

## **SUPREME COURT OF CANADA -- JUDGMENTS IN APPEALS AND LEAVE APPLICATIONS**

OTTAWA, 2012-07-12. THE SUPREME COURT OF CANADA HAS TODAY DEPOSITED WITH THE REGISTRAR JUDGMENT IN THE FOLLOWING APPEALS AND APPLICATIONS FOR LEAVE TO APPEAL.

FROM: SUPREME COURT OF CANADA (613) 995-4330

## **COUR SUPRÊME DU CANADA -- JUGEMENTS SUR APPEL ET DEMANDES D'AUTORISATION**

OTTAWA, 2012-07-12 LA COUR SUPRÊME DU CANADA A DÉPOSÉ AUJOURD'HUI AUPRÈS DU REGISTRAIRE LES JUGEMENTS DANS LES APPELS ET LES DEMANDES D'AUTORISATION D'APPEL QUI SUIVENT.

SOURCE: COUR SUPRÊME DU CANADA (613) 995-4330

COMMENTS/COMMENTAIRES: [comments-commentaires@scc-csc.gc.ca](mailto:comments-commentaires@scc-csc.gc.ca)

## **APPEALS / APPELS**

Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:

<http://scc.lexum.org/en/2012/2012scc34/2012scc34.html>

<http://scc.lexum.org/fr/2012/2012csc34/2012csc34.html>

**33921**            **Entertainment Software Association and Entertainment Software Association of Canada v. Society of Composers, Authors and Music Publishers of Canada – and – CMRRA-SODRAC Inc., Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic and Cineplex Entertainment LP** (F.C.)  
**2012 SCC 34 / 2012 CSC 34**

Coram: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

The appeal from the judgment of the Federal Court of Appeal, Number A-521-07, 2010 FCA 221, dated September 2, 2010, heard on December 6, 2011, is allowed with costs. LeBel, Fish, Rothstein and Cromwell JJ. are dissenting.

L'appel interjeté contre l'arrêt de la Cour d'appel fédérale, numéro A-521-07, 2010 CAF 221, en date du 2 septembre 2010, entendu le 6 décembre 2011, est accueilli avec dépens. Les juges LeBel, Fish, Rothstein et Cromwell sont dissidents.

Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:

<http://scc.lexum.org/en/2012/2012scc35/2012scc35.html>

<http://scc.lexum.org/fr/2012/2012csc35/2012csc35.html>

33922 **Rogers Communications Inc., Rogers Wireless Partnership, Shaw Cablesystems G.P., Bell Canada and TELUS Communications Company v. Society of Composers, Authors and Music Publishers of Canada - and – CMRRA-SODRAC Inc., Cineplex Entertainment LP, Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic, Apple Canada Inc. and Apple Inc.** (F.C.)  
2012 SCC 35 / 2012 CSC 35

Coram: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

The appeal from the judgment of the Federal Court of Appeal, Numbers A-519-07 and A-520-07, 2010 FCA 220, dated September 2, 2010, heard on December 6, 2011, is allowed in part. In view of the divided result, each party should bear its own costs.

L'appel interjeté contre l'arrêt de la Cour d'appel fédérale, numéros A-519-07 et A-520-07, 2010 CAF 220, en date du 2 septembre 2010, entendu le 6 décembre 2011, est accueilli en partie. Chacune des parties ayant partiellement gain de cause, elle supportera ses propres frais de justice.

Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:  
<http://scc.lexum.org/en/2012/2012scc36/2012scc36.html>  
<http://scc.lexum.org/fr/2012/2012csc36/2012csc36.html>

33800 **Society of Composers, Authors and Music Publishers of Canada, Canadian Recording Industry Association and CMRRA-SODRAC Inc. v. Bell Canada, Apple Canada Inc., Rogers Communications Inc., Rogers Wireless Partnership, Shaw Cablesystems G.P., TELUS Communications Inc., Entertainment Software Association and Entertainment Software Association of Canada – and – Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic, Canadian Association of University Teachers, Federation of Law Societies of Canada, Canadian Legal Information Institute and Computer & Communications Industry Association** (F.C.)  
2012 SCC 36 / 2012 CSC 36

Coram: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

The appeal from the judgment of the Federal Court of Appeal, Number A-514-07, 2010 FCA 123, dated May 14, 2010, heard on December 6, 2011, is dismissed with costs.

L'appel interjeté contre l'arrêt de la Cour d'appel fédérale, numéro A-514-07, 2010 CAF 123, en date du 14 mai 2010, entendu le 6 décembre 2011, est rejeté avec dépens.

Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:  
<http://scc.lexum.org/en/2012/2012scc37/2012scc37.html>  
<http://scc.lexum.org/fr/2012/2012csc37/2012csc37.html>

33888 **Province of Alberta as represented by the Minister of Education, Province of British Columbia as represented by the Minister of Education, Province of Manitoba as represented by the Minister of Education, Citizenship and Youth, Province of New Brunswick as represented by the Minister of Education, Province of Newfoundland and Labrador as**

represented by the Minister of Education, Northwest Territories as represented by the Minister of Education, Culture and Employment, Province of Nova Scotia as represented by the Minister of Education, Territory of Nunavut as represented by the Minister of Education, Province of Ontario as represented by the Minister of Education, Province of Prince Edward Island as represented by the Minister of Education, Province of Saskatchewan as represented by the Minister of Education, Yukon Territory as represented by the Minister of Education, Airy and Sabine District School Area Board, Algoma District School Board, Algonquin and Lakeshore Catholic District School Board, Asquith-Garvey District School Area Board, Atikokan Roman Catholic Separate School Board, Avon Maitland District School Board, Bloorview MacMillan School Authority, Bluewater District School Board, Brant Haldimand Norfolk Catholic District School Board, Bruce-Grey Catholic District School Board, Campbell Children's School Authority, Caramat District School Area Board, Catholic District School Board of Eastern Ontario, Collins District School Area Board, Connell and Ponsford District School Area Board, Conseil des écoles catholiques du Centre-Est de l'Ontario, Conseil des écoles publiques de l'Est de l'Ontario, Conseil des écoles séparées catholiques de Dubreuilville, Conseil des écoles séparées catholiques de Foleyet, Conseil scolaire de district catholique Centre-Sud, Conseil scolaire de district catholique de l'Est Ontarien, Conseil scolaire de district catholique des Aurores Boréales, Conseil scolaire de district catholique des Grandes Rivières, Conseil scolaire de district catholique du Nouvel-Ontario, Conseil scolaire de district catholique Franco-Nord, Conseil scolaire de district des écoles catholiques du Sud-Ouest, Conseil scolaire de district du Centre Sud-Ouest, Conseil scolaire de district du Grand Nord de l'Ontario, Conseil scolaire de district du Nord-Est de l'Ontario, District School Board of Niagara, District School Board Ontario North East, Dufferin-Peel Catholic District School Board, Durham Catholic District School Board, Durham District School Board, Foleyet District School Area Board, Gogama District School Area Board, Gogama Roman Catholic Separate School Board, Grand Erie District School Board, Greater Essex County District School Board, Halton Catholic District School Board, Halton District School Board, Hamilton-Wentworth Catholic District School Board, Hamilton-Wentworth District School Board, Hastings & Prince Edward District School Board, Hornepayne Roman Catholic Separate School Board, Huron Perth Catholic District School Board, Huron-Superior Catholic District School Board, James Bay Lowlands Secondary School Board, Kawartha Pine Ridge District School Board, Keewatin-Patricia District School Board, Kenora Catholic District School Board, Lakehead District School Board, Lambton Kent District School Board, Limestone District School Board, Missarenda District School Area Board, Moose Factory Island District School Area Board, Moosonee District School Area Board, Moosonee Roman Catholic Separate School Board, Murchison and Lyell District School Area Board, Nakina District School Area Board, Near North District School Board, Niagara Catholic District School Board, Niagara Peninsula Children's Centre School Authority, Nipissing-Parry Sound Catholic District School Board, Northeastern Catholic District School Board, Northern District School Area Board, Northwest Catholic District School Board, Ottawa Children's Treatment Centre School Authority, Ottawa-Carleton Catholic District School Board, Ottawa-Carleton District School Board, Parry Sound Roman Catholic Separate School Board, Peel District School Board, Peterborough Victoria Northumberland and Clarington Catholic District School Board, Rainbow District School Board, Rainy River District School Board, Red Lake Area Combined Roman Catholic Separate School Board, Renfrew County Catholic District School Board, Renfrew County District School Board, Simcoe County District School Board, Simcoe Muskoka Catholic District School Board, St. Clair Catholic District School Board, Sudbury Catholic District School Board, Superior North Catholic District School Board, Superior-Greenstone District School Board, Thames Valley District School Board, Thunder Bay Catholic District School Board, Toronto Catholic District School Board, Toronto District School Board, Trillium Lakelands District School Board, Upper Canada District School Board, Upper Grand District School Board, Upsala District School Area Board, Waterloo Catholic District School Board, Waterloo Region District School Board, Wellington Catholic District School Board, Windsor-Essex Catholic District School Board,

