

Federal Court of Appeal



Cour d'appel fédérale

Date: 20240904

Docket: A-206-24

Citation: 2024 FCA 139

**CORAM: BOIVIN J.A.
GOYETTE J.A.
WALKER J.A.**

BETWEEN:

GE RENEWABLE ENERGY CANADA INC.

Appellant

and

**CANMEC INDUSTRIAL INC. and RIO TINTO ALCAN
INC.**

Respondents

Heard at Ottawa, Ontario, on September 4, 2024.
Judgment delivered from the Bench at Ottawa, Ontario, on September 4, 2024.

REASONS FOR JUDGMENT OF THE COURT BY:

BOIVIN J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on September 4, 2024).

BOIVIN J.A.

[1] The appellant is seeking to reverse a Federal Court Order (2024 FC 887) rendered by Justice McHaffie (the Motion Judge) on June 11, 2024. The Motion Judge found that the appellant's motion to amend its Amended Statement of Claim in a copyright infringement action was not in the interests of justice. The Judge also dismissed the appellant's request for an adjournment.

[2] In this case, the standard of review is that of palpable and overriding error for questions of fact and questions of mixed fact and law, and of correctness for questions of law (*Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235 at paras. 8, 10 and 36).

[3] Essentially, the appellant contends that the Motion Judge made multiple errors of law and palpable and overriding errors.

[4] We disagree.

[5] The Motion judge identified the correct legal test developed by the jurisprudence to be applied on a motion for leave to amend and to adjourn pursuant to Rules 75 and 76 of the *Federal Courts Rules*, S.O.R./98-106. The Motion Judge considered the relevant factors in the circumstances of this case, properly weighed the evidence and provided a thorough analysis. We find no basis for the argument that the Motion Judge erred in law or made palpable and overriding errors.

[6] For these reasons, the appeal will be dismissed with costs.

"Richard Boivin"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-206-24

STYLE OF CAUSE: GE RENEWABLE ENERGY CANADA INC. v. CANMEC INDUSTRIAL INC. and RIO TINTO ALCAN INC.

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: SEPTEMBER 4, 2024

REASONS FOR JUDGMENT OF THE COURT BY: BOIVIN J.A.
GOYETTE J.A.
WALKER J.A.

DELIVERED FROM THE BENCH BY: BOIVIN J.A.

APPEARANCES:

Michael Crichton
Ryan Steeves
Veronica Van Dalen

FOR THE APPELLANT

Joanne Chriqui
Fortunat Nadima Nadima

FOR THE RESPONDENT
CANMEC INDUSTRIAL INC.

David Turgeon
Joanie Lapalme

FOR THE RESPONDENT
RIO TINTO ALCAN INC.

SOLICITORS OF RECORD:

Gowling WLG (Canada) LLP
Ottawa, Ontario

FOR THE APPELLANT

Robic LLP
Montréal, Quebec

FOR THE RESPONDENT
CANMEC INDUSTRIAL INC.

Fasken Martineau DuMoulin SENCRL, srl.
Montréal, Quebec

FOR THE RESPONDENT
RIO TINTO ALCAN INC.