Copyright and Conference Presentations: Some Notes for Presenters

Do you need permission to use someone else’s work in your conference presentation, poster, paper, posting or handout? These notes identify questions to address if your conference takes place in Canada under the Copyright Act. They accompany a slide presentation viewable at http://bit.ly/1oXrRC4.

In general, the questions raise the following four key issues:

- **Protected?**
- **Reproduction?**
- **Permitted?**
- **Lawful Source?**

1. Is the material copyrighted? That is, has the term of copyright expired?
2. If you are using an excerpt, is it a “substantial part” of the whole work?
3. Do you need to reproduce the material, or can you use a link instead?
4. Is your use covered by an applicable Creative Commons, open access or other license?
5. Is your use covered by a users’ right such as fair dealing under the Copyright Act?
6. Is the source you are using non-infringing and was there no circumvention of technological protection measures in order to access the work?
7. If you are using a reproduction or recording (print or digital, offline or online), do you have reasonable grounds to believe it was copied or made available to the public with the copyright owner’s consent?
8. If permission is needed and contingent on fee payment or some other condition(s), have you paid the fee and/or met the condition(s)?

**Fair Dealing Analytical Framework** (*CCH v LSUC*, 2004 SCC 13)

The Supreme Court of Canada devised a two-step test to determine whether or not a particular dealing with (use of) a copyrighted work likely qualifies as fair dealing.

**Step 1:** Does a statutory fair dealing purpose apply? (research, private study, education, parody, satire, criticism, review, or news reporting; the latter three require source attribution).

**Step 2:** Is your copying or other use, on the whole, fair, with respect to

- **Purpose:** ultimate (end-user’s) purpose? real motive for copying or use? commercial or non-commercial purpose?
- **Character:** single or multiple copies? wide or narrow distribution? customary trade or industry practice? copy destroyed after use?
- **Amount:** is the whole work copied or used, or just a (substantial) part?
- **Alternatives:** could you use a non-copyrighted equivalent to achieve the ultimate purpose?
- **Nature of the work:** confidential? if unpublished and not confidential, is there a public interest in wider dissemination?
- **Effect:** is your use a substitute for, or likely to compete with, the market of the original work?