

Index

ACQUISITION OF COPYRIGHT

- British subject, § 5:3
- Domicile, § 5:4
- Introduction, § 5:1
- “Making” and “maker,” § 5:6
- Resident or ordinarily resident, § 5:5
- Subsistence of copyright, see SUBSISTENCE OF COPYRIGHT

ANTI-COUNTERFEITING TRADE AGREEMENT

- See also INTERNATIONAL COPYRIGHT
- Generally, § 30:81 to § 30:92
- Border measures, § 30:87
- Civil enforcement, § 30:86
- Contracting parties, § 30:92
- Criminal enforcement, § 30:88
- Enforcement of intellectual property rights in digital environment, § 30:89
- Enforcement practices, § 30:90
- History, § 30:81
- International cooperation, § 30:91
- Legal framework for enforcement of intellectual property rights, § 30:85
- Nature and scope of obligations, § 30:84
- Objective, § 30:82
- Relation to other agreements, § 30:83

ANTON PILLER ORDERS

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:37
- Clear evidence of possession of incriminating material and potential destruction, § 24:40
- Contempt, § 24:46
- Damages pursuant to plaintiff’s undertaking, § 24:48
- Executing order, § 24:43
- Full and frank disclosure, § 24:41
- Self-incrimination, § 24:44
- Setting aside order, § 24:47
- Solicitor-client privilege, § 24:45
- Strong prima facie case, § 24:38

ANTON PILLER ORDERS—Cont’d

- Terms of order, § 24:42
- Very serious potential or actual damage, § 24:39

ARTISTIC WORKS

- Artistic ideas or conceptions, § 10:7
- Artistic merit or quality, § 10:8
- Definitions, § 10:1
- Designs applied to useful articles, § 10:10 to § 10:20
- Designs created after June 8, 1988
 - generally, § 10:18 to § 10:20
 - definitions, § 10:18
 - eye appealing features applied to useful articles, § 10:19
 - useful article features dictated by utilitarian function, § 10:20
- Designs created before June 8, 1988
 - generally, § 10:11 to § 10:17
 - and/or and Rule 11(1), § 10:16
 - capable of being registered, § 10:13
 - conclusion, § 10:17
 - intended to be used as model, § 10:14
 - multiplication by industrial process, § 10:15
 - nature of designs, § 10:12
 - statutory provisions, § 10:11
- Fixation, § 10:4
- History of protection, § 10:3
- Originality, § 10:6
- Publication, § 10:5
- Reproduction in different medium, § 10:9
- Rights associated with artistic work, § 10:2
- What is protected as artistic work
 - generally, § 10:21 to § 10:29
 - architectural works, § 10:27
 - compilations of artistic works, § 10:28
 - engravings, § 10:24
 - Integrated Circuit Topography Act, § 10:29
 - maps, charts and plans, § 10:22
 - paintings and drawings, § 10:21
 - photographs, § 10:23

ARTISTIC WORKS—Cont'd

- What is protected as artistic work
 - Cont'd
 - sculptures, § 10:25
 - works of artistic craftsmanship, § 10:26

**ARTISTIC WORKS —
INFRINGEMENT**

- See also INFRINGEMENT OF COPY-
RIGHT
- Generally, § 21:38 to § 21:40
- Generally considerations, § 21:38
- Producing or reproducing substantial part
of work, § 21:40
- Reproduction in different media, § 21:39

ASSIGNMENT

- Generally, § 19:1 to § 19:13
- Assignment of future rights in works,
§ 19:9
- Assignment or licence, § 19:12
- Assignments and transfer of possession of
physical things, § 19:11
- Construction, § 19:10
- Divisibility of copyright, § 19:5
 - “either for the whole term of the copy-
right or for any other part
thereof,” § 19:8
 - “either wholly or partially,” § 19:6
 - “subject to limitations relating to terri-
tory, medium or sector of the mar-
ket or other limitations relating to
the scope of the assignment,”
§ 19:7
- Limitation on term of assignment after
author's death, § 19:13
- Must be in writing, § 19:2
- Rights of owner, § 19:4
- Statutory provisions, § 19:1
- Subject-matter, § 19:3

AUTHORSHIP

- See also OWNERSHIP OF COPYRIGHT
- Generally, § 17:1 to § 17:7
- Generally principle, § 17:1
- Collective works, § 17:6
- Compilations, § 17:7
- Computer generated works, § 17:5
- Computer programs, § 17:4
- Corrections and revisions, § 17:3
- Meaning of term “author,” § 17:2

BANKRUPTCY

- Generally, § 19:15 to § 19:18
- Effect of bankruptcy on licences, § 19:16
- Property of bankrupt, § 19:15
- Proposals under Bankruptcy and
Insolvency Act, § 19:17
- Specific rights under Bankruptcy and
Insolvency Act, § 19:18

BORDER ENFORCEMENT

MEASURES

- See also SEIZURE OF IMPORTED
COPIES
- Exceptions, § 24:116
- Importation of books, § 24:113
- Nature of rights
 - definitions, § 24:112
 - detaining copies at copyright owner's
expense, § 24:112
 - powers of court relating to detained
copies, § 24:112
 - prohibition on importation and exporta-
tion, § 24:112
 - provision of information, § 24:112
 - request for assistance, § 24:112
- Other subject-matter, § 24:114
- Procedural matters, § 24:115
- Statutory provisions
 - generally, § 24:111
 - definitions, § 24:111
 - detaining copies at copyright owner's
expense, § 24:111
 - no Crown liability, § 24:111
 - powers of court relating to detained
copies, § 24:111
 - prohibition on importation and exporta-
tion, § 24:111
 - provision of information, § 24:111
 - request for assistance, § 24:111

BREACH OF CONFIDENCE

- Breach of confidence may be wider right
than copyright, § 32:5
- Circumstances imparting obligation of
confidence
 - generally, § 32:8
 - existing or anticipated relationships,
§ 32:11
 - express contract, § 32:9
 - implied contractual term, § 32:10
- Confidential information, § 32:7

BREACH OF CONFIDENCE—Cont'd

- Confidentiality in legal proceedings
 - generally, § 32:31 to § 32:33
 - confidentiality orders including protective and hybrid orders, § 32:31
 - exclusion of public, § 32:33
 - implied undertaking of confidentiality, § 32:32
- Copyright, physical ownership and breach of confidence, § 32:1
- Copyright and breach of confidence distinguished, § 32:4
- Criminal offence, trade secrets, § 32:34
- Defence of just cause for disclosure, § 32:23
- Doctrinal foundation of breach of confidence, § 32:2
- Elements of cause of action, § 32:6
- Employment relationships
 - generally, § 32:14
 - comparison to patents and copyright, § 32:18
 - distinction between use and communication, § 32:20
 - during employment, § 32:15
 - employee's general skill and knowledge, § 32:19
 - fiduciary duty, § 32:22
 - nature of obligation, § 32:16
 - post employment, § 32:16 to § 32:21
 - restraint of trade, § 32:21
 - trade secret, § 32:17
- Evidence at trial, § 32:24.51
- Pleadings, § 32:24.50
- Relationship of breach of confidence and fiduciary duty, § 32:3
- Remedies
 - generally, § 32:24
 - account of profits, § 32:28
 - constructive trust, § 32:30
 - damages, § 32:27
 - destruction under oath or delivery up, § 32:29
 - injunctions at trial, § 32:26
 - interlocutory injunctions, § 32:25
- Third party recipients, § 32:13
- Trade secrets, criminal offence, § 32:34
- Unauthorized detrimental use of information, § 32:12

BROADCASTERS' RIGHTS

- Broadcasters' exceptions from infringement, § 15:10
- Definitions, § 15:1
- History of protection, § 15:2
- National treatment, § 15:7
- Nature of right
 - generally, § 15:3 to § 15:6
 - fixation and reproduction, § 15:4
 - retransmission by another broadcaster, § 15:5
 - television communication signals, § 15:6
- Ownership, § 15:8
- Term of protection, § 15:9

CANADA-UNITED STATES-MEXICO AGREEMENT (CUSMA)

