UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	**Docket No. 9327**
	)	
Polypore International, Inc., a corporation.	)	**PUBLIC DOCUMENT**
	)	

RESPONDENT'S MOTION FOR A PROTECTIVE ORDER REGARDING DISCOVERY

Pursuant to the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings ("FTC Rules"), 16 C.F.R. §§ 3.22 and 3.31(d), Respondent Polypore International, Inc. ("Polypore"), by its attorneys, Parker Poe Adams & Bernstein LLP, hereby moves for a protective order to (1) limit the scope of Complaint Counsel's First Set of Interrogatories to Respondent Polypore International, Inc. (the "Interrogatories") and Complaint Counsel's First Set of Document Requests to Respondent Polypore International, Inc. (the "Document Requests"); (2) deny improper discovery demanded beyond the limits set in the Scheduling Order entered on October 22, 2008; (3) limit the depositions currently sought to the extent Complaint Counsel intends to question witnesses based on third party discovery document; and (4) quash, or limit, the depositions of sought of Steve McDonald, Michael Gilchrist, Timothy Riney, S. Tucker Roe and Pierre Hauswald (the "Depositions") – individuals previously questioned at length by Complaint's Counsel as part of its pre-complaint investigation.[1]

INTRODUCTION

After having engaged in what can only be described as unfettered and one-sided discovery of Polypore for over five months, the Federal Trade Commission ("FTC") issued its Complaint against Polypore on September 9, 2008. Polypore does not yet know the full extent of the FTC's prior discovery, as Complaint Counsel has not yet complied with its obligations and produced the

[1] Copies of Interrogatories, Document Requests and Deposition Notices are attached as Exhibits A, B and C, respectively.

information which it obtained from third parties during its investigation.[2] Polypore, of course, is aware of what it provided to the FTC, at considerable cost and expense, leading up to this case:

- Polypore produced over 1.1 million pages of documents to the FTC in response to its discovery requests.
- Polypore responded to 44 CID requests.
- After having produced these documents and having responded to the CID, Polypore made five witnesses available for examination by the FTC in investigational hearings. Two of those witnesses (Messrs. Tucker Roe and Timothy Riney) were deposed over the course of two days and one witness (Mr. Pierre Hauswald) was deposed for nearly 11 hours. The transcripts of the examinations of these witnesses exceed 1660 pages. Each witness was examined on the issues that came to serve as the basis for the allegations of the Complaint.

While Complaint Counsel has chosen to ignore much of what Polypore provided to the FTC in this discovery in crafting its Complaint, the fact remains that the FTC has already engaged in extensive, one-sided discovery of Polypore on the very issues identified in the Complaint.

Despite all of this discovery of Polypore, Complaint Counsel has decided to extend its fishing expedition, seeking vast quantities of documents and responses to oppressive interrogatories and demanding examinations of the same five witnesses that they spent over 46 hours examining only months before on the very same issues set forth in the Complaint. What is even more alarming is the fact that Complaint Counsel has violated the terms of the Administrative Law Judge's rules limiting the number of interrogatories to 50 including subparts. Apparently,

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[2] See Letter of William L. Rikard, Jr., dated October 29, 2008, at p. 2 ("I am concerned with Steve's comment today that he has not yet contacted all third-parties with respect to the disclosure of their documents and information in this matter under the protective order and has no obligation to produce any of these materials to us absent a formal request. It was certainly our expectation, based on the representation made in the initial disclosures made to the Administrative Law Judge, that you would have promptly contacted these third parties once the Protective Order was entered, which was one week ago. In addition, we do take issue with your statement that you are not required to produce the third-party documents in the investigational hearings to us absent a document request. In fact, in the initial disclosures filed by Complaint Counsel with the Administrative Law Judge, Counsel stated "Complaint Counsel **will provide copies of third-party's documents and materials** 10 days after such time as the Administrative Law Judge has entered a protective order in this matter and the third-parties who submitted the documents have been apprised of their rights under the protective order." Complaint Counsel's Initial Disclosures to Respondent Polypore International, Inc., p. 3 (emphasis added).").

