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MAR 29 1983

IN THE UNITED STATES DISTRICT COURT R. B. SPERLING  
FOR THE DISTRICT OF OREGON

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4 TERI SEE and DARREL SEE,  
5 wife and husband, )  
6 Plaintiffs, )  
7 vs. )  
8 REMINGTON ARMS COMPANY, INC., )  
9 a Delaware corporation, )  
10 Defendant. )  
-----

Civil No. 81-886

11  
12 TELEPHONE DEPOSITION OF PAUL HOLMBERG

13 Taken in Behalf of Plaintiffs

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15  
16 BE IT REMEMBERED that, pursuant to court order  
17 and oral stipulation hereinafter set forth, the telephone  
18 deposition of PAUL HOLMBERG, was taken in behalf of the  
19 Plaintiffs, before Theresa Gach, a Notary Public for  
20 Oregon, on Friday, September 3, 1982, beginning at 11:00 a.m.  
21 in the law offices of Bodyfelt, Mount, Stroup & Chamberlain,  
22 214 Mohawk Building, Portland, Oregon.  
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APPEARANCES:

Ms. Peter R. Chamberlain, of attorneys, appearing in  
behalf of the Plaintiffs;

Mr. James D. Huegli and Mr. Robert Sperling, of attorneys,  
appearing in behalf of the Defendant.

COMPUTER ASSISTED TRANSCRIPTION

-BY-

GEESMAN & ASSOCIATES

310 S. W. 4TH, Suite 512

Portland, Oregon 97204

(503) 222-3222

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STIPULATION

(At said time and place the following stipulation was entered into between the attorneys present in behalf of the respective parties:)

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys of record, that the deposition of PAUL HOLMBERG may be taken in behalf of the Plaintiffs, on Friday, September 3, 1982, at the time and place set forth in the caption hereof, before Theresa Gach, a Notary Public for Oregon, and in stenotype by the said Theresa Gach.

It is further stipulated that the deposition when fully transcribed, may be used in the trial of the above-entitled action as by the law and the Rules of Civil Procedure for District Courts of the United States provided; that all questions as to the notice of the time and place of taking the same are waived; and that all objections as to the form of questions are waived unless objected to at the time the questions are asked, but that all objections as to materiality, relevancy and competency of the questions and answers are reserved to the parties until the time of trial.

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PAUL HOLMBERG

was thereupon produced as a witness in behalf of the Plaintiffs and, having been first duly sworn on oath, was examined and testified as follows:

EXAMINATION

(BY MR. CHAMBERLAIN):

Q. Mr. Holmberg, we've been introduced. My name is Peter Chamberlain, I'm an attorney for Mr. and Mrs. See who have brought a lawsuit in federal court which is pending in Portland, Oregon. The lawsuit is against Remington Arms Company and it's a lawsuit, as you probably know, that arises out of a gunshot wound that Mrs. See suffered back in 1979. You have Mr. Sperling with you there in the room at Remington Arms Company, the lawyer for Remington Arms, do you not?

A. Yes, I do.

Q. And have you had a chance to talk with either him or Mr. Huegli about what a deposition is so you know what we're doing today?

A. Yes.

Q. It's important to me and also to your company that you

1 understand my questions before you attempt to answer  
2 them, so if I garble my words or if we get a bad  
3 connection or if for any reason you don't understand  
4 what I'm asking you, please ask me to restate the  
5 question or to rephrase it or to clarify it. All  
6 right?

7 A. Okay. Fine.

8 Q. Have you ever had your deposition taken before?

9 A. I don't believe so. I was in -- can you hear me?

10 Q. Yes, that's just our phone acting up.

11 A. I was in a case once before and did give testimony, but  
12 it was in a law of court, it wasn't on the phone or, as  
13 far as I knew, it wasn't called a deposition.

14 Q. It was a situation where there was a judge present and  
15 all that?

16 A. Yes, that's right.

17 Q. Was that a case involving Remington Arms Company?

18 A. Yes, it was.

19 Q. Did that involve one of their rifles?

20 A. No, it did not.

21 Q. Was it an ammunition case?

22 A. Yes, it was.

23 Q. That's the only other time you've testified?

24 A. That's correct.

25 Q. Could you outline for me, briefly, your education

1 starting with graduation from high school?

2 A. I was graduated from high school, I also was graduated  
3 from college, St. Mary's College in Minnesota, and took  
4 further course work at the University of Delaware and  
5 was graduated there with a MBA degree.

6 Q. With an MBA?

7 A. Yes.

8 Q. What was your course of study in college?

9 A. Business administration all through.

10 Q. And since getting your MBA, have you taken any other  
11 course work whatsoever?

12 A. I've taken a variety of different courses, yes.

13 Q. Seminars and that sort of thing?

14 A. Yes, that's right.

15 Q. And have you had any training other than your  
16 on-the-job training with Remington Arms?

17 A. The only other training I have would have been through  
18 the United States Army.

19 Q. What's your age, by the way?

20 A. 39.

21 Q. How long have you worked for Remington Arms?

22 A. A little over 12 years.

23 Q. Could you trace for me, briefly, your employment  
24 history, starting again from graduation from high  
25 school?

1 A. From high school I was involved with employment only a  
2 part-time basis, in college, again, part-time only  
3 during the summers, that would also be true during  
4 graduate school and then, of course, three years with  
5 the United States Army and then directly with  
6 Remington.

