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United States Court of Appeals for the Federal Circuit

00-1329

(Cancellation No. 25,354)

JURASSIC STONE COMPANY,

Appellant,

v.

SOLNHOFEN NATURAL STONE, INC.,

Appellee.

DECIDED: February 14, 2001

Before MICHEL, Circuit Judge, PLAGER, Senior Circuit Judge, and LINN, Circuit Judge.

PER CURIAM.

Appellant Jurassic Stone prevailed before the Trademark Trial and Appeal Board ("Board") on

its petition for cancellation of the registration for appellee's mark, SOLNHOFEN. The Board cancelled the registration on the ground that the mark was primarily geographically descriptive, as urged by Jurassic. Jurassic now asserts a right to review of the Board's decision insofar as it declined to also order cancellation on the other ground urged below, fraud before the trademark examiner. Because Jurassic has failed to show that the relief it requests--cancellation on a second ground--would alter the legal interests of the parties, the sole issue of its appeal is moot. See Nasatka v. Delta Scientific Corp., 58 F.3d 1578, 1580-81 (Fed. Cir. 1995). Nor has Jurassic shown how the decision it seeks to appeal is adverse to it. After all, Jurassic won below and obtained the remedy it sought.

Although Jurassic's appeal seems weak and appellee waived oral argument, appellee did not file a motion, under Rule 38 of the Federal Rules of Appellate Procedure, charging that the appeal was frivolous. And, while the accuracy of several assertions in appellant's brief was questioned by the panel at oral argument, we decline to pursue, sua sponte, whether the appeal is frivolous as filed or as argued.

For these reasons, the appeal is dismissed.