

ORIGINAL



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

Polypore International, Inc.
a corporation.

CASE NO. 9327

PUBLIC DOCUMENT

**THIRD PARTY ENTEK INTERNATIONAL LLC'S MEMORANDUM
IN SUPPORT OF MOTION TO QUASH THE SUBPOENAS AD TESTIFICANDUM
ISSUED TO GRAEME FRASER-BELL AND ROBERT KEITH
PURSUANT TO 16 C.F.R § 3.34(c)**

On December 30, 2008, Polypore International, Inc. ("Polypore") served four subpoenas *ad testificandum* on ENTEK International LLC, a third party to this adjudicative proceeding, issued to the following individuals and entities: (1) ENTEK International LLC ("Corporate Subpoena"), (2) Daniel Weerts ("Weerts Subpoena"), (3) Graeme Fraser-Bell ("Fraser-Bell Subpoena"), and (4) Robert Keith ("Keith Subpoena").¹

ENTEK takes no issue with the Corporate Subpoena and the deposition of Daniel Weerts, ENTEK's Vice President of Sales and Marketing, who is responsible for all of ENTEK's major customer relationships. However, ENTEK objects to and moves to quash the subpoenas *ad*

¹ Exhibit 1, true and correct copies of the four subpoenas *ad testificandum* issued to ENTEK, Daniel Weerts, Robert Keith and Graeme Fraser-Bell (collectively "Subpoenas"), sent via email on December 30, 2008 from Eric D. Welsh, of Parker Poe Adams & Bernstein LLP, legal counsel for Polypore, to Darius Ogloza of Latham & Watkins LLP, legal counsel for ENTEK.

testificandum directed at Graeme Fraser-Bell, ENTEK International Ltd.'s Vice President of International Sales who works and resides in the United Kingdom, and Robert Keith, ENTEK's President and Chief Executive Officer. In addition to procedural deficiencies, the incremental value to Polypore's discovery from those two depositions will almost certainly be *de minimis*, whereas the costs to ENTEK are significant both in terms of cash costs and opportunity costs from the disruption of its U.S. and international business.

In an effort to avoid duplication and minimize disruption, ENTEK offered to present Mr. Weerts for deposition in Portland, Oregon on a date convenient to Polypore, ENTEK and the FTC, in both his personal and corporate representative capacities.² ENTEK further informed Polypore that, as ENTEK's Vice President of Sales & Marketing, Mr. Weerts would be able to testify on all eighteen specifications covered by the Corporate Subpoena and that, accordingly, his testimony should be sufficient. ENTEK further offered discussions on making available additional witnesses if and to the extent Mr. Weerts' deposition testimony should turn out to be insufficient.³

Polypore rejected this offer and continues to demand depositions of Mr. Weerts, Mr. Fraser-Bell, and Mr. Keith irrespective of whether Mr. Weerts' testimony will address all relevant issues and with no regard to the fact that the depositions of Mr. Fraser-Bell and Mr. Keith will be duplicative, costly, and disruptive to ENTEK's business.⁴

Accordingly, because Polypore unreasonably rejected ENTEK's proposal, ENTEK has no alternative but to request an order from this tribunal quashing the Fraser-Bell and Keith Subpoenas.

ARGUMENT

Parties may obtain discovery to the extent that it may be reasonably expected to

² Exhibit 2, a true and correct copy of the letter ENTEK sent to Polypore responding to the Subpoenas.

³ Declaration of Hanno F. Kaiser in Support of ENTEK's Motion to Quash Subpoenas Ad Testificandum Pursuant to 16 C.F.R. § 3.34(c) ("Kaiser Decl.") ¶9.

⁴ Kaiser Decl. ¶10.

yield information relevant to the allegations of the complaint. 16 C.F.R. § 3.31(c)(1). However, this right is not unqualified. The Administrative Law Judge may limit discovery that is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; or if the burden and expense of the proposed discovery outweigh its likely benefit. 16 C.F.R. § 3.31(c). Against this standard, both the Keith and the Graeme-Bell subpoenas should be quashed.