7 Q. Did you go straight from high school and then college  
8 and then to your MBA program?

9 A. Yes.

10 Q. Straight from that to the Army?

11 A. Yes.

12 Q. So you finished with the Army at about age 27 or so?

13 A. Yes, whatever it turned out to be.

14 Q. Since you've been with Remington, what jobs -- job  
15 titles have you held there?

16 A. I don't think I can tell you the titles but I could  
17 certainly describe the jobs.

18 Q. That would be fine.

19 A. I started out as a trainee, from there I was involved  
20 or assigned in our advertising department, from there I  
21 was a field representative in Michigan, a field  
22 representative in Illinois, a market research analyst,  
23 I suppose, in Bridgeport, Connecticut, and then a  
24 regional manager in -- regional sales manager, from  
25 there I was transferred to Bridgeport again where I was

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product manager of firearms and I am still in that product area. My title now, I guess, is something like long range planning manager for firearms and ammunition.

Q. As a field representative, what did you do for Remington?

A. I guess you do almost everything, you represent the company in the sale of our products, you assess the distribution in the given territory and see what might be necessary to add or delete, for that matter, you establish a rapport with the various dealers in a given territory, you handle any sort of on the spot -- on location problems or otherwise that come up involving Remington Arms Company.

Q. Does a field rep do things such as go out to dealers and demonstrate new products or solicit business from the dealers? Is it partly sales?

A. Yes, it certainly is sales, and I would have to say that there is some of that, perhaps most of the time it's not that way, but when there is a new product or something, it's always best to have it on hand and demonstrate it and let people look at it, so I was involved in the demonstration of new products and things like that.

Q. At the time you were engaged in that employment, did

1 Remington break down the jobs such that certain field  
2 representatives had certain product lines and other  
3 field reps had other product lines or was it  
4 geographics?

5 A. It was by a geographic area, and I guess I would have  
6 to qualify that, that means it's for sporting firearms  
7 and ammunition. Remington has other products that a  
8 field rep does not handle.

9 Q. Military-type products you mean?

10 A. Well, not really military, but abrasive-type products  
11 or powder metal-type products. It's such divorced from  
12 our industry.

13 Q. How about when you were in the advertising department,  
14 there again are you concentrating on one or two  
15 products or do you cover the field?

16 A. In my assignment I really covered the vast gamut. I  
17 was involved with putting together programs that  
18 basically assisted the field representative in coming  
19 out with, you might say, a pitch or a presentation on  
20 new products and, you know, the attributes of them and  
21 why they should sell, et cetera.

22 Q. For instance, when I was back in Ilion and taking  
23 depositions, I was given a slick little magazine that  
24 showed a lot of Remington products. Would the  
25 advertising department be in charge of preparing that

- 1 kind of advertisement, if you will?
- 2 A. I quite honestly don't know what you saw, but I assume  
3 it probably was, but, you know, I would really have to  
4 see what you were looking at.
- 5 Q. When you were in market research -- I think you  
6 mentioned you went into that after are you were a field  
7 rep -- what did that job entail?
- 8 A. The job entailed what we commonly would call  
9 forecasting, it involves quite laborious tasks of  
10 quantitative arrangements forecasting different product  
11 segments, different time capsules, manually reviewing  
12 history and looking for trends and things like that.
- 13 Q. When you say "forecasting", you mean forecasting sales  
14 volume?
- 15 A. Yes, that's right. Sales meaning units.
- 16 Q. The number of guns you might sell in Georgia, say, or  
17 in ----
- 18 A. Yes, but it wouldn't be for Georgia alone or some other  
19 place, it would be, you know, for the domestic market  
20 or something like that.
- 21 Q. Did you do any actual market research as part of that  
22 job?
- 23 A. I did some market research.
- 24 Q. What is market research?
- 25 A. I beg your pardon?

- 1 Q. What is market research? What do you do?
- 2 A. Well, you try to find out something about the market,  
3 whatever you're particularly interested in.
- 4 Q. How do you go about finding that out?
- 5 A. Well, the first thing you do is to -- is to identify  
6 what you're trying to find out, what the objective is,  
7 and then you kind of set down how you might achieve  
8 that objective, what the various pathing might be, and  
9 go from there.
- 10 Q. Now, from market research analyst you went to regional  
11 sales manager. Is that just the natural stepping stone  
12 up the ladder or is that a different job altogether?
- 13 A. It's very much of a different job altogether.
- 14 Q. What did you do as regional sales manager?
- 15 A. In that position I was responsible for a group of  
16 territories, meaning four other field representatives,  
17 and I would have, you might say, overall responsibility  
18 for those given territories.
- 19 Q. And you would have a lot of salespeople below you, a  
20 lot of field reps?
- 21 A. Well, in this particular case I had four.
- 22 Q. What year did you discontinue being the regional sales  
23 manager?
- 24 A. Did I discontinue?
- 25 Q. Right.

1 A. I'm sorry. I didn't get the question.

2 Q. From what year to what year were you the regional sales  
3 manager?

4 A. I'm just trying to figure it out. I really don't have  
5 that kind of chronology in my mind. I would say 1978,  
6 1979. It was like a two-year period.

7 Q. From there you went to product manager for firearms?

8 A. Yes, that is correct.

9 Q. And we could say that was around 1979?

10 A. Yes, that's right.

11 Q. Could you describe in general the duties of that  
12 position?

13 A. In that position you're, of course, trying to determine  
14 what the market wants, at what sales volumes they would  
15 want it, the selling prices of products, the sales  
16 programs that might be necessary to, you might say,  
17 entice the trade to handling our products, trying to  
18 really interpret what the consumer is looking for, and  
19 then, of course, trying to get our folks in R and D  
20 production to make it and so we can sell it and do it  
21 at a profit.

