

BLG BUZZ...

DO YOU REALLY OWN THE COPYRIGHT IN THAT ADVERTISEMENT OR MARKETING MATERIAL?

In the September 2011 decision of *Century 21 Canada Limited Partnership v. Rogers Communications Inc.*, the British Columbia Supreme Court held that copyright in a work can only be assigned by an agreement that is signed *after* the work is created. This ruling has potentially broad implications. Please see our bulletin “Avoid IP Ownership Surprises” available [here](#).

CONSULTATION ON WINE LABELLING

In an effort to harmonize wine labelling rules with other wine producing trading partners and facilitate international trade in wine, amendments are being proposed to the *Food and Drug Regulations*, the *Consumer Packaging and Labelling Regulations*, and a new regulation under the *Canada Agricultural Products Act*.

The changes include requiring wine labelled as icewine in Canada to meet a national standard; allowing mandatory labelling information to be displayed on any part of the surface of a wine container except its top and bottom; and permitting the use of certain abbreviations, such as “alc/vol” and “alc%vol”.

Prior to publishing the amendments, the Canadian Food Inspection Agency is currently conducting a consultation. For more information, please click [here](#). The comment period ends on February 14, 2012.

FRENCH CHARACTER INTERNATIONALIZED DOMAIN NAMES

The Canadian Internet Registration Authority (CIRA) has just released the feedback it has received on, and the analysis of the results of, their consultation on Internationalized Domain Names (IDN). The discussions and reports are available [here](#).

The CIRA currently offers .ca domain names in non-accented letters from a to z, as well as numbers (0-9) and hyphens. The consultation was about the proposed implementation of French characters at the second level (ie. to the left of the dot).

The CIRA has now revised its proposed policy. It is now holding a second consultation, namely in terms of proposed bundling of character variants. For more information on this consultation, please click [here](#). The consultation ends on February 24, 2012.

NEW gTLDs EXPAND A MARKETER'S TOOLBOX BUT COULD BE A LEGAL NIGHTMARE

The application period has begun for the new Internet Corporation for Assigned Names and Numbers (ICANN) generic top level domain (gTLDs) regime which will see the available gTLDs increase from 22 (including .com, .net and .org) to possibly hundreds. Although this plan could provide marketing opportunities to companies, it could also increase legal risks and may require legal involvement even if one

may not be interested in obtaining a gTLD. Please see our article “Preparing for gTLDs”, discussing the application process as well as risks and risk mitigation, available [here](#).

CAN YOU TERMINATE YOUR SPONSORSHIP WITHOUT NOTICE IF THE TITLE SPONSOR WITHDRAWS AS A SPONSOR?

In the recent case of *Canadian Soccer Assn. v. Hyundai Auto Canada Corp.*, the Ontario Court of Appeal found that the continued involvement of a title sponsor was not a material term to a sponsorship agreement where there was no warranty clause in the agreement requiring the title sponsor to remain a sponsor. This case is a reminder of the importance of reviewing sponsorship agreements and ensuring that appropriate representations and warranties are included in them, as well as clear language setting out the events for termination of the agreement, especially where the agreement includes an entire agreement clause.

ONLINE BEHAVIOURAL ADVERTISING GUIDELINES

Organizations that engage in online behavioural advertising need to beware of the Office of the Privacy Commissioner of Canada’s recently released online behavioural advertising guidelines. Please see our bulletin “Federal Privacy Commissioner Issues Guidance to Online Advertisers” available [here](#).

ADVERTISING OF WIRELESS PHONE, SMART PHONE AND DATA SERVICES IN ONTARIO

Bill 5, *An Act to provide transparency and protection for consumers of wireless telephone services, smart phone services and data services in Ontario*, is a private member’s bill which has

received Second Reading and been referred to the Standing Committee on General Government. If enacted, this legislation would capture agreements for wireless telephone services, smart phone services and data services entered into before and after the legislation comes into force where certain criteria are met. One such criteria is that the consumer or the supplier is located in Ontario when the agreement is entered into.

According to the Bill, advertisements that state the price of a particular service must also contain a more prominent statement of the total cost to the consumer, on a monthly or periodic basis, of all services provided under the agreement.

A copy of this Bill is available [here](#).

UPDATE ON ANTI-SPAM LEGISLATION

Revised drafts of the regulations under Canada’s new anti-spam and online fraud legislation are expected to be published in the next few months. A consultation period is also expected to follow their publication. In light of delays in the publication of the revised regulations, it may not be until the middle of, or late, 2012 when this legislation comes into force. Meanwhile, for a basic compliance action plan, please see our bulletin “Preparing for Canada’s New Anti-Spam and Online Fraud Act” available [here](#).



REMINDER CORNER: CONTESTS

Conducting a contest may seem like a fun and easy marketing activity; however, many laws may come into play, including the *Criminal Code*. Please see our bulletin “Does Your Contest Violate Canadian Laws?” before implementing a contest that could land you in hot water. [Available [here](#)].

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