

## UNLOCATABLE COPYRIGHT OWNERS: SOME COMMENTS ON THE LICENSING SCHEME OF SECTION 77 OF THE CANADIAN *COPYRIGHT ACT*

by  
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#### Owners who cannot be located

##### *Circumstances in which licence may be issued by Board*

77. (1) Where, on application to the Board by a person who wishes to obtain a licence to use

- (a) a published work,
- (b) a fixation of a performer's performance,
- (c) a published sound recording, or
- (d) a fixation of a communication signal

in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in section 3, 15, 18 or 21, as the case may be.

##### *Conditions of licence*

(2) A licence issued under subsection (1) is non-exclusive and is subject to such terms and conditions as the Board may establish.

##### *Payment to owner*

The owner of a copyright may, not later

#### Titulaires introuvables

##### *Délivrance d'une licence*

77. (1) La Commission peut, à la demande de tout intéressé, délivrer une licence autorisant l'accomplissement de tout acte mentionné à l'article 3 à l'égard d'une oeuvre publiée ou aux articles 15, 18 ou 21 à l'égard, respectivement, d'une fixation d'une prestation, d'un enregistrement sonore publié ou d'une fixation d'un signal de communication si elle estime que le titulaire du droit d'auteur est introuvable et que l'intéressé a fait son possible, dans les circonstances, pour le retrouver.

##### *Modalités de la licence*

(2) La licence, qui n'est pas exclusive, est délivrée selon les modalités établies par la Commission.

##### *Droit du titulaire*

(3) Le titulaire peut percevoir les

than five years after the expiration of a licence issued pursuant to subsection (1) in respect of the copyright, collect the royalties fixed in the licence or, in default of their payment, commence an action to recover them in a court of competent jurisdiction.

redevances fixées pour la licence, et éventuellement en poursuivre le recouvrement en justice, jusqu'à cinq ans après l'expiration de la licence.

#### *Regulations*

(4) The Copyright Board may make regulations governing the issuance of licences under subsection (1).

#### *Règlement*

La Commission peut, par règlement, régir l'attribution des licences visées au paragraphe (1).

R.S.C. 1985 (4<sup>th</sup> Supp), c. 10, s.16; 1997, c. 24, s. 50

## **§1.0 Related Sections**

Section 2 – Definitions: "board", "communication signal", "performer's performance", "sound recording", "work"; section 2.2 Definition of "publication"; section 3 – Copyright in works; section 5 – Works in which copyright may subsist; section 15 Copyright in performer's performance; section 18 – Copyright in sound recordings; section 21 – Copyright in communication signals; section 27 – Infringement generally; section 36 – Protection of separate rights; section 37 – Concurrent jurisdiction of Federal Court; section 66.6 – Regulations.

## **§2.0 Related Regulations**

None

## **§3.0 Prior Legislation**

### **§3.1 Corresponding Section in Prior Legislation**

Section 50.7 from 1989.011.01 to 1989.10.31; section 70.7 from 1989.10.01 to 1997.09.31; section 77 from 1997.10.01 to present.

## **§3.2 History**

### **§3.2.1 Legislative History**

S.C. 1988, c. 15, s. 14 ; C.I.F. 1989.02.01 ; R.S.C. 1985 (4<sup>th</sup> Supp.), c. 10, s. 16 ; C.I.F. 1989.11.01 ; S.C. 1997, c. 24, s. 50 ; C.I.F. 1997.10.01.

### §3.2.2 Text of section in prior legislation

#### S.C. 1988, c. 15, s. 14 :

##### OWNERS WHO CANNOT BE LOCATED

Circumstances in which a licence may be fixed

50.7 (1) Where, on application to the Board by a person who wishes to obtain a licence to use a published work in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in subsection 3(1).

##### Conditions of licence

(2) A licence issued under subsection (1) is non-exclusive and is subject to such terms and conditions as the Board may establish.

##### Payment to owner

(3) The owner of the copyright may, not later than five years after the expiration of a licence issued pursuant to subsection (1) in respect of the copyright, collect the royalties fixed in the licence or, in default of their payment, commence an action to recover them in a court of competent jurisdiction.

##### TITULAIRES INTROUVABLES

Délivrance d'une licence

50.7 (1) La Commission peut, à la demande de tout intéressé, délivrer une licence autorisant l'accomplissement de tout acte mentionné au paragraphe 3(1) à l'égard d'une œuvre publiée, si elle estime que le titulaire du droit d'auteur est introuvable et que l'intéressé a fait son possible, dans les circonstances, pour le retrouver.

##### Modalités de la licence

(2) La licence, qui n'est pas exclusive, est délivrée selon les modalités établies par la Commission.

##### Droit du titulaire

(3) Le titulaire peut percevoir les droits fixés par la licence, et éventuellement en poursuivre le recouvrement en justice, jusqu'à cinq ans après l'expiration de la licence.

#### R.S.C. 1985 (4<sup>th</sup> Supp.), c. 10, s. 16 :

##### OWNERS WHO CANNOT BE LOCATED

Circumstances in which a licence may be fixed

70.7 (1) Where, on application to the Board by a person who wishes to obtain a licence to use a published work in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in subsection 3(1).

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## §4.0 Purpose

This section provides for a licensing scheme whereby the Copyright Board may issue a non-exclusive licence for certain use of a work or other subject-matter of copyright, the copyright owner of which is unlocatable.

## §5.0 Commentary

### §5.1 General

Section 77 deals with the circumstances where the Copyright Board may grant a non-exclusive licence to do an act described

- in subsection 3(1) of the *Copyright Act* with respect to a published work,
- in subsection 15(1) with respect to a fixation of a performer's performance ;
- in subsection 18(1) with respect to a published sound recording ; or
- in subsection 21(1) with respect to a fixation of a communication signal

the copyright owner of which cannot be located.

### §5.2 Scope of Application

#### §5.2.1 What Is Covered

For section 77 to apply, several conditions are to be met :

- i) As to the work or other subject-matter of copyright, it has to be published (within the meaning of paragraph 2.2(1)(a) for works

- and within the meaning of paragraph 2.2(1)(b) for sound recordings : see *U.P. Productions, Inc. (Re)* (1992), (1990-1994) C.C.B. 453 (Cop. Bd.), at p. 454) or fixed (in regard of performer's performances and communication signals)
- ii) Copyright shall subsist in the work or other subject-matter of copyright) (compare with the French text where there is no such explicit requirement) and,
  - iii) The copyright owner of the specific right to be licensed is unlocatable.

In that last regard it should be stressed that this section is concerned only with the unlocatable copyright owner and not with unlocatable author, whether deceased or alive. Compare with section 8 (repealed by S.C. 1993, c. 44, s. 59) which deals with the reproduction of a published work after the death of the author, irrespective of the rights that may subsist in favor of the copyright owner.

### **§5.2.2 Unlocatable Owner**

The applicant must satisfy the Copyright Board that he has made, *in the circumstances*, reasonable efforts to locate the copyright owner.

The nature and extent of these research may vary greatly according to the type of work or other subject-matter, the nature of its publication and its mode or medium of exploitation/distribution. These research are not restricted to Canada but should rather cover probable places where the owner of the copyright may be located.

Consultation of the repertoires of copyright licensing bodies and creators collectives, national libraries index, copyright offices registration systems, publishing houses, corporate records and the like. As a matter of practice, the Copyright Board will ask the applicant to indicate precisely all the steps undertook to locate the copyright owner and will require the applicant to file an affidavit to this effect as well as all the documents evidencing such efforts.

### **§5.2.3 Non-Exclusive Licence**

The jurisdiction of the Copyright Board to issue a licence under section 77 is limited to the grant of

- i) a non-exclusive licence,
- ii) to do an act referred to in subsections 3(1), 15(1), 18(1) or 21(1),
- iii) for a determined period.

Such licence can only cover the exclusive rights of the copyright owner depicted

- in subsection 3(1), as producing, reproducing, performing, delivering, translating, converting, making a record, adapting, telecommunicating, exhibiting, renting out a sound recording or authorizing one of the aforesaid with respect to a published copyrighted work (it will not include the right to first publication as publication of the work is a prerequisite for the operation of section 77);
- in paragraph 15(1)(b), as reproducing a fixation, reproducing a reproduction of the fixation, renting out a sound recording or authorizing one of the aforesaid with respect to a fixed copyrighted performer's performance ;
- in subsection 18(1), as reproducing, renting out or authorizing one of the aforesaid with respect to a published copyrighted sound recording (it will not include the right to first publication as publication of the sound recording is a prerequisite for the operation of section 77) ;
- in subsection 21(1), as fixing, reproducing a fixation, performing a television communication in public place, authorizing one of the aforesaid with respect to a fixed copyrighted communication signal, or authorizing the simultaneous broadcast of a fixed copyrighted communication signal.

The Copyright Board is without jurisdiction to issue a licence to do an act referred elsewhere in the *Copyright Act*, as those, for instance, referred to in subsection 27(2) such as selling, letting for hire, offering for sale or hire, distributing, exhibiting by way of trade or importing. See *Maclean Hunter Limited (Re)* (1990), (1990-94) C.C.B. 435 (Cop. Bd.), at p. 436. The licence granted by the Copyright Board may cover the use of the licensed work (or other subject-matter of copyright) which are incidental to the licence, for instance, promotion : see *Goose Lane Editions (Re)* (1992), (1990-1994) C.B.R. 458 (Cop. Bd.), at p. 459 "The applicant is also authorized to include images of the novel's cover in promotional material".

The licence granted by the Copyright Board is prospective in nature and not retrospective. Therefore, a licence granted under section 77 should not operate as a bar to an action for an infringement which occurred prior to the grant of the licence: see *National Film Board (Re)* (1992), (1990-1994) C.B.R. 469 (Cop. Bd.).

Whether the Copyright Board has jurisdiction to issue a licence to adapt a work is also debatable even though in the past a licence to reproduce and

adapt was granted in the following terms : "The type of adaptation which the applicant is authorized to make is limited to simplifying the language of the text, adding illustrations and exercises of a pedagogical nature": *Centre Alpha au Pied de la Lettre (Re)* (1991), (1990-1994) C.C.B. 443 (Cop. Bd.), at p. 444. Indeed, except for the cinematographic adaptation of a work under paragraph 3(1)(e), the right to adapt is not include in subsection 3(1) and may be said to conflict with the moral right of integrity referred to in section 14.1.

A similar question in regard of the right to the integrity of a work could be raised with respect to the authorizations given by the Copyright Board to reproduce extracts of works rather than the entire work itself. While in the case of works of scientific, technical or scholarly nature, the borrowing of extracts will generally not lead to a distortion of the work, same is not always the case with respect to other types of works. The Copyright Board has granted licences to reproduce part of poems or other works without apparently questioning this aspect: see, for instance, *U.P. Productions, Inc. (Re)* (1992), (1990-1994) C.B.R. 453 (Cop. Bd.), extract of a cartoon, *National Film Board (Re)* (1992), (1990-1994) C.B.R. 469 (Cop. Bd.), extracts of a musical work and of a cinematographic work; *Fondation Les Forges (Re)* (1994), (1994), 58 C.P.R. (3d) 119 (Cop. Bd.), extracts of eight poems.

It should be concluded that the grant of a licence under section 77 will only operate as a bar to an action for the infringement of the economic rights of a copyright owner but not against an action for the infringement of the moral rights of an author or of any other rights conferred by law. For instance, a licence to use a photograph the copyright owner of which is unknown will not prevent the model to sue for invasion of his privacy.

