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Ottawa, Ontario, November 24, 2026

PRESENT: Madam Justice Gagné

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PROPOSED CLASS PROCEEDING

BETWEEN:

KERRY CLARE, ARIANNE DES ROCHERS, STEPHEN BURROWS AND COLLEEN MURPHY

Plaintiffs

and

META PLATFORMS, INC. AND FACEBOOK CANADA LTD.

Defendants

REASONS AND ORDER

I. Overview

[1] The plaintiffs in this proposed class action are authors who hold Canadian copyright in various literary works. They bring this action on their own behalf and on behalf of all holders of

Canadian copyright resident in Canada, excluding residents of the Province of Quebec, whose Canadian copyrighted works were reproduced without permission by the defendants and used without permission as training data for the defendants' large language models [LLMs].

[2] The defendants are Meta Platforms, Inc [Meta US] and Facebook Canada Ltd. [Meta Canada]. Meta US and Meta Canada [together, Meta] are affiliated corporations and part of a global technology conglomerate. Meta US is incorporated under the laws of Delaware and is headquartered in Menlo Park, California. Meta Canada is headquartered in Toronto, Ontario and is the wholly owned subsidiary of Meta US.

[3] An aspect of Meta's operations is the development of LLMs, which are a form of artificial intelligence [AI]. In their statement of claim, the plaintiffs allege that, in the process of creating and training LLMs, Meta contravened the *Copyright Act*, RSC 1985, c C-42 by downloading, reproducing, and using the plaintiffs' copyrighted works without the plaintiffs' authorization.

[4] Meta brings this motion to strike the plaintiffs' statement of claim. Meta argues that this Court lacks subject-matter jurisdiction over the plaintiffs' claim because the alleged infringements are beyond the scope of the *Copyright Act* since no reproduction of the plaintiffs' works was made in Canada. Meta also argues that this Court lacks personal jurisdiction over Meta US, a foreign entity, and that Meta Canada was not involved in any of the alleged acts of infringement.

II. Background

[5] Meta's flagship LLM is known as "Large Language Model Meta AI" [Llama]. Over the past several years, Meta has released several iterations of Llama [collectively, the Llama Models]. Like other LLMs, Llama is designed to receive a sequence of words as an input and predict the most likely sequence of words making up the appropriate output.

[6] At a high level, the Llama Models were developed by taking a large amount of text and running statistical analysis on it. This statistical analysis allows the Llama Models to learn from the text and respond to user inputs. The computational process of extracting statistical and pattern information from textual materials is called "training", and the text from which statistical and pattern information is extracted is called "training data". To develop a high-quality LLM, it is important that its training data include vast amounts of high-quality text.

[7] Broadly speaking, the plaintiffs allege that their copyrighted works were used without authorization or permission by Meta to train its Llama models. Meta allegedly received copies of the plaintiffs' works through shadow libraries—online publicly accessible repositories that provide books and academic journal articles for free download allegedly without authorization such as "Books3" and "Library Genesis" [collectively the Datasets]—and used these Datasets to train Llama and other LLMs.

[8] The plaintiffs claim that Meta's use of their works is contrary to sections 3, 27, 28.1, 41.1, and 41.22 of the *Copyright Act*. Their claim is based on the following allegations:

(a) Meta infringed the plaintiffs' copyright in the plaintiffs' works by downloading those copyrighted works *en masse* and without the plaintiffs' authorization;

(b) While preparing the plaintiffs' works for inclusion in training data, Meta:

(i) removed or altered rights management information [RMI] and technological protection measures [TPMs] over some of the plaintiffs' works;

(ii) further infringed the plaintiffs' copyright by making additional copies of their works;

(c) Meta included copies of the plaintiffs' works in the training data for its LLMs and, by commercializing the Llama Models to Canadian users, facilitated the further reproduction and unauthorized use of the plaintiffs' works; and

(d) Meta violated the plaintiffs' moral rights by using the plaintiffs' works to create and develop LLMs that, among other things, are ultimately aimed at replacing human authors such as the plaintiffs.

[9] Meta asserts—and provides evidence—that none of the downloading of Datasets, storage of the downloaded Datasets, cleaning of those works (i.e., removing the TPMs and RMI), or training of the Llama models occurred in Canada. Mr. James Beldock, a Director of Product Management in the Meta US Superintelligence Labs, confirmed in cross-examination that "[t]he datasets were downloaded in the United States. They were not used in Canada and they were not

trained on in Canada". As a result, in Meta's submission, the *Copyright Act* does not afford the plaintiffs a cause of action in respect of these alleged infringements.

