

## Info@copibec

Summer 2016

### Université Laval

Last February, Justice Beaupré of Quebec Superior Court decided that Copibec would not be given authorization to launch a class action against Université Laval on behalf of copyright owners whose works had been copied by the university. Copibec therefore prepared and filed a motion to appeal that decision while Université Laval also filed a motion with the Quebec Court of Appeal to have our appeal rejected. By taking that approach, the university hoped that the Court would refuse to hear Copibec's motion for an appeal without allowing us to explain the reasons behind it.

On June 6, after reviewing the file and without holding any hearings, the Court of Appeal dismissed the university's motion to have the appeal rejected. As a result, Copibec can now continue the proceedings undertaken in response to Justice Beaupré's February decision. The Court of Appeal will hold hearings on November 23. We encourage you to set aside some time on that date because a large turnout among authors, creators and publishers would show strong support for our cause. Please [contact us](#) if you are interested in attending.

In addition, on June 3, a group of 61 publishers from the *Association nationale des éditeurs de livres* (ANEL) and 26 writers from the *Union des écrivaines et des écrivains québécois* (UNEQ) published an [open letter](#) (in French) highlighting the contradictions in the arguments put forward by Université Laval, which on the one hand has refused to pay for a Copibec licence that would compensate creators and publishers for using their works while at the same time asking for \$350 million in public donations to finance university projects. ANEL, UNEQ and the letter's 87 signatories asked Quebec Premier Philippe Couillard as well as Luc Fortin, Minister of Culture and Communications, Sébastien Proulx, Minister of Education, Recreation and Sports, and Hélène David, Minister responsible for Higher Education, to react to the situation created by the university and to take into account the consequences of that situation on authors and publishers when the government updates its cultural policy.

### Copibec's annual meeting

Gilles Herman (ANEL) was elected Copibec Chair at the annual meeting of members on June 16. Mr. Herman, who was born in Belgium and trained as a nuclear engineer, arrived in Quebec in 1998. Assigned to computerize the operations of Septentrion publishing, he examined the industry from a technology angle. He was involved in just about every aspect of the business, from warehouse duties to layout, production and project management. Five years later, he was appointed director and in 2005 he became the majority shareholder. While maintaining the firm's editorial focus and the vision of its founder Denis Vaugois, he ensured Septentrion's position in historical and digital terms. Mr. Herman has played a very active role in the industry, sitting on the ANEL board of directors and digital committee for many years.

During the annual meeting, Danièle Simpson (UNEQ) was elected Vice Chair, Véronique Roy (UNEQ) was appointed Treasurer and Yann Pineau (*Les Quotidiens du Québec*) was designated Secretary. The following Board members were also elected at that time, completing the Board of Directors: Francine Bergeron, *Société de développement des périodiques culturels québécois* (SODEP); Emmanuelle Bruno, ANEL; André Dumont, *Association des journalistes indépendants du Québec* (AJIQ); Lise Létourneau, *Regroupement des artistes en arts visuels du Québec* (RAAV); Suzanne Spino, ANEL; and André Roy, UNEQ.

In the past fiscal year, Copibec collected \$13,488,764 in royalties (licence fees) for the works copied and used. Since the launch of its operations on April 1, 1998, Copibec has redistributed over \$172.5 million to the authors and publishers of books, periodicals and newspapers and the creators of artistic works.

Although times are difficult and copyright is being eroded more and more each year, Danièle Simpson, outgoing Chair, noted that up to this point, Quebec has shown respect for its writers, artists and copyright holders in general. She encouraged the Quebec government to maintain its exemplary attitude and avoid undermining the unanimous commitment by the Quebec National Assembly in 2010 to recognize the crucial role of content creators and the importance of intellectual property in the economic model of Quebec arts and culture. Copibec is counting on our elected officials to help ensure that creators and their publishers can receive their fair share when their works are used.

## Culture for everyone

### Creators' fair share

The Quebec government intends to update its cultural policy and has asked citizens and organizations to make their views known. Copibec submitted its memorandum on June 17. Here are the highlights:

Copibec recommends that the Quebec government, as part of its cultural policy update, reaffirm the very important contributions made by authors, creators and their publishers to the national economy and our society, and confirm their right to fair compensation for the use of their works. Culture is being transformed and diversified and it is more important than ever to promote the development and economic stability of Quebec's cultural sector. Authors, creators and their publishers must receive monetary benefits from the proliferation of distribution and sharing platforms and the multiplication of electronic tools that allow greater and greater use of content.

It is also imperative that the Quebec government renew its support for the collective licensing system and that it continue to take concrete action to encourage the payment of royalties for the use of creative works. The collective licensing system has been able to adapt to the market and develop new products that meet users' needs, strengthening its role as a facilitator between users and copyright holders. The future is worrisome; it is more important than ever that Quebec reaffirm the value of creation and its crucial role in our lives as individuals and communities.

