



## **March 27, 2012 CLIENT ALERT**

### **COURT OF APPEALS FOR FEDERAL CIRCUIT (“CAFC”) DISMISSES GOVERNMENT APPEAL OF DECISION INVOLVING “SETS” FAVORABLE TO IMPORTERS/RETAILERS**

As reported in our alert dated January 4, 2012, the Court of International Trade (“CIT”) issued a decision with major ramifications for retailers importing gift and other types of sets for retail sale. In Estee Lauder v. United States (Slip Op. 12-1), in a case handled by Pisani & Roll LLP, the CIT ruled that the presence of cases/containers used to store/hold articles that are claimed to be a set does not preclude the articles from being treated as sets for tariff purposes. The decision is important because historically US Customs & Border Protection has taken a very narrow view of the classification rules for sets when there is a case or container among the articles claimed to be a set.

Today, the Court of Appeals for the Federal Circuit (“CAFC”) granted the government’s motion to dismiss its appeal of the Estee Lauder CIT decision. The government had filed an appeal with the CAFC on March 5, 2012, but subsequently decided to forego its challenge to the CIT decision. The CAFC order granting the dismissal of the case (Appeal No. 2012-1253) is listed on the CAFC website ([www.cafc.uscourts.gov](http://www.cafc.uscourts.gov)) but has not yet been published. A copy of the order may be requested from the court via mail.

Importers who have been denied set treatment by Customs due to the presence of a container or case should act to protect their rights. For further information, importers should consult with their trade advisor/representative or contact any of the following Pisani & Roll LLP attorneys:

Robert J. Pisani – (202) 466-0960 – [rpisani@worldtradelawyers.com](mailto:rpisani@worldtradelawyers.com)

Michael E. Roll – (310) 826-4410 – [mroll@worldtradelawyers.com](mailto:mroll@worldtradelawyers.com)

Brett I. Harris – (845) 255-1850 – [bharris@worldtradelawyers.com](mailto:bharris@worldtradelawyers.com)

If you wish to be removed from our mailing list, please reply to this email and place “remove” in the subject line.