- Cultural exception, § 30:125
- Dispute settlement, § 30:126
- History, § 30:116
- National treatment, § 30:117
- Potential changes
 - generally, § 30:118
 - border measures, special requirements, § 30:124
 - copyright safe harbours, § 30:120
 - copyright term of protection, § 30:119
 - enforcement of trade secrets, § 30:123
 - Rights Management Information (RMI), § 30:121
- Ratification, § 30:127

CANADIAN COPYRIGHT LEGISLATION

- Budget Implementation Act, 2018, § 3:72
- Canadian legislative reform, see CANADIAN LEGISLATIVE REFORM
- Copyright Act, statutory review of, § 3:73
- History of Canadian copyright legislation
 - generally, § 3:1 to § 3:5
 - British Copyright Act, 1911, § 3:4
 - British copyright legislation in force in Canada prior to 1924, § 3:3
 - Canadian Copyright Act, 1921, § 3:5
 - Canadian Copyright Act in force prior to 1924, § 3:2
 - 1832 to 1875, § 3:1
- Online News Act, § 3:77

CANADIAN LEGISLATIVE REFORM

- See also CANADIAN COPYRIGHT LEGISLATION
- Generally, § 3:6 to § 3:75
- Act to Amend the Copyright Act
 - generally, § 3:37
 - access for research and education, § 3:40
 - internet service providers, § 3:41
 - photographs, § 3:42
 - private use exceptions, § 3:38
 - WIPO treaties issues, § 3:39
- Act to Amend the Copyright Act (1997), § 3:25
- Act to Amend the Copyright Act (2002), § 3:28
- Act to Amend the Criminal Code, § 3:36
- Act to Establish the Library and Archives of Canada and to Amend the Copyright Act, § 3:29
- Artificial intelligence, consultations on, § 3:78
- Artist's resale rights, § 3:79
- 1988 amendments, § 3:8
- Budget Implementation Act, 2018, § 3:72
- Canada-United States Free Trade Agreement, § 3:9
- Canada-United States-Mexico Agreement Implementation Act, § 3:75
- Canadian Heritage, standing committee, report of, § 3:74
- Charter of Rights for Creators, § 3:7
- Combating Counterfeit Products Act, see COMBATING COUNTERFEIT PRODUCTS ACT
- Copyright Act, statutory review of, § 3:73
- Copyright Modernization Act, see COPYRIGHT MODERNIZATION ACT
- Economic Action Plan 2015 Act, No. 1, § 3:70
- Final Report of the Information Highway Advisory Council
 - generally, § 3:14 to § 3:24
 - administration, § 3:22
 - browsing, § 3:17
 - bulletin board system operator liability, § 3:24
 - categories of works, § 3:15
 - Crown copyright, § 3:20
 - distribution right/ownership, § 3:21
 - fair dealing, § 3:18

CANADIAN LEGISLATIVE REFORM

—Cont'd

- Final Report of the Information Highway Advisory Council—Cont'd
 - moral rights, § 3:19
 - public education, § 3:23
 - use of works, § 3:16
- Framework for Copyright Reform, § 3:26
- Government statement on proposals for copyright reform
 - generally, § 3:31 to § 3:35
 - educational and research access issues, § 3:34
 - internet service provider liability, § 3:33
 - photography issues, § 3:35
 - WIPO treaties issues, § 3:32
- Intellectual Property Law Improvement Act, § 3:10
- Interim Report on Copyright Reform, § 3:30
- North American Free Trade Agreement, § 3:12
- Online Streaming Act, § 3:75
- Prior to 1985, § 3:6
- Report on the Provisions and the Operation of the Copyright Act, § 3:27
- Right to Repair Policy, § 3:80
- SOCAN amendment, § 3:11
- Support for Canadians with Print Disabilities Act, § 3:71
- World Trade Organization Agreement Implementation Act, § 3:13

CINEMATOGRAPHIC WORKS

- Cinematographic rights, § 11:2
- Definitions, § 11:1
- Fixation, § 11:4
- History of protection, § 11:3
- Maker, § 11:7
- Originality, § 11:6
- Publication, § 11:5
- Term of protection, § 11:8
- What is protected as cinematographic work
 - generally, § 11:9 to § 11:11
 - compilations, § 11:11
 - films, § 11:9
 - video tapes, § 11:10

**CIVIL REMEDIES FOR
INFRINGEMENT OF COPYRIGHT**

- Account of profits, § 24:88
- Anton Piller orders, see ANTON PILLER ORDERS
- Costs, § 24:94
- Damages, see DAMAGES
- Declaratory relief, § 24:73
- Delivery up, § 24:93
- Discovery, § 24:52, § 24:53
 - discovery, Norwich Orders, § 24:53
- Evidence at trial, see EVIDENCE AT TRIAL
- Interlocutory injunctions, see INTER-LOCUTORY INJUNCTIONS
- Introduction, § 24:2
- Jurisdiction, § 24:3
- Limitation period for civil remedies, § 24:4
- Norwich Orders, equitable discovery, § 24:53
- Parties, see PARTIES
- Permanent injunction, see PERMANENT INJUNCTION
- Pleadings, see PLEADINGS
- Presumptions, see PRESUMPTIONS
- Recovery of possession, see RECOVERY OF POSSESSION
- Rights management information, see RIGHTS MANAGEMENT INFORMATION
- Seizure of imported copies, see SEIZURE OF IMPORTED COPIES
- Statutory damages, see STATUTORY DAMAGES
- Statutory provisions, § 24:1
- Summary proceedings, see SUMMARY PROCEEDINGS
- Technological protection measures, see TECHNOLOGICAL PROTECTION MEASURES

**COLLECTIVE ADMINISTRATION —
PERFORMING RIGHTS AND
COMMUNICATION RIGHTS**

- Consideration and approval of proposed tariffs, § 27:7 to § 27:9
 - after April 1, 2019, § 27:8
 - before April 1, 2019, § 27:7
- equitable remuneration for performers and makers of sound recordings, § 27:9

**COLLECTIVE ADMINISTRATION —
PERFORMING RIGHTS AND
COMMUNICATION RIGHTS**

—Cont'd

- Effect of fixing royalties, § 27:10
- Filing of proposed tariffs, § 27:5, § 27:6
 - after April 1, 2019, § 27:6
 - before April 1, 2019, § 27:5
- History, § 27:1
- Radio performances in places other than theatres, § 27:11 to § 27:13
 - amount of royalties, § 27:13
 - exception, § 27:12
 - history, § 27:11
- SOCAN, § 27:2
- Statutory definitions, § 27:3, § 27:4
 - after April 1, 2019, § 27:4
 - before April 1, 2019, § 27:3

**COLLECTIVE ADMINISTRATION —
RIGHTS UNDER SECTIONS 3, 15,
18 AND 21**

- Arbitration, § 28:5
- Current section 70.1 collective societies, § 28:4
- Definitions, § 28:2, § 28:3
 - after April 1, 2019, § 28:3
 - before April 1, 2019, § 28:2
- Examination of agreements, § 28:9
- Filing of proposed tariffs, § 28:6, § 28:7
 - after April 1, 2019, § 28:7
 - before April 1, 2019, § 28:6
- Fixing royalties, effect of, § 28:8
- History, § 28:1

**COMBATING COUNTERFEIT
PRODUCTS ACT**

- See also CANADIAN LEGISLATIVE REFORM
- Generally, § 3:63 to § 3:69
- Border enforcement measures, § 24:111
- Criminal offences, § 3:65
- Criminal remedies, § 25:1
- Detaining goods at rights owner's expense, § 3:69
- Measures relating to detained copies, § 3:68
- New civil cause of action, § 3:64
- Prohibition on importation or exportation, § 3:66
- Request for assistance, § 3:67
- Secondary infringement, § 22:1, § 22:2