22 Q. Again, then it's essentially a sales function, would  
23 you say?

24 A. Well -- no, I guess I wouldn't say it's a sales  
25 function.

1 Q. A marketing function?

2 A. Yes.

3 Q. Is that a better term?

4 A. Yes, it would certainly be a better term.

5 Q. In describing the various jobs you've held with

6 Remington, I think you said you're more or less still

7 in that job as a product manager, is that correct?

8 A. Yes. I'm basically in charge of both firearms and

9 ammunition now, whereas when I initially came in from

10 the field I was involved with firearms only.

11 Q. As a product manager for firearms, are you involved in

12 all firearms that Remington manufactures?

13 A. We're involved with most all.

14 Q. And is there more than one person with that particular

15 job function? Do you have other people that are

16 parallel to you or are you in charge of it and have

17 people below you?

18 A. There are -- depending on times, there has been as few

19 as, I guess, one and as many as two people involved in

20 that same function. When I was there, there were two,

21 myself and an assistant.

22 Q. But he was your assistant?

23 A. Yes.

24 Q. Does the marketing department get involved in various

25 aspects of the preparation of product literature?

- 1 A. Yes, it would.
- 2 Q. Would that include, say, the owners' manuals?
- 3 A. Yes, it would.
- 4 Q. How about the field service manuals?
- 5 A. It would to a minor degree. The field service manual  
6 is -- I would have to say a technical manual and, you  
7 know, I wouldn't have that technical expertise to judge  
8 in that thing. I could judge some of it but certainly  
9 not the technical aspects of it.
- 10 Q. So your role would be, what, more of an editor, final  
11 editing of that document?
- 12 A. No, it would be more of a -- I don't know, maybe almost  
13 like -- I look at it but only from the standpoint of  
14 perhaps broad perception or proper presentation, you  
15 know, is the picture of the firearm proper and is it  
16 titled appropriately and things like that, but not the  
17 detail on how to do a particular piece of repair work  
18 or something like that.
- 19 Q. Now, how about on an owner's manual, what's marketing's  
20 function there?
- 21 A. Marketing's function there, I would say, is much more  
22 involved because we're interfacing with the consumer  
23 and, as I said previously, we try to represent he or  
24 she and in this area we would, you know, be in a  
25 non-technical area and do our best in explaining how to

1 operate the particular firearm or whatever the function  
2 you're talking about in the instruction book.

3 Q. Does marketing write that book?

4 A. Marketing may participate but certainly they don't  
5 initiate.

6 Q. It's initiated by who, research and development?

7 A. Yes, that's right, it's a research and development  
8 responsibility, but it would come through us for, you  
9 know, whatever changes might be necessary.

10 Q. Have you personally been involved in the editing and  
11 recommending changes to the owner's manual?

12 A. Yes, I have.

13 Q. Off the top of your head, can you think of any changes  
14 that were made to that manual at your suggestion?

15 A. I really can't. I'm sure there were many, you know,  
16 whether it's grammatical or whatever.

17 Q. Is any record kept of those changes, the drafts that  
18 the document goes through before it's put into a final  
19 published form?

20 A. I don't know.

21 Q. In any event, you don't keep any?

22 A. I don't believe so.

23 Q. Can you think of any changes to the manual, to the  
24 owner manual, that you recommended that were not  
25 incorporated in the manual?

- 1 A. I don't recall anything like that.
- 2 Q. Are you familiar with what documents, what written  
3 material is put into the box when the rifle is  
4 manufactured and put on the market?
- 5 A. Yes, I am.
- 6 Q. What would go in the box besides the styrofoam and a  
7 gun?
- 8 A. In the box there would be an instruction book, there  
9 would be, I guess, a safety pamphlet, there currently  
10 is an owner's card to fill out about the various  
11 demographic information about the purchaser, and from  
12 time to time there may be other things in there, for  
13 example, a promotional piece or something like that,  
14 and depending on the product there may be another gear  
15 in there such as a three shot plug or a particular  
16 brush for cleaning the chamber or something like this.
- 17 Q. When you said "instruction book", is that the same  
18 thing as the owner's manual?
- 19 A. Yes, that's the same thing.
- 20 Q. And the safety pamphlet, do you know how long they've  
21 been putting that into the boxes?
- 22 A. I don't offhand, no.
- 23 Q. Do you know if there would be any record to show how  
24 long that had been the practice of Remington?
- 25 A. I would assume there is a record of that.

1 Q. And is that pamphlet that you're referring to one  
2 that's prepared by the sporting arms and ammunition  
3 manufacturers institute or whatever it's called, SAMI?  
4 A. Yes, that's right.  
5 Q. Do you know, has that changed over a time?  
6 A. It may have but I don't know.  
7 Q. I have one that was given to me while I was back in New  
8 York and it doesn't carry a date on it. Do you know  
9 how I would determine whether that has gone through any  
10 additions in the last five or six years?  
11 A. I don't know.  
12 Q. Does marketing get involved whenever there's a recall  
13 of a Remington arm?  
14 A. Yes.  
15 Q. How are you involved in that?  
16 A. How is marketing involved with that?  
17 Q. Yes.  
18 A. How is marketing involved with that?  
19 Q. Right, that's my question.  
20 A. Marketing would be involved, I would suppose, of trying  
21 to determine what product it was that is to be  
22 recalled, whatever it is, we would be asked to come up  
23 with the people to whom the product was shipped and  
24 when it was shipped and we would be asked to contact  
25 them and, in effect, recall the product.

