

Federal Court



Cour fédérale

**Date: 20230324**

**Docket: T-481-23**

**Citation: 2023 FC 413**

**Ottawa, Ontario, March 24, 2023**

**PRESENT: The Honourable Mr. Justice Régimbald**

**BETWEEN:**

**LOLA SHEPPARD, dba LATERAL OFFICE  
MASON WHITE**

**Plaintiffs**

**and**

**C S DESIGN INC.  
L4 STUDIO INC.  
WIREFRAME STUDIO INC.  
ANNE-MARIE PAQUETTE  
CONOR SAMPSON**

**Defendants**

**ORDER AND REASONS**

**WHEREAS** the Plaintiffs have filed a Statement of Claim;

**AND UPON** hearing the Plaintiffs' motion for an interim injunction, pursuant to Rules 373 and 374 of the *Federal Courts Rules*, SOR/98-106, to restrain the Defendants from

presenting or authorizing the presentation of *WIP WAP*, a work produced by the Defendants in which the Plaintiffs claim is in infringement of its copyright in a similar work named *Impulse*;

**AND UPON** reading the materials filed and hearing from the parties by video-conference on Tuesday, March 21, 2023;

**AND UPON** considering the conjunctive test for an interim injunction is the Supreme Court of Canada test in *RJR-MacDonald Inc. v Canada (Attorney General)*, [1994] 1 SCR 311, 1994 CanLII 117 (SCC) at para 43 [*RJR-MacDonald*]. The onus is on the party requesting the injunction to prove that all three of the criteria are satisfied. The three criteria are:

- A. Serious issue to be tried;
- B. Irreparable harm would result if the injunction is not granted;
- C. Balance of convenience considering all circumstances favour granting the injunctive relief.

I. Background

[1] The Plaintiffs [together LO] have a Toronto-based architecture practice. The Defendant CS Design Inc. [CSD] is a Montreal-based architecture firm specialized in lighting design. In March, 2015, LO communicated with CSD suggesting that they form a team to participate in the Luminothérapie competition run by the Partenariat du Quartier des spectacles [Partenariat] in Montreal.

[2] Ultimately, their work, named *Impulse*, was chosen as the winner of that year's competition. *Impulse* was an original work consisting of 30 luminous seesaws of two different

lengths, a specific arrangement of the seesaws on the Place des Festivals in Montreal, 80 distinct sounds divided into 8 original sound families that would be heard when the seesaws were in use, and specially curated video projections. *Impulse* was known to be unique work of art blending in with Montreal's architecture.

[3] There is no dispute that LO owns copyrights over at least a part of *Impulse*. In the affidavit evidence filed by LO, it claims copyright ownership in the "concept" of *Impulse* as a whole, consisting of drawings of the work, and also in the design drawings of the physical luminous seesaws.

[4] During the final phase of the competition, a contract was signed between Partenariat and CSD. During the negotiation of that contract, there were various exchanges between LO and the Partenariat regarding the scope of the intellectual property rights. LO ultimately decided not to be a co-signatory of the contract. Following the terms of this contract, the physical property of *Impulse* was attributed to Partenariat whereas the intellectual property of the *Impulse* work as a whole remained with CSD, with the exception of the video projections.

[5] In 2017, because of *Impulse's* popularity, CSD began discussions with LO about potentially producing a new set of seesaws and creating a new work to tour around the world. The Defendant L4 Studio Inc. [L4] was created to begin that production. LO did not participate in the creation of that company.

[6] In late 2017 to early 2018, a new work was produced by L4. The work required the re-design and construction of new physical luminous seesaws of different lengths as compared with *Impulse*, and incorporated a new set of unique sounds. That new work was named *Wave-Field*. Contrary to *Impulse*, there was no video production accompanying that work. The arrangement or layout of the seesaws was also different in *Wave-Field*, in that the exhibit could include anywhere between 8 to 24 seesaws, depending on its location.

[7] LO was involved in the production of *Wave-Field*. It is important to note that CSD, as holder of the copyright for *Impulse* under its contract with Partenariat, signed a license with L4 for the use of its copyright in the design of the physical luminous seesaws of *Impulse*, for use in building luminous seesaws for *Wave-Field*. That license is only for the seesaws, and not for any other element of *Impulse*. Recognising LO's participation in *Wave-Field*, L4 signed a Memorandum of Understanding [MOU] with LO to compensate it for its work.

