File No. 36602

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

B E T W E E N:

GOOGLE INC.

Appellant
(Appellant)

- and -

EQUUSTEK SOLUTIONS INC., ROBERT ANGUS, CLARMA ENTERPRISES INC.

Respondents
(Respondents)

- and -

ATTORNEY GENERAL OF CANADA, ATTORNEY GENERAL OF ONTARIO, CANADIAN CIVIL LIBERTIES ASSOCIATION, OPENMEDIA ENGAGEMENT NETWORK, REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, AMERICAN SOCIETY OF NEWS EDITORS, ASSOCIATION OF ALTERNATIVE NEWSMEDIA, THE CENTER FOR INVESTIGATIVE REPORTING, DOW JONES & COMPANY, INC., FIRST AMENDMENT COALITION, FIRST LOOK MEDIA WORKS, INC., NEW ENGLAND FIRST AMENDMENT COALITION, NEWSPAPER ASSOCIATION OF AMERICA, AOL INC., CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, THE ASSOCIATED PRESS, THE INVESTIGATIVE REPORTING WORKSHOP AT AMERICAN UNIVERSITY, ONLINE NEWS ASSOCIATION, SOCIETY OF PROFESSIONAL JOURNALISTS, HUMAN RIGHTS WATCH, ARTICLE 19, OPEN NET (KOREA), SOFTWARE FREEDOM LAW CENTRE, CENTER FOR TECHNOLOGY AND SOCIETY, WIKIMEDIA FOUNDATION, BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION, ELECTRONIC FRONTIER FOUNDATION, INTERNATIONAL FEDERATION OF THE PHONOGRAPHIC INDUSTRY, MUSIC CANADA, CANADIAN PUBLISHERS' COUNCIL, ASSOCIATION OF CANADIAN PUBLISHERS, INTERNATIONAL CONFEDERATION OF SOCIETIES OF AUTHORS AND COMPOSERS, INTERNATIONAL CONFEDERATION OF MUSIC PUBLISHERS, WORLDWIDE INDEPENDENT NETWORK and INTERNATIONAL FEDERATION OF FILM PRODUCERS ASSOCIATIONS

Interveners

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(Pursuant to Rule 42 of the *Rules of the Supreme Court of Canada*)

(Revised in accordance with the Order of Brown J. dated November 1, 2016)

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PART I: OVERVIEW

1. This appeal is about the ability of a Canadian court to require a foreign, non-party, web-based company to remove content from its worldwide websites in order to give effect to court orders made in a private party dispute. It raises issues of restrictions on freedom of expression, including the public's right to receive information, as well as issues relating to the jurisdiction of national courts over global digital platforms and the dangers of national court orders with expansive extraterritorial effect.

2. The Media Coalition consists of 15 media companies and organizations, which are either public interest organizations with a mandate to protect freedom of expression interests of the news media or global digital content providers.[1]

3. The Media Coalition's submissions focus on the serious implications for freedom of expression if this Court accepts the approach of the British Columbia Court of Appeal ("**BCCA**") to taking jurisdiction over, and issuing injunctions in respect of, foreign non-party digital platforms and content providers. These implications include the risk of worldwide censorship based on local norms.

4. This Court has held that in order to assume jurisdiction over a dispute, there must be a real and substantial connection between the forum and the subject-matter of the litigation.[2] In British Columbia, the real and substantial connection test is codified in the *Court Jurisdiction and Proceedings Transfer Act*[3] ("***CJPTA***").[4] Under the *CJPTA*, in order for the British Columba court to assume jurisdiction, there must be a real and substantial connection between British Columbia and the facts on which the "proceeding" before the court is based.

