

Report of the Copyright Committee for 2010/11

Copyright Committee members in June last year were Dan Duda, Elizabeth Hamilton, and Richard Pinnell. However, the membership of this committee changed during the report year. Current members are: Dan Duda, Richard Pinnell, Heather Tompkins, and Deena Yanofsky.

Highlights of the committee's activities and interests this year are summarized below.

Bill C-32: An Act to Amend the Copyright Act

In last year's Copyright report we indicated that Bill C-32 had passed first reading on 2 June 2010. Since that time there have been several months of committee hearings and public feedback from user groups and others. However, Bill C-32 died when the 40th Canadian Parliament was dissolved on 26 March this year. This is the third failed attempt since 2005 to amend our copyright laws; first Bill C-60 died, then Bill C-61, and now Bill C-32. Michael Geist predicts that copyright reform will be back quickly on the legislative agenda, though likely not until late 2011: <http://www.michaelgeist.ca/content/view/5707/125/>

Key points of contention with respect to the provisions in Bill C-32 were:

- The digital locks provisions, which some groups argued were too strict, and should not be imposed in specific cases such as for private format-shifting and making backup copies;
- The expansion of fair dealing – some groups were concerned that this may lead to a significant rise in uncompensated copying;
- The exception relating to non-commercial user-generated content (such as “mash-ups”), which some believed was too vague and broad in scope.

Canadian Fire Insurance Plans (FIPs)

The contentious copyright issue associated with Canadian fire insurance plans remains unresolved at this time. The issue is that Risk Management Services (RMS) (http://www.scm-rms.ca/home_e.asp; click on HEIRS) is claiming an unprecedented 90-year term of copyright protection for FIPs. The position taken by Library and Archives Canada last year was:

In association with Public Works and Government Services Canada (PWGSC), LAC is predominately concerned with the application of Crown Copyright. It is not LAC's policy to lobby for, or support the litigation of copyright associated with third-parties. (e-mail message from David Brown, Manager, Cartography, Architecture and Geomatics, Library and Archives Canada to ACMLA Copyright Committee and ACMLA Board members, 27 July 2009).

Since that time the committee has learned that LAC staff members are investigating the dates of death of the cartographers and others who created these plans. This is important information because copyright on a particular FIP expires 50 years after the death of the creator who is last to die. The committee has also learned that for those plans for which no creators have been identified LAC will be contacting the Department of Justice to get an opinion on whether these

can be treated as anonymous works. For anonymous works, copyright expires 50 years after date of publication. These developments are most encouraging and may lead to opening up better access to and use of these valuable historical resources.

Crown Copyright on Government of Canada Publications

Early in 2011 the federal Crown Copyright and Licensing Office (CCL) announced:

Permission to reproduce Government of Canada works, in part or in whole, and by any means, for personal or public non-commercial purposes, or for cost-recovery purposes, is not required, unless otherwise specified in the material you wish to reproduce.

<http://publications.gc.ca/site/eng/ccl/aboutCrownCopyright.html>

According to CCL the only conditions that apply other than those specified above are as follows. One must:

- Exercise due diligence in ensuring the accuracy of the materials reproduced.
- Indicate both the complete title of the materials reproduced and the author organization.
- Indicate that the reproduction is a copy of an official work that is published by the Government of Canada and that the reproduction has not been produced in affiliation with, or with the endorsement of the Government of Canada.

The committee researched this new development to determine whether it had implications for the reproduction of print cartographic works such as, for example, NTS map sheets and federal aerial photographs from NAPL. Julie Chan, Communications Advisor, Natural Resources Canada has advised the committee following her consultation with staff in the Earth Sciences Sector that there are no issues regarding the use of topographic maps. This means that because there is no third-party content in these maps and because there is no explicit statement “in the material” that permission to reproduce is required, then our library clients are not required to ask permission to reproduce an NTS map sheet in whole or in part as long as this is done for personal or public non-commercial purposes. Julie is currently in touch with ESS to ask whether there is third party content in federal air photographs; if not, then we see no reason why our clients would need to seek permission to reproduce these air photographs in whole or in part.

Open Data Pilot Project

The following is a quote taken from the project website <http://www.data.gc.ca>:

The Government of Canada is making its data available for both non-commercial and commercial use. The GC Open Data Portal is a catalogue of federal government datasets that are available for users, developers and data suppliers to find, evaluate, access, visualize and reuse federal government data. This pilot site is the first step in providing access to reusable government data.

The committee developed an interest in this project in part because of the government's "open data license agreement for unrestricted use of Canada's data" and that lead the committee to take an interest in other aspects of this pilot project. We have noted that there are critics of the open data license agreement <http://eaves.ca/2011/03/17/canada-launches-data-gc-ca-what-works-and-what-is-broken/> and there are concerns about the functionality of the website and some of the data that are available for download.

Two members of the Copyright Committee, Heather and Deena, have kindly agreed to investigate and undertake a review of this Open Data site. So far they have reviewed fifteen open data sites for various cities across Canada and evaluated not just the license agreements but other aspects of these sites, for example: content, accuracy, and accessibility. Next they will review data.gc.ca and see how it compares. If anyone has any comments or suggestions regarding such a review, please contact Heather Tompkins heather.tompkins@lac-bac.gc.ca or Deena Yanofsky deena.yanofsky@mcgill.ca.

Respectfully submitted,

Richard Pinnell, Chair
ACMLA Copyright Committee
12 May 2011