On the other hand, the licence that could be granted by the Copyright Board under section 77 could cover the whole or an important part of the work or other subject-matter, the copyright owner of which cannot be located : it is not limited to small extracts or "short" works (as one photograph or one letter). See, for instance, *Centre Alpha au Pied de la Lettre (Re)* (1991), (1990-1994) C.B.R. 443 (Cop. Bd.), 427 pages out of a 427-page book; *Commission scolaire de St-Eustache (Re)* (1992), (1990-1994) C.B.R. 467 (Cop. Bd.), 72 pages out of a 72-page book; *Manitoba Education and Training, Independant Study Program (Re)* (1996), 75 C.P.R. (3d) 475 (Cop. Bd), 90 pages out of a 200-page book

The licence granted is not limited to a small reproduction of the work or other subject-matter of copyright : it could be of a large scale. See, for instance, *Macleam Hunter limited (Re)* (1990), (1990-1994) C.B.R. 435 (Cop. Bd.), 10,000 calendars; *HBJ-HOLT Canada (Re)* (1991), (1990-1994) C.B.R. 448 (Cop. Bd.),



50,000 copies of a textbook; *Goose Lane Editions (Re)* (1992), (1990-1994) C.B.R. 451 (Cop. Bd.), 4,000 copies of a novel; *McGraw-Hill Ryerson (Re)* (1994), (1990-1994) C.B.R. 477 (Cop. Bd.), 19,500 copies of a textbook; *Guérin, Éditeur Ltée (Re)* (1997), 75 C.P.R. (3d) 473 (Cop. Bd), 3,000 copies of two textbooks.

The non-exclusive licence granted by the Copyright Board under section 77 is limited to Canada.

#### **§5.2.4 Conditions**

The Copyright Board may subject the issuance of the licence to the terms and conditions it deems fit, amongst which, the expiry date of the licence, the type of use which is authorized, the licence fee, the holding of funds and the disposal of unclaimed funds, the manner in which to guarantee eventual payment of the rights, and the like.

In order to ascertain the royalties to be paid, the Copyright Board may, for instance, refer to the tariffs of collectives for similar grant, comparison with similar licences granted outside the licensing schemes of section 77 or the circumstances and purposes of the requested licence. See, for instance, *Non-exclusive licence issued to Centre Alpha au Pied de la Lettre authorizing the reproduction of extracts from a published book* (1991), (1990-1994) C.C.B. 443 (Cop. Bd.), at p.444 and *Non-exclusive licence issued to U.P. Productions, Inc. authorizing the reproduction of extracts from a published book* (1992), (1990-1994) C.C.B. 453 (Cop. Bd.), at p. 455.

Indeed, the purpose (*i.e.*, commercial, educational or religious) for which the applicant request the licence is not relevant to its grant itself, save to the extent in may have an incidence of the licence fee : see for instance *Royal Canadian Artillery Museum (Re)*, (1991), (1990-1994) C.B.R. 446 (Cop. Bd), at p. 447 ; *Aylmer United Church (Re)* (1992), (1990-1994) C.B.R. 465 (Cop. Bd.), at p. 466.

Apart from the licence fee, the Copyright Board, may impose other conditions to the licence, for instance, proper bibliographical references as in *Fondation Les Forges (Re)* (1994), (1994), 58 C.P.R. (3d) 119 (Cop. Bd.) or public performance of a film restricted to festivals as in *Nisker (Re)* (1993), (1990-1994) C.B.R. 475 (Cop. Bd.), at p. 476.

Whether a breach of any term of the licence is deemed an infringement of the copyright has not been dealt with by the legislator: see CANADIAN BAR

ASSOCIATION, *A Brief concerning Bill C-60 to Amend the Copyright Act* (Ottawa, CBA-PTIC, 1987), at p. 54.

### **§5.2.5 Duration**

As subsection 77(3) uses the expiration of the term of the non-exclusive licence as the starting point of the five-year limitation period for a copyright owner to recover his royalties, it follows implicitly that the Copyright Board shall indicate some duration to the licence. *U.P. Productions, Inc. (Re)* (1992), (1990-1994) C.C.B. 453 (Cop. Bd.), at p. 455 and *Aylmer United Church (Re)* (1992), (1990-1994) C.C.B. 465 (Cop. Bd.), at p. 466.

However, section 77 does not specify that the Copyright Board must establish a specific date at which the licence will expire. The Copyright Board held that the moment at which a licensed work enters the public domain is sufficiently determinate to meet the requirement imposed by section 77 : see *U.P. Productions, Inc. (Re)* (1992), (1990-1994) C.C.B. 453 (Cop. Bd.), at p. 455 and *National Film Board of Canada (Re)* (1992), (1990-1994) C.B.R. 469 (Cop. Bd.), at p. 470.

Such duration relates to the licence to do one (or more) of the acts referred to in subsections 3(1), 15(1), 18(1) or 21(1). After the expiry of the licence, the reproductions or reprints of the licensed work or other subject-matter of copyright do not become infringing as they were made during and under a valid licence; however, further use of this material may be prohibited. For instance, one may keep the copy of a film incorporating licensed excerpt but be prohibited to publicly present it by cinematograph or communicate it to the public by telecommunication: see *Nisker (Re)* (1993), (1990-1994) C.B.R. 475 (Cop. Bd.), at p. 476.

### **§5.2.6 Discretion**

Finally, the use of the words "the Board *may* issue" (in French "*La Commission peut* (...) délivrer") suggest that the Copyright Board is vested with some discretion with respect to the issuance of such a licence. For instance, it might be that even if all the conditions referred to in the section are fulfilled the Copyright Board might still refuse to issue a licence, for its purpose being improper or derogatory to the work or its author. This interpretation has yet to be tested by the courts.

## **§5.3 Mechanics**

Despite subsections 66.6(1) which entitles the Copyright Board to make regulations governing, inter alia, the practice and procedure as well as the forms and notices for applications and subsection 77(4) which entitle the Copyright Board to make regulations governing the issuance of licence under section 77, no such regulations have been adopted. See however, the *Copyright Board Rules of Practice and of Procedure* announced in the 1997 Federal Regulatory Plan.

As to who can apply to obtain a licence, it is of interest to compare the French text "tout intéressé" with the possibly more restrictive English text "a person who wishes to obtain".

The Copyright Board must be satisfied that the applicant has made reasonable efforts to locate the owner of the copyright. It might be stressed that "reasonable efforts" does certainly not amount to "every efforts". This view is further conformed by the French text, which qualifies the reasonableness of the efforts by the words "dans les circonstances", a qualifier that is not found in the English text. It is of interest to recall the following passage of *A Charter of Rights for Creators* (Ottawa, CCA, 1985), at p. 23:

*"From Gutenberg to Telidon* proposed the introduction of a licence, issued by the Copyright Appeal Board and *subject to various safeguards*, as a solution for the practical problem of the missing copyright owner. It would not be so much a matter of removing the right of authorisation as of putting the Copyright Appeal Board, according to the proposal, in the place of the copyright owner in negotiating a royalty. *It should be stressed here that the Copyright Appeal Board should require a high standard of inquiry on the part of the applicant before such a licence should issue.*" (Emphasis added.)

Absent of any established or regulatory criteria, the adequacy of the search of the applicant is left to the discretion of the Copyright Board, bearing in mind the circumstances of the case. This is to be contrasted with the "reasonable inquiry" provisions provided by the United Kingdom Copyright Rules with respect to the steps to be taken to ascertain the identity or the whereabouts of a performer.

The *Copyright Act* does not contemplate any fees to be paid by an applicant under subsection 77(1).

The information to be contained in an application is set forth in detail in the *Unlocatable Copyright Owners* circular issued by the Copyright Board and reproduced under §9.1, *infra*.

## **§5.4 Payment**

### **§5.4.1 Limitation**

An action in respect of the recovery shall not be commenced after the expiration of five years immediately following the expiration of the licence (and not of the decision on the licence): see *U.P. Productions, Inc.(Re)* (1992), (1990-1994) C.C.B. 453 (Cop. Bd.), at p. 455. This five year limitation period is to be contrasted with the general three year limitation period referred to in section 41. Furthermore, subsection 77(3) refers to the recovery within five years of the issuance of the licence and not from the knowledge of this licence by the copyright owner.

See also *HBJ-HOLT Canada (Re)*, (1991), (1990-1994) C.C.B. 448 (Cop. Bd.), at pp. 449-45- with respect to the payment in trust by the applicant of the cost of the licence to the appropriate collective.

### **§5.4.2 Repayment**

As to the options that might be considered by the Board with respect to the holding and disposition of the monies to be paid, see *Maclean Hunter Limited (Re)* (1990), (1990-1994) C.C.B. 435 (Cop. Bd.), at pp. 437-438.

### **§5.4.3 Court of Competent Jurisdiction**

Subsection 77(3) provides that an action for the recovery of the royalties fixed in the licence could be commenced before "a court of competent jurisdiction", without otherwise identifying such a court. Similar wording is also found in other provisions of the *Copyright Act* dealing with licensing schemes, as

- i) subsection 68.2 (2), collective societies and approved statements of performing and communication rights,
- ii) section 70.4, collective societies and approved statements, or
- iii) section 75, collecting societies and approved statements of retransmission rights.

It would seem that the provincial courts as well as the Federal Court have concurrent jurisdiction to entertain such claims: see *Composers, Authors and Publishers' Association of Canada Limited v. Elmwood Hotel Ltd.* (1955), (1956) Ex.C.R. 65 (Ex.Ct.) Fournier J., at pp. 69-70; *Composers, Authors and Publishers' Association of Canada Limited v. Sandholm Holdings Ltd.* (1955), (1955) Ex.C.R. 244 (Ex.Ct.) Thorson J., at pp. 249-250 (these two cases dealing with what is now subsection 68.2(2)).

## §5.5 Decision

### §5.5.1 Appeal

The *Copyright Act* does not contemplate any mechanism to appeal a decision rendered by the Copyright Board.

However, even if, for the due exercise of its jurisdiction, the Copyright Board is vested with all such powers as are vested in a superior court of record (see section 66.7(1)), the Copyright Board remains a federal board subject to judicial review by the Appeal Division of the Federal Court of Canada. Section 28 of the *Federal Court Act* (R.S.C. 1985, c. F-7, as amended by S.C. 1990, c.8, s.8) reads:

28. (1) The Court of Appeal has jurisdiction to hear and determine applications for judicial review made in respect of any of the following federal boards, commissions or other tribunals: (...)	28. (1) La Cour d'appel a compétence pour connaître des demandes de contrôle judiciaire visant les offices fédéraux suivants (...)
(j) the Copyright Board established by the <i>Copyright Act</i> (...)	j) la Commission du droit d'auteur constituée par la Loi sur le droit d'auteur; (...)
28. (3) Where the Court of Appeal has jurisdiction to hear and determine any matter, the Trial Division has no jurisdiction to entertain any proceeding in respect of the same matter.	(3) La Section de première instance ne peut être saisie des questions qui relèvent de la Cour d'appel.

As to the judicial review of the legality of administrative actions, see generally DUSSAULT (René) et al., *Administrative Law A Treatise*, 2nd ed. (Toronto, Carswell, 1990), Vol. 4, at pp. 149-360; JONES (David Phillip) et al., *Principles of Administrative Law*, (Toronto, Carswell, 1985), at pp. 93-322. As to the federal practice under the newly adopted Section 28 of the *Federal Court Act*, see SGAYIAS (David) et al., *Federal Court Practice 1998* (Toronto, Carswell, 1997), under §28..

### **§5.5.2 Interim Decision**

With respect to an application made under section 77, the Copyright Board may render interim decision, as provided by section 66.5.

### **§5.5 Variation of Decision**

Even if there has been a material change in the circumstances pertaining to the decision since it was made, the Copyright Board is not authorized to intervene so as to reconsider and vary a decision made under section 77: see section 66.52 and related commentary.

An interesting situation might though arise in the event that the "then unlocatable" copyright owner wishes to intervene to terminate the licence granted by the Copyright Board, or more simply, in the event that the licensee does not respect the terms of the licence granted by the Copyright Board, irrespective of the intervention of the copyright owner.

### **§5.6 Assignability**

Whether a licence granted by the Copyright Board under section 77 could be assigned, divided, or sublicensed, remains open for judicial decision. As such, it should be noted however, that nothing in the *Copyright Act* or in the licences granted by the Copyright Board prevents an applicant to deal with its licence as provided for by subsection 13(4).

