IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, Plaintiff, vs. AVX CORPORATION, et al., Defendants. COMMONWEALTH OF MASSACHUSETTS, Plaintiff, vs. AVX CORPORATION, et al., Defendants.	)	CIVIL ACTION NO. 83-3302-Y (Consolidated)
LUMBERMENS MUTUAL CASUALTY COMPANY, Plaintiff, vs. AVX CORPORATION, et al., Defendants.	)	CIVIL ACTION NO. 84-2032-Y

[Continued on Next Page]

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LUMBERMENS MUTUAL CASUALTY COMPANY, et al.,	)	
Plaintiffs,	)	
vs.	)	CIVIL ACTION
CORNELL-DUBILIER ELECTRONICS COMPANY, et al.,	)	NO. 84-2044-Y
Defendants.	)	

FIREMAN'S FUND INSURANCE CO.,	)	
Plaintiff,	)	
vs.	)	CIVIL ACTION
RTE CORP. and AEROVOX, INC.,	)	NO. 85-2542-W
Defendants.	)	

DEPOSITION OF THOMAS M. BISTLINE, produced, sworn and examined on behalf of Plaintiff United States of America, April 15, 1986, between the hours of eight o'clock in the forenoon and five o'clock in the afternoon of that day, at the law offices of Messrs. Lewis & Rice, 611 Olive Street, St. Louis, Missouri 63101, before KATHRYN T. O'NEILL, a Registered Professional Reporter and a Notary Public within and for the State of Missouri.

A P P E A R A N C E S

The Plaintiff United States of America was represented by Ms. Ellen M. Mahan and Ms. Karen L. Florini, Trial Attorneys, U. S. Department of Justice, Environmental Enforcement Section, Land and Resources Division, Room 2630, Box 7415, Washington, D. C. 20044-7415.

The Plaintiff Commonwealth of Massachusetts was represented by Ms. Susan M. Bernard, Assistant Attorney General, Environmental Protection Division, One Ashburton Place, Boston, Massachusetts 02108.

The Defendant AVX Corporation was represented by Mr. Brian T. Konner of the law firm of Messrs. Hutter, McClennen & Fish, Federal Reserve Plaza, 600 Atlantic Avenue, Boston, Massachusetts 02110.

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The Plaintiffs Lumbermen's Mutual Casualty Co. and American Motors Insurance Co. was represented by Mr. Francis J. Connell, III of the law firm of Messrs. Drinker, Biddle & Reath, 1100 Philadelphia National Bank Building, Philadelphia, Pennsylvania 19107.

The Plaintiff Firemen's Fund Insurance Co. was represented by Mr. Gary D. Centola and Mr. Paul P. Stewart of the law firm of Messrs. Rivkin, Radler, Dunne & Bayh, Eab Plaza, Uniondale, New York 11556-0111.

The Defendant Aerovox, Inc. was represented by Ms. Marjory D. Robertson of the law firm of Messrs. Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 20037.

The Defendants RTE Corporation and Aerovox, Inc. was represented by Mr. Daniel B. Winslow of the law firm of Messrs. Sherin and Lodgen, 100 Summer Street, Boston, Massachusetts 02110.

The Plaintiff Aetna Casualty & Surety Company was represented by Mr. Daniel L. FitzMaurice of the law firm of Messrs. Day, Berry & Howard, CityPlace, Hartford, Connecticut 06103-3499.

The Defendant Federal Pacific Electric Company was represented by Mr. Howard T. Weir, III of the law firm of Messrs. Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, D. C. 20036.

The Defendant Belleville Industries, Inc. was represented by Mr. David A. McLaughlin of the law firm of Messrs. McLaughlin & Folan, 448 County Street, New Bedford, Massachusetts 02740.

Monsanto Company was represented by Mr. Stephen H. Oleskey of the law firm of Messrs. Hale and Dorr, 60 State Street, Boston, Massachusetts 02901. Also present on behalf of the firm was Ms. Judith Beck, Legal Assistant.

WATER_PCB-SD0000002456

I N D E X

	Page
Direct Examination by Ms. Mahan	5
Cross-Examination by Mr. McLaughlin	32
Cross-Examination by Ms. Robertson.	33
Redirect Examination by Ms. Mahan	36
Recross-Examination by Mr. McLaughlin	37
Cross-Examination by Mr. Winslow.	41
Recross-Examination by Ms. Robertson.	49
Further Recross-Examination by Mr. McLaughlin . .	52

E X H I B I T S

GOV'T EXHIBIT	REFERENCE NO.	PAGE
1		5
2		5
3		5
4		5
5		5
6		5
7		5
8		5
9		5
10		5
11		5
12		5
13		5
14		5
15		5
16		5
17		5
18		5
19		5
20		5
21		5
22		5
23		5
24		5
25		5
26		5
27		5
28		5
29	XER041 1785F	5
30		5
31		5
32	XER032 2267F-2318F	15
33	XER033 0003F-0046L	16

WATER_PCB-SD0000002457

IT IS HEREBY STIPULATED AND AGREED by and between Counsel for the Plaintiffs and Counsel for the Defendants, that this deposition may be taken in shorthand by KATHRYN T. O'NEILL, a Registered Professional Reporter and Notary Public, and afterwards transcribed into typewriting and signed by the Witness.

o-O-o

THOMAS M. BISTLINE,

of lawful age, being produced, sworn and examined on the part of the Plaintiff United States of America, deposes and says:

DIRECT EXAMINATION

QUESTIONS BY MS. MAHAN:

[Prior to the commencement of the deposition, Government Depostion Exhibit Nos. 1 through 31 marked for identification.]

Q. Could you state your name for the record, please?

A. Thomas M. Bistline.

Q. And could you tell us your position, please?

A. I'm assistant litigation counsel, Monsanto Company.

Q. And how long have you been in that position?

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A. Since February 1st, 1982.

Q. And before that were you with Monsanto?

A. No ma'am.

Q. And who were you with before?

A. I was associated with the law firm of Simpson, Thacher & Bartlett.

Q. As assistant litigation at Monsanto, what are your duties?

A. My duties are to manage and supervise litigation, certain litigation assigned to me in which Monsanto is a party or otherwise involved.

Q. Now, we have premarked several exhibits to this deposition, some of which you have already seen. I wonder if you could just take a look and make sure that the exhibits we have premarked as 1 through 26 are duplicates of ones that were sent to you approximately a week and a half ago.

A. Okay. Could I assume the index sheets are identical --

Q. They are. That's correct.

A. -- without looking through each one of these?

Q. These are exact duplicates of what was sent to you.

A. If you want me to, Miss Mahan, I'll go through all these. I'd be willing to accept your

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representation subject to a check later.

