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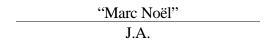
<u>REASONS FOR JUDGMENT OF THE COURT</u> (Delivered from the Bench at Montréal, Quebec, on March 11, 2009)

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.



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

REASONS FOR JUDGMENT OF THE COURT BY: DESJARDINS J.A.

DÉCARY J.A. NOËL J.A.

DELIVERED FROM THE BENCH BY: NOËL J.A.

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