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<p>ROBIC CANADIAN COPYRIGHT ACT ANNOTATED Release No. 3, April 2024</p>
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This publication is a comprehensive reference work that provides guidance through annotation of the Act along with interpretation of case law and authorities. Special attention is given to software issues, the Copyright Board, and the interface between industrial designs, designs protected by copyrights and those not protected because of their functionality.

This release features updates to sections 42. Offences and Punishment, 43. Infringement in Case of Dramatic, Operative or Musical Work and 43.1. Limitation or Presscription Period for Civil Remedies.

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Highlights

- **Remedies—Criminal Remedies—Offences and Punishment—Case Law**—This section has been updated to include discussion of the decision *Chen v. Canada (Citizenship and Immigration)*, 2019 CarswellNat 1896, in which criminal copyright charges had impacted the immigration status of the appellant’s husband. The appellant, a Canadian citizen, and the applicant, a citizen of China, were married in 2013. The appellant submitted a spousal sponsorship application for the applicant in April 2015. The applicant had previously been convicted of three offences in Canada, including a 2007 conviction for selling an infringing copy of a work in which copyright subsists. The applicant’s application for a permanent resident visa was refused because the officer had “serious concerns that the applicant is criminally inadmissible to Canada”. While the Immigration and Refugee Board of Canada (Immigration Appeal Division) found that fraud and copyright violations were serious offences that undermined Canada’s economy, the seriousness was mitigated by the fact that they did not involve the elements of violence or physical harm. The appeal was allowed.
- **Remedies—Limitation or Prescription Period—Limitation or Prescription Period for Civil Remedies—Limitation Cases**—This section has been updated to include discussion of the Supreme Court of Canada decision *Pioneer Corp. v. Godfrey*, 2019 CarswellBC 2746, which discusses the interplay between limitation periods and the rule of discoverability. “This Court has recognized that limitation periods may be subject to a rule of discoverability, such that a cause of action will not accrue for the purposes of the running of a limitation period until ‘the material facts on which [the cause of action] is based have been discovered or ought to have been discovered by the plaintiff by the exercise of reasonable diligence’? This discoverability rule does not apply automatically to every limitation period. While a ?rule?, it is not a universally applicable rule of limitations, but a rule of construction to aid in the interpretation of statutory limitation periods. Further, absent legislative intervention, the discoverability rule applies only where the limitation period in question runs from the accrual of the cause of action, or from some other event that occurs when the plaintiff has knowledge of the injury sustained.”

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