Complaint Counsel's strategy is to cause Polypore as much financial pain as possible in the discovery process in order to force capitulation. As noted by Commissioner Rosch, in addressing the proposed changes to the FTC Rules, a litigant is not to be subjected to oppressive proceedings that are unduly expensive and burdensome and outcome determinative due to such excesses:

> First, in merger cases, protracted part 3 proceedings may result in the parties abandoning transactions before their antitrust merits can be adjudicated. . . . Second, in all antitrust cases, protracted Part 3 proceedings may result in substantially increased litigation costs for the Commission and for the clients whose transactions or practices are challenged. More specifically, protracted discovery schedules and pretrial proceedings may be good for the litigators, but they can result in nonessential discovery and motion practice that can be very costly to both the Commission and those clients.[3]

While Commissioner Rosch was addressing the costs and determinative nature of the proceedings in the context of the length of time for Part 3 cases, the principle applies equally to the abusive discovery tactics being employed here by Complaint Counsel. Indeed, in arriving at an agreed-to schedule for this case with Complaint Counsel, Respondent relied on statements made by Complaint Counsel that its discovery of Polypore would be targeted, narrow and specific, "rifle shots," rather than the shotgun approach used by Complaint Counsel here. If Respondent had known that Complaint Counsel intended to redo the extensive discovery already taken, it would have strenuously sought a different schedule than cutting discovery off at February 13, 2009, and holding the hearing in this matter on April 14, 2009.

Given the limited time for discovery under the expedited schedule and consistent with the intent of the proposed FTC rule changes to "improv[e] efficiency and timing of administrative litigation,"[4] subjecting five people to questioning on the same topics with no limitation has no

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[3] Reflections on Procedure at the Federal Trade Commission. Remarks of J. Thomas Rosch, Commissioner, Federal Trade Commission. ABA Antitrust Masters Course IV. September 25, 2008.

[4] Id.

place here. Respondent does not suggest that Complaint Counsel's pre-complaint investigation must have encompassed and gathered "all" the details for each and every transaction that might become an evidentiary item in this litigation, only that in an expedited action it is incumbent on all parties and counsel to be as efficient as possible. To the extent information may be needed to "round out, extend, or supply further details" about a transaction or topic such questions may promote efficiency, but a wholesale free-for-all of any and all topics that have previously been exhausted in the pre-complaint investigational hearings is burdensome and wasteful and should have no place in an expedited schedule or under the proposed new rules.[5] Complaint Counsel's deposition of the five previously questioned witnesses should be either denied outright or limited to information that rounds out, extend or supplies further details of specific topics and not to an unlimited deposition of previously-ploughed ground.

Complaint Counsel's written discovery is overbroad, unduly burdensome, harassing, seeks information not reasonably expected to yield information relevant to this matter, and exposes individuals who have already submitted to hours and days of deposition to additional annoyance, oppression and burden. An order limiting the scope of Complaint Counsel's written discovery and depositions is appropriate.

Complaint Counsel has served sweeping document requests and interrogatories on Respondent which are – on their face – dramatically overbroad in violation of the ALJ's October 22, 2008 Scheduling Order, and, if read literally, might call for the production of hundreds of thousands of documents that could have no conceivable relevance to the claims asserted in this action. Literal compliance with the Complaint Counsel's written discovery would require Respondent to review millions of pages of files maintained by individuals employed by dozens of

[5] All-State Indus., et al., 72 F.T.C. 1020, 1023-24 (Nov. 13, 1967).

companies all over the world that are associated or affiliated with or have some relation, however remote, to Polypore. In the context of this litigation, such a task would be Herculean – it is certainly well outside the spirit and intent of the expedited nature of this litigation and the aspiration to reduce "nonessential discovery and motion practice that can be very costly to both the Commission and [the challenged] clients."[6] Further, Complaint Counsel seeks duplicative and burdensome depositions of five individuals who were subject to investigational hearings in the Part II investigation.