[8] In 2018, Partenariat sought injunctive relief against CSD for the production of *Wave-Field*. In Partenariat's view, Partenariat was the owner of *Impulse* (and it had toured the world presenting the work for profit) and CSD had copied it with *Wave-Field*. In *Partenariat du Quartier des spectacles c. CS Design Inc.* 2018 QCCS 3129, the Quebec Superior Court dismissed the motion because, *inter alia*, there was no irreparable harm created by the production of *Wave-Field* that could not be compensated in damages.

[9] It is important at this point to set out the respective positions of the parties in relation to the copyrights existing in both *Impulse* and *Wave-Field*. LO takes the position that it has created

the initial design drawings for the *Impulse* physical luminous seesaws, as well as the drawings of the entire *Impulse* concept, including the visual and sound experience. In its view, *Wave-Field* is a substantial reproduction of *Impulse*. Because it is at least part-owner of the copyright in *Impulse*, including the physical luminous seesaws, LO could produce *Wave-Field* with L4 (who obtained a license authorization from CSD). In other words, it is LO's position that *Wave-Filed* could not be produced without its participation or consent.

[10] The Defendants propose a different view. They argue that *Wave-Field* is a completely different work as compared with *Impulse*, because of the differences between the works noted above. The only similarity lies in the use of luminous seesaws. The Defendants then argue that only CSD owns the copyright of the *Impulse* physical luminous seesaws because even if LO produced some initial design drawings for the *Impulse* seesaws, those could not work and required substantial re-design by CSD to actually construct them. CSD therefore is the sole owner of the *Impulse* physical luminous seesaws.

[11] To this LO replies that even if some re-design was necessary, the final design drawings of the *Impulse* physical luminous seesaws continued to use a substantial part of the original drawings made by LO and therefore, copyright co-ownership in the *Impulse* physical luminous seesaws continue to exist for LO. LO is therefore, in its view, co-owner of the design of the *Impulse* physical luminous seesaws.

[12] In any event, a MOU was concluded between LO and L4 on the production of *Wave-Field*. LO asserts that the MOU was required because of L4's use of its copyrights in *Impulse*

and its work in the production of *Wave-Field*. L4 takes a different position and submits that the MOU was only necessary because of LO's participation in the production of *Wave-Field*, most notably for its expertise in arrangements/layouts of the exhibits. L4 pretends that the MOU between it and LO has nothing to do with any copyright ownership in relation to *Impulse* or *Wave-Field*. After a dispute regarding the compensation for *Wave-Field* between L4 and LO, the MOU was terminated on December 31, 2022.

[13] In March 2023, L4 and the Defendant Wireframe Studio Inc. [Wireframe] (L4's partner responsible for a variety of aspects of the production) began touring a new production, entitled *WIP WAP*. The Defendants argue that *WIP WAP* is different from *Wave-Field*, and therefore of *Impulse* as well. While *WIP WAP* uses the same physical luminous seesaws as *Wave-Field*, the arrangement/layout is different than for both *Wave-Field* and *Impulse*, and includes different sounds and luminous effects. According to the Defendants, *WIP WAP* is intended to be interpreted as a reflection of the public experience of luminous seesaws – one of play, joy, surprise and awe. Their movement activates a new set of sounds, which explores onomatopoeia to evoke the wondrous atmosphere created by the seesaws themselves.

[14] LO takes a different position and submits that *WIP WAP* is a substantial reproduction of *Wave-Filed*, and also of *Impulse*, on which it has co-ownership rights. LO therefore issued a statement of claim for breach of copyrights and moral rights as well as this motion for interim injunction seeking to force the Defendants to take down the exhibition of *WIP WAP* that is currently being held in the city of Oakville.

II. The test for injunctive relief

[15] The Federal Court may issue an interim injunction pursuant to s. 44 of the *Federal Courts Act*, RSC 1985, c F-7, and Rules 373 and 374 of the *Federal Courts Rules*, SOR\98-106. In *R v Canadian Broadcasting Corp*, 2018 SCC 5 at para 12, the Supreme Court of Canada restated the applicable test in motions for injunctive relief, and re-affirmed the three part test previously set out in *Manitoba (Attorney General) v. Metropolitan Stores Ltd.*, [1987] 1 S.C.R. 110 and *RJR — MacDonald*. The test requires the applicant to demonstrate a “serious question to be tried”, in the sense that the application is neither frivolous nor vexatious; to convince the court that it will suffer irreparable harm if the relief is refused; and that on an assessment of the balance of convenience, the applicant will suffer greater harm than the respondent from the granting or refusal of the injunction.