- 1 Q. So marketing would have all the records of who bought  
2 how many and where they went and so forth?
- 3 A. Yes, that's right.
- 4 Q. I've noticed on the field service manuals that there's  
5 a loose-leaf three-ring binder-type document. Are  
6 there updates to those field service manuals that come  
7 out periodically that you ask your warranty people to  
8 insert into the manuals?
- 9 A. I'm sure that's the case, but I'm not, you know,  
10 completely versed on how it's handled. I've not dealt  
11 with them myself.
- 12 Q. And again that would be -- if there was an update on a  
13 manual, at least a field service manual, that probably  
14 wouldn't be initiated by marketing, is that true?
- 15 A. Yes, that's true.
- 16 Q. How about bulletins or little product updates, just  
17 informational pieces, are those put out from time to  
18 time by marketing?
- 19 A. We have periodically done different things like that.
- 20 Q. For various purposes or is it just a promotional ----
- 21 A. I guess I would say it's promotional, but for example,  
22 we have put out a dealer news letter and it's certainly  
23 promotional but it's informative also.
- 24 Q. For instance, if there is some change in a procedure as  
25 far as the repairing of a rifle, a change in the

.1 warranty procedure, you might put that information  
2 the news letter?  
3 A. No, I don't think anything like that has ever been  
4 done.  
5 Q. What's the news letter called?  
6 A. I couldn't tell you. It may be just called a Reming  
7 bulletin or Remington news letter.  
8 Q. You mentioned when you were talking about the variou  
9 functions of the firearms product manager that one o  
10 your functions was to determine what the market wants  
11 and to get research and development to make a -- to  
12 make that product. How do you determine what the  
13 market wants? What methods do you use?  
14 A. Well, I would have to say there's a certain degree of  
15 some might call it your own opinions, that's certainly  
16 one aspect of it, another might be a variety of field  
17 information, in other words, a representative might  
18 call on an account and the account may recommend that  
19 we make a Model 700 shotgun with two ivory beads or  
20 something or other, and we get a lot of product advice  
21 from the wholesalers or our dealers. We do have an  
22 awful lot of consumer contact in the normal course of  
23 business and we would also have direct consumer  
24 suggestions and things like that.  
25 Q. You mean consumers who would write in letters?

1 A. Yes, we certainly have had and do receive a variety of  
2 letters from consumers.

3 Q. And those might be about any number of things, I  
4 suppose.

5 A. Yes, they certainly could be.

6 Q. You're familiar with the change that was made to the  
7 Remington Model 700 effective in February of 1982?

8 A. Yes, I am?

9 Q. And that change involved what?

10 A. The change involved the bolt lock.

11 Q. They removed the bolt lock from the rifle?

12 A. That's correct.

13 Q. Were you involved in the decision-making process that  
14 led to that change?

15 A. Yes, I was.

16 Q. Describe your involvement, if you would, please.

17 A. Well, because of my position, I would certainly be  
18 involved with the other departments of the company in  
19 reviewing anything that effects the gun, and in this  
20 particular instance the bolt lock is something that  
21 actually hindered the use of the gun, and we felt that  
22 it would improve the handling and ease of the gun if we  
23 did not have it and we basically recommended that we  
24 remove this.

25 Q. When you say "we", who are you referring to?

1 A. Myself, but I'm also, you know, saying -- myself in  
2 conjunction with I'm sure representatives of production  
3 and R and D and other marketing people. ]  
4 Q. Did the recommendation to make that change come from  
5 you personally?  
6 A. I don't know if I could take credit for that. I would  
7 certainly say I was involved. Sometimes there's -- I  
8 don't know. I wouldn't say I was responsible  
9 personally but I was certainly jointly responsible and  
10 I certainly personally <sup>do</sup> recommend that it be removed.  
11 Q. Now, you said that the bolt lock hindered the use of  
12 the gun?  
13 A. Yes. ]  
14 Q. How did it hinder the use of the gun?  
15 A. Well, it made the gun a little less easy to use, let's  
16 put it that way. ]  
17 Q. How so?  
18 A. Involving what you have to do to raise the bolt. ]  
19 Q. To unload it? ]  
20 A. Yes. ]  
21 Q. And you said it improved the handling of the gun. How  
22 did it improve the handling? ]  
23 A. Well, maybe I should just use the word ease. It makes  
24 it easier. It makes is simpler. ]  
25 Q. It also makes it so you can unload the gun without ]

1 putting the safety into the fire position, doesn't it?

2 MR. HUEGLI: Object to the form of the  
3 question.

4 MR. CHAMBERLAIN: You may answer the  
5 question.

6 THE WITNESS: I missed all of that because of  
7 the comment.

8 (BY MR. CHAMBERLAIN):

9 Q. Does the change that was made on the bolt lock make the  
10 rifle such that it can be unloaded without moving the  
11 safety from the on safe position to the fire position?