5. In order to decide whether to assume jurisdiction over the injunction application against Google, Inc. ("**Google**"), the lower courts therefore considered whether there was a real and substantial connection between British Columbia and the "proceeding". This first required a determination of whether the relevant "proceeding" was the underlying action by the

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[1] Affidavit of Bruce Brown sworn July 7, 2016 at paras 3-22, Motion Record of the Media Coalition on the Motion for Intervention of the Media Coalition, Tab 2.
[2] *Van Breda v Village Resorts Ltd*, 2012 SCC 17 at paras 26, 75 & 82, [2012] 1 SCR 572 [*Van Breda*].
[3] *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28 [*CJPTA*].
[4] *Van Breda, supra* note 2 at paras 40-41.

Respondents against the Datalink defendants (the "**Defendants**"), or the injunction application. The BCCA determined the relevant "proceeding" was the underlying action.

6. The implication of this conclusion by the BCCA is that a court can take jurisdiction over a foreign non-party merely because the underlying dispute is within the province's jurisdiction. This raises serious concerns that entities with global reach will be beholden to Canadian laws and pulled into Canadian disputes without the need to consider those entities' connection to the jurisdiction.[5] If other states follow this approach, global digital platforms, including Canada's, could be subject to virtually any state's laws.[6]

7. Such a broad-ranging approach to jurisdiction, particularly in the context of digital platforms and international news publishers, should be rejected. For instance, one way American courts have protected freedom of expression is by applying the "targeting" approach to jurisdiction, which is focused on the intent of the digital platform or content provider to purposefully aim or direct specific content at a particular jurisdiction.

8. With respect to the courts' equitable jurisdiction to grant injunctions, such jurisdiction must be exercised within the confines of the *Canadian Charter of Rights and Freedoms*,[7] and it is critical that courts take far greater account of freedom of expression and the public's right to receive information than was done in this case.

9. In addition, courts should be extremely skeptical about requests for injunctions requiring digital platforms to assist in enforcing state law, ordered in this case with respect to the Canadian intellectual property rights at issue between the Respondents and the Defendants. This is especially true where freedom of expression interests are at stake and where limitless jurisdiction could mean that repressive regimes would seek to impose their national laws everywhere, including in Canada.

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[5] See *Van Breda*, *ibid* at para 87, where this Court explained that the fact that a website can be accessed from the jurisdiction would not suffice to establish a real and substantial connection between an entity and a jurisdiction.
[6] Contrary to the Respondents' assertions at paragraphs 61-64 of their Memorandum of Law, this Court should consider the international context and the potential responses of other states to Canadian court orders. See, e.g. *Chevron Corp v Yaiguaje*, 2015 SCC 42 at paras 51-53, [2015] 3 SCR 69.
[7] *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*].

PART II: POSITION ON THE ISSUES ON APPEAL

10. Google obtained leave to appeal on issues including the circumstances under which a court may order a search engine to block search results, having regard to the interest in access to information and freedom of expression, and the limits (either geographic or temporal) that must be imposed on those orders.[8] The Media Coalition's submissions focus on the following four points:

(a) the failure of the BCCA to properly take into account the context of global digital platforms when determining territorial competence and jurisdiction;

(b) the "targeting" approach for determining when a real and substantial connection exists in this context;

(c) the critical role of freedom of expression in the court's determination of whether to exercise equitable jurisdiction to grant injunctions; and

(d) the dangers of courts issuing injunctions requiring global digital platforms to assist in enforcing state law.

PART III: ARGUMENT

A. THE BCCA FAILED TO PROPERLY TAKE INTO ACCOUNT THE CONTEXT OF GLOBAL DIGITAL PLATFORMS WHEN DETERMINING TERRITORIAL COMPETENCE AND JURISDICTION

11. The BCCA's analysis of territorial competence and jurisdiction failed to properly take into account the context of global digital platforms and content providers. Such organizations, like those included in the Media Coalition, may publish websites or content that reach around the world, yet more must be required for jurisdiction to be exercised by a national court. The BCCA's interpretation of "proceeding" in the *CJPTA* threatens principles of order, fairness and comity by raising the spectre that global platforms could be subject to limitless jurisdiction around the world.

