STATE OF MINNESOTA
DISTRICT COURT
COUNTY OF RAMSEY
SECOND JUDICIAL DISTRICT

THE STATE OF MINNESOTA BY HUBERT H. HUMPHREY, III, ITS ATTORNEY GENERAL, and BLUE CROSS AND BLUE SHIELD OF MINNESOTA,
Plaintiffs,

v.

PHILIP MORRIS INCORPORATED, R.J. REYNOLDS TOBACCO COMPANY, BROWN & WILLIAMSON TOBACCO CORPORATION, B.A.T. INDUSTRIES, P.L.C., LORILLARD TOBACCO COMPANY, THE AMERICAN TOBACCO COMPANY, LIGGETT GROUP, INC., THE COUNCIL FOR TOBACCO RESEARCH - U.S.A., INC., and THE TOBACCO INSTITUTE,
Defendants.

File #C1-94-8565

July 17, 1995

ORDER

Fitzpatrick, Kenneth J.

The above matter came on for a regularly scheduled general status conference before the Honorable Kenneth J. Fitzpatrick on July 11, 1995, pursuant to the Case Management (Order dated March 29, 1995. Michael V. Ciresi, Esq., appeared and argued on behalf of Plaintiffs. Allen M. Katz, Esq., appeared and argued on behalf of Defendants Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corporation, Lorillard Tobacco Company, The American Tobacco Company, Liggett Group, Inc., The Council For Tobacco Research - U.S.A., Inc., and The Tobacco Institute. Additional counsel also appeared, but did not argue, on behalf of the parties.

Based on the file, arguments, and representations of counsel

IT IS HEREBY ORDERED:

1. Pursuant to agreement of Plaintiffs and B.A.T. Industries, p.l.c., the time limits for jurisdictional discovery relating to the Motion of B.A.T. Industries, p.l.c., to Dismiss shall be tolled beginning June 21, 1995.

2. *Special Master*. Plaintiffs' request for a Special Master is DENIED at this time. The court cautions the parties, however, that it may at any time, on its own motion, decide to appoint a Referee pursuant to Minn. R. Civ. P. 53, particularly if despite the court's admonishment the parties persist in bringing matters of a minute nature before the court.

3. *Document Depositories*.

A. One depository located within thirty (30) miles of the Minneapolis/St. Paul International Airport shall be established for timely and efficient control and management of discovery in this action. All documents produced by any party to this action shall be deposited therein. Within thirty (30) days of this order, the parties shall inform the court of their chosen site, along with mutually agreed upon vendors of security, maintenance, copying, imaging, and administrative/staff support.

B. The depository shall be open for inspection of documents from 8 a.m. to 8 p.m., Monday through Friday, at the request of any party on written notice of five business days, unless the parties agree or the Court orders expanded or reduced hours. Each person entering the warehouse shall be required to identify himself or herself, by law firm and party represented, and sign in on a registration log.

C. All parties with access to the depository shall be allowed to view the entire depository at any time during which the depository is open and to select any box or group of boxes for immediate review. The depository staff mutually selected by the parties or appointed by the Court shall have the sole authority to physically remove the requested boxes from the depository shelves for viewing by an authorized party and to replace the requested boxes back on the depository shelves after viewing by the authorized party.

D. The cost of placing documents requested for production into the depository shall be borne by the party producing the documents. The administrative costs and expenses of operating the depository shall be allocated among the parties on a pro-rata basis determined by use of the facility.

E. The cost of copying or imaging selected documents from the depository shall

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be borne by the party requesting the copying or imaging of the selected documents. The party selecting the documents shall choose the method of copying or imaging. The copying or imaging shall be performed by the vendor(s) selected by the parties or appointed by the court. All documents duplicated or imaged for the requesting party shall be copied or imaged off of the actual documents in the depository and not from documents maintained at a different location, absent agreement of the parties or order of the Court.

F. Regardless of the manner of copying or imaging, the producing party shall be entitled to receive a record of which documents have been copied or imaged by the requesting party, or a duplicate set of the copies shall be provided to the producing party upon its request and at its expense.