I. The Keith Subpoena is Unreasonably Duplicative, Unduly Burdensome and the Discovery Sought is Available from Another Source that is More Convenient, Less Burdensome and Less Expensive

Polypore insists that ENTEK submit its President and CEO, Robert Keith,⁵ for deposition despite ENTEK's repeated assurances that Mr. Keith has no unique factual knowledge that may be reasonably expected to yield information relevant to the allegations of the complaint or the specifications contained in the Corporate Subpoena. Mr. Weerts is in a significantly better position to address all the information sought.

Federal courts have routinely quashed subpoenas directed to high-ranking corporate officials where, as here, the individuals have no unique or special knowledge of the facts at issue in the action and/or the discovery sought is obtainable from a more convenient, less burdensome, or less expensive source. *See, e.g., Thomas v. IBM*, 48 F.3d 478, 484 (10th Cir. 1995) (issuance of protective order preventing deposition of IBM chairman was not abusive where plaintiff failed to give adequate notice and failed to demonstrate that discovery sought could not be gathered from some other IBM personnel, from whom deposition might have been less burdensome); *Dart Industries, Inc. v. Acor*, 2008 U.S. Dist. Lexis 37731, at *4 (M.D. Fla. 2008); *Reif v. CNA*, 248 F.R.D. 448, 451-452 (E.D. Penn. 2008); *Harris v. Computer Assocs. Int'l, Inc.*, 204 F.R.D. 44, 46-47 (E.D.N.Y. 2001); *Baine v. General Motors Corp.*, 141 F.R.D.

⁵ Declaration of Joel Kuntz in Support of ENTEK's Motion to Quash Subpoenas Ad Testificandum Pursuant to 16 C.F.R. § 3.34(c) ("Kuntz Decl.") ¶2.

332, 335-336 (M.D. Ala. 1991). “Depositions of high level corporate executives may be duplicative, cumulative and burdensome where the person sought to be deposed has no personal knowledge of the events in dispute.” *Harris*, 204 F.R.D at 46. Federal courts have the power “to regulate harassing or burdensome depositions, and . . . unless a high level executive has unique personal knowledge about the controversy, the court should regulate the discovery process to avoid oppression, inconvenience, and burden to the corporation and to the executive. . . . Moreover, the oral deposition of a high level corporate executive should not be freely granted when the subject of the deposition will be only remotely relevant to the issues of the case.” *Evans v. Allstate Ins. Co.*, 216 F.R.D. 515, 518-519 (N.D. Okla. 2003) (quoting *Folwell v. Hernandez*, 210 F.R.D 169, 173-74 (M.D.N.C. 2002)).

Here, Robert Keith is ENTEK’s highest ranking officer and Polypore, despite ENTEK’s repeated requests, has failed to identify any unique or special knowledge that he may have of any facts material to this adjudicative proceeding.⁶ In all those matters, including prices, supply, demand, volume, cost, production, competition, competitors, entry, and ENTEK’s strategy in the lead acid separator industry, Mr. Weerts has more detailed and more direct knowledge than Mr. Keith.

Mr. Weerts has worked at ENTEK or its predecessor since 1989, held his present position as ENTEK’s Vice President of Sales & Marketing for over twelve years, and has been involved in the battery separator industry for over 30 years.⁷ As a co-owner of the company, he serves on ENTEK’s management team and is intimately involved in ENTEK’s strategic planning.⁸ Mr. Weerts has extensive experience not only in the sales and marketing side of the battery separator business, but also in the production and manufacturing side.⁹ His position at

⁶ The Keith Subpoena identifies no specific topics for which testimony is sought other than stating that the subject of the proceeding will be “In the Matter of Polypore International, Inc., Docket No. 9327.” This is identical to what was included in both the Weerts and Fraser-Bell Subpoenas.

⁷ Kuntz Decl. ¶4.

⁸ Kuntz Decl. ¶4.

⁹ Kuntz Decl. ¶4.

ENTEK and vast professional experience provide him with a unique understanding of the battery separator industry, detailed knowledge of the costs associated with manufacturing battery separators, as well as a keen understanding of pricing and the supply and demand conditions in the industry. Significantly, Mr. Weerts' responsibilities include ENTEK's U.S. and international relationships with its most significant customer Johnson Controls Battery Group Inc. and its affiliates.

