

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20110302**

**Docket: A-368-10**

**Citation: 2011 FCA 81**

**CORAM: EVANS J.A.  
DAWSON J.A.  
LAYDEN-STEVENSON J.A.**

**BETWEEN:**

**PEAK INNOVATIONS INC.**

**Appellant**

**and**

**SIMPSON STRONG-TIE COMPANY, INC.**

**Respondent**

Heard at Vancouver, British Columbia, on March 2, 2011.

Judgment delivered from the Bench at Vancouver, British Columbia, on March 2, 2011.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**LAYDEN-STEVENSON J.A.**

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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Vancouver, British Columbia, on March 2, 2011)**

**LAYDEN-STEVENSON J.A.**

[1] This is an appeal of the order of Justice Beaudry of the Federal Court dated September 9, 2010, dismissing an appeal from a direction of Prothonotary Aalto directing that the appellant's motion is premature and "stayed pending the outcome of the appeals in Federal Court of Appeal File numbers A-512-09 and A-513-09."

[2] We are of the view that the appeal ought not to have been entertained in the first instance.

The jurisprudence of this Court is well settled. No appeal lies from a direction: *Froom v. The Queen* 2003 FCA 141. It follows that, in the circumstances of this matter, no costs ought to have been awarded against the appellant.

[3] We are also of the view that the appellant's motion is now ripe for hearing since the appeals upon which the motion was stayed were decided on October 20, 2010.

[4] We would add that, in circumstances where counsel is uncertain regarding, or wishes to challenge, the nature of a direction arising from a case management conference, counsel is at liberty to request, on motion, a formal order which sets out the substance of the direction.

[5] The appeal will be allowed to the extent of the costs. The order of the judge with respect to costs will be set aside.

“Carolyn Layden-Stevenson”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-368-10

**STYLE OF CAUSE:** PEAK INNOVATIONS INC. v.  
SIMPSON STRONG-TIE COMPANY, INC.

**PLACE OF HEARING:** Vancouver, British Columbia

**DATE OF HEARING:** March 2, 2011

**REASONS FOR JUDGMENT  
OF THE COURT BY:** EVANS J.A.  
DAWSON J.A.  
LAYDEN-STEVENSON J.A.

**DELIVERED FROM THE BENCH BY:** LAYDEN-STEVENSON J.A.

**APPEARANCES:**

Paul Smith FOR THE APPELLANT

No one appeared FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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