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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AS HOLDINGS, INC.,

Plaintiff;

-vs-

H&C MILCOR, INC. f/k/a  
AQUATICO OF TEXAS, INC.,

Defendant.

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) Opposition  
) No. 91182064  
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The testimonial deposition of LARRY DEVITT, called by the defendant for examination, pursuant to notice and pursuant to the provisions of the Civil Practice Act of the State of Illinois and the Rules of the Supreme Court thereof pertaining to the taking of depositions for the purpose of evidence, taken before DEBORAH TYRRELL, a Certified Shorthand Reporter and a Notary Public within and for the County of DuPage and State of Illinois, at 815 Kimberly Drive, Carol Stream, Illinois, on the 12th day of November, 2009, at the hour of 12:30 p.m.

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✓  
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appeared on behalf of the defendant.

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(Witness sworn.)

LARRY DEVITT

a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ALLEN:

Q State your full name and your address of business.

A Lawrence M. Devitt. 815 Kimberly Drive, Carol Stream, Illinois.

Q I am going to show you a pipe boot that has been previously identified as Defendant's Exhibit 4 and ask you whether you can recognize it and if you can tell me what it is?

A It appears to be a pipe boot that we manufactured for Firestone.

Q Now there is in evidence a specification that Firestone gave to the plaintiff AS Holdings for the purpose of subcontracting a pipe boot for the benefit of Firestone. And in that specification there is a plurality of technical information and drawings. And I am going to hand you a Portals Plus document and ask if you can identify that for me?

MR. LINN: Okay. I am going to object to

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1 whatever that soliloquy was. Object to form;  
2 leading; assumes facts not in evidence. And also  
3 it's not by way of any kind of questioning. It's  
4 just testimony.

5 MR. ALLEN: Thank you.

6 THE WITNESS: Okay. This is a -- the page  
7 you gave me is a page from what we commonly call our  
8 binder; our technical manual. And it shows three  
9 different pipe boots on it that we manufacture.

10 The one probably most important here is  
11 what we call the medium pipe boot. Along with a  
12 drawing indicating dimensions of heights, diameters,  
13 and diameter of the phalange of the pipe boot.

14 MR. LINN: Mr. Allen, what document is  
15 that, please?

16 MR. ALLEN: It's a Portals Plus --

17 THE WITNESS: Catalogue page.

18 MR. ALLEN: Catalogue page.

19 MR. LINN: Is this a new thing?

20 MR. ALLEN: I think it probably appears in  
21 one of the things that is already in there.

22 MR. LINN: Well, I will have an objection  
23 as to the extent that this is an document that is not  
24 identified on defendant's pre-trial disclosures. As

1 well as to the extent it hasn't been produced or  
2 otherwise identified to us. Again, can I have a  
3 continuing objection to any documents of that nature  
4 so that I don't have to keep interrupting you?

5 MR. ALLEN: Yes, you can.

6 MR. LINN: Okay. Thank you.

7 MR. ALLEN: First of all, let's mark it.

8 Mark it Defendant's Exhibit 19.

9 (Exhibit marked as requested.)

10 BY MR. ALLEN:

11 Q I am going to hand 19 back to the witness.  
12 I am going to ask you if that document was  
13 transmitted to Firestone?

14 A Yes, it was.

15 Q Thank you. Now I am going to hand you a  
16 three-page document, that includes a fax  
17 transmission, a Firestone Building Products EPDM Pipe  
18 Boot page, and a letter that appears to go from Ron  
19 Resech at Portals Plus to Paul Oliveira at Firestone.  
20 Can you identify those three documents?

21 A Yes.

22 MR. LINN: Mr. Allen, in addition to the  
23 continuing objection as to the extent it is a new  
24 documentation, I will also introduce an objection as

1 to this being hearsay. Go ahead.

2 MR. ALLEN: Understood.

3 BY MR. ALLEN:

4 Q Can you identify those documents?

5 A Yes. What these are, first of all, is a  
6 submittal that was made when we were beginning to do  
7 business with Firestone and that is why it is hard to  
8 describe so someone else can see it. But this  
9 particular page that has a drawing of a pipe boot and  
10 along again with some dimensions and whatnot and a  
11 little bit of description with Firestone's name on it  
12 and the Portals Plus logo.

13 Q Who generated that document?

14 A Portals Plus did. Portals Plus generated  
15 it and sent it to at that time the purchasing agent  
16 at Firestone to give him an idea, a concept, of what  
17 it is that he is going to be buying.

18 Q All are all three of these documents  
19 produced in the regular course of business of Portals  
20 Plus?

21 A Yes. Yes, they are.

22 Q Okay.

23 A And the last one by the way was sending  
24 them samples to Paul Oliveira of our products.

1 MR. ALLEN: Thank you. I hand it to the  
2 court reporter and ask that she mark that Defendant's  
3 Exhibit 20.

4 (Exhibit marked as requested.)

5 BY MR. ALLEN:

6 Q I am handing you a set of documents that  
7 are entitled "Firestone Product Specification". It  
8 is a ten-page document. I am asking if you can  
9 identify that. And, if so, tell me what it is.

10 A This is a copy of a Product Specification  
11 from Firestone for their white EPDM pipe boots, which  
12 we also manufacture for them, and it includes  
13 specifications. The papers that you handed me also  
14 includes some emails that I had sent to Firestone  
15 with comments on the original copies of the  
16 specifications. Suggestions that I made to  
17 revisions. And the top copy is if you will a  
18 signature copy where various people at Firestone  
19 signed off on it as well as I did, too, for Portals  
20 Plus in reviewing it.

21 MR. ALLEN: Thank you. I would hand it to  
22 the court reporter and ask that she mark it  
23 Defendant's Exhibit 21.

24 (Exhibit marked as requested.)

1 BY MR. ALLEN:

2 Q Now, could you summarize for us, Mr.  
3 Devitt, your post high school education?

4 A Yes. It is Architectural. University of  
5 Illinois.

6 Q Did you receive any kind of a degree or --

7 A Yes.

8 Q -- award? What was it?

9 A Bachelor of Architecture.

10 Q And can you give us your work -- first of  
11 all, how old a man are you approximately?

12 A I am 65 approximately.

13 Q Can you give us like your work summary for  
14 just the last fifteen years?

15 A Gosh, that is actually pretty compact.  
16 Because in 19 -- beginning of 1996 I started with  
17 Portals Plus. So that takes us back thirteen years.  
18 Prior to that where was I? I was with a wholesale  
19 distributor in the Chicago area. A national  
20 distributor in the Chicago area. I have been in  
21 roofing in one form or another. Whether it is  
22 contracting, roofing consulting, investigating failed  
23 roofs, designing new roofs, since about 1980.

24 Q 1980?

1 A Right. In roofing one form or another.

2 Q So that is 29 years?

3 A I guess it is, yeah.

4 Q Okay. We could go back to even 1980  
5 because that is when you started in roofs. Can you  
6 summarize your experience with pipe boots over that  
7 29 year period?

8 A Well, certainly during that time frame one  
9 thing that I learned in roofing -- I started out with  
10 a company investigating roofs. Problems on roofs.  
11 How to repair to roofs. How to keep roofs in good  
12 shape.

13 During that time, I learned that problems  
14 on roofs occur in general at the details. Statistics  
15 from the National Roofing Contractors Association  
16 show that 80 percent of the time a problem on a roof  
17 is going to be at the detail. In other words, it's  
18 not going to be out in the middle where there's  
19 nothing around. Very seldom does it leak there.

20 So pipe boots become an important part of  
21 the details because there are projections through the  
22 roof on virtually every roof. So it's important that  
23 the pipe boots be durable, be flexible. Because even  
24 though we don't know it when we're looking at the

1 commercial industrial roof, that roof is moving.  
2 Moving all the time. From the heat of the sun. From  
3 the cold weather. From the roof membrane itself.  
4 Aging. It shrinks. And when it does that it pulls  
5 on every component that it is attached to.

6 Therefore, a pipe boot - as the roof  
7 shrinks and it shrinks towards the center of the  
8 roof, any pipe boot that you put on is going to be  
9 stretched generally horizontally away from that  
10 penetration and being pulled.

