IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Yen v. Ghahramani,*
2025 BCSC 1777

Date: 20250912
Docket: S220213
Registry: Vancouver

Between:

Vincent Yen and 0756383 BC Ltd.

Plaintiffs

And

**Frederick Ghahramani, 0751846 BC Ltd.,
airG Employee Share Ownership Plan Ltd., and airG Inc.**

Defendants

And

**Vincent Yen, Canfleet Logistics Ltd., StudyPug Inc.,
StudyPug Holding Inc., StudyPug USA Inc., StudyPug Holding (HK) Limited,
StudyPug (HK) Limited, Manitoulin Global Forwarding Inc.,
airG Services Inc., and Tai Management Ltd.**

Defendants
By Way of Counterclaim

Ruling on Application to Re-Open the Trial

Counsel for the Plaintiffs and Defendants by Counterclaim:	S. Warnett P. Burnham
Counsel for the Defendants, Frederick Ghahramani and 0751846 BC Ltd.:	J.D. Shields
Counsel for the Defendant, airG Inc.:	G.R. Cameron K.F. Milinazzo
The Defendant, airG Employee Share Ownership Plan Ltd.:	No appearance at this hearing
Place and Dates of Hearing:	Vancouver, B.C. August 11–12, 2025
Place and Date of Judgment:	Vancouver, B.C. September 12, 2025

Table of Contents

Introduction

[1] There are three defendants in the underlying action that are relevant to this application, namely, Frederick Ghahramani, his holding company 0751846 BC Ltd. ("0751846"), and airG Inc. ("airG") (collectively, the Defendants"). Two of them, Mr. Ghahramani and 0751846 (together, the "Applicants"), apply to re-open the trial that concluded on November 22, 2024. The trial in question lasted 44 days.

[2] The Applicants seeks to re-open the trial on the grounds that they obtained 10,000 potentially relevant documents after the conclusion of the trial (the "Lee Documents") provided by Dennis Lee, one of the four co-founders of StudyPug Inc. and StudyPug Holding Inc. (together, "StudyPug").

[3] StudyPug subsequently grew to include StudyPug USA Inc., and, further, StudyPug Holding (HK) Limited, StudyPug (HK) Limited, which, collectively, will be referred to the "StudyPug Entities". Since the StudyPug Entities are the defendants by counterclaim in this action, they will also be referred to as the "StudyPug Defendants" when appropriate.

[4] The Applicants assert that the Lee Documents were not available to them while the trial was ongoing and that the Lee Documents could change the outcome of the trial.

[5] Accordingly, the Applicants seek an order compelling the plaintiffs, Vincent Yen and his holding company, 0756383 BC Ltd. ("0756383"), and StudyPug (collectively the "Application Respondents") to respectively deliver a supplementary list of documents, copies of any new documents, and affidavits verifying the Application Respondents' discovery of the documents.

[6] The Applicants also seek an order permitting the Defendants, that is, Mr. Ghahramani, 0751846, and airG, to further examine Mr. Yen on his own behalf and on behalf of 0756383, and Mr. Lum Chan on behalf of the StudyPug Defendants, for up to one day each by way of further examinations for discovery, as well as an order that the trial resume for the limited purpose of allowing counsel for

the Defendants to each cross examine Mr. Yen and Mr. Chan and make further submissions.

[7] airG consents to the orders sought by the Applicants.

[8] The Application Respondents resist the re-opening of the trial on the basis that the Lee Documents merely bolster evidence that was already adduced at trial. The Application Respondents assert that the documents primarily address the issue of credibility and the parties already adduced ample evidence on this matter.

Legal Principles

[9] After a trial concludes, but before the entry of a judgment, the court has broad discretion to re-open the trial for the admission of additional evidence. This discretion should be exercised sparingly, judicially, and in a principled and consistent manner. The overarching concern is whether re-opening a trial is in the interests of justice: *Grewal v. Grewal*, 2016 BCCA 237 at paras. 70−71; *Mayer v. Mayer Estate*, 2020 BCCA 282 at para. 19.

[10] There are two primary considerations in deciding whether to exercise discretion to re-open a case following the conclusion of the trial:

a) Is it probable that a miscarriage of justice would occur without re-opening?

b) If the trial is re-opened, would a rehearing probably change the result?