Notably, Polypore did not select Mr. Keith as a document custodian. In an email dated December 11, 2008, counsel for ENTEK explained: "[T]he vast majority of relevant information requested in Spec. 5 in Rob Keith's files would likely be duplicative with the much more detailed set contained in the files of Dan Weerts. As a result, the benefit to Polypore of including Rob Keith would be minimal, whereas the burden on ENTEK of having its CEO divert significant time and attention away from operations at a time of overall financial and economic crisis and at a critical time of the business year would be significant and harmful to the company. Including Rob Keith would thus be unduly burdensome."¹⁰ On December 16, 2008, counsel for Polypore agreed "to substitute Mr. Humphrey for Mr. Keith for the custodian to be searched."¹¹ That was the right decision. The same reasons, however, compel dropping Mr. Keith from the list of deponents with even greater force, because depositions are more, not less intrusive than document collections, which can at least in part be delegated. Moreover, without a documentary basis, one important reason for taking a deposition – asking the witness to explain his unique documents – is lacking or at least greatly diminished.

Compelling Mr. Keith to prepare and sit for a deposition would force the company's CEO away from his responsibilities for at least two days during a time of crisis in the U.S. automotive industry, which ENTEK serves almost exclusively. This would impose a significant hardship on ENTEK. The burden and expense of deposing Mr. Keith thus far

¹⁰ Exhibit 3, a true and correct copy of the Email chain between Eric D. Welsh and Hanno Kaiser; titled: "Re: DRAFT Discovery Agreement ENTEK/Polypore" dated December 16, 2008, at 3:01 PM PDT.

¹¹ *Id.*

outweighs its likely benefit.

Because Mr. Keith has no unique knowledge and Polypore's legitimate interest in full and fair discovery is satisfied by deposing Mr. Weerts, who has more direct and more detailed knowledge of all matters material to this proceeding, the Keith Subpoena should be quashed.

II. The Fraser-Bell Subpoena is Invalid on the Basis of Defective Service and Defective Process

Polypore has failed to properly serve a valid subpoena *ad testificandum* on Mr. Fraser-Bell, who is a citizen and resident of the United Kingdom.¹² The Fraser-Bell Subpoena was issued pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1); however, nothing in that section "authorizes the issuance of . . . subpoenas to be served in a foreign country which may be authorized only in accordance with § 3.36." 16 C.F.R. § 3.34(c). Rule 3.36 provides that an application for the issuance of a subpoena to be served in a foreign country (such as is necessary to hale Mr. Fraser-Bell before this tribunal) shall be made in the form of a written motion filed in accordance with the provisions of § 3.22(a). Such a motion must not only satisfy the same requirements for a subpoena issued under § 3.34, but must also show that "the party seeking discovery has a good faith belief that the discovery requested would be permitted by treaty, law, custom or practice in the country from which the discovery is sought and that any additional procedural requirements have been or will be met before the subpoena is served." 16 C.F.R. § 3.36(b). Moreover, if an ALJ issues such an Order, the Order must be attached to the subpoena and served by the moving party. 16 C.F.R. § 3.36(c). Polypore has failed to comply with any of these provisions with respect to its request to depose Mr. Fraser-Bell.

Polypore's subpoena is defective for the additional independent reason that it failed to properly serve process on Mr. Fraser-Bell. Polypore sent a copy of the subpoena to Mr.

¹² Declaration of Graeme Fraser-Bell in Support of ENTEK's Motion to Quash Subpoenas Ad Testificandum Pursuant to 16 C.F.R. § 3.34(c) ("Fraser-Bell Decl.") ¶¶2,3.

Fraser-Bell at ENTEK International LLC in Lebanon, Oregon via Certified Mail.¹³ Mr. Fraser-Bell is not employed by ENTEK International LLC but, instead, by an ENTEK affiliate located in Newcastle-upon-Tyne, United Kingdom.¹⁴ ENTEK International LLC in Oregon therefore did not and could not accept service on Mr. Fraser-Bell's behalf.

