Court of King's Bench of Alberta

Citation: NTE Energy Canada Ltd v BitLink Power Limited, 2026 ABKB 811

Date: 20261118
Docket: 2601 15572
Registry: Calgary

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Between:

NTE Energy Canada Ltd

Plaintiff

- and -

BitLink Power Limited, LinkMine HK Limited, LinkMine Canada Inc., LinkCore Infrastructure Canada Inc., TitanSpark Energy Inc., NorthGas Power Systems Inc., AlpineCore Energy Inc., BlueFlare Gas Power Inc., IronPeak Power Solutions Inc., NovaPulse Energy Inc., PrairieHeat Power Corp., and QuantumDrive Generation Inc.

Defendants

Reasons for Decision
of the
Honourable Justice Colin C.J. Feasby

I. Introduction

[1] NTE Energy Canada Ltd ("NTEC") was engaged by LinkMine HK Limited ("LinkMine HK") to perform site preparation work at eight remote sites owned by NTEC in BC and Alberta (the "Sites") and supply natural gas to the Sites. LinkMine HK is an entity based in Hong Kong

that acts through its principal, Yubin Zhao. LinkMine HK and certain of its subsidiaries[1], called SiteCos, granted NTEC security in 25 natural gas generators (the "Units") which were to be located at the Sites. NTEC performed the site preparation work and then LinkMine HK took actions that indicated that it had decided not to proceed with the project. NTEC purported to repudiate the contracts between the parties and commenced a claim against LinkMine and the SiteCos. Fearing the dissipation of LinkMine HK's only assets in Canada, the Units, NTEC also applied for a Mareva Injunction to prevent LinkMine HK from dealing with the Units.

[2] Justice Harris granted a Mareva Injunction on August 28, 2026 restraining the Respondents from dealing with the Units. On September 11, 2026, Justice Neilson continued the Mareva Injunction on the consent of the parties until November 6, 2026 when this application was heard. Since September 11, 2026, the parties have filed affidavits and conducted questioning. When I reserved this decision, I continued the Mareva Injunction until the issuance of these reasons.

[3] A week before this application was heard, NTEC wrote to the Court seeking an adjournment on the grounds that the Respondents had not answered undertakings given at questioning and that the position of the Respondents required NTEC to conduct Rule 6.8 examinations of representatives of the SiteCos who apparently reside in China. I advised the parties that I would address the adjournment application at the scheduled hearing before hearing the merits of the application. At oral argument, NTEC advised that though the outstanding undertaking responses had been received they still wished to conduct Rule 6.8 questioning. After hearing the parties, I denied the adjournment request on the grounds that it appeared unlikely that the desired witnesses could be compelled to testify or at least compelled to testify in a timely way. Accordingly, I heard the application.

[4] The week after the application, the Respondents wrote to the Court to make a conditional proposal (the "Respondents' Proposal"). The Respondents proposed that if the Court granted an injunction, terms could be imposed that would nevertheless permit the Respondents to deploy the Units. These terms included an undertaking not to remove the Units from Alberta or British Columbia and a suggestion that the Court could order GPS tracking of the Units.

[5] This application raises an important issue of practice that comes up when acting for foreign parties or domestic parties who have limited English language skills. What are the consequences of non-compliance with the rules that require professional translation of affidavits? The merits of the application raise several common Mareva injunction issues, including the availability of a Mareva injunction against third party property, evidence required to establish a risk of dissipation, and proportionality between the claim and the value of the property subject to the injunction.

II. The LinkMine Group

[6] Before considering the merits of the application it is necessary to explain the relationships between the various corporate and individual respondents in this proceeding. The corporate respondents may be called the "LinkMine Group." All the corporate respondents are

[1] TitanSpark Energy Inc, NorthGas Power Systems Inc, AlpineCore Energy Inc, BlueFlare Gas Power Inc, IronPeak Power Solutions Inc, NovaPulse Energy Inc, PrairieHeat Power Corp, and QuantumDrive Generation Inc (collectively, the "SiteCos").

