IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

UNIVERSITY OF ILLINOIS FOUNDATION

Plaintiff and
Counterclaim Defendant
Appellee,

v.

BLONDER-TONGUE LABORATORIES

Defendant and
Counterclaimant
Appellant,

v.

JFD ELECTRONICS CORPORATION

Counterclaim Defendant
Appellee.

CAUSE NO. 17153

U.S.C.A.—7th Circuit
FILED
MAR 4 - 1970
KENNETH J. CARRICK
Clerk

MEMORANDUM OPPOSING COST BILLS

In addition to the cost bills submitted by BLONDER-TONGUE LABORATORIES in this matter, the other two parties to the appeal, namely, the University of Illinois Foundation and JFD Electronics Corporation, have also separately submitted cost bills. BLONDER-TONGUE LABORATORIES opposes the submission of these cost bills by the other two parties and requests that the Clerk be directed not to certify such costs for insertion in the mandate.

In the decision in this matter dated February 13, 1970, this Court reversed the decision of the District Court with respect to reissue patent 25,740 and otherwise affirmed the decision of the District Court. In concluding, this Court ordered that BLONDER-TONGUE LABORATORIES should recover one-third of its cost on appeal from the University of Illinois Foundation. No other direction was given by this Court for recovery of costs by any of the other parties to the appeal. There being no direction for such other taxation of cost by this Court, it is submitted that the Clerk should refuse to insert such cost in the mandate.

The instant case appears to be one clearly within the scope of Rule 39(a) F.R.A.P. which provides, in part, "If a judgment is affirmed or reversed in part, or is vacated, cost shall be allowed only if ordered by the court." As stated, in the instant appeal the decision of the Court resulted in a partial reversal and partial affirmance, and the only order allowing cost was that awarding one-third of BLONDER-TONGUE'S cost as recoverable from the University of Illinois Foundation.

It is respectfully requested that the other cost bills submitted by the other parties to the appeal be denied.

Respectfully submitted,

By _____
Attorneys for Defendant and
Counterclaimant Appellant
HOFGREN, WEGNER, ALLEN,
STELLMAN & McCORD
20 North Wacker Drive
Chicago, Illinois 60606

_____, 1970

ACKNOWLEDGEMENT OF SERVICE

We hereby acknowledge that we received two copies of the foregoing MEMORANDUM OPPOSING COST BILLS this 4th day of March, 1970.

MERRIAM, MARSHALL, SHAPIRO & KLOSE

By _____
Attorneys for Plaintiff-Appellee
University of Illinois Foundation

ACKNOWLEDGEMENT OF SERVICE

We hereby acknowledge that we received two copies of the foregoing MEMORANDUM OPPOSING COST BILLS this 4th day of March, 1970.

SILVERMAN & CASS

By _____
Attorneys for Counterclaim
Defendant-Appellee,
JFD Electronics Corporation