12. Section 3 of the *CJPTA* states that the British Columbia Supreme Court has territorial competence over a "proceeding" in certain circumstances, including if "there is a real and substantial connection between British Columbia and the facts on which the proceeding against that person is based".[9] The term "proceeding" is defined at section 1 of the *CJPTA* as "an action, suit, cause, matter, petition proceeding or requisition proceeding and includes a procedure and a

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[8] Notice of Application for Leave to Appeal of Google, Inc. at para 1.
[9] *CJPTA*, *supra* note 3, s 3.

preliminary motion".[10] The chambers judge in this case concluded that the relevant "proceeding" was the application for the injunction, but the BCCA disagreed and held that the relevant "proceeding" was the underlying action between the Respondents and the Defendants.[11]

13. In arriving at its conclusion, the BCCA stated that both interpretations are consistent with the definition's strict wording but that "requiring a court to determine territorial competence separately for each "procedure" within an action would lead to undesirable consequences and make the scheme of the statute unworkable".[12]

14. Contrary to the BCCA's conclusion, the strict wording of the statute suggests that the proceeding contemplated by the *CJPTA* is the one before the court (not the underlying action). Section 3(e) of the *CJPTA* states:

> A court has territorial competence in a proceeding that is brought ***against a person*** only if... (e) there is a real and substantial connection between British Columbia and the facts on which ***the proceeding against that person*** is based.[13]

15. This statutory language specifies that the relevant proceeding is the one to which the entity in question is a party. In accordance with this language, a court would have territorial competence in a proceeding brought against a non-party like Google only if there is a real and substantial connection between British Columbia and the facts on which *the proceeding against the non-party* is based, i.e. the injunction application.

16. Moreover, it is the interpretation of the word "proceeding" adopted by the BCCA that would lead to undesirable consequences. Under this interpretation, a court may be able to issue an injunction against a foreign non-party so long as the injunction had some remedial effect on a dispute within the province's jurisdiction. The disconcerting implication of this approach is that Canadian courts would be expanding their jurisdictional reach to global platforms that may have

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[10] *Ibid*, s 1.
[11] *Equustek Solutions Inc v Jack*, 2014 BCSC 1063 at para 24, 374 DLR (4th) 537 [*Equuestek* BCSC]; *Equustek Solutions Inc v Google Inc*, 2015 BCCA 265 at paras 32-37, 386 DLR (4th) 224 [*Equustek* BCCA].
[12] *Equustek* BCCA, *ibid* at para 37. The BCCA went on to give the example of a case where an out-of-province plaintiff was injured in a motor vehicle accident. It suggested that even though the court in this hypothetical example had territorial competence over the action, it may not be able to order disclosure of the plaintiff's medical records since the application for disclosure would be a separate "proceeding". This example is inherently flawed as the order to produce the medical records would be against the plaintiff over whom the court would have already determined it had jurisdiction.
[13] *CJPTA*, *supra* note 3, s 3(e) [emphasis added].

no connection to Canada other than that their website is accessible in this country.[14] If adopted by other states, this approach would mean that digital platforms with global reach, including Canadian companies, could be beholden to any – and every – state's laws.

17. If every state could take jurisdiction over digital platforms – like Google, news sites and others – the regulatory burden of compliance would become unmanageable, especially for smaller content providers. This outcome would have serious implications for freedom of expression[15] and could lead to a "balkanization" of the Internet.[16]

18. Citizens of oppressive regimes who rely on the Internet for uncensored news or political organizing would be the first to lose access because their governments have the most repressive laws. As a result, the globalized Internet may become regionalized, or even nationalized, and the benefits of a true global marketplace of ideas could be rolled back. In addition, limitless jurisdiction means that foreign courts, including from states that may not have robust protections for free expression, could issue orders seeking to supress expressive conduct worldwide, including in Canada.

19. Where an injunction against a foreign non-party is sought, Canadian courts should consider the real and substantial connection between the forum and the injunction proceeding against the non-party, thereby requiring consideration of the connection of the non-party to the jurisdiction.