Q. I'll do it that way. I'll represent to you those were duplicates of the ones that were sent to you. That will save a lot of time.

A. Fine.

Q. Now, let me show you what's been marked as Government Exhibit 27. Have you seen that document before, Exhibit 27?

A. Yes.

Q. And what is that exhibit?

A. This is a notice of taking deposition directed to Monsanto Company issued by your office, I believe, which I think was annexed to a subpoena which was also served on me.

Q. I have a copy of a subpoena which has been premarked as Exhibit 28. Why don't I show you that at the same time.

A. Yes.

Q. Now, are you being produced today under this 30(b)(6) notice to Monsanto Corporation?

A. Yes, ma'am.

Q. And if you'll flip to Exhibit A, Exhibit 27, which of the categories are you here today to speak to on behalf of Monsanto Corporation?

A. Category number 1, category number 2, parts

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of category number 3; those would be the ones that I can testify to from personal knowledge.

Q. Now, it's my understanding from previous conversations, if you would correct me, that as to part of category number 3 and category number 4, Monsanto will not be producing someone today to respond to those?

A. That's correct, Miss Mahan. I have not yet been able to locate anyone directly in Monsanto's employ who has personal knowledge of category number 4 and parts of category number 3.

Q. All right. I'm going to give you what's been premarked as Exhibit No. 29. I ask you if you have seen that before?

A. Yes, I have.

Q. And could you tell me what that is?

A. This is a request for information. In fact, I think it's probably a supplemental request for information which Monsanto received from the United States EPA in or about April of 1985.

Q. And what was your role with regard to this request for information from EPA?

A. My basic role with respect to this information request was to compile and provide to the Government, to EPA, the documents which Monsanto was producing in response.

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Q. Let me show you what's been marked as Exhibit 30, and ask you if you can identify that?

A. Yes, I can.

Q. And what is that document?

A. This document is -- actually, it's two documents, the first being a copy of a letter of response made by Monsanto to the information request Exhibit 29. That is the first three pages of this document. The last two pages are my affidavit which have been annexed to the letter and transmitted to the Government.

Q. If I could draw your attention to paragraph 3 of that affidavit --

A. Yes, ma'am.

Q. -- in Exhibit 30, the last sentence of that paragraph, if you could, take a look at that for a moment.

A. Yes.

Q. Could you tell me how you reached the conclusion in the last sentence of the paragraph of your affidavit?

A. Yes. I instructed my staff to search through records pertaining to sales of polychlorinated biphenyls and to advise me whether that search disclosed any purchasers of PCBs in New Bedford, Massachusetts. The report I received back was that no such documents were located, and that's the basis of the statement that I made

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here in paragraph 3.

Q. No such documents were located for purchasers other than the two purchasers you --

A. Other than Cornell and Aerovox, yes. Now, they said major purchasers. The records that we have don't reflect purchases of fewer than 500 pounds on an annual basis, so that there might have been a sale of less than 500 pounds, and that was the basis for saying there were no major purchasers of polychlorinated biphenyl products.

Q. So, your definition of major purchasers would include anyone over 500 pounds?

A. That would have been for the purpose of this affidavit, yes.

Q. Could you just describe to me briefly how the search was conducted in response to the information request from EPA?

A. Yes; once we had reached agreement, and that agreement was reached between Mr. Park, to whom the information request was directed, and an attorney for EPA, whose name I can't recall at this moment.

Q. Was it Mr. Bering?

A. Yes. It's referred to here in the letter. Once that agreement had been reached between Mr. Park and Mr. Bering, I instructed my staff, which has custody,

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physical possession of the documents relating to polychlorinated biphenyls, to search for those documents in accordance with the request --

MS. MAHAN: Off the record.

(Discussion held off the record.)

THE WITNESS: Could you just read me where I was?

(Reporter propounded previous answer.)

A. -- in accordance with the request as modified by the agreement between Mr. Park and Mr. Bering. I think as reflected in paragraph 2 of my affidavit, the documents, which were discovered as a result of that request, with specific exceptions as noted in the letter, were produced to the Government.

Q. (BY MS. MAHAN) These documents that were searched for, where was the search conducted, what locations?

A. At Monsanto Company in St. Louis.

Q. Just at the St. Louis office?

A. Well, we have a repository of documents which have been gathered for the purposes of litigation. Those documents are in the custody of the law department, in my custody specifically. They are my responsibility, and that was where the search was conducted.

Q. Is there a specific document retention policy

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for Monsanto with regard to those types of documents?

MR. WEIR: In regards to what types of documents?

MS. MAHAN: The types that he keeps in his office at the general counsel's office, I assume.

A. I have to distinguish between those documents as they may exist in the business setting and those documents as they may exist in the setting in which I have custody of them.

Q. (BY MS. MAHAN) I would appreciate that distinction. As I understand it, there is some distinction?

A. Right. With respect to documents of which I have custody, the policy of Monsanto with respect to document retention is that they are not to be destroyed as documents are destroyed in the ordinary course of business without the specific permission of the lawyer who is responsible for them. Outside of that setting, just in the general course of business, depending upon the category of the documents, the retention period is shorter or longer, from two to seven, possibly more, years, depending upon the category of the document.

Q. Let me show you what's been marked as Government's Exhibit 31.

A. Yes.

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Q. Could you identify Exhibit 31, please?

A. Yes. Exhibit 31 is a letter from Monsanto to the U. S. EPA which supplemented -- or this letter, Exhibit 31, is dated June 14, 1985. Exhibit 31 supplements the response to the Government information request that was made by Monsanto's letter of May 24th, which has been identified as Exhibit 30.

Q. Did you also participate in that supplemental response?

A. Yes, I did.

Q. How was it in the supplemental response that other documents were located after the first response?

A. We broke the search down into categories, Miss Mahan, and the category of documents which was produced under cover of Exhibit 31 were roughly what I would call most of the transactional documents, those which study bills of lading and shipping memoranda and the like, which were of a different search method, was employed to gather those documents and produce them to the Government. Our discussions with Mr. Bering had indicated that those were of a lower order of priority, and this was the manner in which we agreed at that time documents would be produced.

Q. And those documents that were in the supplemental request are those documents of the type that

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are premarked Exhibit 1 through 26 to this deposition?

A. Yes, they are.

Q. Drawing your attention to the premarked Exhibit 1 through 26, could you give me a general description of what you would determine those documents to be?