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subsidiaries or affiliates of LinkMine HK. And throughout the dealings between the LinkMine Group and NTEC, Mr. Zhao held himself out as the representative of the entities that comprise the LinkMine Group. He did so by, among other things, signing his emails Director CEO of LinkMine.

[7] LinkMine HK is a 70% shareholder in BitLink Power Limited ("BitLink"). Mr. Zhao is a director of BitLink. BitLink, in turn, is a 100% shareholder of LinkMine Canada Inc ("LinkMine Canada"). Mr. Zhao is also a director of LinkMine Canada. The corporate relationship of LinkCore Infrastructure Canada Inc ("LinkCore") is unclear, but it appears to have been represented by and taken direction from Mr. Zhao.

[8] There is no admissible evidence of the ownership of the eight SiteCos but it appears that the SiteCos were incorporated on the instruction of Mr. Zhao for the purpose of the projects promoted by Mr. Zhao. Mr. Zhao told NTEC that the SiteCos would be "under BitLink" and Mr. Zhao negotiated the agreements between NTEC and the SiteCos on behalf of the SiteCos.

[9] Mr. Zhao was questioned but asserted that he was not produced as a representative of the SiteCos. This was what prompted NTEC's request for Rule 6.8 questioning of representatives of the SiteCos. As noted earlier, in my view it was impractical to delay this application for Rule 6.8 questioning that might take considerable time and likely would not produce material information to assist in the determination of this application.

III. Contracts Between the Parties

[10] The framework for the relationship between the parties was set out in a Memorandum of Understanding ("MOU") between NTEC and LinkMine HK dated August 19, 2025 for the construction of a 10.5 MW pilot project at the NTEC-operated Sites near Fort Nelson, BC. The MOU contemplated that NTEC would provide the Sites and natural gas to power the Units and that LinkMine HK would provide the Units. The power produced by the Units was intended to be used for bitcoin mining.

[11] On February 1, 2026, NTEC and each of the eight SiteCos signed Non-Refundable Infrastructure Funding Agreements ("Funding Agreements") which required NTEC to undertake site preparation activities in exchange for payment. NTEC and each of the SiteCos planned to sign four more agreements: (1) a take or pay Gas Purchasing Agreement ("GPAs"); (2) a Site Access Agreement; (3) a Security Agreement; and (4) a Road Use Agreement. Only two of the SiteCos signed these agreements though NTEC argues that through their course of conduct the remaining SiteCos are bound by the agreements as if they had been signed.

[12] The Security Agreements grant NTEC first priority security interests in all present and after acquired property, including all "Designated Site Equipment." The listing of Designated Site Equipment in the Security Agreements includes the Units listed by serial number. Though six of the Security Agreements were never signed, Mr. Zhao represented to NTEC in writing that each SiteCo would own the Units and would pledge them to NTEC as security.

IV. Failure to Translate Affidavits

[13] Mr. Zhang and Mr. Zhao speak Mandarin and have limited ability to speak and understand English. The affidavits of Mr. Zhang and Mr. Zhao were prepared in English and were not professionally translated into Mandarin prior to being affirmed by Mr. Zhang and Mr.

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Zhao. At oral argument, the explanation for how the affidavits were translated for the affiants was unclear, but the explanation appeared to me to be a combination of translation by counsel and translation with the assistance of a computer (*i.e.* some form of Artificial Intelligence).

[14] The Court cannot administer a language competency test to determine Mr. Zhang and Mr. Zhao's levels of English comprehension. Their English language competency must be assessed by looking to other reliable indicia. The best evidence that Mr. Zhang and Mr. Zhao do not have sufficient capacity to complete affidavits in English is that their counsel insisted that their cross-examinations on affidavits be conducted with the aid of an interpreter. The fact that an interpreter was required for oral questioning is good evidence that an interpreter should have been used for the affidavits. This is supported by their evidence given on cross-examination which showed that their grasp of English was sufficiently incomplete to raise serious questions about their competency to understand their affidavits.