B. THE "TARGETING" APPROACH FOR DETERMINING WHEN A REAL AND SUBSTANTIAL CONNECTION EXISTS IN THE CONTEXT OF GLOBAL DIGITAL PLATFORMS

20. Digital platforms and content providers may publish websites or online content accessible from anywhere in the world. As was recognized by this Court in *Van Breda*, this cannot be a sufficient basis for worldwide jurisdiction.[17] This Court should adopt an approach that sets

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[14] But see *Van Breda*, *supra* note 2 at para 87, where this Court explained that the fact that a website can be accessed from the jurisdiction would not suffice to establish a real and substantial connection between an entity and a jurisdiction.

[15] As noted by the BCCA in *Braintech Inc v Kostiuk*, 1999 BCCA 169 at para 63, 171 DLR (4th) 46: "It would create a crippling effect on freedom of expression if, in every jurisdiction the world over in which access to Internet could be achieved, a person who posts fair comment on a bulletin board could be haled before the courts of each of those countries where access to this bulletin could be obtained."

[17] *Van Breda*, *supra* note 2 at para 87.

necessary limits on jurisdiction in this context, particularly where injunctions impacting free expression are at issue.

21. In the United States, courts have adopted the "targeting" approach to assuming jurisdiction in the online context. Under this approach, a forum has jurisdiction over an out-of-forum entity only when that entity demonstrates a specific intention to enter the jurisdiction in question – i.e. when the entity is "targeting" the jurisdiction with particular content. The mere publication of a website generally accessible worldwide would not be sufficient for a national court to take jurisdiction.

22. The targeting approach was articulated by the Court of Appeals for the Fourth Circuit in *Young v New Haven Advocate*.[18] In that case, two Connecticut-based newspapers were sued in defamation in Virginia and challenged that state's jurisdiction. The Court considered whether the defendants' "Internet-based activities"[19] – namely, a website accessible worldwide, including from Virginia – constituted sufficient contact with Virginia to establish jurisdiction. The Court looked at whether the newspapers "manifested an intent to direct their website content…to a Virginia audience",[20] recognizing that the act of placing information on the Internet is not sufficient by itself to subject a person to jurisdiction everywhere that information is accessed.[21] Even though the articles in question discussed conditions in a Virginia prison, of which the plaintiff was the Warden, the Court ruled that the newspapers "maintain their websites to serve local readers in Connecticut, to expand the reach of their papers within their local markets, and to provide their local markets with a place for classified ads. The websites are not designed to attract or serve a Virginia audience."[22] *Young* has been followed numerous times by United States appellate level courts.[23]

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[18] *Young v New Haven Advocate*, 315 F (3d) 256 (4th Cir 2002), leave to appeal to the Supreme Court ref'd, 538 US 1035 (2003) [*Young*].
[19] *Ibid* at 262.
[20] *Ibid* at 263.
[21] *Ibid.*
[22] *Ibid.*
[23] See e.g. *Shrader v Biddinger*, 633 F (3d) 1235 at 1240-42 & 1244-46 (10th Cir 2011); *Revell v Lidov*, 317 F (3d) 467 at 472-75 (5th Cir 2002) [*Revell*]; *Marks v Alfa Grp*, 369 F App'x 368 at 370-71 (3d Cir 2010); *Carefirst of Maryland, Inc. v Carefirst Pregnancy Centres, Inc.*, 334 F (3d) 390 at 400 (4th Cir 2003). See also William S. Dodge, "The Structural Rules of Transnational Law" (2003) 97 Am Soc'y Int'l L Proc 317 at 318 (noting that "recent U.S. Court of Appeals decisions have taken a narrower view of jurisdiction over Internet publishers . . ., requiring that the publication be specifically targeted at readers in the forum," and citing *Revell* and *Young*).