COMPILATIONS OF LITERARY WORKS

- See also LITERARY WORKS
- Generally, § 7:13
- Abridgements, § 7:24
- Advertisements, § 7:18
- Anthologies and selections, § 7:23
- Directories, § 7:19
- Extent of protection in compilations, § 7:28
- Law reports, § 7:25
- New editions, § 7:22
- Originality, § 7:14
- Originality of parts immaterial, § 7:15
- Other examples, § 7:27
- Partial copyright, § 7:16
- Rules of game, § 7:21
- Selection or arrangement of data, § 7:26
- Tables, § 7:20
- Trade catalogues, § 7:17

COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR TRANS-PACIFIC PARTNERSHIP (CPTPP)

- Enforcement, § 30:113
- History, § 30:111
- Key provisions, § 30:112
- Ratification, § 30:114

COMPUTER PROGRAMS

- See also LITERARY WORKS
- 1988 amendments, § 7:33
 - exemptions from infringement, § 7:36
 - reference to U.S. decisions, § 7:34
 - statutory definition, § 7:35
- Before June 8, 1988, § 7:32
- Copyright Modernization Act, § 7:37
- Protected technology
 - generally, § 7:38 to § 7:43
 - Integrated Circuit Topography Act, § 7:43
 - “look and feel” of computer program, § 7:39
 - metatags, § 7:41
 - programs, § 7:38
 - user interfaces, § 7:40
 - video games and other audio-visual works, § 7:42

COMPUTER PROGRAMS — INFRINGEMENT

- See also LITERARY WORKS AND COMPILATIONS — INFRINGEMENT
- Generally, § 21:23 to § 21:31
- American approach, § 21:24
- Canadian cases, § 21:26
- Conclusion, § 21:27
- Related computer issues, § 21:28
 - browsing, § 21:30
 - reading of program into memory of computer, § 21:29
 - reverse engineering of computer program, § 21:31
- United Kingdom cases, § 21:25

CONTRACTS OF SERVICE

- See also OWNERSHIP OF COPYRIGHT
- Generally, § 17:31 to § 17:38
- Absence of agreement to contrary, § 17:37
- Articles or other contributions to newspaper, magazine, or similar periodical, § 17:38
- Employment under contract of service or apprenticeship, § 17:32
 - control test, § 17:33
 - economic reality test, § 17:35
 - organization or integration test, § 17:34
- Statutory provision, § 17:31
- Work must be made in course of employment, § 17:36

COPYRIGHT, DEFINITION AND NATURE OF

- Copyright and other intellectual property rights
 - generally, § 1:3 to § 1:5
 - industrial designs, § 1:4
 - patents, § 1:3
 - trade marks, § 1:5
- Copyright requires no formalities, § 1:7
- Definition of copyright, § 1:1
- Interpretation of Act, § 1:8
- No copyright in future works, § 1:6
- Theories of ownership of copyright, § 1:2

COPYRIGHT ACT — INTERNATIONAL ASPECTS

- See also INTERNATIONAL COPYRIGHT

COPYRIGHT ACT —**INTERNATIONAL ASPECTS****—Cont'd**

- Generally, § 30:116 to § 30:127
- Acquisition of copyright, § 30:116
- Extension of Act to foreign countries, § 30:118
- Performers' rights, § 30:127
- Photographs, § 30:126
- Private copying, § 30:140
- Protection of works on adherence, § 30:117
- Reciprocity, § 30:139
- Rights of broadcasters, § 30:138
- Right to equitable remuneration, § 30:137
- Sound recordings, § 30:136
- Works of joint authorship, § 30:125

COPYRIGHT BOARD

- Filing tariffs after reform of board
 - generally, § 26:16 to § 26:22
 - objections, § 26:19
 - permitted acts and enforcement, § 26:22
 - proposed tariffs, § 26:17
 - publication and notification, § 26:18
 - publication of approved tariff, § 26:21
 - scope, § 26:16
 - withdrawal or amendment of proposed tariff, § 26:20
- History, § 26:1
- Judicial review, § 26:15
- Jurisdiction
 - generally, § 26:2 to § 26:9
 - compensation for acts done before recognition of copyright, § 26:8
 - copyright under sections 3, 15, 18 and 21, § 26:5
 - owners of copyright who cannot be found, § 26:7
 - performing rights and communication to public by telecommunication, § 26:3
 - private copying, § 26:6
 - radio performances in places other than theatres, § 26:9
 - retransmitters and educational institutions, § 26:4
- Make up of Copyright Board, § 26:10
- Powers of Copyright Board
 - generally, § 26:11

COPYRIGHT BOARD—Cont'd

- Powers of Copyright Board—Cont'd
 - increased powers after April 1, 2019, § 26:12 to § 26:14
 - case management, § 26:14
 - increased scope for regulations, § 26:12
 - mandate to establish fair and equitable royalties, § 26:13
 - rules of practice and procedure, § 26:11.10
- Status of the Artist Act, § 26:23

COPYRIGHT — HISTORICAL INTRODUCTION

- Abolition of Star Chamber, § 2:8
- Middle Ages, § 2:2
- Prerogative grants, § 2:5
- Printing, § 2:3, § 2:4
 - introduction, § 2:3
 - regulation, § 2:4
- Roman Law, § 2:1
- Star Chamber control, § 2:7
- Stationers' Company, § 2:6
- Statutory regulation in United Kingdom
 - generally, § 2:9 to § 2:25
 - battle of booksellers, § 2:12
 - British Copyright Act, 1842, applied to Canada, § 2:25
 - British Copyright Act of 1911, § 2:24
 - Donaldson v. Beckett, § 2:14
 - dramatic works — Bulwer Lytton's Act, § 2:19
 - engravings and prints, § 2:16
 - Fine Arts Copyright Act, 1862, § 2:21
 - first Copyright Act, § 2:11
 - International Copyright Acts, § 2:23
 - introduction, § 2:9
 - Licensing Acts, § 2:10
 - Literary Copyright Act of 1842, § 2:15
 - lithographs, § 2:17
 - Millar v. Taylor, § 2:13
 - musical works, § 2:20
 - Royal Commission Report of 1878, § 2:22
 - sculpture, § 2:18

COPYRIGHT MODERNIZATION ACT
See also CANADIAN LEGISLATIVE REFORM

- Generally, § 3:44 to § 3:62
- Civil remedies, § 24:80

COPYRIGHT MODERNIZATION ACT

—Cont'd

- Computer programs, § 7:37, § 23:29 to § 23:31
- Distribution right, § 3:44
- Educational institutions, § 23:17 to § 23:24
- Exceptions
 - backup copies, § 3:52
 - computer programs, § 3:55
 - educational institutions, § 3:53
 - ephemeral recordings, § 3:57
 - fixing signals and recording programs for later listening or viewing, § 3:51
 - libraries, archives and museums, § 3:54
 - network services, § 3:58
 - non-commercial user-generated content, § 3:49
 - persons with print disabilities, § 3:60
 - reproduction for private purposes, § 3:50
 - temporary reproductions for technological processes, § 3:56
- Fair dealing, § 3:48
- Notice provisions for providers of network services or information location tools, § 3:59
- Ownership of copyright in photographs and portraits and related exception, § 3:45
- Performers' rights, § 13:20
- Performer's rights and sound recordings, § 3:46
- Photographs, § 17:15
- Secondary infringement, § 3:47
- Sound recordings, § 14:5
- Statutory damages, § 3:61
- Technological protection measures and rights management information, § 3:62

CRIMINAL REMEDIES FOR INFRINGEMENT OF COPYRIGHT

- Generally, § 25:2 to § 25:5
- Criminal Code, § 25:12
- History, § 25:2
- Infringing copies, § 25:4
- Intentional element, § 25:3
- Perform in public, § 25:5
- Section 42 offences
 - generally, § 25:6 to § 25:9

CRIMINAL REMEDIES FOR INFRINGEMENT OF COPYRIGHT

—Cont'd

- Section 42 offences—Cont'd
 - destruction or delivery up, § 25:9
 - evidence at trial, § 25:7
 - penalties, § 25:8
 - proscribed activities, § 25:6
- Section 43 offences, § 25:10, § 25:11
 - improper alterations in dramatic or operatic work or musical composition, § 25:11
 - performance of dramatic or operatic work or musical composition, § 25:10
- Statutory provisions, § 25:1

