Comment on *Apple Computer* v. *Mackintosh Computers*

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The unique nature of computer technology raises some fundamental questions for the law of copyright. The author examines the holding by the Federal Court, Trial Division in *Apple Computer, Inc.* v. *Mackintosh Computers Ltd* that the law of copyright can be used to protect an operating system computer program. The author compares the analysis of the Court with that of the Australian High Court in *Computer Edge Pty Ltd* v. *Apple Computer, Inc.*, which reached the opposite result. The latter decision, he argues, is more consistent with previous case law on the meanings in the *Copyright Act* of "literary work", "translation" and "reproduction". The failure of the Canadian *Apple Computer* decision to resolve these ambiguities demonstrates the need for revisions to the Canadian *Copyright Act*.

Le caractère exceptionnel de la technologie informatique soulève des questions fondamentales pour le droit d'auteur. Ce commentaire concerne la décision rendue par la Division de première instance de la Cour fédérale dans l'affaire *Apple Computer, Inc.* c. *Mackintosh Computers Ltd*, à l'effet que le logiciel du système d'exploitation est protégé par la *Loi sur le droit d'auteur*. L'auteur compare l'analyse de la Cour avec celle de la Haute Cour d'Australie dans *Computer Edge Pty Ltd* c. *Apple Computer, Inc.*, laquelle a rendu une décision contraire. Cette dernière décision serait, selon l'auteur, plus conforme à l'interprétation que la jurisprudence antérieure avait donné aux termes « oeuvre littéraire », « traduction » et « reproduction » de la *Loi sur le droit d'auteur*. Ainsi, l'arrêt *Apple Computer* canadien, loin de solutionner ces ambiguïtés, démontre la nécessité d'une réforme de la *Loi sur le droit d'auteur*.

The decision of Madam Justice Reed of the Federal Court, Trial Division, in the case of *Apple Computer, Inc.* v. *Mackintosh Computers Ltd*[1] represents the first Canadian decision dealing in full with all the legal issues raised by copyright protection for computer programs. It also represents one of the most comprehensive examinations undertaken by a court in Canada, and perhaps in any common law jurisdiction, of the basic nature of the technology of computer programs. Accordingly, if the judgment is upheld on appeal, it will serve as a significant contribution to the development of computer and copyright law in Canada.

The plaintiffs asserted copyright in the original written assembly language (or source code) versions[2] of their "Applesoft" and "Autostart ROM"

*Of Borden & Elliot, Toronto. Author of *Computer Technology and the Law in Canada* (Toronto: Carswell, 1987).

[1](1986), 28 D.L.R. (4th) 178, 10 C.P.R. (3d) 1 [hereinafter *Apple Computer* cited to D.L.R.].

[2]As discussed by Reed J., computer programs may be originally written in either a "high level" language, which has symbols and rules corresponding closely enough to mathematics and English that they can be understood with relative ease, or in an "intermediate" or second level of language, such as assembly language, which contains mnemonics corresponding more closely to the operations performed by a computer; both the high level and assembly languages can be properly described as "source code".

operating system programs. They claimed that the hexadecimal (or object code) versions of such programs, as they had been reproduced on silicon chips by the defendants, were entitled to copyright protection as translations of the original source code programs. The hexadecimal version of the program consists of a notation based on a sixteen-digit alpha-numeric system.[3] This system can be reproduced on silicon chips by etching them in such a way as to produce high and low voltage electrical states by virtue of which the program "communicates" with the computer. This serves as a memory of the program and is known as "ROM" (or "Read Only Memory"). Evidence adduced by the plaintiffs indicated that the information encoded on one of the chips sold by the defendants was almost identical in content and location to the plaintiff's corresponding chip.

Reed J. rejected the defendant's initial contention that there can be no protection of programs under the *Copyright Act*[4] as they are merely specifications for a machine part. Instead, a program represents instructions to the computer for moving information between registers and performing operations; it is, in other words, an instruction manual addressed to the central processing unit of a computer rather than to another human being. The program retains this character as an instruction manual in the computer since it can be read out of ROM and displayed on the screen of the monitor or produced in a printout. It can also be converted to the original assembly language version.

