

Slip Op. 09-141
UNITED STATES COURT OF INTERNATIONAL TRADE

WITEX U.S.A., INC.,

Plaintiff,

v.

UNITED STATES,

Defendant.

Before: Pogue, Judge

Consol. Court No. 98-00360

JUDGMENT

On September 25, 2009, the Court of Appeals for the Federal Circuit issued its mandate following its decision in Witex, U.S.A., Inc. v. United States, 333 F. App'x 569 (Fed. Cir. 2009), which, in turn, followed its decision in the companion case Faus Group, Inc. v. United States, 581 F.3d 1369 (Fed. Cir. 2009). In Witex and Faus, the Court of Appeals reversed this court's decision in Witex, U.S.A., Inc. v. United States, 28 CIT 1907, 353 F. Supp. 2d 1310 (2004) -- where this court sustained U.S. Customs and Border Protection's ("Customs") classification of Plaintiff's laminated flooring panels -- and directed that summary judgment be issued in favor of Plaintiff. The Court of Appeals' decision and mandate settle questions of law that are outcome determinative for the case herein.

THEREFORE, in accordance with the Court of Appeals' decision and mandate, it is hereby

ORDERED, ADJUDGED, and DECREED that Customs' classification and liquidation of Plaintiff's subject merchandise under Harmonized Tariff Schedule of the United States ("HTSUS") subheading 4411.19.40 (2001) is not correct; and it is further

ORDERED, ADJUDGED, and DECREED that the subject merchandise are properly dutiable under HTSUS subheading 4418.90.40, as claimed by Plaintiff; and it is further

ORDERED, ADJUDGED, and DECREED that judgment be, and hereby is, entered for Plaintiff, that the subject entries be re-liquidated accordingly at the applicable rates of duty, and that excess duty be refunded with interest thereon as provided by law.

/s/ Donald C. Pogue
Donald C. Pogue, Judge

Dated: December 15, 2009
New York, New York