

FILE NAME: Square D (SQD)

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App#2

**MISSOURI CIRCUIT COURT
TWENTY-SECOND JUDICIAL CIRCUIT
CITY OF ST. LOUIS, MISSOURI**

JEFF KOVAR,

Plaintiff,

vs.

Cause No: 1322-CC01123

UNION CARBIDE CORP., et al.,

Defendant.

**DEFENDANT SCHNEIDER ELECTRIC USA, INC.'S,
FORMERLY KNOWN AS SQUARE D COMPANY, SECOND
SUPPLEMENTAL RESPONSES TO PLAINTIFF'S INTERROGATORIES**

Defendant Schneider Electric USA, Inc., formerly known as Square D Company, ("Defendant") supplements its responses to Plaintiff's Interrogatories ("Plaintiff's Discovery") as follows:

PRELIMINARY STATEMENT

The following responses are based upon the information that is presently known and available to Defendant based upon continuing and ongoing reasonable investigation. Defendant believes that these responses are accurate as of the date made. However, many of the matters inquired about in Plaintiff's Discovery took place decades ago. As a result, information may be incomplete or no longer available due to the passage of time. Although Defendant has endeavored to conduct a reasonable investigation, it cannot exclude the possibility that its continued review of these subjects may reveal more complete information. No finite completion date can be placed upon these efforts. Consequently, Defendant's review of the matters inquired into by Plaintiff's Discovery continues and, to the extent appropriate, Defendant reserves the right to further supplement its responses.



Defendant's Preliminary Statement is incorporated into the discovery responses set forth below.

GENERAL OBJECTIONS

Defendant's General Objections are incorporated by reference into the discovery responses set forth below and are stated here for the convenience of the parties and the Court.

1. Defendant objects to Plaintiff's Discovery to the extent that it is overly broad, vague, ambiguous, harassing, oppressive, unduly burdensome, or would require an unreasonable investigation on the part of Defendant.

2. Defendant objects to Plaintiff's Discovery to the extent it seeks information not relevant to the subject matter involved in the pending action and/or are is not reasonably calculated to lead to the discovery of admissible evidence.

3. Defendant objects to Plaintiff's Discovery to the extent that it is not limited in time or location.

4. In several instances, Plaintiff's Discovery refers to various interchangeable terms such as "Defendant," "You," "Your," and "Your Company." Unless otherwise stated, these terms shall be reasonably understood to refer to Schneider Electric USA, Inc., formerly known as Square D Company, a business corporation originally formed in Michigan in approximately 1903 as the McBride Manufacturing Company, which, after successive name changes, became known as Square D Company in approximately 1917 and changed its name to Schneider Electric USA, Inc. on or about December 15, 2009.

5. Defendant objects to Plaintiff's Discovery to the extent that they could be interpreted to apply to knowledge and documentation acquired by Defendant other than through the ordinary course of business.

6. Defendant objects to Plaintiff's Discovery to the extent that it could invade the personal privacy rights of Defendant's present and former employees.

7. Defendant objects to Plaintiff's Discovery to the extent it seeks the production or disclosure of communications prepared by or for Defendant's lawyers, which communications (a) were made by or to legal counsel in anticipation of or in connection with litigation, or (b) reflect confidential and privileged communications between or among counsel, representatives of Defendant and/or non-testifying experts retained for purposes of assisting Defendant or its counsel in litigation. Such communications could include, but are not limited to, notes, correspondence, email, memoranda, reports, analyses, statements, drafts, working papers and other documents or communications which were prepared by or for counsel or were otherwise made in anticipation of litigation.

8. Defendant objects to Plaintiff's Discovery to the extent it asks, or attempts to elicit, legal theories, legal research, mental impressions, opinions, strategy decisions, conclusions, and/or information developed by Defendant's counsel in connection with this litigation.

9. Defendant objects to these discovery requests to the extent they seek information which is public, in the possession of Plaintiff, or otherwise equally available and accessible to Plaintiff. Such discovery is oppressive, unduly burdensome, and unreasonably expensive.

10. Defendant objects to Plaintiff's Discovery to the extent these requests seek information of which Defendant is not aware or which is not in Defendant's possession, custody, or control.

11. Defendant objects to Plaintiff's Discovery to the extent it is cumulative or duplicative.

12. Defendant objects to Plaintiff's Discovery to the extent that it presumes erroneously and falsely that premises owners, product manufacturers, unions, contractors, employers, governmental agencies, and/or any other persons, possessed a duty or obligation at any time to perform or to undertake the asbestos-related tasks and obligations imposed unilaterally by Plaintiff's counsel in each request, particularly where such presumptions are improper, inaccurate and made with disregard to historical fact.