[10] Meta also argues that i) this Court does not have personal jurisdiction over Meta US, ii) that two of the plaintiffs have a Facebook commercial account that contains a dispute resolution clause where they agree to adjudicate any dispute in the state of California, and iii) that in any event, California is the preferred forum to adjudicate the plaintiffs' claims.

I. Issues

[11] This motion raises four issues:

A. Does this Court have territorial/subject-matter jurisdiction over the claims?

B. If the Court has subject-matter jurisdiction over the claims, does it have personal jurisdiction over the defendants?

C. Should this Court stay the claims of those plaintiffs who agreed to adjudicate their claims in the U.S. District for the Northern District of California or a state court located in San Mateo County?

D. Is this Court the preferable forum to adjudicate this dispute?

[12] The defendants allege that the first issue is dispositive of this motion and I agree.

II. Analysis

A. *The Court's subject-matter jurisdiction over the claims*

[13] As a statutory court, this Court's subject-matter jurisdiction comes entirely from legislation. It has jurisdiction over claims where there is (1) a statutory grant of jurisdiction by the federal Parliament; (2) an existing body of federal law which is essential to the disposition of the claim and which nourishes the statutory grant of jurisdiction; and (3) the law on which the claim is based is a "law of Canada" within the meaning of section 101 of the *Constitution Act, 1867*, 30 & 31 Victoria c 3 (UK) (*Windsor (City) v Canadian Transit Co*., 2016 SCC 54 at paras 33-34; *ITO-1nt'l Terminal Operators v Miida Electronics*, 1986 CanLII 91 (SCC), [1986] 1 SCR 752 at 766).

[14] In this proposed class proceeding, the jurisdiction of the Court must be grounded in the *Copyright Act*; if the *Copyright Act* does not give rise to the plaintiffs' claims, then this Court lacks subject-matter jurisdiction.

[15] While Parliament is competent to enact laws having extraterritorial effect, Parliament is presumed not to have intended to do so in the absence of clear words or necessary implication to the contrary (*Society of Composers, Authors and Music Publishers of Canada v Canadian Assn. of Internet Providers*, 2004 SCC 45 [*SOCAN 2004*] at para 54).

[16] The defendants state that the *Copyright Act* does not extend to infringements that materialized solely outside of Canada even if some people in Canada may have had some

involvement in the alleged acts of infringement. They assert that the decision of the Federal Court of Appeal in *Sirius Canada Inc. v CMRRA/SODRAC Inc*., 2010 FCA 348, is binding on this Court and dispositive of their motion.

[17] The plaintiffs respond that *Sirius* has been overtaken by the subsequent Supreme Court of Canada decision in *Sharp v Autorité des marchés financiers*, 2023 SCC 29 and that, in any event, the questions at issue in this claim are fundamentally different from those at issue in *Sirius*. Moreover, the plaintiffs argue that, unlike in *Sirius*, there is evidence in the record before the Court showing that the claim at issue could not be pursued under American copyright law.

[18] The plaintiffs argue that the appropriate test to determine whether the *Copyright Act* applies to their claims is the “real and substantial connection” test, as applied by the Supreme Court in *SOCAN 2004*.

(1) The test to be applied on this motion

[19] As the moving party, the Defendants have the burden to establish that it is “plain and obvious” that the *Copyright Act* does not apply to the plaintiffs’ claims and that those claims are thus "doomed to fail" for want of jurisdiction (*Windson (City)* at para 24; *Pass Herald Ltd. v Google LLC*, 2024 FC 1623 at paras 33-34).

(2) The *SOCAN 2004* Decision

[20] In *Sirius*, the Court recognized that the issues raised before it were similar in nature to those raised in *SOCAN 2004*, since they concerned "general questions of copyright law" and the interpretation of the *Copyright Act* (*Sirius* at para 9). Moreover, the plaintiffs rely on *SOCAN 2004* for the test they view as appropriate for assessing whether the *Copyright Act* can apply to this claim. It is therefore well-advised to begin with a review of the *SOCAN 2004* decision.

[21] The question raised in *SOCAN 2004* concerned who should compensate musical composers and artists for their Canadian copyright in music downloaded in Canada from a foreign country via the Internet. More specifically, what is, if any, the responsibility of the Internet providers who create "cache copies" of material they transmit to end users.