DISCUSSION

A. Scope of Discovery

"Parties may obtain discovery to the extent that it may be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent." FTC Rules 3.31(c)(1); see FTC v. Anderson, 631 F.2d 741, 745 (D.C. Cir. 1979). The Administrative Law Judge has the authority to limit discovery to the extent it is "unreasonably cumulative or duplicative," "the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought;" or "the burden and expense of the proposed discovery outweigh its likely benefit." FTC Rules 3.31(c)(1)(i-iii). Further, the ALJ may deny discovery or make any order to protect "any party . . . from annoyance, embarrassment, oppression, or undue burden and expense . . ." FTC Rules 3.31(d).

I. Complaint Counsel's Written Discovery is Overbroad, Unduly Burdensome and Seeks Information Not Relevant to this Matter

The Scheduling Order in this matter entered on October 22, 2008, limits each party to 50 document requests and 50 interrogatories, including subparts. This limitation doubles the standard

[6] See n. 3 supra.

number of interrogatories permissible under the FTC Rules. Rule 3.35. Notwithstanding this generous allowance and clear limitation, in addition to the admonition that "[a]dditional discovery may be permitted only for good cause shown upon application to and approval by the Administrative Law Judge," Complaint Counsel served upon Respondent on the same day the Scheduling Order was entered Interrogatories well in excess of the 50 interrogatory limitation (by one count, the Interrogatories are well in excess of 116).

"The purpose of interrogatories is to narrow the issues and thus help determine what evidence will be needed at trial . . ." In re TK-7 Corp., 1990 F.T.C. Lexis 20, *1-2 (1990). A shotgun approach to discovery will not "narrow the issues." Further, Complaint Counsel failed even to ensure that it did not seek duplicative information obtained previously during the investigatory phase. For instance, Interrogatory No. 5 which asks that Polypore, Daramic and Microporous identify all sales by relevant product, in each relevant area, from January 2003 to the present (and projecting forward as possible) with 16 sub-parts requiring further information, is substantially duplicative of the CID Request No. 2 which asks for sales for each relevant product, in each relevant area from January 2003 to the present. The only real differences in the two requests are that Complaint Counsel now wants Respondent to identify the "line" from which the sales came, the product code and the customer's parent. This additional information is irrelevant and certainly does not justify the clearly duplicative discovery sought of Polypore.

Complaint Counsel's excesses are demonstrated by looking at the interplay of their definitions with the interrogatories. Complaint Counsel defines "relevant product" to include 4 products (battery separators for deep cycle, uninterruptible power supply, automotive and motive applications). Complaint Counsel then requests detailed and voluminous information in the guise of a single request for each such "product". See e.g. Interrogatories Nos. 2, 4 (for each product,

and for each of Polypore, Daramic and Microporous), 5 (same), 9, 10, 14, 15, 32. In addition, Complaint Counsel compounds this egregious discovery by asking for the same information for each of 4 "relevant areas," defined as North America, Asia, Europe or the World. See e.g. Interrogatories Nos. 6, 16, 34. This additional burden takes the number of interrogatories well beyond even the outrageous number of 116.

A subpart is to be considered discrete only when it is "logically or factually subsumed within and necessarily related to the primary question." Federal Trade Commission v. Think All Publishing, L.L.C., 2008 WL 687454 (E.D. Texas 2008). The Think All Court went on to explain that where "the first question can be answered fully and completely without answering the second question, then the second question is totally independent of the first and not factually subsumed within [it]." Id.; see also Kendall v. GES Exposition Servs., Inc., 174 F.R.D. 684 (D.Nev.1997)). Thus it must be considered a separate and distinct question. Complaint Counsel here has propounded dozens of interrogatories whose subparts can be answered fully and completely separate and apart from the "first" question propounded. This is in violation of the FTC Rules and the Scheduling Order and should not be tolerated.

