

United States Court of Appeals for the Federal Circuit

03-1092

RON NYSTROM,

Plaintiff-Appellant,

v.

TREX COMPANY, INC. and TREX COMPANY, LLC,

Defendants-Appellees.

Joseph S. Presta, Nixon & Vanderhye, P.C., of Arlington, Virginia, argued for plaintiff-appellant.

Patrick J. Coyne, Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P, of Washington, DC, argued for defendants-appellees. With him on the brief was Troy E. Grabow.

Appealed from: United States District Court for the Eastern District of Virginia

Judge Jerome B. Friedman

United States Court of Appeals for the Federal Circuit

03-1092

RON NYSTROM,

Plaintiff-Appellant,

v.

TREX COMPANY, INC. and TREX COMPANY, LLC,

Defendants-Appellees.

Before MAYER,* GAJARSA, and LINN, Circuit Judges.

ORDER

A combined petition for panel rehearing and rehearing en banc was filed by Trex Co., Inc. and Trex Co., LLC. A response thereto was invited by the court and filed by Ron Nystrom. Thereafter, these filings were referred to the merits panel that heard the appeal.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) the petition for panel rehearing is granted for the limited purpose of addressing the effects of Phillips v. AWH Corp., 415 F.3d 1303 (Fed. Cir. 2005) (en banc), and

* Haldane Robert Mayer vacated the position of Chief Judge on December 24, 2004.

(2) the previous opinion of the court in this appeal, issued on June 28, 2004 and reported at 374 F.3d 1105, is withdrawn. The new opinion accompanies this order.

FOR THE COURT

Sep 14 2005

Date

s/Jan Horbaly

Jan Horbaly
Clerk