Federal Court trusts technology to prove infringement

February 08, 2021

Introduction

The Federal Court of Canada has recently signalled its willingness to accept technology as a stand-in for human analysis in a copyright infringement claim. *Trimble Solutions v Quantum Dynamics,* 2021 FC 63, demonstrates the value in using sophisticated technology to advance and defend claims that would typically require expensive and time-consuming manual efforts.

Facts

Trimble Solutions Corporation (Trimble) is the registered copyright owner of Tekla Structures, a software program used for 3D modelling and design in the construction industry. BuildingPoint Canada Inc. (BuildingPoint) is Trimble's authorized reseller in Canada.

Trimble embedded anti-piracy software in Tekla Structures to detect suspicious activity, such as the use or reproduction of the program by unauthorized users. When triggered, the software automatically collects certain data and generates an infringement report, which includes the nature and time of the incident and the user's IP address and device information.

Trimble received several infringement reports in February 2018 originating from 6 devices. Trimble claimed that the information from the infringement reports, combined with other data points including Google Maps screenshots and a LinkedIn profile page, identified Quantum Dynamics Inc. (Quantum Dynamics) and Mr. Tannus as the source of the infringements. Mr. Tannus is a director and officer of Quantum Dynamics.

After failing to resolve the dispute out of court, Trimble commenced an action against Quantum Dynamics and Mr. Tannus and eventually moved for default judgement.

Decision

In considering whether the anti-piracy software was sufficiently reliable to establish the defendants' liability, the Court noted that it was "impossible to know who was using the devices at the precise times indicated in each incident report." However, the Court was prepared to accept the data points assembled by Trimble as sufficient evidence that the defendants controlled the devices responsible for infringing Trimble's copyrights.

As a result, the Court granted Trimble and BuildingPoint an injunction and awarded them $262,931 in general and punitive damages.

Comment

The Federal Court's decision in *Trimble Solutions v Quantum Dynamics* is consistent with global jurisprudence and the Competition Tribunal's decision in *The Commissioner of Competition v Live Nation Entertainment, Inc et al*, 2018 CACT 17, which accepted technology assisted review as a valid and proportionate strategy for document-intensive cases.

This trend highlights the potential utility and efficacy of technology in litigation. As legal technology grows in popularity and complexity, both courts and lawyers must (in the words of the Competition Tribunal) "encourage the use of modern tools" and remain open to change in order to ensure the efficient and just determination of modern-day disputes.

Expertise

Disputes, Copyright, Intellectual Property, Technology, eDiscovery

---

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.