A. *Serious Issue*

[16] To establish that there is a serious issue to be tried, the issue must not be frivolous or vexatious. There is a low threshold to meet this part of the test (*Perry v Cold Lake First Nations*, 2016 FC 1081 at para 9).

[17] During the hearing of the motion, both parties agreed that the Plaintiffs are seeking a mandatory injunction and must therefore demonstrate more than a serious issue to be tried. Relying on *R. v Canadian Broadcasting Corp.*, 2018 SCC 5 at paras 13-15, the party seeking a mandatory injunction must show a “strong *prima facie* case”.

[18] The parties agree that there is a “serious issue to be tried”, meeting the lower threshold applying for injunctive relief in the normal course. The parties’ positions in relation to the evidence, interpretation and application of the *Copyright Act*, RSC 1985, c C-42, could not be more distanced. The parties only disagree as to whether or not the higher threshold of a “strong *prima facie* case” has been met at this stage.

[19] On the basis of the evidence it submitted in support, the Plaintiffs are arguing that there is a strong *prima facie* case of copyright as well as moral rights infringement. The Defendants are taking the position that there is no strong *prima facie* case because the only similarity between *WIP WAP*, *Wave-Field* and *Impulse* is the use of luminous seesaws. The Defendants argue that LO has no copyright in the design of the *Impulse* physical luminous seesaws. The Defendants also claim that to the extent that the Plaintiffs may be correct that their design of the *Impulse* physical luminous seesaws was used for those in *Wave-Field* and *WIP WAP*, then copyright protection no longer subsists because they are “useful articles” and were reproduced more than fifty times, pursuant to s. 64 of the *Copyright Act*.

[20] In this case, and as presently advised on this interlocutory motion, there appear to be at least two layers of issues: a) whether *WIP WAP*, from a general standpoint, is substantially similar to *Wave-Filed* and *Impulse*; b) whether LO has any copyright in the design of the *Impulse* physical luminous seesaws, and if yes, whether there was a substantial reproduction in the seesaws used in *Wave-Filed* and *WIP WAP*.

[21] The situation in this case is particularly problematic because, for the purposes of this interim injunction, none of the evidence before the Court was tested in cross-examination. Therefore, is it very difficult for the Court to determine whether the Plaintiffs have indeed established a “strong *prima facie* case”. Perhaps cross-examination would have shed sufficient light on the factual differences between the parties. In any event, the Court does not need to make a final determination on this particular point. In my view, and even presuming that the Plaintiffs have met a strong *prima facie* case, their request for injunctive relief fails to demonstrate irreparable harm.

B. *Irreparable Harm*

[22] To find irreparable harm, the Plaintiffs must prove that if the injunctive relief is not granted, irreparable harm will result. The evidence required must be real and non-speculative that the harm, if it occurs, cannot be compensated or remedied by damages or which cannot be cured. It is the nature of the harm, not its magnitude, that is important (*RJR McDonald* at 341; *Immigration Consultants of Canada Regulatory Council v CICC The College of Immigration and Citizenship Consultants Corp.*, 2020 FC 1191 at para 85).

[23] To meet the test, the Plaintiffs must provide a sound evidentiary basis for the Court to assess the alleged irreparable harm. As held in *Toronto Regional Real Estate Board v RE Stats Inc (Redatum)*, 2021 FC 1193 at para 32, the Plaintiffs must prove that “on a balance of probabilities, based on clear and compelling evidence” they will suffer a prejudice that is “non-quantifiable and non-compensable in damages.” The evidence of irreparable harm must be more than speculations or mere assertions, and cannot be inferred (*Air Passengers Rights v Canada*

(*Transportation Agency*), 2020 FCA 92 at para 30 (leave to SCC refused, 39266 (December 23, 2020)); *Haché c. Canada (Ministre des Pêches & des Océans)*, 2006 FCA 424, at para 11).

[24] Examples of irreparable harm include permanent market loss or irrevocable damage to reputation or loss of clientele (*FLS Transportation Services Limited c. Fuze Logistics Services Inc.*, 2020 QCCA 1637 at para 58).

