commercial buildings, office
8 buildings, schools, hospitals, that sort of
9 thing. And another area of application was in
10 utility underground networks.

11 So, those are the major applications
12 for Askarel transformers. In other words, this
13 is relatively small transformer. I say
14 "relative," close quote, to these very large
15 power where they generate electric power. Those
16 are very big transformers.

17 Q Were all relatively small transformers made
18 with PCBs?

19 A All right. I'll explain it this way: To be
20 begin with, the competition of Askarel
21 transformer was not mineral oil. We already
22 covered that. What is the competition? The
23 competition is open, dry type transformer. Now,
24 the open dry type transformer, being open, it's
25 not very applicable and sensible to put this in a

1 flour mill or a cement mill where there is dust
2 and generation of dirt because this interferes
3 with the insulation and can get into an open, dry
4 type transformer. Neither is it very sensible to
5 put an open dry type transformer in an area where
6 you would expect water flooding or, say, around
7 the coastal areas and so forth, where any
8 moisture, any water getting into an open, dry
9 type transformer can cause this thing to go.

10 So, that is really the competition; and this
11 is what we are looking at in the application of
12 these transformers.

13 Q I guess my question was whether, for
14 example, every transformer -- and I take it from
15 what you're saying, it's not true -- but every
16 transformer built from 1930 until 1974 had
17 Askarel in it.

18 A No, no.

19 Q What other --

20 A Only the ones where the judgment was made
21 that Askarel should be used for the purpose that
22 I told you: avoiding water and for the purpose
23 of avoiding fire hazard. The insurance people
24 dictated much of this.

25 Q What percentage of all the distribution

1 transformers that were made in 30's, 40's,
2 50's, 60's, that period of time, would have been
3 Askarel transformers versus some other type,
4 approximately?

5 (End of reading)

6
7 MS. OLESEN: And the answer is at line
8 9.

9
10 (Reading from video deposition)

11 A This is a difficult thing to answer, because
12 now you said, quote, "distribution transformers."

13
14 Q That was -- I'm trying to use the term you
15 used to explain it.

16 A Yeah. Well, we're running into trouble
17 because a distribution type transformer is also
18 these transformers that, indeed, have mineral oil
19 in them. And there are many, many, many of those
20 that you see on utility poles to assist with the
21 distribution of power. Now, those are mineral
22 oil. So, if they catch on fire, you saw the top
23 of the pole off. It's not a fire hazard.

24 So, let's answer your question.

25 Askarel went into a specifically selected place,

1 see? Rather than the -- it's a specialty, is the
2 answer.

3 Q Okay.

4 A It is very much a minority. That is the
5 answer. And to quantify this is numbers, I don't
6 know.

7 Q Okay. Well, that's answering my question.

8 A Okay.

9 Q They're basically a specialty product?

10 A Specialty, yes, based on fire -- lack of
11 fire hazard. That is the answer to the question.
12 (End of reading)

13

14 MS. OLESEN: Then at Page 71, beginning
15 at line 21.

16

17 (Reading from video deposition)

18 Q In connection with your role as marketing
19 manager from the mid-60's or so on through 1974,
20 were you responsible for trying to encourage as
21 many people as possible to use the PCBs in their
22 transformers and their capacitors?

23 (End of reading)

24

25 MR. HUNT: Counsel, the answer at the

1 top of Page 72 is not underlined. Should it
2 be?

3 MS. OLESEN: Yes. This offer will
4 conclude at line 22 of Page 72.

5

6 (Reading from video deposition)

7 A Really, to -- to no significant extent. We
8 couldn't get people to use one more drop of PCB
9 dielectric than they themselves decided to use.
10 We weren't out selling them the standpoint that
11 you normally think of selling and so forth.

12 Q Well, I guess what I'm getting at is whether
13 from a technical standpoint you might attempt to
14 convince technical people, who would be in a
15 position to specify a particular type of
16 transformer, the benefits --

17 A No.

18 Q -- of specifying PCB transformers versus
19 mineral oil transformers or dry transformers or
20 anything like that?

21 A Well, as we already discussed, we weren't in
22 competition with mineral oil.

23 (End of reading)

24

25 MS. OLESEN: That concludes our offer.

9
1 That ends at line 16. And that's all we
2 have, Your Honor.

3 THE COURT: All right.

4 THE COURT: Who do you have next.

5 MR. MUSSLEWHITE: Your Honor, may I
6 introduce Mr. David McCrae, attorney from
7 Bloomington, Indiana. He would like to
8 introduce Medus Hutchens. I don't think Mr.
9 Hutchens can get in the chair. We would
10 just like to introduce him shortly and then
11 go to the video so everybody could better
12 understand it.

13 THE COURT: You may.

14 MR. MUSSLEWHITE: Could you come
15 forward, please?

16 (Witness approaches bench)

17 This going to be very short, Your
18 Honor.

19 THE COURT: You may proceed.

20 MR. HUNT: Your Honor, will we have an
21 opportunity to cross examine Mr. Hutchens
22 this morning, Your Honor?

23 MR. McCRAE: Your Honor, I just intend
24 to ask him a few questions that were not
25 covered in the deposition. And then for the