[22] As Justice Binnie explained in *SOCAN 2004*, a "cache copy" is a temporary copy of a packet of data made and stored on servers when that data passes through the hands of an Internet Service Provider. If another user requests that same data from the same Internet service provider, the information may be transmitted to the subsequent user from what is kept in the cache copy. Cache copies are not retained for a long period since, if the original is changed, users will get out-of-date information (*SOCAN 2004* at para 23).

[23] The parties in *SOCAN 2004* did not frame an issue in relation to infringement of the right of reproduction (para 28). The copyright interest at stake in that case was the right to

communicate a work to the public by telecommunication (i.e., the right protected by paragraph 3(1)(f) of the *Copyright Act*).

[24] Paragraph 2.4(1)(b) of the *Copyright Act* was enacted in 1988 and provides that persons who only supply "the means of telecommunication necessary for another person to so communicate" are not themselves to be considered parties to an infringing communication. At section 2 of the *Copyright Act* telecommunication is defined as "any transmission of signs, signals, writings, images or sounds or intelligence of any nature by wire, radio, visual, optical or other optical or other electromagnetic system".

[25] Citing *Copyright Law* (Toronto: Irwin Law, 2000) by Professor David Vaver, Justice Binnie noted that copyright law respects the territorial principle, reflecting the implementation of a "web of interlinking international treaties" based on the principle of national treatment (*SOCAN 2004* at para 56).

[26] However, telecommunications that have international participants—a telecommunication from a foreign state to Canada or a telecommunication from Canada to a foreign state—are "both here and there" (*SOCAN 2004* at para 59). It is in that context that Justice Binnie adopted the "real and substantial connection" test—originally developed and applied by the Court to prevent overreach and restrict the exercise of jurisdiction over international transactions—as the test to determine the applicability of the *Copyright Act* to communications with international participants (*SOCAN 2004* at paras 57-60; *Tolofson v Jensen; Lucas (Litigation Guardian of) v Gagnon*, 1994 CanLII 44 (SCC), [1994] 3 SCR 1022 at 1049).

[27] Justice Binnie elaborated on the application of the real and substantial connection test to Internet communications. He explained that "[i]n terms of the Internet, relevant connecting factors would include the situs of the content provider, the host server, the intermediaries and the end user. The weight to be given to any particular factor will vary with the circumstances and the nature of the dispute" (*SOCAN 2004* at para 61).

[28] In its assessment of the questions raised by the appeal, the Court found that the *Copyright Act* does not impose liability for infringements on Internet service providers as they limited themselves to "a conduit" function and therefore benefit from the protection of paragraph 2.4(1)(b) (*SOCAN 2004* at para 101). The Court also found that "[t]he creation of a "cache" copy… is a serendipitous consequence of improvements in Internet technology, is content neutral, and in light of s. 2.4(1)(b) of the [*Copyright Act*] ought not to have any legal bearing on the communication between the content provider and the end user" (*SOCAN 2004* at para 115).

(3) The *Sirius* Decision

[29] Six years after the Supreme Court's decision in *SOCAN 2004*, the Federal Court of Appeal had to decide whether royalties should be paid for the reproduction of musical works by satellite radio broadcasters using servers located in the United States.

[30] In that case, one of the applicants, CMRRA/SODRAC Inc. [CSI], raised several arguments that the Court regrouped into two general categories. Only one of those is relevant to

the case before me, and it concerns the location of the copying (reproduction) of works and whether an infringing authorization can arise in relation to a copy made outside Canada.

[31] In 2005, two Canadian corporations, Sirius Canada Inc. [Sirius] and Canadian Satellite Radio Inc. [XM Canada]—partners of larger American satellite radio service providers—were issued broadcasting licences to offer satellite radio services across Canada. These Canadian partners worked with affiliated American satellite radio companies, and relied upon their infrastructure, to provide Canadian satellite radio services.

[32] Canadian satellite services relied heavily on their respective American partner's programming, but the terms of their broadcasting licences required them to include in their subscription package a minimum of content produced in Canada. Both Sirius and XM Canada offered some satellite radio channels produced in Canada, which played Canadian content.

[33] Sirius and XM Canada operated slightly differently, but the general functioning of their operations can be summarized as follows (see *Sirius* at para 4):

- XM Canada and Sirius use satellites to broadcast radio signals to their subscribers. The signal sent by satellite to the mobile receivers is encrypted so that only approved receivers can receive and play the signal.
- In order to provide an uninterrupted radio broadcast service, the satellite services augment their satellite signal through the use of a network of ground transmitters. With this combined infrastructure, the satellite services are able to deliver all of their programming to all subscribers, regardless of their location in North America.
- Before radio programming can be uplinked to the satellites for delivery, programming directors must store a copy of all programming onto a main server.