[15] The risk with all affidavit evidence is that it is a means for counsel to put words in the mouth of the witness. This risk is accentuated when the witness does not speak English because the witness cannot read an English affidavit to confirm its accuracy or correct the words used by counsel to express the witness' evidence. The *Rules of Court* accordingly require affidavits of non-English speakers to be prepared in the affiant's own language and then translated by a professional translator who provides a certificate. This process guarantees the integrity of the evidence by ensuring that the witness understands what he or she is solemnly presenting to the Court and ensuring that the translator is both qualified and understands the gravity of the undertaking.

[16] The requirement for professional translation is not optional and failure to comply is not simply a procedural defect. Failure to comply goes to the substantive reliability of the evidence. Rule 13.23 is expressed in mandatory terms:

> 1) If it seems to the person administering the oath that the person swearing a written affidavit does not understand the language in which the affidavit is written, before the affidavit is sworn the contents of the affidavit **must** be translated for the person swearing the affidavit by a person competent to do so.
>
> 2) Before the affidavit is translated, the translator **must** be sworn to accurately translate the affidavit and oath.
>
> 3) The person administering the oath **must** certify as to the person's belief that the affidavit was translated for the person swearing the affidavit by the sworn translator.
>
> 4) Unless otherwise permitted by the Court, a sworn affidavit that is not in the English language **must** be translated into English by a translator competent to do so and, when the affidavit is filed, be accompanied with a certificate of the translator that the translation is accurate and complete. [emphasis added]

[17] NTEC submitted that the Court should accord the Zhang and Zhao Affidavits little or no weight. This is consistent with the preference of many members of the civil bar to address non-compliance in evidentiary matters as a question of weight. NTEC submits that this was the approach in ***Teefy Developments (Bathurst Glen) Limited v Sun***, 2021 ONCA 870. I think that it is more accurate to say that Justice Nordheimer in ***Teefy*** did not reach a definitive conclusion on how the evidence should be treated because, as he noted at para 13, the appeal had "very little merit."

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[18] The Court in ***Mai v Canada (Attorney General)***, 2026 FC 178 at para 16 noted that in the Federal Court non-compliance with translation requirements have been treated both as a matter of admissibility or weight before deciding at para 17 that the affidavit in question would be "given minimal probative value." I recognize that there may be circumstances where non-compliance with the translation requirements for affidavits may be cured or addressed as a matter of weight rather than ruling the evidence inadmissible. The facts of ***Mai*** provide a good example of where something less than a ruling of inadmissibility may be appropriate. Ms. Mai was an elderly self-represented litigant who spoke only Vietnamese and who was assisted in her litigation against Canada Revenue Agency by her daughter who acted as her translator.

[19] The approach that I consider most appropriate is that in ***Tut v Evershine Land Group Inc***, 2022 BCCA 63 where the Court upheld a decision of a judge in a summary trial who ruled affidavits that did not comply with the translation requirements in the BC *Rules of Court* inadmissible. Justice Abrioux, writing for the Court of Appeal, observed that:

> the deficiencies in the affidavits raised by the respondents were significant and reflected serious breaches of the *Rules*. Moreover, the inconsistencies in Mr. Tut's evidence in cross-examination at the very least highlighted the concerns arising from the absence of a proper translation of his affidavits.

The same may be said of the Zhang and Zhao affidavits in the present case.

[20] Though I recognize that I have discretion to treat non-compliance with the translation requirements as a matter of weight, the circumstances of the present case demand that I address the issue as a question of admissibility. The Respondents should know to follow the Alberta *Rules of Court* even if they are represented by Toronto counsel. And as ***Teefy*** shows, there are similar rules in place in Ontario. The rules concerning the translation of affidavits are not mere formalities; the requirements are designed to ensure that the witnesses understand the evidence that they are putting before the Court. I am especially concerned that in the present case, the Respondents did not take the Applicants' objections seriously. There was no effort to cure the non-compliance and even at oral argument, counsel for the Respondents did not appear to appreciate the seriousness with which the rules on translation should be taken.

[21] The Zhao and Zhang affidavits are inadmissible, so I will have no regard to the evidence in those affidavits.