While noting that programs could be read out of ROM and are occasionally so read by human beings for diagnostic purposes, Reed J. conceded that this was not their primary purpose. Instead, programs are designed primarily to be "communications" to a computer and are used to cause a computer to perform certain operations. It was recognized that no other form of written text operates in this way and that it stretches ordinary conceptual notions of the nature of a written text to conceive of it as operating in this fashion. This uniqueness was the essence of the dispute as to whether copyright exists.

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[3]The object code or "machine language" can be written in either binary notation which is a number system using only two digits, 1 and 0, or in hexadecimal notation.

[4]S. 4(1) of the *Copyright Act*, R.S.C. 1970, c. C-30 provides that copyright subsists "in every original literary, dramatic, musical and artistic work". S. 2 of the Act defines "every original literary, dramatic, musical and artistic work" to include "every original production in the literary, scientific or artistic domain, whatever may be the mode or form of its expression". Notwithstanding this general language, it was held in the case of *Cuisenaire* v. *South West Imports Ltd* (1967), [1968] 1 Ex. C.R. 493 at 507-13, 54 C.P.R. 1, aff'd (1968), [1969] S.C.R. 208, that it was necessary to show that a work came within one of the specific categories set out in the Act to be protected.

This characteristic of computer programs gave rise to the sole issue in the case which was whether a computer program which originates in a written text continues to be covered by copyright when it is converted into its electrical code version or when it is embodied in a device designed to replicate that code.[5] The defendant made four arguments contending that copyright protection does not extend in this fashion.

The first argument was that the conversion of a program from assembly language to hexadecimal code was not a translation of the program, but a different literary work. Reed J. cited the dictionary definition of "translation" as including to "express the sense of (word, sentence, speech, book poem [sic]) in or into another language, *in or to another form of representation.*"[6] Reed J. noted that an analogy could be made to the conversion of a text into a Morse code. She found that the conversion of a work into a code, or of a work written in one code to another code, constitutes a "translation" for purposes of the Act. Accordingly, the hexadecimal version of a program was not a different work from the original source program on which it was based.

The second argument was that copyright does not extend to a computer program embodied in a ROM chip because the program in such form constitutes a merger of the idea and its expression. Reed J. seemed to contend that if this argument were true, it should likewise follow that the written assembly language version of the program would not be subject to copyright.[7] She then questioned the scope, and even the existence, of any legal rule that copyright ceases to exist when there is a merger of the idea with its expression. Moreover, the evidence indicated that there was a multitude of forms of expression in which any given program could be written.

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[5]S. 3(1) of the *Copyright Act* provides as follows:

> For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof; and includes the sole right
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> (a) to produce, reproduce, perform or publish any translation of the work;
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> . . .
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> (d) in the case of a literary, dramatic, musical or artistic work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered;
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> . . .
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> (f) in the case of any literary, dramatic, musical or artistic work, to communicate such work by radiocommunication;
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> and to authorize any such acts as aforesaid.

[6]*Apple Computer, supra,* note 1 at 198.

[7]*Ibid.* at 201-2.

Reed J. noted that the facts in *Apple Computer* could be distinguished from those in certain Canadian and Australian cases in which physical objects in question were held not to be types of works covered by the Act.[8] These cases were found not to be applicable since the computer program when written was clearly a literary work and its embodiment in a silicon chip retained the form of expression of the original work. The program in its source code version could be retrieved (or read out) in the form of a print-out or on a monitor by a process of translation from the ROM chip.[9]

The third set of arguments considered by Reed J. related to the proper interpretation to be given to subsection 3(1) of the *Copyright Act* and particularly the opening words of that provision giving a copyright owner "the sole right to produce or reproduce the work ... in any material form whatever ...". Reed J. held that this phrase, which was based on the 1911 United Kingdom *Copyright Act*, was purposely drafted to encompass new technologies developed after the Act was passed.[10] The section did away with any requirement that in order to be covered by copyright, a reproduction of the work had to be in a form which humans can read. This provision also did away with any rule denying copyright protection to a work merely because the copy or reproduction could be characterized as part of a machine.

