

Publisher's Note

2019 — Release 1

Previous release was 2018-5

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Computer, Internet and Electronic Commerce Law

From a single volume as first published in 1989 to the present seven volumes of detailed, comprehensive coverage, this publication has become the foremost Canadian authority on the law of computers, the Internet and eCommerce and is frequently referred to and applied by the courts.

This release features updates to case law and commentary in chapter 3, Copyright Protection.

Highlights

- **Copyright Protection – Computer Technology Protection** — A United Kingdom case addressed whether the reproduction of an XML Format infringed copyright. XML is a standard computer language for defining/representing structured data in a way which is partly self-describing using natural language terminology. It is not a data format, but a standardized abstraction which allows flexibility in the kinds of data structure which can be represented, and of the choice of terminology and layout. In *Technomed Ltd. & Anor v. Bluecrest Health Screening Ltd. & Anor*, the court considered whether copyright could subsist in an XML format as a literary work, it

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being accepted that under European law, an XML format would not be entitled to protection as a computer program. The court accepted that an XML format could be a literary work and on the facts of the case, considered that it exhibited the personal stamp of its author and was original and that the reproduction infringed copyright.

- **Copyright Protection — Extent of Protection for Computer Software**
— Although copyright does not protect ideas that are banal or commonplace in a field, if sufficient originality is involved, a work that is derived from standard materials familiar to all in the field may, nevertheless, be original and be protected by copyright. What matters is whether the work is a product of the author's skill and judgment. Further, while adherence to industry standards may be a factor in determining whether a work is original, since independent creation of a work using skill and judgment is the touchstone for originality, the inclusion of an industry standard independently developed should not negate the originality in the work, nor should it negate originality from copying expression in an industry standard where there is sufficiently added skill and judgment in the overall creation of the work.