

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Steelhead LNG Limited Partnership v.*
ARC Resources Ltd.,
2026 BCSC 1560

Date: 20260818
Docket: S197484
Registry: Vancouver

Between:

Steelhead LNG Limited Partnership and Steelhead LNG Corp.
Plaintiffs

And

**ARC Resources Ltd., Rockies LNG Limited Partnership, and
Rockies LNG GP Corp.**
Defendants

Before: The Honourable Justice Basran

Reasons for Judgment Re Applications for Document Disclosure

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Place and Dates of Hearing:

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Place and Date of Judgment:

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Introduction

[1] The plaintiffs in this matter are Steelhead LNG Limited Partnership and Steelhead LNG Corp. (together, “Steelhead” or the “plaintiffs”). The defendants are ARC Resources Ltd. (“ARC”), Rockies LNG Limited Partnership, and Rockies LNG GP Corp. (“Rockies”) (collectively, the “defendants”).

[2] Steelhead seeks document disclosure pursuant to Rule 7-1(14)(b) of the *Supreme Court Civil Rules* in respect of three categories of documents and one date restriction that they submit ought not to apply. An unredacted version of the amended Cooperative Endeavours Agreement (“CEA”), including Schedule “A”, is no longer in issue because the defendants disclosed it.

[3] The defendants seek eight categories of documents from Steelhead, six of which are contested.

Background

[4] I set out the background of this matter in a previous document disclosure decision dated September 5, 2025, indexed as 2025 BCSC 1963 (the “Previous Disclosure Decision”) at paras. 3–9:

- a) Steelhead is a BC company that develops liquefied natural gas (“LNG”) export projects.
- b) ARC (and its predecessor 7G) is an Alberta based natural gas producer.
- c) Rockies is an Alberta based partnership of other natural gas producers.
- d) For approximately four years, Steelhead and ARC worked together toward developing a project to export LNG from BC's coast.
- e) In approximately 2018, their relationship deteriorated.
- f) By May 1, 2020, the defendants secured an agreement with the Nisga'a Nation, by which they were to develop an LNG project on Nisga'a Nation

territory named “Ksi Lisims”. A third-party engineering company, Western LNG, joined in October 2020.

- g) Steelhead alleges that the defendants were able to advance their competitive project by misuse of Steelhead's confidential information, including, but not limited to, its technical information on facility design. The defendants claim they switched designs at some point to one provided by Western LNG.

[5] The documents sought in Steelhead’s application are:

- a) All drafts of the project technical description referred to as Schedule “A” in the CEA, through to at least January 1, 2022;
- b) All the defendants' correspondence relating to the preparation of or comment upon the project technical description and any drafts described above, including internally, with their EPC contractors, and with Western LNG;
- c) All the defendants' correspondence relating to preparation of, iterations of, conveyance of, input or review of, and adoption of the design(s) allegedly “developed independently by Western [LNG], without any input from Rockies LP and/or Rockies GP” (the “Purported New Design”), including internally, with their EPC contractors, and with Western LNG, both before and after October 1, 2020; and
- d) All relevant documents which have been withheld, based on the defendants' selection of an October 1, 2020 cut-off date, including as reflected in Affidavit #1 of I. Florio.

[6] The plaintiffs also seek costs of the application on an elevated scale, payable forthwith.

[7] The defendants’ application seeks eight categories of documents:

- a) Category 1: Documents regarding Steelhead's "decision to pause" development on the Kwispaa LNG Project (the "Kwispaa Project");
- b) Category 2: Documents relating to the "adverse impact" the Defendants' project is alleged to have had on the Kwispaa Project;
- c) Category 3: Documents regarding the financial value of Steelhead's alleged Confidential Information from 2014 to present, including any internal valuations and related communications with third party valuers;
- d) Category 4: Documents relating to Steelhead's alleged \$140 million in development costs;
- e) Category 5: Documents from 2018 to present regarding Steelhead's investigation of the Defendants' business activities and pursuit of other LNG export and gas supply opportunities in 2018;
- f) Category 6: Steelhead's communications with WorleyParsons and KBR about the Defendants' engagement of those third parties, and their work for them;
- g) Category 7: Documents relating to Steelhead's applications for Scientific Research and Experimental Development (SR&ED) tax credits; and
- h) Category 8: Documents regarding the conversations Steelhead alleges between Mr. van Steenberg and Mr. Doerr.

[8] The defendants also seek costs.