## **§6.0 Case Law**

### **§6.1 Canada**

#### **§6.1.1 General**

1. *Non-exclusive licence issued to Maclean Hunter Limited allowing it to reproduce magazine covers in a promotional calendar (1990), (1990-1994) Copyright Board Reports 435 (Copyright Board) (at pp. 435-437.)*

A) The expiry date of the licence.

The applicant would have preferred that the licence remain in effect until June 1, 1991, so as to allow sufficient time to complete the distribution of the calendars. The Board finds it unnecessary that the licence remain in effect until that date, since

distribution is not an act mentioned in section 3", for which the Board is authorized to issue a licence under section 70.7 of the Act.

B) The cost of the licence.

Unless the applicant provides evidence to the contrary, the Board considers it ought to regard the Vis-Art rate schedule as both reasonable and representative of Industry practice.

C) The holding in trust of the funds and the disposition of unclaimed funds.

The Board believes that the terms and conditions provision contained in subsection 70.7(2) of the Act allows it to make use of any device that will protect the interests of the unlocatable copyright owners without imposing an undue burden on the applicant.

Subsection 70.7(3) of the Act does provide unlocatable copyright owners with a remedy where a licensee does not pay the amount the Board's licence provides for. Even so, the Board intends to minimize the number of occurrences where copyright owners would have to avail themselves of this right. This is the reason for ordering the payment of the amounts into a trust fund, a measure suggested by the applicant itself. In the meantime, the Board is prepared to consider arguments as to:

- i) the manner in which the funds should be held;
- ii) the manner in which any funds unclaimed by January 1, 1996, might be disposed of;
- iii) whether the applicant ought to be allowed to post a bond for the above-mentioned amount, rather than holding that amount in trust.

The issue of who should hold the monies in trust is a more delicate one. Given the circumstances of the case, the Board has little difficulty in leaving this amount in trust with the applicant's solicitors, at least for the time being. In time, the Board intends to hold a hearing on the principles that should govern the issuance of licences under section 70.7 of the Act. At this hearing, the Board will consider which might be the best approach to holding such monies and disposing of them if they have not been claimed by the copyright owners within the five-year period provided in subsection 70.7(3). Among the options the Board might consider would be

- \$ requiring that a bond be posted;
- \$ leaving the funds with the applicant (directly or in trust with their solicitor) to be paid out when a copyright owner is identified;
- \$ holding the funds in trust with a licensing body, or a group of licensing bodies;
- \$ allowing unclaimed funds to revert to the applicant;
- \$ directing that unclaimed funds be paid to a licensing body for use in locating other copyright owners. (at pp. 435-437.)

2. *Non-exclusive licence issued to Centre Alpha au Pied de la Lettre authorizing the reproduction of extracts from a published book (1991), (1990-1994) Copyright Board Reports 443 (Copyright Board)*

A) The expiry date of the licence.

The licence will expire on 1 October 1991. The applicant must therefore complete the authorized reproduction and adaptation by that date.

B) The licence fee.

The Board regards CANCOPY's rate schedule as reasonable and representative of industry practice. The licence fee of \$597.80 is based on the rate of 44 per page per copy with CANCOPY charges to reproduce works that are out of print.

C) The type of use which is authorized.

The Board authorizes the applicant to reproduce 35 copies of up to 427 pages from the work *AJOUONS ENSEMBLE* and to adapt the content of these pages so that the work may be used in teaching reading, writing and arithmetic. The type of adaptation which the applicant is authorized to make is limited to simplifying the language of the text, adding illustrations and exercises of a pedagogical nature. (at p. 444.)

3. *Non-exclusive licence issued to HBJ-Holt Canada authorizing the reprinting of excerpts from a book (1991), (1990-1994) Copyright Board Reports 448 (Copyright Board)*

D) The holding of funds and the disposal of unclaimed funds.

The Board believes that the *Terms and conditions* provision contained in subsection 70.7(2) of the Act allows it to make use of any device that will protect the interests of unlocatable copyright owners without imposing an undue burden on the applicant.

By requiring a licensee to pay the royalties fixed in the licence directly to a licensing body, that is, a society, association or corporation that carries on the business of collective administration of copyright for the benefit of copyright owners who have authorized it to act on their behalf, the Board enables the copyright owner to collect the royalties directly from the licensing body, as would an owner who is a member of the licensing body. As for the licensing body, it may acquire a new member if it hears from the copyright owner within five years of the expiration of the licence. If not, the licensing body can keep the amount of the royalties fixed in the licence as well as the accumulated interest, for the overall benefit of its members. (at p. 449.)



4. *Non-exclusive licence issued to U.P. Productions, Inc. authorizing the reproduction of extracts from a published book (1992), (1990-1994) Copyright Board Reports 453 (Copyright Board)*

A) The expiry date of the licence.

The licence will expire at the moment that the work will become part of the public domain. By necessary implication, the Act imposes on the Board the duty to establish a *time* at which the licence will expire. However, the Act does not specify that the Board must establish a specific *date*. The moment at which a work enter the public domain is sufficiently determinate to meet the requirement imposed on the Board by the Act. (at p. 3)

(...)

D) The holding of funds and the disposal of unclaimed funds.

Subsection 70.7(3) of the Act indicates that unlocatable copyright owners Amay, not later, than five years after the expiration of a licence (...) collect the royalties fixed in the licence@. The applicant shall therefore be required to pay the amount of the royalties set by this licence to the copyright owner should that owner present a claim within five years of the work coming into the public domain. (at p. 455.)

5. *Non-exclusive licence issued to National Film Board of Canada Royal authorizing the reproduction of published work (1992), (1990-1994) Copyright Board Reports 469 (Copyright Board)*

In its licence application, the National Film Board indicated to the Board that production of the film had already been completed. It is not for the Board to say whether this licence has the effect of sanctioning activities performed before it came into effect, but it notes that the rights conferred by the Act are prospective in nature rather than retrospective. Individual wishing to avail themselves of this exceptional regime would be well advised to wait until the licence has ben issued before engaging in activities that it provides for. (at p. 470.)

6. *Canadian Institute for Historical Microreproductions (Re), An unreported decision rendered 19960918, file 1996-UO/TI-5 (Copyright Board), the Board:*

CIHM had requested a licence allowing it to "take into account the possibility of providing materials in digital format in the future." The licence, as issued, makes it possible for CIHM to reproduce the works in any material form, including diskettes or CD-ROMs. However, the Board is unwilling at this time to issue a licence allowing for the works to be accessed through telecommunication. There are two reasons for this.

Firstly, the issue of precisely which protected uses are involved when works are telecommunicated through, say, the Internet is already the object of a debate

before the Board as a result of SOCAN's proposed Tariff 22. It would be premature to issue a licence for a similar use (even though no music is involved) before the technology and the uses involved in such a situation are fully understood.

Secondly, the request of CIHM is clearly prospective. No firm plans have been made to set up either an Internet site or a BBS to which certain subscribers would have access. There will be plenty of time to deal with the issue when it arises in reality. (at p. 4.)

7. *Canadian Institute for Historical Microreproductions (Re)* An unreported decision rendered 1997.02.10, file 1997-UO/TI-2 (Copyright Board), the Board:

On the other hand, CANCOPY believes that, as a rule, for each licence granted by the Board, some payment should be made by the user to a collective body, be it only to compensate the collective body for the costs associated with its efforts in trying to locate the works in its repertoire. The Board fully agrees with CANCOPY, however it is of the view that CIHM's case is an exceptional one, for which there is no need to demand payment of the fees established in the licence to a collective body. The economic value of copyright in these works is greatly offset by the benefits to authors of their works being henceforth available and preserved against the ravages of time. Moreover, given the age of the works and the fact that many are probably in the public domain, no claim could be made by the copyright owners, should they surface. Therefore, the Board considers that the Institute should be required to make payments only for those works in relation to which someone establishes a valid claim. (at p. 2.)

### §6.1.2 Interim Decision

1. *Non-exclusive licence issued to Maclean Hunter Limited allowing it to reproduce magazine covers in a promotional calendar (1990), (1990-1994)* Copyright Board Reports 435 (Copyright Board)

This application raises several interesting issues. These cannot be fully addressed by the Board in time to allow the applicant to go to press by today, Friday, August 24, 1990, as is its intention. However, the wording of subsection 70.7(2) of the Act, which grants the Board the power to fix the terms and conditions of the licence the applicant requests, are wide enough to allow the Board to address the situation promptly, while reserving its final decision on some of the details raised by the application (at p. 436.)

2. *Non-exclusive licence issued to Maclean Hunter Limited allowing it to reproduce magazine covers in a promotional calendar (Amendment to the)* (1992), (1990-1994) Copyright Board Reports 440 (Copyright Board)

On August 24, 1990, the Copyright Board issued to Maclean Hunter Limited a licence for the reproduction of fifteen magazine covers in a calendar to be distributed free of charge to person who renew their subscription to Chatelaine magazine. The licence was accompanied by a set of interim conditions allowing the applicant to go to press with its calendar in a timely fashion. (at p. 440.)

## **§7.0 List of Cases**

### **§7.1 Canada**

#### **§7.1.1 Jurisdiction Issues**

1. *Composers, Authors and Publishers' Association of Canada Limited v. Elmwood Hotel Ltd.* (1955), 24 C.P.R. 77 (Ex.Ct.).
2. *Composers, Authors and Publishers' Association of Canada Limited v. Sandholm Holdings Ltd.* (1955), 24 C.P.R. 58 (Ex.Ct.).

#### **§7.1.2 Licences issues**

1. *Non-exclusive licence issued to Maclean Hunter Limited allowing it to reproduce magazine covers in a promotional calendar* (1990), (1990-1994) Copyright Board Reports 435 (Copyright Board), as amended (1991), (1990-1994) Copyright Board Reports 440 (Copyright Board).
2. *Non-exclusive licence issued to Centre Alpha au Pied de la Lettre authorizing the reproduction of extracts from a published book* (1991), (1990-1994) Copyright Board Reports 443 (Copyright Board).
3. *Non-exclusive licence issued to HBJ-Holt Canada authorizing the reprinting of excerpts from a book* (1991), (1990-1994) Copyright Board Reports 448 (Copyright Board).
4. *Non-exclusive licence issued to Royal Canada Artillery Museum authorizing the adaptation and reproduction of extracts from a published book* (1991), (1990-1994) Copyright Board Reports 446 (Copyright Board).
5. *Non Exclusive Licence Issued to Aylmer United Church authorizing it to reprint three photographs* (1992), (1990-1994) Copyright Board Reports 465 (Copyright Board).

6. *Non-exclusive licence issued to B.S. Monton authorizing the reproduction of extracts from a published book* (1992), (1990-1994) Copyright Board Reports 456 (Copyright Board).
7. *Non-exclusive licence issued to Goose Lane Editions authorizing the reprinting of a photograph from a book* (1992), (1990-1994) Copyright Board Reports 451 (Copyright Board-Interim); (1992), (1990-1994) Copyright Board Reports 458 (Copyright Board).
8. *Non-exclusive interim licence issued to Musée de la Civilisation authorizing the reproduction and translation of extracts from two books* (1992), (1990-1994) Copyright Board Reports 463 (Copyright Board).
9. *Non-exclusive interim licence issued to Musée de la Civilisation authorizing the reproduction and translation of extracts from two books* (1992), (1990-1994) Copyright Board Reports 461 (Copyright Board).
10. *Non-exclusive licence issued to National Film Board of Canada Royal authorizing the reproduction of published work* (1992), (1990-1994) Copyright Board Reports 469 (Copyright Board).
11. *Non Exclusive Licence Issued to Saint-Eustache School Board authorizing the reproduction of a published work* (1992), (1990-1994) Copyright Board Reports 467 (Copyright Board).
12. *Non-exclusive licence issued to U.P. Productions, Inc. authorizing the reproduction of extracts from a published book* (1992), (1990-1994) Copyright Board Reports 453 (Copyright Board).
13. *Non-exclusive licence issued to Andrew Nisker authorizing him to reproduce, synchronize and publicly perform a musical work* (1993), (1990-1994) Copyright Board Reports 475 (Copyright Board).
14. *Non-exclusive licence issued to the Provincial Museum of Alberta authorizing it to reprint two photographs* (1993), (1990-1994) Copyright Board Reports 472 (Copyright Board)
15. *McGraw-Hill Ryerson Ltd.(Re)* (1994), (1994), 56 C.P.R. (3d) 44 (Copyright Board)
16. *La Fondation Les Forges (Re)* (1994), (1994), 58 C.P.R. (3d) 119 (Copyright Board).

