

This newsletter covers CIPPIC work from Sept 2008 to Sept 2009

Le bulletin est également disponible en français!
Contactez-nous à cippic@uottawa.ca

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2009 Summer Internship Program



2009 Summer Interns (clockwise from upper left)
Derek Loewen, Gabriel Babineau, Jessica Cameron, Chris Donaldson,
Hauwa Otori, Emilie Wapnick.

2009 has been a busy year for CIPPIC. Our summer was especially productive and with the help of our six interns (pictured above) as well as Stuart Hargreaves, our policy fellow, we were able to ensure that the public interest was represented [...]

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Announcements



ATTENTION LAW STUDENTS

CIPPIC offers a 3-credit internship each term (Fall, January, Winter) to undergraduate and graduate students at the University of Ottawa Faculty of Law (see [CML3316](#)). Early applications are encouraged. CIPPIC is also looking for volunteers. Visit www.cippic.ca/students for more details.

Law Foundation of Ontario awards 2010-2011 Public Interest Articling Fellowship to CIPPIC

The Law Foundation of Ontario has graciously renewed CIPPIC's public interest articling fellowship for the 2010-2011 year. This is the 5th consecutive year that CIPPIC has been chosen for the fellowship. CIPPIC is glad to announce that oline Twiss will be our 2010-2011 articling fellow.

CIPPIC awarded Google Policy Fellowship

This year, CIPPIC was among a number of organizations throughout North America awarded a Google policy fellowship. Stuart Hargreaves, our policy fellow for 2009, joined our other interns for the summer to work on important internet policy issues.

New Articling Student

We are pleased to welcome Lori Ann Wanlin, CIPPIC's articling student for 2009-2010. Lori Ann will be with us until the end of May 2010.

CIPPIC has moved!

Our new spacious offices are located in Brooks 306, just across the lane from Fauteux. Come by for a visit!

Staff Changes

Philippa Lawson, our founding director, has moved on to new endeavours. David Fewer has taken up her mantle as our Acting Director. See page 5 for more details.

2009 Summer Internship Program

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[...] in the numerous issues that came up over the summer. Net neutrality occupied a significant portion of our time this summer, as students contributed substantively to our written and oral submissions in ongoing hearings at the CRTC on traffic management. Students spent a great deal of time helping us research and prepare arguments for a pair of upcoming judicial interventions CIPPIC is planning. In one of these we will be arguing that intellectual property law must be interpreted in a manner that accommodates parody and satire. In another, CIPPIC will be protecting the anonymity of the Internet by ensuring that judicial safeguards are in place before online identities are revealed in court proceedings. Our interns also worked on a number of client files, covering diverse topics ranging from censorship and free speech, to broadcast licenses, to the tensions between access to information and solicitor-client privilege. In preparing a host of FAQs for our website, interns explored further topics such as fair dealing and defamation. Much of the summer was spent responding to the government's busy digital reform schedule. Our students worked hard analyzing and responding to new bills on lawful access, creating a safer internet environment, identity theft and consultations on copyright reform. This summer, our interns also helped CIPPIC step up its advocacy efforts by designing and launching a website – DigitalAgenda.ca. The site aims to mobilize Canadians on digital issues as they arise and provide a forum for debate on those issues. One feature of the site is its IdeaTorrent, an open source interface that lets individuals highlight problems on various digital issues, discuss and propose solutions, and then vote on the results.

We thank our wonderful group of interns for all their hard work this summer and wish them all the best in the future!

PRIVACY



CIPPIC extends privacy protection of Canadians beyond territorial borders

The Privacy Commissioner has ordered Abika, an American databroker, to cease its practice of collecting and using personal information of Canadians without their consent. Abika would collect personal information of Canadians, build profiles based on this information, and sell it to others. The finding is significant, as CIPPIC was forced to challenge the Privacy Commissioner in Federal Court in order to clarify that her jurisdiction extended to US companies, as long as they collected, used or disclosed personal information of Canadians. [Lawson v.](http://Lawson.v)

Accusearch, ensured that Canadian privacy would not end at our territorial borders.