Relevant Facts

[9] Steelhead pleads extensive technical design similarities between the defendants' competing LNG project and the design that Steelhead confidentially disclosed to the defendants.

[10] When exactly the defendants adopted the Purported New Design is a live issue for trial and the timing of the design is an issue relevant to damages.

[11] The issues on discovery will be:

- a) When Western LNG provided and when the defendants allegedly adopted a new and allegedly independent facility design for the Ksi Lisims LNG Project (the “Ksi Lisims Project”); and
- b) Whether the new design was in fact independent and, if not, to what extent the defendants influenced or had input on the design and, more specifically, whether that influence or input was based on Steelhead’s confidential information.

[12] The defendants have produced many documents dated after October 1, 2020, but they have used this date to limit their search criteria for other documents because this is the date when the first CEA was executed among Rockies, Western LNG, and the Nisga’a Nation. Schedule “A” to that CEA is Western LNG’s allegedly independent design so this schedule supposedly shows that the Purported New Design had been adopted as of that date.

[13] In the Previous Disclosure Decision, I found that the defendants’ dealings with the Nisga’a Nation regarding LNG development are relevant and must be disclosed.

[14] On November 12, 2025, the defendants agreed to produce some responsive documents in their 5th amended list of documents and sought to explain their reasoning for using the October 1, 2020 cut-off date. The defendants provided their 5th amended list of documents on December 22, 2025, comprising 1764 documents of just over 7,000 pages.

[15] The defendants produced an unredacted copy of the October 1, 2020 CEA on September 20, 2025, including its version of Schedule “A”. However, they did not produce other versions of Schedule “A”, such as the version attached to the amended CEA dated January 1, 2022. It remains redacted.

[16] From the documents produced, it appears that some technical elements in Schedule “A” produced by the defendants were not final as of October 1, 2020. Accordingly, it may be that the project design was not fixed as of this date.

[17] One of the issues at trial will be whether Western LNG independently developed the design elements in the Purported New Design.

[18] In my Previous Disclosure Decision, I found that the timing of the adoption of the Purported New Design will also be an issue at trial and during the discoveries.

[19] Steelhead pleads that, in or around August 2018, it discovered that ARC, alone or with members of the Producer Consortium who formed Rockies, was pursuing its own near-shore LNG project that featured a design incorporating elements that were “substantially identical” to some elements of Steelhead’s design. Steelhead defines this project as the “Competing LNG Project”.

[20] Steelhead pleads that the defendants’ pursuit of the “Competing LNG Project” adversely impacted its Kwispaa Project, whereas the defendants plead that the Kwispaa Project failed for its own reasons, before any defendant reached any agreement with Western LNG or the Nisga’a Nation.

[21] The defendants plead that the project they contemplated in their work in 2018 to 2019 with two engineering consulting firms, Advisian (which later became Worley) and KBR, was abandoned prior to October 2020, and that the Ksi Lisims Project is a distinct project, pursued jointly between Rockies, Western LNG, and the Nisga’a Nation. The defendants say that Western LNG has at all times been solely responsible for its design and engineering.

[22] In the underlying action, Steelhead claims damages and disgorgement of the profits of the Ksi Lisims Project, an injunction restraining its further development, and a constructive trust over it.

The Plaintiffs' Demand for Documents and the Defendants' Response

[23] On October 22, 2025, Steelhead substantially demanded production of the documents sought in this application.

[24] On November 12, 2025, the defendants indicated they would produce some of the sought documents but asserted that they were not required to disclose other drafts of the CEA because the produced CEA establishes the timing and adoption of the Western LNG Design as of October 1, 2020. They also justified applying the October 1, 2020, date to some of the documents.

[25] On May 5, 2026, in response to the plaintiffs' case planning submission, the defendants committed to, among other things, providing further substantive disclosure in June. On June 30, 2026, a little over a week before this hearing, it disclosed a seventh amended list of documents with over 100,000 pages comprising 16,000 documents.

The Defendants' Demand for Documents and Steelhead's Response

[26] On November 14, 2025, the defendants delivered the underlying demand.

[27] On December 19, 2025, Steelhead responded with objections:

- a) the categories were said to be overbroad and disproportionate;
- b) Steelhead said it was "not currently aware" of documents responsive to categories 2, 3, 5, 6 and 8;
- c) Steelhead answered category 5 only as to "Rockies [...] conduct before their formation"; and
- d) Steelhead attached privilege qualifiers to categories 3 and 5.