[25] The Plaintiffs argue that the copyright infringement in this case is “blatant”, and therefore the threshold for demonstrating irreparable harm is less stringent (*Bell Canada v. 1326030 Ontario Inc. (iTVBox.net)*, 2016 FC 612 at para. 30). The Plaintiffs have advanced in their written materials that the irreparable harm is:

- The undermining and inability to control the time, place and circumstances in which “their” works are displayed, produced and reproduced;
- The constant state of fear that Defendants will multiply unauthorized uses of the Plaintiffs’ work;
- The dilution of the value of the seesaws and of *Impulse*, “therefore artificially making the Original Work and *Impulse* less original in the eyes of potential clients”;
- The artistic integrity of the Original Work and of *Impulse* will be harmed by displaying a work that is reproducing a substantial part of the Original Work and of *Impulse* in a way that goes against the Concept and LO’s fundamental mission of creating tasteful public works that are not created primarily for commercial purposes.

[26] However, the Respondents submit that that there is no automatic conclusion of irreparable harm on all allegation of copyright infringement (*Western Steel and Tube Ltd. v. Erickson Manufacturing Ltd.*, 2009 FC 791, para. 11). In the case of “blatant” infringement, as

alleged by the Plaintiffs, the Defendants argue that at paragraph 34 of *Geophysical Service Incorporated v Canada-Nova-Scotia Offshore Petroleum Board*, 2014 FC 450, the Court held that:

[...]“blatant” goes beyond an objective finding of clear copying. While the situation of clear copying would meet the *prima facie* test referred to in the cited passage, I tend to think that using such strong language as blatant is intended to impute some degree of knowledge or recklessness in the conduct of the respondent.

[27] Consequently, the Defendants argue that the Plaintiffs still had to meet their burden of demonstrating a clear case of copying, which they have failed to do.

[28] The Defendants also submit that the Plaintiffs have failed to establish, through clear and compelling evidence, that they are currently suffering irreparable harm or that they will suffer such harm because of the Defendants’ activities, if this Court does not grant their Motion. The Defendants argue that the Plaintiffs’ allegations are “mere assertions” without objective evidence, and is insufficient to allege that harm may arise. The Defendants argue that the Plaintiffs had to prove irreparable harm that is either already occurring or will occur.

[29] More specifically, in response to the Plaintiffs’ initial two allegations of irreparable harm (loss of control and fear of multiple unauthorized use), the Defendants submit that these are insufficient in and of themselves to constitute irreparable harm because, if that was the case, then any allegation of copyright infringement would automatically constitute irreparable harm – which is not the case.

[30] In response to the plaintiffs' third allegation of irreparable harm (dilution), the Defendants submit that there is no evidence that anyone will perceive either the luminous seesaws or *Impulse* as having any less value just because they learn of the existence of another work of luminous seesaws. The Defendants add that this vague notion of "dilution of the value of a work" does not meet the bar to be characterized as "irreparable" harm in the sense of "not monetarily quantifiable". The Defendants point out that the same argument was made by Partenariat against CSD in the case of the *Wave-Field* production, and dismissed specifically because an expert could be able to quantify the prejudice (*Partenariat du Quartier des spectacles c. CS Design inc.*, 2018 QCCS 3129 at para 62).

[31] The Defendants further argue that the allegations of harm to the Plaintiffs' reputation in the architectural community by associating them with the unauthorized *WIP WAP* are unsubstantiated.

[32] Finally, in relation to moral rights, LO argued that it was horrified with the title *WIP WAP* (because it is vulgar) and the reference of *WIP WAP* as a "playground". The Defendants note that the term *WIP WAP* is not vulgar but the word "seesaw" in Dutch, and that LO never had any issue in the past with *Impulse* being qualified as a "playground".

[33] All in all, the Defendants argue that every claim of irreparable harm made by the Plaintiffs flounders because it is vague, speculative and unsubstantiated as it is not irreparable, or because the "harm" cannot be characterized as such in law.

[34] In my view, I do not accept that the copyright infringement, to the extent there is one, is so “blatant” that it is not necessary to establish irreparable harm. Moreover, the evidence proposed by the Plaintiffs is not, in my view, sufficiently clear and compelling, for example, to demonstrate that any harm that they will suffer will be non-quantifiable and non-compensable in monetary damages.

[35] First, *WIP WAP* is exploited in a commercial manner. Under ss. 34(1) and 34(2) of the *Copyright Act*, damages are available for the breach of copyright and moral rights. The fact that revenues will be obtained by the Defendants allows the Plaintiffs to potentially receive monetary damages from the breach, if any.