A. These documents are generally what I indicated with response to Exhibit 31. They are roughly the transactional documents. They include shipping memoranda, shipping invoices, bills of lading, customer orders, and there are a few customer complaint documents in here as well, not very many of those. That in general is what these documents are.

Q. Are these types of records made at or near the time of the transaction that they reflect?

A. In the normal course of business, yes, they are.

Q. Are they documents made by persons with knowledge of that transaction or from information from someone of knowledge of that transaction?

A. Yes. That's correct.

MR. McLAUGHLIN: I object.

MS. MAMAN: I'm sorry? I couldn't hear you.

MR. McLAUGHLIN: I said I object. Are you talking about every single document in there?

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MS. MAHAN: Exhibits 1 through 26.

MR. McLAUGHLIN: Okay.

MS. ROBERTSON: I join in the objection.

MR. WEIR: Can we have a stipulation that -- well, this may be hard to do. I was going to suggest we have a stipulation for all objections.

MS. BERNARD: Or one objection could serve for objections for all.

MR. WEIR: Can we agree with that?

MS. MAHAN: I have no problem with that. Do you have any problem with that?

MS. BERNARD: No. That makes sense.

MS. MAHAN: I think that makes sense.

All right. The documents marked Exhibits 1 through 26, are those types of documents kept in the ordinary course of business at Monsanto?

A. Yes, they are.

Q. And is it a regular practice of Monsanto to make such records of transactions?

A. Yes, it is.

Q. All right.

Let's mark this.

[Government Deposition Exhibit No. 32 marked for identification.]

Q. (BY MS. MAHAN) Let me show you what's been

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marked as Exhibit 32. Could you take a look at that for a moment?

A. Yes.

MS. MAHAN: Mark that, please.

[Government Deposition Exhibit No. 33 marked for identification.].

MR. WEIR: Ellen, can you identify what Exhibit 32 is, please?

MS. MAHAN: 32 is the sales summary search, Cornell-Dubilier.

And here is 33. We might as well discuss these together.

A. Okay.

MR. WEIR: And what is Exhibit 33?

MS. MAHAN: Sales summary search, Aerovox Corporation.

Now, could you identify Exhibits 32 and 33 for me, please?

A. Yes. Exhibits 32 and 33 are multi-page documents, parts of which were prepared by my staff, and parts of which are the underlying business records of Monsanto from which the schedules were prepared. In the case of Exhibit 32, the first three pages represent a summary which was compiled at my instruction by my staff from the underlying business records which are attached.

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The document, the first three pages represent summary of Monsanto sales of polychlorinated biphenyl products to Cornell-Dubilier in Massachusetts during the years 1954 through 1977, as reflected on the underlying records.

Q. And Exhibit 33?

A. Exhibit 33 would be the same type of document with respect to Aerovox Company; again, the first three pages being a schedule prepared by my staff from the underlying business documents.

MS. ROBERTSON: We don't seem to have complete sets. We have two documents here.

MS. MAHAN: That's right. They are just not attached, maybe.

MS. ROBERTSON: Okay. But he is pointing to three.

MS. MAHAN: Right, three pages.

MS. ROBERTSON: Off the record.

(Discussion held off the record.)

Q. (BY MS. MAHAN) Mr. Bistline, can you tell from these documents whether they reflect sales to the New Bedford locations of Cornell-Dubilier or Aerovox?

MR. WEIR: I'll object to you asking him to go through document by document. Are you asking him to --

MS. MAHAN: Exhibits 32 and 33.

MR. WEIR: -- just thumb through the

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document? Some of the copies I have, for example, I don't know if he has better copies, but I can't even read the typing of the document. Maybe he can, but I sure couldn't tell what it says.

MR. WINSLOW: Note my objection.

A. Some of them are difficult to read. The sales summary search, of course, the schedule prepared by my staff, does identify these as sales to all Massachusetts locations of Cornell-Dubilier, and on 33 the same for Aerovox Company. The underlying business documents contain a location code, which I don't have the personal knowledge to interpret, but persons on my staff do, and their instructions in compiling these documents and compiling the summary was to provide information on sales in Massachusetts of PCB products to Cornell-Dubilier on 32 and Aerovox on 33.

Q. (BY MS. MAHAN) Now, the codes that are indicated on the first three pages of both 32 and 33, do those indicate, those numbers that you were talking about, about the fourth line down, 11, 1040, 240 on Exhibit 32, are those location codes?

A. Miss Mahan, I don't know.

Q. All right.

A. I don't know if this is location code or not. I would observe, Miss Mahan, that the sales summary itself

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indicates, for example, on the third line -- fourth line, excuse me, of Exhibit 32, it says "Cornell Dubilier Electric - New Bedford" under the heading "1958." I would assume then that the numbers and the lines following are not location codes, but are product codes, but again, that's an assumption on my part.

Q. Thank you.

MR. WEIR: Move to strike that answer. It's not based on any personal knowledge.

MS. MAHAN: I think that he qualified it sufficiently.

Did your staff use any other information to compile these three-page summaries other than the information that's contained in the documents attached to the three-page summaries?

MR. McLAUGHLIN: Excuse me. Exhibits 32 and 33?

MS. MAHAN: That's right.

MR. McLAUGHLIN: I'm objecting to the testimony on the summaries based upon the foundation that's laid right now. Thank you.

A. I'm sorry. Would you restate the question, please?

Q. (BY MS. MAHAN) Did your staff use any other information to compile these three-page summaries attached

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to 32 and 33, other than the information in the pages following those summaries?

A. With the qualification, Miss Mahan, that you have provided here and the pages following the summaries, all of the backup documents that were provided to EPA in Monsanto's response to the information request, the answer to your question is that these were the documents that were relied on to prepare the sales summary search.

MR. McLAUGHLIN: Move to strike.

Q. (BY MS. MAHAN) If you could take a look, please, at Exhibit 32, not the three-page summary, but the underlying sheets, can you explain why the underlying sheets up to 1968 are called sales summaries, while after '68, from '69 forward, they appear to be something somewhat different?

MR. WINSLOW: Objection.

A. I can't testify from personal knowledge about this. I am advised and I believe that the difference is one of a change in format in the manner in which these records were kept by Monsanto.

MR. WEIR: I'll move to strike that response.

Q. (BY MS. MAHAN) Now, Mr. Bistline, you have been designated as the 30(b)(6) deponent from Monsanto; is that correct?

A. That's correct.

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Q. So that the knowledge of the corporation is presumably your knowledge at this point?

A. That's correct.

MR. McLAUGHLIN: Can I have the question back, please? I couldn't hear the question or the answer.

