

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-1320

PARK B. SMITH, INC.,

Plaintiff-Appellant,

v.

CHF INDUSTRIES, INC.,

Defendant-Appellee.

Richard A. DePalma, Thompson Hine, LLP, of New York, New York, argued for plaintiff-appellant. With him on the brief was Katheryn M. Ryan, Baker & McKenzie LLP, of New York, New York.

Stephen L. Sulzer, Connolly Bove Lodge & Hutz LLP, of Washington, DC, argued for defendant-appellee. With him on the brief was James P. Calve.

Appealed from: United States District Court for the Southern District of New York

Senior Judge Lawrence M. McKenna

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-1320

PARK B. SMITH, INC.,

Plaintiff-Appellant,

v.

CHF INDUSTRIES, INC.,

Defendant-Appellee.

Appeal from the United States District Court for the Southern District of New York in case no. 06-CV-0869, Senior Judge Lawrence M. McKenna.

DECIDED: February 6, 2009

Before MAYER, SCHALL, and GAJARSA, Circuit Judges.

PER CURIAM.

The district court's grant of summary judgment of non-infringement to CHF Industries, Inc. was based upon the point of novelty test, which was eliminated by Egyptian Goddess, Inc. v. Swisa, Inc., 543 F.3d 665 (Fed. Cir. 2008) (en banc). Accordingly, the judgment of the district court is vacated and the case is remanded for reconsideration and further proceedings as appropriate in light of Egyptian Goddess.

COSTS

Each side shall bear its own costs.

VACATED AND REMANDED