G. Regardless of the manner of copying or imaging, a requesting party shall have the right to designate a reasonable number of documents each day for immediate copying and delivery. At the election of the producing party, this may be accomplished either by providing a convenience copier in the depository for use by the requesting party, or if copying is to be performed off-site, by making appropriate arrangements for the delivery of the requested documents by air courier or hand delivery within one business day.

H. All documents in the depository shall be Bates numbered in accordance with the Case Management Order and shall be placed in numbered boxes. Each box shall be labeled with a box number and the beginning and ending of Bates numbers of documents contained therein, with the labels clearly visible for viewing by walk-by inspection. In addition, the party operating the depository shall maintain a list in each box of each and every document contained within each box, as well as a master list maintained in the depository and distributed to all other parities of each and every document in each box. Such lists shall be updated as necessary.

I. The producing party shall notify all other parties in writing within 48 hours of the placement of documents in the depository. The identification of documents in such notice shall include the Bates numbers of the documents, the box numbers, and the document requests to which the documents are responsive (in accordance with the Case Management Order).

J. The staff operating the depository shall maintain a written guide to the location of documents in the depository, for example, a guide to the location of documents by box and Bates numbers.

K. The staff operating the depository shall maintain at the depository copies of all privilege logs and written document responses from a party in this litigation.

L. Once placed in the depository, documents shall not be removed from the depository, renumbered, reboxed, or moved to a different location of the depository, absent agreement of the parties or order of the Court; provided, however, that:

(i) Documents may be removed from the depository for the purpose of making copies or images as requested by the reviewing party;

(ii) Documents may be reboxed or moved to a different location of the depository in order to keep documents in sequential Bates-numbered order as new documents are placed in the depository; however, any reboxing or moving done pursuant to this subparagraph shall be accompanied by immediate (48 hours) and explicit notice to all other parties of new Bates numbers, new box numbers, and new locations. Where it is more convenient to do so, in lieu of reboxing to keep documents in sequential order, a party may place later-produced documents in a box supplemental to the original box. For example, if box 1 has a Bates-number range of 100 to 500 and later produced documents belong in that box, these documents may be placed in box 1A and placed next to box 1.

M. The depository shall have at least one telephone and one dedicated line for computers.

N. Computer versions of documents shall not be transmitted from the depository itself. The receiving party shall have the right, for any depository document for which it has received a copy pursuant to this order, to transmit the document via computer from any other location to any person authorized to receive the document.

O. The depository shall be reasonably heated and air conditioned and have restroom facilities on site.

P. The depository shall be

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equipped with tables and chairs to serve as a work space for persons reviewing documents. This work space shall be contiguous with (under the same roof as) the storage area for documents.

4. *Document Indexes*.

A. *Existing Indexes:* To the extent that any party has previously prepared or produced any index of documents relative to the subject matter of this action, said party shall immediately produce such existing index to the opposing party; provided, however, that if the producing party claims an existing index contains subjective information protected by the attorney-client or work product privileges, it shall submit such index to the court for *in camera* inspection and determination.

B. *Indexing Upon Production*. All parties shall, in conformance with the Case Management Order and this order, provide an index to the documents produced in discovery. Said index shall be provided along with the documents produced. Each such index shall contain at least the following standard information with respect to each document produced:

(i) Author(s) of document;

(ii) Recipient(s) of document, including those receiving copies;

(iii) Date of document;

(iv) Type of document (e.g., memo, letter, news release, pamphlet, etc.);

(v) Title of document (e.g., title, subject, or "re" line, etc.); and

(vi) Bates identification number.

5. *Computer-Assisted Litigation Management Technology*. The parties shall within ten (10) days of this order inform the court of their progress with respect to choice of computer-assisted litigation management technology, such as CLAD. Absent the parties' agreement, the court shall determine this matter for efficient management of this action.

Kenneth J. Fitzpatrick
CHIEF JUDGE

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