(Reporter propounded previous question and answer.)

MR. McLAUGHLIN: I object to that.

MR. WINSLOW: I object to that.

Q. (BY MS. MAHAN) Mr. Bistline, what were the names of your staff that helped to prepare these summaries?

A. There were two people principally involved, my chief legal assistant, Miss Gayle Turner, and an another employee on my staff named -- she's going to kill me. I can't remember her last name. First name is Mona.

And if you leave a blank, I'll supply the last name.

Q. And what did you do in terms of supervising their work in preparing the summaries of Exhibits 32 and 33?

A. I met with Miss Turner and with Mona, and we discussed the nature of the proceeding here, the nature of Monsanto's involvement; that is, that it was a response to a request for information by the Environmental Protection

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Agency, and we discussed in particular the need to provide summary of sales to Cornell-Dubilier and to Aerovox from the records that we had available.

Q. And did you instruct Ms. Turner to use only the -- I'll call them sales summary sheets unless you can give me a better term for them -- the attached sheets to the three-page summaries?

MR. WEIR: Object.

MR. WINSLOW: Objection.

A. No, I didn't instruct her to use only those records. The instruction was to use the records which contained the most complete and reliable information on sales.

Q. (BY MS. MAHAN) And did these records that are attached to the three-page summaries contain the most complete and reliable sales on record?

MR. WEIR: Objection.

MR. WINSLOW: Objection.

A. To the best of my knowledge, that's correct.

Q. (BY MS. MAHAN) Do you know how these -- should we call them sales summary sheets, the attached sheets, customer lists? I don't know what exactly Monsanto calls them.

A. That's product sales summaries.

Q. Do you know how these product sales summaries

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are kept at Monsanto?

A. From my knowledge, Miss Mahan, I do not, because these documents, the particular ones we have here, were generated prior to my association with Monsanto. I am informed and I believe that these documents are prepared by Monsanto's accounting function from underlying transactional documents of the type contained in Exhibits 1 through 26 already marked in this deposition.

MR. WEIR: Objection, and move to strike.

MR. WINSLOW: Move to strike.

MR. McLAUGHLIN: I'll object to the basis on that. I don't know again if he's referring to both 32 and 33, and if he's referring to 32 or 33, if he's referring to the underlying documents or the three-page characterization of cataloging of the underlying information. So, I join in the motion to strike.

Q. (BY MS. MAHAN) Okay. I think we can clarify that. The product sales summaries that we are referring to, which part of Exhibits 32 and 33 are you referring to as the product sales summaries?

A. The product sales summaries would be those parts of both Exhibits 32 and 33 other than the first three pages of each exhibit.

Q. Could you identify those by the frame numbers that are indicated along the margin just to clarify it for

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the record?

A. Okay. For Exhibit 32, the first frame number of the underlying documents to which I was referring is 2270F, and it goes sequentially to number 2318.

Q. And that's Exhibit 32?

A. That's Exhibit 32.

MR. WEIR: Now, my Exhibit 32 doesn't -- what was the last number? Would you read back the last --

MS. MAHAN: I believe he said 2318.

A. Yes. That's correct.

MR. WEIR: Okay.

Q. (BY MS. MAHAN) Now, could we do the same for Exhibit 33, please?

A. Yes.

A. The first number of the underlying documents on Exhibit 33 is 0006F through 0046L. It appears to be "L."

MS. MAHAN: And for the record, these are XER 32 for Exhibit 32 and XER 33 for Exhibit 33, coincidentally.

All right. If I could draw your attention back to Exhibit 1 and Exhibit 14 --

A. Yes.

Q. -- could you explain to me why those records are so sparse for that period of time?

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MS. ROBERTSON: Objection.

MR. WEIR: Objection.

MS. ROBERTSON: Are they sparse?

MR. WEIR: That assumes they are sparse.

Q. (BY MS. MAHAN) Can you explain to me why there's a small number of documents contained for transactional sales between 1958 and 1965 for Aerovox and Cornell-Dubilier?

MR. WINSLOW: Objection.

MR. McLAUGHLIN: Same objection.

Q. (BY MS. MAHAN) Why don't you answer and then we will --

A. I am informed, Miss Mahan, and I believe that the relatively fewer numbers of documents for the time period prior to 1965 is owing to the destruction of these transactional documents by Monsanto in the regular course of its business pursuant to its document retention.

MR. WINSLOW: Move to strike.

MR. WEIR: Objection, and move to strike; hearsay.

Q. (BY MS. MAHAN) And would you state that the number of documents in Exhibits 1 and 14 are relatively fewer than for the other years that we have shown in Exhibits 2 through 13 and 15 through 26?

MR. WINSLOW: Objection.

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MR. McLAUGHLIN: Objection.

A. Well, I believe that you can count the pages. One could probably find by whatever method one wanted to that there are fewer documents for that period than for subsequent periods.

Q. (BY MS. MAHAN) Now, you indicated that documents for the period prior to 1966 may have been destroyed under a document retention policy at Monsanto; is that correct?

A. That's correct.

Q. And what is the source of that information?

A. That information was communicated to me by members of Monsanto law department who were involved in gathering these documents in the first instance. We had responsibility for that task.

Q. Okay. If you could look back for a moment at Exhibits 32 and 33, the information for the years 1958 through 1965, those exhibits appear to be more extensive than with regard to the underlying documents, Exhibits 1 and 14.

MR. WEIR: Objection.

MR. WINSLOW: Objection.

MR. McLAUGHLIN: Objection.

Q. (BY MS. MAHAN) Can you explain that discrepancy?

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MR. WEIR: Objection.

MR. WINSLOW: Objection.

MR. McLAUGHLIN: Objection.

A. If you mean by "more extensive" the fact that by adding up the amounts of sales reflected, for example, in Government's Exhibit 1, and comparing that to the amount of sales reflected on the first two pages of Exhibit 33, I would say yes. The information does appear to be more extensive in that sense, and is your question why is that so?

Q. (BY MS. MAHAN) Yes.

MR. WINSLOW: Move to strike.

MR. McLAUGHLIN: Move to strike.

MR. WEIR: Move to strike.

Q. (BY MS. MAHAN) Can you explain that discrepancy, is the question.

A. The explanation, as I understand it to be, is that the document retention period for the document upon which Exhibit 33 was based --

Q. And 32?

A. -- and 32, is different from and longer than the retention period for the documents contained in Exhibit 1 and Exhibit 14.