CIPPIC students Harley Finklestein, Jordan Plener (left to right) helped launch a privacy complaint against Facebook.

CIPPIC v. Facebook

In response to a complaint launched by CIPPIC students, the Privacy Commissioner of Canada has issued a comprehensive report on privacy and social networking. The report pushed Facebook to make major improvements to its site, ensuring more transparency and control for Facebook users the world over. The report sets new standards for social networking in general, and is expected to play an integral role in how privacy is conceived in online environments in the future. CIPPIC still has outstanding concerns as to Facebook's practices, and will continue to engage with both the Privacy Commissioner and Facebook over the coming year to ensure the report is properly implemented.

Bell's use of DPI to collect personal information of its customers

The Privacy Commissioner has also issued a report in response to CIPPIC's complaint against Bell for its use of DPI. The Commissioner has upheld CIPPIC's claims that Bell failed to inform its customers that it was collecting their information for the purposes of traffic management. While the Commissioner found no evidence that Bell is currently using its DPI equipment to collect information on consumers for marketing purposes, it did point out that Bell would have to clearly notify its consumers of any such practices before beginning to do so.

Databroker requires consent, argues CIPPIC

CIPPIC filed a complaint arguing that databrokers compiling detailed profiles on individuals should get consent before doing so. These profiles were based on publicly available information and statistical data. The Privacy Commissioner rejected CIPPIC's claim against InfoCanada, arguing that the information being used was

not about 'individuals' but more about the neighbourhoods in which they live. CIPPIC remains concerned about the impact of this distinction in the future.

CIPPIC fights for greater restrictions on companies storing Canadian data in US

CIPPIC argued that Canadian privacy legislation placed limits on the ability of Canadian companies to store personal information of Canadians in the US. CIPPIC was concerned that US law allowed government agencies to access this information without appropriate safeguards such as a warrant. The Privacy Commissioner did not agree with CIPPIC, and [found](#) that US laws provided a comparable level of protection when compared to Canadian laws. CIPPIC brought an application to the Federal Court to revisit this important issue, but was forced to discontinue when CIPPIC's client withdrew.

Pension Appeals Board violates privacy legislation

The Privacy Commissioner [has upheld](#) CIPPIC's allegations regarding violations of the *Privacy Act* by the Pension Appeals Board (PAB). CIPPIC was concerned that the PAB was publishing case results online with the full names of those involved, unnecessarily exposing often sensitive information to Internet searches.

Identity Theft

CIPPIC appeared before the Senate Standing Committee on Legal and Constitutional Affairs advocating in support of Bill S-4, which aims to criminalize identity theft. CIPPIC's position argued that the bill was a great start, but that overall a more comprehensive solution was required and, specifically, the Bill needed to better address the needs of victims.

Lawful Access: Modernizing State Surveillance

The government has introduced Bills C-46 and C-47, which aim to provide police and national security easy access to the identities of Canadians on the Internet. While CIPPIC agrees that some modernization of surveillance laws might be necessary, the particular methods adopted by the government are far in excess of what is necessary or legitimate. CIPPIC will be taking part in consultations and advocating for access laws that do not shatter the anonymity of the Internet.

Lessons from the Identity Trail Book

["On the Identity Trail"](#), a project to which CIPPIC has made substantive contributions over the years, has culminated in a book, "Lessons from The Identity Trail: Anonymity, Privacy and Identity in a Networked Society". The book explores privacy themes emerging in a society that is growing increasingly interconnected. It is [available online](#) free of charge under a Creative Commons license.

COPYRIGHT



CIPPIC attempts to prevent Copyright bill that puts consumers last

The government has stated its intention to pass a copyright bill in the coming months. It is holding nationwide consultation sessions on the bill in order to get the views of Canadians before legislating. Past versions of the bill have been unbalanced and effectively ignored the interests of individuals. CIPPIC presented its position to Minister Clement at a Toronto round table, and will be making written contributions to the ongoing consultations on the bill. Our goal is to ensure balanced copyright that allows creators to get compensated for their works, but also preserves the rights of users.

Parody still illegal in Canada?

