

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

T-PEG, INC and )  
TIMBERPEG EAST, INC., )  
Plaintiffs, )  
)  
vs. ) No. 03-CV-462-M  
)  
VERMONT TIMBER WORKS, INC. and )  
DOUGLAS FRIANT, )  
Defendants. )

DEFENDANTS' STATUS REPORT

Defendants, Vermont Timber Works, Inc. ("VTW") and Douglas Friant ("Friant") respectfully submit this status report to assist in framing issues for the status conference scheduled for April 28, 2009.

No Outstanding Matters

Technically there are no outstanding motions at present, as far as defendants are aware. However, defendants are filing two new motions herewith which it respectfully requests the Court to consider.

Motion To Reopen Discovery On  
Standing And Copyright Ownership Issues

Defendants have just filed a motion (Document 165) to reopen discovery for 90 days on the issues of standing and copyright ownership. Because the standing and ownership theories on which plaintiffs now rely were only injected into the case after discovery was closed, defendants never had an opportunity to take discovery on these issues. It is appropriate for them to do so now, and they are prepared to do so expeditiously.

Motion For 1292(b) Certification  
On Abstraction/Filtration Issue

Defendants have also just filed a motion (Document 166) for certification for interlocutory appeal on the long-disputed issue of abstraction/filtration (Document 163). The Court has determined that abstraction/filtration does not apply in AWCPA cases, but has noted some degree of discomfort with the issue. Because this is an issue which will have a profound impact on so many details of the trial, and will surely be appealed by whichever side loses at trial, defendants believe that efficiency will be served by a certification for interlocutory appeal under 28 U.S.C. Section 1292(b), and respectfully ask the Court to consider making such a certification.

If this discreet issue were appealed, per Section 1292 the appeal would not stay the other aspects of the case, and the discreet discovery as to copyright ownership and standing could proceed and be complete when the case returned to this Court for trial.

Date: April 27, 2009

VERMONT TIMBER WORKS, INC.  
and DOUGLAS FRIANT, Defendants,

/s/ W. E. Whittington  
W.E. Whittington

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2009, I served the foregoing pleading on the following counsel of record, by causing it to be filed electronically via the CM/ECF filing system or mailed by first-class United States Mail, postage pre-paid, or in such other manner as may be indicated:

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