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Sent: February 12, 2021 12:40 PM

To: copyrightconsultation/ consultationdroitdauteur (PCH) <copyright-consultation-droitdauteur@canada.ca>

Subject: Registration for Term Extension

To Whom It May Concern:

Thank you for your time and energy in these consultations on reforming Canada's copyright regime. Though I am an intellectual property consultant and director of an intellectual property consultancy, I am presenting these comments in my own, personal capacity, and the views expressed do not necessarily reflect those of proVision IP Inc. I will be brief in my remarks:

A registration regime for copyright term extension is an equitable solution to balancing Canada's term extension obligations, the rights of creators and intellectual property owners and licensees, and the needs of our society and public for access to created works. Requiring term extension registration with an appropriate registration fee ensures that the owner of the work can be identified and is a going concern, and that the owner has sufficient interest in the work that term extension is viable given the registration expense.

A comparison with the utility patent maintenance fee regime is in order. In most jurisdictions, maintenance payments must be made periodically to keep a pending or issued patent alive. These payments ensure that the owner of the property can be identified, is still in business, and sees viable prospects for the patent. These fees typically begin modestly, and rise considerably during the life of the patent. Patents which are no longer of use to the patentee thus automatically become part of the public domain upon the non-payment of a required maintenance fee. This expiration upon non-action is very important: there is no incentive for a patent holder to take action that does not directly benefit them, and there may be no identifiable or self-identifying patent holder. By making expiration the default consequence of inattention to a patent file, the public benefits when a patent's value to the patent holder falls below the cost of maintaining it, or when the patent holder is no longer in business.

A similar regime, applied to copyright term extension, would be eminently fair to our international partners who expect Canada to implement a term extension; to current copyright holders who, until very recently, had no expectation for a longer copyright term; and to our citizens, who will benefit from the current, already generous terms being applied to works whose owners do not see value in registration.

Simply put, registration for copyright term extension can be an innovative, incentive-producing, made-in-Canada approach to meeting our international obligations while still allowing our society and people to benefit from our current terms.

Thank you for this opportunity to comment, and thank you again for your work in these difficult times.

Sincerely,

Tom Nagy, P.Eng, B.Mus.