

What's the Big Deal?

Understanding the
Trans-Pacific
Partnership

The trouble with the TPP's copyright rules

Michael Geist





CCPA

CANADIAN CENTRE
for POLICY ALTERNATIVES
CENTRE CANADIEN
de POLITIQUES ALTERNATIVES

ISBN 978-1-77125-300-0

This report is available free of charge at www.policyalternatives.ca. Printed copies may be ordered through the CCPA National Office for \$10.

PLEASE MAKE A DONATION...

Help us to continue to offer our publications free online.

With your support we can continue to produce high quality research—and make sure it gets into the hands of citizens, journalists, policy makers and progressive organizations. Visit www.policyalternatives.ca or call 613-563-1341 for more information.

The CCPA is an independent policy research organization. This report has been subjected to peer review and meets the research standards of the Centre.

The opinions and recommendations in this report, and any errors, are those of the authors, and do not necessarily reflect the views of the funders of this report.



ABOUT THE AUTHORS

Michael Geist is a law professor at the University of Ottawa where he holds the Canada Research Chair in Internet and E-commerce Law. He has a bachelor of laws from Osgoode Hall Law School in Toronto, masters of laws from Cambridge University in the U.K. and Columbia Law School in New York, and a doctorate in law from Columbia Law School. He is a syndicated columnist on technology law issues, with regular columns in the *Toronto Star* and the *Hill Times*, and has written extensively about the TPP and its implications for digital policy in Canada.

ACKNOWLEDGMENTS

The author would like to thank Scott Sinclair, David Robinson, and Stuart Trew for their invaluable assistance and feedback in the preparation of this report. He is grateful to the Social Sciences and Humanities Research Council of Canada and the Canada Research Chair Program for their financial assistance for his research. Any errors or omissions are the sole responsibility of the author.

5	Summary
6	Copyright term extension
9	Digital locks
12	Copyright takedowns
14	Conclusion
15	Notes

The trouble with the TPP's copyright rules

Summary

As the Trans-Pacific Partnership (TPP) negotiations neared a conclusion in 2015, the intellectual property chapter generated enormous concern from copyright experts who feared it would dramatically alter the balance between the interests of creators and users. Those concerns were borne out by the final text, which significantly exceeds international norms, pays short shrift to user interests, and requires legislative changes in many countries including Canada.

Canada was not an initial participant in the TPP negotiations. The Harper government began working on entry into the TPP in 2009, leading to a formal request for participation in the negotiations in 2011.¹ When a year later the U.S. held a consultation on the possibility of Canada joining the talks, the International Intellectual Property Alliance (IIPA), the lead lobby group for the movie, music, and software industry, urged against it until a Canadian copyright bill was passed that satisfied U.S. expectations. The Canadian government promised it would oblige this request and noted it had signed the Anti-Counterfeiting Trade Agreement (ACTA).²

The U.S. demands had an enormous impact on the contents of the 2012 Canadian copyright bill, particularly its restrictive digital lock rules, which were at the very top of the U.S. priority list.³ In fact, the Canadian govern-

ment was not shy about acknowledging that some reforms were driven by U.S. demands as the price for TPP entry. For example, Canada enacted anti-counterfeiting legislation in 2014 that James Moore, then industry minister, admitted to be one of the U.S. conditions for TPP participation.⁴ Moore said:

This legislation contributes to a more effective relationship between Canada and the United States on raising Canada to the international standard and meeting the standard that the American government frankly asked the government of Canada to meet in order for us to move forward with our participation in the Trans-Pacific Partnership negotiations so we think we've checked all the necessary boxes.

Even with those changes, the U.S. used the TPP to pressure Canada into further copyright reforms. This study examines the policy implications of three of the biggest: term extension, digital locks, and the role of Internet intermediaries.

Copyright term extension

The term of copyright in Canada is presently set at the life of the author plus an additional 50 years, which is consistent with the international standard in the Berne Convention. This is also the standard in half of TPP countries: Japan, Malaysia, New Zealand, Brunei, and Vietnam also provide protection for life plus 50 years. The TPP will add 20 years to the term of copyright protection in Canada and these countries.