CROWN COPYRIGHT

- Additional rights, § 18:18
- Crown copyright
 - generally, § 18:10 to § 18:16
 - emanations of Crown, § 18:13
 - law reports, § 18:16
 - “of Her Majesty or any government department,” § 18:12
 - “prepared or published by or under the direction or control....” § 18:11
 - section 12 and Crown prerogative, § 18:14
 - statutes, § 18:15
 - statutory provisions, § 18:10
- Crown immunity, § 18:9
- Crown prerogative
 - generally, § 18:4 to § 18:8
 - authorized versions of Bible, § 18:5
 - duration, § 18:8
 - law reports, § 18:7
 - nature of concept, § 18:4
 - statutes, § 18:6
- Definitions, § 18:2, § 18:3
 - “any government department,” § 18:3
 - Crown and her majesty, § 18:2
- Federal policy relating to Crown copyright, § 18:17
- Reform, § 18:19
- Statutory provisions, § 18:1

DAMAGES

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:74, 24:75
- Nominal damages, § 24:76

INDEX

DAMAGES—Cont'd

Punitive or exemplary damages, § 24:77

DELIVERY OF PUBLICATIONS UNDER LIBRARY AND ARCHIVES OF CANADA ACT

History, § 34:1

Offence, § 34:3

Required deposit, § 34:2

DEVOLUTION

Generally, § 19:14

DRAMATIC WORKS

Cinematographic works, § 8:20

Definitions, § 8:1

Fixation, § 8:4

History of protection, § 8:3

Publication, § 8:5

Rights associated with dramatic work,
§ 8:2

Right to perform work in public, § 8:6

What is protected as dramatic work

generally, § 8:7 to § 8:19

adaptations, § 8:19

characters, § 8:12

choreographic works, § 8:15

comic business, § 8:10

compilations of dramatic works, § 8:17

dramatic character, § 8:7

formats, § 8:11

mime, § 8:16

piece for recitation, § 8:14

plot or plan of work, § 8:13

scenic effects, § 8:9

songs as dramatic work, § 8:18

sporting events, § 8:8

DRAMATIC WORKS — INFRINGEMENT

See also INFRINGEMENT OF COPY-
RIGHT

Generally, § 21:32, § 21:33

Generally considerations, § 21:32

Use of common stock incidents, § 21:33

EVIDENCE AT TRIAL

See also CIVIL REMEDIES FOR
INFRINGEMENT OF COPYRIGHT

Generally, § 24:54

Breach of confidence, § 32:24.51

Certificate of registration as evidence,
§ 24:58

EVIDENCE AT TRIAL—Cont'd

Evidence of copying, § 24:55

Expert evidence, § 24:57

Production and inspection at trial, § 24:59

Similarities, errors and omissions, § 24:56

EXCEPTIONS

Backup copies, § 23:15, § 23:16

activities subject to exception, § 23:16

statutory provisions, § 23:15

Canadian Charter of Rights and

Freedoms, § 23:62

Computer programs

generally, § 23:29 to § 23:31

activities subject to exceptions after

Copyright Modernization Act,
§ 23:31

activities subject to exceptions prior to

Copyright Modernization Act,
§ 23:30

statutory provisions, § 23:29

Educational institutions

generally, § 23:17 to § 23:24

activities subject to exceptions after

Copyright Modernization Act,
§ 23:20

activities subject to exceptions prior to

Copyright Modernization Act,
§ 23:19

digital reproduction of certain works,

§ 23:22

lessons, § 23:21

literary collections, § 23:24

statutory provisions prior to Copyright
Modernization Act, § 23:17

statutory provisions under Copyright
Modernization Act, § 23:18

works publically available through

Internet, § 23:23

Ephemeral recordings, § 23:36, § 23:37

activities subject to exception, § 23:37

statutory provision, § 23:36

Fair dealing, see FAIR DEALING

Fixing signals and recording programs for
later listening or viewing, § 23:13,

§ 23:14

activities subject to exception, § 23:14

statutory provisions, § 23:13

Incidental inclusion of work in another

work, § 23:32, § 23:33

activities subject to exception, § 23:33

statutory provision, § 23:32

EXCEPTIONS—Cont'd

- Information location tools, § 23:44,
§ 23:45
 - activities subject to section 41.27,
§ 23:45
 - statutory provisions, § 23:44
- Introduction, § 23:1
- Libraries, archives and museums, § 23:25,
§ 23:26
 - activities subject to exceptions, § 23:26
 - statutory provisions, § 23:25
- Machines installed in educational institu-
tions, libraries, archives and
museums, § 23:27, § 23:28
 - activities subject to exception, § 23:28
 - statutory provision, § 23:27
- Miscellaneous
 - generally, § 23:52 to § 23:61
 - architectural works and sculptures or
works of artistic craftsmanship
situated in public places, § 23:54
 - artistic works, § 23:53
 - commissioned photographs or portraits,
§ 23:58
 - equitable remuneration, § 23:61
 - newspaper report of public lecture,
§ 23:55
 - performance at agricultural fairs,
§ 23:59
 - performance by religious, educational,
charitable or fraternal bodies,
§ 23:60
 - public recitation of extracts, § 23:56
 - report of address of political nature
given at public meeting, § 23:57
 - statutory provisions, § 23:52
- Network services, § 23:42, § 23:43
 - activities subject to exceptions, § 23:43
 - statutory provisions, § 23:42
- Non-commercial user-generated content,
§ 23:9, § 23:10
 - activities subject to exception after
June 22, 2016, 23:50
 - activities subject to exception before
June 22, 2016, § 23:49
 - statutory provisions, § 23:9
- Notice of claimed infringement, § 23:46,
§ 23:47
 - activities subject to section 41.25,
§ 23:47
 - statutory provisions, § 23:46

EXCEPTIONS—Cont'd

- Persons with perceptual disabilities,
§ 23:48 to § 23:50
 - activities subject to exception, § 23:49
 - statutory provision, § 23:48
- Pre-recorded recordings, § 23:38, § 23:39
 - activities subject to exception, § 23:39
 - statutory provision, § 23:38
- Reproduction for private purposes,
§ 23:11, § 23:12
 - activities subject to exception, § 23:12
 - statutory provisions, § 23:11
- Retransmission, § 23:40, § 23:41
 - activities subject to exception
prior to Online Streaming Act,
§ 23:41
 - under the Online Streaming Act,
§ 23:41.50
 - statutory provision, § 23:40
- Statutory obligations, § 23:51
 - statutory provision, § 23:51
- Temporary reproductions for technologi-
cal processes, § 23:34, § 23:35
 - activities subject to exception, § 23:35
 - statutory provision, § 23:34

FAIR DEALING

- See also EXCEPTIONS
- Generally, § 23:2 to § 23:8
- Criticism or review, § 23:7
- Education, § 23:5
- Meaning of “fair dealing,” § 23:3
- News reporting, § 23:8
- Parody or satire, § 23:6
- Research or private study, § 23:4
- Statutory provisions, § 23:2

GENEVA CONVENTION

- See also INTERNATIONAL COPY-
RIGHT
- Generally, § 30:39 to § 30:45
- Basic protection, § 30:40
- Contracting states, § 30:45
- Exceptions, § 30:44
- Formalities, § 30:43
- History, § 30:39
- Implementation, § 30:41
- Minimum term of protection, § 30:42

IMPROPER PUBLICATION

- Generally, § 6:6 to § 6:9
- Lectures, § 6:9

IMPROPER PUBLICATION—Cont'd

- Letters, § 6:6
- Photographs, § 6:7, § 6:8
 - privacy rights, § 6:7
 - publicity rights, § 6:8