13. Defendant objects to the instructions and definitions contained herein, and made a part hereof, to the extent they attempt to alter the plain meaning of any term or attempt to impose obligations on Defendant that are inconsistent with and/or in addition to those required under Missouri law.

14. Defendant objects to the definitions contained in Plaintiff's Discovery to the extent it renders the requests vague, ambiguous, overbroad, and/or unduly burdensome.

15. Defendant does not concede that any of its responses to Plaintiff's Discovery are admissible evidence at any trial or any other legal proceeding in which evidence is heard. Accordingly, Defendant does not waive any objections, on any ground, whether or not asserted herein, to the use of such answers at trial.

16. Defendant reserves the right to include additional objections that may become apparent in connection with its review for responsive material.

17. In responding to Plaintiff's Discovery, Defendant does not waive, and expressly preserves the following objections:

- a. all objections regarding competency, relevancy, materiality and admissibility;
- b. all objections regarding the use of the responses in any proceeding; and
- c. all objections to any further interrogatories or other discovery requests involving, or related to, any of the requests in Plaintiff's Discovery.

INTERROGATORIES

2. With respect to your employment of Lyle C. Kovar, identify:

- a. the location of the Square D Facilities (in both Iowa and Missouri) at which Mr. Kovar worked;
- b. the specific dates during which Mr. Kovar worked at the each facility identified in (a);
- c. the job titles Mr. Kovar held at each facility;
- d. the work performed, or which Mr. Kovar was expected to perform, while at the each facilities identified in (a) on each date identified in (b); and
- e. whether in each specific job performed by Mr. Kovar, he worked with or around asbestos, and if so, please specify the job and location within the facility in which Mr. Kovar worked with asbestos.

ANSWER: In addition to its foregoing General Objections, Defendant objects to this Interrogatory on the grounds that it overly broad, unduly burdensome compound, and not reasonably calculated to lead to the discovery of admissible evidence in that it seeks information that is equally accessible to Plaintiff as it is to Defendant. Subject to and without waiving its foregoing objections, Mr. Kovar held a variety of positions at Square D. To the best of Defendant's present knowledge, Mr. Kovar began work at Square D as an hourly employee and, as a result, became a member of the union. Over time, Mr. Kovar was promoted into salaried management positions and worked among other positions, as the General Foreman of Fabrication

at the Cedar Rapids facility and as the Production Superintendent and Plant Manager of the Columbia, Missouri facility. In his positions in management, Mr. Kovar was responsible for, among other things, supervising employees, identifying potential workplace hazards, and ensuring the safety of employees. Mr. Kovar's responsibilities also included the development and implementation of workplace safety practices. Square D has already provided information relative to the use of certain raw material molding compounds manufactured by third-party vendors and suppliers. Some, but not all, of those molding compounds may have contained some quantity of asbestos material as an ingredient of the compound, which compound was in turn molded, bound, and encapsulated within finished Square D products. It is presently unknown whether Mr. Kovar was exposed to, or otherwise inhaled, respirable asbestos fibers in his various positions at Square D.

10. During the years 1958-1978, had you ever purchased or acquired any asbestos-containing materials/products for use in the Square D facility located in Cedar Rapids, Iowa? If your Answer is "yes," identify:

- a. the type, brand name, full name, and complete trade name of each asbestos-containing material/product which you purchased or acquired;
- b. the entity from which you purchased or acquired each product identified in (a);
- c. the quantity of each product identified in (a) which you purchased or acquired from each entity identified in (b) on a quarterly basis;
- d. the manner in which each asbestos or asbestos-containing material/product was packaged, including a description of the package or container it was contained including, but not limited to, sizes available, colors, logos, and writings thereon;
- e. each use you made of the asbestos or asbestos-containing material/product including (if applicable) the type, brand name and trade name of all products made with the asbestos or asbestos-containing material/product;

- f. the years during which the product contained asbestos or asbestos-containing material/product as an ingredient or component;
- g. each source, type, percentage and grade of asbestos contained in the product which you purchased or acquired;
- h. the color, physical characteristics, and appearance of each product, including any changes and the dates of any such change.