11 So you need flexibility. You need weather-  
12 ability. There is extremes of weather. Roofs can be  
13 140 degrees in the summer and 40 degrees below zero  
14 in the winter.

15 In addition, there are ultraviolet rays  
16 really affect the performance of anything that you  
17 put on the roof. To degradation from the ultraviolet  
18 rays of the sun is horrible.

19 So all of those factors play into the  
20 design of a good pipe boot or the product that it is  
21 even.

22 Q So, do you have any knowledge or experience  
23 or instruction in the installation of the pipe boots?

24 A Yes. Yes. I have trained people in the

1 proper installation of pipe boots. And depending  
2 upon the material -- I mean, we can go off on a  
3 tangent here and talk about other types of flashings  
4 for pipes, for example. Lead has been a very common  
5 material to be used. Now the government finds that  
6 it causes cancer so the use of lead is going down.

7 But with the pipe boot such as we  
8 manufacture, yes, I have hands-on installed them. I  
9 have trained people in the installation of them.  
10 Yes.

11 Q Can you just -- who do you train in the  
12 installation of pipe boots?

13 A In general, since I have been with Portals  
14 Plus, it's been Portals Plus employees in general.  
15 That's not to say I haven't shown other people how to  
16 do it but predominantly Portals Plus employees.

17 Q Okay. Now can you just go through a common  
18 type of installation with a pipe boot such as the  
19 pipe boot that is depicted in Defendant's Exhibit 4?

20 A Sure. Sure. Well, first of all, I am not  
21 sure if you want to get into this, but this one has  
22 as a pre-applied tape on the bottom that we put on.  
23 We also manufacture them without tape. That effects  
24 how it gets installed whether it has the tape or not.

1 If I do use the one that has the pre-applied tape on  
2 it as my example, which is in front of me, I will  
3 proceed that way.

4 Q Who put that tape on Defendant's Exhibit 4?

5 A We did.

6 Q Portals Plus did?

7 A We sell this pipe boot with this tape on it  
8 to Firestone as it stands here. We also sell it  
9 without it to Firestone also. But if I assume the  
10 installation with the tape, would you like me to  
11 proceed that way, or without?

12 Q That's fine.

13 A The first thing we need to do is to  
14 determine the size of the pipe penetration that is  
15 coming out. This pipe boot is designed for  
16 essentially a nominal one-inch to six-inch round  
17 pipes.

18 So if we decide that it is a two-inch round  
19 pipe, for example, we would cut the pipe boot at a  
20 specific location. Now to make sure that we have the  
21 right size, we will put the pipe boot over the  
22 penetration until it stops. That will help us to  
23 determine the size. Where does it get tight.

24 We always want to cut smaller than what we

1 think it is. And there is a reason for that and  
2 after we cut it I will explain to you why. But we  
3 want to cut it a little bit smaller than what we  
4 think the diameter of the pipe is.

5 So we take out a knife. Although, we could  
6 use a scissors. Either one will work. And we use  
7 this decorative rib that we have on here as an  
8 eyeball guide so that we don't try to cut too low or  
9 too high. We try to get a nice horizontal cut, if  
10 you will. We make an incision. Draw it around.  
11 Draw the knife. Draw the -- turn the boot. Either  
12 way. Until we throw away the upper portion. We  
13 don't need it anymore.

14 Sometimes the pipe is hard to get the boot  
15 down. The reason is remember I tried to cut this  
16 smaller than the pipe diameter. So what is going to  
17 happen is the pipe boot is actually going to stretch  
18 out.

19 Our pipe boot when we look at it right here  
20 on the table in front of me, we can see that each one  
21 of these steps has a slight angle to it. Once that  
22 boot is installed, that angled surface that is  
23 contacting the pipe is actually going to be vertical.  
24 It is going to be 90 degrees. So sometimes it's

1 tough to pull it down.

2           So we can quite frankly, forgive me, we can  
3 spit on the pipe. We can get a little water from a  
4 puddle on the roof and just apply that to the pipe.  
5 It acts as a lubricant. Helps it slide down.

6           So we slide that down the pipe. Again, the  
7 side is now becoming vertical because it's being  
8 stretched. So the penetration is being sealed  
9 because the rubber is tight up against the pipe.

10           So we pull that down. Now with the tape on  
11 it, we don't quite pull it down all the way. We  
12 leave a space. We have a can of what we call primer  
13 watch and a sponge nearby. And we apply primer wash  
14 with the sponge to the surface of the roof membrane  
15 in the location where this is phalange of the pipe  
16 boot will touch. We apply that all the way around  
17 it.

18           We allow the solvents in that to flash off,  
19 as we call it, or evaporate. We can tell when that  
20 is ready to finish the installation, in a sense  
21 finish, by sticking our finger into it. If our  
22 finger -- we stick our finger in, as we pull it away,  
23 if that primer wash strings or comes with my finger,  
24 it's not ready yet. So I have to wait. I check it

1 in a few spots. When it's tacky and only tacky, then  
2 I can proceed.

3 Now this is again suspended by the pipe. I  
4 locate a cuff that we have on the bottom in this  
5 release paper. I pull that off. Then -- and this is  
6 hard to do with only two hands. Would you mind just  
7 holding that right there? The pipe is holding it  
8 remember because it's stretched. I take the two  
9 sides. I have taken the release paper off. Now this  
10 is taped. It's sticky. It's adhesive.

11 I bend this into what I would call a cowboy  
12 hat. Now I force the pipe boot down to touch the  
13 roof and allow these to roll out. I do that to  
14 prevent any wrinkles. If I get a wrinkle in here, I  
15 have a built-in leak. I essentially have to start  
16 over again or make a big patch. So I did that so I  
17 get a nice, flat surface. Push it down with my  
18 hands. Then I take a roller and I roll perpendicular  
19 to the phalange all the way around. I do not roll in  
20 a circle around it. Because what will happen is the  
21 rubber or the tape will stretch. I will end up with  
22 what we call a fish mouth or a buckle and I will have  
23 more water going in there. So I roll all the way  
24 around this to make sure it is sealed.

1           Then I take the clamp I had in the box and  
2 I position that. I really don't need it again  
3 because remember this pipe boot is sealed 100 percent  
4 against it because it's stretched. But I put a clamp  
5 around it as a belt and suspenders type of thing.  
6 Tighten it with a screwdriver. And essentially I am  
7 done.

8           Q     Thank you. Now, other than providing a  
9 marginal cutting guide, does this semi-toroidal rib  
10 have any other function?

11          A     Not any --

12               MR. LINN: Objection as to form.

13               THE COURT REPORTER: I'm sorry. Repeat  
14 your answer.

15               THE WITNESS: I said not any real function,  
16 no.

17 BY MR. ALLEN:

18          Q     Is the rib necessary to keep the clamp  
19 after it's installed from slipping off?

20          A     No. No. The clamp -- again, the clamp  
21 number one, is not necessary. But, number two, no,  
22 it doesn't have to keep the clamp in place. For  
23 example, this last step is designed for six inches  
24 down here at the bottle bottom. I mean, you have a

1 huge space here. You can put the clamp anywhere.  
2 The clamp can go on top of the rib even. It doesn't  
3 matter. That rim is nothing but decoration. It  
4 helps to separate us from other manufacturers.

5 Q Okay. Now there is a mention in the  
6 Portals Plus literature that the rib has some  
7 reinforcing function. Is that a significant  
8 reinforcing function?

9 A No. As I mentioned when I was  
10 demonstrating how to install it, it is very easily  
11 cut with a knife or a scissors. No, it does not.  
12 Certainly, it's essentially it's thicker because it  
13 sticks out. You've got solid rubber there. Someone  
14 could make that argument that it is reinforcing and  
15 obviously we do in our marketing literature. In  
16 marketing we take anything we can to try to make it a  
17 positive. Make it, "Oh, this is a good thing. You  
18 need to buy this product because it has this."

19 Q Thank you. Now, the shape of the rib in  
20 cross-section is a semi circle, is that correct?

21 A Yes.

22 Q In cross-section?

23 A Yes.

24 Q Now could that cross-section have some

1 other shape?

