

Date: 20081217

Docket: A-131-08

Citation: 2008 FCA 406

**CORAM: RICHARD C.J.
RYER J.A.
TRUDEL J.A.**

BETWEEN:

SPIKE MARKS INC.

Appellant

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Ottawa, Ontario, on December 17, 2008.

Judgment delivered from the Bench at Ottawa, Ontario, on December 17, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

RYER J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Ottawa, Ontario, on December 17, 2008)

RYER J.A.

[1] This is an appeal from a decision of O’Keefe J. of the Federal Court (2008 FC 203), dated February 18, 2008, dismissing seven applications for judicial review (T-382-06, T-383-06, T-384-06, T-386-06, T-387-06, T-388-06 and T-389-06) that were brought by Spike Marks Inc. (“Spike Marks” or the “appellant”) in respect of seven decisions (the “Decisions”) of the Canadian Border Services Agency (the “CBSA”) with respect to the classification of goods under the *Customs Tariff*, S.C. 1997, c. 36, and the imposition of duties under sections 42 and 43 of the *Excise Act, 2001*, S.C.

2002, c. 22. The applications were heard together as a consequence of a consolidation order issued by Prothonotary Tabib on May 10, 2006.

[2] The applications judge concluded that by virtue of section 18.5 of the *Federal Courts Act*, R.S.C. 1985, c. F-7, he had no jurisdiction to review the Decisions because subsection 67(1) of the *Customs Act*, S.C. 1985, c.1 (2nd Supp.) gave Spike Marks a statutory right to appeal against the Decisions to the Canadian International Trade Tribunal (the “CITT”).

Background

[3] During the period from January 1 to December 31, 2004, Spike Marks imported flavoured cigars, in individual plastic containers, from the United States of America.

[4] After conducting a compliance verification in respect of those importations, on May 24 and June 2, 2005, the CBSA issued seven detailed adjustment statements (“Detailed Adjustment Statements”) pursuant to the *Customs Act*:

- (a) stipulating that the tariff classifications under the *Customs Tariff* that had been used by Spike Marks at the time of importation of the tobacco products were improper;
- (b) specifying the proper tariff classification for the imported tobacco products; and
- (c) requiring Spike Marks to pay additional excise and other duties in respect of the imported tobacco products in accordance with sections 42 and 43 of the *Excise Act, 2001*.

[5] Spike Marks requested a redetermination of the Detailed Adjustment Statements in accordance with subsection 60(1) of the *Customs Act*, taking issue with the tariff reclassification of the imported tobacco products as well as the amount and method of calculation of the additional duties that were imposed in respect of those imported goods. A preliminary decision of the CBSA in November of 2005 confirmed the position taken by it in the Detailed Adjustment Statements. In response, the appellant wrote to the CBSA on December 12, 2005, reiterating its objection to the tariff reclassifications and the amount and method of calculation of the additional duties imposed by the CBSA on the imported goods, and raising for the first time, the question of whether the CBSA had jurisdiction to “assess” additional duties under sections 42 and 43 of the *Excise Act, 2001* in respect of imported tobacco products.

[6] On February 3, 2006, the president of the CBSA made seven redeterminations under subsection 60(4) of the *Customs Act* confirming the imposition and method of calculation of the duties under sections 42 and 43 of the *Excise Act, 2001*, as provided for in each of the Detailed Adjustment Statements. These redeterminations are the Decisions in respect of which judicial review was sought by Spike Marks.

[7] Feeling aggrieved by the Decisions, Spike Marks appealed to the CITT, pursuant to subsection 67(1) of the *Customs Act*. However, rather than pursue those appeals on their merits, Spike Marks asked the CITT to declare that it lacked the jurisdiction to entertain those appeals. The CITT agreed and no appeal was taken from the CITT’s decision.

[8] Spike Marks then pursued the applications for judicial review of the Decisions in the Federal Court. The applications judge held that section 18.5 of the *Federal Courts Act* precluded his jurisdiction to hear the applications because subsection 67(1) of the *Customs Act* provided Spike Marks with a right to appeal the Decisions to the CITT.

Relevant Statutory Provisions

[9] The relevant statutory provisions are reproduced in an appendix to these reasons.

Issue

[10] The issue in this appeal is whether the Federal Court has jurisdiction to review the Decisions or is prevented from doing so by virtue of section 18.5 of the *Federal Courts Act*.