V. The Mareva Injunction Test

[22] An application to review, set aside, or extend an injunction that was granted *ex parte* is heard *de novo*: ***Tiger Calcium Services Inc***, 2017 ABCA 316 at para 173. This means that the burden to satisfy the *Mareva* injunction test remains on the applicant in this application: ***Tiger Calcium*** at para 169.

[23] The standard tripartite test for injunctions set out in ***RJR-MacDonald Inc v Canada (Attorney General)***, [1994] 1 SCR 311 at 314-15 requires an applicant to establish:

(a) there is a serious issue to be tried;

(b) irreparable harm; and

(c) the balance of convenience favours granting the injunction.

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[24] The first part of the standard tripartite test is modified when the injunction sought is a Mareva injunction. The serious issue to be tried standard is replaced with the strong *prima facie* case standard: ***Henenghaixin Corp v Deng***, 2022 ABCA 271 at para 28. A strong *prima facie* case is one where there is "a *strong likelihood* on the law and the evidence presented that, at trial, the applicant will ultimately be successful in proving the allegations set out in the originating notice": ***R v Canadian Broadcasting Corp***, 2018 SCC 5 at para 17 [emphasis in original].

[25] The second part of the tripartite test – irreparable harm – is understood in the context of a Mareva injunction to require that the applicant demonstrate that there is "a real risk that the respondent will remove assets from the jurisdiction, or dissipate them, in order to avoid execution (enforcement) under a judgment": ***Cho v Twin Cities Power-Canada***, 2012 ABCA 47 at para 5.

VI. Non-Disclosure

[26] The Respondents allege that NTEC failed to disclose relevant and material adverse information on the original *ex parte* application before Justice Harris. An applicant proceeding *ex parte* "must act with the utmost good faith and make full, fair and candid disclosure of the facts to the court": ***Guillevin International Co v Barry***, 2022 ABCA 144 at para 17. This includes "relevant and material facts which are adverse to its position" ***Bank of Nova Scotia v Five Star Motor Group Ltd***, 2020 ABCA 244 at para 20.

[27] I am satisfied that NTEC satisfied its obligation of full, fair, and candid disclosure. The Respondents' two most significant complaints concern the alleged nondisclosure of: (1) the fact that 6 of the 8 GPAs were unsigned; and (2) the details of ownership of the Units. The fact that 6 GPAs were unsigned was disclosed and I am satisfied that at the time of the original application NTEC did not have sufficient information to understand what the Respondents' now say about ownership of the Units. While both issues deserve due consideration on this application, they are not matters of non-disclosure. The remaining alleged instances of nondisclosure are not, in my view, material such that it may be said that NTEC failed to meet the standard of conduct expected on an *ex parte* application.

VII. Ownership of the Units

[28] The Respondents assert that the Mareva Injunction restrains the property of BitLink and LinkMine Canada with whom NTEC has no contract, no debt, and no security. The Respondents emphasize that a "*Mareva* injunction typically restricts a defendant from dealing with assets which he or she clearly owns.": ***Gemba Fund One LLC v Tolosa Development Corp***, 2016 ABCA 241 at para 21. Madam Justice Fitzpatrick explained in ***Hans v Volvo Trucks North America Inc***, 2014 BCSC 1123 at para 53 that it is "beyond dispute that the Mareva injunction was never meant to capture the property of others. The intent is to preserve the assets of the defendant or potential judgment debtor." Justice Fitzpatrick went on to caution:

> In some instances, it may be the case that assets which are caught by a Mareva injunction will be claimed by another party. In that case, the court must be vigilant to ensure that the claims by a third party to this property are *bona fide* and not simply a ploy, with the assistance of an unscrupulous debtor, to secure access to the property and avoid the consequences of the injunction.

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[29] The Respondents assert that BitLink and LinkMine Canada own the Units but most of the evidence to support this assertion is in the inadmissible affidavits. The Respondents contend that NTEC only has contractual arrangements with LinkMine HK and the SiteCos, not BitLink and LinkMine Canada. The Respondents assert that title to the Units would only pass to the SiteCos upon payment by the SiteCos to BitLink and LinkMine which never occurred.

