Copyright & Digital Media

Our longstanding experience in copyright matters provides you with a depth of expertise in both the digital and analogue world. We also have extensive experience with legal issues particular to digital media that extend beyond our core copyright services.

Our copyright services include:

- Copyright acquisition and registration,
- Copyright clearance,
- Copyright enforcement,
- Conducting due diligence, audits and providing title opinions,
- Negotiating and drafting copyright licenses and assignments and
- Providing copyright opinions, including in relation to subsistence of copyright, infringement and user rights such as fair dealing.

Matters involving digital and social media can be complex and often raise issues in a number of different yet overlapping IP related areas—including trademarks, copyright, marketing and advertising, and privacy.

As a whole, the Copyright & Digital Media practice group is experienced in providing legal advice related to the Internet, social media and other digital and interactive platforms such as smartphone applications. We understand the power of branding, the value of digital communication tools and the challenges of controlling your online presence. The team effectively manages digital brand portfolios and are familiar with the nuances clearing, acquiring and enforcing IP rights online, while setting effective digital policies and terms and conditions that customers understand.

Our legal advice is pragmatically tempered and reflects our extensive experience working in technology, entertainment, education, information and digital media industries. Through their active participation in international associations and committees, our digital media lawyers are always up-to-date on legislative and judicial developments around the world affecting how companies do business digitally, in both domestic and international markets.

Our digital media services are wide ranging and include the following:

- All aspects of IP protection and exploitation in digital media, including protection of goodwill, data, confidential information, trade secrets,
- All aspects of trademark and domain name acquisition, registration, enforcement and surveillance,
- Drafting contracts, licenses and policies for digital media,
- Advising clients on placement, timing and positioning of legal notices and disclosures in the digital environment and in particular to deal with the "small screen" challenge,
- Privacy advice, including in relation to collection of personal information in various online environments (including consumer tracking and behavioural advertising) and website structure (mandatory versus voluntary information collection, consent requirements, when notices should appear, etc.) and developing privacy policies accordingly,
- Advising on issues related to selling over the Internet (such as those involving merchandising licences and jurisdiction) and reviewing websites for compliance with provincial e-commerce laws,
- Enforcing IP on social media sites, including through take-down and other complaint mechanisms (for example,
those provided by Facebook, Twitter, Google and other platforms). This includes enforcement against social media user names and handles, use of trademarks by third parties in social media,

- Managing online public relations issues, including containment strategies and advising clients in relation to online content produced by clients’ fans, critics and rogue employees,
- Managing global anti-counterfeiting and anti-piracy enforcement on the Internet, including by establishing watch notices and engaging take-down service providers where cost effective,
- Overcoming challenges presented by privacy shields in online environments, including investigations of domain name registrants, social media users and online store operators to ascertain their identities,
- Advising on potential unfair business practices in digital environments, including keyword advertising and paid search, and use of trademarks in other more “hidden” online contexts, such as in metatags and website descriptions,
- Advising on the legality of daily deal sites offering discounts, including on regulated products,
- Conducting due diligence and title opinions for digital media products and services, including clearing use of third party copyright content in digital media and services,
- Advising on users rights specific to digital media and the Internet, such as the “YouTube” exception (non-commercial user-generated content) and exemptions for personal use of copyright works,
- Advising on using or responding to takedown notices under the U.S. *Digital Millennium Copyright Act* and the Canadian copyright notice-and-notice regime,
- Drafting copyright licenses for digital uses,
- Drafting in-house policies for employees’ use of copyrighted works, email and the Internet and
- Advising on copyright infringement claims including claims arising from tampering with technological protection measures and rights management information.

**Recent Articles**

"Making Available" Is Not an Independent Copyright in Canada
July 20, 2022

A score for "life plus 70": Canada now one step closer to extending the term of copyright
July 6, 2022

E&O 2.0: A Fair Dealing Odyssey
June 15, 2022

Ontario Superior Court Adopts “Carrot and Stick” Approach in Determining Appropriate Penalty for Contempt in Shava TV Case
May 30, 2022

Residence Is Not Static: Federal Court Dismisses Copyright Infringement Claim for Failure to Prove Author’s Residency at the Time the Work Was Created
May 13, 2022

Share with Care! BC Court Allows Claim for Copyright Infringement Relating to Copied Links of Unlisted YouTube Videos to Proceed
May 11, 2022
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