2 A Absolutely.

3 Q Like rectangular?

4 A Yes.

5 Q Or pyramidal?

6 A It sure could.

7 Q There's been some testimony in this case by  
8 a Mr. Hubbard, an employee of AS Holdings, that if  
9 you change the shape of the semi-toroidal rib to some  
10 other shape, that it would be difficult or impossible  
11 to get the pipe boot out of the mold.

12 A No.

13 MR. LINN: Objection as to form. Leading.  
14 Assumes facts in evidence. And it is improper  
15 impeachment. Go ahead.

16 THE WITNESS: No. To go to a rectangle or  
17 I think you said a pyramid, no. That would not  
18 create at problem because as we can see here this  
19 pipe boot is very flexible.

20 When it comes out of the tool, it's even  
21 more flexible because in the molding of these  
22 products, these are what is called compression  
23 molding. Now in the molding of these pipe boots a  
24 slug, if you will, essentially a hunk of rubber, when

1 the tool is open is placed into each cavity. The  
2 tool is lowered. Now the tool is steam heated. So  
3 that the tool is hot. It essentially melts the  
4 rubber. The rubber fills all the spaces in the tool  
5 and that heat also and the pressure of the tool also  
6 vulcanizes. Much like a tire. So it will always  
7 have this shape.

8 This is what we call cured EPDM as opposed  
9 to uncured. Uncured EPDM can be stretched and  
10 stretched and stretched until ultimately it will  
11 break. But it will never snap back because it's  
12 uncured. You can make it any shape you want.

13 This is cured. When you stretch this, it's  
14 much like a rubber band in analogy, in that it will  
15 snap back. I can stretch it and it will snap back.

16 Again, this is very warm because that tool  
17 is heated. It still relatively soft. So that when  
18 you take it out -- and, of course, this tape makes it  
19 more stiff but you can bend it. You can just pull it  
20 right out of those cuts in the tool.

21 So, no, the shape has little impact on  
22 whether you can get it out of the tool or not.

23 Q Mr. Devitt, do you know what the durometer  
24 and elongation of this material is?

1           A     Yes.  The pipe boots are purchased with a  
2     durometer -- and, of course, because every batch is  
3     slightly different in composition but the  
4     durometer is between 60 and 70 and the elongation is  
5     300 to 350 percent.

6           Q     And where in testing elastomers where does  
7     the Shore A scale fall?

8           A     I can't answer that.  I am not sure.

9           Q     I will withdraw it then.

10          A     I know that 60 to 70 is going to be  
11     flexible, but I don't know which way the numbers run.

12          Q     I didn't mean to fool you.  Okay.  Now, I  
13     am going to show you an exhibit that has been  
14     previously entered into this case.  Exhibit 9.

15                     And do you want to get that, Terry?  Do you  
16     want me to wait?

17                     MR. LINN:  I got it.  Defendant's Exhibit  
18     9.

19                     MR. ALLEN:  Yes.

20                     MR. LINN:  I got it.  Thank you.

21     BY MR. ALLEN:

22           Q     And this exhibit is intended to represent,  
23     by the Walls 11, 12, 13, 14, 15, 16, 17, the general  
24     configuration of the Portals Plus pipe.  And

1 superimposed on that are the Walls 11, 18, 19 and 20,  
2 that are in effect stepless.

3 A Okay.

4 Q But the angles on the Walls 11, 18, 19 and  
5 20 converge from one wall to another. They are not  
6 in a straight line.

7 A Okay.

8 Q Do you get that?

9 A Mmm hmm.

10 Q Now my question is, and there's been some  
11 testimony with respect to this, that if we apply a  
12 clamp, for example, to Wall 18 in the outer pipe  
13 boot, would that cause the material, if it were the  
14 same durometer and the same elongation -- did you  
15 testify as to the elongation?

16 A Yes, I did. 300 to 350 percent.

17 Q On this Wall 18, would it cause a buckling,  
18 a wrinkling of the pipe boot against the pipe?

19 MR. LINN: Objection. This is not an  
20 expert witness.

21 MR. ALLEN: Wait. Wait. Let me finish.

22 MR. LINN: I thought he was starting to  
23 answer.

24 MR. ALLEN: No, I wasn't finished.

1 MR. LINN: Okay. Go ahead.

2 BY MR. ALLEN:

3 Q Let me finish. Would that cause the pipe  
4 boot in this area of Wall 18 to wrinkle or pucker  
5 under the clamp in your opinion?

6 MR. LINN: Again, objection. This  
7 gentleman is not being offered as an expert witness.  
8 This is a hypothetical construction that you are  
9 generating here. I will also object to the form of  
10 the question. Go ahead.

11 MR. ALLEN: That's fine. Well, he is an  
12 expert.

13 THE WITNESS: I was just going to say that.

14 MR. ALLEN: Counsel, he is an expert.

15 There is no doubt about that.

16 MR. LINN: I am not here to debate as to  
17 whether he is or is not.

18 MR. ALLEN: I understand that.

19 THE WITNESS: Okay. In this sketch here,  
20 Dillis, there's a couple of factors that I don't have  
21 an answer to. And when I say that, this is  
22 superimposed onto a facsimile of our step pipe boot,  
23 is that correct?

24 BY MR. ALLEN:

1 Q Correct.

2 A So Wall 18, if I were trying to flash a  
3 pipe boot that -- or a pipe, excuse me, that the  
4 Portals Plus pipe boot would handle with Walls 12 and  
5 13, in other words right here, so you can see that,  
6 then there would be. But it would be only because I  
7 cut this second pipe boot wrong. Remember, I want to  
8 cut the pipe boot smaller than my pipe. So I would  
9 actually be not using Wall 18, if the pipe were here.  
10 I would be using Wall 19.

11 Q Let me suggest something else. I am going  
12 to mark this up and I am going to make a new exhibit  
13 here with this. I am going to say that the pipe has  
14 this diameter here and I am going to draw this pipe  
15 in.

16 A Okay.

17 Q At number -- let's see. 20. I am going to  
18 number this 24.

19 A Okay.

20 Q Let's assume that the pipe has this  
21 diameter.

22 A Okay.

23 Q And could you explain to me whether or not  
24 this wall would pucker when you clamp it to Pipe 24?

1           A     Okay.

2           MR. LINN: I have interjected my continuing  
3 objection. But, Mr. Allen, could you just tell us  
4 where this Pipe Diameter 24 is supposedly striking  
5 the hypothetical line?

6           MR. ALLEN: Yes. If you take Wall 18,  
7 Terry.

8           MR. LINN: Yes.

9           MR. ALLEN: And you bisect it.

10          MR. LINN: I got it.

11          MR. ALLEN: And you draw -- and on the  
12 inner side of the Wall 18 where it is bisected, you  
13 draw a vertical line, double line going downwardly.

14          MR. LINN: Okay. That is all I need to  
15 know.

16          MR. ALLEN: That is Number 24.

17          MR. LINN: Thank you.

18          MR. ALLEN: That is Number 24.

19          THE WITNESS: Okay. In this example then I  
20 would be cutting it at approximately .22 on your  
21 sketch. And, once again, I would be stretching the  
22 rubber out so it's vertical against that wall.  
23 Therefore, no. There is no buckling because I have  
24 stretched the rubber.

1 MR. ALLEN: Thank you, very much. Alright.  
2 I would like the court reporter to mark this as  
3 Exhibit 22. Exhibit 22 is a modified Defendant's  
4 Exhibit 9.

5 (Exhibit marked as requested.)

6 MR. ALLEN: Thank you. I am finished.

7 MR. LINN: Let me just determine what  
8 exhibits you do have there. I believe you have got  
9 Defendant's Exhibit 12, is that correct, Dillis?

10 MR. ALLEN: Yes.

11 MR. LINN: Do you have Exhibit 12 there?

12 MR. ALLEN: Yes, we do. Do you want me to  
13 give it to him?

14 MR. LINN: Hold on. I am just trying to  
15 figure out what other -- do you have any of the  
16 Opposer's exhibits there?