Q. Do you know what the document retention period is for the exhibits contained in Exhibit 1 and 14?

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A. The current policy -- oh --

Q. 1 and 14.

A. Oh, for 1 and 14? Monsanto's current policy for these documents is that they are to be retained for the current year and the two years prior to the current year.

Q. Thank you.

MR. WINSLOW: Excuse me. Could I just have a look at what Exhibit 1 and Exhibit 14 is?

MS. ROBERTSON: Right here.

Q. (BY MS. MAHAN) The document retention policy that you have just described, how long has that policy been in effect?

A. The current policy has been in effect since 1978. Monsanto has had a document retention policy since 1955, and my examination of that document retention policy shows me that the retention period for transactional documents of the type contained in Exhibit 1 and Exhibit 14 has been consistent during that period of time.

MS. MAHAN: Perhaps we should identify on the record who just came in.

MR. CENTOLA: Paul Stewart with Rivkin, Radler, Dunne & Bayh; he's an attorney with my office.

Q. (BY MS. MAHAN) If we can go back on the record, if I could draw your attention to Exhibit 7 and 20

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for a moment --

A. Yes.

Q. -- which purport to be the transactional documents for both Cornell-Dubilier and Aerovox for 1971 --

A. Yes.

Q. -- can you explain why there are relatively fewer documents for that year than for the following year and the preceding years?

MR. WEIR: Objection.

MS. ROBERTSON: Objection.

MR. WINSLOW: Objection.

MR. McLAUGHLIN: Objection.

A. I have no explanation for that other than these were the ones that were located in the search that we made.

Q. (BY MS. MAHAN) Did you speak to your staff about that particular issue of the 1971 transactional documents?

A. No, I did not, Miss Mahan.

Q. Mr. Bistline, would it be fair to say that there are relatively fewer documents in Exhibits 7 and 20 than for the following years?

MR. WINSLOW: Objection.

MS. ROBERTSON: Objection.

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MR. McLAUGHLIN: Objection.

A. By number of documents, I think that's a fair statement.

MR. WEIR: I'll move to strike that.

Q. (BY MS. MAHAN) If we can look back, please, at Exhibits 32 and 33, the subsequent pages that we have discussed as the product sales summary --

A. Yes, ma'am.

Q. -- are those product sales summaries made at or near the time of the transactions that they reflect?

MR. McLAUGHLIN: Do we have a foundation for that, please?

MS. MAHAN: What's the --

MR. McLAUGHLIN: His knowledge of the product sales summary, what exhibits are you referring to?

MS. MAHAN: Exhibits 32 and 33 and subsequent pages.

A. And your question?

Q. (BY MS. MAHAN) Are the product sales summary pages that are the following pages in Exhibits 32 and 33 made at or near the time of the transactions that they reflect?

A. They are not made at the time, Miss Mahan. They are made subsequent to that period. These are reports on a monthly basis by year and reflect sales that

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were made during the month designated, but they are made at some time subsequent to the month which they reflect.

Q. And was it your testimony that these are made by your accounting department?

A. Yes, ma'am.

Q. Do you know what information the accounting department uses in putting this information on the product sales summaries?

A. I know generally. I don't know specifically.

Q. Could you tell me generally, please?

A. Generally, as I testified previously, the sources of information are the transactional documents of the type reflected or contained in Exhibits 1 through 26.

Q. Are the product sales summaries that are a portion of Exhibits 32 and 33 kept in the regular course of business at Monsanto?

A. Yes, they are.

Q. And is it the regular practice of Monsanto to make such records?

A. Yes, it is.

MS. MAHAN: All right. I have no further questions for you. Thank you.

MR. McLAUGHLIN: Off the record.

(Discussion held off the record.)

THE WITNESS: I remembered Mona's last name.

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It's Mona Ghant, G-h-a-n-t.

MS. BERNARD: I don't have any questions of this witness.

MR. CENTOLA: I don't have any questions.

CROSS-EXAMINATION

QUESTIONS BY MR. McLAUGHLIN:

Q. Sir, I didn't catch your name in full. My name is David McLaughlin.

A. My name is Tom Bistline.

Q. Hi, Tom. Referring first to Exhibit No. 32, I'm going to ask you if you can answer the following question with either a yes or a no. Is it your testimony that the totality of Exhibit 32 is a record maintained in the ordinary course of business by Monsanto?

A. No. That's not my testimony.

Q. Exhibit 32 is not?

A. Not in its totality.

Q. Right. It's not a compilation of records kept in the ordinary course of business by Monsanto, either, is it?

A. Are you referring to any specific part?

Q. No. I'm referring to Exhibit 32, sir.

A. Oh. My testimony, Mr. McLaughlin, is that part of Exhibit 32 are records.

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Q. And part is is not; is that correct?
A. And part is not. That's correct.
Q. So, 32 as a totality is not a record maintained in the ordinary course of business by Monsanto, is it?
MS. MAHAN: Objection.
A. That's correct.
Q. (BY MR. McLAUGHLIN) And the same is true of Exhibit 33; is that not correct?
A. That's correct.
MR. McLAUGHLIN: Thank you, sir.
MS. ROBERTSON: I have a few.

CROSS-EXAMINATION

QUESTIONS BY MS. ROBERTSON:
Q. Looking at Exhibit 30, paragraph 3, in which you state, "There were no major purchasers of polychlorinated biphenyl products from Monsanto in New Bedford," and that's referring to other than CDE or Aerovox?
A. Yes.
Q. What is the basis of that statement?
A. As I testified previously, as part of the process of responding to the Government's or the EPA's information request in this matter, I instructed my staff

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to review Monsanto's product sales summary sheets, which are of the type which are part of Exhibits 32 and 33, to determine whether there were other purchasers of polychlorinated biphenyl products in New Bedford, Massachusetts.

Q. And for which customers are these product sales summary sheets kept?

A. Depending upon the time period that you're speaking of -- I'm sorry. I don't know your name.

Q. Marjory Robertson.

A. Miss Robertson?

Q. Yes.

A. Depending on the time period that you are talking about, Miss Robertson, it could be all of Monsanto customers during the period of time of which these records are kept or only those portions which for one reason or another the documents have been exempted from the normal document retention policy.

Q. So, it's possible that there were customers who purchased PCBs for which there were not product summary records kept?

A. I would think that highly unlikely.

Q. Why?

A. Because of the effort that was made to obtain the product sales summary sheets for polychlorinated

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biphenyl products. To retain those, take them out of the normal record retention process, that effort, I am informed, was complete back to 1958.