12 A. Yes.

13 Q. Whereas before that change did you have to put the  
14 safety into the fire position to unload the gun?

15 A. Yes.

16 Q. Did safety enter into your decision to recommend the  
17 change?

18 A. No.

19 Q. It did not?

20 A. No.

21 Q. Did consumer desires enter into your decision to make  
22 the change?

23 A. I would say so.

24 Q. Where did you get this information about consumer  
25 desires?

1 A. Well, as I say, we kind of have a broad field for -- in  
2 trying to represent the consumers and it was felt that  
3 this was the case.

4 Q. Did you receive letters from consumers saying we don't  
5 like the bolt lock because it hinders the use of the  
6 gun or because it makes it difficult to handle the gun?

7 A. I guess I can't say no. Maybe we have had letters. I  
8 don't know that. I guess what I'm saying is that in a  
9 variety of forms we have had different and perhaps it's  
10 fair to say mixed feedback on bolt locks.

11 Q. Mixed feedback from whom?

12 A. Well, we have had some consumer research involving some  
13 of our firearms, and in trying to determine in this  
14 particular case, it happens to be a gun that we have  
15 not yet introduced, but some of the features of the gun  
16 was proposed and we did not find a very strong call for  
17 what you might call a bolt lock or bolt lock feature.

18 Q. What form did the consumer research take?

19 A. It was a study conducted for Remington.

20 Q. By whom?

21 A. I believe the name of the outfit is Gettinen Research.

22 Q. That's an organization independent of Remington Arms?

23 A. Yes, it is an independent company.

24 Q. And did they prepare a report telling you what the  
25 conclusions of their consumer research was?

1 A. I'm sorry. I didn't get your question.

2 Q. Did they prepare a report telling Remington what the  
3 conclusions were that they reached?

4 A. Yes, they did.

5 Q. A single report or is it a continuous flow of  
6 information or several letters or what?

7 A. I'm not sure offhand. It certainly is a document. It  
8 may have been piecemealed in or something but it would  
9 certainly be a total document.

10 Q. Is this document something that you have reviewed?

11 A. Yes, I have.

12 Q. And are you telling me that it in part is the  
13 motivation or the basis for your recommendation that  
14 the design of the 700 bolt lock be changed?

15 A. Yes. It was kind of -- as I say, this was a finding of  
16 a study. The study was not intended this way, the  
17 study was intended for determining product features of  
18 a new firearm.

19 Q. So the research wasn't done to decide whether or not  
20 you should change the design of the 700, it was done to  
21 decide how to design a new rifle?

22 A. Yes, that's correct.

23 Q. And I think you said that new rifle is not yet on the  
24 market?

25 A. Yes, that is correct.

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Q. Are you familiar with the change in the bolt lock on the model 788?

A. Yes, I am.

Q. Do you remember when that was done?

A. I don't remember, but I think it was five or six years ago or something like that.

Q. When that was done, were you involved in the decision to make that change?

A. No, I at the time was probably in field sales. I was a field rep, I guess.

Q. Do you know what the reason was for changing the bolt lock on the 788 was?

A. No, I don't know, no.

Q. Given the fact that the model 700 as redesigned by Remington can now be unloaded without putting the safety in the fire position, would you agree or disagree that the firearm is safer as redesigned?

MR. HUEGLI: Objection to the form of the question. That's based upon the assumption that it was unsafe at any given time with the previous design.

MR. CHAMBERLAIN: I'm just asking if it was safer.

MR. HUEGLI: I'm going to instruct the witness not to answer the question. That assumes he was going to say it was unsafe at the time. He can't

1 answer that question without stating it was an unsafe  
2 gun.

3 MR. CHAMBERLAIN: You're instructing him not  
4 to answer?

5 MR. HUEGLI: Yes.

6 (BY MR. CHAMBERLAIN):

7 Q. Mr. Holmberg, are you there?

8 A. Yes.

9 Q. Do you have an opinion as to whether or not it is safe  
10 or unsafe to unload a gun when the safety is in the  
11 fire position? Do you have an opinion?

12 A. I guess -- would you rephrase the question or just ----

13 Q. Yes. Do you have an opinion -- it's a yes or no  
14 question -- do you have an opinion as to whether or not  
15 it is safe or unsafe to unload a gun when it's -- when  
16 the safety on the gun is in the fire position?

17 MR. HUEGLI: Is the question taking into  
18 consideration that that's the only thing he is to  
19 consider?

20 MR. CHAMBERLAIN: Yes.

21 MR. HUEGLI: Is the safety itself?

22 MR. CHAMBERLAIN: Yes.

23 MR. HUEGLI: Do you have an opinion to that  
24 question?

25 THE WITNESS: I guess I would say yes.

1 (BY MR. CHAMBERLAIN):

2 Q. What is your opinion?

3 A. I would have to say it's preferable.

4 Q. Preferable -- which is preferable?

5 A. I'm sorry. I missed that.

6 Q. You said it's preferable. Which is preferable?

7 MR. HUEGLI: I'm going to object to the form  
8 of the question. I don't think it has anything that  
9 leads into it.

10 MR. CHAMBERLAIN: Jim, he said I think it's  
11 preferable. I don't understand his question.

12 (BY MR. CHAMBERLAIN):

13 Q. Can you explain your answer to me, Mr. Holmberg?

14 MR. HUEGLI: I think the question can be  
15 asked in a way that can be answered either by whether  
16 he thinks the design is safer now or safer before or  
17 whether the design has anything to do with the safety  
18 in his opinion.