ANSWER: In addition to its foregoing General Objections, Defendant objects to this Interrogatory on the grounds that it overly broad, unduly burdensome compound, and not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to the circumstances of this case. Subject to and without waiving its foregoing objections, Defendant has already produced a copy of asbestos abatement records regarding its Cedar Rapids, Iowa facility. Those records might contain information sought by this Interrogatory. Additionally, Defendant incorporates by reference its objections and response to Interrogatory No. 35 which contains information about phenolic molding compounds used at its Cedar Rapids, Iowa facility. Defendant is presently unaware of the date when third-party manufacturers and suppliers began using asbestos materials as an integral ingredient in their various phenolic molding compounds. By way of further response, and without conceding that these materials actually contain asbestos fibers, Defendant directs Plaintiff to the documents it produced in this case, including, but not limited to: SQDKVR_000001 through SQDKVR_000029; SQDKVR_000030 through SQDKVR_000171 (Defendant does not concede that all of these materials were used at its Cedar Rapids, Iowa facility); SQDKVR_000172 through SQDKVR_000465; SQDKVR_000707 through SQDKVR_000708; SQDKVR_012566 through SQDKVR_012569; SQDKV_012720 through SQDKVR_012723; SQDKVR_012822 through SQDKVR_012824 and SQDKVR_013069.

13. During the years 1958-1978, had you ever posted a caution, advisory, or warning sign in the Square D facility located in Cedar Rapids, Iowa concerning hazards working with or around asbestos. If your Answer is "yes," identify:

- a. the date on which you posted the first caution, advisory or warning;
- b. the wording and coloring of the caution, advisory, or warning identified in (a);
- c. the location within each facility where the caution, advisory, or warning identified in (a) was posted.

ANSWER: Subject to and without waiving its foregoing General Objections, Defendant states that it provided information to employees regarding the use of asbestos in the manufacturing process. Defendant also posted such signs at its Cedar Rapids, Iowa facility, and in his positions in management, Mr. Kovar was responsible to supervise employees, identify potential workplace hazards, and ensure the safety of employees. In addition to positing the results of air monitoring tests, and consistent with the applicable governmental regulations at the time, Defendant directed employees engaged in occupations exposed to airborne concentrations of asbestos fibers to see a physician for a yearly medical examination. Defendant paid for these medical examinations. At the present time, Defendant is unaware of additional information responsive to this Interrogatory.

23. During the years 1978-1995, had you ever purchased or acquired any asbestos-containing materials/products for use in the Square D facility located in Columbia, Missouri? If your Answer is "yes," identify:

- a. the type, brand name, full name, and complete trade name of each asbestos-containing material/product which you purchased or acquired;
- b. the entity from which you purchased or acquired each product identified in (a);
- c. the quantity of each product identified in (a) which you purchased or acquired from each entity identified in (b) on a quarterly basis;

- d. the manner in which each asbestos or asbestos-containing material/product was packaged, including a description of the package or container it was contained including, but not limited to, sizes available, colors, logos, and writings thereon;
- e. each use you made of the asbestos or asbestos-containing material/product including (if applicable) the type, brand name and trade name of all products made with the asbestos or asbestos-containing material/product;
- f. the years during which the product contained asbestos or asbestos-containing material/product as an ingredient or component;
- g. each source, type, percentage and grade of asbestos contained in the product which you purchased or acquired;
- h. the color, physical characteristics, and appearance of each product, including any changes and the dates of any such change.

ANSWER: Subject to and without waiving its foregoing General Objections, Defendant has already produced a copy of asbestos abatement records regarding its Columbia, Missouri facility at a mutually convenient time and location. Those records might contain information sought by this Interrogatory. Additionally, Defendant incorporates by reference its objections and response to Interrogatory No. 39 which contains information about phenolic molding compounds used at its Columbia, Missouri facility. By way of further response, and without conceding that these materials actually contain asbestos fibers, Defendant directs Plaintiff to the documents it produced in this case, including, but not limited to: SQDKVR_000030 through SQDKVR_000171 (Defendant does not concede that all of these materials were used at its Columbia, Missouri facility); SQDKVR_008628; SQDKVR_012570; SQDKVR_012573 through SQDKVR_012575; and SQDKVR_012825 through SQDKVR_012826.

25. During the years 1978-1995, had you ever posted a caution, advisory, or warning sign in the Square D facility located in Columbia, Missouri concerning hazards working with or around asbestos. If your Answer is "yes," identify:

- a. the date on which you posted the first caution, advisory or warning;

- b. the wording and coloring of the caution, advisory, or warning identified in (a);
- c. the location within each facility where the caution, advisory, or warning identified in (a) was posted.

ANSWER: Subject to and without waiving its foregoing General Objections, Defendant incorporates by reference its objections and responses to Interrogatory No. 13.