The Quebec government must also make its voice heard by the federal government when the *Copyright Act* undergoes its five-year review in 2017 so that a true balance can be re-established between content users and copyright holders and the damage caused by the modernization of the *Copyright Act* can finally be taken into consideration. Since the *Act* came into effect, the earnings of copyright holders and their licensing agencies, especially those in the literary industry, have been declining constantly, which poses a threat to the autonomy of Quebec authors and creators, compromises their publishers' ability to release works and puts the future of their collective licensing agency in jeopardy.

Lastly, the government has an important educational role to play in raising awareness and promoting copyright compliance and intellectual property rights.

Copibec's memorandum can be viewed in French by [clicking here](#). The remarks made by Frédérique Couette, our Executive Director, at the June 17 hearings are available in French [here](#).

As part of the public consultation, you can also [respond to an online survey](#) (in French) before August 26, 2016. Now is the time to make your voice heard! The survey takes about 15 minutes to complete.

## Meeting with federal government

On June 22, Copibec's Executive Director, together with Francis Farley Chevrier, UNEQ's executive director, Richard Prieur, ANEL's executive director, and Louis-Frédéric Gaudet, Québec Édition's president, met with representatives from Canadian Heritage and Innovation, Science and Economic Development Canada in Ottawa. The meeting was an opportunity for everyone involved to express their views and listen to what the others had to say. The parties will continue their dialogue in the future.

## SAMUEL

New partners and titles have recently been added to [SAMUEL](#). The *Société québécoise de recherche en musique* has made its *Cahiers de la SQRM* available on SAMUEL and, together with some publishing giants, has

listed various titles.

The spring issues of most of the arts and culture magazines are also online, containing in-depth articles as well as short fictional works. Some of the magazines you'll find are *Inter*, *Esse*, *Nuit Blanche*, *Solaris*, *Moebius*, *Jeu*, *Lurelu*, *Liberté*, *Espace*, *24 images*, *Les Écrits* and *Relations*.

Here are a few new releases to discover from existing SAMUEL partners:

- *Purity*, Jonathan Franzen (translated by Oliver Deparis), Boréal, May 2016
- *La bataille de l'avortement*, Louise Desmarais, Éditions du Remue-Ménage, May 2016
- *La liberté de presse*, Claude Robillard, Québec Amérique, May 2016
- *Les radicaux libres*, Jean-François Nadeau, Lux éditeurs, April 2016
- *Curieux de nature* (tome 3), Mylène Arpin, Hurtubise, April 2016

## **SAMUEL survey**

We'd like to thank all the teachers who responded to our survey about improving SAMUEL. Watch for exciting changes to be made in the coming months!

## **Moving season: Update your address!**

### **Are you already registered with Copibec?**

Whether you're a book author, article writer or visual artist, be sure to keep your address up to date so you can continue to be paid royalties when your works are copied. It's easy: access your [online file](#) directly or contact us by [email](#) or phone!

Online access is available to everyone and allows you to update your personal information, monitor the titles registered by your publisher, view the payments you've received, etc.

### **What if you haven't registered with Copibec yet?**

Simply go to Savia, our online copyright licensing and rights management system, and [register](#) whenever it's convenient! You can always access Savia from our home page at [www.copibec.qc.ca](http://www.copibec.qc.ca) by clicking the **Log into my account** link (top right), then **Complete the registration process**. You can refer to our [User Guide](#) for complete details on the procedure.

### **What if you have questions?**

Writers and freelance contributors to newspapers and magazines should contact Kevin Charron, Communications and Rightsholder Services Officer, by [email](#) or by phone at 1 800-717-2022 or 514-288-1664 ext. 249.

Visual artists should contact Isabelle Billeau, Communications and Rightsholder Services Officer, by [email](#) or by phone at 1-800-717-2022 or 514-288-1664 ext. 235.

## **Reminder for publishers of educational content**

The copying limits for Quebec content designed specifically for preschool, elementary, high school and college-level education purposes are not the same as the limits for other works. It's important to clearly identify educational content in the Copibec repertoire.

### **What is considered educational content?**

At the **preschool, elementary and high school** levels, content for education purposes includes any works that were designed according to a program of instruction and whose primary market is a preschool, elementary, high school, vocational or adult educational institution, i.e. **exercise books, students' textbooks, teachers' guides**,

**grammar guides** and **atlases** from a Quebec publisher.

At the **college** level, it includes any content that was specifically designed for **college education purposes** and whose primary market is colleges.

## Identify your works!

To ensure that we can apply the right copying limits, be sure to tick the appropriate box under *Type of work* for every title concerned, whether you're registering the titles for the first time or have already registered them (accessible in the *Repertoire* section of your account). Depending on the document's intended clientele, choose between **preschool, elementary and high school** document or **college document**.