From a Canadian perspective, the issue of extending the term of copyright was raised on several prior occasions and consistently rejected by governments and trade negotiators. For example, term extension was discussed during the 2009 national copyright consultation, but the Canadian government decided against it. Furthermore, the European Union initially demanded that Canada extend the term of copyright in the proposed Canada–EU Comprehensive Economic and Trade Agreement (CETA), but that too was effectively rebuffed.⁵

From a policy perspective, the decision to maintain the international standard of life plus 50 years is consistent with the evidence that term extension creates harms by leaving Canadians with an additional 20 years during which no new works will enter the public domain, with virtually no gains in terms of new creativity. In other words, in a policy world in which copyright strives to balance creativity and access, term extension restricts access but

does not enhance creativity. This has been confirmed by many economists, including in a study commissioned by Industry Canada (now the Department of Innovation, Science, and Economic Development).⁶

Moreover, studies in other countries that have extended copyright terms conclude it ultimately costs consumers as additional royalties are sent out of the country.⁷ In the case of the TPP, the term extension is a major windfall for the United States and a net loss for Canada (and most other TPP countries). In fact, New Zealand, which faces a similar requirement, has estimated the extension alone will cost its economy NZ\$55 million (about C\$51 million) per year.⁸ The Canadian cost is undoubtedly far higher.⁹

The damage caused by the term extension involves more than just higher costs to consumers and educational institutions. It also creates a massive blow to access to Canadian heritage.¹⁰

In the fall of 2015, Broadview Press, an independent academic publisher that has been a vocal proponent of copyright, warned about the dangers of the term extension to its business and the academic community.¹¹ Broadview CEO Don Lapan described how “unlimited, or excessively long, copyright terms have often kept scholars from publishing (or even obtaining access to) material of real historical or cultural significance.” He held up Broadview’s editions of *Mrs. Dalloway* and *The Great Gatsby* as examples of top-notch texts available in Canada but not the U.S. where terms are longer. The publisher is:

looking at publishing similar editions of works by other authors who have been dead for more than 50 but fewer than 70 years — works such as Orwell’s *Animal Farm* and 1984, for example; a Broadview edition of such works, with the appendices of contextual materials that are a feature of almost every Broadview edition, would provide highly valuable context for students at all levels. We are also looking forward to January 1, 2016, when we will finally be able to make the superb Broadview edition of [T.S. Eliot’s] *The Waste Land and other Poems* — with its excellent explanatory notes and extensive range of background material on modernism — available in Canada.

If the TPP is approved in Canada, wrote Lapan, “say goodbye to those Orwell and Eliot editions.” The TPP-mandated copyright term extension would likewise directly affect 22 Governor-General award-winning fiction and non-fiction authors whose work would take decades longer to enter the public domain.¹² These include Margaret Laurence, Gabrielle Roy, Marian Engel, Marshall McLuhan, and Donald Creighton (see box). In addition to Canadian authors there are many well-known international figures that will

Not quite public domain

Governor-General award-winning books scheduled to enter the public domain over the next 20 years but will have to wait until at least 2037 if the TPP is ratified:

Fiction

- Igor Sergeyevech Gouzenko (*The Fall of a Titan*)
- Winifred Estella Bambrick (*Continental Revue*)
- Colin Malcolm McDougall DSO (*Author, Execution*)
- Germaine Guèvremont (*The Outlander*)
- Philip Albert Child (*Mr. Ames Against Time*)
- Gabrielle Roy (*The Tin Flute*)
- Jean Margaret Laurence (*The Stone Angel/A Jest of God*)
- Marian Engel (*Bear*)
- Hugh Garner (*Hugh Garner's Best Stories*)