17. *Virany & Virany, Editing and Publishing (Re)* (1995), 61 C.P.R. (3d) 550 (Copyright Board).
18. *Fritz (Licence to use English Language Instruction Video) (Re)* (1995), 62 C.P.R. (3d) 99 (Copyright Board).
19. *British Columbia Teachers' Federation (Licence to publish letters) (Re)* (1995), 64 C.P.R. (3d) 524 (Copyright Board).
20. *Éditions la Lignée (unlocatable copyright owners) (Re)* (1995), 64 C.P.R. (3d) 526 (Copyright Board).
21. *von Baeyer (unlocatable copyright owners) (Re)* (1996), 67 C.P.R. (3d) 400 (Copyright Board).
22. *Guérin, Éditeur Ltée (unlocatable copyright owners) (Re)* (1997), 75 C.P.R. (3d) 473 (Copyright Board).
23. *Lone Wolf Advertising Agency civilisation (unlocatable copyright owners) (Re)* (1997), 75 C.P.R. (3d) 470 (Copyright Board).
24. *Manitoba Education and Training, Independant Study Program (unlocatable copyright owners) (Re)* (1997), 75 C.P.R. (3d) 475 (Copyright Board).
25. *Musée de la Civilisation (unlocatable copyright owners) (Re)* (1997), 75 C.P.R. (3d) 468 (Copyright Board).
26. *Éditions du Phare (Re)*, An unreported decision rendered 19960514 by the Copyright Board, file 1996-UO/TI-2 (Copyright Board).
27. *Films Rozon Inc (Re)*, An unreported decision rendered 19960830 by the Copyright Board, file 1996-UO/TI-4 (Copyright Board).
28. *Éditions CEC (Re)*, An unreported decision rendered 19960830 by the Copyright Board, file 1996-UO/TI-3 (Copyright Board).
29. *Canadian Institute for Historical Microreproductions (Re)*, An unreported decision rendered 19960918 by the Copyright Board, file 1996-UO/TI-5 (Copyright Board).
30. *Les distributions Rozon Inc. (Re)*, An unreported decision rendered 19961129 by the Copyright Board, file 1996-UO/TI-7 (Copyright Board).

31. *Canadian Institute for Historical Microreproductions (Re)*, An unreported decision rendered 19970210 by the Copyright Board, file 1996-UO/TI-3 (Copyright Board).
32. *von Bayer (Re)*, An unreported decision rendered 19970211 by the Copyright Board, file 1995-UO/TI-9 (Copyright Board).
33. *Potvin (Re)*, An unreported decision rendered 19970211 by the Copyright Board, file 1996-UO/TI-10 (Copyright Board).
34. *Sinclair (Re)*, An unreported decision rendered 19970225 by the Copyright Board, file 1996-UO/TI-5 (Copyright Board).
35. *The Glebe Centre (Re)*, An unreported decision rendered 19970611 by the Copyright Board, file 1997-UO/TI-3 (Copyright Board).
36. *Dufresne (Re)*, An unreported decision rendered 19970611 by the Copyright Board, file 1997-UO/TI-7 (Copyright Board).
37. *Bausson (Re)*, An unreported decision rendered 19970505 by the Copyright Board, file 1997-UO/TI-5 (Copyright Board).
38. *Canadian Institute for Historical Microreproductions (Re)*, An unreported decision rendered 19970513 by the Copyright Board, file 1997-UO/TI-12 (Copyright Board).
39. *Éditions d'Acadie (Re)*, An unreported decision rendered 19970513 by the Copyright Board, file 1997-UO/TI-4 (Copyright Board).
40. *Fifth House Publishers (Re)*, An unreported decision rendered 19970723 by the Copyright Board, file 1997-UO/TI-13 (Copyright Board).
41. *May Street Group Film, Video & Animation Ltd. (Re)*, An unreported decision rendered 19970825, file 1997-UO-/TI-11 (Copyright Board).
42. *Éditions CEC inc. (Re)*, An unreported decision rendered 19970827 by the Copyright Board, file 1997-UO/TI-14 (Copyright Board).
43. *Epitome (Re)*, An unreported decision rendered 19970927 by the Copyright Board, file 1997-UO/TI 10 (Copyright Board).
44. *Canadian Institute for Historical Microreproductions (Re)*, An unreported decision rendered 19971031 by the Copyright Board, file 1997-UO/TI-17 (Copyright Board).

45. *Kitchen Sink Entertainment Inc. (Re)*, An unreported decision rendered 19980104 by the Copyright Board, file 1997-UO/TI-19 (Copyright Board).
46. *Éditions CEC inc (Re)*, An unreported decision rendered 19980112 by the Copyright Board, file 1997-UO/TI-21 (Copyright Board).
47. *Canadian Institute for Historical Microreproductions (Re)*, An unreported decision rendered 19980213 by the Copyright Board, file 1998-UO/TI-4 (Copyright Board).
48. *Manitoba Genealogical Society (Re)*, An unreported decision rendered 19980213 by the Copyright Board, file 1998-UO/TI-2 (Copyright Board).
49. *Friends of the Algonquin Park (The) (Re)*, an unreported decision rendered 19980220 by the Copyright Board, file 1998-UO/TI-1 (Copyright Board).
50. *National Board (Re)*, An unreported decision rendered 19980313 by the Copyright Board, file 1997-UO/TI-15 (Copyright Board).
51. *Université d'Ottawa (Re)*, An unreported decision rendered 19980313 by the Copyright Board, file 1998-UO/TI-6 (Copyright Board).
52. *Fifth House Limited (Re)*, An unreported decision rendered 19980316 by the Copyright Board, file 1998-UO/TI-9 (Copyright Board).
53. *McGraw-Hill Ryerson Limited (Re)*, An unreported decision rendered 19980326 by the Copyright Board, file 1998-UO/TI-8 (Copyright Board).

### **§7.1.3 Interim Licences**

1. *Non-exclusive licence issued to Maclean Hunter Limited allowing it to reproduce magazine covers in a promotional calendar (1990), (1990-1994) Copyright Board Reports 435 (Copyright Board).*
2. *Non-exclusive licence issued to Goose Lane Editions authorizing the reprinting of a photograph from a book (1992), (1990-1994) Copyright Board Reports 451 (Copyright Board).*

3. *Non-exclusive interim licence issued to Musée de la Civilisation authorizing the reproduction and translation of extracts from two books (1992), (1990-1994) Copyright Board Reports 461 (Copyright Board).*

## **§8.1 Authors – Canada**

### **§8.1.1 Copyright Issues**

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2. CONSUMER AND CORPORATE AFFAIRS CANADA, *From Gutenberg to Telidon, A White Paper on Copyright* (Ottawa, CCA, 1984), at pp. 37-38.
3. CONSUMER AND CORPORATE AFFAIRS CANADA, *A Charter of Rights for Creators* (Ottawa, CCA, 1985), at pp. 23-24.
4. COPYRIGHT BOARD, *Annual Report 1989-1990* (Ottawa, MSSC, 1990).
5. COPYRIGHT BOARD, *Annual Report 1990-1991* (Ottawa, MSSC, 1991).
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10. COPYRIGHT BOARD, *Annual Report 1995-1996* (Ottawa, MSSC, 1996).
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14. FRANÇON (André), *Le droit d'auteur - aspects internationaux et comparatifs* (Cowansville, Blais, 1992), at p. 218.



15. HAHN (Richard), *An Analysis of Bill C-60 An Act to Amend the Copyright Act and to Amend other Acts in Consequence Thereof* (1988), 5 Canadian Intellectual Property Review 154, at p. 165.
16. HÉTU (Michel), *La Commission de droit d'auteur: fonctions et pratiques* (1993), 5 Les Cahiers de propriété intellectuelle 407.
17. HÉTU (Michel), *Administrative Remedies Under the New Copyright Act: The Role of the Copyright Board ... And of Others*, in *The New Copyright Act – Managing the Impact* (Toronto, Insight, 1997), art.11, at pp.253-262.
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19. McKEOWN (John S.) et al., *Copyright*, in *Canadian Encyclopedic Digest*, 3rd Western Edition, (Toronto, Carswell, 1991), Ch. 35, at no. 99.
20. NAHBAN (Victor), *A Glance Over the Amendments to Canada's Copyright Law* (1989), 14 Columbia-VLA Journal of Law & the Arts 397, at pp. 409-410.
21. TRUDEL (Pierre) et al., *Aperçu des principaux mécanismes de gestion collective des droits d'auteurs*, in *La gestion collective du droit d'auteur* (Montréal, Alai Canada/CRDP, 1994), at pp. 51-52.
22. TRUDEL (Pierre) et al., *Le cadre juridique de la gestion collective des droits d'auteur au Canada* (1994), 6 Les cahiers de propriété intellectuelle 343.
23. VAVER (David), *The Canadian Copyright Amendments of 1988* (1989), 4 Intellectual Property Journal 122, at pp. 141-142.

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3. SGAYIAS (David) et al., *Federal Court Practice 1998* (Toronto, Carswell, 1997), under §28.

## §8.2 Authors - United Kingdom

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## §9.0 Varia

### §9.1 Unlocatable Copyright Owner Copyright Board Circular

To copy extracts of books or magazines, tape a song or make any other use of a work protected by copyright, you need the copyright owner's consent. The copyright owner may be the author, the author's heirs or the publisher. If you cannot find the copyright owner, and the work you want to use has been published, the Copyright Board may be able to help you.

Section 70.7 (now section 77, with modifications) of the *Copyright Act* describes how the Board may intervene. It reads as follows:

(1) Where, on application to the Board by a person who wishes to obtain a licence to use a published work in which copyright subsists, the Board is satisfied that the applicant has made reasonable efforts to locate the owner of the copyright and that the owner cannot be located, the Board may issue to the applicant a licence to do an act mentioned in subsection 3(1).

(2) A licence issued under subsection (1) is non-exclusive and is subject to such terms and conditions as the Board may establish.

(3) The owner of a copyright may, not later than five years after the expiration of a licence issued pursuant to subsection (1) in respect of the royalties fixed in the licence, or, in default of their payment, commence an action to recover them in a court of competent jurisdiction.

WHAT YOU HAVE TO CHECK FIRST

Do you really need a licence?

It may be that you don't even need a licence from the Board. Such is the case if the work is no longer protected by copyright or if what you plan to do is not protected by copyright:

- *The work is no longer protected by copyright*

Generally, the term of protection of a literary, dramatic, musical and artistic work, is "the life of the author and a period of 50 years after the death of the author" (section 6 of the Act (since modified)). A work published after the author's death is protected for 50 years from the date of publication. Photographs and sound recordings are protected for 50 years after they were made.

- *The intended use is not protected by copyright*

The Act contains certain exceptions to the copyright owner's exclusive right to authorize the use of his or her work "or any substantial part thereof in any material form whatever". For instance, "any fair dealing with any work for the purposes of private study, research, criticism, review or newspaper summary" does not constitute an infringement of copyright. However, the Courts tend to interpret these exceptions restrictively.

#### Has the work been published?

The Board cannot issue a licence unless the work that you want to use has been published, which means "the issue of copies to the public" (subsection 2.2(1)). In addition, publication must have been done with the copyright owner's consent (subsection 2.2(3)).

#### Do you intend to use the work outside Canada?

A licence from the Board will only provide you with a limited right of use within Canada. It is not valid outside Canada. You are bound by the laws of each country in which you use that work, even if the author is Canadian.