[28] On January 12, 2026, Steelhead delivered an amended list of documents of 96 documents, 63 of them duplicates or near duplicates of technical reports that were not responsive to the demand.

[29] On January 29, 2026, the defendants answered each objection.

[30] On March 5, 2026, Steelhead asserted that it had “made available to its counsel an exhaustive export of documents”. It also largely maintained its opposition to the demands generally, agreed to produce additional documents responsive to category 4, answered category 5 as to ARC with the same privilege qualifier, and defended its privilege listing.

[31] On March 13, 2026, Steelhead delivered a second amended list of documents of 25 documents, including detailed profit-and-loss statements for 2016 through 2019.

[32] On July 2, 2026, Steelhead consented to category 8, took no position on category 2, did not oppose an order for the adverse impact documents, offered a more detailed costs breakdown “subject to the Court’s guidance”, and promised a further valuation presentation with its next amended list of documents. It also asserted a limitation defence for category 5 that runs from Rockies’ date of formation.

Relevant Legal Principles

[33] All relevant documents must be produced as part of the parties' initial discovery obligations. Rule 7-1(1)(a) requires parties of record to list all documents that could be used at trial to prove or disprove a material fact. Rule 7-1(9) makes the obligation ongoing.

[34] A fact is "material" if it supports (or does not support) a party's right to judgment and has been placed in issue in the pleadings: *Youyi Group v Brentwood Lanes*, 2017 BCSC 1587 at para 43, citing *Danyluk v Ainsworth Technologies Inc.*, 2001 SCC 44 and *Jones (Litigation Guardian of) v Donaghey*, 2011 BCCA 6.

[35] Full and complete disclosure between or among litigants prior to trial is essential to the truth-seeking function of the litigation process and proper: administration of justice: *Zhang v Zhang*, 2021 BCSC 831 at para 14.

[36] Rule 7-1 provides a process to address disagreements about document disclosure. Rules 7-1(10) and (11) provide for written demands; Rule 7-1(12) gives a party receiving such a demand 35 days to comply or explain their refusal to do so; Rule 7-1(13) permits the demanding party faced with a refusal or failure to comply to apply to the court for relief; and Rule 7-1(14) provides that the court may order a party to serve a list of additional documents and make the newly listed documents available.

First Tier and Second Tier Document Disclosure

[37] The first tier of document disclosure as described in Rule 7-1(1) is mandatory and applies in all cases. Document disclosure under Rule 7-1(11) is a second tier of document disclosure. It is broader than the mandatory first tier of document disclosure and is discretionary.

[38] In *WIT Management Corp. v Aulakh*, 2025 BCSC 2146 [WIT], Associate Judge Vos held as follows:

[29] Rule 7-1(11) allows a party who has received a list of documents to pursue additional documents they believe are within a listing party's possession, power or control and relate to matters in question in the action. The test for disclosure of documents under Rule 7-1(11) is wider than the test in Rule 7-1(1). It is whether the documents sought may enable the requesting party to advance their own case or damage their opponent's case, or which may fairly lead the requesting party to a train of inquiry in relation to either of those consequences: *Natural Trade Ltd. v MYL Trading Ltd.*, 2019 BCSC 1368, at para 23; *Global Pacific Concepts Inc. v. Owners of Strata Plan NW 141*, 2011 BCSC 1752, paras 8, 9.

[39] The burden is on the party seeking the broader disclosure to explain why it is justified: Rule 7-1(11).

[40] A response that a document does not exist is accepted where counsel, as officers of the court, confirm that appropriate inquiries were made and the documents cannot be located, with consequences if documents later surface: *WIT* at para 46.

Privilege

[41] Privilege restricts production but not listing. A claim of privilege must be made in the list of documents with a statement of the grounds, and the nature of each document must be described in a manner that, without revealing the privileged information, enables the other parties to assess the validity of the claim: Rules 7-1(6) and (7).

[42] The party claiming privilege to limit production bears the burden to prove privilege, on a document-by-document basis: *Gardner v Viridis Energy Inc.*, 2013 BCSC 580 [*Gardner*] at paras 17–18.

[43] Litigation privilege is established under the dominant purpose test and should include a fuller description—such as the date, nature of the communication, author, and recipient—because it commands a lower premium than solicitor-client privilege and is “a limited exception to the principle of full disclosure”: *Gardner* at paras 20–21, 29–30, and 39–41.

[44] The preferable practice is for the party asserting privilege to provide affidavit evidence setting out the information required to establish privilege for each document, rather than to rely on the court to review documents to determine the question: *Garnder* at para 23.