17 MR. ALLEN: Yes, I do.

18 MR. LINN: Can you give him Opposer's  
19 Exhibit 2, please?

20 MR. ALLEN: Wait awhile here. I got to dig  
21 it out. What deposition was this from, Terry?

22 MR. LINN: Mr. Steimle.

23 MR. ALLEN: I am looking in the wrong  
24 place.

1 MR. LINN: While you are looking get 2 and  
2 5 and then the one that you used earlier this morning  
3 your Exhibit 12.

4 MR. ALLEN: Okay. We have got them. Which  
5 one do you want to do first?

6 MR. LINN: Why don't you place before Mr.  
7 Devitt Opposer's Exhibit 5, please.

8 MR. ALLEN: He has got it.

9 CROSS EXAMINATION

10 BY MR. LINN:

11 Q Mr. Devitt, as I understand it, you are a  
12 Marketing Manager for Hart & Cooley?

13 A For the Commercial Products Group of Hart &  
14 Cooley.

15 Q In terms of the marketing and advertising  
16 for the Commercial Products Group of Hart & Cooley,  
17 if you could look at Exhibit 5, is that an example of  
18 one of their ads?

19 A It looks like it, yes.

20 Q And in the advertisement of Opposer's  
21 Exhibit 5, it shows all the different logos for the  
22 various different divisions or groups that makeup the  
23 Commercial Products Group?

24 A At the time of the ad, yes.

1 Q I see one of the logos is Milcor and that  
2 is a group that has a responsibility for some roofing  
3 products that are different than the pipe boot  
4 products, is that right?

5 A That is correct.

6 Q Portals Plus that logo is the one that the  
7 company uses for the part of the company that sells  
8 pipe boots, is that right?

9 A Yes.

10 Q Is the Opposer's Exhibit 5 fairly  
11 representative of the marketing undertaken by the  
12 Commercial Products Group for its product?

13 A In a sense. It is a very general  
14 description. It is an ad that appeared in one  
15 magazine one month.

16 Q Alright. Let's go to Opposer's Exhibit 2.

17 A Okay.

18 Q Do you recognize that as a catalogue piece  
19 for the Portals Plus group?

20 A Yes. Are all of these pages part of this  
21 exhibit or just the cover?

22 Q Opposer's Exhibit 2 is a multipage document  
23 and it was produced to us by Portals Plus.

24 A Okay.

1 Q And take a look through it and confirm for  
2 yourself whether or not that is a catalogue for the  
3 Portals Plus portion of the Commercial Products  
4 Group?

5 A Well, you know, some people can get into  
6 semantics. I would call this a brochure.

7 Q This is a brochure?

8 A Yes. That is what I would call it.

9 Q In terms of this brochure that Portals Plus  
10 uses is this considered to be marketing materials?

11 A Yes.

12 Q And this is a -- one of the pieces that  
13 Portals Plus uses to try and sell its products as  
14 well as generally market them to purchasers?

15 A Yes.

16 Q The item in the upper left corner that is  
17 shown in silhouette with Portals Plus on it that is  
18 the logo that Portals Plus uses?

19 A Yes.

20 Q Is that right?

21 A Yes.

22 Q Now, that item that is shown there with the  
23 Portals Plus words on it, that's not the pipe boot  
24 we're talking about today is it?

1 A No, it isn't.

2 Q Is the pipe boot that we are discussing  
3 here today shown anywhere on the cover of the  
4 brochure of Opposer's Exhibit 2?

5 A No.

6 Q There's a variety of other products shown  
7 on the cover of Opposer's Exhibit 2, is that correct?

8 A Yes.

9 Q Could you just tell us by name the  
10 different products of Portals Plus that this  
11 particular piece of marketing material shows on the  
12 cover?

13 A On the cover, we see a roof drain. We see  
14 an outside corner. We see an inside corn. We see a  
15 scupper drain. We see what could be a vent or a  
16 breather. They both look the same on the outside.  
17 We see equipment rails. We see Alumi-Flash system.  
18 We see a retro fit flashing and we see a Deck-Mate.

19 Q Now in preparing marketing materials for  
20 Portals Plus, once you have materials that are  
21 actually finalized for distribution and consumers or  
22 purchasers, does Portals Plus make every effort to  
23 make those accurate and honest?

24 A Sure.

1 Q Do you believe that this brochure of  
2 Exhibit 2 is an accurate and honest representation as  
3 to the products that are discussed in that catalogue  
4 or in that brochure?

5 A What is shown in this brochure is accurate  
6 and honest, yes. And the reason I say it that way is  
7 I don't believe this brochure says -- shows each and  
8 every individual product that we manufacture. But  
9 what is shown in here, yes, is accurate and honest.

10 Q Can you turn to Page 14 of Opposer's  
11 Exhibit 2? At least it bears Page Number 14 on it.

12 A Okay.

13 Q Now up at the top there's a discussion of a  
14 pipe boot. Do you see that?

15 A Yes.

16 Q Does that discussion of the pipe boot  
17 relate to the product that we're talking about here  
18 today in this deposition testimony?

19 A Some of that text does, not all of it.

20 Q Alright. I want to reference you to a  
21 particular sentence in about the middle of that  
22 paragraph. And the sentence reads, "The conically  
23 shaped steps of the Portals Plus pipe flashing will  
24 securely seal all pipes and a large double thick

1 modeled rib at the top of each step offers supreme  
2 tear resistance and reinforcement as well as a  
3 cutting guide". Do you see that?

4 A I see it.

5 Q Does that relate to the pipe boot that  
6 we're talking about here today?

7 A Yes.

8 Q Is this an accurate statement with regards  
9 to the pipe boot that we're talking about here today?

10 A I would say so.

11 Q Just one moment. Would it be accurate to  
12 say that that statement there is a representation by  
13 Portals Plus that it would expect purchasers to look  
14 at and rely upon?

15 A Yeah. Yes.

16 Q Could you go to Defendant's Exhibit 12,  
17 please?

18 A Okay.

19 Q Now, if you go to the fourth page in, it  
20 has got a number on the right corner that ends in  
21 433. Do you see that?

22 A Yes.

23 Q Does this page relate to the pipe boot  
24 product that we are talking about here today?

1 A Yes.

2 Q Now up at the top there is a diagram that  
3 shows various dimensions and such for that pipe boot?

4 A Yes.

5 Q The various steps that are used on the pipe  
6 boot are targeted to particular stock size pipes. Is  
7 that accurate?

8 A What we call a Nominal Schedule 40 Pipe.

9 Q So the steps are targeted to certain sizes  
10 on the nominal pipe you just mentioned?

11 A Yes. But they also fit the range as shown  
12 in that drawing.

13 Q And does the angled surfaces allow them to  
14 be used with a range?

15 A No, not really. Because with that range  
16 you're going to stretch the boot anyway. No matter  
17 what you use in that range that we have shown there,  
18 it's going to stretch the pipe boot as I described.  
19 So the angle allows that but it still will stretch.

20 Q Alright. The angle, though, is intended to  
21 help accommodate different size boots?

22 A Yes.

23 Q Isn't that correct?

24 A Yes. Yes, it is.

1 Q In fact, one of the reasons that people buy  
2 this pipe boot is because they like the way it works,  
3 right?

4 A I would think so. I would like to think  
5 that.

6 Q Would you say that this particular  
7 configuration or design -- I will withdraw that.  
8 Would you say that this particular configuration for  
9 a pipe boot is a superior one that is better than  
10 your competitors?

11 A In my opinion, yes.

12 Q Would you say that purchasers or customers  
13 of Portals Plus buy this boot because they believe it  
14 to be a boot that works better than other company's  
15 boots?

16 A Again, I'd like to think so.

17 Q That is the intention of Portals Plus in  
18 selling it, isn't it?

19 A Sure.

20 Q And Portals Plus markets it as performing  
21 better than the others because of the various  
22 features that the Portals Plus boot has?

23 A Yes.

24 Q Now the Firestone pipe boots those are

1 marketed by Firestone under what is referred to as a  
2 private label type of arrangement, isn't it?