**York Catholic District School Board and York Region District School Board v. Canadian Copyright Licensing Agency Operating as “Access Copyright” – and – Canadian Publishers’ Council, Association of Canadian Publishers, Canadian Educational Resources Council, Canadian Association of University Teachers, Canadian Federation of Students, Association of Universities and Colleges of Canada, Association of Canadian Community Colleges, CMRRA-SODRAC Inc., Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic, Canadian Authors Association, Canadian Freelance Union, Canadian Society of Children’s Authors, Illustrators and Performers, League of Canadian Poets, Literary Translators’ Association of Canada, Playwrights Guild of Canada, Professional Writers Association of Canada, Writers’ Union of Canada and Centre for Innovation Law and Policy of the Faculty of Law University of Toronto** (F.C.)  
**2012 SCC 37 / 2012 CSC 37**

Coram: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

The appeal from the judgment of the Federal Court of Appeal, Number A-302-09, 2010 FCA 198, dated July 23, 2010, heard on December 7, 2011, is allowed with costs, and the matter is remitted to the Copyright Board for reconsideration. Deschamps, Fish, Rothstein and Cromwell JJ. are dissenting.

L’appel interjeté contre l’arrêt de la Cour d’appel fédérale, numéro A-302-09, 2010 CAF 198, en date du 23 juillet 2010, entendu le 7 décembre 2011, est accueilli avec dépens, et l’affaire est renvoyée à la Commission du droit d’auteur pour qu’elle l’examine à nouveau. Les juges Deschamps, Fish, Rothstein et Cromwell sont dissidents.

Reasons for judgment will be available shortly at: / Motifs de jugement disponibles sous peu à:  
<http://scc.lexum.org/en/2012/2012scc38/2012scc38.html>  
<http://scc.lexum.org/fr/2012/2012csc38/2012csc38.html>

**34210**      **Re:Sound v. Motion Picture Theatre Associations of Canada, Rogers Communications Inc., Shaw Communications Inc., Bell ExpressVu LLP, Cogeco Cable Inc., Eastlink, Quebecor Media, TELUS Communications Company, Canadian Association of Broadcasters and Canadian Broadcasting Corporation – and – Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic** (F.C.)  
**2012 SCC 38 / 2012 CSC 38**

Coram: McLachlin C.J. and LeBel, Deschamps, Fish, Abella, Rothstein, Cromwell, Moldaver and Karakatsanis JJ.

The appeal from the judgment of the Federal Court of Appeal, Number A-433-09, 2011 FCA 70, dated February 25, 2011, heard on December 7, 2011, is dismissed with costs.

L’appel interjeté contre l’arrêt de la Cour d’appel fédérale, numéro A-433-09, 2011 CAF 70, en date du 25 février 2011, entendu le 7 décembre 2011, est rejeté avec dépens.

## **APPLICATIONS FOR LEAVE / DEMANDES D’AUTORISATION :**

Note for subscribers:

The summaries of the cases are available at <http://www.scc-csc.gc.ca> :

Click on Cases and on SCC Case Information, type in the Case Number and press Search. Click on the Case Number on the Search Result screen, and when the docket screen appears, click on "Summary" which will appear in the left column.

Alternatively, click on

[http://scc.lexum.org/en/news\\_release/2012/12-07-09.2a/12-07-09.2a.html](http://scc.lexum.org/en/news_release/2012/12-07-09.2a/12-07-09.2a.html)

Note pour les abonnés :

Les sommaires des causes sont affichés à l'adresse <http://www.scc-csc.gc.ca> :

Cliquez sur « Dossiers », puis sur « Renseignements sur les dossiers ». Tapez le n<sup>o</sup> de dossier et appuyez sur « Recherche ». Cliquez sur le n<sup>o</sup> du dossier dans les Résultats de la recherche pour accéder au Registre. Cliquez enfin sur le lien menant au « Sommaire » qui figure dans la colonne de gauche.

Autre façon de procéder : Cliquer sur

[http://scc.lexum.org/fr/news\\_release/2012/12-07-09.2a/12-07-09.2a.html](http://scc.lexum.org/fr/news_release/2012/12-07-09.2a/12-07-09.2a.html)

## **DISMISSED WITH COSTS / REJETÉES AVEC DÉPENS**

*Harvey A. Bablitz v. Montana Niketa Phillip, a minor by her next friend Yvonne Bertha Phillip et al.* (Alta.) (Civil) (By Leave) (34677)

Coram: McLachlin / Rothstein / Moldaver

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*Jacques Gauthier T/A Gauthier & Associates v. Tarlo Lyons (A Firm)* (Ont.) (Civil) (By Leave) (34723)

Coram: McLachlin / Rothstein / Moldaver

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*Residents and Ratepayers of Central Saanich Society v. Corporation of the District of Central Saanich et al.* (B.C.) (Civil) (By Leave) (34632)

Coram: McLachlin / Rothstein / Moldaver

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*Schering Corporation et al. v. Apotex Inc. et al.* (F.C.) (Civil) (By Leave) (34600)

(The motion for an extension of time to serve and file the applications for leave to appeal is granted. The applications for leave to appeal are dismissed with costs. /

La requête en prorogation du délai de signification et de dépôt des demandes d'autorisation d'appel est accueillie. Les demandes d'autorisation d'appel sont rejetées avec dépens.)