[36] Second, the Plaintiffs’ evidence is only that *WIP WAP* “hurts” and “horrifies” them in their creativity and reputation, because of their unfortunate association with the new work, without saying why and how. I note that the Plaintiffs’ argument in relation to their “irreparable harm” is couched mainly in relation to moral rights. The Plaintiffs’ rely on *Snow v Eaton Centre Ltd. Et al*, 70 C.P.R. (2d) 105, for the proposition that a distortion of a creation could affect an artist’s reputation. In that case, however, the artwork had been sold to the Eaton Centre, and the artwork was not exploited in a commercial manner. Moreover, evidence existed of other well-respected artists in the field attesting to the prejudice potentially caused to the artist’s honour. No such evidence exists in this case and, moreover, the fact that revenues are created by the Defendants give access to a potential monetary compensation for the use of the work, which was not to the same extent in *Snow*.

[37] Finally, the injunctive relief sought in the case is very similar to the relief sought by the Partenariat against CSD. In *Partenariat du Quartier des spectacles c. CS Design inc.*, 2018 QCCS 3129 (CanLII), the Partenariat was making the same arguments in relation to *Wave-Field*, produced by both the Plaintiffs and some Defendants, as being in breach of the Partenariat's rights in *Impulse*. In this case, it is in relation to *WIP WAP*, as compared with *Wave-Field* and *Impulse*. Nevertheless, on the question as to whether there is irreparable harm or if a monetary award can properly compensate the Plaintiffs, the Superior Court of Quebec held :

[59] Voici ce que plaide le Partenariat à son plan d'argumentation sur ce sujet :

« 148. Il va sans dire que la valeur d'une œuvre dépend de son caractère original et unique. Autrement dit, une œuvre dont il existerait de nombreuses copies aura, par définition, une valeur moindre.

149. Ainsi, bien qu'il soit difficile de quantifier la perte de valeur attribuable à la conduite de CS, il n'en demeure pas moins que ces copies et les diffusions simultanées d'Impulsion affectent le caractère exclusif et la rareté de l'œuvre acquise par le Partenariat et en réduisent ainsi la valeur. »

[...]

[61] La perte d'occasions d'exportation quant à elle est facilement quantifiable en regard des exportations des deux protagonistes.

[62] Quant à la valeur d'Impulsion en regard de l'existence d'œuvres similaires, nul doute qu'un expert pourrait la quantifier.

[63] Étonnamment, Madame Daigle, à l'occasion de son interrogatoire hors Cour, affirme n'avoir reçu aucune plainte de locataires d'Impulsion à l'effet que celle-ci ne serait pas forcément unique :

«Q. Est-ce que vous êtes au courant de certaines plaintes que les locateurs(sic) auront(sic) faites s'ils ont appris que l'œuvre qu'ils ont louée n'est pas forcément unique[26].

( ... discussion entre les avocats)

Pas à ma connaissance[27]. »

[64] Le Tribunal conclut que le Partenariat ne subit aucun préjudice qui ne saurait être quantifié.

[Emphasis added]

[38] In my view, the same conclusion applies in this case. Because *WIP WAP* is commercially exploited, the Plaintiffs appear likely to recover a monetary award if they are successful at trial. Similarly, they were compensated for their work and participation in *Wave-Field*, through the MOU with L4, regardless of whether that MOU dealt with the licensing of copyrights, as alleged by the Plaintiffs, or only for the Plaintiffs' participation in *Wave-Field* in matters unrelated to any rights of LO existing in *Impulse*. As for any irreparable harm caused to the Plaintiffs' moral rights, control over the original work, loss of clients, dilution, or any commercial viability, the evidence produced at this point does not demonstrate that any harm suffered by the plaintiffs cannot be remedied by a monetary award if they succeed at trial.

C. *Balance of Convenience*

[39] While the Court does not need to also find that the balance of convenience favours de Defendants, because the Plaintiffs have failed on the issue of irreparable harm, in my view, such is the case in this instance.

[40] The Plaintiffs submit that the balance of convenience favours granting the relief sought because they have a strong *prima facie* case and the Defendants were put on notice to stop the infringement prior to the beginning of the *WIP WAP* exhibit.

[41] They also submit that considering the past behaviour of the Defendants in the application of the *Wave-Field* MOU, where LO alleges it did not receive the agreed upon royalties and/or shares of the profits, the Plaintiffs argue that the prospect of recovery for the Plaintiffs, even if successful in the action, is uncertain.