Under the Scheduling Order Respondent has 20 days to respond to the written discovery propounded upon it. It should not be given the additional burden of having to sift through duplicative questions that are in blatant violation of the limits explicitly set by the Scheduling Order, nor should it be required to determine which 50 of the interrogatories should be answered.

Complaint Counsel should be required to abide by not only the Scheduling Order, but by the implicit limits set by the FTC Rules and Respondent requests that Complaint Counsel be ordered to propound a new set of interrogatories limited to a maximum of 50, including subparts.

II. Complaint Counsel's Definition of "Polypore" and "Microporous" Substantially Increases the Burden of Responding to the Written Discovery

Complaint Counsel has defined "Polypore" in its written discovery as "Respondent, its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents and representatives of the foregoing." The definition goes on to state that "'Subsidiary,' 'affiliate,' and 'joint venture' refer for this purpose to any person in which there is a partial (25 percent or more) or total ownership or control between the company and any other person."

Microporous is defined with equal breadth as "Microporous Products L.P., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all officers, directors, employees, agents and representatives of the foregoing."

As Complaint Counsel is aware Polypore International, Inc., is currently owned more than 25% by Warburg Pincus. Further, it is parent to four companies which, in turn are parent to, or are affiliated with, 25 companies throughout the world. This does not take into account its affiliation and relationship with its Liquicel and Membrana divisions. The vast majority of these companies have no connection to the issues in the Complaint. Making the definition increasingly absurd, should Polypore be required to respond to the discovery using Complaint Counsel's definition, it would also be responsible for ascertaining whether all of the directors, officers, employees, agents and representatives of these companies have documents or information potentially falling within Complaint Counsel's discovery requests and then, if so, gathering and producing the documents and information no matter how remote to the issues here. Not only would this include thousands of employees, it would include all outside directors, counsel and other "representatives" of each of those companies. Thus, read literally interrogatory number 8, which asks Respondent to "describe the circumstances, the timing of, and all reasons for, the departure of any company employee . . . from employment at Polypore since July 1, 2007," would require Respondent to provide to

Complaint Counsel with the circumstances, timing and reasons for the departure of any employee of Polypore, Daramic, Warburg Pincus, and any of myriad companies all over the world which fall within this expansive definition. Likewise, Respondent would be required to produce documents related to these departures pursuant to document request number 5,

By way of further example, with respect to Complaint Counsel's definition of "Microporous," Microporous was owned prior to the acquisition by Respondent by Industrial Growth Partners, a private equity company that currently owns five portfolio companies.[7] Thus, accepting Complaint Counsel's definition to include IGP as a "predecessor" would, again read literally, require Respondents under interrogatory number 11 to provide the date, list of attendees and matters discussed for every board of directors meeting for IGP, and any of its portfolio companies, not to mention any prior owner (or predecessor) of Microporous, which would include another equity firm, Kelso & Company. Likewise, Respondent would be required under document request number 6 to produce all documents related to these meetings – including notes of each individual director. As with Warburg Pincus, Respondent has no control over IGP or Kelso & Company and cannot respond on their behalf.

Complaint Counsel should not be permitted to impose such onerous and burdensome requests on Respondent. Respondent requests that the Court limit the requests to the following companies: Polypore International, Inc., Daramic LLC and Microporous Products, L.P. Respondent should not have to answer discovery on behalf of its other "parents, subsidiaries, affiliates" or its "predecessors." Each of the relevant companies has been in existence during the

[7] API Heat Transfer, Inc.; Atlas Material Testing Solutions; The Felters Group; Seaboard Wellhead, Inc.; and The TASI Group. See www.igpequity.com/portfolio.html. IGP's former portfolio companies, which includes Microporous, number 12 different companies in as many industries.

time frame at issue, thus there is no reason to go beyond those companies to their predecessors or other affiliated companies.

