

United States Court of Appeals for the Federal Circuit

2007-1386

PRINCO CORPORATION and PRINCO AMERICA CORPORATION,

Appellants,

v.

INTERNATIONAL TRADE COMMISSION,

Appellee,

and

U.S. PHILIPS CORPORATION,

Intervenor.

Appeal from the United States International Trade Commission in Investigation No. 337-TA-474.

Before MICHEL, Chief Judge, NEWMAN, MAYER, LOURIE, RADER, BRYSON, GAJARSA, LINN, DYK, PROST, and MOORE, Circuit Judges.

PER CURIAM.

ORDER

Intervenor U.S. Philips Corporation filed a petition for rehearing en banc, Appellants Princo Corporation and Princo America Corporation filed a petition for rehearing en banc, and Appellee International Trade Commission filed a petition for rehearing and for rehearing en banc. Each petition for rehearing en banc was presumed to request relief that can be granted by the panel that heard the appeal, and action on the petitions for rehearing en banc was deferred until the panel had an opportunity to grant the relief requested. The panel requested responses to U.S. Philips's petition from Appellants Princo Corporation and Princo America Corporation, to

Princo's petition from Appellee International Trade Commission and from Intervenor U.S. Philips Corporation, and to the International Trade Commission's petition from Appellants Princo Corporation and Princo America Corporation; each of the requested responses was filed. The court granted the New York Intellectual Property Law Association's motion for leave to file a brief as amicus curiae supporting U.S. Philips's petition and opposing Princo's petition, and Appellants Princo Corporation and Princo America Corporation filed a response to the amicus curiae brief.

The petitions for rehearing were considered by the panel that heard the appeal. Thereafter, the petitions for rehearing en banc, the responses, the amicus curiae brief, and the response to the amicus curiae brief were referred to the circuit judges authorized to request a poll on whether to rehear the appeal en banc. A poll was requested and taken, and the court has decided that the appeal warrants en banc consideration.

Upon consideration thereof,

IT IS ORDERED THAT:

- (1) The petition of Intervenor U.S. Philips Corporation for rehearing en banc is granted.
- (2) The petition of Appellee International Trade Commission for rehearing en banc is granted.
- (3) The petition of Appellants Princo Corporation and Princo America Corporation for rehearing en banc is denied.
- (4) The court's April 20, 2009, opinion is vacated, and the appeal is reinstated.
- (5) The parties are requested to file new briefs addressing primarily those issues originally decided in Section II of the court's April 20, 2009 opinion.

This appeal will be heard en banc on the basis of the originally filed briefs, additional briefing ordered herein addressing the issues set forth above, and oral argument. An original and thirty copies of all originally-filed and new en banc briefs shall be filed, and two copies of each en banc brief shall be served on opposing counsel. The Intervenor shall file its brief within forty-five (45) days from the date of filing of this order. The responses of the Appellants and Appellees are due within thirty (30) days from the date of service of the Intervenor's brief. The Intervenor's reply, if any, is due within ten (10) days from the date of service of the responses. Briefs shall adhere to the type-volume limitations set forth in Federal Rule of Appellate Procedure 32 and Federal Circuit Rule 32.

Briefs of amici curiae will be entertained, and any such amicus briefs may be filed without leave of court but must otherwise comply with Federal Rule of Appellate Procedure 29 and Federal Circuit Rule 29.

Oral argument will be held at a time and date to be announced later.

FOR THE COURT

October 13, 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: A. Douglas Melamed, Esq.
Eric L. Wesenberg, Esq.
James M. Lyons, Esq.
Charles A. Weiss, Esq.