

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

THE UNIVERSITY OF ILLINOIS FOUNDATION,)

Plaintiff and)
Counterclaim Defendant,)

v.)

BLONDER-TONGUE LABORATORIES, INC.,)

Defendant and)
Counterclaimant,)

v.)

JFD ELECTRONICS CORPORATION,)

Counterclaim Defendant.)

CIVIL ACTION NO.

66 C 567

ANSWERS OF PLAINTIFF TO INTERROGATORIES OF
DEFENDANT BLONDER-TONGUE LABORATORIES, INC.
FILED FEBRUARY 16, 1967

These interrogatories concern matters in which plaintiff, The University of Illinois Foundation, was never involved and played no part, and about which plaintiff has no first-hand knowledge. The only information plaintiff has concerning these matters is that recently obtained through the testimony of certain employees of the University of Illinois in connection with other pending litigation in which plaintiff is involved. The following answers are therefore based on information which is true to the best of plaintiff's knowledge and belief, but which may be incomplete.

Interrogatory No. 1

Was there a preliminary draft of Quarterly Report No. 2?

Interrogatory No. 2

If the answer to question 1 is yes, how many preliminary drafts were prepared?

Answer

Plaintiff has no specific information concerning preliminary drafts of Quarterly Engineering Report No. 2 and can therefore answer only in terms of the usual procedure involved in preparing reports of this type. The practice at the time Quarterly Engineering Report No. 2 was prepared was to have each individual involved in the research work prepare the section of the report concerning his own activities. These individual reports were combined into a draft of the final report which, after minor editing, was used to make the reproduction copies. Only one such draft was usually made.

Interrogatory No. 3

With respect to each preliminary draft:

- (a) How many copies were made?
- (b) Are copies still in existence?

- (c) Will they be made available for copying by defendant?
- (d) Did the draft include a section corresponding with Section 2 of the printed report, entitled "Log-Periodic Antenna Structures"?
- (e) If the answer to (d) is yes, did such Section include a description and sketch of the log-periodic antenna?
- (f) If the entire draft is not available for copying, is the section on "Log-Periodic Antenna Structure" available?
- (g) By whom was the log-periodic antenna section of each draft prepared?
- (h) By whom was the log-periodic antenna section of each draft reviewed?

Answer

- (a) Usually only one.
- (b) and (c) Defendant does not know if any copies of such preliminary drafts are now in existence. Any such copies would be in the files of the University of Illinois and are not under plaintiff's control.

- (d) and (e) Defendant presumes that any preliminary draft included a description and sketch of the log-periodic antenna similar to that appearing in the issued Report, but has no actual knowledge thereof
- (f) Defendant does not know if any portion of a preliminary draft is still in existence.
- (g) The usual practice was to have each worker prepare the section of the report covering his work. In accordance with this practice, plaintiff presumes that Dwight Isbell prepared the section on log-periodic antennas which appeared in Quarterly Engineering Report No. 2.
- (h) Engineering Reports were customarily reviewed by G. A. Deschamps or P. E. Mayes. Plaintiff does not know specifically who reviewed Quarterly Engineering Report No. 2.

Interrogatory No. 4

- (a) Was a copy of any draft of the report containing a section on log-periodic antennas sent outside the University?

- (b) If the answer to question 4(a) is yes, which draft or drafts?
- (c) When were such copies sent?
- (d) Identify each recipient of such copy by name, title and address.

Answer

- (a) No, to the best of plaintiff's knowledge.
- (b), (c) and (d) No answer necessary

Interrogatory No. 5

When was the final text of the report completed?

Answer

The date when the final text of Quarterly Engineering Report No. 2 was completed is not known with certainty. Such completion probably occurred during the latter part of April, 1959.

Interrogatory No. 6

How many copies, other than the master copy, of the final text were made?

Answer

Plaintiff believes that the final text was typed directly on Multilith master sheets from which the reproduc-

tion copies were made and that these master sheets constituted the only copy of the final text.

Interrogatory No. 7

Who read and approved the final text before reproduction?

Answer

Plaintiff has no specific information on this point. The usual practice was to have each individual proof-read and approve the section of the master copy which he wrote.

Interrogatory No. 8

What was done with each copy of the final text, other than the copies reproduced for distribution?

Answer

Plaintiff believes the only copy of the final text (other than reproduced copies) was the set of Multilith masters used in the reproduction, and does not know what was done with these masters after the reproduction copies were made.