[45] A court is not obliged to accept bare assertions that every document for which privilege is claimed cannot be described other than generically without destroying the privilege, and the remedy for a generic and unsupported claim of privilege is a proper list: *Gardner* at paras 33–35 and 39–41.

Proportionality and Discretion

[46] Proportionality is assessed against the amount involved, the importance of the issues, and the complexity of the proceeding: Rule 1-3(2).

[47] Wider document production is justified in cases involving complex issues, serious allegations of misfeasance and bad faith, sophisticated and well-resourced

parties, and where professional reputations and the ability to carry on in the business community are at risk: *Whitcombe v Avec Insurance Managers Inc.*, 2011 BCSC 204 at paras 10–12, adopted in *Eastern Platinum Limited v Cameron*, 2020 BCSC 1490 at paras 40 and 57–60; *AGT Food and Ingredients Inc. v Fibreco Export Inc.*, 2025 BCSC 90 at paras 30–32.

[48] Opposition to production based on proportionality requires an evidentiary foundation: *WIT* at paras 56–57.

Plaintiffs' Document Disclosure Application

[49] I am satisfied that Steelhead made a demand for documents under Rule 7-1(10) in its letter dated October 22, 2025. This letter substantially describes the documents sought by Steelhead. Its further particularization of this demand in this notice of application is a refinement of its request but the essence of it was contained in its October 22, 2025 correspondence. This correspondence constituted Steelhead's attempt to obtain the documents it seeks from the defendants.

[50] Steelhead did not serve its disclosure application until seven months later in May 2026. As previously described, the defendants made a significant disclosure by way of their seventh amended list of documents on June 30, 2026.

[51] The defendants assert that they have responded, at least in part, to the documents sought by Steelhead. They submit that this application is premature because Steelhead has not reviewed these documents prior to bringing this application.

[52] I am satisfied that Steelhead is entitled to apply under Rule 7-1(13) for an order under Rule 7-1(14) compelling production of the missing documents.

[53] The timing of the adoption of the Purported New Design is a live issue for discoveries and trial, that this Court has already concluded Steelhead is entitled to explore.

[54] In my view, Schedule “A” of the October 1, 2020 CEA does not definitively establish the adoption of an independent Western LNG design. Accordingly, Steelhead is entitled to the drafts of the project technical description referred to as Schedule A in the CEA and any amendments thereof to at least January 1, 2022.

[55] I am satisfied that the plaintiffs are entitled to orders for the disclosure of the categories of correspondence they seek (as described above in paras. 5 b) and c) of these reasons). The defendants have undertaken significant efforts to provide some of these documents. On June 30, 2026, they disclosed approximately 100,000 pages of documents, some of which are responsive to the requests for correspondence. Understandably, the plaintiffs have not had an opportunity to thoroughly review this disclosure in advance of this application.

[56] The orders sought are “correspondence relating to the preparation of or comment on the project technical description” and “correspondence relating to preparation of, iterations of, conveyance of, input or review of, and adoption of designs.” These descriptions of correspondence are relevant to the central issue in this litigation: did the defendants misuse Steelhead’s confidential information in the design of the Ksi Lisims Project?

[57] As I emphasized in my Previous Disclosure Decision at para. 16, “the defendants are under an ongoing obligation to produce all relevant documents, and to the extent that they fail to do so, or unnecessarily engage the court process such that they are compelled to disclose documents that are clearly relevant, there will be consequences, including potentially cost consequences of this sort of obstructive action”. This continues to hold true, but I am not convinced that we have reached that point. Having said that, I am mindful that on two occasions, the defendants have seen fit to make significant disclosures when confronted with a disclosure application. The defendants’ disclosure obligation is ongoing. It must not await a disclosure application.

[58] This is not a game of cat and mouse. The defendants must proactively disclose documents that are relevant to proving or disproving a material fact that will

be in issue at trial. Given the lengthy history of this litigation, the parties are well aware that the central issue in this litigation is the alleged misuse of Steelhead's confidential information by the defendants in the design of the Ksi Lisims Project on Nisga'a Nation territory. Both parties are required to proactively disclose documents that are relevant to this dispute.

[59] I turn next to the documents sought in respect of the purported cut-off date of October 1, 2020. This date is not a relevant cut-off date for this case, including in respect of dealings with the Nisga'a Nation, because Steelhead's allegations on liability and damages extend well past this date.