#### Are the copyright owner's interests, for your intended use of the work, administered by a licensing body?

A licensing body is an organization that administers the copyright interests of a large number of copyright owners. It can grant permission to use their works and stipulate the conditions under which the works may be used. Collective administration of copyright by licensing bodies is widespread in Canada, particularly for music performance rights, reprography rights and mechanical reproduction rights. Certain licensing bodies have affiliation agreements with foreign societies that allow them to represent their members well.

#### Have you done everything you can to find the copyright owner?

You have a number of ways to locate a copyright owner. Explore each one of your options before applying to the Board. Even if you don't know the copyright owner's name or address, your search may be easier than you think! Start by contacting the

appropriate licensing bodies. One of them may represent the copyright owner, or be able to provide you with the owner's address or tell you whether the owner is dead or is living abroad. Other options include contacting publishing houses, libraries, universities, museums and provincial departments of Education. If the author is no longer alive, you will have to determine who inherited the copyright. Try to find out who administered the estate.

The Board can provide you with a detailed list of licensing bodies and other sources of information.

The Board will grant a licence only if you have made every reasonable effort to find the copyright owner. This is why you must conduct a thorough search.

## PREPARING YOUR APPLICATION

Licence applications must be submitted in writing. The Board will need the following information in order to respond to your application as soon as possible:

- The description of the work (type, title, year of publication, etc.);
- The names and nationalities of the author, of the copyright owner and of the publisher;
- If the author is dead, the date of death;
- How you intend to use the work. Be specific and provide as much detail as possible. For example, if you are seeking to reproduce written material that you will include in a book, indicate the length of the text, that of the book, how it will be used and, if it is to be sold, the suggested sale price. If possible, provide the material to be used;
- How soon you plan to use the work and for how long;
- The results of your inquiries regarding the royalties which the copyright owner could have claimed from you for the intended use;
- A detailed description of all efforts made to try to find the copyright owner and their results. Provide copies of any relevant material, such as exchange of correspondence;
- The name, title, address, telephone and telecopier numbers of the person who prepared the licence application.

## THE BOARD'S DECISION

If the Board comes to the conclusion that you have, unsuccessfully, done everything you can to find the copyright owner, it can then issue a licence.

If the application contains enough information, a decision from the Board can usually be expected within 30 days. Each application, no matter how urgent, has to be carefully scrutinized to determine whether every reasonable effort has been made to

locate the copyright owner. Therefore, don't wait until the last minute before submitting your application.

If the Board agrees to issue a licence, it will also set terms and conditions, such as the amount of royalties to be paid and the licence period.

The licence you'll receive will indicate the following:

- the use which is authorized (for example, how many copies you can make, to whom you may distribute them and for what purpose);
- the licence's expiry date;
- the licence fee (*the copyright owner can claim the amount of the fee within 5 years of the licence's expiry date*);
- any other terms and conditions the Board considers appropriate.

#### FOR MORE INFORMATION

Contact : The Secretary to the Board  
Copyright Board of Canada  
56 Sparks Street, Suite 800  
Ottawa, Ontario  
K1A 0C9  
Telephone : (613) 952-8621  
Telecopier (613) 952-8630



### §9.3 Table of the Decisions rendered by the Copyright Board in regard of Unlocatable Copyright Owners

Case	Licence	Decision/duration	Type of use	Fee	Coll
<i>Maclean Hunter Limited (Re)</i> 1990-UO/TI-3	To reproduce fifteen works that has been published on the cover of various issues of <i>Chatelaine</i> magazine between 1928 and 1938 for the publication in colour of 10,000 copies of a promotional calendar	19900824 19910601	Commercial	\$642 for a cover; \$428 for an insert	Vis*/A
<i>Centre Alpha au Pied de la Lettre (Re)</i> 1991-UO/TI-4	To reproduce 35 copies of up to 427 pages from the work <i>Jouons ensemble</i> (published in 1971) and to adapt the content of these pages so that the work may be used in teaching reading, writing and arithmetic.	19910610 19911001	Non commercial/ educational	Licence fee of \$597.80 based on the rate of 4¢ per page per copy	CAN Y
<i>Royal Canada Artillery Museum (Re)</i> 1991-UO/TI-9	To reproduce one copy of extracts from no more of 28 pages of the book <i>Canada's V.C.'s</i> (published in 1956)	19910614 19911101	Non commercial/ educational	\$25	Non
<i>HBJ-HOLT Canada (Re)</i> 1990-UO/TI-8	To reproduce 6 pages from a book entitled <i>Man of Steel: The Story of Sir Stanford Fleming</i> (published in 1969) in a textbook entitled <i>Innovations</i> of which it may print 50,000 copies	19910823 19911101	Commercial/ textbook	\$500	Non
<i>Goose Lane Editions (Re)</i> 1992-UO/TI-2	The reprinting of a colour photograph of an ornamental mask appearing in a book entitled <i>Benin Art</i> (published in 1960) on the cover of a novel with a press run of no more than 4,000, including the right to include images of the novel's cover in promotional material	19920316 19920701	Commercial/ novel	\$200	Vis*/A
<i>U.P. Productions, Inc (Re)</i> 1991-UO/TI-15	To reproduce, synchronize and incorporate into a feature film all or part of a film clip from a cartoon entitled <i>Popeye Lost and Foundry</i> (created in 1937) to use the clip in the film throughout Canada and to	19920326 upon expiration of the copyright protection	Commercial/ feature film	\$500	Non

	exploit the film which incorporates the clip in all media throughout Canada the clip must not exceed 30 seconds of audio and visual content and a total of 2 minutes of audio content only				
<i>Monton (Re)</i> 1992-UO/TI-1	To reproduce 12 copies of 11 pages of a book entitled <i>Famous Libel and Slander Cases of History</i> (published in 1962)	19920326 19920601	Non commercial/ educational	\$25	Non
<i>Musée de la Civilisation (Re)</i> 1992-UO/TI-6	The reproduction and the translation into English of two short books brief extracts from <i>Jules Flaubert</i> (published in 1923) and of <i>Montréal</i> (published in 1936), said extracts to be reproduced on panels to be displayed at a temporary exhibition	19920630 19921101	Non commercial/ educational	\$304 (\$131 for <i>Jules Flaubert</i> : \$105 for the reproduction right and \$26 for the translation right) (\$173 for <i>Montréal</i> : \$140 for the reproduction right and \$33 for the translation right)	UNE
<i>Aylmer United Church (Re)</i> 1992-UO/TI-7	To reprint in black in white in a book on the history of the Aylmer Church three photographs, one of which first appeared in <i>The Ottawa Citizen</i> (in 1959) and the two others in <i>The Aylmer Sun</i> (in 1975) for a print up to 1,000 copies	19920709 19921101	Non commercial/ educational	\$25	Non
<i>Saint-Eustache School Board (Re)</i> 1992-UO/TI-9	To reproduce 14 copies of each of the 72 pages of a mathematic exercise book entitled <i>Ma numérotation de 1 à 9999</i> (published in 1981)	19921104 19921231	Non commercial/ educational	\$25	UNE
<i>National Film Board of Canada (Re)</i> 1992-UO/TI-10	To synchronize and reproduce in a 85-minute film an extract of 1 minute, 59 seconds from a musical work entitled <i>Maybe Toronto</i> , an extract of 23 seconds from a film entitled <i>Hello Toronto</i> , as well as 13 titles of newspaper articles and 21 covers of novels mounted in a 10-second sequence of a	19921130 19921231	Non commercial/ educational	\$800 for the musical work <i>Maybe in Toronto</i> \$300 for the cinematographi c work <i>Hello Toronto</i> Nothing for the titles and covers	CMF for musi work Non the cine graph work



	film of which shall issue no more than 300 copies; including the exploitation of the film which incorporates the works in all media throughout Canada				
<i>Provincial Museum of Alberta (Re)</i> 1993-UO/TI-1	To reprint two photographs in a book entitled <i>Camel Mosaic</i> (published in 1985 but photographs taken in 1946)	19930218 19930630	Non commercial/ educational	\$25	Vis*/A
<i>Nisker (Re)</i> 1993-UO/TI-2	To reproduce, synchronize and incorporate, in no more than 50 copies; into a film a musical work entitled <i>Modern Jazz</i> (in an album produced in the late 1960's), including to exploit the film in public at film festivals	19930331 19950331	Commercial/ film	\$25	CMF
<i>McGraw-Hill Ryerson Ltd. (Re)</i> 1994-UO/TI-1	To include, in no more than 19,500 copies of a textbook, a letter to the editor of the <i>Toronto Star</i> (published in 1990)	19940501 20000430	Commercial/ textbook	\$200	CAN Y
<i>La Fondation Les Forges (Re)</i> 1994-UO/TI-2	To reproduce chosen passages of eight poems (published in 1956, 1924, 1933, 1962, 1930, 1910, 1925 and n.d.) on anodized aluminum panels to be attached for a period of thirty years	19940830 19941231	Non commercial/ educational	\$80 (i.e. \$10 per work)	UNE
<i>Virany &amp; Virany, Editing and Publishing (Re)</i> 1995-UO/TI-1	To reproduce in a history book, in no more than 110 copies, a photograph which appeared in the <i>Sunday Reporter</i> (published in 1972)	19950331 19961231	Non commercial/ educational	\$25	UNE
<i>Fritz (Re)</i> 1994-UO/TI-5	To produce 200 copies of a video program which will include the text of a program entitled <i>Cours de conversation Français/Anglais, Phase I</i> (published in 1991)	19950503 20000503	Commercial/ video	\$100	UNE
<i>British Columbia Teachers' Federation (Re)</i> 1995-UO/TI-3	To reproduce in a textbook, in no more than 2,500 copies, seven letters written to the Editor of the <i>Surrey/North Delta Leader</i> (published in 1924)	19950925 19951231	Non commercial/ textbook	\$50	CAN Y
<i>Éditions la Lignée (Re)</i> 1995-UO/TI-5	To reproduce in a textbook, in no more than 500 copies	19951019 19951231	Commercial/ textbook	\$35	UNE

	of the preliminary version and 3,000 of the final version, a poem entitled <i>La splendeur de vivre</i> (published in 1913)				
<i>von Bayer (Re)</i> 1995-UO/TI-9	To reproduce in no more than 4,000 copies of an anthology, of all or major portions of the articles entitled <i>The Kitchen Garden and Production</i> (published in 1918), <i>From Russia with Love : Doukhorbor traditions in Canadian gardens</i> (1990), <i>Prince Rupert Gardens</i> (1940), <i>What Makes the Canadian Garden Canadian</i> (1952), <i>Oasis on the Roof</i> (1948), <i>Upon Radichetta</i> (1979), and <i>Where Nature Is Abetted</i> (1929)	19960110 19951231	Commercial/ book	\$300 (depending of the lenght of the taking for 4 of the articles, no allocation of value having been made for the 3 others)	CAN Y
<i>Éditions du Phare (Re)</i> 1996-UO/TI-2	To reproduce in no more than 5000 copies of a textbook a poem entitled <i>Plumot, Frimousse et compagnie</i> (published in 1960) (in a 128-paage book for a printing of 5,000 copies)	19960414 19960930	Commercial/ textbook	\$50	UNE
<i>Films Rozon Inc. (Re)</i> 1996-UO/TI-4	To use in the setting of television programs excerpts of texts of variety television shows <i>Noël des artistes</i> (4 extracts of a total duration of 21 seconds, produced in 1956), <i>Ça va éclater</i> (7 extracts for a total duration of 33 seconds, produced in 1963)and <i>Les zéros de conduite</i> (1 extract of a total duration of 16 seconds, produced in 1963)	19960820 19960930	Commercial/ entertainment	\$1,867.67	SAR
<i>Éditions CEC (Re)</i> 1996-UO/TI-3	To reproduce in no more than 12,000 copies of a textbook a text entitled <i>Pourquoi un âne écrivit des livres pour les enfants</i> (published in 1992), a photograph (published in 1994) and a photograph published in 1994)	19960830 19960930	Commercial/ textbook	\$360 (\$100 for the text; \$130 for each of the photographs)	UNE
Canadian Institute for	The reproduction, in any	19960918	Non	10¢per work	Non

