

Federal Court of Appeal



Cour d'appel fédérale

Date: 20220616

Docket: A-23-22

Citation: 2022 FCA 116

**CORAM: LASKIN J.A.
MACTAVISH J.A.
DAWSON D.J.C.A.**

BETWEEN:

FARMERS EDGE INC

Appellant

and

FARMOBILE, LLC

Respondent

Heard by online video conference hosted by the Registry, on June 16, 2022.

Judgment delivered from the Bench at Vancouver, British Columbia, on June 16, 2022.

REASONS FOR JUDGMENT OF THE COURT BY:

DAWSON D.J.C.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Vancouver, British Columbia, on June 16, 2022).

DAWSON D J.C.A.

[1] Farmobile, LLC, the respondent to this appeal, is the registered owner of a patent issued in respect of a farming data exchange system. It has sued the appellant, Farmers Edge Inc., in the Federal Court asserting that Farmers Edge has infringed its patent.

[2] This appeal arises out of an interlocutory motion brought by Farmers Edge seeking leave to further amend its statement of defence. For reasons cited 2022 FC 22, the Federal Court permitted Farmobile to make certain amendments to its claim but did not allow Farmers Edge to make all of the amendments it sought. Farmers Edge now appeals from the order of the Federal Court, alleging that the Court made extricable errors of law and palpable and overriding errors of fact when it denied leave to amend Farmers Edge's defence to assert that:

- i) The claims of the patent are invalid for inutility; and
- ii) The claims of the patent are invalid for overbreadth because the claims are broader than any invention made

[3] During oral argument counsel for Farmers Edge confirmed that it no longer asserts any error in the Federal Court's refusal to allow it to plead that Farmobile's profitability and licensing agreements are relevant to the calculation of a reasonable royalty.

[4] While Farmers Edge characterizes the errors asserted with respect to the issues of inutility and overbreadth to be errors of law, we are all of the view that in substance Farmers Edge challenges the Federal Court's application of the facts to the correct legal tests. No error of law or palpable and overriding error of fact has been demonstrated in the reasons of the Federal Court. Specifically, Farmers Edge failed to show any overarching error with respect to whether the amendments would facilitate the Court's consideration of the substance of the dispute on its merits. Rather, it invited us to substitute our own conclusion for that of the Federal Court.

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

[6] After hearing submissions on the issue of costs, costs are fixed in the all-inclusive amount of \$7500.

“Eleanor R. Dawson”

D.J.C.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-23-22

STYLE OF CAUSE: FARMERS EDGE INC. v.
FARMOBILE, LLC

PLACE OF HEARING: HEARD AT VANCOUVER,
BRITISH COLUMBIA AND BY
ONLINE VIDEO CONFERENCE
HOSTED BY THE REGISTRY

DATE OF HEARING: JUNE 16, 2022

**REASONS FOR JUDGMENT OF THE COURT
BY:** LASKIN J.A.
MACTAVISH J.A.
DAWSON D.J.C.A.

DELIVERED FROM THE BENCH BY: DAWSON D.J.C.A.

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