Non-fiction

- James Frederick Church Wright (*Slava Bohu*)
- Laura Goodman Salverson (*Confessions of an Immigrant's Daughter*)
- Edgar Wardell McInnis (*The Unguarded Frontier*)
- Evelyn M. Richardson (*We Keep a Light*)
- William Sclater (*Haida*)
- Marjorie Elliott Wilkins Campbell (*The Saskatchewan*)
- William Lewis Morton (*The Progressive Party in Canada*)
- Josephine Phelan (*The Ardent Exile*)
- Donald Grant Creighton (*John A. Macdonald, The Young Politician*)
- Frank Hawkins Underhill (*In Search of Canadian Liberalism*)
- Herbert Marshall McLuhan (*The Gutenberg Galaxy*)
- Noah Story (*The Oxford Companion to Canadian History and Literature*)
- Francis Reginald Scott (*Essays On the Constitution*)

be kept out of the public domain in Canada, such as John Steinbeck, Martin Luther King, Andy Warhol, Woody Guthrie, and Elvis Presley.

While the damage to the public domain in Canada stands as one of the worst aspects of the TPP's intellectual property chapter, there is the potential for an implementation approach that would mitigate some of the harm. As Australian law professor Kim Weatherall points out in her excellent review of the TPP copyright provisions, earlier versions of the agreement would have

prohibited the implementation of any formalities, such as registration, for copyright.¹³ The no formalities rule was dropped from the final TPP text.¹⁴

The Berne Convention prohibits the use of formalities for works covered by the treaty, but Canada could conceivably treat the term beyond Berne (i.e., the 20 years after life-plus-50-years) as a supplementary regime that falls outside of the Berne standard.¹⁵ If Canada (and potentially other countries) treated the additional protection as supplemental, it could require copyright registration and notification of the extended term in order to qualify for further protection. Copyright registration would not eliminate all the harm to the public domain, but it would mean that only those who desire the extension would take the positive steps to get it, thereby reducing the costs of the TPP's unnecessary copyright term extension.

Digital locks

One of the most controversial aspects of the 2012 Canadian copyright reform process involved the anti-circumvention provisions, often referred to as digital lock rules. The U.S. pressured Canada to include anti-circumvention rules, which were required for ratification of the WIPO Internet treaties, within the copyright reform package. They feature legal protections for technological protection measures (TPMs, a broader umbrella that captures digital rights management, or DRM) and rights management information (RMI). TPMs can be used to control access to, and use of, digital content. The proliferation of TPMs alongside legislation designed to protect digital locks represents a perfect storm of danger to consumers, who may find themselves locked out of content they have already purchased, while sacrificing their privacy and free speech rights in the process.

There was an enormous amount of scholarly analysis on these issues throughout Canada's reform process.¹⁶ Moreover, McGill University professor David Lametti, now a Liberal MP and the parliamentary secretary for international trade, wrote about the incoherence of digital lock rules.¹⁷ The academic analysis was decidedly negative about the legal reforms as was the broader public, which made the issue a top priority as part of the 2009 Canadian copyright consultation.¹⁸

This background is necessary, since it is important to understand that the digital lock rules currently found in Canadian copyright law already represent a government decision to cave to U.S. pressure to go far beyond what is required of governments under the WIPO Internet treaties. It should also

be noted that the digital lock rules introduced by the Liberals in a 2005 bill were far more flexible and balanced than the ones passed by the Conservative government in its 2012 legislation. Yet, despite the 2012 reforms, the TPP will require Canada to make further changes to its digital lock rules and lock Canada into a “WIPO+” model that removes the ability to restore the flexibility found in the WIPO Internet treaties. In other words, once the TPP takes effect, the restrictive digital lock rules will be locked into Canadian law.

The TPP affects both the rights management information rules and technological protection measures provisions. For rights management information, Article 18.69 of the TPP requires Canada to add criminal liability to the list of potential remedies. This marks a significant change from the 2012 copyright reform package, reflecting a U.S. desire for increased criminalization of copyright law. Canada opposed the change during the TPP negotiations, at least up to the Hawaii round in August 2015, but ultimately caved in the final draft.¹⁹ There are no similar criminal requirements in the pending Canada–EU trade agreement.