Q. But perhaps I'm not being clear. Within Monsanto how is it decided whether a product summary sheet will be kept?

A. Product sales summary sheets are kept with respect to all Monsanto sales.

Q. All Monsanto sales?

A. Yes.

Q. You referred earlier to records were not kept to reflect purchases of less than 500 pounds.

A. The product sales summary sheets do not reflect sales of less than 500 pounds.

Q. What are the names of individuals within Monsanto who would have personal knowledge of sales of PCBs to people in Massachusetts?

A. Mr. Papageorge has personal knowledge of such sales for the time period when he was active in that area. Other than Mr. Papageorge, it would depend upon the period in time of which you are talking about. I am not certain that -- well, let me put it this way. I don't have personal knowledge of others who might have personal knowledge of that topic other than Mr. Papageorge.

MS. ROBERTSON: I have nothing further.

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MR. CONNELL: I have no questions.

MR. FITZMAURICE: I have no questions.

MS. MAHAN: Just a little bit on redirect then.

REDIRECT EXAMINATION

QUESTIONS BY MS. MAHAN:

Q. If I could draw your attention back to Exhibits 32 and 33 --

A. Yes.

Q. First starting with Exhibit 32, could you specify by the margin reel and frame number which portion of Exhibit 32 is not a document kept in the ordinary course of business of Monsanto?

A. Yes. That would be pages numbered XER032 2267F, 2269L, and 2268.

Q. All right. With regard to Exhibit 33, could you specify which portion of Exhibit 33 by reel and frame number are not documents kept in the ordinary course of business of Monsanto?

A. Yes. Those would be document numbers XER033 0003F, 004 and 005L.

Q. Are the remaining portions of Exhibits 32 and 33 documents which are kept in the ordinary course of business of Monsanto?

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A. Yes, they are.

MR. McLAUGHLIN: Objection.

MS. MAHAN: Thank you.

RECROSS-EXAMINATION

QUESTIONS BY MR. McLAUGHLIN:

Q. Following that inquiry, the sales summaries, are they presently retained -- excuse me. Strike that question. The format of the sales summary, is that the same format that is presently used in 1986 by Monsanto sales summaries of particular products to its customers?

MS. MAHAN: Could we just clarify what you mean by the sales summaries?

Q. (BY MR. McLAUGHLIN) The ones you just referred to as being part of Exhibit, let's say, 32.

A. I don't know if the format, sir, that we currently use in 1986 is identical to the format that's reflected in the underlying documents on Exhibit 32. I would note that there are at least two different formats used in these underlying documents on Exhibit 32.

Q. When direction was given by you to your staff to assemble records, were they told to search for sales by particular named customers?

A. In part, yes, sir.

Q. And were they told to search for sales by

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amount to other customers?

A. By amount, sir? No.

Q. In part, they were told to search for sales by particular customers, i.e. Cornell-Dubilier, Aerovox, et cetera?

A. Yes.

Q. What other guidelines were given by you to your personnel to direct them in this search?

A. Pursuant to the agreement that Mr. Park reached with Mr. Bering of EPA, we also undertook to search by location, i.e. New Bedford, Massachusetts.

Q. When you searched locations in New Bedford, Massachusetts, would you search for divisions of corporations that might not be headquartered in New Bedford, Massachusetts?

A. No. If I understand your question, Mr. McLaughlin, the answer is no. We searched for sales to any entity in New Bedford, Massachusetts pursuant to that direction.

Q. Correct. But your sales report only -- I may be wrong. Correct me if I'm wrong. The sales reports reflect the type of data that you requested your personnel to seek?

A. Now, if I understand what it is that you're referring to when you say "sales reports" --

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Q. Sales reports, which appear to be the title at least of parts of -- or sales summaries.

A. Now, are you referring to the schedules compiled by my staff or to the underlying documents?

Q. I am referring to some documents which appear to be parts of Exhibits 32 and 33, and I am holding up something that says "Sales Summary." Do you see that, sir?

A. Yes, I see that, and that is not -- it refers to documents other than those prepared by my staff.

Q. Right. But the sales summary, which was not prepared by your staff, was obtained as a result of a search by your personnel who worked for you at Monsanto, correct?

A. That's correct.

Q. And in collecting this information, they were told to look for sales summaries for certain entities; is that correct?

A. That's correct.

Q. They were Cornell-Dubilier, Aerovox, Aerovox-Belleville, et cetera?

A. Yes. There were a number of companies.

Q. Sales reports reflect the corporate entity who purchased the product; is that correct?

A. It does in part, yes.

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Q. Okay. What I'm saying is, what search was conducted, if any, for sales that might be made to a corporate entity that was not headquartered in New Bedford, but might have operations in said city?

A. The sales summary reports will indicate the location to which -- the location from which the -- well, let me strike that and go back here. The sales summary report contains a code number which indicates the location of the entity to which the product was sold.

Q. All right.

A. And part of the search that I instructed my staff to perform was to look for sales to the sale code that reflected New Bedford, Massachusetts, and that's the basis of the statement that I made in paragraph 3 of my affidavit.

Q. Sir, if there had been hypothetically --

A. Yes.

Q. -- a corporation whose purchasing office was not located in New Bedford, it hypothetically had an operating division in or about the City of New Bedford, Massachusetts to which certain Monsanto products were sent, the directions you give to your staff would not have included a search for those records, would it?

A. If I correctly understand your hypothetical, that would be correct, sir.

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MR. McLAUGHLIN: Thank you.

CROSS-EXAMINATION

QUESTIONS BY MR. WINSLOW:

Q. During your testimony you made a distinction between major PCB purchases and minor PCB purchases.

A. I spoke to the meaning of the word "major" contained in paragraph 3 of my affidavit, which is in Exhibit 30, yes.

Q. And that meaning was purchases in excess of 500 pounds per year?

A. That was the meaning that was attached to that word, yes.

Q. Is that the meaning that you attach to that word, or is that the meaning that Monsanto itself attaches to that word in its sales policy?

A. That was the meaning I attached to the word as used in paragraph 3 of my affidavit.

Q. Using that definition of major versus minor purchases of PCB, does Monsanto copy records of minor purchases of PCB?

A. Sales of less than 500 pounds of PCB would be reflected in what I would term transactional documents of the type contained in Exhibits 1 through 26.

Q. So, the answer is yes?

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A. So, the answer is yes.

Q. Now, in paragraph 2 of Exhibit 30, your affidavit, you made reference to a search as modified with your agreement or by your agreement by Mr. Bering.

A. Yes.

Q. Tell me what that agreement was.

MS. MAHAN: We are really getting beyond the scope of redirect. I'm going to object.

