

December 2014/January 2015

Copibec launches class action lawsuit against Université Laval

Copibec, together with authors, publishers and foreign copyright licensing agencies, filed a motion in Quebec Superior Court on November 10, 2014 for authorization to launch a class action on behalf of thousands of authors and publishers from Quebec, the rest of Canada and other countries around the world because their copyright protected works have been copied without permission by Université Laval. The damages claimed amount to over \$4 million, including compensatory damages for infringing authors' moral rights as well as punitive damages. The *Regroupement des artistes en arts visuels*, *Société de développement des périodiques culturels du Québec*, *Union des écrivaines et écrivains québécois* and *Association nationale des éditeurs de livres* have publicly supported this initiative.

On May 21, 2014, Université Laval, which is based in Quebec City, adopted a policy governing the use of copyright protected material for teaching and research purposes. The policy allows professors, lecturers, instructors and researchers to copy excerpts from works, up to a maximum of 10% of the work or an entire chapter depending on which is more advantageous for the user, without obtaining permission or providing compensation. In the university's opinion, the "fair dealing" exception in the *Copyright Act* applies to such copying.

Until the spring of 2014, Université Laval, like all other Quebec universities, held a copying licence issued by Copibec. Under the terms of the licence, the university was required to report all works reproduced in coursepacks and learning management systems so the royalties paid could be distributed fairly. Last year, Université Laval copied more than 11 million pages under its licence.

The university's new policy allows the vast majority of copying to be done without requesting permission or paying compensation. However, permission must be obtained from copyright owners for copies that exceed the policy's limits. Permission is requested only for the excess pages, without taking into account the actual number of pages copied. Université Laval has set up a copyright office to manage those requests and monitor the policy's application.

This arbitrary interpretation of "fair dealing" has already been contested by Access Copyright before the Copyright Board of Canada and the Ontario courts. In this context, it is therefore surprising that Université Laval has decided to put an end to the contractual balance maintained between all other Quebec universities and Copibec, favouring instead a litigation-based approach that has forced Copibec to take the university to court for copyright infringement. The motion will be heard in Superior Court in March 2015.

It is important to remember that during the hearings into Bill C-11 aimed at modernizing the *Copyright Act*, many stakeholders in the arts and culture sector raised their voices against the inclusion of multiple exceptions, which were often unclearly defined and deprived copyright owners of compensation while encouraging more litigation in the dealings between authors and users. Those concerns have now been proven to be well-founded. Copibec finds it regrettable that more than 25 years of harmonious relations between all the Quebec universities and the copyright owners' representatives have now been put at risk. The Quebec National Assembly also came out against the provisions of Bill C-32 (the predecessor of Bill C-11) because it denied the "(...) crucial role of content creators and the importance of intellectual property in the economic model of Québec arts and culture."

Royalty payments just in time for the Holidays... with more to come!

Before the holiday season began, 695 authors and 236 publishers from Quebec were paid royalties (licence fees) for copies of their works made by college institutions during the 2013-2014 school year. A total of \$1.7 million was distributed by Copibec to the Canadian and foreign rightsholders of the copied works. Based on the approximately 43,000 copy log entries submitted, excerpts were copied from about 16,220 books, magazines and newspapers by CEGEPs and colleges.

A number of other royalty distributions are scheduled for the first part of 2015. In January, we will pay out the amounts collected from the Quebec government and its non-budgetary organizations for compiling and distributing print-format press reviews. The payment will target mainly newspaper publishers and freelance journalists and will total approximately \$750,000, to which another \$60,000 will be added for newspaper articles copied for purposes other than media monitoring.

In March 2015, we plan to distribute the royalties received for pay-per-use licences (specific authorizations). At that time, we will also pay the authors and publishers from Quebec the amounts received from other licensing agencies such as Access Copyright (Canada), the Copyright Clearance Center (U.S.) and ProLitteris (Switzerland).

During the second half of the year, Copibec will make its eighth lump sum (repertoire) payment. Freelance magazine and newspaper contributors and visual artists should check our website for the registration dates. We also encourage publishers to immediately make sure all their titles have been registered with Copibec and contain complete information. In addition, be sure to notify us if any rights have reverted to authors. If you need more information, feel free to [contact us!](#)

Since April 1, 2014, Copibec has paid out a total of \$13,575,900 to rightsholders.

