

Date: 20100112

Docket: A-148-09

Citation: 2010 FCA 8

**CORAM: LÉTOURNEAU J.A.
NOËL J.A.
TRUDEL J.A.**

BETWEEN:

NPS PHARMACEUTICALS, INC.

Appellant

and

BIOFARMA, SOCIÉTÉ PAR ACTIONS SIMPLIFIÉE

Respondent

Heard at Toronto, Ontario, on January 12, 2010.

Judgment delivered from the Bench at Toronto, Ontario, on January 12, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

LÉTOURNEAU J.A.

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(Delivered from the Bench at Toronto, Ontario, on January 12, 2010)

LÉTOURNEAU J.A.

[1] In essence the appellant raises before us the same arguments he submitted to both the Trademarks Opposition Board and Lemieux J. of the Federal Court.

[2] Justice Lemieux addressed these arguments for a second time in detailed reasons in support of his decision to dismiss the appellant's appeal with costs: see *NPS Pharmaceuticals, Inc. v. Biofarma*, 2009 FC 172, [2009] F.C. J. No. 255 (QL).

[3] Despite the valuable efforts by counsel for the appellant, we see in the learned judge's decision no error, whether of law or of a palpable and overriding nature, which would require or justify our intervention.

[4] For these reasons the appeal will be dismissed with costs.

“Gilles Létourneau”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-148-09

STYLE OF CAUSE: NPS PHARMACEUTICAL, INC. v.
BIOFARMA, SOCIÉTÉ PAR ACTIONS
SIMPLIFIÉE

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: January 12, 2010

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OF THE COURT BY:** LÉTOURNEAU J.A.
NOËL J.A.
TRUDEL J.A.

DELIVERED FROM THE BENCH BY: LÉTOURNEAU J.A.

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