III. The Fraser-Bell Subpoena is Unreasonably Duplicative, Unduly Burdensome and the Discovery Sought is Available from Another Source that is More Convenient, Less Burdensome and Less Expensive; and the Burden and Expense of the Proposed Discovery Outweigh its Likely Benefit

The Fraser-Bell subpoena should be quashed because compliance with it would be unduly burdensome and/or the burden and expense of the proposed discovery outweigh its likely benefit. ENTEK already has offered to present for deposition Mr. Weerts, who is the person most knowledgeable about the specifications contained in the Corporate Subpoena. Mr. Fraser-Bell's knowledge is largely duplicative as to these categories. As a practical matter, Mr. Weerts not only oversees all of ENTEK's sales efforts, in the U.S. and internationally with respect to Johnson Controls and its affiliates, he is also intimately familiar with the operations, cost structure, and expansion plans of ENTEK's U.K. facility. In terms of commercial relevance, Mr. Weerts is immediately responsible for more than 80% of ENTEK's total revenue. As to the remaining 20%, any differences in the degree of knowledge between Mr. Fraser-Bell and Mr. Weerts are likely to be minimal and do not justify the cost and disruption created by deposing Mr. Fraser-Bell. In practical terms, ENTEK International Ltd. will lose at least four days of Mr. Fraser-Bell's time if he is forced to attend a deposition in Portland, Oregon, not to mention the hardship imposed on Mr. Fraser-Bell personally. Mr. Fraser-Bell lives in Liverpool in the United

¹³ Legal counsel for Polypore also sent ENTEK's legal counsel a copy of the subpoena via electronic mail on December 30, 2008 without disclosing that it was sending a subpoena for the deposition of a foreign national. Kaiser Decl. ¶2.

¹⁴ Fraser-Bell Decl. ¶¶1,4.

Kingdom, about 180 miles northwest of London. There are no direct flights from Liverpool to Portland. In order to get to Portland, Mr. Fraser-Bell would have to get to London first and then fly to Portland via Newark or, alternatively, fly from Liverpool to Isle of Man, from there to Manchester, from Manchester to Newark, and then from Newark to Portland. The flight time alone is 17-22 hours each way.¹⁵ In addition, Mr. Fraser-Bell would have to prepare and then of course sit for the deposition, which would take another two days. During that time Mr. Fraser-Bell would be unable to tend to the responsibilities of his job and respond to his customer's needs in a timely fashion.¹⁶

The vast majority of information sought from Mr. Fraser-Bell is thus available from another source that is more convenient, less burdensome and less expensive, namely Mr. Weerts' deposition. As a result, deposing Mr. Fraser-Bell would be unduly burdensome. In addition, given Mr. Weerts' broad experience, which includes the international relationship with JCI, other international customers, and his detailed knowledge of the operations of ENTEK's U.K. facility, the potential for obtaining incremental information from Mr. Fraser-Bell that could be material to Polypore's defenses in this case must be balanced against the certainty of significant expense and burden to ENTEK and Mr. Fraser-Bell personally from having him travel to Portland. Such balancing compels the conclusion that the burden and expense of the proposed discovery outweigh its likely benefit.

For these reasons, the Fraser-Bell subpoena should be quashed.

¹⁵ Based on a search on www.orbitz.com (last visited on January 8, 2009, 6:00 pm PST) from LPL to PDX, then sorted by "shortest flight." The flight time from LPL to PDX via Isle of Man, Manchester and Newark is 22 hours 27 minutes. The flight time back from PDX to NCL via Chicago, Manchester and Isle of Man is 24 hours 54 minutes. Even from London Heathrow (LHR), according to www.orbitz.com, there are no direct flights to Portland, and the shortest flight via Newark is still about 17 hours, not counting the time it would take Mr. Fraser-Bell to get from Liverpool to London.

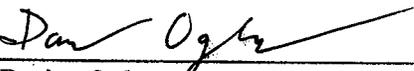
¹⁶ Fraser-Bell Decl. ¶9.

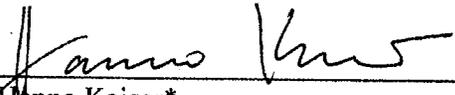
CONCLUSION

For the reasons set forth above, ENTEK respectfully moves to quash the subpoenas *ad testificandum* issued to Graeme Fraser-Bell and Robert Keith. In the event that this tribunal is unable to grant complete relief, ENTEK requests a hearing.

Dated: January 9, 2009

Respectfully submitted,

By  / MJS
Darius Ogloza

By 
Hanno Kaiser*

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Attorneys for ENTEK International LLC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of

Polypore International, Inc.
a corporation.