MS. ROBERTSON: Well, Ellen, I am going to object because you handed us these documents this morning. We haven't had any time to look at them. You sent us two million documents.

MS. MAHAN: They are documents that have been produced to you by the United States.

MS. ROBERTSON: Well, we had no idea they were going to be here.

MS. MAHAN: Well, you can tell in the reel and frame number --

MR. WEIR: We are not talking about just those documents.

MR. McLAUGHLIN: I believe the witness used the terms in response to Mr. Bering in my question.

MS. MAHAN: I will just note my objection.

MR. WINSLOW: Can we have that question back, please?

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(Reporter propounded pending question.)

A. In general, that agreement limited some of what Monsanto considered to be the more burdensome aspects of the initial information request as served upon us by the Government. I don't have, sir, in my head all of the details of that because that was an agreement that was reached between Mr. Park and Mr. Bering, the substance of which was communicated to me by Mr. Park. The most salient feature from my point of view of that agreement in terms of directing and supervising the search here was the limitation on the location for other sales of polychlorinated biphenyls to New Bedford, Massachusetts.

Q. (BY MR. WINSLOW) Was that agreement between Mr. Park and Mr. Bering, to your knowledge, in writing?

A. I don't know.

Q. Do you know when the agreement was made?

A. The agreement was made in the period of time between -- well, yes. Yes, I do know. My recollection is refreshed here by reference to Exhibit 30, which recites that the agreement was reached in conversations between Mr. Bering and Mr. Park on May 2nd and May 14, 1985.

Q. Does that refresh your memory as to whether or not the agreement was in writing?

A. No, it doesn't.

Q. Your understanding of the gist of the

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agreement was that Monsanto limited the scope of documents produced or searched by Monsanto on behalf of the EPA?

A. Well, we eliminated from the documents that we would produce to EPA in response to the information request certain types of documents. For example, we have a great number of reports generated by EPA itself reflecting inquiry in regulation of polychlorinated biphenyls, and we agreed with Mr. Bering that we would not have to produce those voluminous documents pursuant to the information request.

Q. Now, did Monsanto keep any sort of a record of those documents that it considered to be in excess or beyond the scope of those that it intended to search on behalf of EPA's request?

A. I'm not sure I understand your question.

Q. Well, you say that the scope of the search was somehow limited by agreement.

A. I'm not sure I quite understand what you mean by "scope." We did limit the categories of documents that we would produce in response to the information request, and with respect to the issue of sales to entities other than those specifically designated by the EPA in its information request, we limited the location for those other entities to New Bedford, Massachusetts. So in that sense, yes, I guess we did limit the scope.

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Q. And you limited the location by reference to the sales codes that are reflected in the documents; is that correct?

A. Yes. That's my information.

Q. And those sales codes indicate towns or cities within a state in addition to the state of the purchase?

A. I believe so, yes. I personally don't know the codes, but my staff does, and that was how I was advised they could search for those records.

Q. Does Monsanto have a written list of the definitions of those codes by code number and then the corresponding state or city?

A. I don't know whether it is written or not.

Q. Do you know how your staff knows what the codes mean?

A. They have been advised of the meaning of those codes by others who worked at Monsanto who know their meaning. Now, I assume that the interpretation is written down, sir. I personally haven't seen the document that contains that information, though.

Q. May we request that you make a search, and if it is in writing, that you send us a copy of the code sheet?

A. I'll take that request under advisement.

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Q. And the persons who do have personal knowledge of the codes are Gayle Turner and the woman who you have identified as Mona?

A. Mona Ghant.

Excuse me, please.

(Brief recess held.)

Q. (BY MR. WINSLOW) Sir, you have indicated that the documents produced today have come from a repository of documents under your supervision?

A. That's correct.

Q. And that repository was compiled from documents within Monsanto's possession or custody, that is, a larger repository?

A. These documents are the result of a search, a company-wide search conducted by members of the law department for the specific purpose of acquiring all available documents relating to Monsanto's polychlorinated biphenyl business which were then in existence in the company. That search was conducted over a period of time in the mid-1970's and resulted in the documents from which these are taken.

Q. So, anything having anything at all to do with PCBs was gathered together in that first cut of documents that you have just described?

A. That was the objective of the search, yes.

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Q. Do you know who made that search? You identified them by position, but do you know the names of those people?

A. The search was conducted by a legal assistant whose name I can't recall at the present time, and by a couple of lawyers, one of whom is no longer with Monsanto, and one of whom is still with Monsanto, who, I believe, is named Dick Stohr.

Q. S-t-o-r-e?

A. S-t-o-h-r. And the former member of the law staff is a gentleman by the name of Jay Ortiz, O-r-t-i-z. And the legal assistant's name, I'm sorry. I just can't call that to mind right at the moment.

MS. MAHAN: Just as a point of clarification, Monsanto hasn't produced any documents today. I think you indicated the documents that Monsanto has produced today, just to clarify.

MR. WINSLOW: Thank you.

With regard to the documents that we have here before us here today that have been marked as exhibits, Monsanto did not make a search of its company-wide repository with regard to the EPA request, did they?

A. Well, Monsanto doesn't have anything that I would call a company-wide repository. We have a lot of documents that we generate in the normal course of

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business which are retained for longer or shorter periods pursuant to the document retention policy. The documents related to the polychlorinated biphenyls have been withdrawn from the larger set of documents retained by Monsanto and placed under the custody of the law department.

Q. I believe you indicated that Monsanto has had a document retention policy since 1975?

A. No; since 1955.

Q. And to the extent that there are -- strike that. And since when has Monsanto manufactured or produced PCBs?

MS. BERNARD: I'm going to object again. This is way beyond the scope of redirect, just for the record, to this entire line of question.

A. I am informed that Monsanto has been in the business or was in the business of manufacturing polychlorinated biphenyl products during the period 1935 to 1977.

Q. (BY MR. WINSLOW) So for the 20-year period that Monsanto produced PCB or PCB products before it had a document policy plan, you're not speaking with regard to documents before 1955? Your knowledge is confined to 1955 to present?

A. I don't think I quite understand the import

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of your question, sir.

Q. As custodian of the records --

A. Yes.

Q. -- of Monsanto Corporation?

A. Yes. Monsanto Company.

Q. Monsanto Company. Excuse me. The documents that are within your custody or control as custodian dates back to 1955 under a policy -- under a document retention program?

A. No. That's not correct, sir. The documents under my custody are those that were there when discovered in Monsanto's company files as the result of a company-wide search which was conducted in the mid-'70s by the law department. Some of those documents date from periods prior to 1955.