19 MR. CHAMBERLAIN: I want him to answer the  
20 question as I phrased it.

21 THE WITNESS: Maybe you better repeat it  
22 again.

23 (BY MR. CHAMBERLAIN):

24 Q. I asked you whether you felt that a gun that had to be  
25 put in the fire position -- where the safety had to be)

1 put in the fire position was -- let's put it this way.  
2 Is it safer to unload a gun when the safety is in the  
3 fire position or is it safer to unload a gun when the  
4 safety is in the on safe position?

5 MR. HUEGLI: Object to the form of the  
6 question. He could have an option that it doesn't make  
7 any difference as to safety.

8 MR. CHAMBERLAIN: You can take that third  
9 option if you like.

10 THE WITNESS: I guess I would. I would say  
11 it doesn't make any difference.

12 (BY MR. CHAMBERLAIN):

13 Q. It doesn't make any difference at all?

14 A. No.

15 Q. Would you agree with me that if you have a gun that is  
16 designed such that you cannot unload it -- correction --  
17 if you have a gun that is designed such that you can  
18 unload it when the safety is in the on safe position,  
19 that that gun would be safer from the standpoint that  
20 the person unloading it is less likely to inadvertently  
21 fire the weapon?

22 MR. HUEGLI: Objection to the form of that  
23 question. It assumes all types of facts and it's a  
24 compound question and I'm instructing him not to answer  
25 that. It makes him assume that it's going to be safer

1 one way or the other without giving him any option.

2 MR. CHAMBERLAIN: I'm going to reserve all  
3 the rulings on these for the court later, Jim, if  
4 that's all right with you.

5 MR. HUEGLI: Okay.

6 (Reporter reads back record as requested.)

7 (Discussion off the record.)

8 (BY MR. CHAMBERLAIN):

9 Q. Do you remember that question, Mr. Holmberg?

10 A. Would you repeat it again?

11 Q. What I want to know is -- to satisfy Mr. Huegli, you  
12 can answer this question, "Yes, I think it makes it  
13 safer", or, "No, I don't", or, "I have no opinion", or,  
14 "It would make no difference", or if you want to  
15 explain your answer, you can do that. I want you to  
16 assume that we have a rifle that can be unloaded when  
17 the gun is in the on safe position. What I want to  
18 know is whether or not you think that that gun is safer  
19 or you have an opinion as to whether or not that gun is  
20 safer from the standpoint that since it can be unloaded  
21 when the safety is in the on safe position it's less  
22 likely that the gun handler will inadvertently pull the  
23 trigger in the process of trying to unload it?

24 A. I think I understand your question. I guess I would  
25 feel that it really would make no difference.

- 1 Q. Well, it would make this difference, wouldn't it: that  
2 if the gun handler is unloading a gun that you have to  
3 put in the fire position and he inadvertently touches  
4 the trigger, the gun is going to go off, right?
- 5 A. Well, perhaps, but also when it's on the F position, a  
6 person would be more careful with it.
- 7 Q. All people, all gun handlers would be?
- 8 A. I don't know how to judge all people, you know, but I  
9 would say yes. >
- 10 Q. Did cost become a factor in the decision as to whether  
11 or not to change the design of the Model 700 safety?
- 12 A. You say the cost?
- 13 Q. Yes, the manufacturing cost. >
- 14 A. No. ?
- 15 Q. Essentially it cost the same amount to manufacture it  
16 as redesigned as it cost to manufacture it before the  
17 redesign?
- 18 A. I'm sure that's the case.
- 19 Q. Are you aware of any marketing studies done either by  
20 Remington or for Remington perhaps in conjunction with  
21 this Gettinen Research outfit where Remington tried to  
22 decide whether or not the consumer would prefer to have  
23 a three position safety versus the safety that you have  
24 or an automatic safety?
- 25 A. I'm not sure about automatic safeties or whatever that

1 is. But I believe that in this consumer research we  
2 have had -- you know, we've had some feedback on  
3 different position safeties.

4 Q. You don't know what an automatic safety is?

5 A. Automatic safety, no.

6 Q. Have you ever heard of a safety that automatically puts  
7 the rifle in the on safe position as the gun handler  
8 begins to open the bolt?

9 A. Okay. If you describe it as that.

10 Q. What do you call it?

11 A. I wouldn't call it. It's not a feature that's  
12 prevalent.

13 Q. To your knowledge, have you done any consumer research  
14 or market studies to determine whether or not your  
15 buyers might want that kind of a feature?

16 A. Other than what is contained in the Gettinen study on  
17 this new gun. We have done some -- there may have been  
18 another Gettinen study. It's possible there was  
19 another one.

20 Q. Relating to the 700?

21 A. Yes.

22 MR. CHAMBERLAIN: Jim, I would request  
23 production of both the Gettinen studies. I would  
24 appreciate that Remington might have some interest in  
25 keeping that information from being disseminated out of

1 the bounds of this lawsuit, and I would be very willing  
2 to stipulate to a protective order for that purpose.

3 MR. HUEGLI: Okay.

4 (Discussion off the record.)

5 MR. CHAMBERLAIN: As far as the technical  
6 fact that we are beyond the August 30 ----

7 MR. HUEGLI: I waive that.

8 (BY MR. CHAMBERLAIN):

9 Q. Does the marketing department have any regular lines of  
10 communication set up, Mr. Holmberg, so as they either  
11 give information to or get information from the people  
12 that are involved with reviewing rifles that have been  
13 returned to Remington, customer complaints, that sort  
14 of thing?