23. American courts appear to have accepted that focusing on the intent of the digital platform or content provider promotes order and fairness by allowing organizations to better predict which states have jurisdiction over them.[24] Similarly, as this Court stated in *Van Breda*, "[p]arties must be able to predict with reasonable confidence whether a court will assume jurisdiction in a case with an international or interprovincial aspect."[25]

24. Canadian courts have discussed the targeting approach to jurisdiction in various decisions.[26] While the chambers judge in this case referred to this approach,[27] she ultimately analyzed the jurisdictional issue in a way that failed to give adequate protection to digital platforms, global publishers and the public interest in the flow of information across the Internet. This Court may find the "targeting" approach helpful when determining the appropriate test for jurisdiction over global digital platforms, particularly in the injunction context, even as it also considers additional frameworks or approaches to provide further protection for the broad-ranging expressive rights at issue.

C. THE CRITICAL ROLE OF FREEDOM OF EXPRESSION IN THE DETERMINATION OF WHETHER TO EXERCISE EQUITABLE JURISDICTION TO GRANT INJUNCTIONS

25. The BCCA held that courts have equitable jurisdiction to grant injunctive relief against third parties as an ancillary means of preserving parties' rights.[28] Accepting this for the purposes of argument, this discretion must be exercised within the confines of the *Charter*.[29] In particular, in exercising discretion to grant injunctions (particularly ones with extraterritorial effect), courts must take far greater account of whether such an order violates an affected party's freedom of expression and the public's right to receive information than was done in this case.

26. The BCCA correctly noted that "...courts should be very cautious in making orders that might place limits on expression in another country. Where there is a realistic possibility that an order with extraterritorial effect may offend another state's core values, the order should not be

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[24] *Young*, *supra* note 18 at 264.
[25] *Van Breda*, *supra* note 2 at para 73 [emphasis added]
[26] *Equustek* BCSC, *supra* note 11 at para 46; *Elfarnawani v International Olympic Committee and Ethics Commission*, 2011 ONSC 6784 at paras 31-36 & 45, 209 ACWS (3d) 539; *Disney Enterprises Inc v Click Enterprises Inc* (2006), 267 DLR (4th) 291 at paras 29-31, [2006] OJ No 1308 (Sup Ct J); *Black v Breeden*, 2010 ONCA 547 at paras 37-39, 102 OR (3d) 748, aff'd 2012 SCC 19.
[27] *Equustek* BCSC, *ibid* at para 46.
[28] *Equustek* BCCA, *supra* note 11 at paras 71-75 & 80.
[29] On the issue of the need to exercise discretion in accordance with *Charter* rights, see this Court's jurisprudence on publication bans and the Dagenais/Mentuck test, e.g. *R v Mentuck*, 2001 SCC 76 at paras 27-33 & 60, [2001] 3 SCR 442.

made."[30] However, it then quickly dismissed concerns about freedom of expression in this case on the basis that "[i]t has not been suggested that the order prohibiting the defendants from advertising wares that violate the intellectual property rights of the plaintiffs offends the core values of any nation".[31] This is far too narrow of a view of the expressive rights at issue and the potential impact of this case.

27. This Court has made clear that most expression, including commercial expression, is protected and should only be limited in the clearest of cases.[32] In this case, Google's expression rights are at issue as the affected entity but in another case, the news media could easily be the affected party.

28. In addition, in the context of orders affecting search engines, account must be taken of the free expression rights of the public (as "listeners"[33]) and the press, who use search engines like Google for newsgathering and accurate reporting purposes. In this case, for instance, if the media was investigating Equustek or the Defendants, it would not be able to find the Defendants' websites unless reporters happened to know the exact website addresses.