III. Complaint Counsel's Deposition Notices are Duplicative and Burdensome

As recognized by the Supreme Court of the United States "[i]t is clear from experience that pretrial discovery by depositions . . . has a significant potential for abuse." Seattle Times Co. et al. v. Rhinehart et al., 467 U.S. 20, 28 (1984). Complaint Counsel's desire to take duplicative testimony from 5 individuals who previously submitted to one or more days of testimony during the investigational hearings is cumulative, duplicative, and unduly burdensome. Five of the eight witnesses were deposed at length on the issues underlying the Complaint. Complaint Counsel has advised that they intend to use the transcripts in the hearing in this matter, just as they will use the 1.1 million documents previously produced. Complaint Counsel should not be permitted to engage in such oppressive tactics in proceedings which are intended to be handled in an expeditious manner without imposing undue burden on the litigant.

While discovery is designed to elicit new information, some of which may be cumulative, discovery is not a license to "engage in repetitious, redundant, and tautological inquiries." Pulsecard, Inc. v. Discovery Card Servs., et al., 168 F.R.D. 295 (D. Kan. 1996). The Federal Rules of Civil Procedure,[8] and federal courts, disfavor repeat depositions. See, e.g., Graebner v. James River Corp., 130 F.R.D. 440, 441 (N.D. Cal. 1989)(preventing second deposition despite claim that first deposition was "settlement" deposition and second was "trial" deposition). Re-deposing

[8] Although the Federal Rules may not govern here, the FTC Rule's essentially mirror the Federal Rules and cases under the F.T.C. have noted that "judicial precedents under the Federal Rules provide helpful guidance in resolving discovery disputes in commission proceedings." See, e.g., Dura Lupe Corp., 2000 F.T.C. Lexis 1, at *31 (Jan. 14, 2000); L.G. Balfour Corp., et al., 61 F.T.C. 1491, 1492 (Oct. 5, 1962).

these individuals once more will simply generate hundreds of additional pages of testimony that is repetitive of the testimony previously elicited. This is not only burdensome on the individual defendants, but is an unnecessary waste of the Respondent's and the government's time and money, a result to be avoided. See supra at 3.

To the extent Complaint Counsel seeks to ask the same questions to the same witnesses it can obtain that information from a less burdensome and costly source – the prior testimony. "In making a decisions regarding burdensomeness, a court should balance the burden of the interrogated party against the benefit of the discovery party of having that information." Hoffman v. United Telecommunications, Inc., 117 F.R.D. 436, 438 (D. Kan. 1987). To allow full access to the same individuals does nothing more than increases costs and burden for all parties. Whether discovery is unduly burdensome depends on "the needs of the case, the amount in controversy, limitations on the party's resources, and the importance of the issues at stake in the litigation." Hammerman v. Peacock, et al., 108 F.R.D. 66, 67 (D.D.C. 1985). In this case, requiring these individuals to be deposed a second time on any and all subjects outweighs any putative benefit Complaint Counsel can expect to obtain and strains the resources of all parties.

To the extent such depositions are permitted, they should be limited to topics not previously covered and "new" information or questions related to topics that have previously been covered. It would be inappropriate to require individuals who spent up to two full days being questions in the Part II proceeding to have to submit to the same questions yet again. See, e.g., Johnston Dev. Group v. Carpenters' Local Union No. 1578, 130 F.R.D. 348, 353 (D.N.J. 1990)("recollection of an event witnessed by five other persons" is duplicative).

IV. Deposition's Should be Delayed or Limited until Complaint Counsel Provides the Third Party Documents Previously Produced to Respondent

In its Initial Disclosures Complaint Counsel reveals that it has received documents from twenty (20) third-party entities and individuals during the pre-complaint investigation. Furthermore, Complaint Counsel stated in the initial disclosures that it would "provide copies of the third party's documents and materials ten days after . . . the Administrative Law Judge has entered a protective order in this matter and the third parties have been apprised of their rights under the protective order." Had Complaint Counsel acted expeditiously the ten-day period would have passed by November 3, 2008. However, Complaint Counsel admitted that as of October 30, 2008, not all third parties had been apprised of their rights under the Protective Order. In its response letter of October 31, 2008 to Respondent, Complaint Counsel states all third-parties have now received the notice and their documents will be submitted ten days after each third-party received Complaint Counsel's notice. Assuming some third-parties did not receive notice until at least October 31, 2008, no third-party documents will be produced to Respondent until at least November 10, 2008. Despite this, Complaint Counsel has scheduled several depositions prior to that date, and states that Respondent is not entitled to any of these third-party documents prior to the taking of the seven currently noticed depositions.