[30] NTEC submits that BitLink and LinkMine Canada are estopped from denying the SiteCos acquired the Units. Mr. Zhao, on behalf of the SiteCos and LinkMine HK, represented to NTEC by, amongst other ways, the Security Agreements that the SiteCos owned the Units. NTEC, in turn, relied on these representations in entering those agreements and building out the Sites. Alternatively, NTEC asserts that the Units are held in trust.

[31] Based on the admissible evidence before the Court, I am satisfied that there is a strong case that the Units are owned by LinkMine HK or the SiteCos and may be subject to the Mareva Injunction. If they are not owned by LinkMine or the SiteCos, I find that BitLink and LinkMine Canada are estopped from asserting ownership of the Units because of the repeated representations of their agent, Mr. Zhao, that the SiteCos would own the Units and NTEC's corresponding detrimental reliance on those representations. Further, I am mindful of Justice Fitzpatrick's caution that the Court must be vigilant that only *bona fide* third-party claims defeat the consequences of a Mareva Injunction. Though I do not make a definitive conclusion on the point because it is not necessary to do so, I am concerned that the Respondents' position on the ownership of the Units may be, in Justice Fitzpatrick's words, a "ploy" to avoid the Mareva Injunction.

VIII. Serious Issue to be Tried

[32] NTEC makes two main claims for damages. First, NTEC claims the lost take or pay amounts that would have been paid under the GPAs in the amount of USD $1,020,000 (the "Take or Pay Amounts"). Second, NTEC seeks CAD $704,000 for the cost of decommissioning and reversing modifications made to the Sites and restoring or abandoning the affected wells, pipelines, and related infrastructure ("Decommissioning Costs"). NTEC also seeks USD $14,379.24 to compensate for a shortfall in the foreign exchange on the payments received pursuant to the Funding Agreements and the two signed GPAs.

[33] NTEC's position is that LinkMine HK and the SiteCos repudiated the agreements by refusing to perform. NTEC wrote to Mr. Zhao on August 27, 2026 to accept the repudiation. NTEC submits that upon accepting the repudiation, it is entitled to damages.

[34] The Supreme Court of Canada held in ***Guarantee Co of North America v Gordon Capital Corp***, [1999] 3 SCR 423 at para 40 that repudiation occurs when a party by words or conduct demonstrates an intention not to be bound by the contract.

[35] The Respondents demonstrated an intention not to be bound by their contracts with NTEC by failing to deliver the Units to the Sites and arranging to deliver the Units to different sites owned by a company other than NTEC. Though the Respondents have raised concerns abut the quality of NTEC's performance of its site preparation work I am satisfied on a *prima facie* basis that the Respondents repudiated their signed agreements with NTEC.

[36] The question that remains is whether NTEC has a strong *prima facie* case with respect to the unsigned agreements. NTEC relies on ***Owners, Strata Plan LMS 3905 v Crystal Square***

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Parking Corp, 2020 SCC 29 at para 37 where Justice Côté, writing for the majority, observed that the test for the existence of a contract is objective and considers offer, acceptance, and consideration. She explained that "terms may be inferred from the parties' conduct and from the surrounding circumstances."

[37] NTEC asserts that the Respondents' conduct indicates that the intention of the LinkMine Group and the SiteCos was that the SiteCos would be bound by the GPAs. Neither Mr. Zhao nor anyone else representing the SiteCos ever said that the GPAs were unacceptable. Indeed, as agent for the SiteCos, he said that the parties were "aligned in principle and structure" and confirmed that the six unsigned agreements would be the same as the two signed agreements. The excuse for not signing appears to be a matter of timing and logistics, not disagreement with the substance of the agreements. There is no question that Mr. Zhao made these representations knowing that NTEC was undertaking site preparation work on the expectation that the agreements would be signed. The SiteCos acted as if the unsigned agreements were in effect.

[38] Though I am satisfied that there is a strong *prima facie* case that the SiteCos are bound by their conduct and, as such, the unsigned contracts are enforceable, I cannot accept that NTEC has a strong *prima facie* claim in respect of both of its main claims.