INDUSTRIAL DESIGN

- Action for infringement, see INDUSTRIAL DESIGN — ACTION FOR INFRINGEMENT
- Amendment of register
 - generally, § 31:57 to § 31:61
 - burden of proof, § 31:61
 - expungement, § 31:58 to § 31:61
 - jurisdiction, § 31:58
 - “person aggrieved,” § 31:59
 - statutory provisions, § 31:57
 - “without sufficient cause,” § 31:60
- Application and registration
 - generally, § 31:40 to § 31:47
 - applications, § 31:40, § 31:41
 - claiming priority, § 31:42, § 31:43
 - protection of separate features, § 31:44, § 31:45
 - registration, § 31:46, § 31:47
- Economic Action Plan 2015 Act, No. 1, § 31:13
 - United Kingdom, § 31:1
- History, § 31:1 to § 31:14
 - amended regulations, § 31:14
 - Canada, § 31:2
- Implementation of the Hague Agreement
 - generally, § 31:85 to § 31:90
 - duration of the exclusive right, § 31:89
 - examination, § 31:87
 - Hague Registration, § 31:88
 - international applications, § 31:86
 - transfers, corrections, measures, § 31:90
- Industrial Design Act, amendments to
 - generally, § 31:3
 - application, § 31:5
 - novelty, § 31:7
 - power to make regulations, § 31:12
 - priority date, § 31:8
 - register of industrial designs, § 31:4
 - registrability, § 31:6
 - term, § 31:9
 - transfer, § 31:11
 - utilitarian function, § 31:10

INDUSTRIAL DESIGN—Cont'd

- Infringement, see INDUSTRIAL DESIGN — INFRINGEMENT
 - Marking, § 31:36 to § 31:39
 - designs registered after June 9, 1993, § 31:36
 - designs registered before June 9, 1993, § 31:37 to § 31:39
 - Miscellaneous provisions, § 31:82, § 31:83
 - Offences and penalties, § 31:84
 - Originality and novelty
 - generally, § 31:27 to § 31:33
 - combinations, § 31:30
 - nature of concept, § 31:28
 - novelty after November 5, 2018, § 31:33
 - originality is question of fact and evidence, § 31:32
 - statutory provisions, § 31:27
 - time of assessment, § 31:29
 - trade variants, § 31:31
 - Proprietor
 - generally, § 31:48 to § 31:50
 - author, § 31:49
 - designs executed for consideration, § 31:50
 - statutory provision, § 31:48
 - Publication before November 5, 2018, § 31:34, § 31:35
 - meaning of publication, § 31:35
 - statutory provisions, § 31:34
 - Subject-matter, see INDUSTRIAL DESIGN — SUBJECT-MATTER
 - Term, § 31:54 to § 31:56
 - designs applied for and registered after November 5, 2018, § 31:56
 - designs registered after January 1, 1994, § 31:55
 - designs registered before January 1, 1994, § 31:54
 - Transmission, § 31:51 to § 31:53
 - assignment and licence, § 31:51
 - necessity for registration, § 31:52
- INDUSTRIAL DESIGN — ACTION FOR INFRINGEMENT**
- See also INDUSTRIAL DESIGN
 - Generally, § 31:68 to § 31:81
 - Burden of proof, § 31:69
 - Costs, § 31:81

**INDUSTRIAL DESIGN — ACTION
FOR INFRINGEMENT—Cont'd**

- Defences, § 31:76
- Discovery, § 31:79
- Evidence, § 31:71
- Invalidity, § 31:77
- Jurisdiction, § 31:68
- Limitation period, § 31:70
- Particulars, § 31:79
- Power of court to grant relief, § 31:72
 - accounting of profits, § 31:75
 - delivery up, § 31:76
 - injunction, § 31:73
 - measure of damages, § 31:74

**INDUSTRIAL DESIGN —
INFRINGEMENT**

- See also INDUSTRIAL DESIGN
- Generally, § 31:62 to § 31:67
- Activities, § 31:63
- Article in respect of which design is registered, § 31:64
- Intention, § 31:66
- Question of fact and evidence, § 31:67
- Statutory provisions, § 31:62
- Whether a design not differing substantially from the design has been applied, § 31:65

**INDUSTRIAL DESIGN —
SUBJECT-MATTER**

- See also INDUSTRIAL DESIGN
- Generally, § 31:15 to § 31:26
- Appeal to and judged solely by eye, § 31:19
- Colour, § 31:22
- Definition of design, § 31:15
- Features applied to useful article dictated solely by utilitarian function, § 31:20
- Finished article, § 31:18
- Industrial designs and other intellectual property rights, § 31:24 to § 31:26
 - copyright, § 31:24
 - patents, § 31:25
 - trade marks, § 31:26
- Method or principle of manufacture or construction, § 31:21
- Pattern or ornament, § 31:17
- Sets and kits, § 31:23
- Shape and configuration, § 31:16

INFRINGEMENT OF COPYRIGHT

- Generally, § 21:1 to § 21:6
- Artistic works, see ARTISTIC WORKS — INFRINGEMENT
- Authorizing infringement, § 21:67 to § 21:69
 - general, § 21:67
 - history, § 21:68
 - meaning of “to authorize,” § 21:69
- Concept, § 21:2
- Consent or licence, § 21:5
- Dramatic works, see DRAMATIC WORKS — INFRINGEMENT
- Ideas, § 21:4
- Infringement by agents, employees and independent contractors, § 21:70
- Innocent infringement, § 21:3
- Literary works and compilations, see LITERARY WORKS AND COMPILATIONS — INFRINGEMENT
- Musical works, see MUSICAL WORKS — INFRINGEMENT
- Performers' performances, sound recordings and communication signals, § 21:66
- Right to communicate work to public by telecommunication, see RIGHT TO COMMUNICATE WORK TO PUBLIC BY TELECOMMUNICATION — INFRINGEMENT
- Right to convert dramatic work, § 21:46
- Right to convert non-dramatic work, § 21:47
- Right to make recordings, § 21:48
- Right to perform work in public, see RIGHT TO PERFORM WORK IN PUBLIC — INFRINGEMENT
- Right to present artistic work in public, § 21:60
- Right to present work as cinematographic work, § 21:49
- Right to produce or reproduce work, see RIGHT TO PRODUCE OR REPRODUCE WORK — INFRINGEMENT
- Right to rent computer programs, § 21:61 to § 21:63
 - commercial rentals, § 21:63
 - extent of right, § 21:62
 - nature of right, § 21:61
- Right to rent sound recordings of musical works, § 21:64

INFRINGEMENT OF COPYRIGHT**—Cont'd**

- Right to repair, § 21:6
- Right to sell or otherwise transfer ownership of tangible object, § 21:65
- Right to translate work, § 21:45
- Statutory provisions, § 21:1
- Unauthorized publication of unpublished works, § 21:44

INTERLOCUTORY INJUNCTIONS

See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT

- Generally, § 24:29
- Clear violation of copyright, § 24:36
- Delay, § 24:35
- Discretionary remedy, § 24:30
- Irreparable harm, balance of convenience and status quo, § 24:33
- Serious question to be tried, § 24:32
- Threshold test, § 24:31

INTERNATIONAL COPYRIGHT

- Anti-Counterfeiting Trade Agreement, see ANTI-COUNTERFEITING TRADE AGREEMENT
- Berne Convention, § 30:2
- Geneva Convention, see GENEVA CONVENTION
- Implementation of convention obligations, § 30:111 to § 30:115
- International aspects of Canadian Copyright Act, see COPYRIGHT ACT — INTERNATIONAL ASPECTS
- Introduction, § 30:1
- Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled, § 30:103 to § 30:110
 - beneficiaries of the treaty provisions, § 30:104
 - contracting parties, § 30:110
 - cooperation to facilitate cross-border exchange, § 30:106
 - entry into force of the treaty, § 30:109
 - history, § 30:103
 - importation of accessible format copies, § 30:107
 - national law limitation and exception regarding accessible format copies, § 30:105