Historical Microreproduction (Re) 1993-UO/TI-5	material, of no more than 75 copies of 1048 works	19991231	commercial/archive		
Guérin, Éditeur Ltée (Re) 1997-UO/TI-6	To reproduce in no more than 3000 copies (in a textbook) a two-pages text untitled (published in 1974) an a text entitled <i>La grotte aux trésors</i> (published in 1960)	19961105 19961231	Commercial/Textbook	\$347.02	UNE
<i>Musée de la civilisation</i> (Re) 1996-UO/TI-11	To reproduce and spot for the purpose of a temporary exhibition a black and white photograph (published in 1985)	19961118 19961231	Non commercial/educational	\$78.75	Vis* A
Les distributions Rozon Inc. (Re) 1996-UO/TI-7	To use in one television program two excerpts (total duration of 5 seconds) of the program entitled <i>Les zéros de conduite</i> (produced in 1963)	19961129 19961230	Commercial/entertainment	\$400	SARI
<i>Manitoba Education and Training, Independant Study Program</i> (Re) 1996-UO/TI-8	To reproduce in no more than 100 copies of student support material approximatively 90 pages of a book entitled <i>The Technology Connection; the Impact of Technology in Canada</i> (published in 1980)	19961211 19961231	Non commecial/textbook	\$460	CAN Y
Guérin, Éditeur Ltée (Re) 1996-UO/TI-6	To reproduce, in no more than 3,000 copies of each of two textbooks, a two-page text from the work <i>Les inventions de Timothée</i> (published in 1974) and a text entitled <i>La grotte aux trésors</i> (published in 1960)	19970122 19961231	Commercial/textbook	\$347.02	UNE
Lower Mainland WITT Association (Re) 1997-UO/TI-1	To reproduce in no more than 1000 copies on the first page of resource book a drawing (date of publication unknown)	19970122 19970331	Commercial/Res ourcce book for unformation	\$35.65	UNE
<i>Lone Wolf Advertising Agency civilisation</i> (Re) 1996-UO/TI-9	To reproduce in no more than 1,500 copies of a brochure a colour photograph (published in 1995)	19970123 19961231	Non commercial/educational	\$47.15	Vis* A
Canadian Institute for Historical Microreproduction (Re) 1997-UO/TI-2	The reproduction, in print form, microfiches or CD-ROMs, of no more than 75 copies of 912 works	19970210 19991231	Non commercial/archive	10¢per work in print form or microfiche; 15¢ per work reproduced on	Non

				CD-ROM	
Von Baeyer (Re) 1995-UO/TI-9	To reproduce in no more than 4,000 copies of a paperback anthology of all or major portions of the articles entitled <i>The Kitchen Garden and Production</i> (published in 1918), <i>From Russia with Love: Doukhobor traditions in Canadian gardens</i> (1990), <i>Prince Rupert Gardens</i> (1940), <i>What Makes the Canadian Garden Canadian</i> (1952), <i>Oasis on the Roof</i> (1948), <i>Upon Radichetta</i> (1979), and <i>Where Nature Is Abetted</i> (1929) (in a 300-page book for a printing of 4,000 copies)	19970211 19970331	Commercial/ book	\$300 (depending of the length of the taking for 4 of the articles, no allocation of value having been made for the 3 others)	CAN Y
Potvin (Re) 1996-UO/TI-10	To reproduce graphically the words and music sheets of 15 songs <i>La légende du feu, Jattends avec toi, Lac Lomond, Délicieuses cimes, Ohé! Le vent, le joli vent, Zilimbrina, Le merle siffle, Petite bohémienne, Ali, alo, Feu de bois, Vous connaissez le chemin, Le tamanoir, A Debreczen, faut qu'on s'en aille</i> et <i>Ballade à la lune</i> (in a 220-page book for a printing of 500 copies)	19970211 19970331	Non commercial/ educational	\$90.90	UNE
Sinclair (Re) 1996-UO/TI-5	To reproduce on a CD-ROM, in no more than 20,000 copies, 7 photographs (published in 1970, 1960, 1987, 1987, 1979, 1967 and 1986) and one cartoon (1965)	19970225 19970630	Non commercial/ educational	\$205.80 per work	Vis*/A
Guérin, Éditeur Ltée (Re) 1997-UO/TI-6	To reproduce in no more than 5000 copies (in a textbook) a text entitled <i>Ma première réplique au théâtre</i> (published in 1967)	19970305 19970531	Commercial/ Textbook	\$46.88	UNE
Canadian Institute for Historical Microreproduction (Re) 1997-UO/TI-12	The reproduction, in print form, microfiches or CD-ROMs, of no more than 75 copies of 516 works	19970513 19991231	Non commercial/ archives	10¢ per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non

The Glebe Centre (Re) 1997-UO/TI-3	To reproduce in no more than 5,000 copies excerpts of a poem (published in 1978)	19970611 19970331	Non commercial/ charity	\$50	CAN Y
Dufresne (Re) 1997-UO/TI-7	To reproduce in no more than 500 copies (in a 26-page exercise book) the entirety of a 26-page exercise book entitled <i>Je suis merveilleux</i> (published in 1992)	19970611 19970331	Commercial/ exercise book	\$130	UNE
Bausson (Re) 1997-UO/TI-5	To reproduce in no more than 600 copies (in a 134 page book) a poem <i>L'après-midi couleur de miel et fin d'automne</i> (published in 1933).	19970505 19971231	Commercial/ textbook	\$ 6.70	UNE
Édition d'Acadie (Re) 1997-UO/TI-4	To reproduce in no more than 10,000 copies (in a 400 page textbook) three photographs of Henri Paul (taken in 1962-1963)	19970728 19971231	Non Commercial/ Educational	\$317.40	VIS*
Fifth House Publishers (Re) 1997-UO/TI-13	To reprint in no more than 4 000 copies a book entitled <i>Gully Farm</i> (published in 1955)	Decision : 19970723 19971231	Commercial	\$500 plus 8% of the retail price of \$12.95 for each book sold	CAN Y
Éditions CEC inc. (Re) 1997-UO-TI-14	Reproduction in no more than 10,000 copies (in a 300 page textbook) of three excerpts of a text entitled <i>Pourquoi un âne écrivit des livres pour les enfants?</i> (published in 1992)	19970826 19971231	Commercial/ textbook	\$49.83	UNE
Epitome Pictures Inc. (Re) 1997-UO/TI-10	The use of 19 various framed prints/posters (purchased in various department stores and boutiques) as set dressing in a 22 episode television series	19970827 19981231	Commercial/ set dressing	\$150	VIS*
May Street Group Film, Video & Animation Ltd. (The) (Re) 1997-UO/TI-11	The reproduction for no more than 5 seconds (in a documentary film) of two newspaper articles entitled <i>Where Abortions are Made Easier</i> and <i>Legal Abortions in a Buffalo Doctor's Office</i> (published in 1971)	19970827 20020901	Commercial/vid eo documentary	\$500 (i.e. 250\$ per article)	CAN Y
Canadian Institute for Historical Microreproduction (Re) 1997-UO/TI-17	The reproduction, in print form, microfiches or CD-ROMs, of no more than 75 copies of 300 works	19971231 19991231	Non commercial/ archives	10¢ per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non

<i>Éditions CEC inc. (Re)</i> 1997-UO/TI-21	Reproduction in no more than 1000 copies (in a 520 page textbook) of three excerpts of a text entitled <i>Pourquoi un âne écrivit des livres pour les enfants?</i> (published in 1992)	19980112 20001231	Commercial/ textbook	\$20	UNE
<i>Sinclair (Re)</i> 1996-UO/TI-5	To reproduce on a CD-ROM, in no more than 80,000 copies, 7 photographs (published in 1970, 1960, 1987, 1987, 1979, 1967 and 1986) and one cartoon (1965) (Amendment to the 19970225 licence)	19980112 20011231	Non commercial/ educational	\$403.35 per work	CAN Y
<i>Kitchen Sink Entertainment inc (Re)</i> 1997-UO/TI-19	Reproduction for no more than 30 seconds (in a 47 minute film) of an article entitled <i>Going Back to Work</i> (published in 1960)	19980114 20021231	Commercial/doc umentary film	\$150	CAN Y
<i>Manitoba Genealogical Society (Re)</i> 1998-UO/TI-2	Reproduction as part of an article of a quarterly publication of a map (published in 1975)	19980213 19981231	Non commercial/ educational	\$15	VIS*
Canadian Institute for Historical Microreproduction (Re) 1998-UO/TI-4	The reproduction, in print form, microfiches or CD-ROMs, of no more than 75 copies of 583 works	19980213 19991231	Non commercial/ archives	10¢per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non
<i>Médiathèque de l'Université d'Ottawa (Re)</i> 1998-UO/TI-6	Transfert in no more than one copy of a film entitled <i>Les voyelles du français</i> (published in 1980) from 16MM format to VHS format	19980313 19981231	Non commercial/ educational	\$25	Non
<i>National Film Board (Re)</i> 1997-UO/TI-15	Reproduction for no more than 3 seconds (in a 52 minute film) of two photographs (published in 1972)	19980313 20030129	Non commercial/ documentary film	\$736 ( <i>i.e.</i> , \$368 per photograph)	VIS*
<i>Fifth House Limited (Re)</i> 1998-UO/TI-9	Reprint in no more than 10,000 copies of a book entitled <i>Gully Farm</i> (published in 1955)	19980316 20001231	Commercial/ book	\$500 plus 8% of the retail price of \$12.95 for each book sold	CAN Y
<i>McGraw-Hill Ryerson Limited (Re)</i> 1998-UO/TI-8	To include, in no more than 19,500 copies of a textbook, a letter to the editor of the <i>Toronto Star</i> (published in 1990)	19980326 20030430	Commercial/ textbook	\$200	CAN Y
<i>Friends of Algonquin Park (The) (Re)</i> 1998-UO/TI-1	The reprint in no more than 2000 copies of a book entitled <i>Incomplete Anglers</i>	19980326 19981231	Commercial/ educational	\$300 plus 8% of the retail price of \$7.95 for each	CAN Y

	(published in 1943)			book sold	
<i>Atelier de recherche en design interactif de Montréal (ARDIM) (Re)</i> 1997-UO/TI-20	To include in a no more than 100 copies of a cdrom, 14 articles, 14 photographs and one poem (between 1947 and 1974)	19980408 19981231	Commercial	\$22.50 writings \$231 photos	COF SOD
<i>Canadian Institute for Historical Microreproductions (Re)</i> 1998-UO/TI-11	The reproduction in print form, microfiches or CD-ROMS, in no more than 75 copies, of 621 works	19980605 19991231	Non commercial/ Archives	10¢per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non
<i>Loisirs de Granby (Re)</i> 1998-UO/TI-14	To reproduce in no more than 500 CDs and 500 cassettes 18 songs (circa 1997-1998)	19980902 19980930	Non commercial/ Educational	\$374.40	SOD
<i>Canadian Institute for Historical Microreproductions (Re)</i> 1998-UO/TI-18	The reproduction in print form, microfiches or CD-ROMS, in no more than 75 copies, of 551 works	19980929 20011231	Non commercial/ Archives	10¢per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non
<i>Société Radio-Canada (Re)</i> 1998-UO/TI-10	Adaptation and production of the dramatic work K-2, including 3 French public performances or communications to the public by telecommunication	19981009 20031231	Television program	\$3000	SAC
<i>Athabasca University (Re)</i> 1998-UO/TI-13	To reprint, in no more than 75 copies as reading material, of the short stories <i>The Tree</i> and <i>In the Beginning</i> (published in 1963 and 1973)	19981030 20011030	Non commercial/ Educational	\$67.50	CAN Y
<i>University of Toronto Press Custom Publishing (Re)</i> 1998-UO/TI-20	To reprint in one single copy the publication <i>Development and the Military in the Philippines</i> (1988)	19990107 19991231	Non commercial/ Educational	\$12.24	CAN Y
<i>Éditions du Renouveau pédagogique (Re)</i> 1998-UO/TI-19	To reprint in no more than 10,000 copies of a textbook of a painting <i>Rive nord du Lac supérieur</i> (1988)	19990107 19991231	Commercial/ Educational	\$108.10	VIS*,
<i>Éditions du Renouveau pédagogique (Re)</i> 1998-UO/TI-23	To reprint in no more than 10,000 copies of a textbook of a lino-engraving <i>Rose Latulipe</i> (1988)	19990208 19991231	Commercial/ Educational	\$165	SOD
<i>Canadian Institute for Historical Microreproductions (Re)</i> 1999-UO/TI-4	The reproduction in print form, microfiches or CD-ROMS , in no more than 75 copies, of 1152 works	19990318 20011231	Non commercial/ Archives	10¢ per work in print form or microfiche; 15¢ per work reproduced on	Non