3 A Yes.

4 Q So Firestone buys the pipe boots from  
5 Portals Plus but the Portals Plus name doesn't appear  
6 anywhere on the pipe boots, correct?

7 A That is correct.

8 Q Firestone when it markets and sells those  
9 pipe boots, it markets it under its own name and  
10 company and not under the Portals Plus name or brand?

11 A That is correct.

12 Q Would that be true for the other or any  
13 other companies that Portals Plus private labels pipe  
14 boots for?

15 A To the best of my knowledge, yes.

16 Q Any companies that Portals Plus sells pipe  
17 boots to on a private label basis the Portals Plus  
18 name doesn't appear anywhere?

19 A As far as I know, yes.

20 Q And then the companies that buy those  
21 private labels products market and sell those  
22 products as their own under their own names and their  
23 own literature?

24 A Yes.

1 Q I know you said when you make a cut along  
2 the boot you're cutting right above the rib, is that  
3 correct?

4 A Yes.

5 Q And there is a little vertical wall there  
6 that goes straight and up and down, that is intended  
7 to be the place where the cut is made, is that  
8 correct?

9 A Yes.

10 Q Once the cut is made what is left over up  
11 above the cut is thrown away, correct?

12 A Yes.

13 Q But let's say you are making a cut on the  
14 lower most step for the pipe boot. Do you have that?

15 A I think so, yes.

16 Q And you're throwing away everything above  
17 that.

18 A Yes.

19 Q The steps, the little horizontal surfaces  
20 that come in, that are above that area, those are  
21 provided to be used with smaller diameter boots,  
22 right?

23 A I'm sorry. I don't follow that.

24 Q The various horizontal steps --

1 A Yes.

2 Q -- make up the pipe boots?

3 A Yes.

4 Q Those are target different diameter pipes,  
5 is that right?

6 A Yes.

7 Q So when you cut off a given pipe boot for  
8 one pipe you throw away the things that are above it?

9 A Yes.

10 Q But the reason that there is multiple  
11 steps, including ones above this location where you  
12 just made a cut, was so that you could use the pipe  
13 boot with smaller pipes as well?

14 A Yes. But I just cut them off so I can't.

15 Q Well, that is correct. But the idea is  
16 that each pipe boot would have its use for one pipe,  
17 right?

18 A Yes.

19 Q So each of these steps actually does  
20 provide a function. It's just that they are targeted  
21 towards different diameter pipes. Is that correct?

22 A Yeah, I guess so.

23 Q I just want to be clear that when you mount  
24 your pipe boot on a particular pipe and you cut it

1 off and you throw the top part away, if someone were  
2 to say, well, that top part is useless. It's got no  
3 function at all. While that may apply for the given  
4 pipe you've got it attached to, the reason those  
5 steps existed was so that you could use that pipe  
6 with any number of different pipes, correct?

7 A Yes. Yes. When you take it out of the  
8 box, you have a choice of pipe sizes that you can use  
9 it with. Once you cut it, you have just limited  
10 that. Yes, you're correct. I guess by contrast you  
11 could say that it's not as nice as a conical boot  
12 because it won't fit an infinite number of sizes.  
13 But, you know, even though all the other  
14 manufacturers market it under their name, I believe  
15 the trade recognizes it as ours.

16 Q You know, I am going to ask that you answer  
17 my questions.

18 A I'm sorry. Did I not?

19 Q I'd like you to stick to my questions here.

20 A I thought I did answer your question. I'm  
21 sorry.

22 Q Hold on one minute. I am just trying to  
23 decide if I am finished. Mr. Devitt, are you  
24 responsible for manufacturing operation?

1 A No, I am not.

2 MR. LINN: No further questions.

3 MR. ALLEN: Thank you.

4 REDIRECT EXAMINATION

5 BY MR. ALLEN:

6 Q Mr. Devitt, Mr. Linn was asking you about  
7 Portals Plus private labeling their medium pipe boot  
8 as represented by Exhibit 4 to several companies that  
9 sell that pipe boot, the medium pipe boot, under  
10 their own name. For example, Firestone sells that  
11 pipe boot under their own name. Now in spite of the  
12 fact that Firestone sells this pipe boot under its  
13 own name, does the trade recognize the Firestone pipe  
14 boot as being manufactured by Portals Plus?

15 MR. LINN: Objection as to form and  
16 hearsay. As well as the man has not been offered as  
17 an expert.

18 THE WITNESS: To answer the question, yes,  
19 I believe so. From time to time we get calls from  
20 people who try to buy those pipe boots directly from  
21 us. So, yea, I would say so.

22 MR. ALLEN: That is all.

23 MR. LINN: No further questions.

24 (AND DEPONENT FURTHER SAITH NOT.)

1 STATE OF ILLINOIS )  
2 COUNTY OF DU PAGE ) SS:

3 I, DEBBIE TYRRELL, CSR, a notary public  
4 within and for the County of DuPage and State of  
5 Illinois, do hereby certify that LARRY DEVITT  
6 was by me first duly sworn to testify to the truth,  
7 the whole truth and nothing but the truth, and that  
8 the above deposition was recorded stenographically by  
9 me, in the presence of said witness, and afterwards  
10 reduced to typewriting under my personal direction.

11 I further certify that the said foregoing  
12 transcript of the said deposition is a true, correct  
13 and complete transcript of the testimony so given by  
14 said witness at the time and place specified as  
15 aforesaid.

16 I further certify that the taking of this  
17 deposition was in pursuance of notice and agreement;  
18 and that there were present at the taking of this  
19 deposition the appearances as heretofore noted.

20 I further certify that I am not a relative  
21 or employee or attorney or counsel of any of the  
22 parties hereto, nor a relative or employee of such  
23 attorney or counsel; nor do I have any interest  
24 directly or indirectly in the outcome or events

METRO REPORTING SERVICE, LTD.  
(630) 690-0050

1 of this action.