CASE NO. 9327

PUBLIC DOCUMENT

DECLARATION OF HANNO F. KAISER IN SUPPORT OF
ENTEK INTERNATIONAL LLC'S
MOTION TO QUASH THE SUBPOENAS AD TESTIFICANDUM
ISSUED TO GRAEME FRASER-BELL AND ROBERT KEITH
PURSUANT TO 16 C.F.R § 3.34(c)

I, Hanno F. Kaiser, under penalty of perjury, declare that the following is true and correct to the best of my knowledge:

1. I am an attorney duly licensed to practice before the courts of the State of New York. I am a partner with the law firm of Latham & Watkins LLP, legal counsel for ENTEK International LLC ("ENTEK"). I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. Attached hereto as Exhibit 1 is a true and correct copy of the four subpoenas *ad testificandum* issued to ENTEK, Daniel Weerts, Robert Keith and Graeme Fraser-Bell (collectively "Subpoenas"), sent via email on December 30, 2008 from Eric D. Welsh, of Parker Poe Adams & Bernstein LLP, legal counsel for Polypore International, Inc. ("Polypore"), to Darius Ogloza of Latham & Watkins LLP, legal counsel for ENTEK.

3. Attached hereto as Exhibit 2 is a true and correct copy of the letter sent on

January 5, 2009 from Darius Ogloza to Eric D. Welsh responding to the Subpoenas.

4. Attached hereto as Exhibit 3 is a true and correct copy of the Email from Eric D. Welsh to Hanno Kaiser; titled: "Re: DRAFT Discovery Agreement ENTEK/Polypore" dated December 16, 2008, at 3:01 PM PDT.

5. On January 6, 2009, Darius Ogloza, Brett Collins and I met and conferred with Eric Welsh via telephone regarding ENTEK's objections to the Subpoenas.

6. During this telephone conversation, we informed Mr. Welsh that ENTEK was willing to make Daniel Weerts available for deposition in both his personal and corporate representative capacities.

7. We further explained that ENTEK objected to the subpoena issued to Graeme Fraser-Bell because it was not properly served on him given that Mr. Fraser-Bell is a resident of the United Kingdom and that his testimony would likely add little to that to be provided by Mr. Weerts. In addition, requiring Mr. Fraser-Bell to travel from the United Kingdom to Oregon would be unduly burdensome.

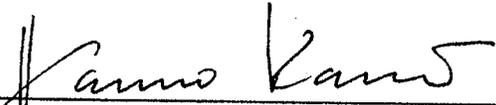
8. We further explained that ENTEK objected to the subpoena issued to Robert Keith, ENTEK's Chief Executive Officer, and that without a showing that he has unique or special knowledge of the facts at issue in this case, presenting him for deposition would be unduly burdensome and interfere with the daily operations of the company. Moreover, Mr. Keith's testimony would likely be duplicative of that to be provided by Mr. Weerts in all material respects. We explained that, for example, as to volume, pricing, capacity, and competition, Mr. Weerts is likely to have more detailed relevant knowledge than Mr. Keith.

9. We proposed that any conversation about Mr. Fraser-Bell's or Mr. Keith's depositions be deferred until after Mr. Weerts' deposition is concluded.

10. On January 7, 2009, we received an email from Eric Welsh informing us

that our proposal was "unacceptable" and that Polypore intended to seek the depositions of both Mr. Fraser-Bell and Mr. Keith.

I declare, under the penalty of perjury under the laws of the United States that the foregoing is true and correct. Signed this 9th day of January 2009, in San Francisco, California.

By 

Hanno F. Kaiser

LATHAM & WATKINS LLP

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* Admitted in New York only. Not admitted in California.

Attorney for ENTEK International LLC

EXHIBIT 1



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO ENTEK International LLC 250 N. Hansard Ave. Lebanon, OR 97355	2. FROM UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION
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This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING Miller Nash 111 S.W. Fifth Avenue Portland, Oregon 97204	4. YOUR APPEARANCE WILL BE BEFORE Counsel for Respondent and a person authorized by law to administer oaths. 5. DATE AND TIME OF HEARING OR DEPOSITION 1/19/09 at 9:00 AM
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6. SUBJECT OF PROCEEDING

In the Matter of Polypore International, Inc., Docket No. 9327
 Please designate and provide witnesses to testify on the subjects identified in the attached schedule.