The refusal of Complaint Counsel to produce those documents prior to the scheduled depositions is patently unfair to Respondent and the witnesses scheduled to be deposed. Complaint Counsel states that it is "committed to ensuring the fairness of these proceedings," yet it is difficult to imagine how this commitment is advanced by the refusal to allow Respondent's counsel time to review documents from 20 different entities and individuals on which the deponents may be questioned. Even if the documents and information are designated as confidential under the October 23, 2008 Protective Order, Respondent's counsel should still be entitled to see these documents before Complaint Counsel is permitted to engage further in what

has been noticeably one-sided discovery. To permit Complaint Counsel to proceed with examination, especially since it has chosen to delay providing notification to these third parties, provides an unfair advantage to Complaint Counsel that is prejudicial to Respondent and the witnesses. This potential for prejudice, oppression and harassment entitles Respondent to a protective order postponing the depositions until at least seven (7) business days after the third-party documents have been produced, or in the alternative preventing Complaint Counsel from using such documents in any deposition until at least seven (7) business days after the documents to be used have been produced.

CONCLUSION

Complaint Counsel's discovery tactics are unreasonable and inconsistent with the FTC Rules and the Scheduling Order in this case. This overreaching, harassing and overly burdensome discovery seeks documents and information that is not likely to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of Respondent. For the reasons set forth above, and the interest of judicial efficiency and economy, this Court should limit and deny Complaint Counsel's invalid and improper discovery.

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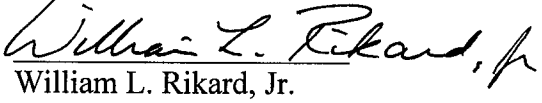
Respondent hereby certifies that it has conferred with Complaint Counsel in a good faith attempt to resolve the issues relating to the issues set out in this motion. See letter of William L.

Rikard, Jr., dated October 29, 2008, and Complaint Counsel's response, dated October 31, 2008, attached hereto as Tab 1. While the parties were able to reach agreement on several issues, the issues identified in this motion remain unresolved.

Dated: November 3, 2008

Respectfully Submitted,



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Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2008, I caused to be filed via hand delivery and electronic mail delivery an original and one copy of the foregoing ***Motion for Protective Order Regarding Discovery*** and that the electronic copy is a true and correct copy of the paper original and that a paper copy with an original signature is being filed with:

Donald S. Clark, Secretary
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-135
Washington, DC 20580
secretary@ftc.gov

I hereby certify that on November 3, 2008, I served via hand delivery and first-class mail delivery a copy of the foregoing ***Motion for Protective Order Regarding Discovery*** with:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

I hereby certify that on November 3, 2008, I served via first-class mail delivery and electronic mail delivery a copy of the foregoing ***Motion for Protective Order Regarding Discovery*** with:

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UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	**Docket No. 9327**
Polypore International, Inc.,	)	
a corporation.	)	**PUBLIC DOCUMENT**
	)	

PROPOSED ORDER

Upon consideration of Respondent's Motion for a Protective Order, and the Court being fully informed, it is this _____ day of _____, 2008, hereby

ORDERED, that the Motion is GRANTED; and it is further ORDERED, that:

1. Complaint Counsel re-serve its First Set of Interrogatories to Respondent Polypore International, Inc., limiting the number per the Scheduling Order in this matter to 50 interrogatories, including subparts;

2. Complaint Counsel limit its definitions in the interrogatories to those parties and related companies that are relevant to the matters at issue in the Complaint, relief sought and Respondent's defenses, and define terms such that they do not expand the information sought or exceed the number of permitted interrogatories beyond the limits set out in the Scheduling Order;

3. The depositions of Steve McDonald, Michael Gilchrist, Timothy Riney, S. Tucker Roe and Pierre Hauswald be [quashed], [or limited to questions regarding issues and topics that were not previously covered in the pre-complaint investigational hearings of those individuals, or are simply intended to supplement or round out previously asked questions or topics of inquiry]; and

4. To the extent Complaint Counsel intends to use any third-party documents in any noticed deposition, for preparation of questions, or to question a deponent, the depositions shall be postponed until seven days after the delivery of those documents to counsel for Respondent.

