

Federal Court



Cour fédérale

**Date: 20091008**

**Docket: T-737-08**

**Citation: 2009 FC 1021**

**Montreal, Quebec, October 8, 2009**

**In the presence of Richard Morneau, Prothonotary**

**BETWEEN:**

**EUROCOPTER  
(simplified joint-stock company)**

**Plaintiff/Defendant  
by Counterclaim**

**and**

**BELL HELICOPTER TEXTRON CANADA LIMITED**

**Defendant/Plaintiff  
by Counterclaim**

**REASONS FOR ORDER AND ORDER**

[1] The issue before the Court is a second motion by the plaintiff Eurocopter (hereinafter Eurocopter) for a ruling on certain objections. The first motion by Eurocopter was resolved by an

order of this Court dated August 18, 2009 and has been appealed by both parties; the appeal is to be heard by a justice of this Court on October 26, 2009.

[2] In this connection, the defendant Bell Helicopter Textron Canada Limited (hereinafter Bell Helicopter) maintains that this motion by Eurocopter is premature and unnecessary, since the above-mentioned appeal should resolve a good many of the issues now before use. Some of the conclusions sought by Eurocopter in its notice of motion also lead Bell Helicopter to assert that this motion constitutes a collateral attack on the order of this Court dated August 21, 2009, whereby the Court agreed to the common desire of the parties and ordered a suspension of the deadline for compliance with its order of August 18, 2009 until the appeal scheduled for October 26, 2009 is heard. Bell Helicopter accordingly seeks substantial costs against Eurocopter with respect to this motion, regardless of its outcome.

[3] As to the prematurity of this motion, it is somewhat difficult to assess its true scope, and in order among other things to advance matters, the Court nevertheless decided to hear this motion on October 5, 2009.

[4] As to the argument respecting a collateral attack, the Court will be able to adjust its conclusions to ensure that the intent of the suspension provided for in the order of August 21, 2009 is respected.

[5] Moreover, the parties were reminded of the circumstances surrounding this motion and the general principles applicable to such motions in the order of August 18, 2009 (Eurocopter's initial motion) and the Court stands by what it stated at that time.

[6] Although the Court is now called upon to resolve fewer issues than in the case of Eurocopter's initial motion, the fact remains that there are still some issues to be resolved.

[7] As the Court hoped, the parties have jointly produced a table which, in the Court's view, reflects the gist of the reasons for or against an answer to each issue to be adjudicated.

[8] Thus, the Court has adopted this table, and entitled it "Table relating to the plaintiff's motion".

[9] Having reviewed the records of the parties' motions and heard their counsel, and bearing in mind the relevant case law principles, including those already referred to and those cited by the parties, the Court has marked with a double line ("||") in the margin of said Table relating to the plaintiff's motion all or parts of a party's reasoning for each issue to be adjudicated whether or not the question had ultimately to be answered. The line in the margin is thus appears in one or the other of the last two columns in the Table.

[10] Accordingly, Eurocopter's motion is allowed in part as follows, and Bell Helicopter will therefore have to answer – within the same time limit as the one set out in paragraph 1 of the order of August 21, 2009 and, should this order be appealed, within five (5) days following the

disposition of any such appeal – the questions listed in the Table relating to the plaintiff’s motion, except for questions 3 to 14, 17 to 32, 36 to 63 and 65 to 67.

[11] Given the length and the possibly confidential nature of the Table relating to the plaintiff’s motion, the Table is deemed to be part of this order and reasons for order, but will be forwarded by the Registry to counsel for the parties under separate cover and by confidential mail.

[12] As to costs for this motion, since the outcome is largely favourable to Bell Helicopter, the Court awards it the costs for the motion, in accordance with the middle of column III of tariff B.

**“Richard Morneau”**

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Prothonotary

**FEDERAL COURT**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**FILE:** T-737-08

**STYLE OF CAUSE:** EUROCOPTER (simplified joint-stock company)  
and  
BELL HELICOPTER TEXTRON  
CANADA LIMITED

**PLACE OF HEARING:** Montreal, Quebec

**DATE OF HEARING:** October 5, 2009

**REASONS FOR ORDER:** PROTHONOTARY MORNEAU

**DATE OF REASONS:** October 8, 2009

**APPEARANCES:**

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