- Selection and scheduling of programming content are done using specialized software that instructs the relevant main server when and in what order it must play the various music or audio files.

- For their Canadian content, the Canadian satellite radio providers either produce their own programming or use Canadian third-party content providers. That programming is conceived and controlled from Canada.

- XM Canada receives audio content either in the form of CDs or through an electronic music distribution service. Once it selects what content to broadcast, it sends the relevant files to a main server in Washington, only storing an intermediary copy in some circumstances.

- When it comes time to schedule XM Canada content, the programming director instructs their American affiliate's scheduling software to play specific content in a certain order and, at the appropriate time, the Washington server plays them off its local hard drives.

- Sirus' programming operates differently. Sirius acquires its content from third-party content providers. Sirius uses a specialized scheduling software to determine which content will be played when. When it is time for a show to air, the scheduling system automatically plays it off Canadian servers linked to Sirius's American affiliate's facility, where it is combined with American channels.

- Once the programming from either XM Canada or Sirius has been prepared for broadcasting and uplinked to the satellites, it is delivered to the subscribers in Canada and the United States.

[34] The relevant questions before the Court were i) whether the Copyright Board had jurisdiction to impose royalty tariffs in respect of a copy made in the United States as a direct result of an act taken in Canada, and ii) whether the Board had jurisdiction to impose tariffs in respect of the Canadian partners' authorization in Canada of the making of a copy of a work in the United States.

[35] It was undisputed that the Society of Composers, Authors and Music Publishers of Canada [SOCAN] and the Neighbouring Rights Collective of Canada were entitled to

communication royalties from the Canadian satellite radio broadcasters (*Sirius* at para 3). The communication royalties were therefore not at stake.

[36] CSI argued that where the copying was initiated in Canada, the act of copying occurred in Canada because there was no one outside Canada who could be held responsible for it. The Court rejected that argument:

> [41] … This argument assumes that the making of the copy in these circumstances cannot be subject to the copyright laws of the United States, and that the owner of the United States server who permits it to be used as the repository for copies of musical works cannot be held liable under the copyright laws of the United States. This Court was referred to nothing in the record and no jurisprudence that could support this assumption, and I see no basis for accepting it.

[37] The Federal Court of Appeal then clearly stated that the "real and substantial connection" test applied by the Supreme Court in *SOCAN 2004* to the copyrighted interest of communication (where the action at issue had a "here and there" component), did not apply to the copyrighted interest of reproduction. That test is not required to determine the location of the act of copying where the completed copy existed in only one location (*Sirius* at para 44). The Court adds that a copy is not completed until it exists in a material form and as such, it is stored outside of the jurisdiction of Canada even if the copying was initiated in Canada (*Sirius* at para 45).

[38] In my view, the Federal Court of Appeal in *Sirius* was acutely aware of the facts of *SOCAN 2004* and I see no misunderstanding of the Supreme Court's reasons. These two decisions dealt with different copyright interests, and both are binding on this Court.

(4) The *SOCAN 2022* Decision

[39] The Supreme Court made the distinction between the three different copyright interests protected by the *Copyright Act* even more clear another decade later in *Society of Composers, Authors and Music Publishers of Canada v Entertainment Software Association*, 2022 SCC 30 [*SOCAN 2022*].

[40] In that case, the Court was asked to interpret subsection 2.4(1.1), which was added to the *Copyright Act* to implement Article 8 of the 1997 *WIPO Copyright Treaty*. Subsection 2.4(1.1) confirmed that "communication of a work or other subject-matter to the public by telecommunication includes making it available to the public by telecommunication in a way that allows a member of the public to have access to it from a place and at a time individually chosen by that member of the public" and thereby clarified the application of paragraph 3(1)(f).

[41] The question before the Court was whether accessing works online for on demand viewing or streaming required paying two royalties—one when the work is made available and another when the work is downloaded or streamed—when accessing the same work offline required paying only one royalty.