Interrogatory No. 9

(a) Was a copy of the final text, other than a

reproduced copy, sent anyone outside the University?

- (b) If the answer to part (a) is yes, when was such copy sent?
- (c) Identify the recipient by name, address and title.

Answer

- (a) Other than the master copy of the final text which was sent to the printer, no other copies were sent outside the University.
- (b) and (c) No answer needed.

Interrogatory No. 10

- (a) Does the Antenna Section of the Electrical Engineering Research Laboratory have a library?
- (b) Does the Antenna Section of the Electrical Engineering Research Laboratory maintain a collection of materials, written or otherwise, relating to antennas?
- (c) If the answer to either question 10(a) or 10(b) is yes, does such library or collection include copies of reports prepared by the Antenna Section?

- (d) Is such library or collection available to:
- (1) Members of the public?
 - (2) Students at the University?
 - (3) Representatives of organizations sponsoring research by the University?
 - (4) Representatives of organizations on the distribution list for reports on sponsored research?
 - (5) Representatives of organizations named in the distribution list for Quarterly Report No. 2?
- (e) When a report of the Antenna Section is prepared in final text form and before it is reproduced, is it available in such library or collection?
- (f) When a report of the Antenna Section is prepared in preliminary draft form, and before the final text is reproduced, is it available in such library or collection?

Answer

- (a) No.
- (b) Yes.
- (c) Yes.

(d) (1) A categorical answer to this question cannot be given since plaintiff believes that no request for access was ever made by a member of the public and no policy with respect thereto was ever established.

(2) Yes.

(3) Yes.

(4) Yes.

(5) Yes.

(e) No.

(f) No.

Interrogatory No. 11

Is a research report of the Antenna Section in preliminary draft or final text form, prior to reproduction, available to:

- (a) Representatives of organizations sponsoring the research to which the report relates?
- (b) Representatives of organizations on the distribution list for reports on sponsored research?

Answer

- (a) No categorical answer to this question can

be given. With respect to some sponsored research reports, the research contract specifies that final text of reports be sent to the sponsor for approval before reproduction. No such provision, however, existed in the contract under which Quarterly Engineering Report No. 2 was issued. The contract covering Quarterly Engineering Report No. 2 provided only that such reports be prepared. There was no obligation on the part of the Antenna Laboratory to provide access to the final text of such reports to the sponsoring agency prior to reproduction.

(b) No.

Interrogatory No. 12

Was a copy (preliminary draft or final text) of Quarterly Report No. 2 available for inspection at the Antenna Section Laboratory office, or at any other location, in the period between March 31, 1956, the date the Report was signed, and the date reproductions were mailed, to any of the following:

(a) Representatives of all parties named in the distribution list for the report?

- (b) Representatives of any parties named in the distribution list for the Report?
- (c) Faculty of the University of Illinois?
- (d) Students enrolled at the University of Illinois?
- (e) Any other interested member of the public?

Answer

No answer to this interrogatory, other than a speculative one, can be given. As noted above in the answer to Interrogatory 11(a), there was no obligation on the part of the Antenna Laboratory to permit inspection of Quarterly Engineering Report No. 2 by anyone prior to reproduction. There is no evidence that anyone other than those immediately involved in the preparation of the report, ever asked to inspect this report and consequently, there was no established policy. If a speculative answer is desired, it would be "No" to sections (a) through (e) of the interrogatory on the ground that none of the persons in these categories had any right to inspect work in progress and not yet ready for distribution.

Interrogatory No. 13

If the answer to any part of question 12 is no, state what rule of the Antenna Laboratory or of the Univer-

sity deny such availability and either quote or make available for copying such rule.

Answer

Plaintiff does not know if any rule of the Antenna Laboratory or of the University is applicable to the instant situation.

Interrogatory No. 14

Do any of the following maintain a library or other collection in which engineering reports of the Antenna Section are available:

- (a) Electrical Engineering Research Laboratory?
- (b) Engineering Experiment Station?
- (c) Electrical Engineering Department?
- (d) College of Engineering?
- (e) University of Illinois?

Answer

- (a) Yes, the Electrical Engineering Research Laboratory maintains a reading room rather than a library.
- (b) No.
- (c) Yes. This is the same facility as that referred to in sub-section (a), above.

