

Federal Court of Appeal



Cour d'appel fédérale

Date: 20040719

Docket: A-203-04

OTTAWA, ONTARIO, JULY 19, 2004

Present: EVANS J.A.



BETWEEN:

**BMG CANADA INC., EMI MUSIC CANADA, A DIVISION OF EMI GROUP
CANADA INC., SONY MUSIC ENTERTAINMENT (CANADA) INC.,
UNIVERSAL MUSIC CANADA INC., WARNER MUSIC CANADA LTD.,
BMG MUSIC, ARISTA RECORDS, INC.,
ZOMBA RECORDING CORPORATION, EMI MUSIC SWEDEN AB,
CAPITOL RECORDS, INC., CHRYSALIS RECORDS LIMITED,
VIRGIN RECORDS LIMITED, SONY MUSIC ENTERTAINMENT INC.,
SONY MUSIC ENTERTAINMENT (UK) INC., UMG RECORDINGS, INC.,
MERCURY RECORDS LIMITED AND WEA INTERNATIONAL INC.**

**Appellants
(Plaintiffs)**

and

**JOHN DOE, JANE DOE AND ALL THOSE PERSONS WHO ARE INFRINGING
COPYRIGHT IN THE PLAINTIFFS' SOUND RECORDINGS**

(Defendants)

and

**SHAW COMMUNICATIONS INC., ROGERS CABLE COMMUNICATIONS INC.,
BELL CANADA, TELUS INC., AND VIDEOTRON LTEE.**

**Respondents
(Third Party Respondents)**

and

CANADIAN INTERNET POLICY AND PUBLIC INTEREST CLINIC

Intervener

ORDER

UPON motions pursuant to Rules 109 and 369, by Business Software Alliance, Canadian Alliance Against Software Theft, Entertainment Software Alliance and Software & Information Industry Association (“BSA”) and by The Canadian Motion Picture Distributors Association (“CMPDA”) for leave to intervene in the appeal;

WHEREAS the test applicable for the exercise of the Court’s discretion under Rule 109(1) has been established by the jurisprudence, in particular *Canadian Union of Public Employees (Airline Division) v. Canadian Airlines International Ltd.*, [2000] F.C.J. No. 220 (F.C.A.) and *Apotex Inc. v. Eli Lilly Canada Inc.* (2001), 11 C.P.R. (4th) 486 (F.C.A.);

AND WHEREAS the proposed interveners have only a jurisprudential interest in the outcome of this appeal;

AND WHEREAS, insofar as the appeal raises questions of copyright law, the questions primarily concern copyright law as applied to recorded music, not to motion pictures or software, the products in which the interveners’ clients have copyright;

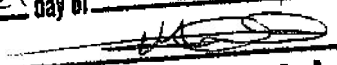
AND WHEREAS, insofar as the appeal does raise more general questions of copyright law, the appellants, respondents and intervener are well placed to argue them and the proposed interveners are unlikely to bring a different perspective on them that will assist the Court;

THE COURT HEREBY ORDERS that the motions are dismissed.

“John M. Evans”

J.A.

I HEREBY CERTIFY that the above document is a true copy of the
original issued out of / filed in the Court on the 20
day of July A.D. 20 04
Dated this 20 day of July 20 04


Michael Kowalchuk
Registry Officer
Agent du greffe