



Tamara Céline Winegust and Scott MacKendrick coauthored an article "Putting the Cart before the Horse – Proper Proof of Right to Sue is Fundamental to Successful Copyright Claims" in the Toronto Law Journal

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In the context of copyright infringement claims, plaintiffs may assert standing by virtue of their ownership of the copyright work alleged to be infringed, or because their license in respect of that work includes a right of action. Two recent decisions from the Federal Court — *Lickerish, Ltd. v. Airg Inc.*, 2020 FC 1128 and *Dunn's Famous International Holdings Inc. v. Devine*, 2021 FC 64 — provide instances where plaintiffs failed due to an inability to clearly establish their ownership or license and, thereby, their right to sue. The decisions highlight the importance of providing direct evidence of authorship and ownership of the works alleged to be infringed, so that, if the plaintiff's entitlement to sue is challenged by a defendant, an otherwise meritorious case is not vulnerable to dismissal.

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