29. As stated by La Forest J. (concurring with the majority) in *Canadian Broadcasting Corp v Lessard*, "the freedom to disseminate information would be of little value if the freedom under s. 2(b) did not also encompass the right to gather news and other information without undue governmental interference."[34] When courts make orders requiring the removal of content from websites or Google search results, they are necessarily restricting the media's ability to gather

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[30] *Equustek* BCCA, *supra* note 11 at para 92.
[31] *Ibid* at para 93.
[32] *RJR-MacDonald Inc v Canada (AG)*, [1995] 3 SCR 199 at para 124, 127 DLR (4th) 1; *Canadian Broadcasting Corp v New Brunswick*, [1996] 3 SCR 480 at para 19, 139 DLR (4th) 385 [*CBC v New Brunswick*], citing *Edmonton Journal v Alberta (AG)*, [1989] 2 SCR 1326 at 1336, 64 DLR (4th) 577 [*Edmonton Journal*].
[33] *Edmonton Journal*, *ibid*, at 1339-1340. In *Edmonton Journal* and other decisions, this Court and others have held that the freedom of expression encompasses the public's right to receive information. See e.g. *Harper v Canada (AG)*, 2004 SCC 33 at para 17, [2004] 1 SCR 827 (in the context of the public's right to information on matters of public governance); *CBC v Bowden Institution*, 2015 FC 173 at paras 45-47, 328 CCRR (2d) 361 (in the context of the public's right to obtain information through the media on issues of public interest); *Ford v Quebec*, [1988] 2 SCR 712 at 766-67, 54 DLR (4th) 577 (in the context of commercial speech).
[34] *Canadian Broadcasting Corp v Lessard*, [1991] 3 SCR 421 at 429-30, 30 ACWS (3d) 45 per La Forest J [*Lessard*]. See also McLachlin J (as she then was), dissenting but not on this point, at 451-52 "As to the means by which [the purposes of freedom of expression] are to be achieved, it may be ventured that an effective and free press is dependent on its ability to gather, analyze and disseminate information, independent from any state imposed restrictions on content, form or perspective except those justified under s. 1 of the *Charter*." See also *R v Canadian Broadcasting Corporation*, 2010 ONCA 726 at para 24, 102 OR (3d) 673; *St. Elizabeth Home Society v Hamilton (City)*, 2008 ONCA 182 at para 27, 89 OR (3d) 81 [*St. Elizabeth Home Society*], citing *CBC v New Brunswick*, *supra* note 32 at para 26.

the removed information and the public's ability to receive the information. Therefore, any request to remove content from the Internet, particularly worldwide content, impacting users in other states with their own free expression laws, must be very carefully considered in light of the right to freedom of expression – which includes the public's right to know. An order such as the one made in this case by the BCCA does not adequately take into account its effect on the expression rights of digital platforms, the worldwide media and the public.

D. THE DANGERS OF COURTS ISSUING INJUNCTIONS REQUIRING GLOBAL DIGITAL PLATFORMS TO ASSIST IN ENFORCING STATE LAW

30. Courts should be extremely reluctant to issue injunctions requiring digital platforms and content providers to assist in enforcing state law, as was done here with respect to Canadian intellectual property rights. This is particularly true where freedom of expression interests – including the public's right to know – are at stake. If Canadian courts can require non-party digital platforms to assist in enforcing Canadian law on a worldwide basis, nothing prevents repressive regimes from doing the same thing.

31. Canadian courts have cautioned against the dangers of using the media as an arm of the state. In *Lessard*, in the context of issuing search warrants for media premises, this Court considered the possible chilling effect on freedom of the press and newsgathering, and La Forest J. (concurring with the majority) noted that "[t]he press should not be turned into an investigative arm of the police".[35] In his reasons, Cory J. (for the majority) explained that the rights of the press as an "innocent third party" should be taken into account in determining whether a search warrant for media premises should be issued.[36]

32. In the context of civil litigation between private parties, Canadian courts have similarly been cautious about requiring media involvement – aware that expressive rights are at issue. In *St. Elizabeth Home Society v Hamilton (City)*,[37] the Ontario Court of Appeal refused to hold a non-party journalist in contempt of court for failing to answer questions that he believed would identify a confidential source during compelled examination in a civil trial.