SAMUEL

In recent months, Copibec's representatives (with Kevin Charron, our Liaison Officer, leading the charge) met with close to 3,000 people to present the French version of SAMUEL (*Simplified Access for Multidisciplinary Education and Learning*), our new online content platform designed for preschool, elementary, high school and college institutions. Reactions have been very positive, and people have appreciated the platform's content and user friendliness. Other than a few concerns about the search functions, which will be improved, the comments received have been very enthusiastic and have confirmed that Copibec and its partners have succeeded in offering users a solution that meets their needs while ensuring that content creators receive fair compensation.

The platform now delivers content from over 60 different partners. Users have access to press photos, contemporary art images, song lyrics, books on a wide variety of topics such as history, travel and education, and much more! Many works of fiction are also available, including novels for kids, short stories, tales, general and genre-based literature, and even comic albums. There are also Quebec arts and culture magazines featuring articles about cinema, literature, theatre, visual arts, photography, sculpture, etc.

SAMUEL is constantly evolving and new content is being added every week. [Check it out](#) for yourself!

On the road!

Kevin Charron's one-year travelogue across Quebec

January 2014. Copibec has given me the opportunity to experience a new adventure by hitting the road to visit almost every corner of Quebec. My mission ("should I choose to accept it") is to speak with teachers all over the province to inform them about copyright and make them more aware of copyright issues. After only recently graduating, I wasn't expecting to be back at school quite so soon. But the tables have turned: now I'm the one who decides how classes will be run!

I was lucky enough to meet teachers in about 130 public and private schools as well as management personnel from more than 300 schools in about 30 school boards. I covered literally thousands of kilometres to visit schools in Montreal, Gatineau, Rimouski, Saint-Georges and so many other *Saints* and *Saintes* throughout Quebec. I added 16,000 clicks to my car, or the equivalent of nine trips from Montreal to Gaspé and back!

I was able to see the countryside and appreciate the amazing landscapes. And even got lost a few times! But the charm of our picturesque villages wasn't the main attraction of my long trips. My real interest was what I found at the end of the road, in our small elementary and high schools where I met so many passionate people devoted to what they do. More than 2,500, teachers, librarians, educational advisors and principals attended my information sessions. The meetings were productive and stimulating.

No, not every session was great fun! A total of 130 schools, plus the management personnel from 330 schools and 49 school boards: that represents over 400 educational environments and translates into 400 different realities. Every place has to deal with situations that are unique. Their needs are enormous and varied. And the introduction of new education technologies has added a layer of intensity. Their work methods have been turned completely upside down. And while all that is going on, they have to be sure to respect the rights and the work of content creators.

It's not always easy to make everyone pay attention. Like in every class, there are rebels and daydreamers. Some others couldn't care less. I quickly learned that kids aren't the only ones who make paper airplanes! How naive I was to think that teachers would make the best students! Maintaining class discipline is so much harder than it looks.

Lucky for me, most teachers were interested and focused. My short presentation had to fit into their already overbooked week but the information was essential to their everyday work. They wanted to do it right. Their questions therefore reflected their needs: they were numerous and complex.

My big challenge was to take their very specific situations into account. I had to make sure they had all the tools they needed to enrich their course contents while respecting copyright. It has been a difficult but motivating task that has allowed me to appreciate all the work done by our teaching professionals while at the same time giving me insight into the magnitude of the challenges that lie ahead.

Interested in an information session?

Copibec's representatives are always available to come and talk to you about your copying licence and the SAMUEL platform! Whether you work at the preschool, elementary, high school, professional training or college level, one of our agents would be pleased to meet with your personnel and answer any questions you may have about our various agreements.

Feel free to [contact us](#) to set up a meeting! It's also possible to organize a virtual information session using Adobe Connect. There's no software to install.

New licensees

A number of new users have been issued Copibec licences in recent months. Herzing College, *École de langues du Bas-St-Laurent* and Inter-Dec College signed an agreement enabling their personnel to make copies for educational purposes. The city of Saguenay now has a licence covering its eight public libraries. Our new partners also include *Héma-Québec*, the *Service régional de soutien et d'expertise en déficience intellectuelle - Région de la capitale nationale et Chaudière-Appalaches* and the *Centre de justice de proximité du Saguenay-Lac-St-Jean*.