				CD-ROM	
<i>Potvin (Re)</i> 1998-UO/TI-12	Graphic reproduction of 24 European and American canons	19990330 19991231	Non commercial/ Educational	\$85	COP
<i>Ontario (Ministry of Education and Training) (Re)</i> 1999-UO/TI-3	The reproduction of Joan Weston's <i>Mr. Gilligan's Goat</i> (1986) in no more than 2000,000 copies	19990526 20001231	Non commercial/ educational	\$500	CAN Y
<i>Regal recordings Ltd. (Re)</i> 1999-UO/TI-5	The reproduction of nine photographs depicting Oscar Peterson in no more than 10,000 copies	19990617 19991231	Commercial	\$147 per work	Vis*/A
<i>Canadian Institute for Historical Microreproductions (Re)</i> 1999-UO/TI-14	The reproduction in print form, microfiches or CD-ROMS , in no more than 75 copies, of (number of works not indicated) works	19990921 20011231	Non commercial/ Archives	10¢ per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non
<i>Office national du film du Canada (Re)</i> 1999-UO/TI-17	To reproduce, in an accompanying brochure in no more than 600 copies, Agathe Martin-Thériault's article <i>Le cinéma direct et ses prolongements</i> published in the magazine <i>La revue Cinéma Québec</i> (1972)	19991005 20001231	--	\$75	COP
<i>Information Essentielle inc. (Re)</i> 1998-UO/TI-21	To reproduce and incorporate in a docu-drama 2 photographs (1958 and 1959), 3 film stills (1985), on extract from a song (1950) and an extract of a musical film arrangement (1936), including public performance and telecommunication to the public of the resulting work	19991022 20041022		\$345 per photo; \$575 per film still \$93.75 for the song \$250\$ for a musical theme from a film	SOD SOD SOD CMP
<i>Canadian Institute for Historical Microreproductions (Re)</i> 2000 UO/TI-1	The reproduction in print form, microfiches or CD-ROMS, in no more than 75 copies, of 560 works	20000221 20011231	Non commercial/ Archives	10¢ per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non
<i>Canadian Institute for Historical Microreproductions (Re)</i> 2000 UO/TI-20	The reproduction in print form, microfiches or CD-ROMS , in no more than 75 copies, of 560 works	20000221 20011231	Non commercial/ Archives	10¢ per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non
<i>Office national du film du Canada (Re)</i> 1999-UO/TI-25	To reproduce and incorporate in a film documentary a photograph	20000303 20021231		\$230	SOD



	published in <i>Le Soleil</i> newspaper (1969)				
<i>Rutherford (Re)</i> 1998-UO/TI-3	The reproduction of various articles published in the <i>Wainwright Star</i> newspaper during the years 1908 to 1918	20000303 20051231	--	10¢ per work reproduced	Non
<i>Harcourt Brace &amp; Co. (Re)</i> 1999-UO/IT-16	To reprint in no more than 25,000 copies of a textbook anthology of short stories <i>Barney</i> (1951), <i>The Inheritor</i> (1963) and <i>The Curlew's Cry</i> (1986)	20000303 20051231	Commercial/ Educational	\$750 per work	CAN Y
<i>Éditions du Vermillon (Re)</i> 1999-UO/TI-22	Reproduction of Roger Cyr's article <i>La patente se meurt</i> in no more than 500 copies as part of a novel	Decsion: 20000306 2001231	Commercial	\$10	COP
<i>Éditions Triptique (Re)</i> 2000-UO/TI-4	Repoduction and publication of a translation of Juan Butler's <i>Cabbagetown Diary</i> (1970), in no ore than 800 copies	20000320 20001231	--	\$4000	COP
<i>National Library of Canada (Re)</i> 2000-UO/TI-6	The use, the reproduction and the communication to the public via Internet of a photograph (1974), an advertisement (s.d.), front cover of review (1971) nad front cover of review (1954)	20000620 20051231	Non commercial/ Educational	\$1600	SOD
<i>Supreme Court of Canada (Re)</i> 1999-UO/TI-18	The use and reproduction of a photographh of Justice Estey published in the <i>Ottawa Citizen</i> (1956)	20000706 20001231	Non commercial/ Educational	\$452	SOD
<i>National Library of Canada (Re)</i> 2000-UO/TI-16	The digital reproduction and the communication to the public via Internet of the book covers of <i>Le loup de Noël</i> (1962), <i>The Guardian of Isis</i> (1981), <i>The Isis Pedlar</i> (1983), <i>The Keeper of isis</i> (1981), <i>Crisis of Conshelf Ten</i> (1975), <i>Please Michael, That's daddy's Chair</i> (1976), <i>The Druid's Tune</i> (1983), <i>Fresh Fish...And Chips</i> (1973)	20000721 20051231	Non commercial/ Educational	\$250 for each work	CAN Y
<i>Dueck (Re)</i> 2000-UO/TI-24	The reproduction of prints of Elwin Edwards' paintings <i>A June Morning</i> and <i>September Eve</i> (s.d.) in no more than one copy	20000921 2001231	--	\$25 for each work	--
<i>Dueck (Re)</i> 2000-UO/TI-22	The reproduction of a print of Elwin Edwards' painting <i>September Eve</i> (s.d.) in no	20001020 2001231	--	\$25	--

	more than one copy				
<i>Éditions du Vermillon (Re)</i> 2000-UO/TI-12	To reproduce, in a book of no more than 500 copies, an excerpt of Rodolphe Girard's <i>Contes de chez nous publié</i> (1912)	20000921 20 01231	Commercial	\$20	COP
<i>Guérin, éditeur ltée (Re)</i> 2000-UO/TI-22	To reproduce, in a book of no more than 3,000 copies, of an excerpt of an untitled poem of Louise Dulude-Bennett (1972)	20000913 20001231	Commercial	\$18	COP
<i>Conseil de la langue française (Re)</i> 2000-UO/TI-23	Reproduction, in a book of no more than 5,000 copies, of the cover of the book <i>Mon premier livre de lecture</i> (1956) and of a cartoon of Letondal (1924)	20001013 20001231	--	\$113/cover \$83/cartoon	SOD
<i>Canadian Institute for Historical Microreproductions (Re)</i> 2000-UO/TI-30	The reproduction in print form, microfiches or CD-ROMS , in no more than 75 copies, of 44 works	20001121 20011231	Non commercial/ Archives	10¢ per work in print form or microfiche; 15¢ per work reproduced on CD-ROM	Non
<i>National Archives of Canada (Re)</i> 2000-UO/TI-25	The digital reproduction and the communication to the public via Internet of excerpts of <i>The Canadian Girl Who has won World-Wide Fame</i> (1916) and <i>Mademoiselle from Armentières</i> (1953)	20001122 20101231	Non commercial/ Educational	\$250 for each excerpts	CAN Y
<i>National Archives of Canada (Re)</i> 2000-UO/TI-25	The digital reproduction and the communication to the public via Internet of excerpts of <i>La coccinelle du 22<sup>e</sup></i> (1934) and <i>L'épopée du 22<sup>e</sup> bataillon</i> (1919)	20001122 20101231	Non commercial/ Educational	\$240 for each excerpts (\$20/page)	COP
<i>Harcourt Canada Ltd. (Re)</i> 2000-UO/TI-20	The reprint of the work <i>Racists Stereotyping in the English Language</i> (1976)-in no more than 17,000 copies	Decision: 20001130 20051231	Commercial/ Educational	\$750	CAN Y
<i>Rutherford (Re)</i> 2000-UO/TI-34	The reproduction of various articles published in the Wainwright Star newspaper in the years 1908 to 1918, in no more than 300 copies	20001215 20021231	--	45¢ for each copy of the book sold (i.e., 3% of the book suggested retail price of \$15)	Battl Rive Histo Soci
<i>Roycroft (Re)</i> 2000-UO/TI-28	The reproduction on CD-ROMs of musical works <i>The Storm</i> (1935), <i>Laughing Water</i> (1904), <i>Edelweiss Glide</i> (s.d.), <i>Royal March</i> (s.d.), <i>The</i>	Decision: 20010112 Expiration: 20011231	---	7.4¢ per song per copy	CMF

	<i>Whip-Poor-Will's Song</i> (s.d.), in no more than 500 copies				
<i>The Beaver, Canada's History Magazine (Re)</i> 2000-UO/TI-18	The reproduction of an image from a catalogue (1988) of a painting <i>Girl Ironing</i> , in no more than 45,000 copies	20010112 20011231	--	\$150	CAR
<i>Richardson (Re)</i> 2000 UO/TI-32	The musical adaptation for choir of Kathryn Munro's poems <i>Now Winter comes, Noel, At Christmaside</i> (1938) and the musical adaptation for tenor and piano of Kathryn Munro's poems <i>Ghosts, The Deserted House</i> and <i>Dusk</i> (1930) as well as the public performance and the reprography of copies to support such performance	20010115 20141231	--	\$75 per poem	CAN Y
<i>Pierrot Concerts (Re)</i> 2001-UO/TI-01	The use and mechanical reproduction of a poem <i>A Bunch of Rowan</i> (1948), in no more than 1,200 copies	20010125 20051231	Commercial	\$31	CAN Y
<i>Richardson (Re)</i> 2000-UO/TI-32	Communication to the public by telecommunication of the musical adaptation for choir of Kathryn Munro's poems <i>Now Winter comes, Noel, At Christmaside</i> (1938) and the musical adaptation for tenor and piano of Kathryn Munro's poems <i>Ghosts, The Deserted House</i> and <i>Dusk</i> (1930) as well as the public performance and the reprography of copies to support such performance	20010205 20141231	--	--	--
<i>Groupe Beauchemin, éditeur ltée (Re)</i> 2000-UO/TI-7	authorizing the reproduction of an illustration of Séraphin Poudrier by Michèle Goudro in no more than 6000 copies of a book	2001-03-12 2000-04-30 (sic)	Commercial	\$125	SOD
<i>Ballantyne (Re)</i> 2001/UO/TI-22	authorizing the reproduction of architectural plans created in 1975 by Guzmits Engineering Limited for the property located at 534 17 Avenue S.W. in Calgary, in two copies	2002-02-18 2002-12-31	Renovation purposes	\$25, per copy	Non
<i>Gilbert (Re)</i> 2002-UO/TI-05	authorizing the reproduction of architectural plans	2002-02-21 2002-12-31	Renovation purposes	\$25	Non