Q. Before Monsanto had its document retention policy that you described from 1955 forward, did it have any practice before 1955 regarding document retention?

A. I don't know.

MR. WINSLOW: I have no further questions.

MS. ROBERTSON: I just have a couple.

RECROSS-EXAMINATION

QUESTIONS BY MS. ROBERTSON:

Q. Could you please show me on any page of

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either Exhibit 32 or Exhibit 33 where this location code is?

A. As I understand it, the location code, if you look at, for example, page 2270F --

Q. Of which exhibit now?

A. Of Exhibit -- that's Exhibit 32.

Q. Of course it's not the one I have. Here we go. Okay.

A. I am advised that the location code is one of the numbers in the left-hand column starting with "17" and then several digits following that.

Q. You mean after the letter "A"?

A. After the letter "A."

Q. It's one of those numbers?

A. Well, it's one or a combination of them.

Q. Do you know whether it's in the first group of numbers, the second group of numbers or the third group of numbers?

A. No, ma'am, I don't.

Q. Do you know whether it's one of those numbers, or it could be more than one, or it's just one?

A. I have to question that. I am without knowledge of the manner in which the location code is designated except to know that it's within that group of numbers.

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Q. Do you know whether these product summaries are stored at Monsanto by the name of the customer?

A. By the name of the customer?

Q. Yes.

A. No. They are stored by the -- well, the documents physically are stored by the name of the report, of which this is a page, referring to 2270. This is a particular report generated by the accounting function, and those reports are considered to be a document, and they are stored as a document for the specified period of time.

Q. And are all the reports for a particular customer stored together?

A. The reports as you see them contain information relating to many customers.

Q. All right. And other customers' names have been whited out?

A. Have been redacted, that's correct.

Q. Do you know whether these product summaries are indexed by location?

A. Are indexed by location?

Q. Is there any indexing done by location?

A. I don't -- if you mean are they separated in the reports so that location "X" is here in the report and location "Y" is in a different part of the report, I don't

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know.

MS. ROBERTSON: I have no further questions.

MR. McLAUGHLIN: I have some questions.

MS. MAHAN: Well, wait a minute. You already recrossed.

MR. McLAUGHLIN: Okay. You're going next?

MS. MAHAN: No. I'm done. That's it.

MR. McLAUGHLIN: Well, I'm asking regarding responses given to people following me.

MS. MAHAN: Not unless I re-redirect.

MR. McLAUGHLIN: In response to their questions, Mr. Winslow's questions.

MS. MAHAN: All right. Fine.

FURTHER RECROSS-EXAMINATION

QUESTIONS BY MR. McLAUGHLIN:

Q. Sir, you said somewhere in the mid-'70s documents regarding polychlorinated biphenyls were withdrawn from the general repository of Monsanto Company and placed under the care, custody and control of the law department of Monsanto Company?

A. That's generally correct, yes.

Q. Generally correct?

A. Well, I don't think I quite said it that way, but that generally describes what was done, yes.

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Q. And prior to that time they were under the care, custody and control of another division of Monsanto Company?

A. They were in the custody of whatever part of Monsanto generated the document.

Q. Can you tell us in what year the documents were so withdrawn?

A. Any specific document, sir, I can't. I can tell you generally that the process of acquiring these documents and establishing an archive for litigation purposes occurred roughly in the period of 1972 through 1977. It was a process of acquiring the documents that were gone through during that period of time.

Q. The documents which form all but the first three pages of Exhibit 32, the first page of which, for example, 2270, bears the title "Sales Summary," would it be fair to say that there is no physical document in the care, custody or control of Monsanto that looks identical to what now bears in the corner the number 2270?

A. I'm not quite sure I understand what you mean, sir.

Q. In response to a question a few moments ago, you said that pages have been changed to delete certain information which was contained on them.

A. Certain information has been covered over so

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that it doesn't show up in the Xeroxing process, yes.

Q. So, there's no record that was kept by Monsanto which would be identical to what has been produced and bears the number 2270; is that correct?

A. The document does not look exactly the same. That's correct.

Q. What has been produced is a portion of the information contained on the original document; is that correct?

A. That's correct.

Q. That at the time the record was made, it was in a form different from what now appears as 2270; isn't that correct?

MS. MAHAN: I don't think that's his testimony. I don't think that's his testimony.

A. It is in the form that would show other entries in the portion of the document which is blank in its current form.

Q. (BY MR. McLAUGHLIN) What was the name of the person who made -- strike that. What is the name of the person who was responsible for obscuring part of the information on page 2270?

A. The individual who physically did the redaction? Because I'm responsible for having it obscured.

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Q. Who physically -- when you say the term "redaction" for the record, what do you mean by that term?

A. By the term "redaction," I mean the masking out for production purposes of information not relevant to the request pursuant to which the document is produced or made available.

Q. And when you mean "production purposes," you don't mean business production. You mean production as a matter of law?

A. That's correct, sir.

Q. What is the name of the person that performed the redaction process?

A. It was either Miss Turner or Miss Ghant.

Q. But prior to the redaction process being performed, the documents which form all but the first three pages of Exhibit 32 appeared to be different than as they have been produced?

A. Well, different, sir, in the sense, yes, that there is additional information contained thereon.

Q. That same is true, also, for all but the first three pages of Exhibit 33?

A. That's correct.

MR. McLAUGHLIN I have no further questions.

MR. WINSLOW: I have nothing further.

MS. MAHAN: That's it.

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THE WITNESS: I do want to read and sign it.

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_____

THOMAS M. DISTLINE

Subscribed and sworn to before me this _____ day of _____, 1986.

My Comission Expires:_____.

_____

[Notary Public]

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NOTARIAL CERTIFICATE

STATE OF MISSOURI)
)
CITY OF ST. LOUIS)

I, KATHRYN T. O'NEILL, a Registered Professional Reporter and a duly commissioned Notary Public within and for the State of Missouri, do hereby certify that pursuant to notice there came before me at the law offices of Messrs. Lewis & Rice, 611 Olive Street, St. Louis, Missouri 63101,

THOMAS M. BISTLINE,

who was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon carefully examined under oath and said examination was reduced to writing by me; that the signature of the witness was not waived; and that this deposition is a true and correct record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this deposition is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd day of April, 1986.

My commission expires June 3rd, 1986.

_____
[Notary Public]

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_____

THOMAS M. BISTLINE

Subscribed and sworn to before me this _____ day of _____, 1986.

My Comission Expires:_____.

_____

[Notary Public]

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NAME OF WITNESS

DEPOSITION CORRECTION SHEET

In Re:

Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Deponent

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