INTERNATIONAL COPYRIGHT**—Cont'd**

- Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled, § 30:103 to § 30:110
 - Cont'd
 - obligations relating to limitations and exceptions, § 30:108
 - North American Free Trade Agreement, see NORTH AMERICAN FREE TRADE AGREEMENT
 - Paris Revision of Berne Convention, see PARIS REVISION OF BERNE CONVENTION
 - Protection of British Dominion works in Canada, § 30:4, § 30:5
 - prior to 1924, § 30:4
 - subsequent to 1924, § 30:5
 - Protection of foreign works in Canada prior to 1924, § 30:3
 - Rome Convention, see ROME CONVENTION
 - TRIPs (Agreement on Trade Related Aspects of Intellectual Property Rights), see TRIPs (AGREEMENT ON TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS)
 - Universal Copyright Convention, see UNIVERSAL COPYRIGHT CONVENTION
 - WIPO Beijing Treaty on Audiovisual Performances, see WIPO BEIJING TREATY ON AUDIOVISUAL PERFORMANCES
 - WIPO Copyright Treaty, see WIPO COPYRIGHT TREATY
 - WIPO Performances and Phonograms Treaty, see WIPO PERFORMANCES AND PHONOGRAMS TREATY
- JOINT AUTHORSHIP**
- See also OWNERSHIP OF COPYRIGHT
- Generally, § 17:8 to § 17:12
 - Collaboration, § 17:10
 - Definition, § 17:8
 - Distinguished from collective works, § 17:9
 - Nature of contribution, § 17:11
 - Nature of joint authors' interest, § 17:12

LICENCES

- Generally, § 19:19 to § 19:23
- Assignment and revocation, § 19:23
- Exclusive licences, § 19:20
- Implied licences, § 19:22
- Licences by operation of law, § 19:26 to § 19:29
 - after death of author, § 19:26
 - books, § 19:29
 - for failure to republish, § 19:28
 - owners who cannot be located, § 19:27
- Non-proprietary licences, § 19:21
- Proprietary licences, § 19:19
- Registration of assignments and licences, § 19:25

LITERARY WORKS

- Books, § 7:9
- Collective works, § 7:12
- Compilations of literary works, see COMPILATIONS OF LITERARY WORKS
- Computer programs, see COMPUTER PROGRAMS
- Definitions, § 7:1
- Lectures, § 7:10
- Letters, § 7:31
- Literary character, § 7:4
- Literary merit, § 7:3
- Maps, charts and plans, § 7:11
- Originality, § 7:8
- Permanent character, § 7:5 to § 7:7
 - fixation, § 7:5
 - no copyright in news, § 7:6
 - no copyright in prospective works, § 7:7
- Rights associated with literary work, § 7:2
- Titles of works, § 7:30
- Translations, § 7:29

LITERARY WORKS AND COMPILATIONS — INFRINGEMENT

- See also INFRINGEMENT OF COPYRIGHT
- Generally, § 21:17 to § 21:31
- Generally considerations, § 21:17
- Anthologies, § 21:22
- Common sources, § 21:20
- Computer programs, see COMPUTER PROGRAMS — INFRINGEMENT

LITERARY WORKS AND COMPILATIONS — INFRINGEMENT—Cont'd

- Explanation of similarities, § 21:21
- Fair use of earlier works, § 21:18
- Use of material from previous works, § 21:19

MORAL RIGHTS

- Assignment and waiver, § 12:8
- Constitutionality, § 12:10
- Definitions, § 12:1
- False attribution of works to author, § 12:12
- History of protection, § 12:9
- Infringement, § 12:7
- Nature of right, § 12:2
 - right to be associated with work or to remain anonymous, § 12:4
 - right to integrity of work, § 12:3
 - transitional provisions, § 12:6
 - works of joint authorship, § 12:5
- Term of protection, § 12:11

MUSICAL WORKS

- Definitions, § 9:1
- Fixation, § 9:4
- History of protection, § 9:3
- Originality, § 9:7
- Publication, § 9:5
- Rights associated with musical work, § 9:2
- Right to perform work in public, § 9:6
- What is protected as musical work, § 9:8 to § 9:10
 - adaptations and arrangements, § 9:8
 - compilations, § 9:10
 - songs, § 9:9

MUSICAL WORKS — INFRINGEMENT

- See also INFRINGEMENT OF COPYRIGHT
- Generally, § 21:34 to § 21:37
- Generally considerations, § 21:34
- Arrangements and adaptations, § 21:36
- Common sources, § 21:37
- Producing or reproducing substantial part of work, § 21:35

NORTH AMERICAN FREE TRADE AGREEMENT

See also INTERNATIONAL COPY-RIGHT

- Generally, § 30:46 to § 30:53
- Basic protection, § 30:48
- Cultural industries exemption, § 30:52
- Dispute settlement provisions, § 30:53
- Enforcement of rights, § 30:51
- History, § 30:46
- National treatment, § 30:47
- Sound recordings, § 30:50
- Term of protection, § 30:49

OWNERSHIP OF COPYRIGHT

- Authorship, see AUTHORSHIP
- Contracts of service, see CONTRACTS OF SERVICE
- Corporations, § 17:30
- Division of ownership on assignment, § 17:13
- Presumptions as to ownership, § 17:39
- Special classes of works, see SPECIAL CLASSES OF WORKS
- Works of joint authorship, see JOINT AUTHORSHIP

PARIS REVISION OF BERNE CONVENTION

- See also INTERNATIONAL COPY-RIGHT
- Generally, § 30:6 to § 30:21
- Berne Union, § 30:7
- Connecting factors or points of attachment, § 30:13
- Country of origin, § 30:11
- Disputes and reprisals, § 30:18
- Economic rights, § 30:17
- Fundamental principles, § 30:8
 - automatic and independent protection, § 30:10
 - national treatment, § 30:9
- Future amendments, § 30:20
- Members of Union, § 30:21
- Moral rights, § 30:16
- Protected works, § 30:12
- Publication, § 30:14
- Stockholm Protocol and Paris Appendix, § 30:19
- Term of protection, § 30:15

PARTIES

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:5 to § 24:20.50
- Author, § 24:9
- Class actions, § 24:20.50
- Directors and officers, § 24:14 to § 24:19
 - imposition of liability, § 24:14
 - matters considered by courts, § 24:15
 - pleadings, § 24:19
- Joinder, § 24:20
- Owner of copyright, § 24:6
- Persons deriving rights from owner, § 24:10
 - assignees, § 24:12
 - proprietary licences, § 24:11
- Potential defendants, § 24:13
- Statutory provisions, § 24:5
- Works of joint authorship, § 24:7

PERFORMANCES, SOUND RECORDINGS AND COMMUNICATION SIGNALS

- Generally, § 19:24
- Infringement, § 21:66
- Term of copyright, § 16:9

PERFORMERS' RIGHTS

- Canada or Rome Convention countries, § 13:3 to § 13:9
 - Copyright Act, § 13:3
 - limitations of right, § 13:6
 - ownership and assignment of rights, § 13:9
 - performer's performance fixed, § 13:5
 - performer's performance not fixed, § 13:4
 - points of attachment or connecting factors, § 13:7
 - term of protection, § 13:8
- Constitutionality, § 13:25
- Definitions, § 13:1
- Fixation, § 13:26
- History of protection, § 13:24
- Nature of rights, § 13:3 to § 13:23
- Performer, § 13:2
- Performers' rights and rights under Part I of Act, § 13:23
- Performer's rights — Canada or WPPT country
 - generally, § 13:10 to § 13:17

PERFORMERS' RIGHTS—Cont'd

- Performer's rights — Canada or WPPT country—Cont'd
- Copyright Act, § 13:10
- making sound recording available to public by telecommunication, § 13:14
- performer's moral rights, § 13:17
- performer's performance fixed in sound recording, to reproduce that fixation, § 13:12
- performer's performance not fixed, § 13:11
- points of attachment or connecting factors, § 13:16
- to rent out sound recording of performer's performance, § 13:13
- to sell or otherwise transfer ownership of sound recording that is tangible object, § 13:15
- Performers' rights — WTO countries, § 13:18
- Right to equitable remuneration
 - generally, § 13:19 to § 13:22
 - amount of royalty, § 13:22
 - nature of right, § 13:19
 - points of attachment or connecting factors, § 13:21
 - under Copyright Modernization Act, § 13:20

