

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**FLEXITEEK AMERICAS, INC. AND FLEXITEEK
INTERNATIONAL AS,**
Plaintiffs-Appellees,

v.

PLASTEAK, INC. AND PLASDECK, INC.,
Defendants-Appellants,

AND

ANDRE BATISTA,
Defendant.

2010-1256

Appeal from the United States District Court for the
Southern District of Florida in case no. 08-CV-60996,
Judge James I. Cohn.

ON MOTION

Before GAJARSA, MAYER, and PROST, *Circuit Judges.*
GAJARSA, *Circuit Judge.*

O R D E R

This court directed the parties to respond whether PlasTEAK, Inc. and PlasDECK, Inc.'s (PlasTEAK) appeal from the February 5, 2010 order of the United States District Court for the Southern District of Florida granting a permanent injunction should be dismissed as moot in light of the district court's subsequent July 20, 2010 order terminating the permanent injunction. Flexiteek Americas, Inc. and Flexiteek International AS (Flexiteek) respond and argue that this appeal is moot. The appellant, PlasTEAK, argues that this appeal is not moot.

PlasTEAK urges this court not to dismiss the appeal arguing that the appeal should continue to resolve its concerns regarding liability for infractions of the injunction between issuance of the injunction and the court's termination order. Although that issue might present a case or controversy, it does not do so here. This appeal is of the district court's injunction, which is no longer in effect, and not of any possible order for contempt. Notably, even if PlasTEAK were to prevail in this appeal, that would not necessarily dispose of any question as to contempt of an injunction. *See generally Emery Air Frieght Corp. v. Local Union 295*, 449 F.2d 586, 591 (2d Cir. 1971) ("Accordingly, the preliminary injunction as granted was improper. However, this conclusion does not dispose of the question of contempt, to which we now turn.").

Accordingly,

IT IS ORDERED THAT:

- (1) This appeal is dismissed.
- (2) Each side shall bear its own costs.

FOR THE COURT

MAY 27 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: S. Tracy Long, Esq.
Bruce H. Wilson, Esq.

s19

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

MAY 27 2011

JAN HORBALY
CLERK