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## PROTECT YOUR SPECS!

The U.S. Supreme Court has refused to hear further appeals on the case of Whitten Corp. vs. Paddock, Inc., affirming the decision handed down by the U.S. District Court of Massachusetts, the Federal First Circuit Court.

The court ruled that proprietary specifications are not a violation of antitrust laws and stated that trained professional specifiers make informed judgments on products which they think best serve their clients. Other manufacturer's material or equipment can qualify as "or-equal" only when the specifier waives specifications or permits those manufacturers to bid.

According to the court, the specifier "may waive specifications in order to obtain a more desirable product for their client." Again, only the specifier can decide on an alternative product.

In its conclusion, the court placed responsibility on manufacturers and suppliers to educate the specifier about its' product: "The burden is on the supplier or manufacturer who has not been specified to convince the specifier that their product is equal for the purpose of that particular project."

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