PERMANENT INJUNCTION

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:64
- Breach of injunction, § 24:72
- Construction of building or other structure, § 24:69
- Delay or acquiescence, § 24:66
- Entitlement, § 24:65
- Immoral or illegal works, § 24:68
- Non-parties, § 24:70
- Partial infringement, § 24:67
- Wide injunction, § 24:71

PHOTOGRAPHS

- See also SPECIAL CLASSES OF WORKS
- Generally, § 17:14 to § 17:23
- Author of work, § 17:18

PHOTOGRAPHS—Cont'd

- Changes affecting photographs under Copyright Modernization Act, § 17:15
- transitional provisions, § 17:16
- Contracts of service, § 17:23
- History, § 17:17
- Photographs ordered for valuable consideration, § 17:19
- agreement to contrary, § 17:22
- order, § 17:20
- valuable consideration, § 17:21
- Statutory provisions, § 17:14

PLEADINGS

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:21 to § 24:28
- Confidentiality, protective and hybrid orders, § 24:28
- Estoppel and no challenge clauses, § 24:27
- Notice of infringement or demand, § 24:21
- Particulars, § 24:26
- Statement of claim, § 24:22
- Statement of defence, § 24:23 to § 24:25
- breach of Competition Act, § 24:25
- general, § 24:23
- ignorance or good faith, § 24:24

PRESUMPTIONS

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:60
- Author, performer, maker or broadcaster, § 24:63
- Ownership of copyright, § 24:62
- Subsistence of copyright, § 24:61

PUBLICATION

- Generally, § 6:1 to § 6:5
- Acts not constituting publication, § 6:4
- Making copies available to public, § 6:3
- Meaning of publication, § 6:2
- Significance of publication, § 6:1
- Simultaneous publication, § 6:5

RECOVERY OF POSSESSION

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:89 to § 24:92

RECOVERY OF POSSESSION—Cont'd

- Disposition of recovered copies and plates, § 24:92
- History, § 24:90
- Recovery of possession, § 24:91
- Statutory provisions, § 24:89

REGISTRATION OF COPYRIGHT

- Admissibility of copies, § 20:4
- Applications for registration, § 20:9
- Automatic protection, § 20:2
- Certificate of registration as evidence, § 20:5
- Certificate of registration as notice, § 20:6
- Notice of assignment or licence, § 20:7
- Rectification of register, § 20:10, § 20:11
- “any interested person,” § 20:11
- jurisdiction, § 20:10
- Statutory provisions, § 20:1
- To modify presumptions contained in Act, § 20:8

RIGHTS MANAGEMENT INFORMATION

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- Generally, § 24:95 to § 24:107
- Nature of rights relating to rights management information, § 24:104 to § 24:107
- background, § 24:104
- definitions, § 24:105
- prohibitions against removal or alteration, § 24:106
- Statutory provisions, § 24:95 to § 24:98
- offence, § 24:98
- rights management information, § 24:96
- rules relating to proceedings seeking remedies, § 24:97

RIGHT TO COMMUNICATE WORK TO PUBLIC BY TELECOMMUNICATION — INFRINGEMENT

- See also INFRINGEMENT OF COPY-RIGHT
- Generally, § 21:50 to § 21:59
- Making available right, § 21:59
- Nature of right
- generally, § 21:51 to § 21:58

RIGHT TO COMMUNICATE WORK TO PUBLIC BY TELECOMMUNICATION — INFRINGEMENT—Cont'd

- Nature of right—Cont'd
- common carriers, networks and programming undertakings, § 21:54
- communication of musical works to public by telecommunication on Internet, § 21:58
- fixation, § 21:56
- history, § 21:51
- meaning of “to the public,” § 21:53
- place of infringement, § 21:57
- relation to right to perform, § 21:52
- re-transmission, § 21:55
- Statutory provisions, § 21:50

RIGHT TO PERFORM WORK IN PUBLIC — INFRINGEMENT

- See also INFRINGEMENT OF COPY-RIGHT
- Generally, § 21:41 to § 21:43
- In public, § 21:43
- Nature of right, § 21:41
- To perform, § 21:42

RIGHT TO PRODUCE OR REPRODUCE WORK — INFRINGEMENT

- See also INFRINGEMENT OF COPY-RIGHT
- Generally, § 21:7 to § 21:16
- Abridgements, § 21:16
- Burlesque or parody, § 21:15
- Colourable imitation, § 21:12
- Indirect reproduction, § 21:13
- Infringement of right to produce or reproduce, § 21:8
- Nature of right, § 21:7
- Producing or reproducing substantial part of work, § 21:9
- adverse economic impact, § 21:11
- quality and quantity of material taken, § 21:10
- Unconscious reproduction, § 21:14

ROME CONVENTION

- See also INTERNATIONAL COPY-RIGHT
- Generally, § 30:29 to § 30:38

ROME CONVENTION—Cont'd

- Contracting states, § 30:38
- Equitable remuneration, § 30:34
- Exceptions, § 30:36
- Fundamental principle, § 30:30
- History, § 30:29
- Minimum protection for broadcasting organizations, § 30:35
- Minimum protection for performers, § 30:32
- Minimum term of protection, § 30:37
- Reproduction right of producers of phonograms, § 30:33
- Safeguard article, § 30:31

ROYALTIES IN PARTICULAR CASES

- Claims by non-members, § 29:7
- Current section 71 collective societies, § 29:4
- Definitions, § 29:2, § 29:3
 - after April 1, 2019, § 29:3
 - before April 1, 2019, § 29:2
- Filing of proposed tariffs, § 29:5, § 29:6
 - after April 1, 2019, § 29:6
 - before April 1, 2019, § 29:5
- History, § 29:1

SECONDARY INFRINGEMENT OF COPYRIGHT

- Generally, § 22:2 to § 22:13
- Generally prohibition, § 22:2
- By way of trade distribute, expose or offer for sale or rental, or exhibit in public, § 22:8
- Distribution to such extent as to affect prejudicially owner of copyright, § 22:7
- “If it had been made in Canada by the person who made it,” § 22:5
- Importation of infringing works, § 22:10
- Knowledge of infringement, § 22:4
- Parallel importation of books
 - generally, § 22:19 to § 22:23
 - exclusive distributor, § 22:21
 - introduction, § 22:19
 - remedies, § 22:22
 - statutory provisions, § 22:20
 - transitional provisions, § 22:23
- Permitting infringing performances in theatres
 - generally, § 22:14 to § 22:18
 - “for profit,” § 22:16

SECONDARY INFRINGEMENT OF COPYRIGHT—Cont'd

- Permitting infringing performances in theatres—Cont'd
 - nature of right, § 22:14
 - no reasonable ground for suspecting infringement, § 22:17
 - “theatre or other place of entertainment,” § 22:18
 - “to permit,” § 22:15
- Plates specifically designed or adapted for purpose of making infringing copies, § 22:11
- Possession of infringing works, § 22:9
- Proscribed activity must take place in Canada, § 22:3
- Provision of Internet service primarily for purpose of enabling acts of infringement, § 22:13
- Sale or rental of infringing works, § 22:6
- Secondary infringement relating to lesson, § 22:12

SEIZURE OF IMPORTED COPIES

- See also CIVIL REMEDIES FOR INFRINGEMENT OF COPYRIGHT
- 2015 border enforcement measures, see BORDER ENFORCEMENT MEASURES
- 1994 procedures, § 24:109, § 24:110
 - history, § 24:109
 - works, § 24:110
- Section 44 prior to January 1, 2015, § 24:108

SOUND RECORDINGS

- Assignments, § 14:13
- Definitions, § 14:1
- Distinguished from performing right, § 14:7
- Fixation, § 14:8
- History of protection, § 14:6
- Maker, § 14:11
- Nature of rights, § 14:2 to § 14:5
 - copyright in sound recordings after September 1, 1997, § 14:3
 - prior to September 1, 1997, § 14:2
 - right to equitable remuneration after September 1, 1997, § 14:4
 - under the Copyright Modernization Act after August 13, 2014, § 14:5
- Originality, § 14:10