[42] The Defendants submit that the balance of convenience favours them because an injunction would have catastrophic consequences for L4 and Wireframe, while LO will not suffer any consequences if the injunction is not granted. The Defendants filed evidence that the immediate consequences of an order forcing the Defendants to remove the *WIP WAP* exhibit will fall primarily on Wireframe, who may be liable for contractual damages if the work is not presented for the agreed-upon period. In addition, the Defendants have submitted evidence of the consequences in the entertainment industry of them being subject to injunctive relief for breach of copyright, and that such relief would destroy the reputation of integrity and trustworthiness of the Defendants with future clients and artists. The Defendants further submit that the consequences of an injunction will also affect L4 who will be prevented from touring *WIP WAP*, freeze the current discussions with potential clients and potentially lead to the closure of the business.

[43] The Defendants note that when this absence of irreparable harm to the Plaintiffs is contrasted with the severe consequences the Defendants will face if an injunction is issued, it becomes clear that the balance of convenience favours permitting the Defendants to continue exhibiting *WIP WAP*.

[44] The Defendants rely on *Toronto Regional Real Estate Board v. RE Stats Inc. (Redatum)*, 2021 FC 30, at para 36 [*Toronto Regional*] and *Iris Technologies Inc. c. Canada (Revenu national)*, 2021 CF 874 at para 52 for the proposition that the prospect of closure or insolvency is a relevant ground in the assessment of the balance of convenience (see also *Evolution Technologies Inc. v Human Care Canada Inc.*, 2019 FCA 11, at paras 26, 29-30).

[45] In my view, the evidence tendered in support of the Defendants' arguments on the balance of convenience is determinative. The evidence adduced by the Plaintiffs, as stated above, is not sufficiently clear and compelling to demonstrate that monetary damages will not completely compensate their prejudice, if they are successful at trial. On the other hand, the evidence of the prejudice that could be suffered by the Defendants if the relief sought is granted, is very important and could lead to significant financial losses. The words of my colleague Justice Manson in *Toronto Regional* are apposite in this case:

[35] This element of the test considers which party will suffer the greater harm from granting or refusing the injunction pending a decision on the merits. In my view, this element clearly favours the Defendants. Consistent with my above analysis of irreparable harm, there is little evidence that TRREB will suffer significant harm pending adjudication of this action on the merits. If TRREB prevails at trial, it can then seek appropriate remedies against the Defendants.

[36] On the other hand, the Defendants submit that granting the injunction could bring RE Stats' business to a halt while this litigation proceeds. I note TRREB's response that this submission by the Defendants is tantamount to an admission that they are carrying on infringing activity. However, I agree with the Defendants that this argument by TRREB is not particularly responsive to the question of which party is favoured by the balance of convenience. I have already found that TRREB's allegations raise a serious issue to be tried. The balance of convenience considers which party will suffer the most harm, pending adjudication on the merits, if it is unsuccessful on the injunction motion. That analysis favours permitting the

Defendants to continue to conduct their business during the period prior to trial.

[Emphasis added]

[46] Finally, in *Partenariat du Quartier des spectacles c. CS Design Inc.*, 2018 QCCS 3129 (CanLII), on the issue of balance of convenience, the Quebec Superior Court came to the same conclusion, which in my view, also applies in this case:

[69] De son côté, le Partenariat n'a pas établi avoir perdu des occasions d'affaires pour le futur en raison de l'existence des œuvres de CS et de L4.

[...]

[71] Par ailleurs, pendant les procédures, le Partenariat n'est pas empêché de produire *Impulsion* à l'étranger.

[72] Bref, la balance des inconvénients penche nettement en faveur de CS.

[47] Likewise, the Plaintiffs have not filed any evidence suggesting that there was a loss of clients or of value of their copyrights in *Impulse* (or *Wave-Field*, if any). Moreover, there is no evidence or allegation that the Plaintiffs have lost any business opportunity as a result of the Defendants' production of *WIP WAP*.

[48] For those reasons, the balance of convenience favours the Defendants.

**JUDGMENT in T-481-23**

**THIS COURT'S JUDGMENT is that:**

1. The Plaintiffs' motion is dismissed, with costs in the cause.

"Guy Régimbald"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** T-481-23

**STYLE OF CAUSE:** LOLA SHEPPARD, dba LATERAL OFFICE MASON  
WHITE v C-S DESIGN INC., L4 STUDIO INC.,  
WIREFRAME STUDIO INC., ANNE-MARIE  
PAQUETTE, CONOR SAMPSON

**PLACE OF HEARING:** HELD BY WAY OF VIDEOCONFERENCE

**DATE OF HEARING:** MARCH 22, 2023

**ORDER AND REASONS:** RÉGIMBALD J.

**DATED:** MARCH 24, 2023

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