The Honorable D. Michael Chappell
Chief Administrative Law Judge (Acting)
Federal Trade Commission

EXHIBIT A

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
	)	Docket No. 9327
Polypore International, Inc., a corporation.	)	
	)	

COMPLAINT COUNSEL'S FIRST SET OF INTERROGATORIES TO RESPONDENT POLYPORE INTERNATIONAL, INC.

Pursuant to the Federal Trade Commission Rules 3.31 and 3.35, Respondent Polypore International, Inc. is hereby requested to answer the following interrogatories. The requested answers must be submitted to 601 New Jersey Avenue NW, Washington, DC 20580, within twenty (20) days. Objections, if any, must be made within ten (10) days after service of these interrogatories.

DEFINITIONS

A. "Polypore," "the company," "you," or "yours" means Polypore International, Inc., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents and representatives of the foregoing. The terms "subsidiary," "affiliate," and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between the company and any other person.

B. "Daramic," means Polypore International, Inc., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents and representatives of the foregoing prior to the purchase of Microporous Holdings Corporation on February 29, 2008. The terms "subsidiary," "affiliate,"

and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between the company and any other person.

C. "Microporous" means Microporous Products L.P., its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures, and all directors, officers, employees, agents and representatives of the foregoing. The terms "subsidiary," "affiliate," and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between the company and any other person.

D. "The transaction" means Polypore's purchase of 100% of the stock of Microporous Holdings Corporation on February 29, 2008.

E. "Relevant product" or "relevant end use" as used herein means battery separators used for deep-cycle, uninterruptible power supply ("UPS"), automotive, or motive applications.

F. "Relevant area" means and information shall be provided separately for: (a) North America, (b) Asia, (c) Europe (d) the world.

G. "Person" includes the company and means any natural person, corporate entity, partnership, association, joint venture, government entity, or trust.

H. "Minimum viable scale" means the smallest amount of production at which average costs equal the price currently charged for the relevant product. It should be noted that minimum viable scale differs from the concept of minimum efficient scale, which is the smallest scale at which average costs are minimized.

I. "Sunk costs" means the acquisition costs of tangible and intangible assets necessary to manufacture and sell the relevant product that cannot be recovered through the redeployment of these assets for other uses.

J. "Sales" means net sales, i.e., total sales after deducting discounts, returns, allowances and

excise taxes. "Sales" includes sales of the relevant product whether manufactured by the company itself or purchased from sources outside the company and resold by the company in the same manufactured form as purchased.

K. "And" and "or" have both conjunctive and disjunctive meanings.

L. "Describe," "state," and "identify" mean to indicate fully and unambiguously each relevant fact of which you have knowledge.

M. "Documents" means all computer files and written, recorded, and graphic materials of every kind in the possession, custody or control of the company. The term "documents" includes, without limitation: electronic mail messages; electronic correspondence and drafts of documents; metadata and other bibliographic or historical data describing or relating to documents created, revised, or distributed on computer systems; copies of documents that are not identical duplicates of the originals in that person's files; and copies of documents the originals of which are not in the possession, custody or control of the company.

N. "Computer files" includes information stored in, or accessible through, computer or other information retrieval systems, including documents stored in personal computers, portable computers, workstations, minicomputers, mainframes, servers, backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether on or off company premises.

O. "Plans" means tentative and preliminary proposals, recommendations, or considerations, whether or not finalized or authorized, as well as those that have been adopted.