[42] The Supreme Court answered that question in the negative, though the outcome of the case is not significant for my own analysis on this motion. In *SOCAN 2022*, Justice Rowe, writing for the majority, provides a clear outline of the distinct rights protected by the *Copyright Act*. He first states that, to understand subsection 2.4(1.1), one must understand the basic scheme

of the *Copyright Act* (para 53). Justice Rowe went on to provide a clear delineation of the interests the *Copyright Act* protects:

> [54] The opening paragraph of s. 3(1) of the *Copyright Act* exhaustively sets out three copyright interests that authors have in their works: the right to (1) produce or reproduce a work in any material form; (2) perform a work in public; or (3) publish an unpublished work. Section 3(1)(a) to (j) is "illustrative" of these three broad copyrights: *ESA*, at para. 42. For example, s. 3(1)(f), which gives authors the right to "communicate the work to the public by telecommunication", illustrates an activity that falls within the broader right to perform a work in public. It is not a standalone or *sui generis* copyright in addition to the general rights described in s. 3(1): *ESA*, at paras. 25-27 and 42.
>
> [55] The rights enumerated in s. 3(1) are distinct. A single activity can only engage one of the three copyright interests. When a song is downloaded, for example, only the author's reproduction right is engaged. Similarly, when a work is streamed, only the author's performance right is engaged: *ESA*, at para. 41. Authors are entitled to royalties for use of their works when an activity engages one of the copyright interests in s. 3(1).
>
> [56] To determine which copyright interest is engaged by an activity, one must examine what that activity does to the copyrighted work. A performance is impermanent — "[w]hen it is over, only the memory remains": *Bishop v. Stevens*, [1990] 2 S.C.R. 467, at p. 479. Performances also allow authors to retain more control over their works than reproductions, as performed works can be withdrawn from the user after the performance is over. Accordingly, when an activity allows a user to experience a work for a limited period of time, the author's performance right is engaged. A reproduction, by contrast, gives a user a durable copy of a work: *Théberge v. Galerie d'Art du Petit Champlain inc*., 2002 SCC 34, [2002] 2 S.C.R. 336, at paras. 42 and 47; *ESA*, at para. 35. Authors lose significantly more control over their works when they are reproduced. Once reproduced, authors cannot limit when, how, or the number of times a user experiences the work. Accordingly, activities that give users a durable copy of a work engage the author's reproduction right.

[43] As was the case in *SOCAN 2004*, this case was only concerned with two of the three copyright interests that authors have in their works: i) the reproduction right and ii) the performance/communication right. For the purposes of this motion, the takeaway from *SOCAN 2022* is the fundamental distinction between the three copyrighted interest.

(5) The *Sharp* Decision

[44] As stated above, the plaintiffs assert that in *Sharp*, the Supreme Court reaffirmed the "real and substantial connection" test applied in *SOCAN 2004* to analyze the territorial reach of federal legislation and that, consequently, *Sharp* has overtaken the Federal Court of Appeal decision in *Sirius*. The plaintiffs rely primarily on the following paragraph in *Sharp*:

> [110] … the "real and substantial connection" test in *Unifund* is now the "accepted test for discerning the presumptively intended reach of federal legislation as well as the constitutionally permissible application of provincial legislation..."

[45] I cannot agree that *Sharp* has overtaken *Sirius*.

[46] First, *Sharp* is not a copyright case.

[47] Second, like *SOCAN 2004* and other cases that have applied the real and substantial connection test, *Sharp* had a strong "here and there" component.

[48] Like *Unifund Assurance Co. v. Insurance Corp. of British Columbia*, 2003 SCC 40, the question at issue in *Sharpe* was whether a provincial scheme constitutionally applied to an out-of-province defendant.

[49] Four British Columbia residents were alleged by the Autorité des marchés financier—the administrative agency that regulates Quebec's financial sector—to have engaged in a transnational "pump-and-dump" securities manipulation scheme. They allegedly acted in concert i) to acquire the shares of a Quebec shell company that was a reporting issuer in Quebec with a Montréal business address and director residing in Quebec, ii) give it a legitimate "face", iii) promote its business across Canada, including Quebec, and iv) sell their shares for a profit, and distribute this profit among themselves. Ultimately, Quebec investors lost money (*Sharp*, para 21).

[50] The Financial Market Administrative Tribunal [FMAT], the Superior Court of Quebec, the majority of the Quebec Court of Appeal, and the majority of the Supreme Court all were of the view that the FMAT had jurisdiction over the defendants under the Quebec securities scheme, albeit for slightly different reasons.

[51] After reviewing the relationship between the *Civil Code of Quebec*, CQLR c CCQ-1991 [*CCQ*] and special statutes and noting both the suppletive role of the *CCQ* and the fact that specific laws may complement or derogate from the *CCQ*, the Supreme Court found that the *CCQ* itself did not give the FMAT jurisdiction over the out-of-province defendants. However,

that did not preclude the application of other jurisdictional rules set out in special statutes (*Sharp* at para 92).