Although parody and satire are commonly used forms of expression, and clearly fall within exceptions to copyright in the US, Canadian courts failed to clarify that this is the case in Canada. Courts have held that it is a violation of both copyright and trademark law to use protected material in a parodical manner. CIPPIC will be intervening in the BC Supreme Court case, *Canwest v. Murray*, to ensure that Canadian copyright legislation is interpreted in a manner that preserves this ancient genre and that respects the freedom of expression.

DigitalAgenda.ca

This summer, CIPPIC has launched [digitalagenda.ca](#), its attempt to provide a venue for engagement and advocacy on various legal issues. As a result of the current copyright consultations, the initial focus of DA is copyright reform. In addition to information on copyright issues, the site has an [IdeaTorrent](#) – an open source tool that allows individuals to propose, discuss and vote on solutions to copyright issues. The ultimate goal is to provide a submission to the copyright consultation based on the most popular ideas. Come visit us!

TELECOMMUNICATIONS



CIPPIC appears at CRTC to prevent throttling of Internet Applications

This summer, CIPPIC appeared at a CRTC hearing on the internet traffic management practices of Canadian Internet Service Providers. On behalf of its client, the Campaign for Democratic Media, CIPPIC argued that ISPs were abusing their positions and acting in a discriminatory manner by deciding to slow down certain types of Internet

applications in favour of others. CIPPIC was supported in its submissions by a group of internationally renowned experts, including Dr. David P. Reed, Dr. Andrew Odlyzko, and Bill St. Arnaud.

CIPPIC intervenes in CAIP v. Bell

CIPPIC has also been active on the net neutrality file in CRTC proceeding 2008-108, in which CAIP argues that Bell's traffic management practices affect resellers of Bell's services in ways that violate the *Telecommunications Act*. An unfavourable decision in late 2008 produced a request for the Commission to review and vary its decision. CIPPIC is again participating in that proceeding.

Political Parties asked to support consumer telecom rights

On September 30, a nation-wide coalition of consumer and public interest groups including CIPPIC [asked](#) each of the major parties to take a stand on consumer protection in Canada's telecommunications sector. Of particular concern is a growing trend towards deregulation for the sake of deregulation, a practice that has had detrimental impact on Canadians in many spheres, but especially on their ability to access and distribute material over the Internet. Currently, both the NDP and the Liberal party of Canada have declared a commitment to preserving a neutral Internet.

Consumer Protection



The Safe Internet Act

The government has introduced Bill C-27, the *Electronic Commerce Protection Act*, which aims to provide Canadians with some protection from malicious online activity such as SPAM, malware/adware, and phishing. The Bill aims to implement the recommendations of the Anti-SPAM task force, to which CIPPIC contributed. CIPPIC has made written submissions to the House Standing Committee on Industry, Science and Technology supporting the Bill and suggesting ways in which it can be improved. CIPPIC will continue to support the Bill in the future.

CIPPIC calls for more consumer protection in the financial sphere

CIPPIC has provided the Financial Services Commission of Ontario with its written submission in support of expanding the regulatory reach of that Commission. CIPPIC specifically asked that the Ontario Consumer Protection Act (CPA) be extended to cover financial institutions such as Mortgage brokers and insurance companies. Such companies are currently excluded from

the CPA, yet the dangers that the CPA attempts to prevent are just as present in these industries, if not more so.

CLIENT FILES



CIPPIC was very active this past year and provided extensive legal advice to various clients. Topics included legal protections around cyberbullying; the ability of individuals to control personal information sent out in an email; the extent to which a copyright license extends; limitations placed on censorship by the freedom of expression; whether copyright can prevent future recreations of a work for hire; the definition of 'educational programming' in a broadcast license; the interaction between freedom of expression and access to information; attaining charitable status; and the moral right under copyright law to maintain anonymity in a published online work.

OTHER NEWS



Staff Changes



Philippa Lawson

Philippa Lawson, our founding Director, has moved on to new endeavours. Pippa had been with the clinic since its inception in September of 2003. At the helm of Canada's only law and technology clinic, Pippa along with David Fewer (who is currently Acting Director) has worked diligently to ensure balance in policy and legal processes on digital issues in Canada. During her time, the clinic has produced numerous key reports and resources on public

interest issues, made submissions to government on statutory reform, participated in all levels of court and various quasi-judicial proceedings. Pippa currently has her own private practice in Whitehorse. We wish her all the best in the future.

