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OVERDUE NORTH: CANADA FINALLY PASSES NEW COPYRIGHT LAW

by Carrie Sager

The following blog post was originally published on www.ipbrief.net on June 23, 2012.

After fifteen years of stalled talks and failed legislation, Canada's House of Commons passed Bill C-11 on June 18, leaving only an expected quick passage in the Senate standing between Canada and its new copyright law. The new law's primary effect is to amend Canada's copyright code to cover digital content, much of which wasn't even in use when the last copyright law was passed in 1997. The long lull in copyright reform was harming Canada's international trade, with the U.S. and European Union both pushing for updates as a condition of trade agreement negotiations.

C-11's digital lock provisions are probably the most controversial aspect of the bill. They make it illegal to break a digital lock even for a lawful use such as ripping a CD in order to play it on a personal MP3 player. Despite strong public opposition to the provisions, the government, possibly in response to pressure from the U.S., refused to allow even minor exceptions, including a proposal to allow blind Canadians to break the locks on eBooks in order to transfer the content to braille, or to allow Deaf Canadians to break the locks on DVDs to add closed captioning to movies.

However, other provisions created greater consumer rights, at least compared to earlier versions of the bill. Bill C-11 provides fair dealing exceptions for parody, satire, and educational purposes (the last of which was a matter of major contention for rights holders), a cap of \$5000 on non-commercial statutory damages, and allows format shifting, time shifting, backup copies, exceptions for user-generated content, and a notice-and-notice system instead of notice-and-takedown like the DMCA.

Canada didn't have to wait long to get a response from the U.S. On June 19, President Obama announced that Canada would

be allowed to join the talks for the Trans-Pacific Partnership, albeit on a limited basis. Unfortunately for Canada, one of the limits on its participation is that it won't have veto power, meaning that it could be held to enforce provisions agreed upon by the other countries. Last spring I compared the leaked draft of the TPP chapter on IP to C-11 and found that there were significant differences; if Canada signs on to the TPP, C-11's days may be numbered.