Canada

“Rogers Communications Inc.”

Copyright Act, R.S.C. 1985, c. C-42, Sec. 3(1)(f) – *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-SONDRAC Inc., Cineplex Entertainment LP, Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic, Apple Canada Inc. and Apple Inc.*

**Decision of the Supreme Court of Canada
12 July 2012 – Case No. 33922**

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1. A stream of a musical work from the Internet is not a private transaction outside the scope of the right to communicate to the public. It matters little for the purposes of copyright protection whether the members of the public receive the communication in the same or in different places, at the same or at different times, or at their own or the sender's initiative.
2. A transmission of a single copy of a work to a single individual is not a communication to the public within the meaning of Sec. 3(1)(f) of the Copyright Act. However, where there is a series of repeated transmissions of the same work to different recipients, each transmission cannot be analysed in isolation, even if each transmission is initiated at the request of an individual member of the public.
3. Nothing in the wording of Sec. 3(1)(f) of the Act excludes pull technologies from its scope or restricts communications to the public to a purely non-interactive context. Section 3(1)(f) is technology neutral.
4. Because the unusual statutory scheme under the Copyright Act does not give the Copyright Board a discrete and special administrative regime, it must be inferred that the legislative intent was not to recognize a superior expertise of the Board relative to the courts with respect to legal questions arising under the Copyright Act.

Available at <http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/9995/index.do>.

See also the editorial by Ysolde Gendreau in 44 IIC 623 (2013) doi:10.1007/s40319-013-0091-9.