The Repertoire is our day-to-day work tool for processing copy logs. We apply the information registered, as is. It's therefore important to register your titles correctly without delay.

## End of a long legal battle

On April 18, 2016, the U.S. Supreme Court declined to review the case that pitted the Authors Guild against Google, bringing an end to a legal battle that had lasted 10 years.

Google first launched its Google Books Library Project in 2004 (later called Google Book Search, then Google Books), which involved scanning millions of works from major U.S. libraries. This large-scale digitization was done without permission from the copyright holders and led to a number of lawsuits for copyright infringement, eventually culminating in the U.S. class action by the Authors Guild and the Association of American Publishers against Google.

In October 2008, the parties agreed on a proposal to settle the class action. In particular, the agreement stated that Google would make a compensatory payment for every scanned book and would create a register identifying the copyright holders.

In March 2011, however, that proposal was rejected by the supervising judge, who deemed that the opt-out provision (whereby copyright holders would automatically be covered by the settlement unless they decided to formally opt out) was unfair. The battle was back at square one.

Just when a new settlement seemed less and less likely, Google and the Association of American Publishers announced that they had reached an agreement to end the initial lawsuit filed by the publishers in 2005. The main terms and conditions of that agreement have never been publicly disclosed.

The Authors Guild, for its part, decided to continue with the proceedings. In particular, the Guild claimed that Google was making commercial use of the documents and user data.

In October 2015, the Second Circuit Court of Appeals ruled against the Authors Guild, finding that Google's scans to create a search tool and display short excerpts of documents was fair use (the U.S. equivalent of the Canadian fair dealing exception). "Blinded by the public benefit arguments, the Second Circuit's ruling tells us that Google, not authors, deserves to profit from the digitization of their books," said Mary Rasenberger, executive director of the Authors Guild.

The Authors Guild's last chance was the U.S. Supreme Court, which first had to decide whether it would agree to review the case. On April 18, the country's highest court announced its refusal. The Court of Appeals' ruling in favour of Google has therefore been maintained.

### Sources

Authors Guild. (2016). Supreme Court Declines to Review Fair Use Finding in Decade-Long Book Copying Case Against Google. Retrieved at <https://www.authorsguild.org/industry-advocacy/supreme-court-declines-review-fair-use-finding-decade-long-book-copying-case-google/>

Gary, N. (2016). Google Books victorieux : « Les auteurs ont subi une perte colossale ». Retrieved at <https://www.actualitte.com/article/lecture-numerique/google-books-victorieux-les-auteurs-ont-sub-i-une-perte-colossale/64541>

Google Book Search settlement agreement. (Undated). In Wikipedia, The Free Encyclopedia. Retrieved June 9, 2016 at [https://en.wikipedia.org/wiki/Google\\_Book\\_Search\\_Settlement\\_Agreement](https://en.wikipedia.org/wiki/Google_Book_Search_Settlement_Agreement)

Union des écrivaines et des écrivains québécois. (2016). Google Books : que fait-on des auteurs? Retrieved at <https://www.uneq.qc.ca/2016/04/22/google-books-on-auteurs/>

## Copyright news from Canada and beyond

### Access Copyright vs York University: High stakes for Canadian culture

**Canada** – The lawsuit filed by Access Copyright against York University in 2013 entered a new phase last May and June when the parties were heard in court.

Read the post on the [Hugh Stephens blog](#).

### Claude Robinson radio interview: His legal battle continues

**Canada** –What's the latest on Claude Robinson? Appointed an honorary member of UNEQ and recipient of an honorary degree from Université de Moncton, Mr. Robinson was interviewed in French on CBC radio about his projects and his new creative workshop. The artist also mentioned that he had not given up his battle! Even though Cinar and its partners are required to pay him \$4 million in damages, he now has to fight in Europe to have the ruling applied. Having lost none of his usual verve, he took the opportunity to speak out against the *Copyright Act* reform “massacre” in 2012.

Listen to the interview on "[Gravel le matin](#)".

### How much can you make from the coolest profession in the world?

**Canada** – How can you make a living from your art? Cartoonist Zviane created a [comic strip](#) (in French) illustrating the precarious nature of the income earned by a full-time artist. She mentioned the support of organizations such as Copibec.

### Anne Frank's diary: Show some humanity and charity

**Canada** – What would you do if a member of the European Parliament who's in favour of minimizing copyright refuses to spend the lavish amount of CA\$9.44 for one of the most important books of the 20th century because she thinks it should be in the public domain? Canadian writer John Degen didn't hesitate to buy a brand new copy of *The Diary of a Young Girl* and mail it to the poor parliamentarian in Europe. He explains why in his [blog](#).

