

Federal Court



Cour fédérale

Date: 20110202

Docket: T-1089-10

Citation: 2011 FC 119

Ottawa, Ontario, February 2, 2011

PRESENT: The Honourable Mr. Justice O'Reilly

BETWEEN:

MICHELLE SUTTIE

Applicant

and

**ATTORNEY GENERAL OF CANADA
AND
THE REGISTRAR OF COPYRIGHTS**

Respondents

REASONS FOR ORDER AND ORDER

I. Overview

[1] Ms. Michelle Suttie and her son, Denver, wrote a book together. Ms. Suttie registered the book with the Canadian Intellectual Property Office (CIPO) and was issued a copyright registration number for it. The book was subsequently published in June 2010.

[2] At the time she registered the book, Ms. Suttie was unaware that the information she had provided would be publicly available on CIPO's website. She became concerned about her privacy, particularly because she had given her home address on her registration application. In addition, she realized that she had omitted her son's name from the application.

[3] Ms. Suttie now asks for an order to amend the register to add her son's name and to replace her home address with the address of her solicitors. The respondents did not appear before me and, apparently, take no position in relation to it.

[4] I am satisfied that the register should be amended in the fashion Ms. Suttie requests and will issue an order to that effect.

II. Adding an Author

[5] An author is entitled to be associated with his or her work (*Copyright Act*, RSC 1985, c C-42, s 14.1 – enactments cited are set out in an Annex). Works of joint authorship are specifically recognized in the Act (s 2). As the Court has the jurisdiction to order the register to be corrected by adding information that was wrongly omitted (s 57(4)(a)), I see no reason not to grant Ms. Suttie's request to add her son's name to the register.

III. Changing the Address

[6] Generally speaking, a person registering a copyright must supply his or her name and address (s 55(2)(a)). However, an author also has the right to remain anonymous (s 14.1(1)). Pseudonyms can be used in place of the author's name (s 14.1(1)).

[7] In some cases, an author's home address could serve as a means of identifying him or her. Therefore, to require an author to provide a home address could interfere with his or her right to remain anonymous. In my view, the requirement in the Act to provide an address does not oblige an author to identify where he or she lives – it simply requires the person to provide an address for purposes of correspondence. This interpretation is borne out by the *Copyright Regulations*, which require an author to provide a complete mailing address, including street name and number, and the postal code (SOR/97-457, s 4(1)).

[8] Given Ms. Suttie's privacy concerns, I am satisfied that the register contains an "error or defect" (s 57(4)(c)) and will issue an order amending the register to substitute Ms. Suttie's counsel's address for her home address.

IV. Order

[9] The Court orders that Ms. Suttie's copyright registration (No. 1065339) be amended to add the name of her son, Denver Suttie, as a joint author, and by removing the existing address and replacing it with the address of her solicitors. There is no order as to costs.

ORDER

THIS COURT ORDERS that:

1. Ms. Suttie's copyright registration (No. 1065339) be amended to add the name of her son, Denver Suttie, as a joint author;
2. Remove the existing address and replace it with the address of her solicitors; and
3. No order as to costs.

“James W. O’Reilly”

Judge

Annex

Copyright Act, RSC 1985, c C-42

2. In this Act,

“work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors;

Moral rights

14.1 (1) The author of a work has, subject to section 28.2, the right to the integrity of the work and, in connection with an act mentioned in section 3, the right, where reasonable in the circumstances, to be associated with the work as its author by name or under a pseudonym and the right to remain anonymous.

Application for registration

55. (2) An application under subsection (1) must be filed with the Copyright Office, be accompanied by the fee prescribed by or determined under the regulations, and contain the following information:

(a) the name and address of the owner of the copyright in the work;

Rectification of Register by the Court

57. (4) The Federal Court may, on application of the Registrar of Copyrights or of any interested person, order the rectification of the Register of Copyrights by

(a) the making of any entry wrongly omitted to be made in the Register,

...

(c) the correction of any error or defect in the Register,

Loi sur le droit d'auteur, LR, 1985, ch C-42

2. Les définitions qui suivent s'appliquent à la présente loi.

« œuvre créée en collaboration » Œuvre exécutée par la collaboration de deux ou plusieurs auteurs, et dans laquelle la part créée par l'un n'est pas distincte de celle créée par l'autre ou les autres.

Droits moraux

14.1 (1) L'auteur d'une œuvre a le droit, sous réserve de l'article 28.2, à l'intégrité de l'œuvre et, à l'égard de tout acte mentionné à l'article 3, le droit, compte tenu des usages raisonnables, d'en revendiquer, même sous pseudonyme, la création, ainsi que le droit à l'anonymat.

Demande d'enregistrement

55. (2) Elle doit être déposée au Bureau du droit d'auteur avec la taxe dont le montant est fixé par les règlements ou déterminé en conformité avec ceux-ci, et comporter les renseignements suivants :

a) les nom et adresse du titulaire du droit d'auteur;

Rectification des registres par la Cour

57. (4) La Cour fédérale peut, sur demande du registraire des droits d'auteur ou de toute personne intéressée, ordonner la rectification d'un enregistrement de droit d'auteur effectué en vertu de la présente loi :

a) soit en y faisant une inscription qui a été omise du registre par erreur;

[...]

c) soit en corrigeant une erreur ou un défaut dans le registre.

Copyright Regulations, SOR/97-457

4. (1) Any address required to be furnished pursuant to the Act or these Regulations shall be a complete mailing address and shall include the street name and number, where one exists, and the postal code.

Règlement sur le droit d'auteur, DORS/97-457

4. (1) Toute adresse requise aux termes de la Loi ou du présent règlement est une adresse postale complète comprenant le nom et numéro de rue, le cas échéant, ainsi que le code postal.

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1089-10

STYLE OF CAUSE: MICHELLE SUTTIE v ATTORNEY GENERAL OF CANADA AND THE REGISTRAR OF COPYRIGHTS

PLACE OF HEARING: Edmonton, Alberta

DATE OF HEARING: January 26, 2011

REASONS FOR ORDER AND ORDER: O'REILLY J.

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