15 A. It does not involve me, but there may be some marketing  
16 involvement in that. And I'm just thinking, you know,  
17 we may have some marketing personnel in that. I'm not  
18 sure.

19 Q. For instance, we've been given copies of gun  
20 examination reports prepared by your returned gun  
21 committee where customers complain about that the rifle  
22 fires when the safety is released. Would those reports  
23 go to marketing?

24 A. They don't go to me. They may go to marketing but not  
25 to me.

1 Q. They were not part of the feedback that you got from  
2 consumers that helped formulate your decision about the  
3 bolt lock then?

4 A. No.

5 Q. How about is there any communication between the  
6 returned gun committee itself and marketing?

7 A. Again, I would have to say the same thing, there may be  
8 but I'm not aware of it.

9 Q. How about between the product safety subcommittee and  
10 marketing?

11 A. Certainly there would be a representative of marketing  
12 in that committee.

13 Q. Are you on that committee?

14 A. No, I'm not.

15 Q. Have you been in the past?

16 A. No.

17 Q. Do you know who is on it?

18 A. Yes.

19 Q. Who are the members?

20 A. I could mention some. I may miss some also.

21 Q. Okay. Just however many you can remember.

22 A. Okay. Bob Philips would be the chairman; Ed Hutton, I  
23 believe, is a member; Clem Riley, I believe, is a  
24 member; Bob Sperling; Fred Milner; Rosen and Jack  
25 Williams. Now, these people may or may not be members,

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but I have occasionally been at that meeting and these people were there.

Q. Does marketing receive information about so-called FSR complaints? Do you know what FSR complaints are?

A. No, I don't.

Q. Does marketing receive information about complaints from customers or users where the complaint has been that the gun fired when the safety was released?

A. Marketing may but I'm not aware of it.

Q. Has marketing in the past received information, to your knowledge, about rifles that failed the trick test?

A. Not to my knowledge.

Q. It sounds to me like you don't get feedback about customer complaints as far as gun malfunctioning, is that true?

A. We would get some feedback but, you know, you keep mentioning these different reports that I'm not familiar with. The type of feedback we would get would be directly from consumers and it may be a complaint report submitted by a field rep on a consumer, for example.

Q. What kind of complaint reports did you get from field reps or from consumers that motivated you to change the bolt lock feature on the 700?

A. That motivated us?

1 Q. Yes.

2 A. The bolt lock feature?

3 Q. Right.

4 A. Is that what your question was?

5 Q. Right. What complaints from consumers and field reps  
6 did you get that helped you make that decision?

7 MR. HUEGLI: Objection to the form of the  
8 question. That's assuming that the decision was based  
9 upon complaints from field reps and consumers.

10 (BY MR. CHAMBERLAIN):

11 Q. Was it in part based on that?

12 A. No, it was not.

13 Q. Was it based primarily on the Gettinen research?

14 A. I would say that it was. It was a combination of that  
15 and just a general feel for the market.

16 Q. Was the change in the bolt lock on the Model 788 done  
17 as a pilot or a test program to determine whether or  
18 not the consumers liked that feature?

19 A. I really have no idea.

20 Q. Was consumer reaction to the Model 788 as redesigned  
21 taken into consideration by you in recommending the  
22 change on the 700?

23 A. I would have to say probably from a -- really I don't  
24 know of any reaction, let's put it that way, so I would  
25 have to say when we decided to do this, we certainly

1 felt there would be no problems in doing it from the  
2 consumer standpoint. We felt to the contrary, it would  
3 be appreciated.

4 Q. Do you know what the reason -- how the bolt lock idea  
5 ever got started, do you know? I know it's been around  
6 on some rifles for years, but what's the advantage to  
7 that feature?

8 A. (As far as I know, and certainly I could be in error,  
9 but it is my understanding that a bolt lock feature  
10 goes way back to the beginning of bolt action center  
11 fire, and these guns, of course, weren't called  
12 weapons, they were called tools of wars, and I think it  
13 probably had its origin back in those days of -- I  
14 don't know -- and I'm just guessing -- hand-to-hand  
15 combat and it was necessary that if you hit a guy with  
16 a butt or something like that you might have to be  
17 ready to shoot someone in the next moment, and they had  
18 a, quote, bolt lock to be sure the gun would be able to  
19 be fired right then.

20 Q. Historical accident more or less?

21 MR. HUEGLI: Would you -- historical  
22 accident?

23 MR. CHAMBERLAIN: Yes.

24 MR. HUEGLI: I object to the form of the  
25 question.

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MR. CHAMBERLAIN: I'll withdraw it.  
(Conference between the Mr. Huegli and  
Mr. Sperling.)

(BY MR. CHAMBERLAIN):

Q. Are you there, Mr. Holmberg?

A. Yes.

Q. Is marketing involved in the distribution or the  
marketing of gun parts?

A. Yes.

Q. I notice in the most recent field service manual for  
the Model 700, that's the field service manual that  
came out in March of 1982, that there is a change in  
the parts list where they now -- well, on a number of  
parts and it appears primarily to be trigger parts.  
They have inserted the word restricted after the word  
parts. Are you familiar with what I'm talking about?

A. I'm familiar. I couldn't tell you all of the parts.

Q. Just comparing that field service manual to the  
previous one for the same rifle, the previous one is  
March '76, they didn't use the word restricted after  
the word part names, and like I say, it's mostly for  
parts like the bolt stop and the bolt pin and the  
safety switch parts and the some of the safety cam  
parts and the trigger parts and the complete trigger  
assembly. Do you know what the reason is for

1           restricting access to those parts?

