

ORIGINAL



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of)
)

POLYPORE INTERNATIONAL, INC.,)
Respondent.)
_____)

Docket No. 9327

**ORDER GRANTING EMERGENCY MOTION BY HOLLINGSWORTH & VOSE
COMPANY SEEKING CLARIFICATION OF ORDER ON MOTION TO INTERVENE**

I.

On September 28, 2009, Intervenor Hollingsworth & Vose (“H&V”) submitted an emergency motion for clarification of the order on H&V’s motion for leave to intervene (“Emergency Motion”). H&V had previously, on September 2, 2009, filed a motion seeking leave to intervene in this action for the “limited purpose of opposing any order or remedy affecting its rights and in particular its contractual rights arising under the March 23, 2001 Cross Agency Agreement between H&V and Daramic, Inc. (the “Cross Agency Agreement”).” Motion for Limited Intervention, at 1. Neither Complaint Counsel nor Respondent filed a response or objection to that motion. By Order dated September 23, 2009, H&V’s motion for limited intervention was granted in part and denied in part. H&V now seeks clarification of the September 23, 2009 Order. As discussed below, the Emergency Motion is GRANTED.

II.

The September 23, 2009 Order provided that “H&V’s motion to intervene is granted only for the limited purpose of providing a brief and any proposed findings of fact on the issue of how the proposed remedy might affect H&V’s rights under the Cross Agency Agreement.” The September 23, 2009 Order also detailed why H&V’s motion to intervene for purposes of allowing H&V to present evidence or conduct cross-examination at the trial in this matter was untimely and, thus, denied in that respect. Accordingly, the September 23, 2009 Order addressed all issues that were appropriate prior to the issuance of the Initial Decision in this matter.

H&V seeks clarification as to “whether it has been granted or denied the right to appeal to the Commission on the initial decision in this proceeding on issues relating to [H&V’s] rights under the Cross Agency Agreement.” Emergency Motion, at 2. H&V’s request is clarified as follows: The September 23, 2009 Order did not and would not address whether H&V should

have the right to participate in an appeal to the Commission. Further, the order did not deny any right to appeal issues as to which intervention has been granted.

Under Commission Rule 3.14(a), “[t]he Administrative Law Judge or the Commission may by order permit the intervention to such extent and upon such terms as are provided by law or as otherwise may be deemed proper.” 16 C.F.R. § 3.14. The September 23, 2009 Order specified the extent to which H&V’s participation prior to the issuance of the Initial Decision was deemed to be proper. Any issue regarding the rights of an intervenor in an appeal of an initial decision to the Commission would be raised with the Commission after an initial decision is issued.

III.

H&V’s motion is GRANTED and the September 23, 2009 Order is clarified to state that the Order did not address and did not deny any right H&V might have to participate in an appeal to the Commission.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: September 29, 2009