Based on the foregoing, Reed J. held that the opening words of section 3 covered the plaintiff's program as embodied in the ROM chip since such embodiment was the production or reproduction of the work in a material form in the same way as a record or tape cassette. She noted that the requirement of readability or appearance to the eye meant no more than that there be a method by which a work in which copyright is claimed and an alleged infringing work can be visually compared for the purpose of determining whether copying has occurred. Since the programs in this case could be read out of ROM and so compared, this requirement was met. She cited various authorities to support the proposition that copyright may be infringed even where that which is reproduced is in a different material form from the original.[11]

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[8]*Cuisenaire* v. *Reed* (1962), [1963] V.R. 719, 5 F.L.R. 180 (S.C. Victoria); *Cuisenaire* v. *South West Imports Ltd, supra,* note 4.

[9]*Apple Computer, supra,* note 1 at 201.

[10]*Ibid.* at 207.

[11]*Chabot* v. *Davies* (1936), [1936] 3 All E.R. 221, 155 L.T. 525 (Ch.) (a store front built from plans); *King Features Syndicate Inc.* v. *O. and M. Kleeman Ltd* (1941), [1941] A.C. 417, [1941] 2 All E.R. 403 (H.L.) (dolls based on a cartoon); *Dorling* v. *Honnor Marine Ltd* (1963), [1965] Ch. 1, [1964] 1 All E.R. 241 (C.A.) (boats from plans); *Bayliner Marine Corp.* v. *Doral Boats Ltd* (1985), [1986] 3 F.C. 346, 5 C.P.R. (3d) 289 (T.D.), rev'd on other grounds (1986), 10 C.P.R. (3d) 289 (A.D.) (boat parts from plans).

Reed J. also rejected the argument that the programs were not entitled to copyright protection because they were not intended for communication to human beings. From the opening words of section 3, it was held that there was no requirement that a work be used for such a purpose. The various paragraphs of subsection 3(1) — for example, paragraph 1(d) referring to contrivances for the mechanical performance or delivery of the work, such as acoustic or visual representation — should not be interpreted as limiting the opening words of that provision.

Reed J. also considered but rejected various public policy arguments that were made for the contention that a program recorded in ROM should not be protected by copyright. One such argument was that the Act should not be interpreted as extending to such works on the grounds that to do so would constitute the granting of a monopoly on an item of commerce. It was noted, however, that the purpose of the *Copyright Act* is, and always has been, to grant a monopoly. Reed J. also rejected the arguments that the application of copyright to computer programs would usurp the function of Parliament in view of various proposals made to amend the *Copyright Act*, or that the defendants should not be penalized for acting as they did when there was so much debate and uncertainty as to whether the legislation extended to computer programs.

Based on the foregoing grounds, Reed J. found that both the corporate defendants and the majority of individual defendants named in the action were liable for copyright infringement.

The decision of Reed J. in *Apple Computer* represents a well-reasoned application of basic principles of copyright law to the technology of computer programs. At the same time the judgment raises important questions as to the proper interpretation of certain provisions of the *Copyright Act.*

In considering the findings of Reed J., reference must be made to a judgment rendered only one week later by the Australian High Court in the case of *Computer Edge Pty Ltd* v. *Apple Computer, Inc.*[12] As in the Canadian case, the Court was required to consider whether copyright in the respondent's "Autostart" and "Applesoft" operating system programs was infringed by the reproduction of ROM chips embodying such programs. The statutory provisions applied in that case were substantially similar to those considered in the Canadian *Apple Computer* case since the cause of action arose prior

[12](1986), 65 A.L.R. 33, 6 I.P.R. 1 (H.C. Australia) [hereinafter *Computer Edge* cited to A.L.R.], rev'g (1984), 53 A.L.R. 225, 2 I.P.R. 1 (F.C. Australia).

to amendments being made to the Australian *Copyright Act* in 1984 dealing expressly with computer programs.[13]

All five judges of the High Court expressed the view that computer programs written in source code form were protected as literary works under the *Copyright Act*. However, in separate concurring judgments, a majority of the Court (Mason and Wilson JJ. dissenting) reversed the finding of the full Federal Court and found that computer programs stored permanently in ROM containing connected electrical circuits were not entitled to copyright protection. In reaching this conclusion, the Court found against the respondents on each of three possible grounds on the basis of which it was contended that the reproduction of programs embodied in ROM constituted an infringement of copyright. These arguments were as follows:

— the respondents' programs as written in source code form were original literary works, their object code programs were "adaptations" (or translations) of those source code programs and the appellants' object code programs as embodied in ROM were reproductions of those adaptations;

— the respondents' source code programs were original literary works and the appellants' object code programs were either adaptations or reproductions of those source code programs;

— the respondents' object code programs, as embodied in ROM, were themselves original literary works and the appellants' object code programs were reproductions of those literary works.

