



# Copyright

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## Overview

Copyright law in Canada gives authors the right to control their creative works. If you hire creative people, you need advice on copyright. Under copyright law, the definition of an “author” includes engineers, software programmers, draftspersons, photographers, mobile-app developers, animators, graphic designers, writers, and artists, including visual artists and musicians. At Field Law, we have extensive experience in providing advice to clients on the protection and enforcement of copyright in all of these areas.

It is an infringement of copyright to make unauthorized copies of all or a portion of a protected work. There are many exceptions that we provide advice on, including fair dealing and fair use.

Copyright law does not protect ideas or concepts. Rather it protects the original expression of ideas and can extend to the expression of facts and information, where the work product represents the output of labour, skill and judgment. This includes content expressed in written or fixed form, such as recorded or observed information and data, equipment and process drawings, recorded music, video content, photos, manuals, software code, website code, brands represented in design format. We take care to understand your business and provide practical advice on how copyright protection applies.

Our lawyers support clients in many different industries on a range of issues including:

- Copyright registration and protection
- Practical business advice on copyright protection strategies
- Copyright protection for databases and datasets
- Copyright protection and ownership issues for employers, employees and contractors
- Licensing of copyright materials
- Advice and due diligence on copyright ownership
- Copyright agreements including sharing, co-creation, licensing and assignments
- Ownership due diligence, transfers and ensuring or challenging chain-of-title
- Software development and licensing agreements
- Software integration agreements
- Copyright infringement litigation, prosecution and defence
- Copyright ownership litigation
- Fair dealing exceptions
- Copyright protection in the information and e-communications sectors
- Copyright issues in the context of social media
- Website development agreement

## Industries

- Education
- Energy + Environment
- Manufacturing
- Media + Entertainment
- Technology

## Services

- Intellectual Property + Technology
- Emerging Technology
- Cyber Liability
- Commercializing IP
- Designs
- IP Litigation
- Patents
- Trademarks
- Trade Secrets

Contact any one of our copyright group including Neil Kathol at [nkathol@fieldlaw.com](mailto:nkathol@fieldlaw.com) or 403-260-8564 or Laura MacFarlane at [lmacfarlane@fieldlaw.com](mailto:lmacfarlane@fieldlaw.com) or 403-260-8577 to discuss how we can assist to protect and enforce copyright for your organization.

## Experience

1395804 Ontario Ltd. (Blacklock's Reporter) v. Canada (Attorney General), 2017 FCA 185

1395804 Ontario Ltd. (Blacklock's Reporter) v. Canada (Attorney General), 2016 FC 1400

1395804 Ontario Ltd. (Blacklock's Reporter) v. Canada (Attorney General), 2016 FC 1255

Andrews v. McHale and 1625531 (Gemstone Logistics) , 2016 FC 624

Resource Well Completion Technologies Inc. v. Canuck Completions Ltd., 2014 ABQB 209

Ital-Press Ltd. v. Sicoli, 1999 CanLII 8048 (FC)

Ital-Press Ltd. v. Sicoli, 1999 F.C.J. No. 837

Ital-Press Ltd. v. Sicoli, [1996] F.C.J. No. 1119, Federal Court of Canada - Trial Division

Alwest Neon Signs Ltd. v. Coldwell Banker Achievers Realty, 1994 CanLII 9222 (AB QB)

## People

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## News + Views + Events

March 2020

[Copyright is Great... But it Has its Limits](#)

July 11, 2019

[Understanding Your Intellectual Property Toolbox](#)

September 2016

[Ownership of Copyright in Software](#)

May 2014

[Illustrator Wins Copyright Infringement Case at the Supreme Court](#)

February 2014

[New Weapons to Combat Counterfeit Products](#)

## Client Stories

### Oilfield computer software protected

**Our Client:** An oilfield service provider with a very successful program for booking workers' travel and related needs.

**Where we began:** Our client built a very successful sales book. A prior employee involved in the software development issued suit against our client claiming he was a co-author of the software.

**Our approach:** Neil Kathol applied what he'd learned through the years on copyright cases - in Canada the author is the owner; that is, the person "*holding the pen*" (in this case, coding the software by tapping the keyboard). In addition, it was clear that the true author had reams of experience and success in developing software and that the prior employee had little or no training and didn't know computer languages. In other words, the claim "*didn't add up*." Neil oversaw his own client's case and also advised two consecutive teams of outside lawyers handling the case for the client's Director who was also sued. "*Keep it simple, get the necessary facts in, don't complicate it and get it to trial*" was the mantra.

**The result:** Neil got the team to follow the mantra against all temptations otherwise. The case was dismissed by the Federal Court in a relatively quick manner, relatively cheaply, and without any live testimony or cross-examination required along the way or at trial. The case is now the only Canadian precedent on what activities give rise to software authorship.