

ARMED SERVICES BOARD OF CONTRACT APPEALS

Appeal of --)
)
Campbell Plastics Engineering & Mfg. Inc.) ASBCA No. 53319
)
Under Contract No. DAAA15-92-C-0082)

APPEARANCES FOR THE APPELLANT: Gary A. Clark, Esq.
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APPEARANCES FOR THE GOVERNMENT: COL Karl M. Ellcessor, III, JA
Chief Trial Attorney
Craig S. Clarke, Esq.
Supervisory Trial Attorney
MAJ Leslie A. Nepper, JA
Trial Attorney

OPINION BY ADMINISTRATIVE JUDGE DICUS
ON APPELLANT'S MOTION FOR RECONSIDERATION

Campbell Plastics Engineering & Mfg. Inc. (Campbell) has moved for reconsideration of our decision denying its appeal. *Campbell Plastics Engineering & Mfg. Inc.*, ASBCA No. 53319, 03-1 BCA ¶ 32,206 (*Campbell Plastics*). In that decision we upheld the contracting officer's action in taking title to a patent issued to Campbell because Campbell had not disclosed the invention within the time specified in FAR 52.227-11, PATENT RIGHTS - RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1989). The Army opposed Campbell's motion. We dismiss Campbell's motion as untimely.

Campbell's motion asserts that the "motion is timely made pursuant to Board Rule 29, as the Decision was received by Campbell Plastics on March 24, 2003." (Mot. at 1) Board Rule 29 provides that a motion for reconsideration "shall be filed within 30 days from the date of the receipt of a copy of the decision of the Board by the party filing the motion." The motion was submitted via Federal Express and received by the Board on 24 April 2003, 31 days after Campbell received the decision. Although the Army did not raise the timeliness issue, the Board, after several exchanges, afforded the parties until 8 October 2003 to address the timeliness issue. We pointed out that our case precedent has held the date of receipt of a motion for reconsideration by the Board is the governing date when a motion is sent via any method other than U.S. mail. Neither party has responded.

Accordingly, we find that the decision was received by Campbell on 24 March 2003 and the motion for reconsideration was received by the Board on 24 April 2003, 31 days later. Campbell's motion is, therefore, untimely. *Corbett Technology Co., Inc.*, ASBCA No. 49477, 00-2 BCA ¶ 30,922. The motion is dismissed.

Dated: 15 October 2003

CARROLL C. DICUS, JR.
Administrative Judge
Armed Services Board
of Contract Appeals

I concur

I concur

MARK N. STEMLER
Administrative Judge
Acting Chairman
Armed Services Board
of Contract Appeals

EUNICE W. THOMAS
Administrative Judge
Vice Chairman
Armed Services Board
of Contract Appeals

I certify that the foregoing is a true copy of the Opinion and Decision of the Armed Services Board of Contract Appeals in ASBCA No. 53319, Appeal of Campbell Plastics Engineering & Mfg. Inc., rendered in conformance with the Board's Charter.

Dated:

EDWARD S. ADAMKEWICZ
Recorder, Armed Services
Board of Contract Appeals