2   A.   I'm not really familiar with, you know, the intricacies

3       of these parts. I don't know.

4   Q.   Do you know who made the decision to restrict access to

5       those parts?

6   A.   I'm not sure.

7   Q.   During the depositions that we took last month back in

8       Ilion, we marked a lot of deposition exhibits. Are

9       those in the room with you there?

10  A.   No.

11  Q.   Or copies of them?

12  A.   Just Bob and myself are here.

13  Q.   One of the exhibits that was identified was designated

14       as Exhibit No. 18, and it's a three-page transmittal

15       document entitled transmittal of drawings and I was

16       informed that this was the transmittal for the change

17       involving the deletion of the bolt lock on the model

18       700. Okay?

19  A.   Yes.

20  Q.   Do you know what kind of document I'm talking about?

21  A.   Yes, I'm familiar with that type of document.

22  Q.   Is that something that you either initiate or that

23       crosses your desk a few times?

24  A.   No, it doesn't, but I have seen some.

25  Q.   And one of the places that they -- one of the blanks on

1 the form is a blank for the writer to fill in the  
2 reason for the change. Are you familiar with that part  
3 of it?

4 A. (Pause.)

5 Q. The question I was asking was on this form, this  
6 transmittal of drawings form which lists a change in  
7 the safety mechanism. The person that prepares this  
8 form is supposed to fill in one of the blanks for  
9 classification of change and on this particular one  
10 they put that it was a functional change and then down  
11 below they put reason for change. Now, are you  
12 familiar with that form, first of all, Mr. Holmberg?

13 A. Yes, I am.

14 Q. Under the category reason for change, is that where you  
15 would expect the writer to put in Remington's reason  
16 for making that change, is that what it means?

17 A. I would say yes, but I'm kind of vague what the other  
18 categories were. It seems to me like there's three or  
19 four catagoies.

20 Q. There's one entitled functional change, one titled  
21 safety mechanism revision, one titled appearance, and  
22 one entitled other, and of those four they checked the  
23 box functional change. Below those four, though,  
24 there's a place where you can do some writing and  
25 there's a reason for change and a colon and you write

1 in the change. Do you follow me?

2 A. I think so. I think I would check the change of  
3 function.

4 Q. Under the section entitled reason for change where  
5 there's some room to write, the writer is to put in the  
6 reason Remington is changing the design, isn't that  
7 true?

8 A. Yes.

9 Q. And based on what you've told me, the reason for  
10 changing the design is that the consumer no longer  
11 wanted a bolt lock?

12 A. Well, I guess -- I don't think I would put that as a  
13 reason. I don't write these things. I think they  
14 originate in R and D. But you would probably write  
15 something to facilitate handling of bolt or something  
16 like that, ease of action, you know. In an area like  
17 that, I assume they're talking about the function of  
18 the product, they're not talking about, you know,  
19 consumer research or something like that.

20 Q. What you're saying is they wouldn't put in there  
21 something along the lines that the consumer wanted a  
22 change, that wouldn't be the kind of reason you would  
23 expect them to fill in?

24 A. No, I would not.

25 Q. When you talked to me about consumer research and

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trying to find out what the customer wants, that's only one level that goes into your decision as far as the design of the gun, isn't it?

A. Oh, certainly.

Q. I mean, you don't do what the customer wants regardless of other considerations?

A. Well, let's put it this way. You know, he's the fellow that's going to put his dollar vote forward and it better be something that he wants, but there's always, you know, consideration of business, considerations you can't afford to do whatever you want or something like that.

Q. Well, for instance, if your consumer research told you that gun owners didn't want any safeties on their guns, you wouldn't follow that, would you?

A. I guess in my opinion I don't think I would follow that.

MR. CHAMBERLAIN: Thank you, Mr. Holmberg. I don't have any other questions.

MR. HUEGLI: That's all I've got.

(Deposition concluded at 12:06 p.m.)

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STATE OF OREGON        )  
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COUNTY OF MULTNOMAH)

I, the undersigned, Theresa Gach, a Notary Public for Oregon, do hereby certify that PAUL HOLMBERG personally appeared before me at the time and place mentioned in the caption of the foregoing deposition; that Mr. Peter Chamberlain appeared in behalf of Plaintiffs, and that Mr. Mr. James Huegli and Mr. Robert Sperling appearedd in behalf of the Defendant, and the said witness being by me first duly sworn to testify the truth, the whole truth and nothing but the truth, in answer to oral interrogatories, testified as in the foregoing annexed deposition, Pages 1 to 41, both inclusive set forth.

I further certify that all interrogatories propounded to said witness, together with the answers of said witness thereto, and all objections and other oral proceedings occurring upon the taking of said deposition, were then and there taken down by me in stenotype and thereafter reduced to typewriting under my direction, and that the foregoing annexed transcript, Pages 1 to 41, both inclusive, constitutes a full, true and accurate transcript of said deposition and proceedings, so taken by me in stenotype on said date, as aforesaid, and of the whole thereof.

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I further certify that I am not a relative or  
employee or attorney or counsel for any of the parties,  
or a relative or employee of such attorney or counsel,  
or financially interested in said cause.

IN WITNESS THEREOF, I have hereunto set my  
hand and notarial seal this 24th day of September, 1982.

/s/Theresa Gach  
Notary Public for Oregon  
My commission expires: 11/01/83