Article 18.68 of the TPP contains extensive requirements for technological protection measures that go beyond what is required by the WIPO Internet treaties. In fact, the TPP digital lock rules also exceed those found in CETA and the Canada–South Korea Free Trade Agreement, with more restrictive rules on the creation of circumvention exceptions as well as criminal liability requirements.²⁰ While these other agreements – whether the WIPO Internet treaties or other trade agreements – permit more flexible approaches, if the TPP takes effect it will trump them for Canadian law purposes by requiring a different standard for digital lock protection.

The restrictive approach in the TPP may also apply to the creation of new digital lock exceptions. As part of the contentious debate over the implementation of anti-circumvention rules in Canadian copyright law in 2012, the government tried to assure concerned stakeholders it had established specific mechanisms within the law to create additional exceptions to the general rule against circumvention. The law includes a handful of exceptions for issues such as security or privacy protection, but there is also a process for adding new limitations to the general rule.

There are two possible avenues for new limitations and exceptions. First, Section 41.21(1) of the Copyright Act allows the Governor in Council to make regulations for an exception where the law would otherwise “unduly restrict competition.”²¹ Second, Section 41.21(2)(a) identifies other circumstances to consider for exceptions, including whether the circumvention rules could adversely affect the fair dealing criteria in the act.²²

In addition to those two potential regulation-making models for new exceptions and limitations, Canadian law also establishes the possibility of creating a positive requirement on rights holders to unlock their locked content. It states that the Governor in Council may make regulations:

requiring the owner of the copyright in a work, a performer's performance fixed in a sound recording or a sound recording that is protected by a technological protection measure to provide access to the work, performer's performance fixed in a sound recording or sound recording to persons who are entitled to the benefit of any of the limitations on the application of paragraph 41.1(1)(a) prescribed under paragraph (a). The regulations may prescribe the manner in which, and the time within which, access is to be provided, as well as any conditions that the owner of the copyright is to comply with.²³

This is not like other limitations or exceptions in the legislation, as it does not envision the possibility of permitting a user to circumvent a digital lock. Instead, it lays the groundwork to create a requirement to unlock content. However, the TPP may still not permit even this flexibility. Article 18.68 (4)(i) of the intellectual property chapter is limited to creating exceptions or limitations on the prohibition against circumvention, and does not include language to permit mandated unlocking.²⁴ It says:

a Party may provide certain limitations and exceptions to the measures implementing paragraph 1(a) or paragraph 1(b) in order to enable non-infringing uses if there is an actual or likely adverse impact of those measures on those non-infringing uses, as determined through a legislative, regulatory, or administrative process in accordance with the Party's law, giving due consideration to evidence when presented in that process, including with respect to whether appropriate and effective measures have been taken by rights holders to enable the beneficiaries to enjoy the limitations and exceptions to copyright and related rights under that Party's law.²⁵

The absence of a positive obligation to unlock is not surprising since it is not found in U.S. law. The Canadian government may try to argue that a positive obligation to provide unlocked content is a form of exception, yet the TPP adds another weapon to the arsenal of rights holders steadfastly opposing this type of requirement.

Copyright takedowns

The TPP's effort to regulate how Internet service providers (ISPs) and hosts address allegations of copyright infringement on their networks and sites was another major issue addressed by negotiators. The goals of the U.S. and Canadian governments in the talks were clear from the outset: the U.S. wanted to export the notice-and-takedown system in its Digital Millennium Copyright Act (DMCA) to the rest of the TPP, while Canada wanted to preserve its newly created notice-and-notice approach. In fact, Canada rushed through the notice-and-notice system without regulations (causing major problems of misleading notices) in order to argue that it should not be required to adopt the U.S. approach.²⁶

The hallmark of the U.S. system is that it requires content takedowns without court oversight. By contrast, the Canadian approach, which has operated informally for over a decade but took effect as a law in 2015, seeks to balance the interests of copyright holders, the privacy rights of Internet users, and the legal obligations of Internet providers.