Standard of Review

[11] In this Court, the parties have asserted, and this Court agrees, that the question of whether the applications judge had jurisdiction to hear the applications for judicial review of the Decisions is a question of law that is to be reviewed on a standard of correctness (see *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235, 2002 SCC 33).

Analysis

[12] At the heart of this appeal is the question of whether the CBSA has the power to assess or impose a liability on Spike Marks for the duties referred to in sections 42 and 43 of the *Excise Act, 2001* in respect of the importation of the tobacco products under consideration, or whether the

CBSA is only empowered to collect those duties once they have been imposed by the Minister of National Revenue in accordance with subsection 188(1) of the *Excise Act, 2001*.

[13] The applications judge determined this question in paragraphs 42 to 44 of his reasons, where he stated:

[42] As for whether or not these duties are excise duties and thus not eligible to be appealed to the CITT, I am also not convinced that this is the case. While the method for calculating these duties is found in sections 42 and 43 of the *Excise Act, 2001*, the entire scheme governing their determination, re-determination, appeal, collection and payment is governed by the *Customs Act*.

[43] Section 2 of the *Customs Act* reads:

“duties” means any duties or taxes levied or imposed on imported goods under the *Customs Tariff*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other Act of Parliament, but, for the purposes of subsection 3(1), paragraphs 59(3)(b) and 65(1)(b), sections 69 and 73 and subsections 74(1), 75(2) and 76(1), does not include taxes imposed under Part IX of the *Excise Tax Act*;

[emphasis added]

Furthermore, section 44 of the *Excise Act, 2001* reads:

44. The duties imposed under sections 42 and 43 on imported raw leaf tobacco and tobacco products shall be paid and collected under the *Customs Act*, and interest and penalties shall be imposed, calculated, paid and collected under that Act, as if the duties were a duty levied under section 20 of the *Customs Tariff*, and, for those purposes, the *Customs Act* applies with any modifications that the circumstances require.

[emphasis added]

[44] These sections make it clear that while the method for determining the amount of value for duty is found in sections 42 and 43 of the *Excise Act*, these duties are customs duties. These duties are assessed by customs officers under the *Customs Act* and these assessments are subject to re-determinations under section 60 of the *Customs Act*.

[14] We are of the view that the applications judge was correct in finding that the duties imposed on the appellant under sections 42 and 43 of the *Excise Act, 2001* in respect of the imported tobacco products at issue in this appeal are customs duties that are assessed by customs officers under the *Customs Act*.

[15] In our view, section 44 of the *Excise Act, 2001* supports this conclusion and empowers the CBSA to assess, and thereafter collect, the duties contemplated by sections 42 and 43 of the *Excise Act, 2001* in respect of the importation of raw leaf tobacco and tobacco products, as if those duties were customs duties.

[16] We reject the appellant's interpretation of section 44 of the *Excise Act, 2001* as providing the CBSA with only the power to collect duties arising under sections 42 and 43 of that legislation in relation to the importation of raw leaf tobacco and tobacco products after such duties have been the subject of a discrete assessment under the *Excise Act, 2001*.

[17] The appellant contends that its interpretation of section 44 of the *Excise Act, 2001* points the way to a "convenient mechanism" to permit the CBSA to collect such duties, once they have been assessed under the *Excise Act, 2001*. In our view, the appellant's contention points in the opposite direction, that is to say, to a complicated and inefficient interaction between the *Customs Act* and the *Excise Act, 2001*. Under the appellant's interpretation, the CBSA would be obliged to notify the Minister of National Revenue of a tariff reclassification and await notification from the Minister of National Revenue of an assessment of duties under sections 42 and 43 of the *Excise Act, 2001*. After

reviewing that notification, the CBSA would then proceed to collect the amount of duties so assessed. The appellant's interpretation would also oblige an aggrieved importer to pursue two separate dispute resolution procedures: an appeal to the CITT in respect of the tariff reclassification under the *Customs Tariff* and an appeal to the Tax Court of Canada in respect of the duties assessed under sections 42 and 43 of the *Excise Act, 2001*.

[18] In our view, these more complicated and inefficient results could not have been intended by Parliament when it enacted section 44 of the *Excise Act, 2001*. Instead, it is our view that Parliament intended the result that was stipulated by the applications judge, namely that section 44 of the *Excise Act, 2001* empowers the CBSA to assess duties arising under sections 42 and 43 of the *Excise Act, 2001* where such duties relate to the importation of raw leaf tobacco and tobacco products. It follows that in exercising this assessment power, the CBSA must apply, and therefore interpret, the relevant provisions of the *Excise Act, 2001* to the extent necessary to properly calculate, assess and collect those duties in accordance with its mandate under section 44 of the *Excise Act, 2001*.

