NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

INTERCONTINENTAL GREAT BRANDS LLC,
Plaintiff-Appellant

v.

KELLOGG NORTH AMERICA COMPANY, KELLOGG USA, INC., KEEBLER COMPANY, KEEBLER FOODS COMPANY, KELLOGG SALES COMPANY,
Defendants-Cross-Appellants

2015-2082, 2015-2084

Appeals from the United States District Court for the Northern District of Illinois in No. 1:13-cv-00321, Judge Matthew F. Kennelly.

PER CURIAM.

O R D E R

On June 17, 2016, Cross-Appellants Keebler Company, Keebler Foods Company, Kellogg North America Company, Kellogg Sales Company and Kellogg USA, Inc. (collectively, "Kellogg") filed a principal and response brief in this case. Counsel for Kellogg certified that the brief contained 14,940 words, excluding parts exempted by

Federal Rule of Appellate Procedure 32(a)(7)(B)(iii). Kellogg Br. at 74.

Kellogg's brief, however, contained 18,525 words. Federal Circuit Rule 28.1(b)(2)(A) limits a cross-appellant's principal and response brief to 16,500 words. At oral argument on May 3, 2017, the court asked counsel for Kellogg to submit a letter explaining why its brief exceeded the maximum allowable words.

On May 8, 2017, counsel for Kellogg submitted a letter explaining that it failed to count the words contained in the footnotes. Counsel stated that "[w]hile this error was avoidable, it was not intentional." Counsel also stated that until the court pointed out the error at oral argument, he "had no knowledge that [his] certificate of compliance was inaccurate."

We accept counsel's explanation that this error was unintentional. However, we stress that inadvertence does not excuse failure to comply with the court's rules and urge more careful adherence to the court's rules in future filings.

IT IS ORDERED THAT:

(a) Within 7 calendar days of this order, counsel for Kellogg shall submit a corrected principal and response brief that complies with all Federal Circuit Rules. To accomplish this, only deletions are permitted. Counsel for Kellogg may not re-write or add to any portion of the brief.
(b) Within 7 calendar days of Kellogg's filing a corrected brief, Intercontinental Great Brands LLC ("IGB") shall file a corrected response and reply brief, if necessary, solely to conform to any page number changes in Kellogg's brief.
(c) Within 7 calendar days of IGB's filing, Kellogg shall file a corrected reply brief, if necessary, solely

to conform to any page number changes in IGB's brief.

(d) Costs in preparing all three corrected briefs are assigned to Kellogg.

FOR THE COURT

May 19, 2017
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court