### Is revenue sharing between artists and arts administrators fair?

**Canada** – Who benefits from arts subsidies and fundraising? Is it the artists or the administrators of arts organizations (museums, festivals, theatres, and not-for-profits)? Writer RM Vaughan gives an [in-depth description](#) of the interdependencies among the various players in the industry and the inequality found in the Canadian cultural ecosystem.

### Vancouver Aquarium documentary: Accused director will appeal

**Canada** – After Grumpy Cat and Naruto (the macaque photographer), it's now the turn of the Vancouver Aquarium's whales to be swimming in copyright controversy. This case involving copyright, fair dealing, animal rights and censorship has continued to make waves.

Read the post on the [Hugh Stephens blog](#).

### Google and copyright: After the authors, now the photographers

**United States** – Getty Images, an image bank representing more than 200,000 photographers, has filed a

complaint against Google after the search giant made changes to its interface in 2013. The images section of the Google search engine now provides access to high quality images without sending users to the sites that host those images. Since then, the negative impacts on copyright, creators' earnings and the hosting sites' visibility and traffic have been very significant.

Read the post on the [Mister Copyright blog](#).

## Prince's death raises doubts about ownership of his music

**United States** – Throughout his career, Prince scrupulously defended his copyright ownership. It's therefore surprising that he didn't have a will prepared. In addition to his multimillion dollar personal fortune, Prince has left behind a collection of unpublished musical works. The musical genius was quite secretive about his "vault" that reportedly contained hundreds of works recorded over a 40-year period. What will happen to those works? Who'll be authorized to publish them and earn the resulting profits? Who'll decide which compositions meet Prince's exacting production standards? The spectre of easy money and an unprecedented posthumous body of work have the pop icon's admirers fearing the worst.

Read the article by [CBC News](#).

## CSA and the limits of fair dealing in a business context

**Canada** – In recent years, the murky limits of the principle of "fair dealing" have led our country's highest courts to rule in favour of users, to the detriment of creators. However, a recent decision by the Federal Court in the Canadian Standards Association (CSA) case may be a sign of hope that the winds are changing. The Court ruled that copying 100% of a work without permission cannot be considered fair.

Read the post on [Les Actifs créatifs](#) blog (in French).

## Google's AI has read enough romance novels to write one itself

**United States** – Is it possible to create artificial intelligence capable of providing knowledgeable answers to questions asked by users in a conversational setting? That's been Google's dream for years. As part of that quest, Google fed 2,865 romance novels to its AI systems to help the algorithms understand the nuances of the English language. [Google's engineers](#) now say that, in theory, the Web giant's AI could write an entire romance novel on its own. So far, the surreal poetic content produced by the algorithms has left human poets simply shaking their heads. [Judge for yourself](#).

## Copyright in your bathtub!

Don't worry: you won't have to pay royalties for bath toys. But if you've been thinking about floating a giant yellow rubber ducky in the harbour you could get into trouble with Dutch artist Florentijn Hofman, who pioneered the concept. He now says that he owns the copyright on any giant duck and has sued various cities that have reused his concept, including Sao Paulo, Hong Kong, Taipei and Philadelphia. So the question is: can a very common object such as a bath toy be protected by copyright if it's produced in a giant-sized version?

Read the post on the [Hugh Stephens blog](#).

## Radiohead copyright controversy

**United Kingdom** – Radiohead has been accused of copyright infringement after releasing the video for its song *Burn the Witch*. The video's stop-motion animation characters are very similar to those of the *Trumptonshire Trilogy* series broadcast on the BBC in the 1960s. The Trumpton creators are looking into suing the British band. How closely do the works match? [Check it out](#).

## Illegal in-flight music

**United States** – If you've travelled on American Airlines or US Airways, you may have been listening to music without the creators' permission! While negotiations were underway with the record companies, IFP, the company

that provides music catalogues to airlines, included various works in its catalogue. A U.S. judge reminded IFP that the negotiating process did not necessarily mean that authorization would follow.

Read the article in the [Hollywood Reporter](#).

## Neuroscientists discover why Internet pirates don't feel guilty

Can illegal online downloads be equated with stealing DVDs in a department store? In the eyes of the law, the answer is yes. But for the human brain, it's a different story. Researchers at Monash University in Australia discovered that shoplifting activated very specific areas of the brain related to guilt and morality. But those areas remained dormant during illegal downloading. [Find out the details](#).

Source: Andy, [Neuroscientists discover why Internet pirates don't feel guilty](#), licensed under [CC BY-NC 3.0](#)

## Stay up to date by following us on social media!

Don't miss any of the news from Copibec: follow us on social media, where we're talking about copyright, arts, culture and, of course, what's happening at Copibec.

Enjoy your summer!

Find us on 

And on:

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