P. "Relating to" means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or stating.

Q. "Data" means numeric information or information expressed numerically.

R. "PE" means polyethylene.

S. "CID" means the April 4, 2008 Civil Investigative Demand issued by the Commission to Polypore.

T. "AGM" means absorptive glass mat.

U. "UPS" means uninterruptible power supply.

V. "FTC," and "Commission" mean the Federal Trade Commission.

W. "SKU" means stock keeping unit.

X. "RFP" means request for proposal or request for quotes.

INSTRUCTIONS

A. These Interrogatories call for all information (including any information contained in or on any document or writing) that is known or available to you, including all information in the possession of, or available to, your attorneys, agents, or representatives, or any other person acting on your behalf or under your direction or control.

B. Each Interrogatory, including subparts, is to be answered by you separately, completely and fully, under oath. If you object to any part of an Interrogatory, set forth the basis for your objection and respond to all parts of the Interrogatory to which you do not object. Any ground not stated in an objection within the time provided by the Federal Trade Commission's Rules of Practice, or any extensions thereof, shall be waived. All objections must be made with particularity and must set forth all the information upon which you intend to rely in response to any motion to compel.

C. All objections must state with particularity whether, and in what manner, the objection is being relied upon as a basis for limiting the response. If you are withholding responsive information pursuant to any general objection, you should so expressly indicate. If, in responding to any Interrogatory, you claim any ambiguity in interpreting either the Interrogatory

or a definition or instruction applicable thereto, you shall set forth as part of your response the language deemed to be ambiguous and the interpretation used in responding to the Interrogatory, and shall respond to the Interrogatory as you interpret it.

D. If you cannot answer all or part of any Interrogatory after exercising due diligence to secure the full information to do so, so state and answer to the fullest extent possible, specifying your inability to answer the remainder; stating whatever information or knowledge you have concerning the unanswered portion; and detailing what you did in attempting to secure the unknown information.

E. If any privilege is claimed as a ground for not responding to an Interrogatory, provide a privilege log describing the basis for the claim of privilege and all information necessary for the Court to assess the claim of privilege, in accordance with Rule 3.31(c)(2) of the FTC Rules of Practice. The privilege log shall include the following: (i) specific grounds for the claim of privilege; (ii) the date of the privileged communication; (iii) the persons involved in the privileged communication; (iv) a description of the subject matter of the privileged communication in sufficient detail to assess the claim of privilege; and (v) the Interrogatory to which the privileged information is responsive.

F. Whenever necessary to bring within the scope of an Interrogatory a response that might otherwise be construed to be outside its scope, the following constructions should be applied:

1. Construing the terms "and" and "or" in the disjunctive or conjunctive, as necessary, to make the Interrogatory more inclusive;
2. Construing the singular form of any word to include the plural and the plural form to include the singular;
3. Construing the past tense of the verb to include the present tense and the present tense to

include the past tense;

4. Construing the masculine form to include the feminine form;

5. Construing the term "Date" to mean the exact day, month, and year if ascertainable; if not, the closest approximation that can be made by means of relationship to other events, locations, or matters; and

6. Construing negative terms to include the positive and vice versa.

G. Unless otherwise instructed, provide information where requested from the year 2005 to the present.

H. Provide data, where requested, in electronic spreadsheet format, formatted in Excel (.xls).

I. All sales data should be provided in monthly increments.

J. For all responses provide file layouts and data dictionaries, including, but not limited to, definitions of all fields as well as explanations for any codes or abbreviations within data sets, and definitions for all product specification codes.

K. For all responses to interrogatories 4, 5, 15, and 16, provide data in Flat File format.

L. If you have any questions, please contact Christian H. Woolley at 202-326-2018.

INTERROGATORIES

1. Complete and update all responses to the CID issued to Polypore on April 7, 2008.

2. Identify each and every change in prices by Polypore to customers in North America in any relevant product since the transaction. For each such request to increase price state:

   a. the relevant product;

   b. the customer;

   c. the current price;

   d. the proposed change in price;