

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20130501**

**Docket: A-381-12**

**Citation: 2013 FCA 121**

**CORAM: NOËL J.A.  
MAINVILLE J.A.  
NEAR J.A.**

**BETWEEN:**

**THE PRESIDENT OF THE CANADA BORDER SERVICES AGENCY**

**Appellant**

**and**

**GRODAN INC.**

**Respondent**

Heard at Ottawa, Ontario, on May 1, 2013.

Judgment delivered from the Bench at Ottawa, Ontario, on May 1, 2013.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**NOËL J.A.**

Federal Court of Appeal



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BETWEEN:

THE PRESIDENT OF THE CANADA BORDER SERVICES AGENCY

Appellant

and

GRODAN INC.

Respondent

**REASONS FOR JUDGMENT OF THE COURT**  
(Delivered from the Bench at Ottawa, Ontario, on May 1, 2013)

**NOËL J.A.**

[1] The President of the Canada Border Services Agency (the appellant) brings on appeal a decision of the Canadian International Trade Tribunal (the CITT) wherein the CITT concluded that the goods imported by Grodan Inc. fell under tariff item No. 9903.00.00 and thereby benefit from duty-free treatment.

[2] The appellant contends that the decision reached by the CITT is unreasonable, and asks that the original classification denying the duty-free treatment of the subject goods be restored.

[3] Applying a standard of reasonableness we are unable to conclude that the CITT erred in holding that the polyethylene film or sheeting which are used exclusively as covering material for greenhouse structures and for greenhouse flooring benefit from duty-free treatment under tariff No. 9903.00.00 as “articles and materials that enter into the cost of manufacturer or repair of agricultural or horticultural machines of heading No. 84.36”.

[4] The appeal will therefore be dismissed with costs.

“Marc Noël”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-381-12

**STYLE OF CAUSE:** THE PRESIDENT OF THE  
CANADA BORDER SERVICES  
AGENCY and GRODAN INC.

**PLACE OF HEARING:** Ottawa, Ontario

**DATE OF HEARING:** May 1, 2013

**REASONS FOR JUDGMENT OF THE COURT BY:** Noël, Mainville, Near J.J.A.

**DELIVERED FROM THE BENCH BY:** Noël J.A.

**APPEARANCES:**

Andrew Gibbs FOR THE APPELLANT

Michael Kaylor FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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