With respect to the last of these alternatives, the majority of the High Court held that insofar as the object code programs embodied in ROM existed either as a sequence of electrical impulses, or in the pattern of circuits that when activated generated those impulses, they were not literary works. In the words of Gibbs C.J.:

> [The electrical impulses] were not visible or otherwise perceptible, and they were not, and were not intended to be, capable by themselves of conveying a meaning which could be understood by human beings. Obviously, the pattern of the circuits in the ROMs also did not represent or reproduce any words or figures, and were incapable of conveying any meaning.

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[13]S. 3(a) of the *Copyright Amendment Act 1984*, Aust. Acts 1984, No. 43, now provides that a computer program is a literary work. S. 3(b) of the Act defines a computer program as follows:

> "computer program" means an expression, in any language, code or notation of a set of instructions (whether with or without related information) intended, either directly or after either or both of the following:
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> (a) conversion to another language, code or notation;
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> (b) reproduction in a different material form,
>
> to cause a device having digital information processing capabilities to perform a particular function . . . .

....

> It seems to me a complete distortion of meaning to describe electrical impulses in a silicon chip, which cannot be perceived by the senses and are not intended to convey any message to a human being and which do not represent words, letters, figures or symbols as a literary work; still less can a pattern of circuits be so described.[14]

The majority of the High Court also rejected the view that object code programs embodied in ROMs were adaptations or translations of the source code programs. It was noted that the source code programs were not turned into another language (even into another computer language), but rather were turned into electrical impulses. The secondary definition of a translation set forth in the *Shorter Oxford English Dictionary* as the "expression or rendering of something in another medium or form" was a "transferred and figurative use" of the word which did not come within the meaning of a "translation" or "adaptation" for purposes of the Australian *Copyright Act*.[15] In any event, the object programs in ROM were not a translation of the source code programs since they did not "express or render" them, but were only a means of making the instructions written therein effective. Gibbs C.J. noted further that an adaptation within the meaning of the Act must itself be a work and that the object code programs in ROM were not works.

The High Court held further that the appellants' object code programs embodied in ROM were not reproductions of the respondents' source code programs since it was not possible to show any objective similarity between the two works. The appellants' ROMs embodied the ideas and logical structure of the respondents' source programs, but, in the absence of any resemblance, did not reproduce the expressions of such ideas and logical structure. It was noted by Brennan J. that it was not sufficient to show that the object code programs were derived from the source programs since both derivation and resemblance were essential to reproduction.

The contrast between the decision of Reed J. in *Apple Computer* and the majority judgment of the Australian High Court in *Computer Edge* demonstrates that notwithstanding the long history of copyright legislation, certain fundamental issues concerning the interpretation of that legislation remain unresolved. In particular, the essential meanings of such basic concepts in both the Canadian and Australian Acts as a "literary work", "translation" and a "reproduction" of a work "in a material form" remain uncertain.

On the question of the meaning of a "literary work" the Australian High Court decision indicates that a literary work must be capable of being seen or otherwise perceived and must be understood by human beings. By

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[14]*Computer Edge, supra*, note 12 at 39-40.

[15]*Ibid.* at 40.

contrast, Reed J. indicated that there is no requirement of readability or appearance as long as there is a method for comparing the work in which copyright is claimed and the work which is alleged to infringe copyright. Similarly, she indicated that there is no requirement that a work be intended for communication between human beings.

It is difficult to reconcile the finding of Reed J. with respect to the requirements of a literary work with other cases in which the concept of such a work has been considered. In the oft-cited judgment of Peterson J. in the case of *University of London Press Ltd* v. *University Tutorial Press Ltd*, a literary work was described as a "work which is expressed in print or writing, irrespective of the question whether the quality or style is high."[16] This test was cited with approval by the House of Lords in the case of *Ladbroke (Football) Ltd* v. *William Hill (Football) Ltd*,[17] and recently by the Federal Court of Canada in the case of *Bulman Group Ltd* v. *"One-Write" Accounting Systems Ltd.*[18] In addition, a literary work has been defined as a work which is intended "to afford either information and instructions, or pleasure, in the form of literary enjoyment."[19] This test was recently adopted by the English Court of Appeal in the case of *Exxon Corp.* v. *Exxon Insurance Consultants International Ltd.*[20] Such authorities are consistent with the findings of the Australian High Court that a literary work must be expressed in a perceptible form and must be intended for purposes of communication to humans.