CIPPIC also retained the service of its former articling student, Tamir Israel, as staff lawyer to assist the Clinic in maintaining its caseload pending the hiring of a new Director. Tamir was called to the bar after a successful articling stint with CIPPIC. Congratulations, Tamir!

Privacy Commissioner Publishes Website on Deep Packet Inspection

The Office of the Privacy Commissioner of Canada has published a [collection of essays](#) by leading academics, lawyers, researchers, activists and industry professionals on the topic of deep packet inspection. The website is intended to serve as a resource to help Canadians understand the potential impact of this technology on our networked society.

Events and Presentations



CIPPIC hosted a number of events this summer on various topics and issues. These included:

Discussion of Copyright Monetization Schemes

CIPPIC along with the Songwriter's Association of Canada hosted a public discussion in support of the SAC's monetization plan. This plan would offer those Canadians who opt freely download musical works in exchange for a monthly fee.

Net Neutrality Town Hall

CIPPIC in cooperation with the Campaign for Democratic Media hosted a town hall in support of net neutrality. The lively discussion was led by a panel composed of Professor Michael Geist (Canada's Research Chair in Internet and E-Commerce), NDP MP Charlie Angus, and CEO of TekSavvy, Rocky Gaudrault.

Consultation Session on the Safe Internet Act

CIPPIC hosted Richard Simpson, Director General of E-Commerce at Industry Canada, along with members of his team for an in depth discussion of Bill C-27.

Ins and Outs of the Office of the Privacy Commissioner

CIPPIC hosted Elizabeth Denham, Assistant Privacy Commissioner overseeing PIPEDA, and Arthur Dunfee, Director General of the OPC's Investigations and Inquiries

Branch, to discuss the inner working of the OPC and the role of advocacy organizations such as CIPPIC.

A Candid Discussion on Copyright Advocacy:

Professor Michael Geist, Canada Research Chair in Internet and E-Commerce

NetNeutrality 2.0: Jacob Glick, Google's Canada Policy Counsel

Geospatial Data and Privacy: Professor Teresa Scassa, Canada Research Chair in Information Law.

Privacy is Protean: Surveillance, Frogger, and the Future of Privacy:

Professor Ian Kerr, Canada Research Chair in Ethics, Law and Technology

Staff Presentations

Former Director Pippa Lawson participated in a number of conferences and events in 2008:

- Presentations: "Identity Fraud: The Big Picture", "Identity Fraud and Law Reform", and "Security Breach Notification", *Privacy & Identity Theft Conference: Creating a Trusted Environment for Commerce and Communication*, Vancouver, BC (November 24-25, 2008)
- Presentation: "Social Networking Sites: Goldmines or Minefields?" *PIPA 2008 Conference: Managing Privacy from the Inside Out*, Calgary, Alberta (17-18 November, 2008)
- Presentation: "Protecting Consumer Privacy and the Right to Know", *Cyber Security: Proactive Defence of Critical Systems and Information*, Gatineau, QC (November 5-6, 2008)
- Presentation: "Privacy & Public Health: Ensuring Public Trust", *Electronic Health Information Privacy conference Ottawa*, ON (3 November, 2008)

Acting Director David Fewer also participated in numerous events throughout 2008-2009. These include:

- Presentation: "Copyright and Open Source", Free and Open Source Learning Centre, Algonquin College (May 15, 2009 Ottawa)
- Panelist: "Copyright, Culture & Documentary Films", University of Ottawa (May 14, 2009 Ottawa)
- Presentation: "Social Networking and Privacy", 2009 General Conference of the BC Library Association – *Be Curious: Think Share and Discover* (April, 2009)

- Presentation, "Law and the Arts", ARTpreneur Conference, Cornwall, Ontario (30 October, 2008)
- Presentation: "The Canadian Software Innovation Alliance and Copyright Policy", *Free Software and Open Source Symposium 2008*, Toronto, ON (October 23, 2008)



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