Under the Canadian notice-and-notice system, copyright owners are entitled to send infringement notices to Internet providers, who are legally required to forward the notifications to their subscribers. The notices must include details on the sender, the copyright works, and the alleged infringement. If the Internet provider fails to forward the notification, it must explain why or face the prospect of damages that run as high as \$10,000. Internet providers must also retain information on the subscriber for six months (or 12 months if court proceedings are launched). For ISPs, the system creates significant costs for processing and forwarding notices. However, assuming they meet their obligations of forwarding the notice, the law grants them a legal "safe harbour" that removes potential liability for the actions of their subscribers.

The TPP compromise allows Canada to maintain the notice-and-notice system, but no other TPP member country can adopt it in order to comply with the ISP liability and notice rules in the intellectual property chapter. The Canadian rules can be found in Annex 18-E of the TPP, which states that the standard ISP rules in the agreement do not apply to a country that meets the conditions of the annex "as from the date of agreement in principle of this Agreement." Since that date is now long passed (October 4, 2015), no other TPP country can implement the notice-and-notice system to meet its TPP obligations. It should be noted that Chile, which objected to the special

treatment for Canada, obtained a similar exception for its system based on Annex 18-F of the U.S.–Chile Free Trade Agreement.

The compromise highlights one of the major sources of trouble with the TPP. More than a mere trade agreement, the TPP is a clear effort by the U.S. to export its regulatory framework to other countries, creating a competitive advantage for U.S. companies. Canada and Chile were able to push back to retain their systems, but no other TPP country (present or future) will be permitted to adopt those systems to meet their treaty obligations. This compromise presumably comes at the behest of the major U.S. movie, music, and software industries, which have used their lead lobby group to criticize both Canada and Chile over their systems.²⁷

For those countries stuck with the TPP's implementation of U.S. law, University of Idaho professor Annemarie Bridy points out that the agreement is "less speech-protective and more prone to over-enforcement and abuse."²⁸ For example, the TPP does not contain a mandatory counter-notice system that would allow users to effectively challenge claims of infringement by requiring providers to re-post their content. Moreover, the TPP has fewer requirements for the contents of takedown notices as compared to the DMCA, with no requirement for rights holders to state their good faith belief that the content in the notice infringes copyright. The absence of a good faith belief requirement is a major omission given that it has played a role in litigation in the U.S. where rights holders misuse the takedown system.

The decision to lock in the DMCA notice-and-takedown system within the TPP comes just as the U.S. Copyright Office undertakes a public study of its costs and burdens on rights holders, service providers, and the general public.²⁹ As with the discussion above on digital locks, the risk that the TPP may mandate a particular approach that limits domestic reforms is an enormous problem for all stakeholders, regardless of their perspective.

Perhaps the most telling provision in the Internet provider section comes at the very end, in Article 18.82 (9), which states, "The Parties recognize the importance, in implementing their obligations under this Article, of taking into account the impacts on right holders and Internet Service Providers."³⁰ There is no reference to users or the general public, as if those impacts simply do not matter. This reflects the TPP negotiating approach in which the broader public is not even an afterthought. It is missing altogether.

Conclusion

Canadian policy-makers have long recognized that domestic copyright policy interests are best served by multilateral negotiations, which enable the development of consensus positions that meet international minimum standards but allow for flexible implementation. The copyright provisions in the TPP reflect the risk of bilateral and plurilateral talks, which can often lead to U.S.-dominated policies being foisted on other participants.

The copyright provisions in the TPP's intellectual property chapter crystallize those concerns, leading to the potential for millions of dollars in royalty payments being transferred out of Canada, the increased criminalization of copyright law, and a loss of policy flexibility for future Canadian copyright reforms.