See *Grewal* at para. 71.

[11] The threshold for establishing a miscarriage of justice is high. As stated by this court in *A.B. v. C.D.*, 2014 BCSC 1676, a miscarriage of justice means a result which is not justice according to the law, or, put differently:

> [34] […] a miscarriage of justice constitutes a “result that would leave one party with such an unfair benefit or advantage at the expense of the other that a reasonable person would regard it as shocking and unconscionable”.

[12] The court will not re-open a matter simply to allow a party to re-argue their case. Consequently, in cases where a party wishes to re-open in order to introduce

new evidence, “the evidence must indeed be fresh evidence: It must have come to the applicant’s attention after trial, without being reasonably discoverable beforehand”: *Cox v. Swartz Estate*, 2022 BCSC 1494 at para. 51.

Relevant Facts

The Underlying Trial

[13] Mr. Yen and Mr. Ghahramani founded a company in 2000 that eventually became a successful software business named airG. Until 2021, both Mr. Yen and Mr. Ghahramani were directors of airG.

[14] On March 1, 2021, Mr. Ghahramani directed that a Notice of Special Meeting be delivered to the shareholders of airG. The special meeting was scheduled for March 9, 2021. Mr. Ghahramani made it known that at this meeting he would ask the shareholders to vote to remove Mr. Yen as a director of airG.

[15] On March 1, 2021, Mr. Yen received the Notice of Special Meeting and discovered that Mr. Ghahramani was orchestrating his removal as director.

[16] On March 5, 2021, Mr. Yen sent Mr. Ghahramani an email imploring him to halt this proposed course of action in favour of further discussing and mediating their ongoing dispute. In a postscript to this email, Mr. Yen wrote “I’ve backed up all my 20+ years of emails already, with multiple backups”. Mr. Yen deposed that this was solely a reference to backing up his airG email account.

[17] At the special meeting, the shareholders removed Mr. Yen as a director.

[18] Subsequently, Mr. Yen commenced litigation against a number of parties, including the Applicants. Mr. Yen claimed that his reasonable expectations were violated when he was removed as a director of airG and was no longer compensated in accordance with a clandestine agreement between himself and Mr. Ghahramani. As part of this claim, he asserted that he and Mr. Ghahramani had an understanding that they were partners, and that they would equally participate in

all share buybacks. In Mr. Yen's view, Mr. Ghahramani's departure from this agreement was oppressive, and he, Mr. Yen, was, therefore, entitled to relief.

[19] In response, airG and Mr. Ghahramani advanced counterclaims, which alleged, among other things, that Mr. Yen had been expensing personal items to airG via his sidecar/holding company, airG Services Inc. ("ASI"). They also claimed that Mr. Yen had been misusing airG's corporate resources to benefit StudyPug.

[20] The trial commenced on September 3, 2024 and concluded on November 22, 2024, after 44 days of evidence and submissions.

The Re-Opening Application

[21] StudyPug is a Vancouver-based company. It was co-founded in September 2014 by four co-founders, which included Mr. Yen and Mr. Lee. In addition to co-founding StudyPug, Mr. Lee is also a former director and employee of the StudyPug Entities.

[22] By at least 2017, Mr. Ghahramani knew that Mr. Lee was a principal of StudyPug and that Mr. Yen had invested in the StudyPug Entities.

[23] Given StudyPug's involvement in the underlying action, on May 30, 2023, counsel for airG wrote to Mr. Lee and asked him to preserve the documents in his possession. Counsel for airG also requested an interview and expressly stated that if Mr. Lee declined to comply with their request, airG reserved its right to seek an order under Rule 7-5 of the *Supreme Court Civil Rules* to compel evidence from him.

[24] Mr. Lee did not respond to this communication.

[25] On June 21, 2023, counsel for airG sent a follow-up correspondence to Mr. Lee. Mr. Lee did not respond to this communication in either 2023 or 2024.

[26] airG did not bring a Rule 7-5 application for the pre-trial examination of Mr. Lee.

[27] As noted, the trial in this matter concluded on November 22, 2024.