	created in 1987 (author unknown) for the property located at 43 Scenic Park Crescent N.W. in Calgar, in one copy				
<i>Birchard (Re)</i> 2002-UO/TI-08	authorizing the reproduction of architectural plans created by M. Richardson for the Davand Construction Company, Airdrie, Alberta, for the property located at 67 Hawksbrow Drive N.W. in Calgar, in one copy	2002-03-07 2002-12-31	Renovation purposes	\$25	Non
<i>Copp (Re)</i> 2002-UO/TI-11	for the reproduction of architectural plans created by Maioi Development for the property located at 312 Coach Grove Place S.W. in Calgar, in one copy	2002-04-11 2002-12-31	Renovation purposes	\$25	Non
<i>Sewell (Re)</i> 2002-UO/TI-12	authorizing the reproduction of architectural plans created by Ismail Ahmed in 1981 for the Doral Manor property located at 1311 15 Avenue S.W. in Calgar, in one copy	2002-04-17 2002-12-31	Renovation purposes	\$25	Non
<i>Marble Arch Properties Limited (Re)</i> 2002-UO/TI-14	authorizing the reproduction of architectural plans created by Angelo S. Martin of Angelo Martin Architecture for the property located at 1111 33rd Avenue N.E. in Calgar in one copy	2002-07-16 2002-12-31	Effective management file	\$25	Non
<i>Groupe Beauchemin, éditeur ltée(Re)</i> 2002-UO/TI-15	authorizing the reproduction of two photographs taken by Henri Paul, in no more than 5000 copies of a book	2002-07-30 2002-12-31	Commercial	65\$ per work	SOD
<i>Éditions de la Pastèque (Re Les)</i> 2002-UO/TI-16	authorizing the reproduction of 58 pages drawings by Jacques Gagnier, for a book	2002-08-16	Commercial	\$745	SOD
<i>Klein (Re)</i> 2002-UO/TI-20	authorizing the reproduction and musical adaptation of a text translated by Anne-Marie Drayton in no more than 500 CDs	2002-08-20 2003-06-30	Commercial	\$155	CAN Y
<i>Boghean (Re)</i> 2002-UO/TI-23	authorizing the reproduction of architectural plans designed by Adobe Designs (TAJ designer) for Sussex Homes Inc. for the property located at 113 Del Rio Place	2002-08-29 2002-12-31	Renovation purposes	\$25	Non

	NE in Calgary in one copy				
<i>Wills (Re)</i> 2002-UO/TI-26	authorizing the reproduction of architectural plans designed by A.O.K. Home Designs (K. Stewart, draftsman) for S & S Homes, for the property located at 144 Shawnessy Drive SW in Calgary in once copy	2002-08-29 2002-12-31	Renovation purposes	\$25	Non
<i>Aurora College(Re)</i> 2002-UO/TI-17	authorizing the reproduction of a work prepared and published by Muriel Stewart of MultiMedia Designs in no more than 155 copies	2002-11-01 2004-08-31	Educational	\$45.20	ACC Cop
<i>Fryett (Re)</i> 2002-UO/TI-19	authorizing the reproduction of architectural plans (architect unknown) for the property located at 292 Sunmills Drive SE in Calgar in one copy	2002-11-05 2002-12-31	Renovation purposes	\$25	Non
<i>Sites Productions Inc. (Re)</i> 2002-UO/TI-18	authorizing the reproduction of three sketches by Sidney Clarke Ells in a television documentary	2002-11-26 2012-12-31	Commercial	\$250	CAR
<b><i>Duffy (Re)</i></b> <b>2002-UO/TI-13</b>	<b>for the creation of a derivative work of the motion picture "Shoot" produced by Getty Picture Corporation and Essex Enterprises Ltd. in 1976 in no more than 1000 copies</b>	<b>2002-12-10</b> <b>20016-31</b>	<b>Commercial</b>	<b>% of gross receipts</b>	<b>PAC</b>
<i>Canada's National History Society(Re)</i> 2002-UO/TI-32	for the reproduction of an image of a painting by Kenneth Keith Forbes on gift cards in no more than 5000 copies on gift cards	2003-01-16 2003-12-31	Commercial	\$150	CAR
<i>Maternaide du Québec(Re)</i> 2003-UO/TI-02	for the mechanical reproduction of 10 songs on CDs, in no more than 100 CDs	2003-02-28 2003-12-31	Commercial	\$50	SOD
<i>Conseil supérieur de la langue française (Re)</i> 2003-UO/TI-07	for the reproduction of two visual works in a book poems in no more than 2000 copies	2003-03-14 2003-12-31	Commercial	\$147	SOD
<i>Fleury-Maltais (Re)</i> 2002-UO/TI-34	for the reproduction of two texts in a compilation of poems in no more than 100 copies	2003-03-18 2003-12-31	Commercial	\$45	COP
<i>Summit REIT Property Management Ltd.(Re)</i> 2003-UO/TI-9	for the reproduction of architectural plans designed by Peter & Symonds Partnership Architects and	2003-05-07 2003-12-31	Maintenance and operational purposes	\$50	Non

	Planners, for the property located at 3805 - 29th Street NE in Calgary in two copies				
<i>Nargis Gamble (Re)</i> 2003-UO/TI-12	for the reproduction of architectural plans for the property located at 74 Applestone Park SE in Calgary, built by North Star (later known as West Star) and developed by MaCalgary Developments in one copy	2003-05-28 2003-12-31	Repair purposes	\$25	Non
<i>Éditions du remue-ménage (Re)</i> .2003-UO/TI-11	for the reproduction of the cover page of the book "Pour contrôler les naissances - D'après la méthode Ojino-Knaus" written by Jacques Poys in no more than 2500 copies	2003-05-30 2003-12-31	Commercial	\$31.67	COP
<i>Estate Condominium Board (Re The)</i> 2003-UO/TI-14	for the reproduction of mechanical design drawings created by K. Michie, P.Eng. for the property located at 720 - 13th Avenue SW in Calgary in one copy.	2003-06-06 2003-12-31	Archives	\$25	Non
<i>Hillman (Re)</i> .2003-UO/TI-13	the mechanical reproduction of the musical work entitled "Intentions" written by George Adams in no more than 500 copies	2003-06-13 2003-12-31	Commercial	\$53.90	CMF
<i>Office national du film du Canada (Re L')</i> 2003-UO/TI-15	for the reproduction and incorporation in a documentary film of a cartoon by Stewart Cameron (20 seconds visualization)	2003-06-18 2008-12-31	Documentary	\$110	CAR
<i>Saintonge (Re)</i> 2003-UO/TI-20	for the mechanical reproduction (300 CDs and 500 cassettes) of a musical work written by Lucien Brosseau	2003-07-21 2003-12-31	Commercial	\$50	SOD
<i>Racine (Re)</i> 2003-UO/TI-4	authorizing the mechanical reproduction of 23 works composed and/or written by Isidore Soucy, in no more than 500 CD	2003-08-22 2004-12-31	Commercial	\$836.40	SOD
<i>Saintonge (Re)</i> 2003-UO/TI-20;	for the mechanical reproduction (600 CD's) of a musical work written by Lucien Brosseau in no more than 600 CD	2003-09-22 2003-12-31	Commercial	\$58.67	SOD
<i>Northern Sky</i>	for the use (narration), in a	2003-11-12	Commercial	\$100 per work	ACC

<i>Entertainment Ltd. (Re)</i> 2003-UO/TI-22	television documentary, of excerpts of three war letters written by Lieutenant Robert C. Lewin, Lieutenant John B. Doyle Jr. and Lieutenant Russell Lloyd	2008-12-31			Cop
<i>Wong (Re)</i> 2003-UO/TI-24	for the reproduction of architectural plans for the property located at 2012 Killarney Drive in Ottawa, built by J.P. Chenier Co. Ltd. in one copy	2003-11-18 2004-01-31	Renovation purposes	\$25	Non
<i>University of Prince Edward Island's Robertson Library (Re)</i> 2003-UO/TI-01	for the digital reproduction and communication to the public of The Prince Edward Island Magazine on a Web site	2004-01-30 until falls in the public domain	Educational	\$25	Non
<i>334154 Alberta Limited (Re)</i> 2003-UO/TI-26	for the reproduction of architectural plans for the property located at 3515, 17th Avenue SW in Calgary in one copy	2004-01-15 2004-03-31	Repair purposes	\$25	Non
<i>Christopher Simmonds Architect (Re)</i> 2004-UO/TI-02	for the reproduction of architectural plans for the property located at 154 Billings Avenue in Ottawa in one copy	2004-01-27 2004-03-31	Renovation purposes	\$25	Non
<i>University of British Columbia Music (Re)</i> 2003-UO/TI-23	Library for the reproduction, the public performance and the communication to the public of sheet music on their Web site	2004-01-30 until falls in the public domain	Educational	\$25 per work	Non
<i>Carleton Condominium Corporation No. 281 (Re)</i> 2004-UO/TI-04;	for the reproduction of electrical plans for the property located at 100 Stratas Court in Ottawa in one copy	2004-02-05 2004-03-31	Record purposes	\$25	Non
<i>Adjeleian Allen Rubelli Limited (Re)</i> 2004-UO/TI-06	for the reproduction of architectural plans for the property located at 205 Richmond Road in Ottawa in one copy	2004-02-18 2004-03-31	Renovation purposes	\$25	Non
<i>Ontario Office of the Worker Adviser (Re)</i> .2004-UO/TI-05	for the digital reproduction and the communication to the public of a detail of Paul Rand's painting Coal Diggers on the Web Site of applicant	2004-03-29 2009-12-31	Educational	\$250	CAR
<i>Soloway Jewish Community Centre - Ganon Preschool (Re)</i> 2003-UO/TI-19	for the mechanical reproduction of 21 songs in no more than 500 copies in CD format	2004-03-10 2004-12-31	Educational	\$367.50	CMF

<i>Pointe-à-Callière, Montreal Museum of Archeology and (Re)</i> 2003-UO/TI-21	to reproduce and display, in the context of an exhibition entitled <i>Dreams and Realities Along the Lachine Canal</i> , twelve quotations, ten of which would also be translated. The texts come from two books entitled <i>St-Henri</i> and <i>Petite Bourgogne</i> . The books are compendia of short commentaries on the social, political, labour and community history of these Montreal neighbourhoods.	2004-03-29 REFUSED			
<i>Payne (Re)</i> 2004-UO/TI-17	for the reproduction of architectural plans for the property located at 91 and 93 Arlington Avenue in Ottawa in one copy	2004-04-26 2004-06-30	Renovation purposes	\$25	Non
<i>CCC 446(Re)</i> 2004-UO/TI-16	for the reproduction of architectural plans for the property located at 99 Holland Avenue in Ottawa in one copy	2004-04-05 2004-12-31	Insurance evaluation and on-going repair/maintenance	\$25	Non
<i>Jackson (Re)</i> 2004-UO/TI-12	for the reproduction in a book of a cartoon by Stewart Cameron in no more than 800 books	2004-05-10 2004-12-31	Commercial	\$81	SOD
<i>Brant (Re)</i> 2004-UO/TI-21	for the reproduction of architectural plans for the property located at 126-128 Baseline Road in Ottawa in one copy	2004-06-23 2004-12-31	Renovation purposes	\$25	Non
<i>Burnett (Re)</i> 2004-UO/TI-09	for the mechanical reproduction of song lyrics written by Doug Moore in no more than 1000 copies	2004-06-23 2004-12-31	Commercial	\$85	CM
<i>Marquis (Re) for the Reproduction of Excerpts from the Newspaper l'Action Catholique (Re Licence application by)</i> 2004-UO/TI-20,	to reproduce headlines and excerpts from articles published in the <i>L'Action catholique</i> between 1910 and 1938.	2004-07-29 REFUSED			
<i>Morrison Hershfield Limited (Re)</i> 2004-UO/TI-22	for the reproduction of architectural plans for the property located at 2716 Richmond Road in Ottawa in one copy	2004-09-02 2004-12-31	Construction purposes	\$25	Non
<i>Charron (Re)</i> 2004-UO/TI-28	for the reproduction of architectural plans for the property located at 27 Monk	2004-09-22 2004-12-31	Reference purposes	\$25 per copy	Non



	Street in Ottawa				
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**ROBIC** + LAW  
+ BUSINESS  
+ SCIENCE  
+ ART

**ROBIC** + DROIT  
+ AFFAIRES  
+ SCIENCES  
+ ARTS

