



Nelligan O'Brien Payne

Lawyers/Patent and Trade-Mark Agents
Avocats/Agents de brevets et de marques de commerce

MEDIA RELEASE

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'Digital' Copyright Protection Topic of New Study

OTTAWA, June 9, 2003 – The Department of Canadian Heritage has released two new Studies that may affect how Canadian law will develop with respect to the protection of copyright for content in a digital environment (e.g., music, videos and books that can be easily distributed via the Internet). The Studies address some of the questions surrounding the adequacy of existing Canadian copyright law in the 'digital era', and look at whether new laws are necessary to comply with two World Intellectual Property Organization (WIPO) Treaties, of which Canada is a signatory.

The WIPO Treaties attempt to reform copyright law for digital content and therefore affect many people, including consumers. For example, outside the digital realm, a person who buys a paperback is not subject to much control by the copyright owner. The purchaser can read the book as often as she wishes and is able to share it with another person or make copies of portions of the work without seeking prior permission. However, in the digital realm, laws resulting from the WIPO Treaties could enable technological protection measures (TPM's) to prevent purchasers of e-books and other digital publications from using the material they purchased in these same ways. In other words, TPM's can be used to re-bundle intellectual property rights within the digital realm; sometimes for better, sometimes for worse. The two new studies released by Canadian Heritage examine various possible interpretations of the WIPO Treaty requirements and offer suggestions that aim to balance the rights of copyright owners against the rights of consumers and the broader public interest.

According to Dr. Ian Kerr, a co-author of the two Studies, "the release of the TPM studies by the Department of Canadian Heritage is crucial to the success of Canada's ongoing Copyright Reform Process, as these studies take into account many of the underrepresented voices in the global debate on digital copyright." Dr. Kerr holds the Canada Research Chair in Ethics, Law & Technology at the University of Ottawa, Faculty of Law and is Special Counsel in Technology Law at the law firm of Nelligan O'Brien Payne.

Chris Tacit, co-author and leader of the Technology Law practice group at Nelligan O'Brien Payne, stated that: "Canadian copyright law has traditionally struck a very careful balance between the rights of creators, distributors and users of works that are subject to copyright. The digital medium, the existence of TPM's and the legal protection of TPM's all threaten to shift this balance one way or another."

The Studies warn that making quick policy decisions without a greater understanding of the digital environment could result in harm to the public interest. The authors conclude that, until the market for digital content and the norms surrounding the use and circumvention of TPMs become better known, it is premature to try to determine what the appropriate legal response should be. Therefore, they recommend that new legal measures should not be implemented in Canada at this time.

A third Study authored by Mr. Tacit is expected to be released later this year. It will describe those provisions of Canadian law that already afford some measure of legal protection to TPMs, as well as the extent to which such protection addresses the requirements of the World Intellectual Property Organization (WIPO) Treaties.

Please refer to the attached document for more background information.

The Studies are posted on the Copyright Policy Branch website from the Department of Canadian Heritage:

http://www.pch.gc.ca/progs/ac-ca/progs/pda-cpb/pubs/protectionII/index_e.cfm

Media Enquiries: Glen Ashworth
Marketing Communications Coordinator
Nelligan O'Brien Payne LLP
Phone: (613) 231-8330
Fax: (613) 364-4160
glen.ashworth@nelligan.ca