[19] Accordingly, in our view, a complaint with respect to a decision of the CBSA relating to the calculation and assessment of duties in relation to the importation of raw leaf tobacco and tobacco products that are imposed under sections 42 and 43 of the *Excise Act, 2001* is a matter to which the appeal right in subsection 67(1) of the *Customs Act* would apply. Additionally, we are of the view that by virtue of section 18.5 of the *Federal Courts Act*, the existence of such an appeal right is

sufficient to prevent the Federal Court from entertaining an application for judicial review of the decision that may be so appealed.

[20] In the circumstances of this appeal, the Decisions that the appellant seeks to have reviewed in the Federal Court are matters that could have been appealed to the CITT. Indeed, the appellant pursued that path but chose to argue that its appeals should be dismissed by the CITT for lack of jurisdiction. Unfortunately for the appellant, the CITT accepted the appellant's jurisdiction argument and the decision of the CITT in that regard was not appealed. Nonetheless, that course of action was deliberately taken by the appellant.

Disposition

[21] Having concluded that the applications judge correctly decided that he had no jurisdiction to review the Decisions, it is not appropriate for this Court to undertake any consideration of the merits of the Decisions.

[22] For these reasons, the appeal will be dismissed with costs. A copy of these reasons should be placed in each of the files that have been consolidated pursuant to the order of Prothonotary Tabib.

“C. Michael Ryer”

J.A.

APPENDIX

Excise Act, 2001, S.C. 2002, c. 22.

42. (1) Duty is imposed on tobacco products manufactured in Canada or imported and on imported raw leaf tobacco at the rates set out in Schedule 1 and is payable

(a) in the case of tobacco products manufactured in Canada, by the tobacco licensee who manufactured the tobacco products, at the time they are packaged; and

(b) in the case of imported tobacco products or raw leaf tobacco, by the importer, owner or other person who is liable under the *Customs Act* to pay duty levied under section 20 of the *Customs Tariff* or who would be liable to pay that duty on the tobacco or products if they were subject to that duty.

(2) The following rules apply to partially manufactured tobacco that is imported by a tobacco licensee for further manufacture:

(a) for the purposes of this Act, the tobacco is deemed to be manufactured in Canada by the licensee; and

(b) paragraph (1)(a) applies to the tobacco and paragraph (1)(b) and section 44 do not apply.

43. In addition to the duty imposed under section 42, duty is imposed on cigars at the rates set out in Schedule 2 and is payable

42. (1) Un droit sur les produits du tabac fabriqués au Canada ou importés et sur le tabac en feuilles importé est imposé aux taux figurant à l'annexe 1 et est exigible :

a) dans le cas de produits du tabac fabriqués au Canada, du titulaire de licence de tabac qui les a fabriqués, au moment de leur emballage;

b) dans le cas de produits du tabac ou de tabac en feuilles importés, de l'importateur, du propriétaire ou d'une autre personne qui est tenue, aux termes de la *Loi sur les douanes*, de payer les droits perçus en vertu de l'article 20 du *Tarif des douanes* ou qui serait tenue de payer ces droits sur les produits ou le tabac s'ils y étaient assujettis.

(2) Les règles suivantes s'appliquent au tabac partiellement fabriqué qu'un titulaire de licence de tabac importe pour une étape ultérieure de fabrication :

a) pour l'application de la présente loi, le tabac est réputé être fabriqué au Canada par le titulaire de licence;

b) l'alinéa (1)a) s'applique au tabac, mais l'alinéa (1)b) et l'article 44 ne s'y appliquent pas.

43. Est imposé aux taux figurant à l'annexe 2, en plus du droit imposé en vertu de l'article 42, un droit sur les cigares qui sont

fabriqués et vendus au Canada ou importés.
Ce droit est exigible:

(a) in the case of cigars manufactured and sold in Canada, by the tobacco licensee who manufactured the cigars, at the time of their delivery to a purchaser; and
(b) in the case of imported cigars, by the importer, owner or other person who is liable under the *Customs Act* to pay duty levied under section 20 of the *Customs Tariff* or who would be liable to pay that duty on the cigars if they were subject to that duty.

a) dans le cas de cigares fabriqués et vendus au Canada, du titulaire de licence de tabac qui les a fabriqués, au moment de leur livraison à l'acheteur;

b) dans le cas de cigares importés, de l'importateur, du propriétaire ou d'une autre personne qui est tenue, aux termes de la *Loi sur les douanes*, de payer les droits perçus en vertu de l'article 20 du *Tarif des douanes* ou qui serait tenue de payer ces droits sur les cigares s'ils y étaient assujettis.

