

Federal Court of Appeal



Cour d'appel fédérale

Date: 20210728

Docket: A-431-19

Citation: 2021 FCA 155

**CORAM: GLEASON J.A.
LASKIN J.A.
LOCKE J.A.**

BETWEEN:

PFIZER CANADA ULC

Appellant

and

SEEDLINGS LIFE SCIENCE VENTURES, LLC

Respondent

Heard by online video conference hosted by the registry, on May 6, 2021.

Judgment delivered at Ottawa, Ontario, on July 28, 2021.

REASONS FOR JUDGMENT BY:

LOCKE J.A.

CONCURRED IN BY:

**GLEASON J.A.
LASKIN J.A.**

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REASONS FOR JUDGMENT

LOCKE J.A.

[1] This appeal concerns a decision made by the Federal Court (2019 FC 1396, per Justice Sébastien Grammond), during the trial of a patent infringement action, to admit into evidence certain documents produced during examination for discovery as business records on the issue of remedies. The defendant and plaintiff by counterclaim in the action, Pfizer Canada ULC (Pfizer) appeals that decision.

[2] The plaintiff and defendant to the counterclaim, the respondent Seedlings Life Science Ventures, LLC (Seedlings), argues that this appeal should be dismissed as moot in view of the Federal Court's statement in its reasons for its decision on the merits of the action (2020 FC 1 at paragraph 235) that it did not need to rely on the documents in question to come to its conclusion on remedies. It should also be noted that no remedies were ordered in the decision on the merits since no infringement was found.

[3] Pfizer responds that the present appeal is not moot because Seedlings has appealed the decision on the merits to this Court (File No. A-44-20) and, in the event that that appeal is successful and the matter is remitted to the Federal Court, the admissibility of the documents in question could be reconsidered.

[4] Pfizer's argument is difficult to accept in view of the Federal Court's conclusion that it did not need to rely on the documents in question to come to its conclusion on remedies. Even if Seedlings' appeal on the merits were successful, I cannot see what would lead the Federal Court to change that conclusion. Accordingly, I cannot see how any reconsideration of the decision on the admissibility of documents could have any practical effect.

[5] Moreover, in a parallel decision released today, this Court has dismissed Seedlings' appeal on the merits, and so no reconsideration will take place.

[6] For these reasons, I am satisfied that the present appeal is moot and should be dismissed with costs.

"George R. Locke"

J.A.

"I agree.

Mary J.L. Gleason"

"I agree.

J.B. Laskin"

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-431-19

STYLE OF CAUSE: PFIZER CANADA ULC v.
SEEDLINGS LIFE SCIENCE
VENTURES, LLC

PLACE OF HEARING: BY ONLINE VIDEO
CONFERENCE

DATE OF HEARING: MAY 6, 2021

REASONS FOR JUDGMENT BY: LOCKE J.A.

CONCURRED IN BY: GLEASON J.A.
LASKIN J.A.

DATED: JULY 28, 2021

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