Country Report Canada

Annual Report to the IFLA CLM committee

Lyon 2014

**Copyright:**

***New Legislation***

Although the ***Copyright Modernization Act*** was passed in 2012, the Canadian government delayed the coming into force of some of this Act’s important sections such as the new ***Notice and Notice*** regime for internet Copyright violations. Canada's proposed "Notice and Notice" regime significantly diverges from its American "Notice and Takedown" equivalent. Under the Canadian approach, when copyright holders allege that their copyright has been infringed, they can contact the internet service provider (“ISP”) who, in turn, notifies the allegedly infringing party. In the US, however, there is a statutory obligation for the ISP to takedown infringing materials. In a [news release](http://news.gc.ca/web/article-en.do?nid=858069)  dated June 17th 2014, the government announced the imminent coming into force of the new Canadian "Notice and Notice" regime.

**Legal Matters:**

***New Legislation:***

In May 2014, Canada ratified both the ***WIPO Copyright Treaty*** and the ***WIPO Performances and Phonograms Treaty***. These treaties will enter into force in August 2014. Both treaties include the protection of rights management in formation and preclude the circumvention of technological protections measures or digital locks.

**Law Cases:**

[**R. v Spencer**](http://canlii.ca/t/g7dzn) 2014 SCC 43

The Supreme Court of Canada ruled that Canadian internet users have a reasonable expectation of anonymity in their Internet usage.

[**Equustek Solutions inc. et al. v. Morgan Jack et al.**](http://canlii.ca/t/g7fpw)  2014 BCSC 1063

In this ruling, the British Columbia Supreme Court ordered Google to omit some web-sites from its world-wide search results and did not limit its ruling to the Canada-specific search results.

[**Pinto v. Bronfman Jewish Education Centre**](http://canlii.ca/t/g0n7h) 2013 FC 945

The Federal Court ruled that a musician who was hired by the defendants to compose, arrange and perform music that would form part of a cultural studies curriculum had waived his copyright in the music and had entered in an “implicit license” for the use of his work as part of this curriculum.

**Advocacy / Lobbying activities:**

The current lawsuit between Access Copyright, the copyright collective in English-speaking Canada, and York University centers on the scope of Users Rights in Canadian copyright law, particularly the Fair Dealing Guidelines recently adopted by many universities (as mentioned in last year’s Country Report ).The outcome of this case will determine the validity of the new approaches to copyright protection in adopted by many institutions in Canada’s post-secondary sector.

Canadian library associations as well as the Association of Research Libraries (ARL) have responded to the concern that the Trans-Pacific Partnership agreement being currently negotiated may be used as a back door method of changing Canada’s copyright laws, particularly the extension of the terms of copyright from life of author plus 50 years to life of author plus 70 years. Their response to this concern was conveyed to the negotiators in the following [document](http://www.cla.ca/Content/NavigationMenu/CLAatWork/Advocacy/Copyrighttermletter_july2014.pdf). Concerns were raised that the ongoing expansion of the legal protection of digital locks (see New Legislation above) poses a threat to the recent broadening, in Canadian law, of the Fair Dealing exception.

**Strategic Plans for the future:**

More and more Canadian universities are letting their agreements with copyright collectives lapse in favor of establishing in-house copyright compliance mechanisms.

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