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The Status of Copyright Reform in Canada **Bart Cormier**

The prospect of Canadian copyright reform has been quietly simmering in the political background for years. Political pressure in Canada to reform the *Copyright Act* arises from two main sources, Canada's participation in international copyright treaty negotiations and pressure from industry and lobbyist groups.

In 1997, Canada joined with other G-20 countries in signing two treaties administered by the World Intellectual Property Organization (WIPO), the *WIPO Copyright Treaty* and the *WIPO Performances and Phonograms Treaty*. These treaties introduce new and expanded rights for certain classes of rights holders, in particular performers and makers of sound recordings. These rights include, for example, the right for authors to control the making available of their material on the Internet, protections to prevent the circumvention, for infringing purposes, of technological measures applied to copyright material, moral rights for performers in their fixed and live performances, and increased rights for photographers in their works.

While Canada has yet to ratify these treaties, and so is technically under no obligation to bring its laws into line with the treaty requirements, there is evidence that the Canadian government is susceptible to the suggestion that it is not living up to its international obligations. Pressure in this regard comes particularly from the United States government, which has ratified the WIPO treaties and, as a result, introduced the *Digital Millennium Copyright Act* (DMCA) to provide additional protections and remedies for copyright rights holders. As an example of political pressure applied by the US government, for the past few years Canada has been cited on the Watch List of the US Trade Representative's Special 301 Report, which identifies foreign countries that "deny adequate and effective protection of intellectual property rights or fair and equitable market access for US persons that rely on intellectual property protection".

The second force driving Canadian copyright reform is pressure from industry and lobbyist groups, particularly representatives of the film and music industries. The general position of these groups is that Canada's copyright laws are antiquated and insufficient to enable these industries to protect themselves from piracy, in particular the distribution of digital media through peer-to-peer technologies.

As a result of these pressures, in late 2005, Parliament introduced Bill C-60, an *Act to Amend the Copyright Act*. Bill C-60 was meant to address the requirements of the WIPO treaties but took a softer approach than some of the hard-line provisions criticized in the DMCA. Bill C-60, however, died before becoming law.

One of the most interesting results of the introduction of Bill C-60 was the rise of new and vocal interest groups demanding a greater balance of rights between copyright owners and copyright consumers (i.e. the general public). For example, the Canadian Music Creators Coalition was formed when a group of prominent Canadian musicians publicly broke away from the music industry's main advocacy group, the Canadian Recording Industry Association (CRIA). The artists

stated that the reforms proposed by CRIA reflected the interests of the music industry over those of Canadian musicians and music consumers.

The announcement of a forthcoming re-vamped copyright reform bill in mid-2007 led many commentators to believe that the new copyright bill would be much more similar to the DMCA than Bill C-60. As of the date of this article, however, no replacement bill has been introduced by the Canadian government.