[39] NTEC seeks damages for the Take or Pay Amounts and the Decommissioning Costs. The difficulty with these claims is that one claim – the Take or Pay Amounts – requires the Court to enforce the GPAs and the other claim – Decommissioning Costs – requires the Court to ignore the Site Access Agreements. To be consistent, the Court must treat both sets of agreements the same way.

[40] The Site Access Agreements state that the consideration for those agreements includes entering the GPAs. The Site Access Agreements go on to divide post-performance costs into "Decommissioning Activities" which are the responsibility of NTEC and "Abandonment and Reclamation Activities" which are the responsibility of the SiteCos. Pursuant to clause 2.2 the Decommissioning Activities are to be undertaken "at the sole cost and expense of NTEC." The definition of Decommissioning Activities covers the activities for which NTEC now seeks payment for as Decommissioning Costs.

[41] Viewed in its entirety, the arrangement between the parties was for LinkMine HK to pay the initial funding amounts, the SiteCos to pay the Take or Pay Amounts, and the SiteCos to remove their equipment at the end of the relationship. In exchange, NTEC would prepare the Sites, supply gas, and decommission the Sites. NTEC's claim would restructure the deal to have the SiteCos pay the Take or Pay Amounts and the Decommissioning Costs. Accordingly, I find that NTEC has only established a strong *prima facie* case with respect to the Take or Pay Amounts.

IX. Irreparable Harm – Risk of Dissipation

[42] The SiteCos were incorporated for the purpose of owning and operating the Units to be placed at the NTEC Sites. The SiteCos have no significant assets other than the Units. The other key parties, LinkMine HK and BitLink, are incorporated in Hong Kong and have no material assets or business in Canada other than their interests in the SiteCos.

[43] As of August 2026, 14 Units were in Fort Nelson, BC, five Units in Prince Rupert, BC, and six Units were in Stettler, Alberta. The Units in Fort Nelson were in the yard of Radar Road

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Transport Ltd ("Radar"). On August 20, 2026, NTEC learned from Radar that the Units were to be moved to another company's site near Dawson Creek, BC. The Respondents' counsel later confirmed that the Units were to be transferred to other sites not owned or operated by NTEC for use in an undisclosed project.

[44] The Respondents contend that the Units currently in BC are not going to be removed from BC nor are they going to be dissipated. They submit that NTEC is in no worse situation if the Units are deployed on other projects nor will NTEC have any difficulty enforcing any judgment that may result from this proceeding.

[45] The incorporation of the Units into a different project on land owned by a third party could make enforcement of any judgment that may result from this proceeding more difficult and perhaps impossible. Moreover, the use of the Units pending determination of this proceeding could result in significant wear and depreciation in value. I am satisfied that the combination of the difficulty of enforcement caused by the placement of the Units on undisclosed third party lands, the inevitable wear and depreciation in value of the Units that will come from use, and the likelihood that any income from the Units will be moved offshore to LinkMine HK constitute irreparable harm.

[46] I will return to the question of irreparable harm below where I discuss the Respondents' Proposal which seeks to mitigate NTEC's irreparable harm and allow the Respondents to deploy the Units.

X. Balance of Convenience

[47] There can be no doubt that the detention of the Units is inconvenient for the Respondents because the Units could be otherwise deployed making money. But the inconvenience to the Respondents must be viewed in the context of the commercial arrangement that they torpedoed by repudiating their obligation to deliver the Units to the Sites. The Respondents granted security in the Units to NTEC. Though this application is not to enforce that security, the grant of security indicates that the detention of the Units was a consequence of non-performance contemplated by the parties.

[48] I am not satisfied that the inconvenience experienced by the Respondents outweighs the harm to NTEC. The harm to NTEC is irreparable for the reasons already outlined whereas the harm to the Respondents is only monetary. The Respondents lose the opportunity to redeploy their assets and make money while this dispute makes its way through the court process. But this monetary harm is addressed by the undertaking in damages provided by NTEC. Further, the inconvenience caused to the Respondents by the injunction can be mitigated somewhat by a reduction in the scope of the injunction or granting the injunction on the terms proposed by the Respondents.