33. Just as these situations raise risks to freedom of expression, so does issuing worldwide injunctions compelling digital platforms to provide remedial assistance in national, private party

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[35] *Lessard, ibid* at 431-32 per La Forest J.
[36] *Ibid* at 444-45 per Cory J.
[37] *St. Elizabeth Home Society, supra* note 34.

disputes by removing information on a global basis. If Canadian courts can do this blithely, limitless jurisdiction could mean that repressive regimes would seek to do the same – thereby imposing their national laws everywhere, including in Canada, to the detriment of a free and autonomous press and the public's right to receive information.

PART IV: SUBMISSIONS REGARDING COSTS

34. The Media Coalition does not seek costs and requests that no costs be awarded against it.

PART V: SUBMISSION REGARDING ORAL ARGUMENT

35. The Media Coalition requests permission to make brief oral submissions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 3rd day of October, 2016.

for Iris Fischer

Helen Richards

Blake, Cassels & Graydon LLP
Counsel for the Intervener, the Media Coalition

PART VI: TABLE OF AUTHORITIES

Cases	Pinpoint
Black v Breeden, 2010 ONCA 547, 102 OR (3d) 748, aff'd 2012 SCC 19	37-39
Braintech Inc v Kostiuk, 1999 BCCA 169, 171 DLR (4th) 46	63
Canadian Broadcasting Corp v Bowden, 2015 FC 173, 328 CRR (2d) 361	45-47
Canadian Broadcasting Corp v Lessard, [1991] 3 SCR 421, 30 ACWS (3d) 45	429-32, 444-45, 451-52
Canadian Broadcasting Corp v New Brunswick, [1996] 3 SCR 480, 139 DLR (4th) 385	19, 26
Carefirst of Maryland, Inc v Carefirst Pregnancy Centres, Inc, 334 F (3d) 390 (4th Cir 2003)	400
Chevron Corp v Yaiguaje, 2015 SCC 42, [2015] 3 SCR 69	51-53
Disney Enterprises Inc v Click Enterprises Inc (2006), 267 DLR (4th) 291, [2006] OJ No 1308 (Sup Ct J)	29-31
Edmonton Journal v Alberta (AG), [1989] 2 SCR 1326, 64 DLR (4th) 577	1336, 1339-40
Elfarnawani v International Olympic Committee and Ethics Commission, 2011 ONSC 6784, 209 ACWS (3d) 539	31-36, 45
Equustek Solutions Inc v Google Inc, 2015 BCCA 265, 386 DLR (4th) 224	32-37, 71-75, 80, 92-93
Equustek Solutions Inc v Jack, 2014 BCSC 1063, 374 DLR (4th) 537	24, 46
Ford v Quebec, [1988] 2 SCR 712, 54 DLR (4th) 577	766-67

PART VII: LEGISLATIVE PROVISIONS RELIED ON

***Canadian Charter of Rights and Freedoms,* Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11**

Fundamental Freedoms

2. Everyone has the following fundamental freedoms:

...

(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media communication;

***Charte canadienne des droits et libertés*, partie I de la *Loi constitutionelle de 1982*, constituant l'annexe B de la *Loi de 1982 sur le Canada (R-U)*, 1982, c 11**

Libertés fondamentales

2. Chacun a les libertés fondamentales suivant:

...

(b) liberté de pensée, de croyance, d'opinion et d'expression, y compris la liberté de la presse et des autres moyens de communication;

***Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c 28**

Definitions

1. In this Act:
...

"**procedure**" means an action, suit, case, matter, petition proceeding or requisition proceeding and includes a procedure and a preliminary motion;
...

Proceedings against a person

3. A court has territorial competence in a proceeding that is brought against a person only if

(a) that person is the plaintiff in another proceeding in the court to which the proceeding in question is a counterclaim,

(b) during the course of the proceeding that person submits to the court's jurisdiction,

(c) there is an agreement between the plaintiff and that person to the effect that the court has jurisdiction in the proceeding,

(d) that person is ordinarily resident in British Columbia at the time of the commencement or proceeding, or

(e) there is a real and substantial connection between British Columbia and the facts on which the proceeding against that person is based.