

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

_____)	
ALCOA INC. AND ALCOA ENERGY)	
SERVICES, INC.,)	
)	
Plaintiffs,)	Civil Action File No. 3:07CV0274
)	
)	Judge Walter Herbert Rice
vs.)	Judge Michael R. Merz
)	
DELTA (SPRINGBOK) FRANCE, S.A.,)	
et al.,)	
)	
Defendants.)	
_____)	

**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE
PURSUANT TO THE HAGUE CONVENTION ON THE TAKING
OF EVIDENCE ABROAD IN CIVIL OR COMMERCIAL MATTERS**

TO THE APPROPRIATE AUTHORITY IN FRANCE:

WHEREAS, the above referenced civil action is pending in the United States District Court for the Southern District of Ohio, in which your assistance is required to compel Le Joint Francais, SNC (“Le Joint”), a resident of France, to produce certain documentary evidence as herein specifically described;

WHEREAS, issues of fact necessary for the resolution of the above action include, inter alia, matters within the peculiar possession of Le Joint;

WHEREAS, it has been established by the Requesting Court that justice cannot be done among the parties to the above action without the production of certain documents in Le Joint's possession;

WHEREAS, the terms and conditions of the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (the "Convention") were ratified by the United States of America and France and both contracting states have maintained and continue to maintain in effect the terms and conditions set forth therein; and

WHEREAS, upon ratification of the Convention and the common law principles of comity, the Requesting Court declares that it shall be ready and willing to provide reciprocal services in similar cases in accordance with the terms and conditions of the Convention;

NOW, THEREFORE, the Requesting Court requests of the Ministry of Justice that, in the interests of justice and for the purpose of obtaining evidence in a judicial proceeding now being litigated in the Requesting Court, the Requesting Court causes by your proper and usual process and pursuant to Article 10 and all other terms and conditions of the Convention, that Le Joint be compelled to produce for copying and inspection certain documents as specified herein;

The Requesting Court specifies, with respect to its request and pursuant to Article 3 of the Convention, the following:

1. Sender

Rita Davis, Esq., Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074, Telephone (804) 788-8261, Fax (804) 788-8218.

2. Central Authority of the Requested State

This Letter of Request is addressed to the French Central Authority, the Ministère de la Justice, Service Civil de L'Entraide Judiciaire Internationale, 13, Place Vendôme, 75042 Paris Cedex 01, France.

3. Person to Whom the Executed Request is to be Returned

Rita Davis, Esq., Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074, Telephone (804) 788-8261, Fax (804) 788-8218.

In conformity with Article 3 of the Convention, the undersigned applicant has the honor to submit the following requests:

4. (a) Requesting Judicial Authority. United States Magistrate Judge Michael R. Merz of the United States District Court for the Southern District of Ohio, Western Division at Dayton, Federal Building, Room 712, 200 West Second Street, Dayton, Ohio 45402, USA.

(b) To the Competent Authority of France: This Letter of Request is addressed to the French Central Authority, the Ministere de la Justice, Service Civil de L'Entraide Judiciaire Internationale, 13, Place Vendome, 75042 Paris Cedex 01, France.

5. Names and Addresses of the Parties and Their Representatives

(a) Plaintiffs are Alcoa Inc. and Alcoa Energy Services, Inc., 201 Isabella Street, Pittsburgh, PA 15212, USA.

(i) Plaintiffs' Representatives are:

Christopher W. Carrigg, Esq. (0023947)
FREUND, FREEZE, & ARNOLD
Suite 1800
One Dayton Centre
1 South Main Street
Dayton, OH 45402-2017
Telephone: (937) 222-2424
Facsimile: (937) 222-5369

Cassandra C. Collins, Esq.
Rita Davis, Esq.
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074
Telephone: (804) 788-8261
Facsimile: (804) 788-8218

(b) Defendants are Delta France (Springbok), S.A., Delta U.S. (Springbok), LLC, and Delta Electrical & Engineering Holdings B.V.