[60] The defendants contemplate continuing to work closely with the Nisga'a Nation throughout the development of the Ksi Lisims Project. I do not accept that the defendants ought to use October 1, 2020 as a limiting date for any of their electronic searches because doing so presupposes an outcome that will be an issue at trial: when was the Purported New Design adopted?

[61] The plaintiffs are entitled to the order they seek in respect of the defendants' use of the October 1, 2020 cut-off date.

Defendants' Document Disclosure Application

[62] The defendants seek two orders pursuant to Rule 7-1:

- a) Steelhead list the documents in the eight requested categories, including documents over which privilege is claimed; and
- b) Steelhead produce the listed documents that are producible and would not be subject to any properly made claim of privilege under the *Rules*.

[63] Steelhead takes no position on category 2 but asserts that it is unaware of any further responsive documents. The defendants are entitled to these documents.

[64] Steelhead consents to category 8 and asserts there are no responsive documents.

[65] Steelhead therefore objects to six of the eight categories demanded by the defendants.

[66] The Ksi Lisims LNG Project is a project designated to be of national importance. In my view, proportionality in this action expands production based on the serious allegations of misfeasance, complex issues, and the amount in issue. I reiterate that Steelhead seeks substantial damages, disgorgement of the profits of the Ksi Lisims Project, an injunction restraining its further development, and a constructive trust over it. However, expanded production is not limitless.

[67] As previously described, the pleadings tell two stories. Steelhead alleges that the Ksi Lisims Project could only have been advanced through the misuse of its information, and that Rockies has been the knowing beneficiary since its formation. The defendants plead that Western LNG has, at all times, been solely responsible for the design of the Ksi Lisims Project.

Category 1: Decision to “Pause” the Kwispa Project

[68] Category 1 seeks the documents about Steelhead’s “decision to pause” the Kwispa Project, including internal communications and external communications with Huu-ay-aht First Nation (“HFN”), investors, offtakers, and regulators.

[69] Steelhead’s pleading alleges that there were limited LNG export opportunities in British Columbia in or around 2019 and that First Nations, offtakers, government agencies, or other third parties preferred to do business with, or provide regulatory approvals to, the defendants in pursuit of the allegedly Competing LNG Project instead of Steelhead.

[70] Steelhead produced documents describing communications with its employees, HFN, and the media regarding the cessation of work on the Kwispa LNG Project. This includes an email sent to 77 third-party recipients regarding the decision to pause the Kwispa Project. This disclosure seemingly satisfies the request for documents based on Steelhead’s decision to pause the Kwispa Project. Pursuant to this demand, Steelhead is not required to produce the responses or

subsequent communications. This is because the defendants did not seek documents about efforts undertaken by Steelhead after the pause of the Kwispaa Project.

[71] However, pursuant to category 2 regarding documents about the adverse impact of the Kwispaa Project, documents relevant to Steelhead's efforts to advance this project after February 2019 must be disclosed based on the allegations that the defendants' conduct adversely impacted the Kwispaa Project. Steelhead is subject to a continuing obligation to produce these documents.

Category 3: Valuation of Alleged Confidential Information

[72] Category 3 seeks Steelhead's valuations of the allegedly confidential information. The defendants assert that they are not seeking these valuation documents as expert opinion tendered for their truth. Rather, they seek these documents to determine what Steelhead or its agents believed the alleged confidential information was worth. The defendants further assert that if these documents are subject to litigation privilege, they should be listed and described pursuant to the *Rules*.

[73] Steelhead submits that it has already produced records reflecting its internal valuations and it will produce one further presentation in its next amended list of documents.

[74] In my view, third-party opinions on the value or characterization of Steelhead's confidential information are irrelevant. This is because issues of valuation are matters for the court to decide with the assistance of expert witnesses qualified to provide this evidence. Additionally, the defendants' request for all communications with third party valuers is overbroad.

[75] Steelhead must disclose its internal valuations but is not required to disclose third-party valuations. To the extent that these internal valuation documents are privileged, Steelhead is required to list and describe them in accordance with the *Rules*.

Category 4: Records of Steelhead's Development Costs

[76] Category 4 seeks extensive records in respect of Steelhead's asserted \$140 million in development costs. These include "communications, accounts, invoices, payroll, or other materials."

[77] Steelhead objects on proportionality. The defendants assert that proportionality weighs in favour of the disclosure sought based on the extensive remedies sought by Steelhead.

