

Date: 20090311

Docket: A-171-08

Citation: 2009 FCA 80

**CORAM: DESJARDINS J.A.
DÉCARY J.A.
NOËL J.A.**

BETWEEN:

SPECTRA/PREMIUM INDUSTRIES INC.

Appellant

and

**PRESIDENT OF THE CANADA
BORDER SERVICES AGENCY**

Respondent

Heard at Montréal, Quebec, on March 11, 2009.

Judgment delivered from the Bench at Montréal, Quebec, on March 11, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

NOËL J.A.

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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Montréal, Quebec, on March 11, 2009)

NOËL J.A.

[1] Given the standard of review applicable to decisions of the Canadian International Trade Tribunal (CITT) when called upon to construe the *Customs Tariff*, R.S.C. 1985 (2d Supp), c.1, we can detect no reviewable error in its classification of the goods in issue.

[2] In particular, the CITT could reasonably hold that Note 2(a) of Section XVI applies at the heading level and that the condensers in issue are not included in heading no. 84.19 since they

cannot perform condensing activity on their own. As Notes 2(a) and 2(b) are mutually exclusive, it was further open to the CITT to hold, applying Note 2(b), that the condensers are properly classified as parts of air conditioners used in motor vehicles as described in Tariff item 8415.90.29.

[3] The appeal will be dismissed with costs.

“Marc Noël”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-171-08

STYLE OF CAUSE: SPECTRA/PREMIUM
INDUSTRIES INC. v. PRESIDENT
OF THE CANADA BORDER
SERVICES AGENCY

PLACE OF HEARING: Montréal, Quebec

DATE OF HEARING: March 11, 2009

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NOËL J.A.

DELIVERED FROM THE BENCH BY: NOËL J.A.

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