Notes

- 1** “Consultations on potential free trade agreement negotiations with Trans-Pacific Partnership members,” *Canada Gazette*, December 31, 2011 (<http://canadagazette.gc.ca/rp-pr/p1/2011/2011-12-31/html/notice-avis-eng.html#d106>).
- 2** Paul Robertson, Government of Canada, “Requests for Comments: Canada’s Expression of Interest in Proposed Trans-Pacific Partnership Trade Agreement”, Comment (www.regulations.gov/#%21documentDetail;D=USTR-2011-0019-0089).
- 3** Laura Dawson, “Can Canada Join the Trans-Pacific Partnership? Why just wanting it is not enough,” C.D. Howe Institute, 2012 (www.cdhowe.org/pdf/Commentary_340.pdf).
- 4** Michael Geist, “The Price of Admission to the TPP Talks Revealed: U.S. Demanded Canada Pass Anti-Counterfeiting Legislation,” November 28, 2014, blog post (www.michaelgeist.ca/2014/11/price-admission-tpp-talks-revealed-u-s-demanded-canada-pass-anti-counterfeiting-legislation/).
- 5** Michael Geist, “How Canada Shaped the Copyright Rules in the EU Trade Deal,” August 21, 2014, blog post (www.michaelgeist.ca/2014/08/canada-shaped-copyright-rules-eu-trade-deal/).
- 6** Intellectual Property Policy, *Assessing Economic Impacts of Copyright Reform on Selected users and Consumers*, Industry Canada ([link broken on ic.gc.ca](http://ic.gc.ca)).
- 7** Carolina Rossini and Yana Welinder, “All Nations Lose with TPP’s Expansion of Copyright Terms”, *Electronic Frontier Foundation*, August 8, 2012, (<https://www.eff.org/deeplinks/2012/08/all-nations-lose-tpps-expansion-copyright-terms>).
- 8** NZ, “Economic Modelling on Estimated Effect of Copyright Term Extension on New Zealand Economy”, online: New Zealand Foreign Affairs & Trade (<https://www.tpp.mfat.govt.nz/assets/docs/TPP%20-%20Analysis%20of%20Copyright%20term%20extension,%20explanatory%20cover%20note.pdf>).
- 9** Howard Knopf, “The Cost of Canadian Copyright Term Extension Capitulation in the TPP - Estimates Based Upon New Zealand Study” (November 17, 2015), *Blog Spot* (<http://excesscopyright.blogspot.ca/2015/11/the-cost-of-canadian-copyright-term.html/>).