With respect to the concept of a "reproduction", *Apple Computer* stands for the proposition that there is no requirement that the reproduction have any resemblance to the original work except to the extent that there be some method by which the two can be compared to determine whether copying has occurred. The Australian High Court in the *Computer Edge* case, on the other hand, held that it is not sufficient to show that the reproduction be derived from the original because the reproduction must also resemble the original.

Again, it would seem difficult to reconcile the finding of Reed J. with respect to the meaning of a reproduction with previous case law. In *Francis Day and Hunter Ltd* v. *Bron*, Diplock L.J. (as he then was) held that the two elements necessary in order for there to be an infringement of the reproduction right were the following:

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[16](1916), [1916] 2 Ch. 601 at 608, 115 L.T. 301.
[17](1964), [1964] 1 W.L.R. 273 at 285, [1964] 1 All E.R. 465.
[18](1982), [1982] 2 F.C. 327 at 331-32, 16 B.L.R. 16 (T.D.).
[19]*Hollinrake* v. *Truswell* (1894), [1894] 3 Ch. 420 at 428, 71 L.T. 419 (C.A.).
[20](1981), [1982] 1 Ch. 110 at 143, [1981] 3 W.L.R. 541 (C.A.).

> [F]irst, there must be sufficient objective similarity between the infringing work and the copyright work, or a substantial part thereof, for the former to be properly described, not necessarily as identical with, but as a reproduction or adaptation of the latter; secondly, the copyright work must be the source from which the infringing work is derived.[21]

As was noted by Reed J. in *Apple Computer*, it has been held in several English cases that a reproduction may be in a different material form in the sense that it may be in different dimensions from the original.[22] More recently, the House of Lords in the case of *British Leyland Motor Corp.* v. *Armstrong Patents Co.*[23] held that the reproduction of motor vehicle parts, such as mufflers, constitutes an indirect infringement of copyright in the plans of such parts. However, the reproduction right could not be asserted by a copyright owner in that case so as to deny the right of a car owner to repair his vehicle by obtaining replacement parts from competing manufacturers. The House of Lords also noted that there was a clear visual resemblance which could be detected by a non-expert between the objects which were reproduced and the plans of those objects.

It is not clear whether the concept of an indirect reproduction forms part of the Canadian *Copyright Act*. In the case of *Bayliner Marine Corp.* v. *Doral Boats Ltd*,[24] the Federal Court of Appeal found that since designs for boat parts served an ornamental purpose, they were capable of registration under the *Industrial Design Act*[25] and, accordingly, were not entitled to copyright protection. The Court did not consider it necessary to determine whether the decision of the House of Lords in the *British Leyland* case applied in Canada. It noted, however, that there were significant differences on this point between the Canadian and British industrial design and copyright legislation.

Notwithstanding any such differences, there is Canadian authority to support the proposition that the similarity between an original and a reproduction must be detectable as a matter of visual resemblance. In *Cuisenaire* v. *South West Imports Ltd*,[26] it was held that the production of coloured rods made for teaching purposes did not constitute an infringement of copyright in the written text in which such a teaching method was described. In finding that copyright was not infringed in such circumstances, Noel J. relied on the Australian case of *Cuisenaire* v. *Reed*[27] which dealt with a similar fact situation, and which distinguished the cases dealing with

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[21](1963), [1963] 1 Ch. 587 at 623, [1963] 2 All E.R. 16.
[22]See the cases cited *supra*, note 11.
[23](1986), [1986] A.C. 577, [1986] 1 All E.R. 850 [hereinafter *British Leyland*].
[24]*Supra*, note 11.
[25]R.S.C. 1970, c. I-8.
[26]*Supra*, note 4.
[27]*Supra*, note 8.

the reproduction of two-dimensional drawings in three-dimensional objects on the grounds that in those cases there was a clear visual resemblance between the alleged infringing article and the work in which copyright subsisted, sufficient to warrant the conclusion that one had been copied from the other. It appeared to be accepted in both *Cuisenaire* v. *South West Imports Ltd* and *Cuisenaire* v. *Reed* that the similarity between the original work and the infringing work had to be detectable as a matter of visual resemblance, and there was no indication that it would be sufficient to show a method for comparing the original and the reproduction.

