

STRATHY, ARCHIBALD & SEAGRAM

BARRISTERS AND SOLICITORS

COLIN M. A. STRATHY, Q.C.
NORMAN O. SEAGRAM, Q.C.
RICHARD S. THOMSON, Q.C.
R. DOUGLAS S. HUNTER
STEPHEN R. CLARKE
GAIL P. CARLETON
GEORGE VUKELICH
DOUGLAS D. LANGLEY
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C. ROGER ARCHIBALD, Q.C.
MONTGOMERY GUNN
GEORGE A. WILSON
HARRY R. VANDERLUGT
LESLIE A. WITTLIN
FRANCIS L. REILLY
JOHN M. WHYTE
WILLIAM J. WALKER
STEPHEN P. JOHNSTON

COUNSEL
THOMAS F. C. COLE, Q.C.

38TH FLOOR COMMERCE COURT WEST

BOX 438
COMMERCE COURT POSTAL STATION
TORONTO, CANADA
M5L 1J3

TELEPHONE (416) 862-7525
CABLE "SASCLAW"

July 18, 1979

David J. Emery, Esq.,
President,
Giant Yellowknife Mines Limited,
P. O. Box 40,
Commerce Court West,
Toronto, Ontario, M5L 1B4.

Re: HSA Reactors Limited - Proposed Agreement

Dear Mr. Emery:

Before the weekend yourself and Mr. Raleigh showed me a draft agreement of 28th of June between Giant Yellowknife Mines and HSA Reactors Limited, relating to the subject matter of some patent applications of HSA and alleged inventions and confidential information "relating to electro-chemical processes and the electro-chemical treatment of waste waters and other effluents and liquids, and to a reactor for electro-chemical processes".

Your question posed to me was whether Giant should properly sign the agreement, which contained the following representations and warranties:

"1.1 The Company represents and warrants to HSA that neither it nor any parent or subsidiary company is presently developing or negotiating with any other party in respect of the development of, a reactor or process or other technology in the field of electro-chemistry utilizing carbon fibre or metallic filaments as electrodes."

On the question whether Giant could give such a covenant, which included representations in respect of "any parent", I expressed the opinion that the word "parent" was variously defined and used in many different senses. In speaking of humans, for example, it may be used in the sense of a natural parent, foster parent, adopting parent, etc.

As applies to a relationship between corporations, there is a general significance in the sense that it may be

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used to indicate that one corporation has an element of control over another, but the degree of control is defined differently for various statutory purposes, as, for example, in relation to certain tax laws, in relation to corporation laws, or in relation to securities laws, and has at times varied from the ownership by one corporation of the other of as little as 10% of voting capital, which is to say that for purposes of the present agreement it is a word of "uncertain meaning," and preferably should be avoided.

I understand that you favour a representation in broader language to indicate, that so far as Giant is aware, neither Falconbridge nor related companies are presently involved in the development in question. I believe it was understood that you would procure Falconbridge's consent and approval to any form of representation to be made by Giant.

On a quick weekend review of the draft document, I was somewhat surprised by the possible breadth of meaning of the words "development of a reactor or process or other technology in the field of electro-chemistry utilizing carbon fibre or metallic filaments as electrodes". The word "fibre" or "filaments" I understand are the key to the development, but the words "reactor", "process" or "other technology" seem to be words of such broad meaning that I pondered whether this paragraph really indicated a new process, or whether the words used might even describe something as ordinary as an electric battery or electro-plating units? Or some other process already in use, though not drawn with intention to describe such?

You left me a copy of the agreement, which I perused and discussed briefly today with a Falconbridge legal officer, who indicated to me that it is felt generally desirable to accept the agreement prepared for HSA with a view to establishing "closer relations", and a feeling of mutual confidence, and developing such ultimate agreement as might be desirable. This may be the guiding philosophy in accepting this initial agreement, produced by and for HSA? It is pointed out that the agreement does not purport to preclude Giant from holding, for its own account, the improvements and processes that might evolve from Giant's "examination and review of the confidential information". On rereading the agreement, I would be a little uncomfortable if the stage of advancing to a more precise agreement were long deferred. When it receives confidential information, Giant is required to hold it "in trust for HSA and not to exploit the same" (this under clause 2.1(b)). This might make it questionable that Giant could hold for itself any benefits from having the confidential information in the first instance??

I have the feeling that it would be well to contemplate what are the future steps that might arise in the

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course of some "joint development agreement", and in whom the possible patents may be vested. Perhaps this has already been considered unilaterally by each party?

I do not profess any expertise in this particular area, and this letter merely serves to record a concern, in very general terms.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Roger Armitage", with a horizontal flourish underneath.

CRA*ek