



PATENTS ACT 1977

BETWEEN

Rouute Technologies Limited

Claimant

and

Rouute Energy Limited

Defendant

PROCEEDINGS

Reference under section 8 of the Patents Act 1977 in respect of patent application
GB2310714.7

HEARING OFFICER

Dr B Micklewright

DECISION

Introduction

- 1 This decision relates to a reference under section 8 of the Patents Act 1977 concerning entitlement to UK patent application GB2310714.7 (“the patent application”), filed on 12 July 2023 in the name of Rouute Energy Limited (“Energy”).
- 2 On 3 June 2024, the claimant, Rouute Technologies Limited (“Technologies”) made a reference under section 8 claiming that they were entitled to the patent application. The relevant documents were subsequently served on the applicant, Energy.
- 3 The applicant did not file a counter-statement. The reference is therefore treated as unopposed. In accordance with rule 78(9) of the Patents Rules 2007, I will therefore treat the applicant as supporting the claimant’s case.

Summary of facts and submissions

- 4 The patent application was withdrawn by the applicant in a letter dated 16 October 2023, before the application was published.
- 5 According to the claimant’s statement of grounds, Anthony Murphy and Paul Boyle were appointed Joint Administrator of Technologies on 9 April 2024. The claimant

attached a “Notice of administrators’ appointment” to their statement of grounds in support of this point.

- 6 The claimant stated that Mr Neville Walker of patent attorney firm IP Consult was instructed by the directors of Energy to make a patent application in the name of Energy in respect of intellectual property rights created and owned by the claimant.
- 7 The claimant submitted that the IPR belongs to the claimant rather than to Energy for the reasons set out below.
 - a. The claimant stated that Technologies was set up with the stated purpose of developing the IPR in question and all funds raised were paid into Technologies with the express intention of developing the IPR.
 - b. The claimant said that, since Technologies commenced trading in 2019, it made several Research and Development tax claims to HM Revenue and Customs and subsequently received grants to develop the IPR.
 - c. The claimant stated that Technologies made substantial claims for the repayment of VAT. Those claims were based on work done to develop the IPR.
 - d. The claimant attached to their statement of grounds an extract of a signed grant made to Technologies by Innovate UK on 13 May 2022. They refer to paragraph 17 of the grant conditions which states that the IPR rests in Technologies. They submit that this is a key condition of the grant being made. The attached grant is signed by Mr Antony Edmondson-Bennett, who, according to the claimant, was recently a director of both Technologies and Energy.
 - e. The claimant attached an investment agreement, dated 9 January 2022 but signed 11 January 2022, with shareholder investor and former director Jason Charles Beresford. They stated that this agreement explicitly states that the investment is made on the basis that the IPR belongs to Technologies.
- 8 In addition, the claimant submitted that the trading status of Energy precludes it from having any interest in the IPR belonging to Technologies. This, they stated, is because, according to documents filed at Companies House, Energy was dormant until at least 28 March 2023. The claimant submitted that, in fact, Energy did not start trading until January 2024 and it is therefore an impossibility that Energy created the IPR. The claimant attached an email from Mr Edmondson-Bennett to company accountants in support of this submission, and pointed out that, in another email with the same parties, also attached to the statement of grounds, Mr Edmondson-Bennett confirmed that the IPR rests in Technologies.
- 9 The claimant also attached to their statement of grounds minutes of a meeting of the board of directors held on 18 December 2023, which they submitted clearly confirms

that Technologies remains the owner of the IPR. Although unsigned, the claimant stated that former director Jason Beresford has confirmed the accuracy of these minutes.

Conclusion and determination

- 10 Based on the evidence provided by the claimant and taking into account that the reference is being treated as unopposed, I am satisfied that the patent application belongs to Rouute Technologies Limited.
- 11 The claimant requested that the application be transferred to Technologies and proceed in the name of Technologies. However, because the patent application has been withdrawn, I do not have the powers of section 8(2) to order that the patent application proceed in the name of the claimant. In *Shape and Potemkin's Applications*¹ the hearing officer ordered that the register be amended to substitute the name of the claimant as the applicant for a withdrawn application and, in the event that the claimant wished to pursue the application, ordered that the claimant may make a new application in accordance with section 8(3)(c). It seems to me to be reasonable to take a similar approach in these proceedings.
- 12 I therefore order:
 - (i) that the register be updated to name Rouute Technologies Limited as sole applicant for patent application GB2310714.7;
 - (ii) that, in accordance with section 8(3)(c) and rule 20 of the Patents Rules 2007, Rouute Technologies may, within three months beginning immediately after the date on which this order is made, or, where the decision is appealed, three months beginning immediately after the date on which the appeal was finally disposed of, make a new application for a patent for the whole or part of the matter comprised in the application GB2310714.7, subject to section 76, and that any such new application shall be treated as having been filed on the date of filing of GB2310714.7, namely 12 July 2023.

Costs

- 13 The claimant has asked for their costs in these proceedings. However, since they are being treated as unopposed, I make no order as to costs.

Appeal

- 14 Any appeal must be lodged within 28 days after the date of this decision.

Dr B MICKLEWRIGHT

Deputy Director, acting for the Comptroller

¹ *Shape and Potemkin's Applications* (BL O/140/92)