

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

JAN 13 2022

NO. 2110873
VANCOUVER REGISTRY



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ROOTS PROPERTIES INC.

PLAINTIFF

AND:

**CYBERNETIC TECHNOLOGIES LTD.
HPIL HOLDINGS INC. and STEPHEN BROWN**

DEFENDANTS

AMENDED NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

Claim of the Plaintiff

Part 1: STATEMENT OF FACTS

1. The Plaintiff, Roots Properties Inc. ("Plaintiff"), is a British Columbia corporation with an address for service at c/o DG Barristers, 428-755 Burrard Street, Vancouver, BC, V6Z 1X6.
2. The Defendant, Cybernetic Technologies Ltd. ("~~Defendant Cybernetic~~") ~~previously known as~~ is a division of HPIL Holding Inc. trading on the OTC as ("HPIL"), is a British Columbia corporation having an address 1720-650 West Georgia Street, Vancouver, BC, V6B 4N8.
3. HPIL Holding Inc. ("HPIL") trades on the OTC as "HPIL" with an address for service at 1720-650 West Georgia Street, Vancouver, BC, V6B 4N8.
4. Stephen Brown is a director of HPIL and Cybernetic with an address for service at 1720-650 West Georgia Street, Vancouver, BC, V6B 4N8.

Background

~~3-5.~~ On or about October 13, 2017 the Plaintiff HPIL entered into a convertible loan agreement with the Defendant Auctus Fund, LLC ("Auctus").

~~6.~~ The Plaintiff relied on the representation of Stephen Brown to his detriment.

~~7.~~ In or about May 2021, HPIL through its principal and authorized representative Stephen Brown, represented to the Plaintiff that HPIL was buying the convertible loans from Auctus and confirmed the same through a one Mr. Art Brown in an email to the Plaintiff.

~~8.~~ At the material time HPIL did not own the convertible loans from Auctus that HPIL represented it owned to sell to the Plaintiff with funds the Plaintiff loaned to HPIL in the amounts of \$44,000 to the HPIL to purchase the loans from Auctus.

~~4-9.~~ On or about September 22, 2017 the Plaintiff entered into a convertible loan agreement with Defendant, HPIL, where the Plaintiff loaned another \$72,000 to the Defendant HPIL.

(together the "Auctus Loans")

~~5-10.~~ The Auctus Loans were to be converted into 440 million shares in HPIL with a current approximate value of \$1.5 million.

~~11.~~ The Defendant, HPIL then entered a new agreement promising the Plaintiff 500,000 shares to make up for the misrepresentation on the first Auctus loans. But HPIL again failed, alternatively, refused to perform on this and any subsequent agreement with the Plaintiff.

~~6-12.~~ The Defendants HPIL and Stephen Brown knowingly sold the Auctus Loans, which the Defendants knew or ought to have known, that HPIL could not sell to the Plaintiff the convertible loans as HPIL shares.

~~7-13.~~ On demand the Plaintiff has failed, or alternatively refused to deliver the shares in HPIL, as it was required to do.

~~8-14.~~ The Defendant, HPIL, failed, alternatively, neglected, further alternatively, refused to repay the Auctus Loans back to the Plaintiff or to deliver the HPIL Holdings free trading medallion guaranteed shares to the Plaintiff.

Contract

~~9-15.~~ On or about August 31, 2021, the Defendant acknowledge that it was required to repay the Auctus Loans to the Plaintiff and as a result entered into a written shared transfer agreement (the "Agreement") *in lieu* of repaying the Auctus Loans.

~~10-16.~~ The material terms of the Agreement were that the Defendant agreed:

- a) to transfer to the Plaintiff Five Hundred Million (500,000,000) Cybernetic shares to the Plaintiff within 14 days of this Agreement through its transferring agent;
- b) that the transfer of the shares shall take place in two instalments:
 - i) the first being 250,000,000 (Two Hundred and Fifty Million) the Cybernetic shares to Roots would be free trading and transferred to Roots within two (2) business days entering into the Agreement; and
 - ii) the second batch of 250,000,000 (Two Hundred and Fifty Million) the Defendant's Cybernetic shares would be transferred to Roots within 14 day days of entering into the Agreement.
- c) it would ensure that the necessary regulatory documents were filed to transfer the restricted Cybernetic shares to the Plaintiff.

~~41-17.~~ It is an implied, alternatively, tacit term of the Agreement that the Defendant would act in good faith with the Plaintiff.

~~42-18.~~ The Defendant, Cybernetic, breached the Agreement and terms of the Agreement.

~~43-19.~~ The Defendant, Cybernetic, has not performed its contractual duties honestly and reasonably and has disregarded the Plaintiffs's legitimate contractual interests.

~~44-20.~~ The Defendant, Cybernetic's, various breaches of the Agreement has resulted in the Plaintiff suffering damages, including a loss of its investment for the value of the Cybernetic shares and in HPIL and the Plaintiff continues to suffer loss and damages.

~~45-21.~~ The Plaintiff has given the Defendant Cybernetic notice that it breached the Agreement, but despite such notice the Defendant has failed, alternatively neglected, and further alternatively refused to rectify its breach.

22. The Defendant Cybernetic breached the Agreement and terms of the Agreement.

23. The Defendant, Cybernetic, has not performed its contractual duties honestly and reasonably and has disregarded the Plaintiff's legitimate contractual interests.

24. The Defendant, HPIL's, various misrepresentations through and by its authorized representative, Stephen Brown of the Agreement has resulted in the Plaintiff suffering damages, including a loss of its investment for the value of the Cybernetic shares and in HPIL, and the Plaintiff continues to suffer loss and damages.

Part 2: RELIEF SOUGHT

1. In the premises, the Plaintiff claims specific performance of the Agreement between the Plaintiff and the Defendant Cybernetic dated August 31, 2021 and damages against the Defendants HPIL and Stephen Brown.
2. The Plaintiff claims in the alternative, damages *in lieu* of specific performance.
3. In the further alternative, the Plaintiff claims damages for breach of contract.
4. The Plaintiff seeks a tracing order as to any and all monies; property and Cybernetic shares the Defendants Cybernetic, Stephen Brown and HPIL disbursed and is owing to the Plaintiff.
5. Such further alternative relief as counsel may advise at the hearing before this Honourable Court.
6. Costs;
7. Interest pursuant to the *Court Order Interest Act, R.S.B.C. 1996, c.79* and amendments thereto; and
8. Such further and/or other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

1. Breach of contract, in that the Defendant breach the terms of the Agreement between the Parties.
2. Law of damages.
3. The law of specific performance.

4. Alternatively, unjustified enrichment of the Defendant in that the Defendant has been enriched at the expense of the Plaintiff.
5. The law negligent misrepresentation.
6. The Law of Estoppel.

Plaintiff's address for service: George Douvelos Law Corporation
c/o DG Barristers
Suite 428-755 Burrard Street
Vancouver, BC V6Z 1X6
Attention: George Douvelos

Fax number address for service: 604-637-6385

E-mail address for service: N/A

Place of trial: Vancouver, British Columbia

The address of the registry is: Vancouver Law Courts
800 Smithe Street
Vancouver, BC V6Z 2E1

Date: December 7, 2021



George Douvelos
Signature of lawyer for Plaintiff

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

a motor vehicle accident

medical malpractice

another cause

A dispute concerning:

contaminated sites

construction defects

real property (real estate)

personal property

the provision of goods or services or other general commercial matters

investment losses

the lending of money

an employment relationship

a will or other issues concerning the probate of an estate

a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[Check all boxes below that apply to this case]

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

[If an enactment is being relied on, specify. Do not list more than 3 enactments.]