[28] On February 25, 2025, Mr. Lee responded to the correspondence that had been sent to him almost two years earlier by airG's counsel. Mr. Lee indicated that he missed counsel's request because he rarely checks the email account the request was sent to. He disclosed the requested documents that were in his possession.

[29] Since February 25, 2025, Mr. Lee has disclosed over 10,000 documents. These documents include approximately 4,788 emails to or from Mr. Yen's personal email address. They also include 2,343 emails to or from the Hotmail account of Mr. Robert Boyes, a director, and 1,804 emails to or from Mr. Chan's Gmail account.

[30] Mr. Yen is the principal plaintiff in the underlying action. Mr. Chan and Mr. Boyes both testified during the trial.

[31] Mr. Yen is neither the writer nor recipient on at least 1,851 emails and 1,996 other documents in the Lee Documents.

[32] The Lee Documents have been provided to all parties involved in the underlying litigation.

[33] On April 4, 2025, counsel for airG wrote to the Court requesting that it refrain from releasing reasons for judgment for 21 days so that counsel could review the Lee Documents and take instructions on whether to bring an application to re-open the trial.

[34] On April 30, 2025, counsel for airG advised the Court that it would not be bringing an application to re-open the trial but further advised that counsel for Mr. Ghahramani would be bringing an application to re-open.

[35] Counsel for Mr. Ghahramani filed this application to re-open the trial on June 13, 2025.

Relevance of the Lee Documents

[36] After reviewing the Lee Documents, I find that some, but not all, of the Lee Documents were adduced at trial.

[37] Some of the Lee Documents which were not adduced at trial plainly demonstrate that, between 2014 and 2017, Mr. Yen expensed several items to airG that were, in fact, used by StudyPug. These items include “DivaLites” (a professional quality light fixture that is often used in photograph or film production), an electronic whiteboard, and the rental of an office space used by StudyPug.

[38] Some of the documents suggest that StudyPug treated theses items, which were paid for by airG, as contributions made by Mr. Yen to the StudyPug Entities.

[39] The Applicants assert that this proves Mr. Yen obtained further equity in StudyPug as a direct result of items which were paid for by airG. In my view, this claim is speculative, and, regardless, the Applicants are not seeking to call Mr. Lee as a witness if the trial were to be re-opened. Therefore, even if I were to re-open the trial, the Applicant would have no way of supporting this claim. Accordingly, I do not find that the Lee Documents are relevant for this purpose.

[40] I do, however, accept that the Lee Documents conclusively show that Mr. Yen expensed items, plus an additional 15% markup, to airG, by way of his so-called “sidecar” company, ASI, and that these expenses directly benefited StudyPug. This information is directly relevant to the underlying claims.

[41] The Lee Documents also impact Mr. Yen’s credibility because, in his testimony, Mr. Yen was not candid about the StudyPug expenses. Mr. Yen’s evidence about the expensed items shifted throughout the litigation. In pre-trial interrogatories, Mr. Yen refused to admit that he improperly charged airG for these expenses.

[42] Initially, at trial, he alleged that the DivaLites, the electronic whiteboard, and the rental office were used for airG and ASI business. Later in his testimony, Mr. Yen

acknowledged that these items were personal expenses. However, the Lee Documents confirm that these items were not personal expenses, and were, in fact, used by, and in furtherance of, StudyPug.

[43] The Applicants' also assert that the very existence of the Lee Documents, which include emails to and from Mr. Yen's personal email account, but were not previously disclosed by Mr. Yen, affect his credibility.

[44] I accept that if Mr. Yen and/or StudyPug had the Lee Documents prior to trial, they were under an obligation to disclose them because they are relevant to the matters in issue in the trial. While this may be true, I am not convinced that Mr. Yen deliberately failed to produce the emails that were contained in the Lee Documents.

[45] During the course of the litigation, Mr. Yen disclosed countless documents that were adverse to his interest. It is likely that he would have disclosed the emails contained in the Lee Documents if they had been in his possession.