(i) Defendants' Representatives are:

James L. Thieman, Esq.
Faulkner, Garmhausen Keister & Shenk
Courtview Center, Suite 300
100 South Main Ave.
Sidney, OH 45365-2727

Burleigh L. Singleton, Esq.
Andrew C. Brandon, Esq.
Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309-4530

6. Nature and Purposes of Proceedings and Summary of Facts

Alcoa Inc. and Alcoa Energy Services, Inc. (collectively, "Alcoa") filed their Second Amended Complaint in the United States District Court for the Southern District of Ohio against Delta France (Springbok) S.A., f/k/a Sourdillon S.A., f/k/a Sourdillon Air Index, Delta U.S. (Springbok), LLC, f/k/a Sourdillon LLC, Sourdillon Inc., and Delta Electrical & Engineering Holdings, B.V., (collectively, "Sourdillon"). In the lawsuit, Alcoa seeks indemnification for costs it incurred regarding defective gas combination control valves produced by Sourdillon (the "Valves"). Alcoa incorporated the Valves into refrigerators manufactured prior to 1997. In 1997, Alcoa sold the refrigerator manufacturing business to N.A. Acquisition Corporation, the Thetford Corporation, Dyson Kisner Moran and others ("Norcold") pursuant to the 1997 Agreement of Purchase and Sale.

In 2002, Norcold determined that cracking in nitrile rubber seals used in the Valves rendered various pre-1997 Norcold refrigerator models unsafe. Norcold instituted and currently administers a recall of the refrigerator models that contain the Valves and the defective seals (the "Recall"). Sourdillon purchased the defective seals from Le Joint. Alcoa seeks to recover costs it incurred in the Recall from the Defendants. The matter is now in discovery.

7. Evidence to be Obtained and Judicial Act to be Performed

(a) Limited Documentary Evidence. In accordance with the August 19, 1986 Letter from the Minister of Justice to the Minister of Foreign Affairs, which states that France will not object to the execution of letters of request seeking the production of documents, provided that the requested documents are enumerated in the letter of request and have a clear nexus with the subject matter of the litigation, Alcoa requests that the following particular documents, appearing to be and likely to be in possession, custody or power of Le Joint be produced for inspection and copying by the respective parties' counsel.

1. All correspondence with Delta France (Springbok), S.A. formerly known as Sourdillon Inc., formerly known as Sourdillon Air Index, as well as any of their officers, employees, or agents between January 1, 1986 and December 31, 1997 (the "Relevant Period") relating to any instructions, specifications, or requirements for the nitrile rubber seals manufactured by Le Joint and sold to Sourdillon (the "Seals") for inclusion in the Model 51126F2720 gas control valve (the "Valves"), including, any correspondence relating to the temperature, altitude, and other environmental conditions in which the Seals would be used.
2. All diagrams, schematic drawings, or other like documents for the Valves during the Relevant Period.
3. All diagrams, schematic drawings, or other like documents for the Seals during the Relevant Period.
4. All product specifications or descriptions regarding the Valves during the Relevant Period.
5. All product specifications or descriptions regarding the Seals during the Relevant Period.
6. All correspondence with Sourdillon regarding any complaints or defects in the Seals.
7. All reports, memoranda, and other documents that relate to testing of the Seals for cracking, ozone exposure or ozone attack.
8. All documents regarding any complaints, defects or deficiencies relating to cracking in the Seals.
9. All documents regarding the recipe or chemical composition of the nitrile rubber used in the Seals, specifically any documents relating to the use of an antiozonant or plasticizers in the manufacture of the Seals.

All of the requested documents are relevant to demonstrating any defects in the manufacture or chemical composition of the rubber seals manufactured by Le Joint and sold to Sourdillon to be used in the production of the Valves. These documents will probably be used at trial.

8. Special Methods Or Procedure

We request that the documents and materials herein requested be produced for inspection and copying on August 31, 2009.

9. Request for Notification of the Time and Place of the Execution of the Request and Identity and Address of Any Person to be Notified

The Sender hereby requests that the representatives of the Plaintiffs to the action be notified of the time and place of the Execution of this Request.

10. Specification of the Privilege or Duty to Refuse to Give Evidence Under the Law of the State of Origin

Le Joint may refuse to give evidence in so far as it has a privilege or a duty to refuse to give evidence under the law of France and/or the law of the United States of America.

11. The Fees and Costs Incurred by the Registrar and such other Reasonable and Lawful Fees Under the Convention Shall be Paid by

Alcoa Inc.
c/o Rita Davis, Esq.
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074
Telephone: (804) 788-8261
Facsimile: (804) 788-8218

12. Date of Request

²²
July 21, 2009

13. Signature and Seal of Requesting Authority



Michael R. Merz
United States Magistrate Judge