2 In witness whereof, I have hereunto set my  
3 hand and affixed my notarial seal this 23rd day of  
4 November, 2009.

5

6

7

*Debbie Tyrrell*

CERTIFIED SHORTHAND REPORTER  
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DU PAGE COUNTY, ILLINOIS

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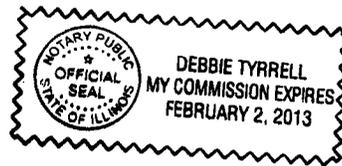
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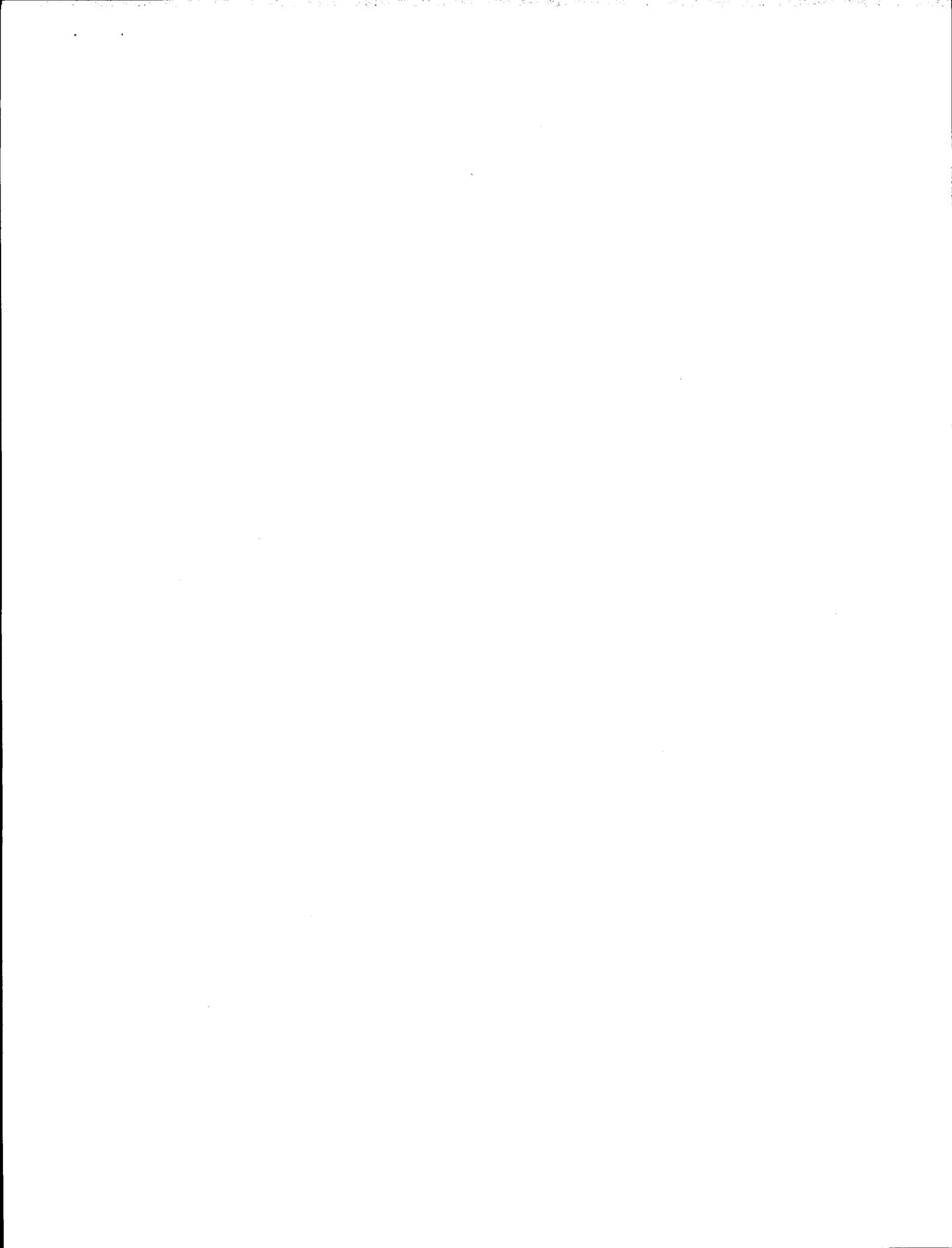
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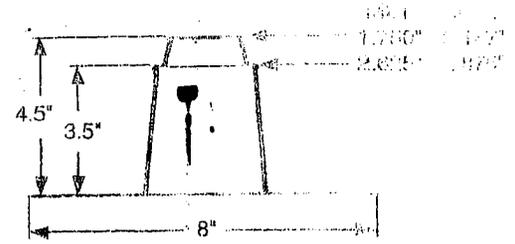
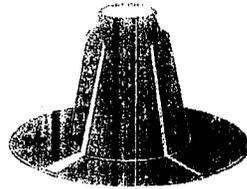
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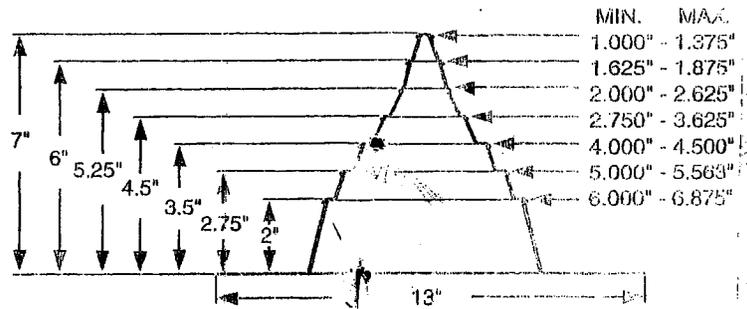
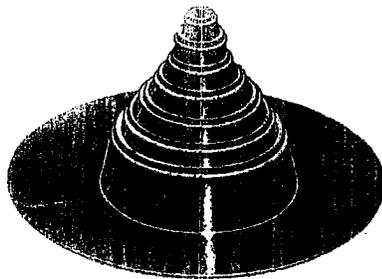
Small Pipe Boot



**SPECIFICATION**

Furnish and install the Portals Plus Small Pipe Boot as manufactured by Portals Plus, Inc., Bensenville, IL, at all points where any projection penetrates the roof system, and is less than 3" in diameter. The Small Pipe Boot shall include 60 mil EPDM, NEOPRENE, or HYPALON compression molded body. The Small Pipe Boot shall also include Portals Plus' Snaplock Clamp. Use white or black as necessary. Use Portals Plus Adapter Rings for round penetrations less than 1" diameter. Attachment of Small Pipe Boot to roof system shall be done in accordance with Portals Plus Installation Instructions and the roofing membrane manufacturer's requirements.

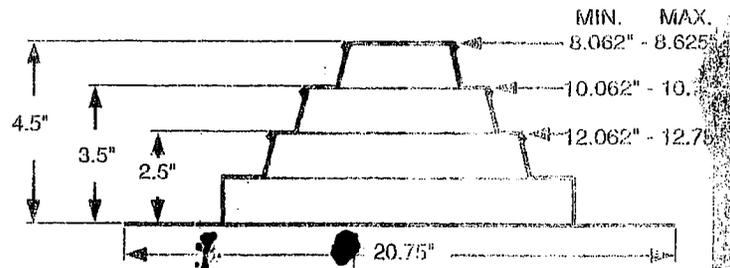
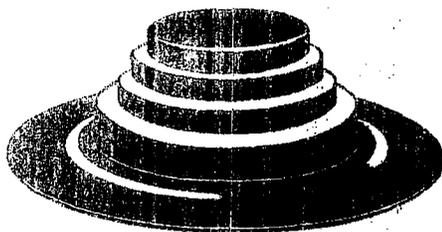
Medium Pipe Boot



**SPECIFICATION**

Furnish and install the Portals Plus Medium Pipe Boot as manufactured by Portals Plus, Inc., Bensenville, IL, at all points where any projection penetrates the roof system, and is less than 6" in diameter. The Medium Pipe Boot shall include 60 mil EPDM, NEOPRENE, or HYPALON compression molded body. The Medium Pipe Boot shall also include Portals Plus' Snaplock Clamp. Whenever necessary utilize Portals Plus Adapters to seal to square tubing and angle iron and for round penetrations less than 1" in diameter. Use white or black as necessary. Attachment of Medium Pipe Boot to roof system shall be done in accordance with Portals Plus Installation Instructions and the roofing membrane manufacturer's requirements.

Large Pipe Boot



**SPECIFICATION**

Furnish and install the Portals Plus Large Pipe Boot as manufactured by Portals Plus, Inc., Bensenville, IL, at all points where any projection penetrates the roof system, and is from 8" to 12" in diameter. The Large Pipe Boot shall include 60 mil EPDM, NEOPRENE compression molded body. The Large Pipe Boot shall also include Portals Plus' Snaplock Clamp. Use white or black as necessary. Attachment of Large Pipe Boot to roof system shall be done in accordance with Portals Plus Installation Instructions and the roofing membrane manufacturer's requirements.

# FAX TRANSMISSION

PORTALS PLUS, INC.  
639 THOMAS DRIVE  
BENSENVILLE, IL 60106

PHONE: 630-766-5240  
FAX: 630-595-7868

**To:** Kevin Mannix  
Firestone

**Date:** August 20, 1999

**Fax #:** 317-575-7100

**Pages:** 2, including this cover sheet.

**From:** Ron Resech

**Subject:** EPDM Pipe Boot

## COMMENTS:

Kevin, attached please find the information which you requested. If you have any questions please feel free to call. Thank you for the opportunity.