Coram: McLachlin / Rothstein / Moldaver

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*Apotex Inc. et al. v. Merck & Co. Inc. et al.* (F.C.) (Civil) (By Leave) (34676)

Coram: McLachlin / Rothstein / Moldaver

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*Verreault Navigation inc. c. Agence du revenu du Québec* (Qc) (Civile) (Autorisation) (34742)

Coram: LeBel / Abella / Cromwell

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*Brana Giancristofaro Malobabic v. Quebec Bar Association et al.* (Que.) (Civil) (By Leave) (34673)

(The motion for a writ of *certiorari* is dismissed. The application for leave to appeal is dismissed with costs to the respondents Heenan Blaikie S.E.N.C.R.L., Stephen H. Trihey, Stephen G. Schenke and Douglas C. Mitchell. The motion for an extension of time to serve and file the application for leave to appeal is moot. /

La requête visant à obtenir le bref de *certiorari* est rejetée. La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimés Heenan Blaikie S.E.N.C.R.L., Stephen H. Trihey, Stephen G. Schenke et Douglas C. Mitchell. La requête en prorogation du délai de signification et de dépôt de la demande d'autorisation d'appel est sans objet.)

Coram: LeBel / Abella / Cromwell

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*Mohammed Tibilla v. Attorney General of Canada* (F.C.) (Civil) (By Leave) (34686)

Coram: LeBel / Abella / Cromwell

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## **DISMISSED WITHOUT COSTS / REJETÉES SANS DÉPENS**

*T.R.A. v. Her Majesty the Queen* (N.S.) (Criminal) (By Leave) (34636)

Coram: McLachlin / Rothstein / Moldaver

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*Roland Ashley Warawa v. Her Majesty the Queen* (Alta.) (Criminal) (By Leave) (34661)

(The motion for an extension of time to serve and file the application for leave to appeal is granted. The application for leave to appeal is dismissed without costs. /

La requête en prorogation du délai de signification et de dépôt de la demande d'autorisation d'appel est accueillie. La demande d'autorisation d'appel est rejetée sans dépens.)

Coram: McLachlin / Rothstein / Moldaver

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*Francisco Javier Beltran v. Attorney General of Canada on behalf of the United States of America* (Ont.) (Criminal) (By Leave) (34717)

Coram: McLachlin / Rothstein / Moldaver

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*A.R.M. v. Her Majesty the Queen* (Alta.) (Criminal) (By Leave) (34682)

(The motion for an extension of time to serve and file the application for leave to appeal is granted. The application for leave to appeal is dismissed without costs. /

La requête en prorogation du délai de signification et de dépôt de la demande d'autorisation d'appel est accueillie. La demande d'autorisation d'appel est rejetée sans dépens.)

Coram: McLachlin / Rothstein / Moldaver

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*Sinopec Shanghai Engineering Company Ltd. v. Her Majesty the Queen in Right of Alberta* (Alta.) (Civil) (By Leave) (34629)

Coram: McLachlin / Rothstein / Moldaver

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*Bryan Mellor v. Workers' Compensation Board of Saskatchewan* (Sask.) (Civil) (By Leave) (34766)  
Coram: McLachlin / Rothstein / Moldaver

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*Wilfredo Lorenzo Lopez c. Procureur général du Canada, au nom des États-Unis* (Qc) (Criminelle) (Autorisation)  
(34560)

(La requête en prorogation du délai de signification et de dépôt de la demande d'autorisation d'appel est accueillie.

La demande d'autorisation d'appel est rejetée sans dépens. /

The motion for an extension of time to serve and file the application for leave to appeal is granted. The application for leave to appeal is dismissed without costs.)

Coram: LeBel / Abella / Cromwell

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*Reverend Brother Michel D. Ethier v. Her Majesty the Queen* (Ont.) (Criminal) (By Leave) (34688)

(The motion for an extension of time to serve and file the application for leave to appeal is granted. The application for leave to is dismissed without costs. /

La requête en prorogation du délai de signification et de dépôt de la demande d'autorisation d'appel est accueillie.

La demande d'autorisation d'appel est rejetée sans dépens.)

Coram: LeBel / Abella / Cromwell

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