[52] The Supreme Court then noted that the FMAT had jurisdiction under two special statutes: the Quebec *Securities Act*, CQLR c V-1.1, and the *Act respecting the Autorité des marchés financiers*, now known as the *Act respecting the regulation of the financial sector*, CQLR, c E-6.1 (*Sharp* at para 93). Section 93 of the *Act respecting the Autorité des marchés financiers* provided subject-matter jurisdiction to the FMAT over matters arising under statutes listed therein, including the *Securities Act*, which the defendants were alleged to have violated (*Sharp* at paras 94, 96). The subject-matter jurisdiction of the FMAT was therefore not in question (*Sharp* at para 101).

[53] It was only in its discussion of the FMAT's jurisdiction over out-of-province parties and whether the territorial reach of the Quebec securities scheme over interprovincial or international transactions was otherwise limited by other legislation that the Supreme Court turned its mind to its previous decision in *Unifund* and the question of whether a provincial regulatory scheme applies to out-of-province defendants.

[54] The Supreme Court's discussion and application of the "real and substantial connection" test therefore concerned personal jurisdiction over foreign defendants. The Court did not, expressly or implicitly, indicate that the "real and substantial connection" test is to be applied in assessing whether subject-matter jurisdiction exists over a dispute. The Supreme Court also

implicitly confirmed that the "real and substantial connection" test requires the dispute to have a "here and there" component.

[55] As a result, I find that the *Sirius* decision has not been overtaken by *Sharp*.

(6) The plaintiffs' claims exclusively impugn extraterritorial activities

[56] In my view, the facts of this case cannot be distinguished from those in *Sirius*.

[57] The plaintiffs' claim impugns three of Meta's activities: the downloading of the plaintiffs' works, the cleaning of the plaintiffs' works, and the inclusion of the plaintiffs' works in the data used to train Meta's AI models.

[58] The uncontradicted evidence is that those activities were performed outside of Canada. In cross-examination Mr. Beldock confirmed that Meta US has distinct servers to store the downloaded Datasets, and to pre-process (clean) and process (use for training) the downloaded data, neither being located in Canada. He also confirmed that the Meta personnel who downloaded the Datasets used to train the Llama models were not located in Canada, nor were the personnel who did the cleaning of the Datasets or the training.

[59] Copyright claims impugning activities that occurred entirely outside of Canada are beyond the scope of the *Copyright Act* and beyond this Court's jurisdiction.

(7) The plaintiffs' expert evidence

[60] The plaintiffs have filed the expert evidence of Professor David Nimmer, a California lawyer and Professor from Practice at UCLA law school specializing in copyright law and related fields. According to the plaintiffs this evidence shows that their claims could not proceed in the United States, which they say distinguishes their case from *Sirius*.

[61] First, I am reluctant to ground the subject-matter jurisdiction of this Court solely on an argument that a plaintiff would not have a similar or as effective recourse in a foreign jurisdiction.

[62] Second, Professor Nimmer worked on the premise that the *Copyright Act* applies where there is a real and substantial connection between Canada and the Internet transmission at issue. As stated above, that is not always the case, and it is not the case when the reproduction copyrighted interest is at stake, as is the case in the plaintiffs' claim.

[63] Third, Professor Nimmer does not claim that the plaintiffs would be unable to pursue their claims for copyright infringement or to obtain damages, an accounting of profits, or injunctive relief if they sued for infringement in the United States under United States copyright law.

[64] In my view, the plaintiffs' argument that this case should be distinguished from *Sirius* on that basis must also fail.

III. Conclusion

[65] For the above reasons, I am of the view that it is plain and obvious that the plaintiffs' claim is doomed to fail for lack of subject-matter jurisdiction. The *Copyright Act*, on which this Court grounds its statutory jurisdiction, is territorial in nature and does not apply to sanction acts of infringement occurring solely outside of Canada. The alleged acts of downloading and cleaning the plaintiffs' Canadian copyrighted works and using those works to train Meta's LLMs occurred outside of Canada, and they are outside the reach of this Court. The plaintiffs' amended statement of claim should therefore be struck.

ORDER IN T-1204-25

THIS COURT ORDERS that:

1. The defendants' motion is granted.

2. The plaintiffs' amended statement of claim is struck for lack of jurisdiction.

3. No costs are granted.

"Jocelyne Gagné"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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