XI. Proportionality

[49] Justice Strekaf in ***Tiger Calcium*** at para 117 explained that a Mareva injunction should not overreach. What she meant was that the value of the property restrained subject to a Mareva injunction should be proportional to the realistic value of the claim advanced. Of course, at the preliminary stage of litigation where Mareva injunctions are typically seen makes it difficult to demand absolute precision in this regard, but it is important that the Court not permit its

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authority to be used to detain what appears on the record to be more property than necessary to protect the legitimate interests of the applicant.

[50] The law of Mareva injunctions does not clearly state which party has the burden of establishing proportionality: see, for example, the discussion in R.J. Sharpe, *Injunctions and Specific Performance,* (Thomson Reuters, online) at §2:29. As a matter of common sense and logic, the applicant should be required to establish the realistic value of its claim as part of its obligation to show a serious issue to be tried. And on an *ex parte* application, the applicant should offer the Court some basis to conclude on a *prima facie* basis that the injunction will not overreach. However, the applicant will often not know the extent of the respondent's property affected by the injunction or, if the extent of the property affected is known, the applicant may not know the value of the property. The respondent is usually the party best placed to provide evidence of the extent of the injunction's effect and the value of the property affected. Accordingly, on an application to review a Mareva injunction, the respondent should typically bear the burden of showing the impact of the injunction in respect of its property.

[51] NTEC argues that the extent of the injunction is reasonable because it merely preserves the collateral that was pledged. NTEC further argues that there is no evidence of the value of the Units and that the purchase price of the Units cannot be trusted because they may have depreciated in value after they were purchased. NTEC, as noted in the discussion of irreparable harm, argues that the Units will further decline in value if they are deployed in the field. Neither of the parties provided any expert valuation evidence to assist the Court.

[52] The Respondents contend that the Units are in essentially new condition and that each Unit is worth more than $200,000 USD. NTEC submits that some of the Units were purchased for approximately USD$112,000 and others were purchased for USD $175,000. Even if a discount is applied to these unproven values, the Respondents submit that the injunction detains property worth far more than NTEC's claim plus any reasonable estimate of costs. My finding that NTEC does not have a strong *prima facie* case with respect to the claimed Decommissioning Costs fortifies the argument that an injunction that requires all the Units to be preserved and not used is disproportionate.

[53] Absent the Respondents' Proposal, which is discussed below, I would have reduced the scope of the injunction to reflect my realistic valuation of NTEC's claim and my best estimate of the value of the Units based on the limited evidence before me. I would have only required some of the Units to be detained without being used and would have permitted the remaining Units to be deployed at the Respondents' discretion. The Respondents' Proposal, however, contemplates all Units being deployed which means that all Units will experience depreciation in value.

XII. The Respondents' Post-Hearing Proposal and Undertakings

[54] The Respondents wrote to the Court on November 12, 2026 to propose that if the Court continues the Mareva injunction, it should be modified to permit the Respondents to deploy the Units in Alberta and BC. I permitted NTEC to provide written submissions on the Respondents' Proposal on November 16, 2026.

[55] According to the Respondents' Proposal, the continuing injunction would, among other things, prevent the sale or transfer of title of the Units, the granting of security interests in the Units, and require the Respondents to insure the Units and maintain them in good condition. The injunction would further require the Respondents to advise NTEC of the location of the Units

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and any proposed relocation of the Units and permit NTEC to inspect the Units. The Respondents noted that the Court could direct that the Respondents facilitate NTEC's ability to track the Units via GPS though they did not include this as part of their proposal.

[56] NTEC countered with two proposed options:

a. the Injunction continue over 14 Units with their two additional parts containers stored at Fort Nelson, leaving the Defendants with the remaining 11 Units for use but still under protective terms that only permit use but continue other terms of the Injunction; or

b. the Defendants post monetary security, either with the Court or in trust with counsel, or by way of an irrevocable letter of credit.