The decisions in the *Apple Computer* and *Computer Edge* cases also raise uncertainty as to the meaning of the concept of "translation". In the view of Reed J., a translation need not be in the same medium as the original work and may include any form of representation of a literary work, at least as long as there is a method by which the original work may be retrieved. The majority of the Australian High Court, by contrast, gave a much more restrictive interpretation to the concept of a translation. It was held in this regard that reliance on the secondary meaning of a "translation", namely, the expression of a work in another medium, was precluded by the necessity for an adaptation (including a translation) to be itself a literary work.

In *Apple Computer*, Reed J. did not consider expressly whether a version of a computer program may be protected as a "translation" even if it does not meet the requirements of a literary work. It would appear necessary to satisfy such requirements in view of the decision in *Cuisenaire* v. *South West Imports Ltd*[28] in which it was held that a work must be shown to come within one of the four categories referred to in section 2 of the Act, namely "every original, literary, dramatic, musical and artistic work" in order to be protected. Reference should also be made to the case of *Pasickniak* v. *Dojacek*[29] in which the court cited with approval a statement in *Copinger on the Law of Copyright* that "[t]ranslations are also original literary works, and consequently entitled to protection."[30] Apart from the cases dealing with computer programs, there does not appear to be any Canadian case in which the concept of a translation has been interpreted to include the rendering of a literary work in a form in which it is not intended to be perceived, read or otherwise understood by human beings.

The contrast between the *Apple Computer* and *Computer Edge* decisions demonstrates the need for revisions to the Canadian *Copyright Act* to provide expressly for the protection of computer programs. Such revisions

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[28]*Supra*, note 4.

[29](1928), 37 Man. R. 265 at 271, [1928] 2 D.L.R. 545 (C.A.).

[30]F.E.S. James, ed., *Copinger on the Law of Copyright*, 6th ed. (London: Sweet & Maxwell, 1927) at 53.

should establish not only that a program in any form of expression is a protected work, but also that the owner of copyright in a program has the sole right to convert the program from one code to another, including that in which it can be used directly by the computer. Such changes could be made by extending the definition of a "literary work" to include computer programs or by creating a new category of subject matter for such works. Similarly, the meaning of a "reproduction in any material form" should be clarified so as expressly to encompass the various forms in which a program may be embodied or expressed.

Amendments such as the foregoing would bring the Canadian *Copyright Act* into conformity with those of many other countries, including the United States, the United Kingdom and Australia. All such countries considered it necessary to amend their copyright laws to deal expressly with this new technology. Such amendments would also be desirable from a public policy perspective since the creation of computer programs requires considerable skill, labour and effort which are deserving of statutory protection to encourage further creative activity and to stimulate technological development.

A number of reports and papers proposing amendments to the *Copyright Act*, including changes to deal with computer programs and related subject matter, have been prepared by various Government Departments, Task Forces and Parliamentary Sub-committees. On 10 October 1985, a Parliamentary Sub-committee on the revision of copyright issued its report entitled *A Charter of Rights for Creators*.[31] The Report recommended that computer programs be protected as a separate category of subject matter under the *Copyright Act* and that protection be granted to computer programs of foreign nationals on a reciprocal basis. In February 1986, the Canadian Government issued its response to the Sub-committee's Report. While indicating that computer programs would be protected on the basis of the "national treatment" principle (programs created by nationals of other countries would be granted the same protection as those of Canadian creators) rather than on a reciprocal basis, the Government expressed its general agreement with the proposals set out in the Report. Unfortunately, at the time of writing, no firm legislative changes have been introduced in Parliament and the timetable for the enactment of new legislation remains uncertain.

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[31]Canada, House of Commons, Sub-committee of the Standing Committee on Communications and Culture on the Revision of Copyright, *A Charter of Rights for Creators* (Second Report) (Hull, Que.: Supply & Services Canada, 1985) (Chair: G. Fontaine).