Thank you all for respecting the rights of authors and publishers!

Unclaimed royalties

Trying to locate copyright owners is a difficult task that can even leave the experts stumped. The *Copyright Act* therefore gives the Copyright Board special powers to act on a copyright owner's behalf and grant a copying licence when the copyright owner can't be located. By law, copyright owners have up to five years after the expiry of a Board-granted licence in order to claim the royalties collected during that period.

Copibec supports the Copyright Board in its efforts to locate copyright owners by taking part in searches, proposing terms and conditions for licences and safekeeping the royalties owed to unlocatable copyright owners.

Those responsibilities are a logical extension of Copibec's mandate, which is to protect the rights of creators and publishers.

Copibec is currently holding royalties for the following unlocatable copyright owners:

- Anonymous. Nursery rhyme: *Le Bourdon dit à la clochette*, unknown author and publisher
- Anonymous. Nursery rhyme: *Mes oreilles tombent-elles?*, unknown author and publisher
- Collective work. *La Revue de Manon*, Montreal [Emma GENDRON éd.], 1925-1931
- Collective work. *La Revue du Foyer*, Montreal [Emma GENDRON & Joseph-Arthur HOMIER éd.], 1929-1931
- Collective work. Programs of the *Montreal Repertory Theatre*, Montreal: [n.p.], 193?-1960
- Collective work. Programs of the *Théâtre Arcade*, Montreal: [n.p.], 194?-1949;
- d'AUTEUIL, Marie-Louise (text); Le TESTUT, Gérard (illustrations). *Mémoires d'une souris canadienne*, Montreal, Éditions Albert Lévesque / Librairie d'Action canadienne-française limitée (collection Les Récompenses), 1932
- DAVELUY, Marie-Claire (text). *Les Aventures de Perrine et de Charlot*, Montreal, Bibliothèque de l'Action française, 1923
- DAVELUY, Marie-Claire (text). *La captivité de Charlot*, Montreal, Librairie Granger Frères limitée, 1938
- FOREST, Marguerite and OUIMET, Madeleine (text). *Mon premier livre de lecture* (rev. ed.), Montreal, Granger Frères, © 1943
- FOREST, Marguerite and OUIMET, Madeleine (text). *Mon deuxième livre de lecture*, Montreal, Granger Frères, 1959, © 1943
- MARCHAND, Gérard. *Le régiment de Maisonneuve vers la victoire, 1944-1945*. Montreal, Presses Libres, 1980
- MARTIN-THÉRIAULT, Agathe, *Le Cinéma direct et ses prolongements*, published in *Cinéma Québec* magazine, Montreal, March-April 1972
- MÉLANÇON, Claude (text). *Par terre et par eau*, Quebec City, *Le Soleil*, 1928
- NELCYA (text). *Nogard ou Le Dragon qui voulait apprendre à vivre*, Montreal, Les Éditions la Courte Échelle, 1981
- LUDA, pseudonym of Ludmilla SCHNITZER, née MAKOWSKY (text). *Vassilissa-la-très-belle*, excerpt from *Contes russes*. Paris, Scanéditions / La Farandole, 1993

If your name appears in this list or you have information about any of these individuals, please contact [Roseline Hébert](#) at 514-288-1664 ext. 248.

In addition, Copibec is looking for more than 2,000 copyright owners (authors, illustrators, translators and certain publishers) whose book excerpts, newspaper articles or magazine articles have been copied. You or someone you know may be owed money! Please visit the [Copibec is looking for you!](#) section of our website to find out more.

Our newsletter has a new look!

You've probably already noticed that our newsletter has a [new streamlined look](#). White as the snow falling all around us these days. Do you have [any comments](#)? We're always pleased to hear from you!

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Happy New Year

The entire Copibec team is back at work after the holiday season. We'd like to take this opportunity to wish you all the best in 2015!

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Coordinator: Caroline Lacroix

Contributors: H el ene Messier, Rose-Marie Lafrance, Kevin Charron et Nicolas Boudreault

Translator: Brian Colwill

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