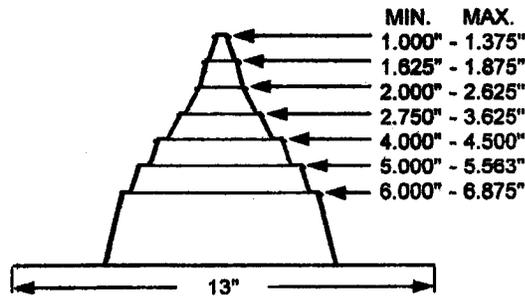
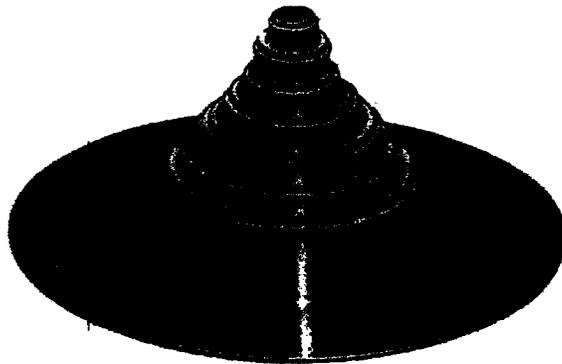
A.S.HOLDINGS V H&C MILCOR  
NO. 91182064  
DEFENDANT'S EXHIBIT 20



# Firestone

Building Products Company

EPDM Pipe Boot



AVAILABLE IN BLACK AND WHITE  
WITH OR WITHOUT QUICKSEAM TAPE

Portals Plus, Inc. 639 N. Thomas Drive, Bensenville, IL 60015  
TEL: 630-766-5240 FAX: 630-595-7888



[www.portalsplus.com](http://www.portalsplus.com)

May 7, 2003

Mr. Paul Oliveira  
Architectural Building Products  
120 Congressional Blvd.  
Memphis, TN 38102

Dear Paul:

Enclosed please find the samples per your request. After you have had an opportunity to review them please give me a call at 1-800-PPI-5240.

Sincerely,

Ronald W. Resch  
Portals Plus, Inc.

**EcoWhite™ EPDM QuickSeam™ Pipe Flashings**

**Product Number(s):** W56358106A

**Prepared By:** Joe Kalwara **Date:** 9/4/2007  
Joe Kalwara, Engineer

**Reviewed By:** Jim Jannasch **Date:** 9/27/2007  
Jim Jannasch, EPDM Product Manager

**Reviewed By:** John Fieldhouse **Date:** 10/5/2007  
John Fieldhouse, PhD, Director of Adhesives

**Reviewed By:** Stephanie Riner **Date:** 10/1/2007  
Stephanie Riner, Purchasing

**Reviewed By:** Larry Devitt, Portals Plus **Date:** 11/30/2007  
Vendor

**A.S.HOLDINGS V H&C MILCOR  
NO. 91182064  
DEFENDANT'S EXHIBIT 21**

**1. Scope**

This specification is for the Firestone EcoWhite™ EPDM QuickSeam™ Pipe Flashing, hereafter referred to as EcoWhite QuickSeam Pipe Flashing, is to be used in conjunction with Firestone EcoWhite Roofing Systems. The Firestone EcoWhite QuickSeam Pipe Flashing is a pre-fabricated pipe Flashing with a tape adhesive laminated to the bottom flange of the Flashing. They are to be used to flash pipes, rods or other similar penetrations on roofs. This specification covers a EcoWhite QuickSeam Pipe Flashing that can be used to flash a variety of pipe sizes from 1" O.D. to 6.875" O.D.

**2. Applicable Documents**

- 2.1 The EcoWhite QuickSeam Pipe Flashing shall pass the Dead Load Shear Test when tested in accordance with Firestone Test Specification W56-358-1002
- 2.2 Appendix 1: EPDM Material Specifications (attached)
- 2.3 Firestone Building Products "Quality System Manual" issued 7 Sept 2004
- 2.4 Label Specification for Firestone Accessories S733-TEC-204
- 2.5 Package Specification for QuickSeam Products S733-TEC-211

**3. Physical and Performance Requirements**

- 3.1 **QuickSeam Tape Material** – The tape adhesive shall be SP-610 from ADCO, white in color, or an alternate approved by Firestone.
- 3.2 **Dimensions:**
  - 3.2.1 The EcoWhite QuickSeam Pipe Flashing shall conform dimensionally to Figure 1 of this specification.
  - 3.2.2 The QuickSeam tape thickness shall be .030"-.040".
  - 3.2.3 The QuickSeam tape shall extend 1/16" to 1/8" beyond the flange of the EcoWhite QuickSeam Pipe Flashing.

**4. Qualification Testing**

Firestone shall conduct a series of qualification tests on each vendor's product. Successful passing of these tests shall qualify a vendor's product for use by Firestone. In addition, Firestone shall conduct such qualification tests in-house, as required, to assure that a vendor's product continues to perform satisfactorily.

<b>Property</b>	<b>Specification Value</b>
Tensile strength performed at room temperature	1000 psi (minimum)
Elongation performed at room temperature	300% (minimum)
Die C tear performed at room temperature	100 lbf/in (minimum)
Shore A Durometer Hardness	55-70 (reading at 3 seconds)
Tensile strength after heat aging*	750 psi (minimum)

Property	Specification Value
Elongation after heat aging*	225% (minimum)
Die C tear after heat aging*	150 lbf/in (minimum)
Shore A Durometer after heat aging**	75 Shore A, maximum
Color	White

\*Heat aging: 28 days at 240°F

\*\*Testing and performance may be certified by an outside laboratory.

## 5. Inspection/Certification

- 5.1 Vendor shall inspect finished EcoWhite QuickSeam Pipe Flashing at a frequency that will ensure Firestone receives only kits that meet this specification. A written certification that kits shipped to Firestone meet this specification shall be required with each shipment. Certification forms shall be sent to the attention of the Purchasing Agent.
- 5.2 Firestone may inspect samples of incoming material to ensure that the product meets the requirements of this specification.

## 6. Packaging and Marking

- 6.1 Packaged 10 boots per carton. Refer to Firestone Package Specification for QuickSeam Tape Products (S733-TEC-211). Package contents include clamps and Application Instructions.
- 6.2 Refer to Firestone Label Specification for Accessories (S733-TEC-204).  
Template: #1005 (8 1/2" x 5 1/2"); Elements: A, B, C, D, E, F, G, J; Template: #1007
- 6.3 A date code (month and year) shall be molded on the top surface of the EcoWhite QuickSeam Pipe Flashing.

## 7. Warranty

Supplier shall warrant the workmanship and the integrity of the EcoWhite QuickSeam Pipe Flashing for a period of 20 years to perform as intended when installed in accordance with Firestone specifications.

## 8. Changes in Process or Product

Vendor shall be required to report to Firestone Purchasing Department 30 days prior to production and shipping any material when making a change in a purchased raw material, manufacturing process, manufacturing location, sources, or the product. Firestone will review all changes and shall reserve the right to require re-qualification of the subject material or equipment. Firestone reserves the right to approve or reject any proposed changes.

**EcoWhite QuickSeam Pipe Flashing Certification Form**

Supplier: _____ Project: _____ Location: _____ Date: _____	Material: _____ By: _____ Lot #: _____
---	--

**Inspection Results for EcoWhite QuickSeam Pipe Flashing**

Property	Tested Value	Specification Value
Base Polymer		100% EPDM
Color		White
Shore A hardness (reading at 3 seconds)		55-70
<b>Dimensions (See Figure 1)</b>		
Thickness of flange and wall		0.055" - 0.075"
Flange OD		13"
Legibility of date code and all printing on parts		Note 1 in Figure 1
voids, air traps, splits, pitting, cured in flash, or surface blemishes or blisters		
Tensile strength, room temperature		1000 psi, minimum
Elongation, room temperature		300%, minimum
Die C tear, room temperature		100 lbf/in, minimum

Property	Tested Value	Specification Value
Tensile strength, after heat aging*		750 psi, minimum
Elongation, after heat aging*		225%, minimum
Die C tear, after heat aging*		75 lbf/in, minimum
Durometer, after heat aging*		80 Shore A, maximum
QuickSeam Dead Load Shear Test		less than 0.025" all per
QuickSeam tape thickness		.030"-.040"
QuickSeam tape beyond flange		1/16" to 1/8"

\* Heat aging: 28 days at 240°F

List below any items from note callouts on drawing in Figure 1 that do not meet specified values:

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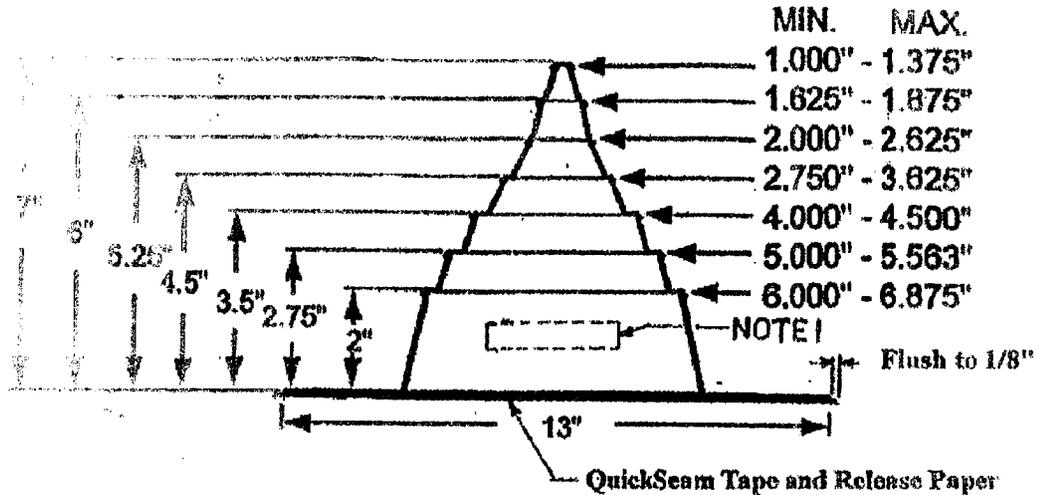


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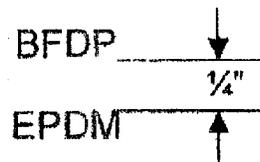
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**FIGURE 1: EcoWhite QuickSeam Pipe Flashing Dimensions**



**NOTES:**

1. "BFDP" and "EPDM" to be molded and spaced as shown by Detail "A".
2. Tolerance on dimensions shown is  $\pm 0.06$ " unless otherwise noted.



**Detail "A"**

**Appendix 1: EPDM Material Specifications B-1000**

Property	Tested Method	Performance
Specific Gravity	ASTM D-297	1.13 ± .03
Elongation	ASTM D-412 (Die C)	300% minimum (9.6 MPa)
Tensile Strength	ASTM D-412 (Die C)	1000 psi (9.6 MPa) minimum
Tear Resistance	ASTM D-624 (Die C)	100 lbf/in minimum (33.3 N/mm)
Shore A Durometer	ASTM D-2240	55 - 70
Ozone Resistance: 7 days @ 100pphm @ 100°F with 50% extension	ASTM D-1149	No Cracks
Heat Aging 28 days @ 240°F	ASTM D-573	
Tensile Strength, after Heat Aging	ASTM D-412	750 psi minimum (8.9 MPa)
Elongation, after Heat Aging	ASTM D-412 (Die C)	225% minimum
Tear Resistance, after Heat Aging	ASTM D-624 (Die C)	75 lbf/in minimum (26.3 N/mm)
Shore A Durometer, after Heat Aging	ASTM D-2240	80 maximum
Brittleness Temperature	ASTM D-2137	-49°F (-45°C)
Resistance to Water change in weight after immersion 7 days @ 158°F, maximum, %	ASTM D-471	+8, -2
Water Vapor Permeability max., perm mils	ASTM E-96	2.0
Tolerance on Nominal Thickness, %	ASTM D-751	± 10
Penetration pocket Composition: Weight percent of Polymer that is EPDM, % Weight percent of material that is EPDM Polymer, %	ASTM D-297	100 30 minimum

\*Heat aging is: 28 days at 240°F per ASTM D-573

Devitt, Larry

From: Kalwara, Joe [KalwaraJoe@firestonebp.com]  
Sent: Friday, December 07, 2007 11:09 AM  
To: Devitt, Larry  
Cc: Meever, Vicki J  
Subject: RE: White pipe boot

... changed to reflect your values. We will forward shortly for your review.

From: Devitt, Larry [mailto:Larry.Devitt@hartcool.com]  
Sent: Friday, December 07, 2007 11:11 AM  
To: Kalwara, Joe  
Subject: FW: White pipe boot  
Importance: High

Joe, are you OK with our published test results on the White EPDM boots NOT complying with the Purchase Spec that I received?

Based on Scott's note on delivery needs, we need to resolve that quickly.

Thanks,  
Larry Devitt

From: Hettmansperger, Scott [mailto:HettmanspergerScott@firestonebp.com]  
Sent: Friday, December 07, 2007 10:02 AM  
To: Devitt, Larry  
Cc: Victor, Max I  
Subject: RE: White pipe boot

We are reviewing this part to VMI you should see these orders show up very soon. We will be running ... that we can add the BFDP logo. We will want these in our whse's by 1/7/08.

Scott Hettmansperger  
Purchasing Manager-TPO Raw Materials and Accessories  
Firestone Products, LLC  
40 E. 36th Street  
Indianapolis, IN 46278  
PH# 317-575-7050

Fax# 317-816-3838

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From: Devitt, Larry [mailto:Larry.Devitt@hartcool.com]  
Sent: Friday, November 02, 2007 9:30 AM  
To: Hettmansperger, Scott  
Subject: RE: White pipe boot

Good morning, Scott,

Yes, with at least 1000 pieces your cost would drop to only \$1.00 each.

From: Hettmansperger, Scott [mailto:HettmanspergerScott@firestonebp.com]  
Sent: Friday, November 02, 2007 7:35 AM  
To: Devitt, Larry  
Subject: RE: White pipe boot

...  
... to run ... tions with logo will there be a price break and if so what is it?

Scott Hettmansperger  
Purchasing Manager- TPO Raw Materials and Accessories  
Firestone Products, LLC  
310 E. 46th Street  
Indianapolis, IN 46240  
PH# 317-575-7050  
Fax# 317-816-3838

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From: Devitt, Larry [mailto:Larry.Devitt@hartcool.com]  
Sent: Thursday, November 01, 2007 5:14 PM  
To: Hettmansperger, Scott  
Cc: Kolwara, Joe  
Subject: RE: White pipe boot

11/2/2007

Attached is your cost for the Taped White EPDM Pipe Boots. Please note that we have two "concerns".

1. The purchase spec differs from our published test results for white EPDM (copy attached). If Joe has tested one of the samples that I sent and it conforms to the purchase spec requirements, then the "concern" disappears.
2. Based on the small quantities of White Boots currently anticipated, the costs are based on "NO LOGO" boots (Firestone label and packaging, of course). If the white EPDM system sees increased volume, we will be able to mold with the BFD/EPDM logo as requested. Logoed boots would require orders of at least 1000 boots (boxes).

Please call if you have any questions. Thank you for the opportunity.

Larry

From: Hettmansperger, Scott [mailto:HettmanspergerScott@firestonebp.com]

Sent: Tuesday, October 30, 2007 7:53 AM

To: Devitt, Larry

Cc: Kaiwara, Joe

Subject: White pipe boot

Larry,

Specification for white pipe boot is attached. Please review. Also, will need a quote based on a volume of approximately 1000 boots.

Regards,

Scott Hettmansperger

Purchasing Manager- TPO Raw Materials and Accessories

Firestone Industrial Products, LLC

310 E. 96th Street

Indianapolis, IN 46240

FH# 317-575-7050

Fax# 317-316-3838

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Portals Plus, Inc. 639 N. Thomas Drive, Bensenville, IL 60106  
TEL: 630-766-5240 FAX: 630-596-7868



May 1, 2003

Mr. Paul Oliveira  
Firestone Building Products  
525 Congressional Blvd.  
Carmel, IN 46032

Dear Paul:

As per your request enclosed please find a distributor binder. If you have any questions please do not hesitate to call.

Sincerely,

*Ronald W. Resch*  
Ronald W. Resch  
Portals Plus, Inc.

Row

As SEND me samples of -

- Small pipe BOOT - EPDM
- Large pipe BOOT - EPDM
- OUTSIDE CORNER - EPDM
- INSIDE CORNER - EPDM

*TRM*  
*Paul*

Exh A

11.12.08

E 1/11/2010