43. Have you ever been issued any warning, caution, citation, fine, notice, penalty, sanction, or official action of any kind related to asbestos? If your Answer is "yes," as to each incident, identify:

- a. the date on which, the entity to which, and location at which, (facility and area of facility), the official action was issued;
- b. the person and entity issuing each official action;
- c. the nature and type of official action; and
- d. all actions taken by you in response to each official action.

ANSWER: In addition to its foregoing General Objections, Defendant objects to this Interrogatory on the grounds that it overly broad, unduly burdensome compound, and not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to Defendant's Cedar Rapids, Iowa and Columbia, Missouri facilities. Subject to and without waiving its foregoing objections, Defendant has previously produced documents responsive to this Interrogatory, and directs Plaintiff to its document production in this case, including, but not limited to, SQDKVR_012675 through SQDKVR_012677; SQDKVR_012680 through SQDKVR_012688 through SQDKVR_012704; and SQDKVR_013039 through SQDKVR_013040.

44. Have you ever tested or monitored for airborne asbestos fibers or asbestos dust that could possibly be released during the sanding, grinding, pouring, milling, processing,

manufacturing, assembling, application, installation, repair, maintenance, or use of any product which contained, specified, recommended, or anticipated the use of, asbestos? If your Answer is "yes," please identify:

- a. each product or process tested or monitored;
- b. the date on which, and location where each test was performed.
- c. the entity and individual(s) who performed each test; and
- d. the result of each test.

ANSWER: In addition to its foregoing General Objections, Defendant objects to this Interrogatory on the grounds that it overly broad, unduly burdensome compound, and not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to the facts or circumstances of this case. Defendant objects that this Interrogatory appears to seek information regarding finished Square D products, which are not relevant to Plaintiff's allegations in this case. Subject to and without waiving its foregoing objections, from approximately the early 1970s until asbestos-containing molding compounds were no longer used, Square D conducted such testing on a regular basis in and around its molding operations. By way of further response, Defendant previously produced responsive documents to Plaintiff and directs Plaintiff to its document production in this case, including, but not limited to: SQDKVR_012668 through SQDKVR_012669; SQDKVR_012973 through SQDKVR_012975; SQDKVR_012977 through SQDKVR_012984; SQDKVR_012986 through SQDKVR_012987; SQDKVR_012990; SQDKVR_012995; SQDKVR_013001 through SQDKVR_013002; SQDKVR_013015 through SQDKVR_013027; SQDKVR_013029 through SQDKVR_013043; SQDKVR_013047 through SQDKVR_013048.

45. Have you provided to anyone any warning or caution (or like information) concerning any of the following:

- a. asbestos or asbestos-containing materials/products;
- b. possible health effects, hazards, or any other risks associated with exposure to asbestos or asbestos-containing materials/products;
- c. threshold limit values of exposure to asbestos; and/or
- d. recommendations related to working with or around asbestos or asbestos-containing materials/products.

ANSWER: Subject to and without waiving its foregoing General Objections, Defendant incorporates by reference its objections and response to Interrogatory No. 13.

49. At any time from 1920 to the present, did you employ or retain any individual or entity, having responsibility for the following areas:

- a. occupational health or safety;
- b. construction health or safety;
- c. compliance with federal, state or local safety regulations (including, but not limited to, OSHA);
- d. compliance with federal, state or local environmental regulations;
- e. compliance with federal, state or local health regulations (including, but not limited to, OSHA);
- f. industrial hygiene; and/or
- g. medical director, physician, nurse, health technician.

ANSWER: In addition to its foregoing General Objections, Defendant objects to this Interrogatory on the grounds that it overly broad, unduly burdensome compound, and not reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to the facilities at issue in this case. Subject to and without waiving its foregoing objections, Defendant states that it brought in consultants to assist and provide recommendations regarding practices and approaches. Defendant directs Plaintiff to its document production in this case, including, but not limited to: SQDKVR_012795 through SQDKVR_012796; SQDKVR_012799

through SQDKVR_012800; SQDKVR_012986 through SQDKVR_012987; SQDKVR_013002; SQDKVR_013065 through SQDKVR_013068; and SQDKVR_013070 through SQDKVR_013076. By way of further response, Mr. Kovar's responsibilities in his various positions with the company would have included matters outlined in subparts (a) through (e), and Defendant directs Plaintiff to its document production in this case, including, but not limited to: SQDKVR_012570 and SQDKVR_12667.

52. Please state whether a lawsuit, workers compensation claim or formal demand for compensation has ever been made against you which alleged injuries are a result of asbestos exposure at your Cedar Rapids, Iowa or Columbia, Missouri facilities, and if so, please state:

- a. the pleading caption and content of each such claim;
- b. the date(s) of each claim;
- c. the disposition of each such claim; and
- d. the nature of each injury claimed.