44. The duties imposed under sections 42 and 43 on imported raw leaf tobacco and tobacco products shall be paid and collected under the *Customs Act*, and interest and penalties shall be imposed, calculated, paid and collected under that Act, as if the duties were a duty levied under section 20 of the *Customs Tariff*, and, for those purposes, the *Customs Act* applies with any modifications that the circumstances require.

44. Les droits imposés en vertu des articles 42 et 43 sur les produits du tabac et le tabac en feuilles importés sont payés et perçus aux termes de la *Loi sur les douanes*. Des intérêts et pénalités sont imposés, calculés, payés et perçus aux termes de cette loi comme si les droits étaient des droits perçus en vertu de l'article 20 du *Tarif des douanes*. À ces fins, la *Loi sur les douanes* s'applique, avec les adaptations nécessaires.

188. (1) The Minister may assess

188. (1) Le ministre peut établir une cotisation pour déterminer :

(a) the duty payable by a person for a fiscal month of the person; and

a) les droits exigibles d'une personne pour un mois d'exercice;

(b) subject to section 190, interest and any other amount payable by a person under this Act. ...

b) sous réserve de l'article 190, les intérêts et autres sommes exigibles d'une personne en application de la présente loi. [...]

Federal Courts Act, R.S.C. 1985, c. F-7.

18.5 Despite sections 18 and 18.1, if an Act of Parliament expressly provides for an appeal to the Federal Court, the Federal Court of Appeal, the Supreme Court of Canada, the Court Martial Appeal Court, the Tax Court of Canada, the Governor in Council or the Treasury Board from a decision or an order of a federal board, commission or other tribunal made by or in the course of proceedings before that board, commission or tribunal, that decision or order is not, to the extent that it may be so appealed, subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with, except in accordance with that Act.

18.5 Par dérogation aux articles 18 et 18.1, lorsqu'une loi fédérale prévoit expressément qu'il peut être interjeté appel, devant la Cour fédérale, la Cour d'appel fédérale, la Cour suprême du Canada, la Cour d'appel de la cour martiale, la Cour canadienne de l'impôt, le gouverneur en conseil ou le Conseil du Trésor, d'une décision ou d'une ordonnance d'un office fédéral, rendue à tout stade des procédures, cette décision ou cette ordonnance ne peut, dans la mesure où elle est susceptible d'un tel appel, faire l'objet de contrôle, de restriction, de prohibition, d'évocation, d'annulation ni d'aucune autre intervention, sauf en conformité avec cette loi.

Customs Act, R.S.C. 1985, c. 1 (2nd Supp.).

2.(1) . . .

"duties" means any duties or taxes levied or imposed on imported goods under the *Customs Tariff*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other Act of Parliament, but, for the purposes of subsection 3(1), paragraphs 59(3)(b) and 65(1)(b), sections 69 and 73 and subsections 74(1), 75(2) and 76(1), does not include taxes imposed under Part IX of the *Excise Tax Act*;

59. (1) An officer, or any officer within a class of officers, designated by the President for the purposes of this section may

2.(1) [...]

«droits» Les droits ou taxes imposés, en vertu de la *Loi de 2001 sur l'accise*, de la *Loi sur la taxe d'accise*, de la *Loi sur les mesures spéciales d'importation*, du *Tarif des douanes* ou de toute autre loi fédérale, sur les marchandises importées. En sont exclues, pour l'application du paragraphe 3(1), des alinéas 59(3)b) et 65(1)b), des articles 69 et 73 et des paragraphes 74(1), 75(2) et 76(1), les taxes imposées en vertu de la partie IX de la *Loi sur la taxe d'accise*

59. (1) L'agent chargé par le président, individuellement ou au titre de son appartenance à une catégorie d'agents, de l'application du présent article peut :

(a) in the case of a determination under section 57.01 or 58, re-determine the origin, tariff classification, value for duty or marking determination of any imported goods at any time within