[46] The Applicants' assert that Mr. Yen's comment in the March 5, 2021 email that he "backed up all my 20+ years of emails already" is proof that Mr. Yen backed up all his email accounts and, therefore, had copies of his personal communications which he failed to disclose. This communication occurred at a time when Mr. Ghahramani was threatening to remove Mr. Yen as a director of airG. Given the context and timing of the communication, it is entirely plausible that Mr. Yen's reference to backing up his emails referred only his airG email account, as he may have made this comment in anticipation of losing access to this account.

[47] In sum, while I do not accept all the Applicants' arguments, I accept that the Lee Documents are relevant to both the underlying dispute and the assessment of Mr. Yen's credibility.

Discussion

[48] While I accept that the Lee Documents are relevant to issues in the underlying trial, I do not accept that a miscarriage of justice would occur without re-opening the trial, nor do I accept that re-opening is likely to change the result.

[49] To begin, I am not satisfied that a miscarriage of justice will result from denying the Applicants' request to re-open. I make this finding, in part, because the Lee Documents are not new evidence, in a true sense.

[50] While some of the Lee Documents clarify the issues before the Court, the findings sought by the Applicants are inferences which were already available to me based on the evidence adduced at trial.

[51] For example, in light of Mr. Yen's admissions during the underlying trial that some of the items he expensed to airG were in fact his own personal expenses, and in the absence of a legitimate business use for these items by ASI, it was already open to me to conclude that the items were used by StudyPug, and that Mr. Yen provided these items to StudyPug for its use. In fact, in the Application Respondents' closing submissions, they urged me to come to this conclusion and argued that the evidence supported such a finding.

[52] In my view, a miscarriage of justice will not arise if I refuse to re-open the trial, because the purpose of the re-opening would only be to consider additional details of evidence which was already before the Court. Declining to re-open the trial will also not produce an unfair benefit or advantage that a reasonable person would regard as shocking and unconscionable as the Lee Documents merely bolster the evidence adduced at trial.

[53] Additionally, the fact that the Lee Documents were not before the Court at first instance is, in part, the fault of the Applicants. The parties were aware of Mr. Lee's involvement with StudyPug, but neither the Applicants, nor airG, sought to compel further evidence or documents from Mr. Lee prior to trial. Nor did they subpoena him

for trial. airG explicitly referred to a potential Rule 7-5 application in its 2023 correspondence with Mr. Lee, but it took no steps in this regard.

[54] The law imposes a high threshold for the re-opening of a trial. As stated at para. 12 above, to re-open a trial for the admission of new evidence, the evidence would need to have come to the Applicants' attention after trial and not have been discoverable beforehand: *Cox at* para. 51.

[55] In this case, the Lee Documents were reasonably discoverable beforehand. It is therefore not a miscarriage of justice to decline to re-open the trial to admit these documents.

[56] Furthermore, re-opening the trial is unlikely to change the result. As previously stated, the findings of fact sought by the Applicants based on the Lee Documents are already available to this Court based on the evidence adduced at trial.

[57] On this point, the Applicants highlighted that one of the Lee Documents indicates that StudyPug contemplated making its products available through mobile carriers. In the Applicants' view, this is proof that StudyPug was a competing business to airG.

[58] While this evidence was not adduced in the trial, I am not convinced that a single reference to StudyPug speculating about possibly making its products available via mobile carriers is sufficient to justify re-opening the trial. I also find that even if I were to re-open the trial, this evidence is unlikely to change the results, as there remains no evidence that StudyPug actually used mobile carriers to deliver its content or that it ever actively competed with airG.

[59] The underlying trial in this matter lasted 44 days. The evidence placed before the Court was extensive. It included hundreds of exhibits, 18 days of testimony from Mr. Ghahramani and Mr. Yen, and the evidence of, and testimony from, 12 other witnesses, including Mr. Chan and Mr. Boyes.

[60] While credibility assessments will be a key factor in determining the issues before me, I am not convinced that re-opening the trial to consider the Lee Documents is necessary to avoid a miscarriage of justice nor do I find that the Lee Documents are likely to affect the result.

[61] In summary, I decline to re-open the trial.

Conclusion

[62] The application is dismissed.

Costs

[63] During the underlying trial, the parties asked to make submissions on costs after the release of the trial reasons for judgment. Those submissions may include submissions on the costs of this application.

"Basran J."