7. ADMINISTRATIVE LAW JUDGE The Honorable D. Michael Chappell Federal Trade Commission Washington, D.C. 20580	8. COUNSEL REQUESTING SUBPOENA Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935
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DATE ISSUED December 10, 2008	SECRETARY'S SIGNATURE 
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GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

on the person named herein on:

(Month, day, and year)

(Name of person making service)

(Official title)

SCHEDULE

1. Sales by ENTEK International LLC ("ENTEK") of lead acid battery separators during the period of January 1, 2003 to the present, including but not limited to, the specific products sold, the amount of volume of each product sold, the prices of the products sold, including shipment costs, if any, the dates of purchase or sale, the end uses or applications of the product sold, the ENTEK plant from which such product was sold and the final destination of the product.
2. The written responses provided by ENTEK in response to the subpoena issued to ENTEK in this matter and dated October 24, 2008.
3. Any actual or potential contract between ENTEK and Johnson Controls, Inc. ("JCI"), Exide Technologies ("Exide"), EnerSys, East Penn Manufacturing Co., Inc. ("East Penn"), Crown Battery Manufacturing Co. ("Crown"), Trojan Battery Co. ("Trojan"), US Battery Co. ("US Battery"), C&D Technologies, Inc. ("CD") or any other entity manufacturing batteries for sale in North America from January 1, 2003 to the present, including the related contractual negotiations.
4. Negotiations, discussions or communications between ENTEK and JCI, Exide, EnerSys, East Penn, Crown, Trojan, US Battery, C&D, or any other battery manufacturer regarding (a) any change in price of or cost surcharge for any battery separator manufactured or to be manufactured by Entek (b) Polypore International, Inc. (including without limitation Daramic, LLC) ("Polypore"), (c) Microporous Products, LP ("Microporous"), or (d) any other manufacturer of battery separators from January 1, 2003 to the present.
5. Factors related to any change in price or cost surcharge instituted by ENTEK from January 1, 2003 to the present.
6. Any consideration by ENTEK of manufacturing separators for industrial or deep cycle batteries, including any communication between Entek and any third party regarding the same from January 1, 2003 to the present.
7. The scope of competition for battery separators for lead acid batteries from January 1, 2003 to the present.
8. Actual or potential competitors of ENTEK for lead acid battery separators from January 1, 2003 to the present.
9. ENTEK's or other manufacturer's share of any market for lead acid battery separators, including manufacturers of absorptive glass mat ("AGM") from January 1, 2003 to the present.
10. For the period of January 1, 2003 to the present, ENTEK's expansion of any of its facilities for manufacturing lead acid battery separators, including capacity of such expanded facility, products to be made from such facility, the customers for such facility,

the cost of such expansion, and the time period covered by such expansion, including start date of expansion project, commissioning date and actual or anticipated date of product being manufactured and sold.

11. Testing or qualification by ENTEK or anyone on behalf of ENTEK of lead acid battery separators during the period of January 1, 2003 to the present.
12. ENTEK's consideration of or efforts in developing alternative technology or substitutes to lead acid battery separators manufactured by Polypore, including AGM separators during the period of January 1, 2003 to the present.
13. The actual or potential acquisition of Microporous by Polypore (the "acquisition").
14. The actual, potential or perceived effect on ENTEK's business of an acquisition of Microporous by Polypore.
15. Communications between ENTEK and the Federal Trade Commission regarding the acquisition or Polypore.
16. Any actual or potential barrier to entry for suppliers or manufacturers of lead acid battery separators, including without limitation cost of entry or achieving minimal viable scale in (a) North America and (b) the World for the period of January 1, 2003 to the present.
17. Any actual or potential ownership interest of ENTEK in any joint venture or other entity that manufacturers lead acid battery separators for the period of January 1, 2003 to the present.
18. Any actual or potential ownership interest of any person other than ENTEK in any joint venture or other entity that manufacturers lead acid battery separators including BFR for the period of January 1, 2003 to the present.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

<u>In the Matter of</u>)	Docket No. 9327
)	
<u>Polypore International, Inc.,</u>)	PUBLIC DOCUMENT
<u>a corporation.</u>)	

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served the foregoing Subpoena Ad Testificandum via Certified Mail Return Receipt Requested upon:

ENTEK International LLC
250 N. Hansard Ave.
Lebanon, OR 97355

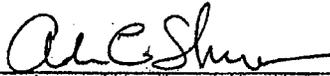
I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Subpoena Ad Testificandum upon:

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

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing *Subpoena Ad Testificandum* upon:

J. Robert Robertson, Esq.
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
rrobertson@ftc.gov

Steven Dahm, Esq.
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
sdahm@ftc.gov



Adam C. Shearer
Parker Poe Adams & Bernstein LLP
Three Wachovia Center
401 South Tryon Street, Suite 3000
Charlotte, NC 28202
Telephone: (704) 335-9050
Facsimile: (704) 334-4706



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

<p>1. TO Mr. Graeme Frazer-Bell ENTEK International, LLC 250 H. Hansard Ave. Lebanon, OR 07355</p>	<p>2. FROM UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
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This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

<p>3. PLACE OF HEARING Miller Nash 111 S.W. Fifth Avenue Portland, Oregon 97204</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE Counsel for Respondent and a person authorized by law to administer oaths.</p> <hr/> <p>5. DATE AND TIME OF HEARING OR DEPOSITION 1/19/09 at 2:00 PM</p>
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6. SUBJECT OF PROCEEDING

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

<p>7. ADMINISTRATIVE LAW JUDGE The Honorable D. Michael Chappell Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL REQUESTING SUBPOENA Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935</p>
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<p>DATE ISSUED December 10, 2008</p>	<p>SECRETARY'S SIGNATURE <i>Richard C. Donohue, Acting Secretary</i></p>
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GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

on the person named herein on:

(Month, day, and year)

(Name of person making service)

(Official title)

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)

Docket No. 9327

Polypore International, Inc.,)
a corporation.)

PUBLIC DOCUMENT

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 2008, I caused to be served the foregoing Subpoena Ad Testificandum via Certified Mail Return Receipt Requested upon:

Mr. Graeme Fraser-Bell
ENTEK International LLC
250 N. Hansard Ave.
Lebanon, OR 97355

I hereby certify that on December 29, 2008, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing Subpoena Ad Testificandum upon:

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

I hereby certify that on December 29, 2008, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing *Subpoena Ad Testificandum* upon:

J. Robert Robertson, Esq.
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
rrobertson@ftc.gov

Steven Dahm, Esq.
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
sdahm@ftc.gov



Adam C. Shearer
Parker Poe Adams & Bernstein LLP
Three Wachovia Center
401 South Tryon Street, Suite 3000
Charlotte, NC 28202
Telephone: (704) 335-9050
Facsimile: (704) 334-4706



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

<p>1. TO</p> <p>Mr. Robert Keith Chief Operating Officer ENTEK International LLC 250 N. Hansard Ave. Lebanon, OR 97355</p>	<p>2. FROM</p> <p>UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
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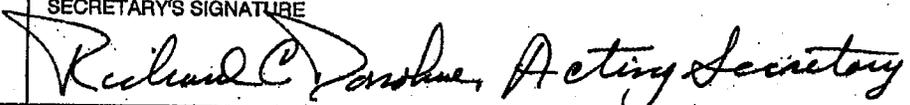
This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

<p>3. PLACE OF HEARING</p> <p>Miller Nash 111 S.W. Fifth Avenue Portland, Oregon 97204</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE Counsel for Respondent and a person authorized by law to administer oaths.</p> <hr/> <p>5. DATE AND TIME OF HEARING OR DEPOSITION</p> <p>1/20/09 at 9:00 AM</p>
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6. SUBJECT OF PROCEEDING

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

<p>7. ADMINISTRATIVE LAW JUDGE</p> <p>The Honorable D. Michael Chappell</p> <p>Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL REQUESTING SUBPOENA</p> <p>Eric D. Welsh Three Wachovia Center Suite 300 401 South Tryon Street Charlotte, NC 28202-1935</p>
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<p>DATE ISSUED</p> <p>December 10, 2008</p>	<p>SECRETARY'S SIGNATURE</p> 
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GENERAL INSTRUCTIONS

APPEARANCE

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(Official title)

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)

Polypore International, Inc.,)
a corporation.)

Docket No. 9327

PUBLIC DOCUMENT

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Chief Operating Officer
ENTEK International LLC
250 N. Hansard Ave.
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