(i) four years after the date of the determination, on the basis of an audit or examination under section 42, a verification under section 42.01 or a verification of origin under section 42.1, or

(ii) four years after the date of the determination, if the Minister considers it advisable to make the re-determination; and

(b) further re-determine the origin, tariff classification or value for duty of imported goods, within four years after the date of the determination or, if the Minister deems it advisable, within such further time as may be prescribed, on the basis of an audit or examination under section 42, a verification under section 42.01 or a verification of origin under section 42.1 that is conducted after the granting of a refund under paragraphs 74(1)(c.1), (c.11), (e), (f) or (g) that is treated by subsection 74(1.1) as a re-determination under paragraph (a) or the making of a correction under section 32.2 that is treated by subsection 32.2(3) as a re-determination under paragraph (a).

a) dans le cas d'une décision prévue à l'article 57.01 ou d'une détermination prévue à l'article 58, réviser l'origine, le classement tarifaire ou la valeur en douane des marchandises importées, ou procéder à la révision de la décision sur la conformité des marques de ces marchandises, dans les délais suivants :

(i) dans les quatre années suivant la date de la détermination, d'après les résultats de la vérification ou de l'examen visé à l'article 42, de la vérification prévue à l'article 42.01 ou de la vérification de l'origine prévue à l'article 42.1,

(ii) dans les quatre années suivant la date de la détermination, si le ministre l'estime indiqué;

b) réexaminer l'origine, le classement tarifaire ou la valeur en douane dans les quatre années suivant la date de la détermination ou, si le ministre l'estime indiqué, dans le délai réglementaire d'après les résultats de la vérification ou de l'examen visé à l'article 42, de la vérification prévue à l'article 42.01 ou de la vérification de l'origine prévue à l'article 42.1 effectuée à la suite soit d'un remboursement accordé en application des alinéas 74(1) c.1), c.11), e), f) ou g) qui est assimilé, conformément au paragraphe 74(1.1), à une révision au titre de l'alinéa a), soit d'une correction effectuée en application de l'article 32.2 qui est assimilée, conformément au paragraphe 32.2(3), à une révision au titre de l'alinéa a).

(2) An officer who makes a determination (2) L'agent qui procède à la décision ou à

under subsection 57.01(1) or 58(1) or a re-determination or further re-determination under subsection (1) shall without delay give notice of the determination, re-determination or further re-determination, including the rationale on which it is made, to the prescribed persons.

(3) Every prescribed person who is given notice of a determination, re-determination or further re-determination under subsection (2) shall, in accordance with that decision,

(a) pay any amount owing, or additional amount owing, as the case may be, as duties in respect of the goods or, if a request is made under section 60, pay that amount or give security satisfactory to the Minister in respect of that amount and any interest owing or that may become owing on that amount; or

(b) be given a refund of any duties, or a refund of any duties and interest paid (other than interest that was paid because duties were not paid when required by subsection 32(5) or section 33), in excess of the duties owing in respect of the goods.

(4) Any amount owing by or to a person under subsection (3) or 66(3) in respect of goods, other than an amount in respect of which security is given, is payable immediately, whether or not a request is made under section 60.

(5) For the purposes of paragraph (3)(a), the amount owing as duties in respect of

la détermination en vertu des paragraphes 57.01(1) ou 58(1) respectivement ou à la révision ou au réexamen en vertu du paragraphe (1) donne sans délai avis de ses conclusions, motifs à l'appui, aux personnes visées par règlement.

(3) Les personnes visées par règlement qui ont été avisées de la décision, de la détermination, de la révision ou du réexamen en application du paragraphe (2) doivent, en conformité avec la décision, la détermination, la révision ou le réexamen, selon le cas :

a) soit verser tous droits ou tout complément de droits échus sur les marchandises ou, dans le cas où une demande est présentée en application de l'article 60, soit verser ces droits ou compléments de droits, soit donner la garantie, jugée satisfaisante par le ministre, du versement de ceux-ci et des intérêts échus ou à échoir sur ceux-ci;

b) soit recevoir le remboursement de tout excédent de droits ou de tout excédent de droits et d'intérêts — sauf les intérêts payés en raison du non-paiement de droits dans le délai prévu au paragraphe 32(5) ou à l'article 33 — versé sur les marchandises.