ANSWER: In addition to its foregoing General Objections, Defendant objects to this Interrogatory on the grounds that it overly broad, unduly burdensome compound, and not reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects that this Interrogatory is overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence in that it seeks information about claims not at issue in this case. Subject to and without waiving its foregoing objections, and to the best of Defendant's present knowledge, no workers compensation claims seeking benefits for injuries or disease attributed to asbestos exposure at the Cedar Rapids facility were filed before or during Mr. Kovar's work at that facility. Additionally, and to the best of Defendant's present knowledge, no workers compensation claims seeking benefits for injuries or disease attributed to asbestos

exposure at the Columbia, Missouri facility were filed before or during Mr. Kovar's work at that location.

58. Did you provide Lyle C. Kovar with any warning or caution (or like information) concerning any of the following:

- a. asbestos or asbestos-containing materials/products;
- b. possible health effects, hazards, or any other risks associated with exposure to asbestos or asbestos-containing materials/products;
- c. threshold limit values of exposure to asbestos; and/or
- d. recommendations related to working with or around asbestos or asbestos-containing materials/products.

ANSWER: In addition to its foregoing General Objections, Defendant objects to this Interrogatory on the grounds that it overly broad, unduly burdensome compound, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its foregoing objections, in the 1970s and early-1980s, Square D became generally aware of emerging regulatory restrictions and requirements associated with the use and handling of, and reporting obligations in connection with, asbestos and later, certain non-electrical products containing asbestos; efforts by component part suppliers to supply non-asbestos-containing substitute products; and a generalized public concern with asbestos exposure. As a supervisory employee and later as a plant manager, Mr. Kovar's knowledge and awareness regarding these issues was consistent with Square D's knowledge and awareness. By way of further response, Defendant incorporates by reference its objections and responses to Interrogatory No. 13. Additionally, Defendant directs Plaintiff to its document production in this case, including, but not limited to: SQDKVR_012570 and SQDKVR_12667.

59. If your Answer to any part of the preceding Interrogatory is "yes," with respect to each warning or caution, identify:

- a. each date on which the warning or caution was given to Lyle C. Kovar
- b. the content of each warning or caution provided to Mr. Kovar on each date identified in (a); and
- c. The identify of each person who provided the warning or caution to Mr. Kovar.

ANSWER: Subject to and without waiving its foregoing General Objections set forth above, Defendant incorporates by reference its objections and response to Interrogatory Nos. 13 and 58.

Respectfully submitted,

POLSINELLI PC

By: /s/ Anthony L. Springfield

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**ATTORNEYS FOR DEFENDANT SCHNEIDER
ELECTRIC USA, INC., FORMERLY KNOWN AS
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CERTIFICATE OF SERVICE

I hereby certify that on _____, 2014, I electronically filed the foregoing with the City of St. Louis Clerk of the Court by using the Missouri Electronic Document Management System, which will send a notice of electronic filing to the following and to all co-defendants' counsel. This constitutes service of the document(s) for purposes of the Missouri Court Rules of Civil Procedures.:

Andrew A. O'Brien, Esq.
Christopher J. Thoron, Esq.
Bartholomew J. Baumstark, Esq.
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ATTORNEYS FOR PLAINTIFF(S)

And on the same day by the CM/ECF system to all known counsel of record.

/s/ Anthony L. Springfield

VERIFICATION

I, Michelle Redfield, state that I am an employee of Schneider Electric USA, Inc., formerly known as Square D Company, (the "Company") and am authorized to make this verification for and on behalf of the Company. I have read the Company's Second Supplemental Responses to Plaintiff's Interrogatories and am familiar with the contents thereof. I declare under penalty of perjury under the laws of the State of Missouri that the answers of the Company are true to the best of my knowledge, information, and belief as I have been informed by others, limited records and information available with respect to the subject matters at issue.

Dated: _____, 2014

Michelle Redfield

SUBSCRIBED and sworn to
before me this ____ day of
_____, 2014.

Notary Public

OSHA

May 29, 1971 - 36 FR 10466, May 29, 1971 Table G3 PEL Mine Dusts
36 FR 23207

57 FR 11318 promulgated June 1972 5 fibers/cc 8 hr TWA
and monitoring,

March 31, 1971 Asbestos added as HAP

April 1973 Asbestos NESHAP promulgated (FINAL)
intended to minimize release of asbestos fibers
1974 - Clarification

1985 HAZCOM

PEL - employees avg ~~at~~ airborne exposure in any 8 hr work shift of a 40 hr
work week that shall not be exceeded