[57] The Respondents' Proposal substantially addresses the risk of dissipation of assets through the restrictions on the various ways that third parties could take interests in the Units and by providing NTEC with the location of the Units. The unaddressed risk to NTEC is the depreciation of the value of the Units. However, as I have already explained, an injunction attaching to all the Units in unused condition would not be proportional to the realistic value of NTEC's claim. Though it is impossible to know with a high degree of confidence on the evidential record now before the Court what the value of the Units will be after they are deployed, I am satisfied that even with significant depreciation the Units will continue to cover the realistic value of NTEC's claim plus its reasonable costs. Accordingly, an injunction that permits the Units to be deployed is appropriate.

[58] NTEC expressed concerns about some of the details of the Respondents' Proposal including a need to firm up the obligation to facilitate GPS tracking, an extension of the time for notice prior to relocation of the Units, and terms that ensure that any insurance proceeds resulting from a claim for loss of the Units be safeguarded until NTEC's claims are determined. These are all reasonable concerns, but they do not justify rejecting the Respondents' Proposal; instead, the concerns can be addressed in the terms of the Court's order.

[59] To the extent that there is any doubt whether the Respondents' Proposal should be accepted, I must consider the public interest. The law abhors restraints of trade and, absent other legitimate considerations, favours outcomes that give parties freedom to use their talents and property to generate income: ***Petrofina (Gt Britain) Ltd v Martin***, [1966] 2 WLR 318 (CA), at 334-5. To continue to require that the Units be detained and idle would unnecessarily suppress economic activity that has utility. The Respondents' Proposal permits the Units to be deployed generating income for the Respondents while protecting NTEC and, as such, it is consistent with both Mareva injunction principles and the public interest.

[60] The Respondents' Proposal purports only to give undertakings on behalf of BitLink and LinkMine Canada. Presumably this reflects the Respondents' position on the ownership of the Units. As discussed earlier, I cannot accept the Respondents' position on the ownership of the Units because much of their evidence was inadmissible. If the Respondents wish to deploy the Units, the undertakings must be given by all the Respondents.

[61] The Respondents' Proposal was made without prejudice to their defences to the merits of NTEC's claim. Amongst other things, the Respondents' Proposal does not concede the question of ownership of the Units. The Respondents' reservation of rights is unnecessary because a

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chambers judge's decision granting interlocutory injunctive relief is never binding on a trial judge.

XIII. Conclusion

[62] The Mareva injunction issued by Harris J and continued by Neilsen J shall be revised to reflect the Respondents' Proposal which, in turn, shall be modified as follows: (1) NTEC is to be provided the means to track the location of the Units by GPS; (2) the time for notice of relocation of the Units shall be 10 days; and (3) in the event of any loss of the Units resulting in an insurance payment, such payment shall be made by the insurer to counsel for the Respondents to be held in trust or into Court pending determination of NTEC's claims. I am satisfied that the Respondents' Proposal as modified both protects NTEC's legitimate interests in enforcement and the Respondents' interest in productively deploying their assets.

[63] A party that obtains a Mareva injunction is responsible for advancing its action expeditiously to trial: ***Wu v Ma***, 2024 BCCA 196 at para 53 citing Sharpe, *Injunctions and Specific Performance*, at §2:27. Given the work done by all parties in connection with this application, the case should be able to be trial ready much faster than usual. Accordingly, NTEC shall, within 10 days of these reasons, provide the Respondents with a litigation plan that will have the case ready for trial in 18 months. The Respondents must either accept the litigation plan or propose an alternate litigation plan within 10 days of receiving NTEC's litigation plan. If the parties fail to agree on a litigation plan within 25 days of these reasons, they shall provide me with their battling litigation plans and I will choose between them: ***Moman v Bradley***, 2024 ABKB 416. If neither party provides a litigation plan that has this matter trial ready in 18 months, I reserve the right to impose a litigation plan.

[64] If the parties are unable to agree on costs, they may provide submissions of three pages or less supported by a draft bill of costs.

Heard on the 6th day of November, 2026 with additional written submissions November 12 and 16, 2026.
Dated at the City of Calgary, Alberta this 18th day of November, 2026.

Colin C.J. Feasby
J.C.K.B.A.

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Appearances:

Jakub Maslowski, Matti Lemmens, and Noah Favel
for the Applicant

Adam Asgarali, Monica K. Gu, and Wangchun Ye
for the Respondents

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