

Date: 20090505

Docket: A-357-08

Citation: 2009 FCA 142

**CORAM: LINDEN J.A.
SEXTON J.A.
LAYDEN-STEVENSON J.A.**

BETWEEN:

ATTORNEY GENERAL OF CANADA

Appellant

and

SARNOFF CORPORATION

Respondent

Heard at Toronto, Ontario, on May 5, 2009.

Judgment delivered from the Bench at Toronto, Ontario, on May 5, 2009.

REASONS FOR JUDGMENT OF THE COURT BY:

LAYDEN-STEVENSON J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on May 5, 2009)

LAYDEN-STEVENSON J.A.

[1] Despite the capable submissions of the appellant's counsel, we have not been persuaded that the applications judge's finding of fact that the Patent Office "had to have had an appointment of associate agent" was manifestly or palpably wrong as required by *Housen v. Nikolaisen*, [2002] 2

S.C.R. 235. There is some evidence in the record to support the factual finding as described in the reasons of the applications judge.

[2] Consequently, it is not necessary to address the remaining arguments. The appeal will be dismissed, but without costs pursuant to section 25 of the Act.

“Carolyn Layden-Stevenson”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-357-08

**(AN APPEAL FROM THE ORDER OF THE HONOURABLE MR. JUSTICE HUGHES,
OF THE FEDERAL COURT, DATED JUNE 6, 2008, IN FEDERAL COURT DOCKET NO.
T-1436-02.)**

STYLE OF CAUSE: ATTORNEY GENERAL OF CANADA v.
SARNOFF CORPORATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MAY 5, 2009

REASONS FOR JUDGMENT OF THE COURT BY: (LINDEN, SEXTON & LAYDEN-
STEVENSON JJ.A.)

DELIVERED FROM THE BENCH BY: LAYDEN-STEVENSON J.A.

APPEARANCES:

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Mr. R. Scott Jolliffe FOR THE RESPONDENT
Mr. Kevin Sartorio

SOLICITORS OF RECORD:

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