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<b>ROBIC CANADIAN COPYRIGHT ACT ANNOTATED</b> <b>Release No. 4, April 2026</b>
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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.

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## What’s new in this Update

This release features updates to the following sections within Section 2 List of Defined Terms:

- 2M1. Maker
- 2M2. Minister
- 2M3. Moral Rights
- 2M4. Musical Work
- 2P1. Perceptual Disability
- 2P2. Performance
- 2P3. Performer’s Performance
- 2P4. Photograph
- 2P5. Plaintiff
- 2P6. Plate

## Highlights

**Interpretation—Section 2 List of Defined Terms—2P2. Performance—§ 2P2:6.0 Case Law—§ 6.1—Canada**—The following is an excerpt from this section—

*SOCAN Tariff 4.A (2018-2024)*, 2024 CarswellNat 1533 (Cop. Bd.; 2024-05-03) R. Côté.

[20] We retain the proposed definition of “Performers” for two reasons. First, we find that DJs can be performers under the Proposed Tariffs because a performance occurs when DJs play music. Under the *Copyright Act*, a performance is defined broadly as any acoustic representation of a work by means of any mechanical instrument. [Fn22 *Copyright Act*, RSC 1985 c C-42, s. 2 *sub verbo* “performance” ] Even though DJs may not play traditional instruments or create “live” music they use mechanical instruments, such as CDJs and mixers, to cause acoustic representations to occur.

*SOCAN Tariff 4.A (2018-2024)*, 2024 CarswellNat 1533 (Cop. Bd.; 2024-05-03) R. Côté.

[28] Second, the word “performer” does not help distinguish between the tariffs. SOCAN says that “a DJ who spins tracks at a venue covered by Tariff 18 is not a performer that presents music to an audience [...] in the sense intended by Tariff 4.A”. [Fn32 SOCAN submissions, 14 April 2023, “Re: SOCAN Response to Order of the Board dated February 9, 2023 [CB-CDA 2023-007]” at p. 2].

**Interpretation—Section 2 List of Defined Terms—2P4.  
Photograph—§ 6.0—Case Law—**

**§ 6.1—Canada**—The following is an excerpt from this section—

*Deschênes v. Morin*, 2025 QCCQ 407 (Que. Ct.—Small Claims; 2025-01-22) Dupuis J.

[22] Une photographie comme celle prise par monsieur Deschênes est le résultat de ses efforts, de son talent et de l'exercice de son jugement. Son originalité au sens de la *Loi sur le droit d'auteur* (la LDA) [Fn11 R.L.C. (1985) ch. C-42.] lui permet de bénéficier de la protection offerte par cette Loi.

*Archimed Studio inc. v. Man*, 2025 QCCQ 4737 (Que. Ct.—Small Claims; 2025-09-24) Dugré J.

[19] La Loi prévoit qu'une photographie est une « œuvre artistique » [Fn6 Art. 2 de la Loi.], que le droit d'auteur sur l'œuvre comporte « le droit exclusif [d'en] produire ou reproduire la totalité ou une partie importante [...] en public [...] » [Fn7 Art. 2 de la Loi.], et que l'auteur est le premier titulaire du droit d'auteur [Fn 8 Art. 13 de la Loi.].

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