

Copyright Board
Canada



Commission du droit d'auteur
Canada

Date	2025-10-22
Notice of the Board	CB-CDA 2025-092
Proceeding	SOCAN Tariff 24 – Ringtones (2014-2021)
Member	Drew Olsen

I. Background

A. SOCAN Tariff 24 – Ringtones and Ringbacks (2014-2018)

[1] On March 12, 2018, the Board advised SOCAN and objectors that it was starting a proceeding to consider SOCAN's proposed *Tariff No. 24 – Ringtones and Ringbacks* for the years 2014, 2015, 2016, 2017, and 2018 (Order CB-CDA 2018-044).

[2] On March 3, 2020, after the last participating objectors (Apple Inc. and Apple Canada Inc.) indicated they would not participate in the proceeding, SOCAN asked the Board to approve the tariffs as proposed.

[3] On July 9, 2020, the Board denied SOCAN's request (Notice CB-CDA 2020-043), stating the following:

In *Rogers v. SOCAN*, 2015 FC 286, the Federal Court concluded that, as a result of the Supreme Court decisions in *ESA v. SOCAN*, 2012 SCC 34 and *Rogers v. SOCAN*, 2012 SCC 35, the transmission over the internet of a musical work that results in the download of a ringtone containing that work does not engage the communication right under section 3(1)(f) of the *Copyright Act*. This conclusion was not overturned by the Federal Court of Appeal in *Rogers v. SOCAN*, 2016 FCA 28.

In the recent decision of the Federal Court of Appeal in *ESA v. SOCAN*, 2020 FCA 100, the Court quashed the decision of the Board on the interpretation of the making available provisions of the *Copyright Act* and its conclusion that the act of making available of musical works was triggered even where a resulting transmission of such works resulted in a download.

In light of the above, the Board will need to consider evidence in respect of the entitlement of SOCAN to collect royalties for the communication to the public by telecommunication, including the making available, of works in its repertoire that results in ringtones.

[4] In the same Notice, the Board cancelled a previously-scheduled oral hearing and advised that it would instead conduct a written hearing for the consideration of the proposed tariffs.

B. SOCAN Tariff 24 – Ringtones and Ringbacks (2019, 2020-2021)

[5] SOCAN also filed proposed *Tariff No. 24 – Ringtones and Ringbacks* for the years 2019 and 2020-2021.

[6] Apple Inc. and Apple Canada Inc. have filed objections to the proposed tariffs for both the 2019 and 2020–2021 periods. Hotel Association of Canada, Restaurants Canada, and the Retail Council of Canada all filed objections to the proposed tariff for 2019.

[7] No equivalent proposed tariff has been filed by SOCAN for subsequent years.

II. Consolidation of proceeding: SOCAN Tariff 24 – Ringtones (2014-2021)

[8] The Board is ready to continue its consideration of the proposed tariffs for 2014-2018; I further add the consideration of the proposed tariffs for 2019 and 2020-2021 to the proceeding (jointly, the “Proposed Tariffs”).

[9] Given the Board’s statements in Notice CB-CDA 2020-043, SOCAN shall confirm whether it will continue to seek the approval of the Proposed Tariffs by **Thursday, November 6, 2025**.

[10] Objectors to the 2019 and 2020-2021 periods must confirm their intention to participate in this proceeding no later than **Monday, November 17, 2025**. Objectors who do not do so will be deemed to have withdrawn from the proceeding.

III. Confidential Information

[11] On November 6, 2019, the Board issued a Confidentiality Order (CB-CDA 2019-076) in the proceeding then styled as *Tariff 24 – Ringtones and Ringbacks (2014-2018)*.

[12] This Confidentiality Order continues to apply to this consolidated proceeding. In particular:

- documents and information previously exchanged under the Confidentiality Order remain subject to the Confidentiality Order; and

- confidentiality agreements delivered under the Confidentiality Order are effective in this consolidated proceeding.

[13] Any party that anticipates that they will need to disclose confidential information in the course of the consolidated proceeding is invited to review Order CB-CDA 2019-076 and request an amendment, if required.

IV. Joint Statement of Issues

[14] For greater certainty, parties are not required to file a Joint Statement of Issues at this time.

V. Proceeding Detail Page

[15] Information about this proceeding can be found on the Board's [website](#).

VI. Interveners and Letters of Comment

[16] A person with an interest in this proceeding may file a request for intervener status as per Rule 52 of the [Copyright Board Rules of Practice and Procedure](#); any person may file a letter of comment in the official language of their choice as per Rule 53.

[17] Please [contact the Registry](#) as soon as possible for further information on how to file a request to intervene or a letter of comment.