

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

TILLOTSON CORPORATION,
d/b/a BEST MANUFACTURING
COMPANY

Plaintiff,

v.

SUPERMAX CORPORATION BHD, *et. al.*,

Defendants.

CIVIL ACTION NO.
4:07-CV-00193-RLV

TILLOTSON CORPORATION’S STATUS REPORT TO THE COURT

Plaintiff Tillotson Corporation (“Tillotson”) submits this Report in order to inform the Court of the status of the proceedings in this Action. On October 15, 2008, this Court ordered that this Action be stayed until the International Trade Commission’s (“ITC”) decision in Investigation Nos. 337-TA-608 and 337-TA-612 became final, including any appeals. *See* Docket Entry No. 78. On December 22, 2008, the ITC rendered a decision in the Investigation affirming the Administrative Law Judge’s (“ALJ”) determination that there was no violation of 19 U.S.C. § 1337. Although the ALJ determined that the vast majority of accused gloves infringed Tillotson’s U.S. Patent No. Re. 35,616 (the “616 Patent”), he

found no violation because of his belief that the asserted claims are invalid due to an improper enlargement of the scope of the claims during reissue and a defective reissue declaration. The ALJ rejected all other defenses alleging invalidity or unenforceability of '616 Patent. The ITC's decision was affirmed by the Federal Circuit on December 14, 2009.

By statutory authority, United States District Courts alone have original and exclusive jurisdiction to make determinations of patent validity. Under well-settled principles of law, the ITC lacks the statutory authority to "hold" a patent invalid under Title 35. Similarly, Federal Circuit review of ITC decisions is limited solely to determining whether the ITC correctly determined unfair practices in import trade. Therefore, the ITC's decision, and the Federal Circuit's affirmation of that decision, have no preclusive effect in this Court.¹

Pursuant to S. Ct. Rules 13 and 30, Tillotson had until March 15, 2010 to appeal the Federal Circuit's decision to the Supreme Court. Tillotson has elected not to pursue a further appeal. Tillotson is filing this Report solely on its own behalf because the parties could not agree on the precise language of a Joint Statement. Tillotson has conferred with counsel for Defendants and has proposed

¹ As the Court is aware, these issues are addressed in detail in *Tillotson Corporation v. The Safety Zone, LLC*, N.D. Ga. Case No. 06-CV-242-RLV. See Tillotson's Opposition to Safety Zone's Motion for Satisfaction or Modification of Judgment Pursuant to Federal Rule of Civil Procedure 60(b) (Docket No. 37).

that all parties file a Joint Statement setting forth their recommendations for further proceedings in this action within twenty days hereof.

Respectfully submitted this 19th day of March, 2010.

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CERTIFICATE OF SERVICE

I certify that a copy of TILLOTSON CORPORATION'S STATUS REPORT TO THE COURT was filed electronically on March 19, 2010 using the CM/ECF system in the United States District Court for the Northern District of Georgia, with notice of the same to be electronically mailed by the Court to the following attorneys of record:

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CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1D, the undersigned counsel hereby certifies that the foregoing TILLOTSON CORPORATION'S STATUS REPORT TO THE COURT complies with the font and point selections approved by the Court in LR 5.1B. The foregoing Report was prepared on a computer using the Times New Roman font (14 point).

/s/ Christopher J. Chan
Christopher J. Chan