(4) Les sommes qu'une personne doit ou qui lui sont dues en application des paragraphes (3) ou 66(3) sur les marchandises, à l'exception des sommes pour lesquelles une garantie a été donnée, sont à payer sans délai, même si une demande a été présentée en vertu de l'article 60.

(5) Pour l'application de l'alinéa (3)a), le montant de droits dû sur les marchandises

goods under subsection (3) as a result of a determination made under subsection 58(1) does not include any amount owing as duties in respect of the goods under section 32 or 33.

(6) A re-determination or further re-determination made under this section is not subject to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided by subsection 59(1) and sections 60 and 61.

60. (1) A person to whom notice is given under subsection 59(2) in respect of goods may, within ninety days after the notice is given, request a re-determination or further re-determination of origin, tariff classification, value for duty or marking. The request may be made only after all amounts owing as duties and interest in respect of the goods are paid or security satisfactory to the Minister is given in respect of the total amount owing.

(2) A person may request a review of an advance ruling made under section 43.1 within ninety days after it is given to the person.

(3) A request under this section must be made to the President in the prescribed form and manner, with the prescribed information.

(4) On receipt of a request under this section, the President shall, without delay,

en application du paragraphe (3) à la suite de la détermination faite en vertu du paragraphe 58(1) ne comprend pas un montant dû sur celles-ci en application des articles 32 ou 33.

(6) La révision ou le réexamen fait en vertu du présent article ne sont susceptibles de restriction, d'interdiction, d'annulation, de rejet ou de toute autre forme d'intervention que dans la mesure et selon les modalités prévues au paragraphe 59(1) ou aux articles 60 ou 61.

60. (1) Toute personne avisée en application du paragraphe 59(2) peut, dans les quatre-vingt-dix jours suivant la notification de l'avis et après avoir versé tous droits et intérêts dus sur des marchandises ou avoir donné la garantie, jugée satisfaisante par le ministre, du versement du montant de ces droits et intérêts, demander la révision ou le réexamen de l'origine, du classement tarifaire ou de la valeur en douane, ou d'une décision sur la conformité des marques.

(2) Toute personne qui a reçu une décision anticipée prise en application de l'article 43.1 peut, dans les quatre-vingt-dix jours suivant la notification de la décision anticipée, en demander la révision.

(3) La demande prévue au présent article est présentée au président en la forme et selon les modalités réglementaires et avec les renseignements réglementaires.
Intervention du président

(4) Sur réception de la demande prévue au présent article, le président procède sans délai à l'une des interventions suivantes :

(a) re-determine or further re-determine the origin, tariff classification or value for duty;

(b) affirm, revise or reverse the advance ruling; or

(c) re-determine or further re-determine the marking determination.

a) la révision ou le réexamen de l'origine, du classement tarifaire ou de la valeur en douane;

b) la confirmation, la modification ou l'annulation de la décision anticipée;

c) la révision ou le réexamen de la décision sur la conformité des marques.

(5) The President shall without delay give notice of a decision made under subsection (4), including the rationale on which the decision is made, to the person who made the request.

(5) Le président donne avis au demandeur, sans délai, de la décision qu'il a prise en application du paragraphe (4), motifs à l'appui.

67. (1) A person aggrieved by a decision of the President made under section 60 or 61 may appeal from the decision to the Canadian International Trade Tribunal by filing a notice of appeal in writing with the President and the Secretary of the Canadian International Trade Tribunal within ninety days after the time notice of the decision was given.

67. (1) Toute personne qui s'estime lésée par une décision du président rendue conformément aux articles 60 ou 61 peut en interjeter appel devant le Tribunal canadien du commerce extérieur en déposant par écrit un avis d'appel auprès du président et du secrétaire de ce Tribunal dans les quatre-vingt-dix jours suivant la notification de l'avis de décision.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-131-08

(APPEAL FROM A JUDGMENT OF JUSTICE O'KEEFE OF THE FEDERAL COURT (2008 FC 203) DATED FEBRUARY 18, 2008, DISMISSING SEVEN APPLICATIONS FOR JUDICIAL REVIEW (T-382-06, T-383-06, T-384-06, T-386-06, T-387-06, T-388-06 and T-389-06))

STYLE OF CAUSE: Spike Marks Inc. Appellant
and
Attorney General of Canada Respondent

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: December 17, 2008

REASONS FOR JUDGMENT OF THE COURT BY: (Richard C.J., Ryer and Trudel JJ.A.)

DELIVERED FROM THE BENCH BY: Ryer J.A.

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