SOUND RECORDINGS—Cont'd

Publication, § 14:9

Term of protection, § 14:12

SPECIAL CLASSES OF WORKS

See also OWNERSHIP OF COPYRIGHT

Generally, § 17:14 to § 17:29

Cinematographic works, § 17:24

Engravings, § 17:25

Other commissioned works, § 17:29

Photographs, see PHOTOGRAPHS

Portraits, § 17:27

Sketches and drawings, § 17:26

Sound recordings, § 17:28

STATUTORY DAMAGESSee also CIVIL REMEDIES FOR
INFRINGEMENT OF COPYRIGHT

Generally, § 24:78

“All works or other subject matter,”
§ 24:83“Each work or other subject matter,”
§ 24:83

Educational institutions, libraries and others, § 24:87

Election, § 24:81

Exceptions, § 24:84

Infringements for commercial purposes,
§ 24:83Infringements for non-commercial
purposes, § 24:85

November 7, 2012, prior to, § 24:79

“One work or other subject-matter,”
§ 24:82

Transitional provisions, 24:86

Under Copyright Modernization Act,
§ 24:80**SUBJECT-MATTER OF COPYRIGHT**Copyright in news — breach of
confidence, § 4:3

Derivative works, § 4:5

Ideas and schemes, § 4:2

Immoral works, § 4:7

obscenity and criminal law, § 4:8

obscenity defence in Canada, § 4:10

obscenity defence in England, § 4:11

obscenity in civil cases, § 4:9

Irreligious works, § 4:13

Originality, § 4:1

Partial copyright, § 4:4

Proper subject-matter, § 4:6

SUBJECT-MATTER OF COPYRIGHT

—Cont'd

Rule as to costs, § 4:14

Works that deceive public, § 4:12

SUBSISTENCE OF COPYRIGHTSee also ACQUISITION OF COPY-
RIGHTFrom January 1, 1994 to January 1, 1996,
§ 5:8From January 1, 1996 to September 1,
1997, § 5:9

Prior to January 1, 1994, § 5:7

Under current Act, § 5:10

SUMMARY PROCEEDINGSSee also CIVIL REMEDIES FOR
INFRINGEMENT OF COPYRIGHT

Generally, § 24:49 to § 24:51

Motions for summary judgment, § 24:49

Summary applications, § 24:50

Summary trial, § 24:51

**TECHNOLOGICAL PROTECTION
MEASURES**See also CIVIL REMEDIES FOR
INFRINGEMENT OF COPYRIGHT

Generally, § 24:95 to § 24:107

Exceptions relating to circumvention of,
§ 24:103Nature of rights, § 24:99 to § 24:102
background, § 24:99

civil prohibitions, § 24:101

criminal prohibition, § 24:102

definitions, § 24:100

Statutory provisions, § 24:95 to § 24:98
offence, § 24:98rules relating to proceedings seeking
remedies, § 24:97technological protection measures,
§ 24:95**TERM OF COPYRIGHT**

Generally term of protection, § 16:2

Abandonment of copyright, § 16:10

Anonymous and pseudonymous works,
§ 16:3

Cinematographic works, § 16:7

Crown copyright, § 16:8

History, § 16:1

Performers' performances, sound record-
ings and communication signals,
§ 16:9

TERM OF COPYRIGHT—Cont'd

- Photographs, § 16:6
- Posthumous works, § 16:4
- Works of joint authorship, § 16:5

TRIPS (AGREEMENT ON TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS)

- See also INTERNATIONAL COPY-RIGHT
- Generally, § 30:54 to § 30:59
- Basic protection, § 30:56
- Contracting states, § 30:59
- Dispute settlement provisions, § 30:58
- History, § 30:54
- National treatment, § 30:55
- Protection of broadcasting organizations, § 30:57
- Protection of performers, § 30:57
- Protection of producers of phonograms, § 30:57

UNIVERSAL COPYRIGHT CONVENTION

- See also INTERNATIONAL COPY-RIGHT
- Generally, § 30:22 to § 30:28
- Canada's ratification, § 30:27
- Contracting states, § 30:28
- Formalities, § 30:24
- History, § 30:22
- Term of protection, § 30:25
- Translations, § 30:26

UNPUBLISHED WORKS

- Generally, § 6:10 to § 6:12
- Common law copyright in unpublished works, § 6:10
- Copyright in unpublished works before January 1, 1924, § 6:11
- Copyright in unpublished works under current Act, § 6:12

WIPO BEIJING TREATY ON AUDIOVISUAL PERFORMANCES

- See also INTERNATIONAL COPY-RIGHT
- Generally, § 30:93 to § 30:102
- Entry into force of treaty, § 30:101
- History, § 30:93
- Limitations and exceptions, § 30:98
- Moral rights, § 30:96

WIPO BEIJING TREATY ON AUDIOVISUAL PERFORMANCES—Cont'd

- Performers' economic rights, § 30:95
- Scope of protection, § 30:94
- Technological measures and rights management information, § 30:100
- Term of protection, § 30:99
- Transfer of rights to producers, § 30:97

WIPO COPYRIGHT TREATY

- See also INTERNATIONAL COPY-RIGHT
- Generally, § 30:60 to § 30:66
- Contracting parties, § 30:66
- History, § 30:60
- Limitations and exceptions, § 30:63
- Other provisions, § 30:65
- Reproduction and storage of works in digital environment, § 30:61
- Technological measures of protection and rights management information, § 30:64
- Transmission of works in digital networks, § 30:62

WIPO PERFORMANCES AND PHONOGRAMS TREATY

- See also INTERNATIONAL COPY-RIGHT
- Generally, § 30:67 to § 30:80
- Contracting parties, § 30:80
- Economic rights of performers, § 30:75
- Eligibility for protection, § 30:73
- Formalities, § 30:79
- History, § 30:67
- Limitations and exceptions, § 30:71
- Moral rights of performers, § 30:74
- Reproduction and storage of performances and phonograms in digital environment, § 30:69
- Rights of producers of phonograms, § 30:76
- Right to remuneration for broadcasting and communication to public, § 30:77
- Scope of protection, § 30:68
- Technological measures of protections and rights management information, § 30:72
- Term of protection, § 30:78

**WIPO PERFORMANCES AND
PHONOGRAMS TREATY—Cont'd**

Transmission of performances and
phonograms in digital networks,
§ 30:70

**WORKS IN EXISTENCE PRIOR TO
JANUARY 1, 1924**

Assigned rights

generally, § 33:26 to § 33:30

collective works, § 33:29

mechanical contrivances, § 33:28

publication in separate form, § 33:30

rights of assignees, § 33:27

statutory provisions, § 33:26

Copyright before Act of 1921

generally, § 33:3 to § 33:20

architectural works, § 33:18

artistic works — engravings and
photographs, § 33:16

artistic works — existing rights,
§ 33:17

artistic works — protection as unpub-
lished works, § 33:14

artistic works — statutory copyright,
§ 33:15

collective works, § 33:7

dramatic works — British Dramatic
Copyright Act, 1833, § 33:10

dramatic works — existing rights,
§ 33:11

dramatic works — protection as literary
works, § 33:9

**WORKS IN EXISTENCE PRIOR TO
JANUARY 1, 1924—Cont'd**

Copyright before Act of 1921—Cont'd

lectures, § 33:8

literary works — British Act of 1842,
§ 33:6

literary works — Canadian Act of
1906, § 33:5

mechanical contrivances, § 33:19

miscellaneous works, § 33:20

musical works — performing right,
§ 33:13

musical works — protection as literary
works, § 33:12

unpublished works, § 33:4

Effect of Act of 1921

generally, § 33:21 to § 33:25

application of Act of 1921, § 33:23

extension of term and scope of copy-
right, § 33:25

must be existing right in Canada,
§ 33:24

who is entitled to substituted right,
§ 33:22

Statutory provisions, § 33:1

Subsisting and valuable rights or interests

generally, § 33:31 to § 33:33

rights or interests, § 33:32

subsection 42(3) of Act, § 33:31

subsisting and valuable, § 33:33

Substituted right, § 33:2