- (d) and (e) The library of the College of Engineering is a branch of the main University library. Reports are normally received by the main library and then sent to the library of the College of Engineering. Reports maintained by the library of the College of Engineering are not usually also held in the University library.

Interrogatory No. 15

If the answer to any part of question 14 is yes, answer the following questions for each body which has such a library:

- (a) Is a copy of reproduced Quarterly Engineering Report No. 2 (under the above identified contract) in the collection?
- (b) If the answer to 14(a) is yes, when was each such copy received?
- (c) Was a copy of a preliminary draft or the final text of Quarterly Engineering Report No. 2 available in the library before the report was reproduced?
- (d) Were copies of the preliminary draft or the final text of Quarterly Engineering Report No.

2 available to the library on request before the report was reproduced?

Answer

Electrical Engineering Department Reading Room

- (a) No. A copy of this report should normally have been included in the collection. Such copy, if there ever was one, has apparently been misplaced, since it cannot now be found in the reading room.
- (b) Plaintiff does not know if or when such copy was received.
- (c) No.
- (d) No.

Library of the College of Engineering and Main Library of the University of Illinois.

- (a) Yes. Two copies of Quarterly Engineering Report No. 2 were found in the College of Engineering Library which apparently had been forwarded from the main University library.
- (b) Copy 1 of Quarterly Engineering Report No. 2 has on its face a stamp indicating that it was received by the library of the University

of Illinois during July, 1959. The specific date is illegible. Copy 2 bears on its face two stamps dated November 2, 1959 and December 4, 1959, indicating receipt by the University library. Plaintiff has no information as to when the library of the College of Engineering received these copies, but assumes that such receipt occurred after the dates when these copies were received by the main University library.

(c) No.

(d) No.

Interrogatory No. 16

With regard to the reproduced copies of Quarterly Engineering Report No. 2 (under the above identified contract):

- (a) Were copies sent to all of the individuals and organizations identified on the distribution list?
- (b) Were all the copies sent by United States mail?
- (c) If the answer to question 16(b) is no, state what other means of distribution was used.

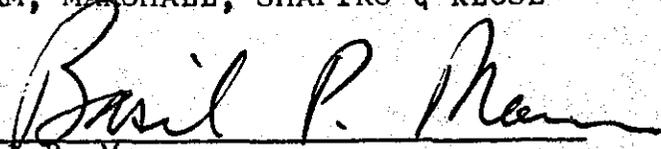
- (d) Were all the copies of the report sent at the same time?
- (e) If the answer to question 16(d) is no, state when and to whom copies were distributed.
- (f) Was each copy of the report accompanied by the cover letter dated April 27, 1959?
- (g) If the answer to question 16(f) is no, what went with those copies of the report not accompanied by such letter?

Answer

- (a) Yes.
- (b) Yes.
- (c) No answer needed.
- (d) Yes.
- (e) No answer needed.
- (f) Yes.
- (g) No answer needed.

MERRIAM, MARSHALL, SHAPIRO & KLOSE

By


Basil P. Mann
One of the Attorneys for Plaintiff
University of Illinois Foundation
30 West Monroe Street
Chicago, Illinois 60603
Area Code 312 - 346-5750

STATE OF ILLINOIS)
COUNTY OF COOK) SS.

BASIL P. MANN, being duly sworn, on oath, deposes and says that he is one of the attorneys for Plaintiff, University of Illinois Foundation and is authorized to execute the above answers to Interrogatories on its behalf; that he has read the foregoing Interrogatories and answers thereto; and that the same are true and correct to the best of his information and belief.

By:

Basil P. Mann
Basil P. Mann

Subscribed and sworn to before me this 28th day of February, 1967.

Dorothy Schuit
Notary Public

My Commission Expires: Nov. 21, 1970

CERTIFICATE OF SERVICE

A copy of the foregoing "ANSWERS OF PLAINTIFF TO INTERROGATORIES OF DEFENDANT BLONDER-TONGUE LABORATORIES, INC. FILED FEBRUARY 16, 1967" was forwarded by first-class, United States mail, postage prepaid, this 28th day of February, 1967, to the following:

Hofgren, Brady, Wegner,
Allen, Stellman & McCord
Suite 2200
20 North Wacker Drive
Chicago, Illinois 60606

and

Silverman & Cass
Suite 1900
105 West Adams Street
Chicago, Illinois 60603

Basil P. Mann