[78] I agree that Steelhead is required to provide records that support its claim that it incurred \$140 million in development costs, but I do not accept that it is required to disclose every account, invoice, and payroll relating to its entire business operation. I agree with Steelhead's submission that acceding to this request would amount to a forensic accounting that is neither reasonable nor justified.

[79] In my view, Steelhead is required to disclose a breakdown of its expenses, by year, within the 500+ categories already disclosed. This should include available details on the amount of each expense, when it was incurred, and a brief description.

Category 5: Steelhead's Investigation of Rumours and Discovery of Rockies Claim

[80] Category 5 seeks documents regarding Steelhead's investigation into the defendants' activities from 2018 to present. The defendants rely on a limitation defence and alternatively suggest that the order could be limited to documents ranging from 2018 to March 21, 2023.

[81] Steelhead asserts that this request is irrelevant, overbroad, and it denies that the relevant limitation period expired.

[82] Steelhead asserts liability in this matter and the defendants pled a limitation defence. The Court will not adjudicate the merits of the claim or the defence in the context of an application for document production.

[83] Steelhead commenced its claim against Rockies on March 21, 2023. In my view, it is required to disclose any non-privileged documents relevant to its investigation of rumours about the defendants' business activities from 2018 to March 21, 2023.

[84] To the extent that documents in this category are privileged, they must be listed and described in accordance with the Rules.

Category 6: Steelhead's Communications with Worley and KBR

[85] Category 6 seeks Steelhead's communications with Worley and KBR about the defendants' engagement of those contractors. The defendants seek the letters that Steelhead's management sent or discussed sending in 2018 and any replies that followed.

[86] The defendants assert that these documents, if they exist, are relevant to whether the defendants "engaged [Worley] or KBR to leverage their knowledge of Steelhead's confidential information".

[87] I do not accept this reasoning. Only the defendants, and the third-party contractors they retained, know whether and to what extent the defendants hired Worley and/or KBR to "leverage their knowledge" of Steelhead's confidential information. Steelhead's communications with these contractors are not relevant to the issue of whether its confidential information was misused, including as a consequence of the defendants' engagement with these contractors.

Category 7: Canada Revenue Agency SR&ED File

[88] The defendants seek documents or communications related to Steelhead's applications for the SR&ED tax credits with the Canada Revenue Agency ("CRA"). In short, it seeks Steelhead's entire CRA SR&ED file.

[89] The defendants assert that these documents are relevant on two grounds:

- a) the file is evidence of Steelhead's contemporaneous characterization of its information; and

b) they describe Steelhead's development work.

[90] The defendants are not entitled to Steelhead's entire CRA SR&ED file because its contents are not relevant to this litigation. Whether the CRA chose to grant or deny Steelhead's application for tax credits based on the provisions of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) [*ITA*] is not relevant to the confidentiality of Steelhead's information.

[91] Pursuant to s. 248(1) of the *ITA*, the definition of "scientific research and experimental development" provides:

PART XVII

INTERPRETATION

Definitions

248(1) In this Act,

[...]

scientific research and experimental development means systematic investigation or search that is carried out in a field of science or technology by means of experiment or analysis and that is:

[...]

- (i) the commercial production of a new or improved material, device or product or the commercial use of a new or improved process

[92] Eligibility for SR&ED credits under the *ITA* is obviously not the test for confidential information.

[93] Steelhead produced portions of its application to the CRA that describe its technical work for SR&ED credits from 2014 to 2016. The defendants' request for all documents and communications relating to Steelhead's SR&ED application is overbroad because it would include all communications Steelhead had with CRA, including its tax assessments, which are not at issue in this litigation.

Conclusion

[94] Steelhead is entitled to the documents sought in its application.

[95] The defendants are entitled to the following documents:

- a) Category 1, 2, and 8 documents;
- b) Category 3 – internal valuations, but not third party valuations or communications with these parties. To the extent that some of these documents are privileged, Steelhead must list and describe them in accordance with the *Rules*.
- c) Category 4 – documents that provide a breakdown of Steelhead's expenses, by year, within the 500+ categories already disclosed with details as previously described; and
- d) Category 5 – any non-privileged documents relevant to its investigation of rumours about the defendants' business activities from 2018 to March 21, 2023. To the extent that documents in this category are privileged, they must be listed and described in accordance with the *Rules*.

[96] Steelhead is not required to list or produce the documents in categories 6 and 7.

Costs

[97] Steelhead was successful on its application for the disclosure of documents, and the defendants were partially successful on their application.

[98] Steelhead is entitled to costs of a one-day application.

“Basran J.”