- 10** “Copyright concessions may be downside of TPP deal”, *The Globe and Mail*, October 23, 2015 (<http://www.theglobeandmail.com/opinion/editorials/copyright-concessions-may-be-downside-of-tpp-deal/article26939204/>).
- 11** Don Lapan, “Copyright, the TPP, and the Canadian Election, October 14, 2015, *Blog Spot* (<http://donlepan.blogspot.ca/2015/10/copyright-tpp-and-canadian-election.html/>).
- 12** Michael Geist, “Official Release of TPP Text Confirms Massive Loss to Canadian Public Domain,” November 5, 2015, blog (www.michaelgeist.ca/2015/11/official-release-of-tpp-text-confirms-massive-loss-to-canadian-public-domain/).
- 13** Kimberlee G Weatherall, “Section by Section Commentary on the TPP Final IP Chapter Published 5 November 2015 – Part 2 – Copyright,” 2015, (<http://works.bepress.com/kimweatherall/32/>).
- 14** Wikileaks, Press Release, “Updated Secret Trans-Pacific Partnership Agreement (TPP) - IP Chapter (second publication),” October 16, 2014 (<https://wikileaks.org/tpp-ip2/>).
- 15** Trans Atlantic Consumer Dialogue, *Resolution on the Terms of Protection for Copyright and Related Rights, and Measures to Expand Access to Works not Exploited by Copyright Owners*, DOC No. IP 10-09, TACD, 2009 (<http://tacd.org/wp-content/uploads/2013/09/TACD-IP-10-09-Copyright-Terms.pdf>).
- 16** See: Michael Geist, *The Case for Flexibility in Implementing the WIPO Internet Treaties: An Examination of the Anti-Circumvention Requirements* (Toronto: Irwin Law Inc., 2010) at 204 (www.irwinlaw.com/sites/default/files/attached/CCDA%2008%20Geist.pdf); Carys Craig, *Locking Out Lawful Users: Fair Dealing and Anti-Circumvention in Bill C-32* (Toronto: Irwin Law Inc., 2010) at 177 (www.irwinlaw.com/sites/default/files/attached/CCDA%2007%20Craig.pdf); Ian Kerr, *Digital Locks and the Automation of Virtue* (Toronto: Irwin Law Inc., 2010) at 247 (www.irwinlaw.com/sites/default/files/attached/CCDA%2009%20Kerr.pdf); Jeremy de Beer, *Constitutional Jurisdiction over Paracopyright Laws* (Toronto: Irwin Law Inc., 2010) at 89 (www.irwinlaw.com/sites/default/files/attached/Two_01_deBeer.pdf); Mark Perry, *The Protection of Rights Management Information: Modernization or Cup Half Full?* (Toronto: Irwin Law Inc., 2010) at 304 (www.irwinlaw.com/sites/default/files/attached/CCDA%2010%20Perry.pdf).
- 17** David Lametti, *How Virtue Ethics Might Help Erase C-32’s Conceptual Incoherence* (Toronto: Irwin Law Inc., 2010) at 327 (www.irwinlaw.com/sites/default/files/attached/CCDA%2011%20Lametti.pdf).
- 18** Michael Geist, “The Final Copyright Consultation Numbers: No Repeat Of Bill C-61,” April 9, 2010, blog (www.michaelgeist.ca/2010/04/copycon-final-numbers).
- 19** Michael Geist, “Premature Capitulation: How Canada Caved at the TPP Talks in Hawaii,” August 17, 2015, blog (www.michaelgeist.ca/2015/08/premature-capitulation-how-canada-caved-at-the-tpp-talks-in-hawaii/).
- 20** *Comprehensive Economic and Trade Agreement*, Chapter 22 - Intellectual Property, online: Global Affairs Canada (www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/22.aspx?lang=eng).
- 21** *Ibid.*
- 22** *Ibid.*
- 23** *Ibid.*
- 24** *Trans-Pacific Partnership Agreement*, 4 February 2016, Chapter 18 - Intellectual Property, United States Trade Representative (<https://ustr.gov/sites/default/files/TPP-Final-Text-Intellectual-Property.pdf>).

25 Ibid.

26 Michael Geist, “Rightscorp and BMG Exploiting Copyright Notice-and-Notice System: Citing False Legal Information in Payment Demands,” January 8, 2015, blog (www.michaelgeist.ca/2015/01/rightscorp-bmg-exploiting-copyright-notice-notice-system-citing-false-legal-information-payment-demands).

27 See: International Intellectual Property Alliance, *Canada 2015 Special 301 Report on Copyright Protection and Enforcement*, IIPA 301, 2015 (www.iipa.com/rbc/2015/2015SPEC301CANADA.pdf); and International Intellectual Property Alliance, *Chile 2015 Special 301 Report on Copyright Protection and Enforcement*, IIPA 301, 2015 (www.iipa.com/rbc/2015/2015SPEC301CHILE.pdf).

28 Annemarie Bridy, “A User-Focused Commentary on the Trans Pacific Partnership ISP Safe Harbors,” November 23, 2015, *InfoJustice* (<http://infojustice.org/archives/35402/>).

29 US, Federal Register, *Section 512 Study: Notice and Request for Public Comment*, Copyright Office, 2015 (www.federalregister.gov/articles/2015/12/31/2015-32973/section-512-study-notice-and-request-for-public-comment).

30 *Trans-Pacific Partnership Agreement*, February 4, 2016, Chapter 18 - Intellectual Property (<https://ustr.gov/sites/default/files/TPP-Final-Text-Intellectual-Property.pdf>).



CCPA

CANADIAN CENTRE
for POLICY ALTERNATIVES

CENTRE CANADIEN
de POLITIQUES ALTERNATIVES